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FOURTH SESSION - 2ND SITTING - SECOND MEETING

Wednesday, 27 November 2024

Parliament met at 1.59 p.m. in Parliament House, Kampala.

PRAYERS

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

The House was called to order.

COMMUNICATION FROM THE CHAIR

THE SPEAKER: Honourable members, I welcome you to this afternoon's meeting. Yesterday we stood over the reading of the National Teachers' Bill, 2024, pending harmonisation on some issues that appeared in the minority report versus the major report which is ongoing. So, the Bill will be coming back soon.

Honourable members, as committees prepare to embark on the Budget Framework Paper, I want to urge the leadership to finish all the work that is pending before them, bring it to the House and start on the Budget Framework Paper.

Also, our colleague, Hon. Acon Julius Bua, the MP of Otuke, who recently wrote a book about his journey from childhood, to Olympian, to now Parliament. He wants to invite you people to have a look at his book and to give a donation to our library.

2.03

MR ACON JULIUS (NRM, Otuke East County, Otuke): Thank you, Madam Speaker. Basically, everyone has a story behind, but

when it is written or told, that is when you know how you were raised and went through.

This book is called, "The Boy Who Runs". I am no longer a boy, but the time I was running, I was a boy it captured more of the time before I was born, just like Jesus, until the end.

I want to highlight a little bit when my mom was in labour, we never had a hospital and the nearest was seven kilometers away. She walked when she was in labour and the next morning I was born, which means I was practicing to be an Olympian - *(Laughter)* -

We had measles, one of the deadly diseases and I got sick at the age of eight and was pronounced dead. When they dug the grave and I was about to be buried, I sneezed twice and fortunately, the mourners who were around heard me sneeze and then I was removed from the grave.

Again, at 10 years old, when we had rebel activities in Uganda in 1988. I was one of the boys who was captured at the age of 10, we walked 100 kilometers for three days to Soroti.

I stayed three months in the bush and I escaped when the Government plane called "Surambaya"- some of you might have heard about it- 16 of us, unfortunately nine of my friends did not come back home. But I escaped and went back to school.

I was told that when you run, you either get a scholarship or become an Olympian. I got motivation because I wanted to get a

scholarship. I had three primary schools in my village which were seven kilometers, nine kilometers and ten kilometers apart.

My father was too poor So he made sure that I went into these schools on three different days. When I am chased away, I jump through the window and then go to the next school.

Finally, when competitions began, I competed and won the championship for Otuke. Later on, it was declared that there was no transport to come to Akii-Bua Stadium in Lira.

Otuke is 71 kilometres away -I ran at the age of 11, when I was in the P6. I ran 71 kilometres. I do not remember the time but- were not even there. I made it to Lira, won the championship for Otuke. I was given a scholarship to Makerere College School in Senior One and that is what made me who I am.

Then in 1994, I was the only junior athlete under 20. I was 17-to represent the country in World Junior Championship. I flew to Portugal without shoes. By the time I was competing, I bought shoes from a Kenyan, and won a gold medal for Uganda in 1,500 meters - (*Applause*) -

I was granted a scholarship to go to United States in Virginia, George Mason University, where I pursued my Bachelor of Science in Communication for four years. I competed for Olympics in 1996 and 2000 where I was the Ugandan team captain twice.

I ran 11 World Championships for Uganda and two Commonwealth Games. I was third in Africa and got bronze medals twice. From there, I retired, won some money and decided to build a health center called Christine Nile Health Center in 2012 in memory of my mom, who was killed during the war. Now we are treating 600 patients in this health centre.

In 2021, I was chosen as the best humanitarian in the continent of Africa and I was nominated as the World Olympian for Life. I am still competing at the older age, where last month, I was offered 200 boreholes for my community and each village will get boreholes.

I was also awarded Shs 2 billion to build an operation health center in my village. Colleagues, I just want to donate this book. More of the story can be read; I think you will get to know each and every one's story. Thank you, so much. I beg to lay.

THE SPEAKER: Thank you, so much, Hon. Bua Acon. The glory goes to our late mom. May her soul rest in eternal peace. We want to thank you so much for the donation that you gave to us - by the way, he earns for life- Yes, you want to say something?

MR ACON: Yes, I forgot. You can buy this book on Amazon online, it is \$27. However, everyone in the United States loves it so much. You may run out of- (*Laughter*)- because when I launched it, almost over 500 copies were bought and hopefully, the movie will also be produced. I am looking for the best movie- I think after, one of you guys can come up with something.

THE SPEAKER: Thank you. Honourable members, we need to leave behind something. People should be able to read about you, what you have been, how you have been, how you came from that village of Bukedea and now here-. There are people who have gone- the encyclopedias of this institution have left nothing.

2.09

MR JOSEPH SSEWUNGU (NUP, Kalungu West County, Kalungu): Thank you, Madam Speaker. First of all, I want to thank the Honourable Member, with whom we are on the same Committee on Education and you really speak American.

From your communication, you have talked about the Bill we had yesterday and the harmonisation, which is very okay but still yesterday, we got another Bill here. In our committee, we do not want to clash. Rule 129 is very specific, that once a Bill is tabled, it can be processed within 45 days. However, we now have instructions to process a Bill within two days and bring it here next week.

I would pray, Madam Speaker, that we do not go outside our rules. It can be shorter than 45 days.

THE SPEAKER: What does “within” mean? It can even be within one day.

MR SSEWUNGU: It can be within one day, but, Madam Speaker, the type of Bill –

THE SPEAKER: Honourable member, do not come and discuss, here, what you have in the committee. Yesterday, when I was making the ruling, I said it is as per rule 129(2); I forwarded it to the committee.

But, as I have said, we also have important things to do – the BFP. We are closing off on the 12th. So, we should not leave other things pending. Anyway, that is not for discussion.

MR SSEWUNGU: Yes. Madam Speaker, maybe after plenary we shall talk, but what I am trying to seek –

THE SPEAKER: That is not for discussion.

MR SSEWUNGU: Kindly – because, sincerely, two days to process a Bill is not proper.

THE SPEAKER: You go and process it; that is not for discussion.

MR BASALIRWA: Madam Speaker, I thank you. I want to congratulate Hon. Julius Acon. It is my humble request that over and above this offer of one copy, the Parliamentary Commission buys some more copies from Hon. Acon for the library. I think that is one of the contributions that we can make.

Madam Speaker, Hon. Julius has many stories. One time, he was bitten by a dog. He chased after that dog, arrested it and took it to police – *(Laughter)* – he actually killed it. When he arrived at the police station, to report, they asked him to describe the dog. He even described the gender of the dog. He said it was a female dog *(Laughter)*. He is a man of many stories.

Beyond that, Madam Speaker, I think part of the contributions that we can make is if we can buy more copies for purposes of supporting his efforts. That is my humble request.

THE SPEAKER: Thank you. We will do that, as the commission? Yes, Hon. Max and then Hon. Chris.

2.13

MR MAXIMUS OCHAI (NRM, West Budama County North, Tororo): Thank you very much, Madam Speaker. Mine is on your communication, particularly regarding the National Budget Framework Paper.

Yesterday when we were here, the honourable minister responsible for ICT indicated to us that the budget is being prepared on the basis of the ongoing preparation of the National Development Plan IV. Now, it puzzles me that we are receiving the Budget Framework Paper, yet we do not have a copy of the National Development Plan.

Could we, kindly, get whatever copy that is available from National Planning Authority (NPA) or the Ministry of Finance, Planning and Economic Development so that we can peruse it as we process the National Budget Framework Paper? Thank you.

THE SPEAKER: Honourable members, I got a communication from the Minister of Finance, Planning and Economic Development that he is going to have a workshop with all Members of Parliament on the budget and, then, on NDP IV. So, you will have the workshop next week and you will have a copy.

THE SPEAKER: Let us have Hon. Chris and then Hon. Xavier. *(Hon. Christine Kaaya rose)* Not Hon. Christine, but Hon. Chris.

2.14

MR CHRISTOPHER KOMAKECH (Independent, Aruu County, Pader): Thank you very much, Madam Speaker. I want to appreciate you. There are times when you have made pronouncements that have been very important for the livelihood of our people.

You made a pronouncement regarding tractors that were given to northern Uganda by the President of the Republic of Uganda. The pronouncement was simple, that the Minister of Agriculture, Animal Industry and Fisheries and the minister for finance should make sure the tractors that they gave to the peasant farmers in northern Uganda, specifically Acholi sub-region, do have ploughs with them. Up to this date, tractors are parked, they are rusting in the district, peasant farmers move by and only have a glance at the tractors; they are not being used.

Madam Speaker, with the powers that you have, could you, kindly, request or maybe direct the ministers so that they provide ploughs so that our farmers can benefit? Thank you very much, Madam Speaker.

THE SPEAKER: Government, you gave out the tractors and you never gave out the ploughs. Was that for decoration?

2.15

THE MINISTER OF STATE FOR LANDS, HOUSING AND URBAN DEVELOPMENT (URBAN DEVELOPMENT) (Mr Obiga Kania): Thank you, Madam Speaker. Let me also take this opportunity to congratulate Hon. Julius Acon upon his achievements and documenting them. As you have guided, many of us should follow suit.

Having said that, it is true and it is not only in Acholi, but also in many parts of the country, that these tractors were given, and the minister promised that they were going to procure the ploughs. I undertake to inform the minister of the urgency of this matter so that he comes to Parliament and gives us the latest position on the matter.

THE SPEAKER: Can you just get out and make a call and then you come back to the House?

MR OBIGA: I will do it immediately. Thank you.

2.16

MR XAVIER KYOOMA (NRM, Ibanda County North, Ibanda): Thank you very much, Madam Speaker. First of all, I want to thank you for having allowed my brother, Hon. Julius Acon –

THE SPEAKER: We also need the minister for finance here.

MR KYOOMA: I want to thank you for having allowed Hon. Julius Acon space to tell us his story and to lay his book on the Table.

I take this opportunity to congratulate him for his scholarly work and, above all, for having met the criteria to publish on Amazon. It is not very easy; for one to publish on Amazon, you must go through a rigorous vetting exercise.

I want to congratulate you on that and for the good example you have shown, first of all, as a young man and, now, as a leader.

I beg to submit, Madam Speaker. Thank you.

2.18

MS CHRISTINE KAAYA (NUP, Woman representative, Kiboga): Thank you, Madam Speaker. It is good that the minister has also come. I am reacting to your submission on the Budget Framework Paper. The Budget Framework Paper will be accompanied with a certificate for climate change compliance.

However, the National Climate Change Act that brought into force this certificate does not have regulations. For two financial years, they just allocate percentages of the compliance without regulations. The certificate is baseless. How can you say it was 60 per cent compliant – based on what?

This time around, we are telling you, Minister, to liaise with the Minister of Water and Environment. We have just come from COP29 and these are some of the commitments we are supposed to put in place. We cannot continue, for three consecutive financial years, to attach a certificate that is baseless and that has no rationale for the percentages allocated.

THE SPEAKER: There are no regulations that are operationalising the law. I think you need to get in touch with the Minister of Water and Environment.

Yes, Hon. Lee?

2.19

MR DENIS OGUZU (FDC, Maracha County, Maracha): Madam Speaker, on a related matter, the law requires that the budgeting process must be a consultative one. We are aware the Minister of Finance, Planning and Economic Development has issued indicative planning figures to various MDAs and a number of these MDAs are not consulting their stakeholders. So, the end result is going to be a Budget Framework Paper which does not reflect the aspirations of the people.

I do not know how this House is going to ensure that all the people who receive budgetary allocations, especially the accounting officers, undertake consultation with the various stakeholders.

For example, here in Parliament, we expect the Parliamentary Commission to consult us as Members of Parliament as we prepare our budget so that there are no questions arising at a later time to the content of what we approve here.

This is to implore all accounting officers that the law requires stakeholders to be consulted. I therefore invite the minister to pay attention to this so that we comply with the law. Thank you.

THE SPEAKER: Honourable members, it is true that the budget should be consultative and able to cover what the population needs. We have the Budget Call Circular 1 which comes in September and then we also have the consultative regional budgeting process which is also inclusive of the population outside there.

They bring what they think and expect out of the Treasury. Maybe finance can also add on that.

2.21

THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (Mr Henry Musasizi):

Thank you, Madam Speaker. I am a bit constrained by this debate which comes in anticipation. However, let me say this.

Our budget process runs for nine months. In September this year, we issued the Budget Call Circular 1 and we also announced the budget strategy for the Financial Year 2025/2026 to the country. That started the process of budgeting for next financial year.

During the period between the 20th and 6th of October, we did a country tour in all regions of this country consulting our stakeholders, especially local governments, on their views on the budget for the next financial year.

The local governments cascaded to the LC1s at the sub-county level. There have been consultations at that level. We also did a workshop in Munyonyo where we did national consultations on especially our central Government 1 vote.

Where are we now, we are at the stage where on the 12th, we shall come to the House to present the Budget Framework Paper (BFP) for the financial year 2025/2026.

In compliance with the Public Finance Management Act and the other applicable laws as Hon. Christine says, I will lay the accompanying documents to the National Budget Framework Paper.

The Budget Framework Paper in itself is not a budget. It is the framework; it is the foundation of the budget. This framework paper will go to committees and eventually, the budget committee will report back to the House together with the recommendations which the House will adopt.

Now, these BFP recommendations together will inform the second Budget Call Circular which will come by the 15th of February, 2025 and the second Budget Call Circular will inform the

estimates and the ministerial policy statements which will also come here for discussion.

Madam Speaker, in a nutshell, I plead with colleagues to be patient with us. The law - *(Interruption)* - information-

MRSSEWUNGU: Thank you, Hon. Henry and Madam Speaker. You see, what the honourable member is saying is not a speculation. There is a law.

Laws are put in place to solve mischiefs. Where you do not have regulations, you cannot run that law very well, even in the courts of law. I would request that you address that error because the Attorney-General is not around.

We have a lot of laws without regulations and- Sincerely, kindly, honourable minister, that is the information I was giving you.

THE SPEAKER: I already gave a ruling to that effect that the environment minister should come with regulations. He is answering on what concerns him; what Hon. Lee Oguzu said.

MR MUSASIZI: Madam Speaker, I beg the indulgence of members. When we enacted the Public Finance Management Act (PFMA), 2015, the overall goal was to achieve enhanced transparency in our budget process.

From 12th onwards, this Budget is going to be with us here. We shall look at it line by line and raise all the necessary issues and questions.

I will be available both here on the Floor and in the committees of Parliament to respond to all the issues and at the end of the day, by May when we pass the Appropriations Act, we shall really pass an Act which we have all participated in publicly and which we all believe in.

Therefore-

MROGUZU: Thank you, honourable minister. With specific reference to the law, Section 9 of the PFMA talks about the Budget Framework Paper and this is what it says,

“Each Accounting Officer shall in consultation with the relevant stakeholders prepare a Budget Framework Paper for the vote taking into consideration balance development, gender and equity responsiveness and submit the Budget Framework Paper to the Minister.”

The expectation is that all the accounting officers who are charged with the budgeting process, when preparing this framework paper before submission to you, stakeholders must be engaged.

We expect that at the local governments, stakeholders engage- that kind of information.

THE SPEAKER: Hon. Oguzu Lee is not an accounting officer. The law says that each accounting officer shall be in consultation with relevant stakeholders- that is why you have your councils.

MR MUSASIZI: Madam Speaker, I should instead be the one to inform Hon. Oguzu Lee. Yes, the stakeholders are very wide and if you are aware, we are now budgeting under a programme based approach.

The stakeholders who are key are the programme working groups. At the program level, we give them a ceiling as it is in the Medium-Term Expenditure Frameworks (MTEFs) and they go in their programme working group, consult themselves and come up with their recommendation and- *[Interruption]* – Oh, there is useful information from-

MR MODOI: To save the minister, budget conferences are taking place right now in all districts. Unless your district has not informed you, it is on-going. *(Applause)*

MR MUSASIZI: With your information, I rest my case- *(Laughter)*

THE SPEAKER: Thank you, honourable minister. Honourable members, in the public gallery this afternoon, we have a delegation of members from the Federation of Motorsport Clubs of Uganda (FMU). They are represented by Hon. Akena Jimmy Michael, a Member

of Parliament for Lira East Division and the President of the federation.

He came and sought permission and I allowed him to dress that way. He has his members in the public gallery here to observe the proceedings of the House. Hon. Akena, you are welcome.

Members, just stand up and we see you - those are the members. You are very smart. Thank you for coming. Join me in welcoming them. *(Applause)*

Finance minister, before Hon. Akena and team went to Morocco, they sent their motorcycles ahead but they were confiscated in Morocco because they could not afford to transport the motorcycles back. Your senior minister was in this House and pledged that very day that, "You are even delaying in the House, go and make a requisition and I will give you the money." So, Hon. Akena, over to you.

2.32

MR JIMMY AKENA (UPC, Lira East Division, Lira City): Thank you, Madam Speaker, and on behalf of the Federation, I would like to thank you for allowing me to wear the official team jersey for the Motocross Cranes. *(Applause)* These colours are completely national, unlike the Government Chief Whip who is putting on a very wonderful tie. It should have been one which could have come out of my - *(Laughter)*

Madam Speaker, as you mentioned, before going to Morocco, I came on the Floor, with your permission, to plead with the Ministry of Finance, Planning and Economic Development to honour the obligations which had been put in the budget in support towards sports.

We were ably supported by the Minister of State for Education and Sports, but unfortunately with the finance ministry we are still struggling on getting things done. However, we promised that we were going to represent the country well. That said, I would like to give a breakdown of how we performed.

Motocross of African Nations is a two-day event; one heat on Saturday, two heats on Sunday, and you score points on every heat depending on the position in which you come.

I am starting with the junior category, which is the 50cc. We had two podiums on the second and the third heat, a third and a second. But also in this category, we were able to get the Ladies Junior Africa Champion and she is in the House. Her name is Helena Birungi. *(Applause)* That young lady is the Ladies' Champion 2024 for Africa.

THE SPEAKER: Thank you and congratulations.

MR AKENA: Overall in the 50cc category, Team Uganda took the second position. In the 65cc, we also had two podiums, and a young man by the name of Ramathan Mubiru in the first heat got second, and in the third heat, got third position.

Overall, as Team Uganda and as a country, we were able to get the first position in the 65cc. The next category -

THE SPEAKER: Can I have the two young champions? We are not seeing them so well. Can you come and sit over here? *(Applause)* I would like to invoke rules 7 and 8 of our Rules of Procedure, and allow you to come inside so that you sit near the Government Chief Whip. *(Laughter)*

Honourable, please, continue.

MR AKENA: Also in this category, we got another podium in the third heat by a young man named Isaac Mutima but he is not here. Then in 85cc, we had the 2022 champion who got second position in the first heat. In the second heat he had a mechanical breakdown, but in the third heat, he was able to get first. Overall, as a country, we came third in the 85cc. Unfortunately, in this category, we had one injury; a young man got a fracture -

THE SPEAKER: Sorry -

MR AKENA: And could not continue, but is recovering. So for 85cc, Team Uganda got third. In the 125cc, we were not able to perform very well.

THE SPEAKER: Thank you. *(Applause)* I would like to welcome our champions. You are most welcome; these are the next ministers. *(Applause)*

MR AKENA: There is now another category, which is the Women Motocross. In this category we are represented by Sharifa Kateete and Swansi Sambo. Overall in this category, Team Uganda got another first. *(Applause)*

THE SPEAKER: Thank you. Congratulations.

MR AKENA: Furthermore, Sharifa Kateete, together with four other riders have been nominated to represent Africa in the FIM Oceania Women's Motocross Cup, which will be taking place in March in Australia and she goes into camp in February. *(Applause)*

I can point out that Sharifa is the fastest lady we have in motocross and she very often disciplines the boys as well.

THE SPEAKER: Thank you and congratulations.

MR AKENA: In MX2, we were defending that category and our representative in that category was able to win all three heats and therefore defended his title. This is a young man by the name of Stav Orland Asiimwe, who currently races in the US and has raised the standard of the sport.

However, in this category, my nephew, Milton Obote Akaki had a fracture; he suffered an accident in the first heat and fractured his arm, but is also steadily recovering.

Overall in MX2, since we were left with one rider, I think we got third overall.

THE SPEAKER: Thank you.

MR AKENA: In MX1, there is a very gifted young rider who has inspired many of the young upcoming riders. He is now, I would say, a young adult and this is Fortune Ssentamu. He was able to get third overall, second in the first heat, sixth in the second heat, and second in the third heat. So, also overall for MX1, we got third. *(Applause)*

THE SPEAKER: Thank you and congratulations.

MR AKENA: We also have a category for veterans, who are riders, from 35 to 49. Our national champion, who led this team, is also in the House, Geoffrey Kayiira. As a team, we were able to get third overall as veterans.

Sorry, that is the individual trophy and this is the third for MX1. There is a category for the older people; riders over 50 – *(Interjection)* - Yes, I was the one representing team Uganda. *(Laughter)* I did not just go there as a spectator. I also decided to participate. I was able to get a third and a third in the second and the third hit. I also have my small trophy here. *(Applause)*

Overall, as a country, in this competition, when it is all put together, team Uganda is now number two in Africa. *(Applause)* This is our national trophy for the overall position of number two.

MR AKENA: Although we tried for number one, we were not quite able to do so, but we are aiming for next year, which is going to be held in Kenya. It is going to be a lot easier to get there and we hope to send a much larger team. We are definitely going to give the South Africans a fight for the number one position in Africa.

I now appeal to you, Madam Speaker, and to those in the ministry for finance. Much as the senior minister assured us that the money would come, it did not. We had to look for all the ways to be able to send the team.

It is only after the team came that some money came into the account, but it was half of what was promised on the Floor of Parliament.

Therefore, we are still moving with debts. Despite this, we have been able to complete our calendar with the national rally championship which ended in Hoima last weekend.

We also finished our motocross championship the weekend before in Mityana. That was the fourth round. We have done our Go-Kart Championship. We still have some pending events. There is one more round of the Enduro Championship. There is a motorsport sprint on boxing day which is the last sprint and it is a very big event for any members who might be around Kampala on boxing day. Get yourself to Busika and enjoy some of the high-octane motorsports.

We have one autocross left, which is going to be in Mbarara. There is also an international event which is the Central Africa Championship, where Uganda is defending the Central African Championship, which is going to be held in December in Mombasa.

With these pending events, I am really appealing to you, Madam Speaker, that finance meet their obligations, because when you look at some of our young athletes, they put in a lot of effort. They have really trained and prepared themselves for these events. Of course, many go through a lot of injuries, others are recovering from injuries, as motorsport is not a very simple, gentle sport. However, they represented Uganda very well.

In Morocco, the team which was there was well-respected, even though, as a team, we had to disassemble our bikes completely. Most teams went with their bikes partly assembled, but to save on cost and space, we completely disassembled. When we arrived there, the bikes were also delayed; on arrival, we were putting them together on the race day. Many of the teams were shocked, but we had a lot of support from other teams and the mechanics also came and helped us put our bikes together.

On the track, I want to really congratulate the young people. They did not disappoint. They really held our flag up high and they represented Uganda very well. *(Applause)*

In the future of motorsports, I request that the support is timely and we continue to build this sport. We are going to endeavour next year to get the championship.

I also would like to point out that because finance have often declared that they have supported us with a lot of money, it is very hard to do anything because people assume that the federation has money. We have got all sorts of people crawling around looking for that money not knowing that we are struggling just to get our calendar complete.

Therefore, Madam Speaker, I thank you for this opportunity and I thank you for allowing us and these young people to join the House in our official motocross jerseys. Thank you.

THE SPEAKER: Thank you, Hon. Jimmy Akena and the team. I congratulate you upon the win, especially the two children; the boy and girl. Thank you for making this country proud. *(Applause)*

Hon. Akena, I am happy that when you go out there, you speak about your country; You represent and love it. Uganda is bigger than all of us. Thank you very much for loving your country and speaking about it.

Over to minister for education, finance and then the Government.

2.46

THE MINISTER OF STATE FOR EDUCATION AND SPORTS (SPORTS) (Mr Peter Ogwang): Thank you very much, Madam Speaker, Hon. Jimmy Akena, who is the President of the Federation of Uganda Motorsport and the entire team up there. I congratulate all of you for making Uganda proud. Let us, as Members, clap for this very important team. *(Applause)*

Madam Speaker, I want to say the following to us who are here:

The future of this country in terms of sports tourism is extremely good and high. All we need is to invest in supporting and funding sports.

For instance, now, these two young children before us here - I thank you for permitting them to come to the National Assembly and I congratulate them. *(Applause)*

If we look at the current sports law, these two would qualify under the reward and recognition. This is what helps others to be motivated and encouraged to continue participating and flying our flag as a country high.

Unfortunately, when it comes to money releases, that is not mine. Therefore, I would really like to appeal to my colleague who is sitting next to me.

First of all, support me to support the young people of this country and the adults to explore their full potential in terms of promoting and making the flag of our country high across the globe. *(Applause)*

Last but not least, I congratulate the President, Hon. Jimmy Akena, because I know the challenges they have been having. Fortunately, we are all here. Ever since he took over the leadership, he has stabilised the Federation of Uganda Motorsports. So, let me congratulate you, Mr President. No wonder we are now ripping the outputs out of your leadership.

Hon. Jimmy Akena and the entire Federation of Uganda Motorsport, minister for finance, make my work easy. We do not need additional money; we need you to release the money -

THE SPEAKER: Honourable minister, as we talk about the national sports law, which would allow these young people to get a reward and recognition, to date, we have not got the regulations on this Floor. You will not start using that law before you have the regulation. When do we have the regulation?

MR OGWANG: Madam Speaker, I want to confirm that the consultations - fortunately the President of FMU is here - have taken place as far as regulations are concerned. I will be able to lay on this Floor within a month's time. I thank you, Madam Speaker.

MR TINKASIIMIRE: Before the honourable minister takes leave of this matter, I want him to clarify - because he said that the honourable minister for Finance is not coming by on releasing money.

This House is entitled to know how much you budgeted for, particularly this sport, in promoting the skills of these young people, how much the minister has released or not. Such that the House knows that you are not the problem, he is the problem.

The second matter is, we shall not always have a big opportunity where this young lady and man are brought in to this House-I entered the Parliament of Uganda when I was 33 years of age. They have entered it at a tender age when they are still going to school but they have got out with only congratulations.

Honourable minister for Education, we want you, for instance, to say that you are going to look at where these children are studying from and find out if they can study free of charge. *(Applause)*

Their performance is outstanding. You heard the story of Hon. Acon. He would never have been where he is if he was never given a scholarship to study free of charge at Makerere College School.

We would want to hear that, vividly, from the honourable minister. It is not just a matter of saying congratulations. No, not from honourable Minister for Education. *[Hon. Ssewungu rose]*

MR SSEWUNGU: Madam Speaker, for your information, Fresh kid, a musician was taken by Mr Sudhir and he has studied for seven years free of charge because of his music.

THE SPEAKER: Hon. Gonzaga, the honourable minister is still on the Floor.

MR OGWANG: Madam Speaker, I would like to thank Hon. Barnabas Tinkasiimire, the great chairman. For the record, this Parliament, approved for motorsport, Shs 3.2 billion-are

we clear? For the record, Finance has given me Shs 300 million for motorsport. My work can only be possible when I get the required funding as per the approval. And this is the case for all other federations.

To be honest, the releases are becoming more meagre, and it is making the work of sports extremely difficult. Sometimes, most of the federation presidents think I am the problem or we are the problem.

Maybe Ministry of Finance can explain better what is in the kitchen. As far as that is concerned I thank the Minister for Finance for continuing to support me despite the challenges they face. I thank you. On the question of children going to school, let me say the following –

THE SPEAKER: Honourable members, the honourable minister relies on what is budgeted for the Federation. It should be you people to say that as members of Parliament, since we allowed these children in- Ramathan Mubiru is in Primary Seven, in Tawhiid Islamic Nursery and Primary School, meaning that he is going to Senior One.

And then Helena Birungi is in Primary Four, Rainbow Christian School - one thing you should do is to let the Parliamentary Commission pay these children's school fees up to Senior Four.

MR MACHO: Madam Speaker, therefore suddenly, you need to move that.

THE SPEAKER: Okay. The Parliamentary Commission will pay school fees for those two children, up to senior four. *(Applause)*

(Question put and agreed to.)

2.55

MR GEOFFREY MACHO (Independent, Busia Municipality, Busia): Madam Speaker, before the Minister-I want to appreciate Hon. Akena. Out of all the leaders of political parties in this country, Hon. Jimmy Akena, the President of the Uganda People's Congress party, the party of my father and grandfather, I

thank him for being focused on the mission of marketing Uganda outside. *(Applause)*

We have seen leaders of other political parties - I do not know why Hon. Ssewungu is looking at me - in this country. Whenever they go out of Uganda, - *(Interjections)* - their work is to build a very bad image against our regime. Hon. Akena, you are a real patriot, a loving Ugandan citizen –

THE SPEAKER: Honourable members -

MR MACHO: You have marketed Uganda using sports. You have never promoted gays and homosexuality. That is why you stand as one of the best leaders of political participation in this country and keep that spirit burning, Hon. Akena, because you are now a role model.

I wish other political parties copy the picture of Uganda People's Congress. These songs they keep singing that they are putting on crowns to go to heaven when they are going to hell because of their ideologies, cannot help Uganda at all. Therefore, as leaders, we must lead by example.

Lastly, I thank the Parliamentary Commission for taking over the role of providing for the education of these young sports people because education is key in the lives of everybody. Thank you.

THE SPEAKER: Honourable members, let us hear from the Minister for Finance, first-what Hon. Akena needs is money.

2.57

THE MINISTER OF STATE FOR FINANCE, PLANNING, AND ECONOMIC DEVELOPMENT (GENERAL DUTIES)

(Mr Henry Musasizi): Madam Speaker, first of all, I join you in congratulating these young people for being champions, and raising our flag high. I thank Hon. Akena for providing leadership in ensuring that this sport remains alive.

The National Council of Sports has a budget of about Shs 30 billion for these federations, out

of which Shs 3.2 billion is for the federation of motorsport - you will excuse me if I do not name it properly.

The overall release performance under this item is above 50 per cent and we are in December. It is just quarter one and two but we are already above 50 per cent. I am of the opinion that we discuss this matter outside here and then come back and report. This is because the issue is not the budget or release, but how the release is being utilised.

THE SPEAKER: Thank you. Honourable minister, when do we expect a report from you? He wants to go and reconcile with the Ministry of Education and Sports and the National Council of Sports.

MR MUSASIZI: Madam Speaker, we need to reconcile with the Ministry of Education and Sports so that we give - this one does not take long. Even tomorrow we can reconcile and report back to the House.

THE SPEAKER: Okay. We will get a report from you tomorrow.

3.59

MR ENOS ASIIMWE (NRM, Kabula County, Lyantonde): Thank you, Madam Speaker. My concern was that you made an offer to have these children -

THE SPEAKER: I did not make an offer, but the House did.

MR ENOS ASIIMWE: You suggested and the House passed the resolution that committed that we educate them up to Senior Four. My simple request, Madam Speaker, is that as much as the question has been put, we can review and educate them, at least, to a minimum of Senior Six so that they can come and compete with some of us here and occupy some of the seats here. When you leave them at Senior Four, honestly, they may not go up to Senior Six, which is the minimum requirement. Thank you so much.

THE SPEAKER: Is it seconded? All those who are seconding stand up. (*Members rose*) It is seconded by Hon. Nsereko, Hon. Gonzaga, Hon. Akena, Hon. Christine, the Government Chief Whip, the minister for lands, the minister for finance, the minister for education, the minister for health, the minister for local government – by the whole House, including Hon. Alanyo and the general.

Now that it has been seconded, those in favour say “Aye” and to the contrary “Nay” – that the Parliamentary Commission will take up on the school fees of the two young champions up to Senior Six.

(Question put and agreed to.)

THE SPEAKER: Whether I am the speaker or not, the Parliamentary Commission will do that. The institution will be here.

MS NANKABIRWA: Thank you very much, Madam Speaker. My clarification comes from, I think, Article 95 or Article 93 – I can be assisted – of the Constitution, where a recommendation has been passed, which has not been moved by the Government, and the Parliamentary Commission gets money from the Consolidated Fund.

So, I just wanted us to be in order. I support that the kids are supported, but I do not want Parliament to err in passing this. We need guidance.

THE SPEAKER: We have a donation fund, and, instead of donating maybe to somewhere, you can donate to the children. That money is already budgeted for; it is not going to be increased. We are remaining with the same amount of money.

3.03

MR DENIS OGUZU (FDC, Maracha County, Maracha): Madam Speaker, thank you for highlighting this issue. We know the Government Chief Whip was here and we believe his presence – supported by the ministers of finance and education, they are

acting on behalf of the Government. So, if the minister for energy is imputing that these are not competent representatives of the Government, we need to know, today, so that we know who actually acts for the Government. *(Laughter)*

For me, the critical issue is that a Member has alleged that the heads of political parties are promoting homosexuality, which is against the laws which were passed here. Madam Speaker, for such a statement to be allowed here, on the record of Parliament, without proper clarification on which heads of political party or which political party is engaged in promoting homosexuality, which is against the laws of this country, it would be a disaster.

Therefore, it is important that the person who made that statement clarifies to the country which political party or head of political party is engaged in that so that we know.

THE SPEAKER: Honourable members, in the Public Gallery this afternoon, we have a delegation of members from the Council for Abavandimwe, led by their chairman, Mr Frank Gashumba. Please, stand up. They are here to observe the proceedings – and, they brought their petition here. I do not know how far you have gone with it.

Also, in the public gallery this afternoon, we have a delegation of head teachers, led by Mr Stanley Ochom, the interim chairperson of the Uganda Intergovernmental Fiscal Transfer Programme (Phase II). They are here to observe the proceedings. You are most welcome. *(Applause)*

Still, in the public gallery this afternoon, we have a delegation of members of Uganda Urban Council Speakers Association, led by their president, who is Hon. Bony Tashobya. You are most welcome. Where are they? Please stand up. Those are my people – the speakers of local councils. You are most welcome to Parliament. *(Applause)*

Still, in the public gallery, this afternoon we have a delegation of staff of the Department of Publishing and Printing of the Parliament

of Ghana. You are most welcome. *(Applause)*
Thank you for coming.

MR AKENA: Thank you, Madam Speaker. As I conclude, I would be amiss if I do not thank the organising team for the efforts they made to take the young riders to Morocco. However, there is one issue: I feel that the minister of finance's statement should not be left standing as it is. In the first quarter, we got zero. In the second quarter, we got something after I cried on the Floor of Parliament. So, you cannot say that 50 per cent is out – and, at least, we do not know what it is – *(Mr Musasizi rose_)* – you hear me. You requested for us to have a discussion outside.

I only want to wish Uganda Cranes, as they go to Morocco, to do better than us and also come back with a trophy for Team Uganda. Thank you, Madam Speaker.

THE SPEAKER: Thank you. Government – oh, Parliamentary Commissioner?

3.08

MR MATHIAS MPUUGA (NUP, Nyendo-Mukungwe Division, Masaka City): Much obliged, Madam Speaker. The House, on its own emotion, has elected that the commission will sponsor these young people up to Senior Six. It is a very good thing. The challenge is sustainability because, then, we are raising expectations. Now that we have the minister for finance and the minister for education in the House, will they clarify on what became of sports scholarships in this country? There seems to be no clarity as to how they are accessed.

If you go to Bukedea and ask an ordinary student who is a very good athlete, do they know how to get a sports scholarship in this country? Do they still exist? Are they competitive or by selection?

We really need to know whether they exist and in which areas, Madam Speaker, so that we can do something in the future without impeaching the House's decision, but also have an idea of the nature and sustainability of sports scholarships in this country.

Madam Speaker, we have a young country and sports is big-time employment in a country that is not able to create jobs. If we invest in sports, strategically, we can help our young population. Would the Minister, share with us what became of these scholarships and how many are they per year? Thank you.

THE SPEAKER: Minister. Honourable members, I do not want you to look at this as a bad gesture. It is not a bad gesture. These kids have made us proud. For the first time, I am seeing these children come on the floor, of the House.

Some people are sending messages, “What about our children?” Let your children also perform well and we shall - *(Laughter)*

MR OGWANG: Madam Speaker, first of all, I thank Hon. Mathias Mpuuga, the Parliamentary Commissioner, for asking a question. Let me go on record: I have not heard of or known any school in this country which is offering sports scholarships. *(Interjections)*

Please mark my words because I am on the Hansard. As far as I am concerned-

THE SPEAKER: Honourable minister, my school offers-

MR OGWANG: Madam Speaker, I am coming to that. As far as I am concerned, there are specific well-meaning Ugandans who operate private schools, who offer scholarships on their right as directors of those schools, but not the Government.

There is no institution of Government which is offering sports scholarships to our children. I thank you. *(Laughter)*

THE SPEAKER: Honourable members, the minister has said what he knows. The minister said what he knows that it is private schools that are offering what? Scholarships. So why do you want the minister to lie?

MR MPUUGA: Thank you, Madam Speaker. That is why honourable Peter Ogwang is- *(Interruption)*

Madam Speaker, Hon. Ogwang is always clear in his intentions and I appreciate that. Now that he has confessed to Government Slumbering on duty -

THE SPEAKER: No, the Government is not slumbering on duty. It is not.

MR MPUUGA: Yeah, Madam Speaker, I am going to look for another word that means; Government neglecting responsibility over its population. In a country that is 75 per cent young people, which Government on earth would not invest in sports?

We have all categories of people accessing scholarships. Of course we may not impose it on the National Resistance Movement (NRM) Government - *(Interruption)*- Well, you are waiting for my government. It will come, sooner than later.

Madam Speaker, may we, as Parliament, from today onwards, demand that the next budget-because we are not talking about a long-term thing where you need to do a lot of planning. The sports people are there. The Government is there and the money is there.

I would implore the minister of Sports to go and be innovative. Go and make a presentation before your colleagues, come to Parliament and ask for money to start sports scholarships and redeem the several young people that are falling by the wayside yet they are very talented. It is very rare - *(Hon. Ogwang rose)*

MR OGWANG: Maybe, can I make a one clarification, Hon. Mpuuga. First of all, a colleague here has been asking me about one area where the Government gives about 1.5 points for sportsmen and women who qualify for admission to public universities. That is also not a scholarship.

I want us first to be very clear there, that the Government already has a policy for well-doing children who qualify from senior six to join public universities. They look at, number one, their performance -

THE SPEAKER: Honourable minister, I thought -

MROGWANG: - that is when the Government is able to give 1.5 points for you to qualify. But for the purpose of scholarships, I want to emphasise this, friends, I welcome innovation. I also want to say I request for your support, because we all mean well for the people of Uganda and for the sportsmen and women of Uganda. If money is permitted and available, why not? I thank you so, so much.

THE SPEAKER: Thank you. Members, one thing I want to make clarification on is; those kids will get their fees out of the donations within Parliament.

It is out of the donations; we do not have an education fund account, but it is out of the donations from the Commission where most of you have been. Next- Let me first hear from the minister.

3.15

THE GOVERNMENT CHIEF WHIP (Mr Hamson Obua): Madam Speaker, I, first of all, on behalf of the Government salute and extend a hand of friendship to the Federation of Motorsport Clubs of Uganda (FMU) President, the Hon. Jimmy James Michael Akena Obote, the member of Parliament, but also, president of FMU, for the excellent performance at the continental level. We salute you, my dear brother. *(Applause)*

I equally salute, the National Council of Sports and the entire Ministry of Education and Sports because the journey of Ugandan sports, we all know, has been on a positive trajectory.

Madam Speaker, I equally salute you as the leader of this House and the custodian of the Rules of Procedure of this House; for motivating and inspiring the young generation on two fronts:

One, by allowing these young Ugandans, Elena and Ramathan, access into this House. Also, more importantly, for making a humble contribution to their education through

the support that government renders to the Parliamentary Commission under corporate social responsibility by accepting to take care of educating these young Ugandans up to a minimum of senior six.

I believe that the young Ugandans who are watching Parliament right now, especially sportsmen and women, who are children like them, are feeling inspired and motivated. I think that is a very, very good gesture. I was whispering to them whether they can be faster than myself or I am faster than them. They told me point blank, that when it comes to riding, I cannot beat any of them. I conceded.

Madam Speaker, at times when we submit on the floor of Parliament, we seem to be not mindful of the fact that we operate under collective responsibility. There is only one Government that is funding all the three arms of the state. We all know that as Government, we operate a cash budget - Ministry of Finance, Planning and Economic Development has always reminded us. The good news is, the budget of sports of this country has progressively been on the increase.

That is why Ugandans are now world record holders. Ugandans are breaking more and more world record. It is South Africa that is attempting to compete now with Uganda. But we have also gone ahead of South Africa in netball. *(Applause)*

We went to South Africa for football; they scored in the 93rd minute. However, when they came here, I think the spirit of the late Nelson Mandela was alive and kicking because our national stadium is named after him. Now again in motorsports, they are the champions of Africa and we are the runners-up, but we are progressing.

Madam Speaker, the Minister of State for Sports has probably not told you this. The rate at which our national teams are now qualifying for different World Cups and continental competitions is on the increase, courtesy of the support that the Government, through this Parliament, is rendering.

You can now see Hon. Jimmy Akena, the President of Uganda People's Congress, a party in opposition that has been in power twice, is the president of a sports federation and right now wearing black, yellow and red - the national colours of Uganda.

If you look at the majority colour he is wearing, yellow is more than black. *(Laughter)* It is the reason why I have also decided to promote him today and also wear one of the national colours.

Madam Speaker, we want to confirm as the Government that subject to availability of funds, now that we have the budget - Regarding our story of sports in the past, you would be asked, "Is it in the budget?" but the story has now changed. The budget is there. Is the money released? The answer is yes or no.

In the past, "Are you in the budget?" The moment you answered "no", you would not proceed to the next question. But at least we have progressed, honourable colleagues, from about Shs 10 billion, we are now talking about over Shs 40 billion and the results can be seen.

For those who did not know the Federation of Motorsport Clubs of Uganda, at least today, Hon. Akena has brought glory to this country. All these are trophies. You can see there is no space for the trophies brought by the Federation of Motorsport Clubs.

Therefore, we want to commit that subject to availability of funds, the Government will continue promoting sports by funding the different federations that are holding the national flag of Uganda higher and higher at local, national, regional, continental and international level. I salute FMU for this glory. Thank you.

THE SPEAKER: Thank you so much, honourable minister. In a special way, I want to thank Members of Parliament who appropriate this money that goes to sports. Thank you so much for promoting sports.

We thank the President of the Republic of Uganda for having passion for sports. It is from

him that we are able to have that money and then the Minister of Education and Sports, who is also the First Lady. Next item?

MINISTERIAL STATEMENT ON THE ON-GOING RECRUITMENT OF STAFF IN SEED SCHOOLS BUILT UNDER THE UGANDA INTER-GOVERNMENTAL FISCAL TRANSFER PROGRAMME (UgIFT II)

THE SPEAKER: Hon. Akena, you can take the young men and women out. Honourable members, I am in receipt of the petition of some affected head teachers and teaching staff from some of the schools, raising concern over discrimination in the ongoing recruitment of staff in seed schools under UgIFT.

Given that most of these schools are either community or faith-based, the host communities find it prudent that the head teachers who had volunteered leadership in those schools be accorded priority in the recruitment process, as long as they meet the requirement criteria.

However, the ministry has gone ahead and advertised and these people are not included. In addition, the learners of the affected schools are currently doing their examinations and there is also fear that the current leadership may move away with the results of the students who are there.

Some of the affected schools are in hard-to-reach and hard-to-stay areas. The people who are used to being in those areas are the teachers who started those seed schools and can be the ones to stay in those places. *(Applause)* They are willing and committed to withstand the hardships.

It is against that background, therefore, that some aggrieved teachers petitioned Parliament, upon assurance of recruitment advert in the mass media. Given the urgency of the matter, it is now prudent that the minister gives us an update on the process that is ongoing.

Since in UgIFT I, there was already a precedent which was set, the sitting head teachers and

teachers who were in those schools were the ones who were given priority. *(Applause)*

Pursuant to Rule 52(1) of the Rules of Procedure, I now invite the minister to give a statement. Honourable minister, we are in one House and you are having another meeting, yet you are supposed to present. Hon. Alioni –

3.25

THE MINISTER OF STATE FOR EDUCATION AND SPORTS (SPORTS)

(Mr Peter Ogwang): Madam Speaker, let me begin by apologising, but the Member was at the same time trying to find out what I had written in the statement I am going to present. I told him to be patient and I read the statement, so that we can all be able to discuss it as a House.

With your permission, Madam Speaker and honourable colleagues, The Uganda Intergovernmental Fiscal Transfers (UgIFT) Programme was established in 2017, with an objective of improving the adequacy, equity and effectiveness of the financing and oversight management and delivery of local government services, including refugees and their host communities in education, health, water and environment.

The Ministry of Education and Sports, with support from the World Bank, is implementing UgIFT with a mandate to construct a number of secondary schools across the country. The first phase of UgIFT has 117 seed schools constructed and commissioned.

On 28 December 2021, the Ministry of Education and Sports constructed and commissioned the first UgIFT school called Keihangara Seed Secondary School in Ibanda District. To date, a total of 117 seed schools were commissioned countrywide and currently operational with teaching and non-teaching staff recruited under the first phase of UgIFT in the education and sports sector.

Madam Speaker, a total of 115 schools were under construction in the second phase and 27 in the third phase. A total of 92 seed schools

under phase 2, however, have been identified to start operating and the ministry, together with the Education Service Commission, was tasked with the responsibility of recruiting and deploying staff in these schools.

As you are aware, the Government has a policy of providing a secondary school in each subcounty under the two-tier system (grant-aiding an already existing private or community secondary school or constructing a seed school).

The difference between a grant-aided school and a seed school:

1.0 The newly grant-aided secondary schools: These are already operational, registered, and licensed community or religious founded schools which apply to the Government for grant aiding. These are the schools where the Government recruits sitting teachers because the schools are already operational and privately owned.

The Government recently grant-aided 46 secondary schools and the staff of these schools were recruited through school-based.

Seed schools

These are supposed to be new schools that the Government builds in the land provided by the local government. The 92 seed schools in question are already newly constructed and are under the World Bank funding.

In 2020, because of the challenges of people becoming opportunistic and starting schools, where some schools are going to be constructed or near those sites taking advantage of teachers, the Ministry of Education and Sports issued a circular standing instruction No.4 of 2020 cautioning local government leaders not to recruit staff in this school, since they were under construction.

Madam Speaker, I would like to lay on the Table a circular No.4, issued by the then acting permanent secretary on 11 July 2023.

THE SPEAKER: Please lay.

MR OGWANG: On 11 July, 2023, the ministry issued yet another circular to the local governments since there were reported cases of extortion from the unsuspecting potential teachers. This matter, therefore, is not new to the people who are complaining, since they were already warned that there were schools under construction and not expected to have any staff until they are completed and opened.

Qualifications for recruitment of head teachers and deputies

2.2.1 Headteachers

According to the scheme of service for teachers, the qualification for the post of headteacher, in government secondary schools includes the following:

- a) A bachelor's degree in education or a bachelor's degree with a post-graduate qualification in education from a recognised university/institution.
- b) A master's degree in education or related field.
- c) Registered as a teacher with the Ministry of Education and Sports.
- d) A minimum of twelve (12) years working experience in a Government owned/aided secondary school, three (3) of which should have been at the level of a deputy teacher.

2.2 Deputy Head Teachers

- a) A bachelor's degree in education or a bachelor's degree, plus a postgraduate diploma in education from a recognised university/institution.
- b) A minimum of nine years teaching experience, three (3) of which should be at the level of education officer in a secondary school.
- c) Registered as a graduate teacher with the Ministry of Education and Sports.
- d) A master's Degree in Education or Education Management or Education Planning and Management or a Master's

Degree in any teaching subject is an added advantage.

3.0 Challenges experienced during the earlier recruitment of teaching and non-teaching staff in the seed schools

Madam Speaker and colleagues, whereas it is true that the Education Service Commission has been conducting school-based recruitment in the previous seed schools, it has come to the attention of the Government that the recruitment process has been infiltrated by the corrupt tendencies and opportunism which include the following:

1) Moonlighting/Double Employment

It was established that a number of teachers on the government payroll who want to become teachers are sitting in these schools because they want to use them as a shortcut for promotion. This is in total disregard to the Uganda Public Service Standing Orders, 2021, Section A-o and Clause 5 of the Recruitment Guidelines issued that require officers to seek permission before being absent from work and hence deemed to have been absent from duty in their official schools of posting.

2) Inexperienced head teachers and deputies

The head teachers and deputy head teachers in these schools do not meet the qualification as indicated in 2.1 and 2.2. The sector has noted with concern that the quality of head teachers and deputies who have been recruited through school-based leaves a lot to be desired. These head teachers are transferable to the already existing schools and they lack capacity to manage the schools.

3) Extortion and bribery tendencies

The ministry and Education Service Commission has received credible information of irregular secondments of staff to those schools, with a view that the appointments shall be regularised by the Education Service Commission. This was being done on the condition that the prospective teachers pay

hefty sums of money to be included on the list of sitting teachers.

Madam Speaker, permit me - (*Mr Tinkasiimire rose*) - can I be protected?

THE SPEAKER: Honourable members, can we first hear from the minister? Remember -

MR OGWANG: Madam Speaker, permit me to lay on the Table a letter from a one Ewalu John, Serere District, Atiira Subcounty, Asilang Parish, Okileng Village. He wrote to the Permanent Secretary, Minister of Education and Sports, complaining of the recruitment of teachers in St Paul's Apapai Secondary School under H.R.M. 124/01 of 15/15th of March 2024. His complaint was that he served in that school for three years. After serving for three years, he was not among those who were recruited, and yet he had served in that school. Why?

Madam Speaker, he even quoted one person called Agenda Mary; a wife to the head teacher. Can you imagine? This teacher who was serving was left out and yet the wife of a head teacher who was not teaching in that school was recruited. Now, what are we talking about, honourable colleagues? (*Interjection*) No! Madam Speaker, I beg to lay this on the Table.

Another one -

THE SPEAKER: Honourable members -

MR OGWANG: Madam Speaker -

THE SPEAKER: Honourable members, I just want clarification. You are saying the person who was serving was not recruited so who was recruited?

MR OGWANG: Madam Speaker, according to the complainant, the wife of the head teacher, who was a qualified teacher and was not serving in that school, was recruited, leaving him, and yet he was there for three years. That is why now - (*Interjections*) - I am coming to that.

Madam Speaker, with your permission -

THE SPEAKER: Members, first listen.

MR OGWANG: Can I be allowed to submit?

THE SPEAKER: Members, I am still asking a question. First of all, I see a contradiction here is where the honourable minister said that these schools start building and then they recruit teachers. However, he is now saying that this person had been teaching for three years in that same place. So, what was that person teaching during that time?

MR OGWANG: Madam Speaker -

THE SPEAKER: Let him conclude.

MR OGWANG: Madam Speaker -

THE SPEAKER: Honourable members, one thing you should know is that we all have schools and all the schools are affected. Let us not have emotions. Let us listen to the statement and we will debate it. (*Hon. Tinkasiimire rose*) I have said no to your point of order.

MR OGWANG: Thank you, Madam Speaker. With your permission:

4. Nepotism and tribalism

A number of complaints were received by the Minister of Education and Sports-

THE SPEAKER: Can you listen; he is on the last page. He will not run; he is still under my custody. No procedural matters for now. Please finish, honourable minister.

MR OGWANG: Madam Speaker, a number of complaints were received by the Ministry of Education and Sports and the Education Service Commission from the Chief Administrative Officers and actual sitting teachers that have been left out of the list submitted because they do not come from the regions, even after serving in those schools for long.

Neighbouring private schools that purport to be affiliated to the UgIFT and secondary schools. In the circular of 2023, the ministry guided all local governments that seed schools with the exception of those legally in existence between 2019 would be considered.

However, it is worth noting that the majority of these schools were not in existence as they were neither registered nor licensed by this ministry to operate as secondary schools and thus, operating illegally or non-existent.

Discrepancies and contestation of lists submitted to the Education Service Commission.

The Education Service Commission has kept on receiving conflicting lists from various stakeholders and thus, it is nearly impossible to independently verify the authenticity of this list.

Local leaders camping in schools

The Education Service Commission has not been able to recruit in some schools because of local leaders pushing different lists at the same time of interviews.

The need for open competition instead of school-based recruitment

Article 167 of the Constitution of the Republic of Uganda established the Education Service Commission. Article 168 and 251 of the same Constitution and the Education Service Commission, Regulations 2012 mandates the Education Service Commission to regulate its own procedures and, therefore, decide the mode of recruitment.

The Commission has decided that this particular recruitment is open for internal competition since these are promotional positions to attract eligible seasoned and serving officers. The rest of the other positions in these schools will be advertised externally, and all those who are eligible will be free to apply and compete.

As a sector, we need to ensure transparency in the recruitment process to provide for quality education in all our schools. I thank you, colleagues for listening to me. I say all this "For God and My Country."

THE SPEAKER: Honourable members- everybody wants to speak. Let us start with the Deputy Attorney-General and then you come with your point of procedure.

3.43

THE DEPUTY ATTORNEY-GENERAL (Mr Jackson Kafuuzi): Thank you, Mr Speaker. Prudence demands that members of the Front Bench agree but this is one position on which I seek to differ. *(Applause)*

I am called Kafuuzi Jackson Karugaba, a Member of Parliament for Kyaka South, Kyegegwa District. In 2016 when I became Member of Parliament, my constituency had one seed school. I used my own money to build small secondary schools and the Government took them on and built seed schools there.

By the time Government came, I already had volunteer teachers. *(Applause)* These schools, as I speak, have sat Senior four, others are registering to sit Senior six this year.

One of the schools, whose construction is being completed – if you check on that list, there is Ruyonza Seed School. I would even invite Parliament to go and visit this place to confirm my words. There are over 500 students. I started it with just about Shs 30 million, I put up a makeshift structure because the whole sub-county did not have any school.

It has been in existence for six years, and now, you wake up one day and say – *(Interjections)*

I went with my LCV chairperson and the Chief Administrative Officer, together with the Hon. Paul Asaba. I am the Member of Parliament for Kyaka South, Hon. Asaba Paul is the Member of Parliament for Kyaka North.

We met the Permanent Secretary, Ministry of Education, first - the PS that left told us that she had sent a team, the commissioners, and the human resource officers to these schools that had been built, where there were volunteers.

They picked all the academic documents from the teachers and we were assured. They said that they were going to advertise but they were going to give them the first priority. *-(Applause)-* That is what I was informed.

We had a second meeting with the current Permanent Secretary, Ministry of Education,

together with the human resource officers, Ministry of Education, who confirmed to us that the volunteer teachers were going to be given first priority.

Therefore, I get disturbed, and that is where I depart from my colleague, that these teachers have been teaching for six years. It is okay if they fail the interview because an interview is – *(Interjections)* I need protection.

THE SPEAKER: You are protected.

MR KAFUZI: This interview is a competence test. If they fail it means they do not qualify. Then let those who qualify take over. However, all we seek is that they be given first priority. I beg to submit.

THE SPEAKER: Thank you. After your procedural matter, we shall have *Senga*.

MR TINKASIIMIRE: Thank you, Madam Speaker. I listened attentively when the honourable minister was submitting. I am mainly concerned about two issues;

One, stating that the seed secondary schools that his ministry has constructed in our respective constituencies are totally new.

When I became a Member of Parliament in 2006, I registered a school in my constituency called Kitegwa Community Secondary School. This school gained the Universal Secondary Education (USE) status and when they phased out USE that is when the Government started constructing the same school.

For the record, in 2012, this same secondary school had 51 candidates; seven candidates scored First Grade, 24 candidates scored Second Grade, 16 candidates scored Third Grade, two candidates scored Fourth Grade, and only two did not appear out of the 51 candidates.

The honourable minister does not have that record anywhere in his ministry that my school, which he constructed, had such a performance that my school, which he constructed, had such

a performance and has existed with a head teacher whose papers were used to register the same school.

He is the same head teacher - how I wish - they even have a Uganda National Examinations Board (UNEB) Centre.

The second matter - I will raise the procedure at the end. *(Laughter)*

The second matter is that he brought a letter, alleging that a certain teacher was not recruited or they were getting money from them. For me, I did not expect this from the honourable minister. I expected a report on the investigations into such a matter on the Floor.

This particular person, who made a complaint - it is an allegation. Our rules and the Constitution of the Republic of Uganda bar us from treating matters unfairly. Article 44 of the Constitution of the Republic of Uganda states that fair hearing is a non-derogable right.

For the honourable minister to submit here and we allow him to only lay a complaint over which he did not listen to the parties, is very unfair.

The procedural issue I am raising is: is it procedurally right for us to even consider such a ministerial statement that has glaring errors and is totally against the Constitution of the Republic of Uganda?

THE SPEAKER: Honourable member, based on the allegations that have been mentioned – the challenges – where you are talking about moonlighting and double employment, inexperienced head teachers and deputies, extortion and bribery tendencies, nepotism and tribalism – all those are what the minister has mentioned. And, as you have said, we expect a report on where they have investigated and whether these teachers have been given a fair hearing.

Based on that, the petition together with what the honourable minister has presented, should go to the Committee on Education and Sports

and the Committee on Public Service and Local Government – a joint committee.

The Committee on Education and Sports will take the lead. They will present to this House all these allegations that have been brought, and they should ensure that the persons who are affected are given a fair hearing. Next item.

(Members rose_) Honourable members, it is premature for us to debate that statement. Let us follow our rules. Please, sit. Honourable members, even the advert will be interrogated. The matter will be taken to the committee, including the advert.

Honourable minister, in the circumstance that you have the advert, what happens?

MR OGWANG: Madam Speaker, I refer this House to Article 168(2) and I want to read it for the record.

“(2) In the exercise of its function, the Commission shall be independent and shall not be subjected to direction or control of any person or authority...”

Madam Speaker, I have welcomed the guidance that you have given for us to appear and adduce our evidence in line with my statement, but for purposes of the commission’s independence, I request – honourable members, we swore an oath to protect this Constitution -*(Interjections)*- I beg that we allow the commission to do its work. Thank you.

THE SPEAKER: Yes, Hon. Alioni?

MR ALIONI: Thank you, Madam Speaker. In the interest of time, I believe you have already made a ruling.

THE SPEAKER: Yes.

MR ALIONI: So, procedurally, is the honourable minister right to, again, come and start elaborating on a matter which you have already ruled over?

THE SPEAKER: Attorney-General?

MR KAFUZI: Thank you, Madam Speaker. *(Interjections)* Can we be protected?

THE SPEAKER: Please!

MR KAFUZI: Madam Speaker, I have listened to the clause as presented by Hon. Peter Ogwang.

THE SPEAKER: By the way, the clause he is reading is about the Education Service Commission. Who is recruiting?

MR KAFUZI: Madam Speaker, even if we were to go by what the clause says, none of what you have said and anything that has to do with our discussion here is telling Education Service Commission what to do.

Education Service Commission is advertising to conduct interviews, and we are saying that it should give priority to people who - and these are Ugandans who are entitled like any other. We have not said that -

THE SPEAKER: We have not stopped it. Honourable minister, listen to your colleague.

MR KAFUZI: We have not said that the Education Service Commission should recruit so and so. We said: “Interview them. If they pass the competency test, let them get employed.”

THE SPEAKER: Honourable minister?

MR OGWANG: Madam Speaker, can I seek clarification from the Deputy Attorney-General?

THE SPEAKER: Honourable members - yes, Hon. Ssewungu?

3.58

MR JOSEPH SSEWUNGU (NUP, Kalungu West County, Kalungu): Thank you, Madam Speaker. I would like the Attorney-General to be attentive. The Speaker’s ruling is very welcome. However, we want to correct Parliament’s records. Let us address ourselves to Article 79 of the Constitution.

The moment you understand that - what you are saying about the Education Service Commission is already captured because we are carrying out our oversight function as Parliament -(Interjections)- I will not read - because you all know this - why should I waste time reading? Get into your iPads, read Article 79 and see what it is saying.

What that speaker is saying and what we are praying is something we have heard before in Parliament. When we have such a controversy, we direct ministries to halt until the committee carries out its work.

The minister coming here to address us and going to the Education Services Commission outside Article 79 of the Constitution, is not proper. The Attorney-General is here and he is the legal advisor of the Government. He knows what we mean by the Constitution and Article 79.

Therefore, my prayer is seeking to halt this whole thing until the committee does its work.

THE SPEAKER: Honourable members, I have said, let the two committees examine the matter. Can we go to the next item?

MOTION FOR ADOPTION OF THE
REPORT OF THE COMMITTEE ON
ENVIRONMENT AND NATURAL
RESOURCES ON THE PETITION BY
TIBET HIMA MINING COMPANY
LIMITED AGAINST THE TERMINATION
OF THEIR CONCESSION AGREEMENT
WITH THE GOVERNMENT OF UGANDA

THE SPEAKER: Honourable members, petitions as provided under Rule 30 of the Rules of Procedure, are a request for Parliamentary decisions and actions on matters that Parliament is responsible for.

Parliament, as a House of representatives of the people of Uganda, is duly bound to address the concerns as such as petitioners - Can I have order?

Pursuant to rule 30(13) of the Rules of Procedure, I will invite the Chairperson of

the Sectoral Committee on Environment and Natural Resources to present a report of the Committee on what they discovered out of the petition. Chairperson?

Honourable members, maybe before we hear from the chairperson, we have a very bad tragedy that has just happened in West Nile.

4.02

MR DENIS OGUZU (FDC, Maracha County, Maracha): Madam Speaker, we are in a state of emergency which requires the Government's urgent intervention. As we talk now, we know the heavy rains have led to the cutting off of the crossing at Pakwach Bridge, and many people who are trying to intervene to offer help are also getting swept away.

We, therefore, need a serious emergency response from the Government so that the volunteers who are helping with the situation can also be helped. That might require - maybe you have helicopters -

THE SPEAKER: Tell us what happened. The river banks at Pakwach Bridge have burst and cost lives.

MR OGUZU: I think that is what we are trying to explain, but the action needed is an emergency response.

4.02

MR JACKSON ATIMA (NRM, Arua Central Division, Arua): Thank you, Madam Speaker. What has actually happened is that, since morning, it has been raining heavily in West Nile, and this has caused the River Nile banks to burst, and all the vehicles which were along that area have been swept into the river.

Four people are dead, and there are some Uganda People's Defence Forces (UPDF) and Uganda National Roads Authority (UNRA) officers who were removing natural weeds on the surface and tried to rescue those people, but they were all getting swept away.

Therefore, Madam Speaker, what we need is Government intervention. If UPDF choppers could be dispatched to that area to rescue the

victims who are already submerged in the river that would be great.

THE SPEAKER: Sorry –

MR ATIMA: Secondly, we would also request that the marine crews should be dispatched to that area so that lives can be saved. Thank you.

THE SPEAKER: Sorry about that. Government, you have heard it is an emergency- I am going to chase away Hon. Solomon from the House. Yes, you go ahead.

4.04

THE GOVERNMENT CHIEF WHIP (Mr Hamson Obua): Madam Speaker, we wish first of all - even before we get the preliminary reports – if there are people who have lost their lives due to this tragedy, to stand with the family in this time of bereavement.

I would like to request that you give me an opportunity to make some calls because this has just happened so that we can determine which steps have so far been taken in the interim to handle the situation of the people who are around that place at the moment.

THE SPEAKER: Thank you. The people who were referred to as culprits are victims. We will be getting feedback on that. Yes, honourable Chairperson –

4.05

THE CHAIRPERSON, COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES (Mr Edmund Ariko): Madam Speaker, on behalf of the Committee on Environment and Natural Resources, we wish to present before the House a report of the Committee on Environment and Natural Resources on the petition by Tibet Hima Mining Company Limited – honourable colleagues please, - against the termination of their concession agreement with the Government of Uganda.

Before I proceed with the presentation of the report, I wish to lay on table minutes of the committee meetings during which we considered this petition. I beg to lay.

THE SPEAKER: Please, lay.

MR ARIKO: I also wish to lay on table the concession agreement that was under review in this investigation. I beg to lay. Please lay.

THE SPEAKER: Please, lay.

MR ARIKO: The committee also reviewed and received a number of submissions presented before it. I wish to lay here:

1. The petition by the Tibet Hima Mining Company;
2. The submissions from the petitioners;
3. The submission of the Minister of Energy and Mineral Development;
4. The submission from the Minister of Finance, Planning and Economic Development;
5. The submission from Kilembe Mines Limited;
6. The submission from Kilembe Mines Community in Bulembak Division;
7. The submission of the Office of the Attorney-General;
8. The submission of the winding up commission for Kilembe Mines, including a report of the winding up commission. I beg to lay.

THE SPEAKER: Please, do

MR ARIKO: Madam Speaker, in this file, I also beg to lay documentation from the petitioners that included their submissions and responses to the questions raised by the committee in respect of the grounds under which their Concession was wind up. I beg to lay.

Madam Speaker, I would like to note here that the Committee on Environment and Natural Resources, in considering this matter, was judicious, took its time, and attempted to accord all the parties involved the opportunity to give their position and view on the matter that was before us for our consideration.

I am happy to note, Madam Speaker, that the committee was unanimous in its findings

and decisions. Indeed, all the Members of Parliament have been very vigilant and active in this matter, all the 31 signed the report and there is no minority report. I, therefore, wish to read the report.

On 18 April 2024, the Rt Hon. Speaker referred a petition by Tibet Hima Mining Company Limited against the alleged unfair termination of their Concession Agreement with the Government of Uganda to the Committee on Environment and Natural Resources for consideration, investigation, and report back. The petition was presented by Hon. Solomon Silwany, Member of Parliament for Bukooli County Central.

The committee has considered the petition and I hereby wish to report.

2.0 Background

On 6 September 2013, the Government of Uganda, represented by the Minister of Energy and Mineral Development, the Minister of Finance, Planning and Economic Development, and Kilembe Mines Limited (hereinafter referred to as “KML”) entered into a Concession Agreement with the Tibet Hima Mining Company Limited, the Petitioner and hereinafter referred to as “Tibet” or the “Petitioner”.

The Concession followed a competitive international bidding process in which the Petitioner emerged as the best-evaluated bidder. Consequently, the Government accepted a proposal by the consortium led by Tibet Hima Automobile Industry Company Limited, and awarded the Concession to the Petitioner to revamp Kilembe Mines, which had been dormant for over 30 years.

The Government of Uganda was desirous of encouraging further exploration and development of minerals in Uganda, as well as promoting and facilitating the operation of mining companies. It was hoped that this policy would benefit the regions and local communities in which minerals are developed through facilitating the growth of socio-

economic infrastructure such as schools, health facilities, and clean water supply systems for sustainable regional and national development.

2.1 Kilembe Mines Limited

Kilembe Mines Limited is a public enterprise listed under the Public Enterprise Reform and Divestiture Act, Cap. 78, also referred to as the PERD Act. Among the assets of Kilembe Mines Limited are the copper mine at Kilembe in Kasese District and also the 4.5 Megawatt Hydropower Plant at Mubuku.

Tibet-Hima Mining Company is a subsidiary of Tibet Automobile Company of China and a special-purpose vehicle company specifically for carrying out the project under the concession agreement with the Government of Uganda.

2.3 Purpose of the Concession

The purpose of the concession was for Tibet to revamp the mines at Kilembe, including their assets such as land, minerals, and mineral rights, which had to be done for a period of 25 years. At the time of execution of the Concession Agreement, the mineral rights held by Kilembe Mines Limited included Special Mining Lease 215, Special Mining Lease 3433, Exploration Licenses 1212, and Exploration License 1248.

Under the Concession, KML granted Tibet the right to use the conceded assets in accordance with the terms of the Concession Agreement. The parties also entered into a deed assignment dated 23 December 2013 between KML and Tibet. The deed provided that upon termination of the Concession Agreement, the assigned exploration and mining leases were to revert to Kilembe Mines Limited.

2.4 Termination of the Concession Agreement

On the 20th day of June 2017, Hon. Evelyn Anite, Minister of State for Finance, Planning, and Economic Development, in charge of privatisation and investment, issued a notice of termination of the Concession Agreement to the Chief Executive Officer (CEO) of Tibet noting that in spite of the several notices of

default dated 28 December 2015 and 14 July 2016, Tibet had deliberately failed to honour the following key obligations of the Concession Agreement:

- i. Provision of written undertaking to the satisfaction of the Government that all the consortium members and shareholders shall participate in the project in appropriate stages of the project as per clause 2.3 of the Concession Agreement.
- ii. Payment of the annual Concession fees as per clause 15.2 of the Concession Agreement and
- iii. Provision of the exploration guarantee as per clause 19.6.1 of the Concession Agreement, despite the notices of default.

2.5 The Petition

Tibet filed a petition challenging the termination of the Concession Agreement, contending that it had substantially delivered on all their key obligations and performance areas under the Concession Agreement, resulting in a 30 per cent value addition for its raw material for the revival and the production of Kilembe Mines by December 2017.

Madam Speaker, the Petitioner further contended that they undertook a number of activities in preparation for the mining and processing of minerals from the Kilembe Mines, including:

- i) Upgrading the existing operation facilities;
- ii) Undertaking underground mine de-watering;
- iii) Supply of water;
- iv) Design of underground materials, handling system, and a processing plant; and
- v) Procurement, construction and management of the surface and underground infrastructure.

According to the Petitioner, in spite of performing their key obligations, Government failed or neglected to fulfil their own contractual obligations, and in particular:

- i) They delayed handing over Kilembe Mines to the Petitioner by nine months from the date of entering into an agreement;
- ii) Government reduced the concession period from 25 years to 15 years without any explanation;
- iii) Government failed to provide the necessary permits and licenses in time;
- iv) They stripped equipment belonging to the Petitioner;
- v) Unlawfully and without regard to the contractual terms terminated the Concession Agreement.

The Petitioner argued that because of the breaches by the Ministry of Energy and Mineral Development, the Ministry of Finance, Planning and Economic Development, and Kilembe Mines Limited, the Petitioner was frustrated in performing the obligations under the Concession.

The Petitioner further asserted that they were frustrated due to technical bureaucracies and inadequate coordination among the concerned ministries, departments, and agencies that they were required to report to.

The Petitioner submitted that following the early termination of the Concession Agreement, the Petitioner suffered substantial financial losses amounting to \$980 million as direct costs, and the Government subsequently lost \$10 million annually due to the failure to fulfil the obligations under the Concession Agreement.

The Petitioner therefore prayed that:

- i) The relevant committee of Parliament investigates the implementation of the Concession between the Petitioner and Government of Uganda to establish whether the obligations in the agreement were fulfilled by both parties;
- ii) In the interim, the Parliament halts the ongoing advertisement and subsequent procurement processes related to Kilembe Mines Limited; and

- iii) that it investigates the reasons for delay in handing over the Kilembe Mines site.

The terms of reference of the committee

In determining the petition, the committee guided itself by the following terms of reference:

- a) To determine whether the termination of the Concession Agreement was unfair;
- b) To examine the rights of the parties to the Concession Agreement;
- c) To examine whether there are any remedies available to the parties; and
- d) To report any other matters incidental to this petition.

The laws that the committee referred to are provided there. I do not wish to go back to them.

Methodology

- a) The committee held meetings and interacted with various stakeholders as they are projected, including meetings with the Ministry of Energy and Mineral Development, the Minister of State for Finance, Planning, and Economic Development, the learned Attorney-General, the Management and Board of Kilembe Mines Limited, the Deputy Attorney-General, the Winding Up Commission of Kilembe Mines, civil and political leaders from Kasese District, among others.
- b) We also had representatives of the committee visit the headquarters of Tibet and its consortium members in the People's Republic of China; Kilembe Mines in Kasese, and also interfaced with both the petitioner, their representatives, and senior management of Kilembe Mines Limited.
- c) They made reference to various laws and other documents, including the Concession Agreement, the winding up commission report and other documents as listed in the report.

Limitations

The committee visited Kilembe Mines seven years after the termination of the concession and could not ascertain the state of the assets at the time of termination. As a consequence, the investigation was confined to the period during the subsistence of the Concession Agreement, through to its termination.

7.0 Findings, Observations, and Recommendations

Under this segment, the committee interrogates the terms of reference as set out above and makes relevant observations and recommendations.

7.1 To investigate whether the termination of the Concession Agreement between the petitioner and the Government of Uganda was unfair

The termination of the concession by the Minister of State for Finance, Planning and Economic Development in charge of Privatisation and Investment, Hon. Evelyn Anite, was premised on the following grounds.

Provision of written undertaking to the satisfaction of the Government that all consortium members shall participate in the project at appropriate stages of the project, as per clause 2.3 of the Concession Agreement.

Payment of the annual concession fees as per clause 15.2 of the agreement.

Provision of the exploration guarantee as per clause 19.6.1 of the Concession Agreement, despite notices of default.

In order to determine whether or not the termination of the concession was unfair or not, the committee interrogated the performance of key obligations as cited by the Minister of Finance, Planning, and Economic Development in charge of Privatisation and Investment, in her notice of termination.

7.1.1, that is the first issue; clause 2.3 of the Concession Agreement obligated the

concessionaire to provide written undertaking to the satisfaction of the Government that all the consortium members shall participate in the project at appropriate stages of the project.

The termination notice dated 20 June 2017 listed failure to fulfil the condition as one of the reasons upon which the notice was premised. The petitioner claimed that the failure to fulfil this condition was due to:

- a) The delay by the Government to hand over the site for nine months, which caused concern and discomfort among the consortium partners; and
- b) The unilateral reduction of the concession period by the Government from 25 to 15 years, in contravention of clause 1.1.62 of the Concession Agreement.

The petitioner submitted that the above reasons had an impact of causing uncertainty among the consortium partners, necessitating them to re-evaluate their level of commitment and investment, and therefore, they sought clarification from the Government regarding the reduced licensing period.

The petitioner further stated that the occurrence of floods in May 2014, which lasted six months, devastated the mines and hampered their operation.

The petitioner further submitted that, above notwithstanding, the petitioner and their consortium partners demonstrated commitment by continuing to invest heavily and undertake high-expense activities on the ground.

Hon. Evelyn Anita, the Minister of State for Finance, Planning and Economic Development, in charge of Privatisation and Investment, Hon. Sidronius Okaasai Opolot, Minister of State for Energy and Mineral Development, in charge of Energy, representing the Minister of Energy and Mineral Development, and Mr Fred Kyakonye, the Chief Executive Officer of Kilembe Mines Limited, submitted to the committee that the concessionaire had not discharged their obligation under the

Concession Agreement, and that it was one of the reasons which necessitated the termination of the Concession Agreement.

On the other hand, the petitioner maintains that they indeed have the capacity to perform their obligations, and that at the time of termination they were ready and willing to perform the said obligations.

The committee was further informed by Hon. Evelyn Anite that the petitioner lacked financial capacity to fulfil this obligation. According to the minister, the petitioner was a motorcycle assembly company, which lacked capacity to engage in a huge national resources project such as Kilembe Mines.

However, the committee noted that from the reviewed documents, including the financial statements, the asset portfolio, as well as the commitment from other partners, the petitioner illustrated financial, technological, and human resource capacity. Moreover, that was the basis upon which they emerged the best evaluated bidder, and consequently was awarded the concession.

Based on this observation, the allegation of Hon. Evelyn Anite was unfounded as she did not submit evidence to substantiate her assertion that the petitioner was a motorcycle assembling company. Indeed, the delegation of the committee that visited their headquarters and those of their partners, ascertained that they are involved in multiple investment and manufacturing projects.

Madam Speaker, this file contains details of financial statements, memoranda of understanding between the companies, and the profile of each of the companies' investments.

Indeed, Madam Speaker, the company that is referred to as a motorcycle assembly, is a vehicle manufacturing company.

In addition - I will later on elaborate on some of my submissions - to a review of documentary evidence, the committee visited Kilembe Mines –

THE SPEAKER: Maybe we need to understand if there is a difference between a motorcycle and a vehicle. That is food for thought.

MR ARIKO: Madam Speaker, in addition to review of documentary evidence, the committee visited Kilembe Mines Limited and established that there was equipment and machinery, purchased and installed by the petitioner, in compliance with the obligations under the Concession Agreement. These included; a ball mill, copper and pyrite agitators, a spiral classifier, a wheel loader, rail cars fabricated on site, vacuum ceramic filters, and there was also rehabilitation of a charging point for locomotives; and renovation of rails, as well as installation of power substations, among others.

The smelter plant

The petitioner informed the committee that they were willing to set up a smelter, subject to testing samples of the concentrate. This would help them determine the right machinery and the capacity to install.

However, the government declined their request for samples for testing. Hon. Evelyn Anite informed the committee that the Government could not accept the export of 30,000 tonnes of concentrate, which included various minerals, for testing as requested by the petitioner.

The committee established that, whereas the petitioner requested 30,000 tonnes for testing, this request was declined, and the Government did not indicate what quantity of the concentrate was allowable to the petitioner to export for testing.

This made it impossible for the petitioner to construct a copper smelter since they did not have samples to test and to establish the appropriate machinery for the smelter.

The committee observed that there was no attempt to establish reconciliation between the parties as to the appropriate quantity of the concentrate required for testing.

The delegation of the committee also visited the headquarters of the petitioner in the People's Republic of China to establish whether the petitioner had the capacity to execute the concessionaire agreement.

The Findings

The committee found that although one of the partners in the petitioner's consortium in (Sinomine), had withdrawn from participating in the concession, other formidable partners had been identified and included in the consortium.

For example, Shandong Humon Smelting Company, Exploration Unit of North China, Geological Exploration Bureau and Hubei Wankan Geological Exploration Company.

What is worth noting for the House is that Sinomine, which provided a basis for the Government concluding that the consortium was not together, was later to go back and apply to become the one that takes over the concession after the termination of the other.

Currently, there are more partners than there were at the time of the termination of the concession agreement, and these include the 10th Geological Brigade of Sichuan for exploration, Technologic City High-Tech Development Zone, Sichuan-Wanchang-Weiming Lakeside Project, the Sichuan Mining Machinery Group, Visitor Modern Planting Project, Design and Research Institute, the Dong Fang Electric Corporation.

Dong Fang Electric Corporation was the one that had been established in the consortium. These are the people who manufactured the turbines for Isimba Hydro Power Dam as well as Karuma Hydropower Dam, and theirs was to manufacture the crushers that were supposed to grind the stone in which the smelting was supposed to happen, among others, under the umbrella of Wansiang Investment Group of China.

The committee established that the petitioner and their partners indeed have the financial capacity to perform financial obligations

under the concession agreement, given that the partners' aggregate net worth, according to the financial statements here, is estimated at USD 1.768 billion.

The committee also established that Tibet Automobile Company does not deal in motorcycles, as alleged by the Honourable minister.

Indeed, a visit to Tibet Automobile Limited established that they deal in, among others, motor vehicle manufacturing and assembly, such as BMW, Audi, and Volkswagen models.

Observations

The Committee observed that there is evidence of reminders from the Government of Uganda to the petitioner to fulfil this obligation. In particular, the letter of the Permanent Secretary/ Secretary of Treasury, dated 14 July 2016 (Appendix 1).

The delays by the Government in fulfilling some of its obligations in the concession agreement created uncertainties for the petitioner and their consortium partners.

The petitioner was awarded the concession as the best-evaluated bidder through an international bidding and evaluation process.

Accordingly, claiming lack of capacity shortly after executing the concession agreement does not hold; moreover, the committee notes that due diligence should have been done before awarding such a concession.

It was also impractical to expect the petitioner to have established a smelter plant between the commencement of the concession agreement and the termination as of July 2017; as the circumstances were not permissible, let alone the period needed to undertake such a strategic investment.

7.1.3. Provision of the Exploration Guarantee

Honourable Members, 19.6.1 concession agreement required the petitioner to pay an

exploration guarantee equivalent to 15 percent of the approved work program.

Hon. Sidronius Okaasai Opolot informed the committee that the exploration guarantee was required of the concessionaire as security for the performance of the concession agreement.

He further submitted that the lack of exploration guarantees exposed the Government to the risk of non-performance by the concessionaire with a lack of a fall-back position.

The committee was informed that in 2014, Tibet provided a guarantee that was executed against part of the Kilembe Mines program, which was consequently rejected by the Government.

Whereas the Kilembe Mines Program was USD2.5 million, the petitioner had provided a guarantee of USD172,000, which is only 7 per cent instead of the required 15 per cent, amounting to USD 375,000.

The committee established by Hon. Okaasai that the commissioner, Director of Geological Survey and Mining, Ms Rose Alaba, on 22 October 2015 approved the petitioner's exploration program of USD16.5 million.

The petitioner further submitted an exploration program of USD4.5 million for approval, which was also rejected. The concessionaire and the government entered into negotiations wherein an amended exploration program was submitted for approval but it was subsequently also rejected on the ground that it did not meet the required minimum investment of USD15 million.

According to Hon. Evelyn Anite, based on the opinion of the Attorney-General, the Government took a position that the petitioner failed to provide the exploration guarantees for the various exploration programs as required by the concession agreement.

The petitioner, on the other hand, informed the committee that following the rejections of their amended work programs, the petitioner was unable to pay the required 15 percent since

there was no work program approved by the Ministry of Energy and Mineral Development to warrant establishing the amounts to be paid.

That notwithstanding, the petitioner paid a sum of USD 210,000 as marked in Appendix 2 for the approved program of the portion of the leased area.

The committee observed that there were delays between the time of application by the petitioner and the response from Government agencies.

A case in point is where the petitioner applied for an approval of an exploration program on the 30 of June 2015, but the response was only available to them on the 22 of October 2015. Three months later, which curtailed the operations of the petitioner.

7.1.4. Payment of concession fees

Clause 15.1 of the concession agreement mandated the concessionaire to pay the Government of Uganda a non-refundable up-front concession fee of USD 4,030,000, payable within 48 hours after the date of execution of the agreement. This was paid as evidenced by a receipt marked Appendix 3.

Clause 15.2 required the concessionaire to pay an annual concession fee of USD 1,005,000 from the first anniversary of commencement date and on each anniversary of the commencement date thereafter.

However, once the concessionaire completes exploration and commences production, the annual concession fees would be payable quarterly in advance. The committee was informed by Hon. Evelyn Anite that the petitioner had defaulted on payment of the annual concession fees of \$1,005,000 as at 26 November 2015, hence, it formed one of the grounds for termination.

The concession agreement, under clause 15.2, provided that the concessionaire shall pay a fixed annual concession fee of \$1,005,000 from

the first anniversary of the commencement date and on each anniversary of commencement date thereafter.

The commencement date provided for, under clause 2.3.1 of the concession agreement, was deemed to take effect on the occurrence and continued satisfaction of conditions precedent, such as a written undertaking to the satisfaction of the Government, that all consortium members shall participate in the project by Tibet, receipt by which the concessionaire of all consents, permits and licences that are required to execute or commence the activities under the concession, among others.

The petitioner informed the committee that subject to clause 15.2 and clause 2.3.1, the Government provided the concessionaire with the last licence and consent being a special mining lease on 1 April 2016. The first annual concession fee was, therefore, due on 1 April 2017 and, therefore, by the time of the notice of default (dated 28 December 2015 and July 2016) issued by the Government, the annual concession fee was not yet due.

Therefore, the committee observed that the contradictory date as to the commencement of the concession agreement, subject to the conditions set out in the concession by both the Government and the petitioner, led to the failure in payment of the concession fees.

The committee noted that despite the above, the concessionaire went ahead to pay the following sums:

- i Shs 330 million – this was paid directly to Kilembe Mines Limited to cater for the costs of electricity and power bills by Kilembe Mines Limited to Umeme.
- ii \$250,000 towards the annual concession fee.
- iii \$1,750,000 as annual concession fees that was paid even after the notice of termination of the concession agreement was issued – I will later on elaborate on the circumstances of this one.

The committee observed that:

- i) The payment of the above instalments demonstrated the concessionaire's readiness to continue with its obligations, as enumerated under the concession agreement.
- ii) Kilembe Mines Limited and the petitioner executed a memorandum of understanding dated 17 December 2014, marked as Appendix 4, wherein it was agreed that, among others, Kilembe Mines Limited's outstanding electricity bills shall be taken on and paid directly to Umeme by the petitioner and that the payment shall be offset from the payment of the annual concession fees of the first year to be made to Kilembe Mines Limited.
- iii) In an email to the representatives of the petitioner dated 18 April 2016, Appendix 5, it was acknowledged that the petitioner had made payments of Shs 120 million to Umeme's Emergency Power Line construction, as well as another deposit of \$250,000, that was made on 15 May 2016.
- iv) The petitioner had made another deposit of Shs 300 million to Umeme, as shown in Appendix 6.
- v) Following the payment of the \$250,000, two other instalments of \$377,500, had to be paid in three months from 31 May 2016 and not later than 30 November 2016. The committee further confirmed that the same dates for payment of outstanding concession fees were highlighted in a letter of the chairman/chief executive officer (CEO) of the petitioner, dated 14 July 2016, by the Permanent Secretary/Secretary to the Treasury. This is marked as Appendix 7.
- vi) The committee found that the petitioner had made a payment of \$1,750,000 on the 25th August 2017 (Appendix 8) even after the termination of the concession agreement. The committee was informed by the petitioner's representatives, that this payment was made on the understanding that the termination notice would be revoked. The committee noted that the director of the privatisation unit under the Ministry of Finance, Planning and Economic Development, Mr Moses B. Mwase, communicated the account details to which the money should be deposited. This is marked as Appendix 9.
- vii) Hon. Evelyn Anite informed the committee that the said payment was triggered by a notice of termination of the concession and that in any case, this money was treated as payment of arrears of the annual concession fees.
- viii) According to Hon. Evelyn Anite, the conduct of the petitioner demonstrated their lack of financial capacity, and she attributed this to the fact that the petitioner was a company that assembles motorcycles, as opposed to having expertise and funds necessary to execute this project.
- ix) The petitioner had not made all the payments towards the concession fees at the time the notice of termination was issued, on 20 June 2017 –

THE SPEAKER: Just hold on, honourable committee chairperson. In the public gallery, we have a delegation of students from Joy Dominion Secondary School, Bunya West Constituency. They are represented by Hon. Bagire and Hon. Rukia. You are most welcome. Thank you so much for coming.

Sorry, we delayed to introduce you.

In public gallery, we also we have a delegation of students from Kampala International University, Makindye East, Kampala. They are represented by Hon. Derick Nyeko and Hon. Shamim Malende. Welcome and thank you so much for coming. Yes.

MR MACHO: Madam Speaker, I would like to thank the chairperson and his committee; he is making a good presentation. I am raising a

procedural matter that, since we have uploaded the report on our iPads, why can't he just read the recommendations, and then -

THE SPEAKER: No, let him read the way he is reading so that we get to understand. Not all of us are good readers.

MR ARIKO: Madam Speaker, indeed, I agree with you and the House that this being an investigative report, it is important that it is read as the committee prepared it.

Madam Speaker, according to the petitioner, following engagements with the Government officials, including a mediation meeting convened by the National Coordinator, Operation Wealth Creation, Gen. Caleb Akandwanaho ("Salem Saleh"), the petitioner made a payment of \$1,750,000, even after a notice of termination of the agreement, on the premise that the petitioner would continue to explore the Kilembe mines.

The committee observed that the payment of the annual concession fees on 25 August 2017, was made into the Privatisation Unit's account in Stanbic Bank, No. 9030008173655. This is marked as Appendix 8. This was in contravention of Section 29 of the Public Finance Management Act, Cap. 171, which provides that all revenue paid to the Government Should Finance Management Act, CAP 171, which provides that all revenue paid to government should be deposited in the Consolidated Fund, unless provided otherwise by Parliament.

The committee also observed that issues such as capacity should not arise at the very inception of the project, considering that a rigorous international bidding process ought to have been diligently conducted, the basis upon which the petitioner was awarded the concession. Accordingly, the committee established that the petitioner paid the annual concession fees.

The committee notes that whereas the petitioner contested the notices of default dated 28 December 2015 and 14 July 2016, in view

of the special mining lease issued on 1 April 2016, there was no dispute with respect to the one dated 20 June 2017.

The date upon which the last lease was issued had an impact on the commencement date, which then formed the basis for determining the anniversary and, consequently, payment of the annual concession fees.

Committee findings

The committee examined various submissions of the stakeholders to ascertain the extent of performance of each party's obligations, as required by the concession agreement. Particular attention was paid to grounds upon which the minister terminated the concession agreement.

In response to the termination, the petitioner alleged frustration in performing their obligations under the Concession Agreement due to technical bureaucracies and inadequate coordination without due process of the law in the various ministries, departments and agencies that the petitioner was required to report to.

The petitioner further submitted that:

- i) Kilembe Mines had not been operational for over 30 years, which occasioned numerous challenges to the petitioner during the initial stages. For instance, the infrastructure was dilapidated and required substantial revamping;
- ii) Kilembe Mines Limited had an existing huge debt in terminal benefits, which affected the operations of the concessionaire;
- iii) The mining and exploration areas of Kilembe mines were heavily encumbered by squatters with permanent settlements, developments and land use activities. As such, the petitioner did not have full access to the entire mines until the encumbrances could be settled. Unfortunately, according to the petitioner, this was not done; and
- iv) The occurrence of floods in May 2014 had the effect of disrupting the operations of the petitioner for several months.

In response to the petitioner's alleged frustrations, Hon. Evelyn Anite submitted that the delays in handing over the mines were attributed to the need for the petitioner to meet the transfer requirements, in line with clause 2.1.1(a) of the concession agreement.

She further pointed out that the concession agreement allowed the petitioner to commence and continue preliminary activities for which consent had been received especially recruitment.

Hon. Evelyn Anite refuted claims of the delayed handover and submitted that Tibet delayed deploying their team on the ground and instead hired key personnel relating to the project (Appendix 10 and Appendix 11). She further submitted that the project manager for the petitioner requested, through an email, that the handover be effected on 1 June 2014. That is marked "Appendix 12".

Hon. Okaasai informed the committee that the concession agreement provided for a transition period of a maximum of eight months to enable:

- i) Transfer of the mining, exploration and generation licences from Kilembe to the petitioner;
- ii) To verify the state of assets;
- iii) To clear terminal benefits of workers and enable the petitioner to offer new contracts to workers; and
- iv) To obtain other licences such as clearance from the National Environment Management Authority.

He further informed the committee that the concession agreement would become effective after Tibet had received delivery and transfer of mineral rights and after payment of the upfront concession fee.

This, in essence, affected the commencement date from which time would start to run, in respect of performance of other key obligations like payment of the annual concession fees. Accordingly, the concession agreement commenced only after the last mineral rights were transferred to the petitioner in June 2016.

The assertion by Hon. Evelyn Anite that there were delays to start operations were controverted by the fact that the petitioner provided evidence –(*Interjections*)- I kindly request - you know, I am very close to you, honourable colleagues. It is because of feedback; it distracts the reading. Thank you.

The assertion by Hon. Evelyn Anite that there were delays to start operations were controverted by the fact that the petitioner provided evidence of appointment of a project manager with a clearly defined job description, as well as the required staff. This implied that the recruited staff of the petitioner could not commence work in the absence of other requisite legal clearances such as the leases and licences. Consequently, such delays were bound to occasion unnecessary running costs to the petitioner.

Under clause 1.1.62, the mining lease by which the Government of Uganda conceded its assets in Kilembe mines would expire after 25 years. It is the petitioner's submission that while this was a provision in the concession agreement, the Government of Uganda took a unilateral decision to reduce the duration of the lease from 25 to 15 years.

The petitioner avers that this decision had the effect of making it difficult for the petitioner to fulfil one of the obligations under the concession agreement; that is to satisfy the Government on the commitment of its members of the consortium.

Hon. Okaasai informed the committee that Kilembe Mines Limited held the leases such as SML 2151, SML 4133 and Exploration Licences EL 1212 and EL 1248, which were conceded to the petitioner under this concession agreement.

He explained that SML 2151 was granted on 1 January 1974 and had been renewed over time, and was valid when the concession agreement was entered into. He explained that in 2013, when the petitioner came on board, the licence was valid until 2016. He stated that it was renewed for 15 years, in accordance with the

Mining Act, 2003, and was therefore valid until 2031. He further refuted the claim by the petitioner that the lease should have run until 2039 and stated that this would be contrary to the law at the time; that is the Mining Act, 2003.

The committee takes note of the fact that clauses 1.1.62 and 3.1 of the concession agreement are to the effect that the concession period would expire after 25 years.

In addition to the dispute regarding the reduced licence duration from 25 years to 15 years, which required an undertaking before renewal for the remainder of the 10 years. The committee notes that one of the leases provided to the petitioner was due to expire in 2016, shortly after execution of the concession agreement.

This created uncertainty as to the effect of the very short lifespan of the said lease, in respect to the concession period. The concession agreement was silent on the treatment of the said lease, which affected the performance of the terms of the concession on the part of the petitioner.

In respect to the delayed takeover of the mines by the petitioner, pending issues of licences, no such evidence of granted consent was presented to the committee to substantiate the assertion. Moreover, best international practices require that rights in form of the crucial leases and licences exist in order to avoid illegalities and risks that come with unauthorised mining activities. This further created uncertainties among the petitioner and its partners in the consortium, in addition to the financial implications that this would occasion to the Petitioner.

The committee observed that the aforementioned bottlenecks had the effect of preventing the Petitioner from timely fulfilment of the obligation that formed the basis of the minister's issuance of a Termination Notice on 20 June 2017.

The committee further observed that although it was the submission of Hon. Okaasai and

Hon. Evelyn Anite, that consent had been given to the Petitioner to go on and start the operations despite the delay to issue them with the requisite licenses and permits, no such evidence of the consent was availed to the committee.

Moreover, such activity, if undertaken by the petitioner, would have legal implications. International best practices require that operations of mines and extractive projects comply with legal requirements given the high risks involved, which are multifaceted, such as social, economic, and environmental, in nature. Section 2 of the Mining Act, 2003 described the 'holder' as "*a person to whom a licence is granted under the Act and includes every person to whom that licence is lawfully transferred or assigned*".

The committee further observed that the Concession Agreement provided for other remedies in the event of default under clause 24.5.3 such as mediation provided for under clause 26; penalties, and fines with interest. In fact, this is the basis on which Civil Suit No.116L/2018 (Tibet-Hima v. Attorney-General and Kilembe Mines) was dismissed. The suit challenged the termination of the Concession but was dismissed on the ground that it should first be deferred pending arbitration.

What the committee is emphasising here is that prior to resorting to the aspect of termination, there are other penalties that were in the Concession Agreement that should have been opted for other than rushing to terminate the Concession Agreement.

It is the view of the committee that Government prematurely invoked the option of terminating the Concession, yet there were other viable options as elaborated in the aforementioned paragraph.

In High Court Miscellaneous Application 201/2020, Vantage Mezannine Fund II Partnership v. Simba Properties Investment Company Limited and Another, Hon. Justice Boniface Wamala found that, where a contract provides for dispute resolution

mechanisms therein, parties must first exhaust those mechanisms before resorting to other mechanisms outside the provisions of the agreement. The court further noted that an arbitration agreement is separate from the contract in which it is embedded.

The implication of the above case is that in the event that the contract is rendered invalid, the Arbitration Agreement remains unaffected, therefore valid. Consequently, anything done under the “invalid” agreement is subject to the Arbitration Agreement.

Committee findings

The committee found that:

- i) The termination of the Concession Agreement was unjust to the extent that the respective Government agencies fell short in the timely handover of the mines, provision of the requisite legal tools, dealing with the encroachments on the property, settling of huge terminal benefits, among other eminent challenges; and
- ii) The Government did not invoke the dispute resolution mechanisms stipulated in the Concession Agreement. This made the termination of the Concession Agreement premature. Consequently, the Petitioner and its partners were prejudiced in the performance of the key obligations under this concession.

Observations

The committee observed that:

- i) The Concession Agreement lacked the provision for the appointment of a person who would have been in charge of supervising the implementation of the Concession. Honourable colleagues, this observation is premised on the fact that Kilembe Mines Ltd, which was seeding the operations, the custody, and the maintenance of the mines was the one that was appointed as Government supervisor of the concessionaire. Needless to say, out

of the conflict of interest, Kilembe Mines would have been much more interested in failure of the concessionaire because they needed to take charge. Little wonder later, you will learn that they are the ones that took over the Concession.

- ii) The Petitioner fulfilled the obligation of payment of the upfront Concession fees;
- iii) The Petitioner fulfilled the obligation of payment of the annual Concession fees albeit in phases. This conduct was influenced by the existing Memorandum of Understanding (MOU) between the Petitioner and Kilembe Mines Limited;
- iv) The Default Notice of 28 December 2015 was given prematurely considering that the actual commencement date was subject to the conditions precedence; and,
- v) There was no consultation with the Attorney-General by Hon. Evelyn Anite before terminating the Concession Agreement. This is envisaged under Article 119 of the 1995 Constitution.

Hon. Evelyn Anite, even when you respond to me from the back, the Attorney-General was before the committee and told us that you did not consult him and he was not - he was there -

THE SPEAKER: Honourable, you are addressing the Speaker.

MR ARIKO: I thank you, Madam Speaker.

THE SPEAKER: Concentrate on your report.

MR ARIKO: Madam Speaker, much obliged. I would also like to request that the House, particularly your Chair, protects me from the constant noise that comes from Hon. Evelyn Anite, just behind the report.

THE SPEAKER: You read the report.

MR ARIKO: Madam Speaker, recommendations-

THE SPEAKER: You are the leader of the delegation, come and move this side.

MR ARIKO: Madam Speaker, the committee recommends that:

- i) Government should ensure that a high degree of diligence is exercised during the bidding, procurement, negotiating, and drafting of sensitive contracts such as this Concession Agreement on Kilembe Mines;
- ii) The line ministries in the extractives sector should be prudent and seek legal advice from the Attorney-General on all legal issues pertaining to the negotiation, implementation and termination of agreements;
- iii) The Auditor-General should conduct a special audit regarding the amounts of money paid out to the various parties and or the bank accounts as stated in this Concession Agreement;
- iv) Hon. Evelyn Anite should take political responsibility for her involvement in the misfeasance regarding the performance and the unfair termination of the Concession Agreement and consider resigning her position as minister.

7.2 Examination of the rights of the parties upon nullification of the Concession Agreement

The committee held a meeting with the learned Attorney-General on 31 October 2024. The Attorney-General provided a written response indicating that the termination of the Concession Agreement was in accordance with the terms of the concession.

He further indicated that the Concession Agreement was the subject in the High Court Civil Suit No.116/2018, Tibet Hima Mining Company Limited v. Attorney-General and Another, before the Commercial Division of the High Court, and was dismissed on 18 March 2021 for lack of jurisdiction and the parties were directed to proceed for arbitration.

The Attorney-General indicated that there was another case, High Court Civil Suit No.182/ 2017, Gilbert Mujogya and Franklin Joselyn Rukidi (Administrators of the Estate of the Late Sir G.D.K. Rukidi III) v. Attorney General, Kilembe Mines Limited and Tibet Hima Mining Company, wherein a judgment delivered on 23 March 2021, court found that the concession agreement was null and void, and in his opinion, the earlier decision of arbitration was overtaken by the latter decision which found that the concession agreement was null and void.

The honourable Attorney-General acknowledged the mistake on the part of the Government for the failure to involve one of the shareholders of Kilembe Mines Limited during the negotiation and execution of the concession agreement, which vitiated the concession agreement.

During the committee's interaction with the Attorney-General, he disclosed a conflict of interest pertaining the ongoing procurement of another prospective concession. This was based on the fact that one of his former clients is a bidder in the procurement process. The Attorney-General, therefore, referred the committee to interact with his deputy for any clarification regarding further information on this matter.

Accordingly, the committee interacted with the Deputy Attorney-General, and he did not depart from the opinion of the honourable Attorney-General. His response, therefore, was limited to the areas that had not been addressed by the Attorney-General. He, therefore, guided as follows:

- i) That the procurement process for the new concessionaire for Kilembe Mines was ongoing and out of the seven bidders, Sarrai Group had been selected as the best-evaluated bidder.
- ii) That negotiations with the best-evaluated bidder were underway with a view of signing a new concession agreement for Kilembe Mines.

iii) That the Government had rectified the issues regarding the shares of the administrators of Sir G.D.K. Rukidi III, which was the sole ground for the nullification of the concession agreement between Tibet-Hima and the Government of Uganda by court.

iv) That the office of the Attorney-General was not responsible for acting on the letter of the Rt Hon. Speaker directing the halting of the procurement process of the concessionaire but the respective line ministries.

Honourable colleagues, the assertion of the Attorney-General was based on a question by the committee regarding a directive of the Rt Hon. Speaker in May in which she directed the two ministries to halt the process of procuring a new concessionaire pending determination of this matter in Parliament. I heard Hon. Joseph Ssewungu here talk about that particular issue.

The committee observed that, on 28 June 2024, the Rt Hon. Speaker wrote to the Minister of Finance, Planning and Economic Development bringing the minister's attention to the fact that a petition was before Parliament and urged the Minister of Finance, Planning and Economic Development to halt the bidding process of a new concessionaire of Kilembe Mines.

The Honourable Attorney General, in his written response to the committee, indicated that the Government was in the advanced stages of identifying and securing an investment partner to redevelop Kilembe Mines. He was of the considered opinion that in the interest of good governance, rule of law, and the doctrine of separation powers, that both the Executive and the Legislature be allowed the latitude to carry out their respective mandates.

Hon. Evelyn Anite informed the committee that the new concessionaire had already been identified and that the proceedings of this petition in Parliament were of no consequence.

Observation

The committee observed that the High Court Civil Suits No. 182/2017, Gilbert Mujogya and

another v the Attorney-General and Kilembe Mines Ltd held inter alia that:

- i) The plaintiffs being the administrators of the estate of the late G.D.K. Rukidi, they are now proprietors of the deceased's share in the second defendant company;
- ii) That the first and second defendants wrongfully alienated the plaintiff's 380 shares in the second defendant and reallocated them 10 shares;
- iii) The taking of accounts be made in respect of the second defendant's company's financials, including but not limited to the amount received by the second defendant's company in respect of the concession granted to the third defendant and their expenditure;
- iv) That the first and second defendants acted wrongfully and unlawfully when they concessioned the second defendants' assets comprising Kilembe Mines without the consent and participation of the plaintiffs; and
- v) The concession of the second defendants' assets comprising of Kilembe Mines to the third defendant be cancelled.

The effect of the illegality of the concession agreement between the Government of Uganda and the petitioner was decided in *McFoy v. United Africa Company Limited* where the court found that:

"If an act is void, then it is in law, a nullity. It is not only bad but incurably bad. There is no need for any other order of court to set it aside. It is automatically null and void without more ado. Though it is sometimes convenient to have, court declares it to be so. And every proceeding which is founded on it is also bad and incurably bad. You cannot put something on nothing and expect it to stay there."

Observations

The committee observed that –

THE SPEAKER: Chairperson, first take some water as I introduce my people. In the public gallery this afternoon, we have a delegation of leaders under the Buganda Kingdom and the councillors from Mawogola County, Greater Matete, Ssembabule District, led by Hon. Katumba Moses and Mr Byekwaso. They are represented by Hon. Gorreth Namugga. *(Applause)* The members are up there. Please stand up. Where are the members?

MS NAMUGGA: They are they are being ushered in. Kindly allow them to come in.

THE SPEAKER: Size mate, what do you say? *(Laughter)*

MR OGWANG: Madam Speaker, allow our people to come in. *(Laughter)*

THE SPEAKER: Let our people be brought in. Please continue.

MR ARIKO: Thank you, Madam Speaker.

The committee observed that:

- i. Whereas the court determined the plaintiffs' rights in Kilembe Mines Limited, it is never appropriated responsibility for the unlawfulness of the said concession agreement, neither did it determine the petitioner's rights or the cause of action thereafter;
- ii. It has long been established that illegality can provide a defence to civil claims under the law. As Lady Justice Arach Amoko (as she was then) stated in the case of Simba Ltd and four others v. UBC; Supreme Court Civil Suit No.3 of 2013, *"No court will lend its aid to a man who founds his cause of action upon an immoral or an illegal act."*
- iii. It is the legal stand that an illegal contract cannot be enforced by any courts of law, as that would amount to court aiding illegality. In the same case above, the Supreme Court unanimously agreed that no court can enforce an illegal contract or

allow itself to be made an instrument of enforcing obligations alleged to arise out of a contract or transaction, which is illegal once the illegality is duly brought to the attention of court.

- iv. Basing on the above, once a contract is declared illegal, it cannot be enforced by either court or any organ of Government. It is true the impugned concession was declared unlawful and therefore cannot be performed or no party can enforce its obligation
 - v. However, the limits of these doctrines have since been codified in our laws. Section 54(1) of the Contracts Act provides that *"Where an agreement is found to be void or when a contract becomes void, a person who received any advantage under the agreement or contract is bound to restore it or pay compensation for it, to the person from whom he or she received an advantage"*;
 - v. The Supreme Court of the United Kingdom in the case of Patel v. Mirza (2016) UKSC 42, by majority, cited two policy reasons as to why illegality exists in defence to civil claims.
 - a) A person should not profit from their own wrongdoing; and
 - b) The law should be coherent rather than self-defeating and should not condone illegality. With these underlying considerations in mind, in determining whether the public interest would be harmed by enforcing a claim where to do so would be harmful to the legal system.
- In this case, the Supreme Court declared the contract between the parties illegal but went ahead and ordered that the Plaintiff be refunded a sum of £620,000 advance to the defendant in the performance of the illegal contract;
- vi. According to paragraph A of the recitals of the Concession Agreement, the Government of Uganda represented that it owns Kilembe Mines Limited (KML),

which operates a mechanised copper mine at Kilembe in the Kasese region of Uganda, supported by a hydropower plant known as Mubuku 1 Hydropower Plant.

Relying on the above representation, the petitioner entered into the impugned concession with the Government of Uganda. However, after the termination of the concession, the High Court of Uganda in *Gilbert Mujogya & Another v. the Attorney-General & others* (Supra) declared the concession unlawful for lack of consent by some of the shareholders by Kilembe Mines Limited.

vii. The mining business is highly capital-intensive and a very risky venture. The petitioner alleges that they had, at the time of the termination of the Concession Agreement, paid out an aggregate of \$56,698,648 out of which the sum of \$6,690,000 was directly paid to the Government.

The petitioner further alleged that they had suffered a substantial direct loss totalling to \$980,000,000.

viii. The illegality can arise by the conduct of one or both of the parties and whether they knew about the illegality or not. So, there is no reason why a perfectly valid contract cannot become illegal due to an illegal purpose developing between the parties midstream after the contract was made.

Even then, where there is illegality involved, it does not always mean that all the parties are deprived of all the remedies. The common law principles provide that equity shall not suffer a wrong without a remedy.

ix. In respect to the impugned Concession Agreement, the petitioner entered into the said concession believing the same to be legal. The Government concealed that there were other shareholders in Kilembe Mines Limited, which prejudiced the petitioner who was at that time an innocent party to the impugned concession agreement.

x. The rights of the parties to the Concession Agreement were never determined by the court in the Rukidi case since the single issue handled therein was on shareholding of Kilembe Mines Limited, alienation of the said shares and the effect of the above on the concession.

7.3 Remedies-

MR OGUZU: Thank you, Madam Speaker. I have listened to the content of the report being presented by the chairperson. I have also addressed myself to some of the rulings you have made here.

From the content, there is a mention that the matter we are about to consider was adjudicated in the court and it made a recommendation that the parties must go and do arbitration but this matter is coming here for deliberation by Parliament.

I want you to guide the House based on your previous guidance which has become part of our rules. Are we not going in to *res judicata* where this House is going to alter the decisions it reached before?

Having set that record clear that any matter the court has resolved must not be tampered with by this House, please guide us now that this matter has been put-

THE SPEAKER: Attorney-General.

5.25

THE DEPUTY ATTORNEY-GENERAL (Mr Jackson Kafuuzi): Madam Speaker, I do not know if I missed anything but I listened attentively to the report as it was being read, making reference to the laws and decisions of the court. There is no departure and so I believe the report is still in line; it is still in order to maintain it as it is.

THE SPEAKER: Exactly.

MR KAFUUZU: Yes.

THE SPEAKER: Thank you.

MR KAFUUZI: In any case, we have not had the recommendations yet.

THE SPEAKER: Thank you. Keep calm, we shall debate the report.

MR OGUZU: Madam Speaker, my issue is you have allowed this report to be presented. All these are precedents we will look to.

THE SPEAKER: The Attorney-General has guided. He is the legal advisor of the Government. I guide that let the chairperson proceed with the report.

Meanwhile, in the public gallery this afternoon, we have a delegation of leaders under the Buganda Kingdom and councillors from Mawogola County, greater- where is Hon. Namugga? You have a very good Member of Parliament-you look for Hon. Namugga - *(Laughter)*

Hon. Namugga, these are leaders from Buganda Kingdom and councillors from Mawogola County, Greater Matete, Sembabule District.

They are led by Mr Moses Katumba and Mr Byekwaso. They are represented in Parliament by Hon. Gorreth Namugga. *(Applause)*, who is also the Vice Chairperson of the Committee on Public Accounts – (Central Government) and Hon. Mary Bemugisa. All these two are very good ladies; bring them back.

5.25

MS GORRETH NAMUGGA (NUP, Mawogola County South, Sembabule): Thank you, Madam Speaker, for allowing the people of Sembabule to access the Parliament of the Republic of Uganda. *(Applause)* I have been telling them that this is a People's Parliament, the Parliament where the honourable minister from the alternative Government always sits to represent you. *(Applause)*

These people have a road that they have always complained about, that is the Kyabakuza-Matete Road and Hon. Katumba Wamala should make a response on that.

Secondly, I thank you, Madam Speaker, that we were given a Seed school. We did not have one in our constituency but now we have. The only request that we have is the school stopped at senior four, we want an additional Shs 1 billion to have senior five to senior six.

THE SPEAKER: Can we hear from Hon. Mary-

MS NAMUGGA: So, I welcome you to the 11th Parliament. Thank you. *(Applause)*

5.26

MS MARY BEGUMISA (NRM, Woman Representative, Sembabule): Thank you, Madam Speaker. We thank our guests for coming. Thank you for allowing our people in. I am their Woman Member of Parliament. God bless you. *(Applause)*

THE SPEAKER: Have you heard how they have a very good - *(Laughter)*

5.27

THE MINISTER OF STATE FOR HEALTH (GENERAL DUTIES) (Ms Anifa Kawooya): Thank you, Madam Speaker. I would like to thank Hon. Namugga, the honourable Member of Parliament for Mawogola County, the constituency where our people come from – and they are also presented by the Women Member of Parliament.

On the side of the Government, I am also their representative as a minister. Thank you.

THE SPEAKER: Thank you. Where is Hon. Ogwang? Please, continue. Hon. Ogwang is not here.

MR ARIKO: Thank you, Madam Speaker.

Remedies available to the parties

In light of the foregoing, there are two possible remedies available to the petitioner. These are:

- i) Restitution; and
- ii) Rectifying the illegality and renegotiating a fresh concession.

1.1.1 Restitution

This is defined in the Black's Law Dictionary, 9th Edition, as the "Return or restoration of some specific thing to its rightful owners or status". From the legal perspective, the parties are put in a position they would have been if they had never entered into the illegal agreement.

The petitioner stated that they had paid to the Government a sum of \$6,690,000 in performance of the obligation stated in the impugned agreement. During the committee's interaction with the honourable ministers, Hon. Evelyn Anite and Hon. Okaasai, the issue of the quantum paid to the Government was not disputed.

The petitioner averred that they spent a total of over \$56 million in investment and in return termination led to a loss of over \$980 million in investment and projected earnings.

As pointed out above, Section 54(1) of the Contracts Act, Cap. 284, and in the case of *Patel v. Mirza*, the Government should not unjustifiably enrich itself and benefit from the impugned concession, which was declared unlawful by court. Moreover, the fault that led to the nullification of the concession agreement was at the instance of the Government.

Recommendations

The committee recommends that:

- i) Both the petition and the Government should, before a neutral arbiter, reconcile the amount paid to the latter in the performance of the impugned concession agreement, as well as the cost of the investment made by the petitioner with the purpose of ensuring equity in concluding this matter;
- ii) The Government should compensate the petitioner all the total sum of investment and costs incurred as a result of this concession.
- iii) Upon payment of all the incurred costs and investments, the petitioner should be allowed, for instance, a time of one year

from the date of payment to uninstall their infrastructure from Kilembe Mines and

- iv) The Government should not hand over the exploration and operation of Kilembe Mines to any other concessionaire prior to full payment of the reconciled amounts or the reconsideration of the claim.

7.3.2 Rectifying the illegality and renegotiating a fresh concession

This remedy is not rooted in law, but it is based on the nature of the business engaged in by the petitioner and the intensity of capital investments and risks involved.

Callejas v. Law No. 406 (unconstitutionality of mining concession), 2023

In this case, Law 9 of February 26 1997 of Panama, approving the 7997 Contract was declared unconstitutional on 21 December 2017 by the plenary session of the Supreme Court of Justice. Subsequently, negotiations between the state and the concessionaire led to the formulation of a new concession contract aimed at safeguarding employment, fostering economic growth and ensuring the state's benefit from resource exploitation. The new concession contract executed as a result of negotiation granted MINERA PANAMA S.A, exclusive rights over specified zones for 20 years, starting from December 22 2021.

The committee observed that:

- i) The concession agreement was declared by court to be unlawful because the Government never sought consent of other shareholders in Kilembe Mines Limited prior to entering into this concession.
- ii) The petitioner had taken over possession and had started the exploration process in fulfilment of their obligations under the impugned concession. Indeed, they had already started exploration of minerals.
- iii) The petitioner had already spent huge sums of money and resources in setting up infrastructure in performance of the concession. The petitioner had also spent

a significant amount of money in paying employees, taxes, debts of Kilembe Mines Limited and other cost incidental to the concession agreement. However, there was no return to investment recovered by the petitioner as this concession was prematurely terminated.

- iv) The Government has already benefited from the impugned concession agreement and can still benefit if the illegality is rectified and a fresh concession agreement is negotiated and entered into by the parties.
- v) It is costlier to the Government for the petitioner to decommission and abandon the mines at Kilembe Mines than to renegotiate a fresh concession between the petitioner and the Government and all other stakeholders in Kilembe Mines.
- vi) The Government has not yet entered into a fresh concession agreement with any other party as of date. It is fair and just that since the ground for the nullification of the impugned concession agreement can be rectified, the Government should seek consent from all stakeholders and enter into a fresh concession agreement with the petitioner; and
- vii) Since the Government has not entered into a new concession, it is cheaper to terminate an ongoing procurement process than to compensate a petitioner for the loss of investment and business.

Recommendations

The committee recommends that the Government should consider renegotiating with the petitioner for an award of a fresh concession in respect of Kilembe Mines subject to procurement processes.

7.4 Any other matters incidental to the petition

Assets stripping and maintenance of Kilembe mines

During the visit of the committee to Kilembe Mines and interaction with the management of Kilembe Mines, it was established that during the subsistence of the concession agreement, both Kilembe Mines and Tibet had counterclaims of asset stripping. The committee found that the sale of scrap by Kilembe Mines Limited was contested by Tibet until the CEO of Kilembe Mines Limited resorted to issuance of clearance notes for whatever was being taken out of the mines. In the process, various assets left the mines unaccounted for.

Further, the committee established that following determination of the concession agreement, the manner in which the petitioner was evicted was degrading and inhumane. The committee noted that the exercise was characterised by heavy security deployment, harassment and confiscation of property belonging to the petitioner and their employees. Kilembe Mines Limited admitted to having broken into the petitioner's offices despite their absence. It, therefore, remains unsubstantiated as to how and who was responsible for the loss of both tangible and intangible property of the petitioner and their employees.

During its interactions with both the petitioner and Kilembe Mines Limited, the committee established that 24 computers, documents, and electronic data, particularly exploration data, were confiscated. Of particular interest is a report of exploration study that could not be located.

The committee further established that there were seven vehicles that belonged to the petitioner, which were never handed over by Kilembe Mines Limited. Instead, three of them were said to have been sold while others are in use by the officials of Kilembe Mines Limited.

The committee observed that:

- i) The take-over of Kilembe Mines by Kilembe Mines Limited after the termination of the concession was tainted by irregularities such as forceful eviction, harassment of the petitioner and their employees, and

- ii) Lack of an organised takeover after the termination of the concession agreement, which caused a risk of loss of important data and property.

Recommendations

The committee recommends that the respective Government agencies should always ensure appropriate steps are taken while conducting a takeover in circumstances such as the scenario between Kilembe mines and Tibet after the termination of the concession agreement.

7.4.2. Breach of the corporate governance principles

Good corporate governance principles call for adherence to accountability, ethics and transparency in the running of organisations and their business operations. Corporate governance principles dictate that companies have robust internal controls and systems to detect, prevent and prevent corrupt activities. Entities must enforce transparency at all levels and prevent financial mismanagement and abuse of public trust.

The Government's action to unilaterally reduce the concession period from 25 to 15 years without providing an explanation and rationale undermines the concessionaire's trust and confidence in the project. The reduction from 25 to 15 years led to instability in the concessionaire's planning. Further bureaucratic delays across various ministries contributed to the concessionaire's inability to meet timelines. Consequently, these governance lapses hindered efficient project execution.

The committee found that;

- i) The Government and Kilembe Mines Limited were not fair to all shareholders in the company, in this case, the administrators of Sir G.D.K. Rukidi III estate, when they side-lined the shareholder in the decision-making process of conceding the company's assets to the petitioner which amounted to oppression contrary to the 1995 Constitution and the Companies Act.

- ii) The Government and Kilembe Mines Limited were not transparent and honest to the petitioner when they concealed material information as regards the shareholders in Kilembe Mines Ltd, which adversely affected the rights of the petitioner and resulted in the nullification of the entire concession agreement by the courts of law, hence causing financial loss to both Government and the petitioner.

- iii) There was never a meeting of the board members of Kilembe Mines Limited to initiate the process of divesting the rights and properties of the company, but instead it was Government officials from ministries and departments that convened such meetings. Moreover, a board resolution that authorised the process of divestiture was registered after the notice calling for bids had already been published. This was submitted as evidence in the case of Gilbert Mujogya and another v. the Attorney-General and was a violation of the Companies Act.

Observations

- i) The committee observes that various Government departments did not coordinate, adequately; causing bureaucratic delays that frustrated the concessionaire's ability to fulfill the obligation.
- ii) The Government's lack of internal coordination led to significant bureaucratic hurdles impacting the concessionaire's performance.

Recommendations

The committee recommends that:

- i) Future concession agreements should include an explicit clause protecting the initial terms from arbitrary changes in order to avoid unilateral changes in the concession terms;
- ii) The Government should establish a dedicated committee to oversee multi-

departmental projects to enhance collaboration and reduce bureaucratic delays;	Recommendation
iii) The Government should take action and discipline public servants that are found culpable in frustrating investors and Government projects;	The committee recommends that the Government should, as a matter of policy, appoint a neutral and technical person to oversee and supervise agreements, contracts and concessions where the Government is a party, such as the case of engineer Dr Badru Kiggundu with the Isimba Hydropower Project.
iv) The Government should clearly define the role of Kilembe Mines Limited to avoid conflicts pertaining to operations of the divested mines with the concessionaires;	7.4.4. Presence of freshly harvested timber in Kilembe mines. During its visit to Kilembe mines, the committee sought clarification regarding the freshly harvested stockpiles of timber at the site. Kilembe Mines Ltd explained that the timber was intended for renovation, operation and maintenance of the mines. Despite these claims, there was no evidence of any ongoing renovation work at the mines, raising concerns about the actual purpose of the harvested timber.
v) The Office of the Inspectorate of Government should investigate individuals who were involved in facilitating the wrongdoings in the concession agreement and take appropriate action;	The committee observed that the unexplained presence of freshly harvested timber on site with insufficient justification for its intended use suggests possible misappropriation for illegal commercial purposes by Kilembe Mines Ltd.
vi) The Committee on Public Accounts (Statutory Authorities and State Enterprises) should investigate the activities of Kilembe Mines Limited in respect to the operations, management and custodial responsibility over Kilembe mines.	
7.4.3. Absence of a neutral party to carry out supervision of the concession agreement.	
Corporate governance requires companies to be accountable and transparent in their operations. This includes disclosing potential conflicts of interest and ensuring stakeholders, including shareholders, customers and employees are treated fairly.	The committee recommends that the offices of the Auditor-General and the Inspectorate of Government should carry out a forensic audit of the natural, fixed and movable assets of Kilembe mines.
The committee established that the concession agreement did not provide for a neutral party to supervise and monitor the performance of the concession. The committee observed that the absence of a neutral party created communication challenges between Government entities and the petitioner.	7.4.5. Flooding of River Nyamwamba The committee takes cognisance of the fact that River Nyamwamba, which runs through Kilembe mines, is prone to flooding. The committee notes that the floods that occurred in May 2014, for instance, had an effect in disrupting the work in the mines. The petitioner cited the floods as part of the reasons that hampered their operations, causing difficulty in delivering the planned activities.
Consequently, this meant that the ministers were directly dealing with the concessionaire, whose communication was not timely and short of the requisite technical know-how.	The impact of mining activities at Kilembe mines poses serious risks, such as destabilisation and

collapse of riverbanks, which exacerbate the river's susceptibility to damage and contribute to environmental degradation.

Observations

The committee observed that:

- i) The fact that the river is susceptible to flooding means regardless of who the concessionaire is, there is always a likelihood of work being disrupted and livelihoods in the area being severely affected; and,
- ii) Besides disrupting work in the mines, the floods have caused the expansion of the riverbanks and in turn, reducing some of the roads that serve the area.

Recommendations

The Committee recommends that the Government of Uganda should;

- i) Establish and enforce comprehensive environmental protection measures tailored to safeguard the River Nyamwamba and its surrounding ecosystems, especially given the heightened vulnerability and frequent flooding;
- ii) Future concessions should embed stringent and enforceable commitments to sustainable practices that actively mitigate the risks. This may include the implementation of advanced ecosystems, control techniques, habitat restoration projects and continuous monitoring to prevent detrimental impact on the river's structural integrity;
- iii) Establish strict oversight and proactive measures that are essential to protect River Nyamwamba to prevent further ecological harm and preserve the livelihood of the communities that rely on its health.

7.4.6 Alternative mining investment opportunity.

Uganda presents various mining opportunities. Uganda has been keen to promote private participation given the favourable geological

conditions that present compelling opportunities for both domestic and foreign investors looking in to invest in the mining sector. Uganda is also endowed with various minerals, including but not limited to rare earth elements like iron ore, gold, limestone, and phosphates, among others.

According to the National Development Plan III (NDP III), there is limited mineral exploitation, development, and value addition due to - some of the reasons are there.

I go straight to the observation.

The committee observed that given the financial and technical potential of Tibet, it is prudent that the Government takes advantage of their willingness to invest in Uganda, which would contribute to the realisation of NDP III.

The committee recommends that the Government should enhance strategies to attract, protect, and incentivise investors across various sectors for socio-economic transformation.

Encroachment on Kilembe Mines

During the investigation, the committee was informed that while the Government had handed over Kilembe Mines to the petitioner as obliged under the concession, there were various challenges of encroachment on the mining area by squatters and developers.

The committee observed that encroachment poses a danger as it impedes the operations of the mines.

Recommendation

The committee recommends that the Government should take measures to ensure that the land belonging to Kilembe Mines is protected from encroachers and those encroachers are evicted in accordance with the law.

7.4.8. Duration for which Kilembe Mines had been non-operational prior to the Concession Agreement

The committee noted that Kilembe Mines Limited had not been operational for over 30 years, prior to 2013. This, therefore, posed unique challenges to the concessionaires, since the mine required significant capital and technical resources to revamp its operations. Most of the machinery, equipment, and installations had become obsolete and collapsed, which also required time.

The committee observed that the necessity of time, heavy capital investment and specialised technical input, should have been considered in evaluating the performance of the Concession Agreement.

The committee recommends that the Government take into consideration such circumstances when entering into concessions of this nature.

7.4.9. Commitments to International obligations and Diplomatic undertakings

The committee recognises that it is critical for the Government and its officials to remain sensitive to issues regarding international relations, diplomacy and multinational cooperation while advertising, contracting and executing agreements, with foreign investors of such magnitude.

The committee observed that the unfair termination of the concession agreement between the Government of Uganda and the petitioner could cause unnecessary diplomatic tension between the Government of Uganda and the People's Republic of China.

The committee recommends that it is essential for the Government to formally integrate consultations with the embassies or diplomatic missions of countries from which concessionaires originate, as part of the due diligence process. This approach ensures that information provided by prospective bidders is accurate and transparent. It also facilitates

a cooperative international framework. This fosters trust and good bilateral relations.

7.4.10. The unique nature of concession agreements in the Extractives Industry

The committee takes cognisance of the unique, risky and capital-intensive nature of such concessions. This dictates that sufficient reasonable timelines should be allocated for the various phases of bidding, procurement processes, contracting, and actual concession performance.

Further, Concession Agreements in the Extractives industry need to include aspects of decommissioning; given the huge impact such ventures have on the environment.

The committee observed that the Concession Agreement did not provide for mechanisms of decommissioning.

Recommendation

The committee recommends that the Government should elaborately provide for decommissioning mechanisms and procedures for all other concession agreements, such as this, to protect the environment and human health.

7.4.11. The proceedings of the Winding-Up Commission

The committee noted that whereas the Concession Agreement provided that the Winding up Commission would be set up in the event of its termination; this was done as soon as the notice of termination was issued before the lapse of termination.

The committee notes that the appointment of a Winding-Up Commission prior to the lapse of the notice of termination created an impression of a premeditated conclusion that no amount of interventions would cure the defaults for which the termination notice had been issued.

What is worth noting is that the notice of termination was issued on 20 June 2017. It took

effect on 5 July 2017, and it was supposed to last for a total of 60 days. However, within the same month of June, a Winding-Up Commission, which should have been appointed after the termination had taken effect, had already been put in place.

The hurried appointment of the Winding-Up Commission pointed to a rush with which Hon. Evelyn Anite conducted the affairs of this important and strategic project.

Recommendation

The committee recommends that:

1. The honourable Minister of State for Finance, Planning and Economic Development, in charge of Investment and Privatisation, is held liable and is cautioned for not following the due process resulting in the untold loss to the Government and the Petitioner.
2. Government officials who cause similar losses to the Government should be held personally liable for their actions, inactions and omissions.
3. Relevant ministries and agencies should always be prudent, and exercise the highest degree of diligence when performing contracts and making decisions on behalf of the Government.

7.4.12. Payment for energy generated from Mubuku 1 Hydropower Station

In terms of financial commitments, the Uganda Electricity Transmission Company Limited met its obligations to pay Tibet for the energy generated from the Mubuku 1 Hydropower Station. Payments totalling to Shs 7.9 billion were made to Tibet. This underscored the Government's adherence to the financial agreement within the scope of the concession.

The committee observed that although the payments provided a steady revenue stream, Tibet's broader operational challenges limited the impact of these funds on their overall

project viability.

Recommendations

- i) The committee recommends that before granting any concessions and contracts, the Government should carry out due diligence as a matter of national responsibility.
- ii) The committee recommends that the Government must resolve all outstanding claims upfront so that any concessionaire investing in Uganda does so with clarity, confidence, and free from legal entanglements that could jeopardise the progress of the projects.

In conclusion, Madam Speaker, the committee's comprehensive review and investigation of the petition by Tibet-Hima Mining Company Limited, has revealed significant procedural, coordination, and governance lapses before, during, and after the execution of the Concession Agreement. These systematic failures served to undermine the integrity and validity of the Concession Agreement.

The nullification of the Concession Agreement was not an isolated failure, but a culmination of factors such as lack of dutifulness and prudence by public officials, conflict of interest, collusion, and insufficient interdepartmental coordination, among others.

It is, therefore, the contention of the committee that strategic Government projects such as this should call for deliberate effort to set up technical and administrative mechanisms, for their effective initiation, implementation and performance evaluation.

The committee reiterates the importance of supervising the performance of agreements relating to the country's natural resources to ensure maximum benefits.

Madam Speaker, I beg to submit, I thank you for your kind attention. (*Applause*)

THE SPEAKER: Thank you so much. Is there no minority report?

MR ARIKO: Madam Speaker, the report was unanimously supported by the committee.

THE SPEAKER: Okay. Thank you so much, honourable chairperson.

Honourable members, you have heard the report. I am happy that we have the Minister of Energy and Mineral Development, the Attorney-General, and the state minister for finance (Privatisation and Investment) here. Allow me to start with Hon. Anite with an “E”.

There is a procedural matter.

MR OTIMGIW: Thank you, Madam Speaker. The report has mentioned the office of the Attorney-General here on about two main occasions. First, the Office of the Attorney-General was not consulted when the concession agreement was being canceled or a notice was being issued.

Secondly, regarding the decision of the court on the fact that actually, the court ruled that the concession agreement in the first place was null and void.

Therefore, would it be procedurally right that we allow the Attorney-General to first clarify those allegations that his office was not involved during the cancellation of this concession agreement so that it guides the House on how we can proceed as well? Thank you.

THE SPEAKER: The Attorney-General?

5.25

THE DEPUTY ATTORNEY-GENERAL (Mr Jackson Kafuuzi): Thank you, Madam Speaker. It is an interesting question because I was not the Attorney-General at that time. I think the right person to be asked is the honourable minister; whether she consulted the Attorney-General. Thank you.

5.58

THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PRIVATISATION AND INVESTMENT) (Ms Evelyn Anite): Thank you, Madam Speaker, Anita Annet Among, Anita with an “A”. I am very honoured to be given the opportunity to come and speak about Tibet Hima, the automobile limited company.

Perhaps before I say much, I would like to welcome the committee from their fruitful trip to China. I could see that it was wonderful and it is reflected in their minutes – [Mr Kibalya: “Order.”] What is the point of order for? I am welcoming you.

MR KIBALYA: Thank you, Madam Speaker. With due respect to the minister, it is in our Rules of Procedure that a committee has a right to go for benchmarking. When you begin with that, there is a motive you want to impute.

Therefore, is it in order for the minister - when she is supposed to begin with material but rather immaterial to impute a motive as if there is something that was behind that? Is she in order?

THE SPEAKER: Honourable minister, the committees have a right to go for benchmarking wherever they want to go. It is out of benchmarking that they will be able to find out what went wrong and what did not go well. That is it.

MS ANITE: Madam Speaker, you are very right, and indeed -

THE SPEAKER: There is another procedural issue.

MR ENOS ASHIMWE: Before the honourable minister responds, because it looks like she is going to respond, I would like to understand from the committee - in most of the reports they are referring to the honourable ministers by name, “Hon. Anite and Hon. Okaasai.”

I stand to be corrected; were they acting in their capacity or as ministers in charge of

privatisation? If they were acting as ministers, isn't it prudent that the committee amends the report to refer to them as the ministers in charge of privatisation, not in their names? Thank you, Madam Speaker.

THE SPEAKER: Honourable chairperson?

MR ARIKO: Madam Speaker, the committee takes cognisance of the observation of Hon. Enos. First and foremost, in the case of probably the honourable Minister of State for Energy and Mineral Development, we probably want to think we will say that Parliament is right to request that it is concealed.

However, in the case of the honourable Minister of State for Finance, Planning and Economic Development (Privatisation and Investment), we have it in the video because it was recorded in the press. She said: *"I took a personal decision and I do not mind. If I am going to be sacked over this, let me, as Evelyn Anite, be sacked."*

It would have been wrong for us not to take her own plea of being quoted as *—(Interruption)*

MR MACHO: Thank you, Madam Speaker. I am seeking clarification from the chairperson whether, truly speaking, the minister took personal responsibility to the extent of even wishing to be sacked because of her opinion and decision. I know ministers carry political responsibilities of the ministries. If that is what she said, that was grave. My sister, whom I know - let me leave that comment because -

THE SPEAKER: Honourable members, the Minister of State for Privatisation and Investment is Hon. Anite. It is a very simple thing. Just to say, "Hon. Anite, the Minister of State for Privatisation and Investment."

When you look at Article 117, it says *"Ministers shall individually be accountable to the President for the administration of their ministries and collectively be responsible for the decisions made by the Cabinet."*

Therefore, it is Hon. Anite, the Minister of Privatisation and Investment, and Hon. Okaasai, the Minister of State for Energy and Mineral Development.

MS ANITE: Madam Speaker, I would like to start from my position of welcoming the committee back from China. Indeed, the committee went to China. There were no accidents. They came back and reported to this House. I heard that they went to China and they came back. Therefore, I am just in order to say, welcome back from China, unless they are denying that they did not go to China.

THE SPEAKER: I did approve the travel for benchmarking so it was not anything illegal.

MS ANITE: Madam Speaker, I am not saying it is illegal. Therefore, I want to add you to the list to congratulate you upon sending them to China. They did a good job.

THE SPEAKER: No, you do not need to add me to the list. Hon. Anite - Yes. Hon. Emmanuel?

6.04

MR EMMANUEL ONGIERTHO (FDC, Jonam County, Pakwach): Madam Speaker, thank you for this opportunity.

THE SPEAKER: Hon. Anite, you need to cool down.

MR ONGIERTHO: Madam Speaker, the honourable minister, Anite, got up at the prompting of the Deputy Attorney-General. Somebody had asked a question about the role of the Attorney-General because of the statements which came from the committee. The Deputy Attorney-General got up and stated that the person who is supposed to answer that question is Hon. Anite.

I thought for now, we are not yet looking at any other thing. She is supposed to answer that specific point about whether they consulted the Attorney-General or not. Therefore, we do not need to go into other things for now. Thank you, Madam Speaker.

THE SPEAKER: Thank you. Hon. Anite, with the “E”. Answer the question. Do not be hyper. I know you and me; we can be at the worst, but for now, be calm.

MS ANITE: Madam Speaker, yes, I did consult the Attorney-General at the time.

THE SPEAKER: Okay, that is exactly what - continue.

MS ANITE: Madam Speaker, I do have my evidence.

THE SPEAKER: There is a point of clarification from the lawyer.

MS ANITE: Before he asks me the clarification, I need to submit further that I actually consulted the Attorney-General and I will bring the evidence here. In addition, if you allow me to continue with my submission, I will tell you the legal proceedings that I followed.

THE SPEAKER: Hon. Anite, he needs clarification. No, he has not asked.

MR TINKASIMIRE: I know my honourable colleague is becoming senior. You are no longer the other Youth Member of Parliament. When somebody seeks clarification, it means they have not understood what you are submitting.

You are referring to have consulted the honourable minister, who is the Attorney-General. You seek his legal opinion through writing. Can you lay on the Table the letter you wrote to the Attorney-General seeking his opinion on this particular matter and his response?

THE SPEAKER: Thank you, this is a House of record. Yes, Hon. Otingiw. [Hon. Anite rose] Just a minute.

MR OTINGIW: Thank you, Madam Speaker. The Minister has just informed us that she sought clarification from the Attorney-General. However, there was an engagement between

the Minister of State for Investment and the committee.

I want the chairperson to come out and inform us whether they requested for that written document at that time and, was it laid at the time, because if there was that type of engagement, why it was not laid at that time when they had the communication with the committee.

THE SPEAKER: You see if they did not ask at that time-, this is a House of record, where we want evidence-based.

MR ARIKO: Madam Speaker, I am happy that that hearing of the committee had media. There are two issues regarding that matter; one was on whether or not the minister sought the advice of the Attorney-General.

THE SPEAKER: No, Hon. Panadol is dreaming. *(Laughter)* Can you continue; we are getting out of time?

MR ARIKO: Madam Speaker, may I clarify the question of Hon. Otingiw, to me. The committee asked the minister that question but the honourable minister on that day, said, “All the line ministers are aware.”

The Minister of Energy and the Attorney-General were all aware of the actions she took. The learned Attorney-General came on a different date and we asked the same question.

He said, “I was not consulted, but in any case, the minister is not obligated to ask me. Many things go on in many ministries. Must each of the ministers keep asking me, Attorney-General, should I do this? Therefore, she did not have to ask me, she did not ask me.”

Number two; there was a second issue where the minister said that the president ordered them to terminate the concession. We asked her, could you give us evidence of the president’s directive? She told us, “You know how the president works. We were just in a meeting and said I am tired of these people, terminate.” I have members on my committee who can substantiate this. I thank you.

THE SPEAKER: There is an order.

MS ANITE: Order. Madam Speaker, is the Chairperson of the Committee on Natural Resources in order, to put words in my mouth when the proceedings of the committee sitting were recorded?

When the committee asked me how I arrived at issuing termination, I gave them a history and detailed background of the events that unfolded. My first point of reference was the State of the Nation Address made by the President of the Republic of Uganda, where he referred.

At the time I was a Minister for Youth, he referred to the extent that the then ministers responsible for this docket were corrupt and hired, they concessioned a quack investor who came here to make motorcycles and gave them this and he was going to deal with it.

To my surprise, that happened in 2015 but in 2016, my predecessor was relieved of his duty and I was appointed. In addition, when I was appointed, the President of the Republic of Uganda, in the Cabinet, again, said, "The concession of Tibet Hima should be terminated."

Following that discussion and the directive of the President in Cabinet, before I could even take a step as the Minister responsible for investment and privatisation, this very Parliament summoned me in this House and demanded the termination of the concession of Tibet Hima, the automobile. I then went and brought reports to this House, to the mismanagement of Kilembe Mines by Tibet Hima, and I gave them my word that I would surely terminate the concession following the legal proceedings.

Madam Speaker, then, I went back, followed the law to the latter, and consulted the Attorney-General.

The concession agreement empowered me not only to terminate the concession by myself unilaterally but to constitute a winding-up commission.

I constituted a winding-up commission on 5 July 2017, and the winding up commission comprised six members, three of them from the Government, and three from the concessionaire, Tibet Hima Automobile and I laid all this on the Table.

Therefore, is the Chairperson of the Committee on Natural Resources in order, to impute and lie when I was saving the country? *(Laughter)* *[Hon. Oguzu rose]*

MR OGUZU: Madam Speaker, you will need to clarify this.

THE SPEAKER: Honourable members, I thought it was an order.

MR OGUZU: No, I am not raising a point.

THE SPEAKER: Do you want to respond to an order? Honourable members, the Minister of Investment and the Chairperson of the Committee on Natural Resources do not drag me into deciding on where I do not have evidence laid on the Table.

If anybody is saying, "I was told to do this" lay evidence on the Table. If there was a Cabinet meeting, lay it on the Table. There was ABC-, I want it on the Table. I will not say whether you are in order because you do not have the evidence, and I will not be dragged into that debate. *(Applause)* Yes, Counsel?

MR BAKA: Madam Speaker, I rise on a point of procedure. We have listened to the committee report; it is very detailed. Isn't it procedurally right that you give the ministers an opportunity to respond and then we debate? We are itching to debate; we want to debate this report.

THE SPEAKER: Conclude, Hon. Anite.

MS ANITE: Thank you very much, Madam Speaker, for giving me yet this opportunity to respond to the committee's report. Before I make statements or remarks on the recommendations of the Committee on Natural Resources, allow me, in brief, to give you an executive summary of how the winding up commission that I constituted came up with the

conclusion of terminating the concession of Tibet Hima Automobile.

This report contains the background to the Kilembe Mines concession and documents the salient issues arising in the report of the concession.

The performance or non-performance of the key concession obligations and the recommendations of the Kilembe Mines Winding-up Commission

The committee was appointed by myself, Hon. Evelyn Anite, the minister of state for finance in charge of investment and privatisation. The committee commenced its work on 5 July 2017. I gave the House the background on how I arrived at this point of constituting the commission.

The winding-up commission was established by virtue of the express provisions of the concession agreement entered into by and between the Government of the Republic of Uganda, Kilembe Mines Limited and Tibet Hima Mining Coal Limited, the concessionaire.

The establishment of the winding up commission was done as a result of the Government of Uganda having issued a notice of termination of the concession agreement referred to above and which termination notice, save for a cure of an event which expired on the 5 September 2017.

Madam Speaker, I gave you a background on how I arrived at this point – because I was prompted, first of all, by the President of the Republic of Uganda in Cabinet and through a public address at Serena, Kampala, and this House.

Under the terms of the concession agreement, the concessionaire was required, within 30 days of the establishment of the winding up commission, to present to the winding up commission a summary report on the status of operation as at the date of termination notice and to present a final report 60 days after the establishment of the winding up commission – I emphasise the “60 days”.

The concession agreement then required the winding up commission to deliberate and recommend to the Government of Uganda whether the concession and the concessionaire should seek to transfer the assets and operations to their third party or render for the potential of full cessation of operations, and disposition of assets in accordance with the terms of the concession agreement.

The winding up commission identified four key areas in respect of which they required the concessionaire to address them. The concessionaire was required to inform the winding-up commission on:

- i) What the status of operations at Kilembe Mines was at the date of termination;
- ii) The expectations and deliverables under the concession agreement and what had been achieved;
- iii) Any challenges faced by the concessionaire; and
- iv) The strategies the concessionaire had for the fulfilment of the concession obligations.

The winding-up commission held several detailed meetings over a period span of close to four months while implementing its mandate.

Madam Speaker, I need to pause there a little bit and inform you that the spirit in which the committee reported that we did not give them time, I do not do this and the other, is wrong because even then, it took four months for us, both the concessionaire and the Government, to try to make good of the concession within the winding up period.

The concessionaire, upon prompting of the commission, presented a draft report and summary report on account of the voluminous nature of the information that had been provided during the concession meetings and engagements. The concessionaire never provided a final report, but requested the winding up commission to consider the summary report and the documentation provided, as constituted in its final report.

The winding up commission then deliberated, obtained a Chinese translation of its report

from the benefits of the concessionaire and made its recommendations, as contained, in detail, in the body of this report.

Madam Speaker, I submitted this report to the Committee on Environment and Natural Resources. I expected them to be nationalists and present this to the House, but to my dismay, welcome back from China!

The winding up commission, in the course of its duties, engaged with the concessionaire, representatives of the Government of Uganda, key stakeholders which included, among others, Uganda Electricity Transmission Company –(Interruption)

THE SPEAKER: Hon. Anite, there is a point of order.

DR AGNES ATIM: Thank you, Madam Speaker. I would like to implore you to help us understand the conduct of the minister on this Floor, making statements that demean the committee and Members of this House.

Is she in order to continue making such statements in front of all of us? Thank you.

THE SPEAKER: Honourable minister, like I said, tone down. Have respect for, one, yourself, for the committee, for the Members of Parliament, and, finally, for the Speaker – if she deserves respect.

MS ANITE: Madam Speaker, most obliged.

The winding-up commission then deliberated and obtained a Chinese translation of its report for the benefit of the concession and made its recommendations, as contained, in detail, in the body of this report.

The winding up commission, in the course of its duties, engaged with the concessionaire, representatives of the Government of Uganda, and key stakeholders which included, among others, Uganda Electricity Transmission Company Limited, National Environment Management Authority, Electricity Regulatory Authority, subcontractors, partners, and agents.

In general, the winding-up Commission established that the concessionaire had carried out some investments at Kilembe mines, particularly at the mill, in fabricating trolleys and repairing the rail track and the foundry.

The concessionaire was, however, unable to provide the winding up commission with a physical justification –(Interruption)-

THE SPEAKER: There is a procedural matter.

MR TINKASIIMIRE: I am becoming impatient. Madam Speaker, the chairperson presented the report. I expected the honourable minister to respond to the report –

THE SPEAKER: Issue by issue.

MR TINKASIIMIRE: I only see her reading a report. For the avoidance of doubt, if I saw it, this is the report on the Kilembe Mines winding up commission of October 2017. A Member has just presented a live report of today and you are reading for us things that were done in 2017. You have the space to waste all our time when issues are too many for you to respond to.

Madam Speaker, is it procedurally right for the honourable minister -

THE SPEAKER: There is another procedural issue. I will rule on all of them.

MR MACHO: Madam Speaker, basing on the procedural matter submitted by Hon. Tinkasiimire, I would like to call my sister to be calm. Let me use that language from Busia border- to be calm.

I know, that always, my brother has a problem with the English language, but my sister I want you to be calm, and I want you to make our time here very useful because, truly speaking, the chairman of the committee read the report, and the report had issues.

You make Macho of Busia look a fool if you begin reading a report of a long time ago, not basing on the submission of the chairperson. I

am one of the people who are confused about whether you are doing the right thing at the right time.

I, therefore, request you, my sister, that why don't you strictly stick to the report of the committee to make us follow well, so that, we find a solution to this matter.

Secondly, Madam Speaker, I request decorum from the minister because the way you are submitting, you look as if you on tension, you are being chased, have fear and like you had a conflict of interest and this lady of NUP supports you. When I talk, she says Macho do not talk- Madam Speaker, this lady should stop intimidating me.

THE SPEAKER: No, she is on procedure.

MR MACHO: That is domestic violence to a man like me. Stop harassing me.

THE SPEAKER: Listen.

MR MACHO: Whenever I am submitting, the lady is harassing me.

THE SPEAKER: Who is attacking you?

MR MACHO: The honourable member should stop harassing me.

THE SPEAKER: Let me tell you people, do not put your personal feelings into this report.

MR MACHO: Sure, this is a very important matter.

THE SPEAKER: Do you get it? We are the same people who are saying we want investors in the country, and if there is a mistake that has been made, we correct it. If it is the investors who have made the mistake, then they should be obliged to correct it. Let us look at all this with merit. Yes, let me hear from counsel.

MR BAKA: Madam Speaker, I am raising on a point of procedure once again.

THE SPEAKER: Senior counsel.

MR BAKA: I do not know whether it is right for me to-*(Interruption)*

MR ODOI-OYWELOWO: Thank you very much, Madam Speaker. The Hon. Stephen Baka had forgotten that I graduated from law school 33 years ago. Madam Speaker, there is a threshold question, that ought to be answered before we proceed. You had started addressing your mind to this fundamental threshold question. The threshold question is, did the Honourable Minister of State for Investment seek and get the opinion of the Attorney-General before revoking the concession agreement?

That is a constitutional question before we consider anything; we ought to see evidence that the Attorney-General issued an opinion in writing. Why am I saying that, Madam Speaker? *-(Interjection)-* Hon. Enos wait. I have addressed my mind to Article 119(5) of the Constitution. If you permit me, I will read it verbatim. *Article 119 (5) states, "Subject to the provisions of the Constitution, no agreement, contract, treaty, convention, or document by whatever name called or document by whatever name called, to which the government is a party or in respect of which the government has an interest, shall be concluded without the legal advice of the Attorney-General."* Emphasis is mine, shall be concluded without the advice of the Attorney General.

Madam Speaker, we are talking about a subsisting contract and the termination of that contract by a document called the termination letter. That could never have happened without the express advice or opinion of the Attorney-General.

Before we consider any other matter, we need to be convinced by way of evidence that the Honourable Minister procured the opinion of the Attorney-General and she only proceeded in conformity with the opinion of the Attorney-General. I beg to submit, Madam Speaker.

THE SPEAKER: Thank you. It still goes back to Hon. Anite. Did you, as per the law, consult the Attorney-General? Why don't you listen?

MS ANITE: Madam Speaker, the concession agreement that we are talking about, was written by the Attorney-General and the powers for terminating the concession were enshrined in the termination agreement. And I just mentioned that I followed the procedure, which is spelt out or laid out in the concession agreement. The Hon. Tinkasiimire-

THE SPEAKER: Is drafting the agreement the same as seeking a legal opinion?

MS ANITE: No! If the law is in your hands, the agreement is spelt out. How you enter into the concession and how you terminate the concession. The proceedings are all written down and I followed the procedures.

Madam Speaker, I will also come back to the House with the report and the names of nominees from the Attorney-General to show to you that I actually consulted them and the Attorney-General was fully involved in the winding up of the Tibet Hima and I will bring that to the House.

MR ENOS ASHIMWE: Thank you, Madam Speaker. I want to refer you to page 26. The committee says that they held a meeting with the Attorney-General on the 31st of October 2024. The Attorney-General provided a written response indicating the determination of the concession agreement was in accordance with the terms of the concession. Doesn't that imply that he was in agreement with the process?

MR ONZIMA: Thank you, Madam Speaker. I just want to raise some procedural issues. You had made a valid observation that we need investors but we also do not need the quark investors. We need investors who can help us and do the right thing, make us to grow.

There are situations where you find investors come after exploiting our avenues of benefit, tax benefits, after 10 years, they change names, they change stations. Some say for us, this is not a lucrative venture, we want to close and go and the same people come back in different names.

When you look at the report being presented by the committee and the issues they have raised, some of them are issues which touch on the minister. The way I look at the whole thing, there are a number of documents, which are supposed to be presented as evidence.

In My view, wouldn't it be procedurally right that we give this minister time, to read these documents and back her submission with the documentary evidence that she has talked about, such that, we have a balanced debate based on a response which is also backed by evidence?

Looking at the whole thing now, if we rush at the debate and yet she says some of these documents are still left behind; I do not think we might be fair in our debate, or have a balanced debate. Therefore, I was just seeking your opinion. Thank you, Madam Speaker.

THE SPEAKER: Thank you. Hon. Anite, do you think we should proceed or we give you – do you have evidence that you want to lay on the Table?

MS ANITE: Madam Speaker, I could just bring additional information because my conscience is very clear that what I did was for the good of my country and I stand with it. I can debate this any time, any day.

Therefore, if you give me the chance to respond to the report, recommendation by recommendation, even now I am ready.

THE SPEAKER: Go ahead. No, let us get responses from the minister.

MS ANITE: Madam Speaker, three parties are involved in this. I will only stick to the areas that concern me as the minister responsible, that is, issuing a notice of termination and the formation of the winding up commission – on whether I did it in accordance with the law.

My honourable colleague, Hon. Enos has referred to the committee's admission of the fact that the Attorney-General said I did

consult, and that, therefore, rests that particular point.

I, therefore, would like to refer to page 26, point number three. Point number three, having rested the point on whether I consulted or did not consult, I did consult, and it has been confirmed in the committee report. I still want to confirm that I consulted and followed the concession agreement that was written by the learned Attorney-General.

Now, recommendation number three says, “Hon. Anite Evelyn should take political responsibility for her involvement in the misfeasance regarding the performance and the unfair termination of the concession agreement and consider resigning as a minister.”

My response to this is that I shall not resign even when I have gained enough capacity to be a private citizen, but I am not going to resign because I did the right thing for the just cause of the country.

THE SPEAKER: Maybe we could just make a correction on that, not taking political responsibility because it was collective responsibility under Article 117.

MS ANITE: Thank you, Madam Speaker. Just to back up and justify why I am the most competent minister for that ministry is that –

THE SPEAKER: That has been sorted.

MS ANITE: Thank you. I just wanted to bring out this point that Tibet Hima – I speak as a citizen and it really touched me very much to the level of actually angering me - the fact that Tibet Hima, in the winding up commission – (*Interjection*)- no it is not to do with this - I am bringing another point. Our point of departure with Tibet Hima as Government of Uganda is the fact that they wanted 30,000 and they put this in writing - it is here in this report - 30,000 metric tonnes of copper concentrates which combine of gold – 30,000 tonnes of copper.

Madam Speaker, you are a business woman, you know how much only one tonne weighs.

But these people – as the competent business woman that I know, you will understand what these people were trying to do - fleece the Government of Uganda and the people of Uganda of their natural resources. (*Applause*)

I actually expected to be given a medal by the committee for saving the Government of Uganda and the citizens of this country from the robbery of 30,000 minerals of the people of Uganda. This is the future of our citizens. I came at a point –

THE SPEAKER: There is a clarification someone wants to make.

MR KIBALYA: Thank you, Madam Speaker. In the same spirit, madam minister, now that you require a medal for saving Uganda, the report of the committee said, “After rejecting the 30,000 they had requested, you did not respond whether you were giving them one or ten or five.”

Therefore, we wanted to know from your office, which kilogrammes were you ready to give and why you did not give them the one you felt would be sufficient for them to do the testing.

MS ANITE: Madam Speaker, the minister in charge of energy and minerals will tell you under our Mineral or Mining Act how much quantity is required to be taken out of the country as samples. She will surely come to this House and respond but the truth is – I do not want to do her job - she will respond and tell us the quantities.

However, to answer him directly, the committee made reference to the meetings and the intervention of Gen. Salim Saleh, all these were meetings that we had in the office. I held these meetings together with the President in State House. The rejection and telling them that they cannot take 30,000 tonnes was done not by myself, but by the President of the Republic of Uganda, President Yoweri Kaguta Museveni, in my presence and in the presence of the investors.

Therefore, they cannot say that we did not give them feedback on whether they can take the 30,000 metric tonnes.

Madam Speaker, I have gone through the entire report. There were only two issues that concerned me; one is whether I acted in accordance with the law and I thank you for responding to that.

The other is that if I did not act according to the law, I should take political or whatever responsibility. I have answered it. I am a very proud and happy citizen that I did my job and terminated the concession of Kilembe Mines.

THE SPEAKER: Thank you. Hon. Kabanda?

MR DAVID KABANDA: Thank you, Madam Speaker. I just want to seek clarification from the minister because she just stated here that the company – why she cancelled the agreement was because the company was exploiting our resources.

I just want to seek clarification from you, honourable minister, when you are asking for money from these people, \$6 million; didn't you know that these people were going to exploit our resources? You first get my money and then after you cancel the agreement.

When I say I want you to refund my money, you give an excuse that we realise that you want to exploit our resources. Why did you take their money when you knew that these people were going to exploit our resources? Or else, after discovering that these people were exploiting our resources, why didn't you refund their money?

THE SPEAKER: Maybe the question would be, what was the \$6.6 million meant for?

MR SSENKYONYI: Madam Speaker, this is one of those debates that are intriguing. There seem to be interesting sides. I hear some went to China; there are those who did not go to China.

The minister is telling us she did a good enough job on behalf of the country. The committee is also saying they are working for the good of the country.

The lawyer in me is intrigued by something on page 23 of the report. This is a procedural issue that I am raising. There is a civil suit, *Civil Suit No.116 of 2018, Tibet Hima versus Attorney-General and Kilembe Mines*. So, Tibet Hima went to court, challenging the termination of its concession. This - I am quoting the committee report. The petition by Tibet Hima was dismissed by the court because they were challenging the termination of their concession. Therefore, it was dismissed on the grounds that it should first be referred to arbitration.

Procedurally, I am interested and concerned about the legal matter besides from who saved what and that kind of thing. That all can be conjectured but the law which I am concerned about - there is a court matter. There was a verdict in court that dismissed this petition and said to go to arbitration. Can we be updated on what happened? How far, if at all, did the arbitration go?

We might be here pettifogging over this and the other and so on. I am very interested in this legal matter because it might help us with many things.

There was a court petition. Tibet went to court challenging the termination of its concession; the court dismissed its petition and said to go for arbitration. So, the court paved a way that should have been followed. Was that followed? If not, why? It will help us and probably avoid the back and forth that we are having.

MR KAFUZI: Thank you, Madam Speaker. I appreciate the issue raised by the Leader of the Opposition. Tibet Hima indeed went to the court and their suit was dismissed, specifically for the reason that the concession upon which they were basing their suit had a proviso that any dispute relating to the concession should be taken for arbitration first.

They had not taken the matter for arbitration and instead gone to court. The court said, no, you do not have jurisdiction here. Your first instance should be arbitration as long as the concession is the one on which you are basing your suit. That is the reason it was dismissed.

THE SPEAKER: Thank you.

MR SSENKYONYI: Madam Speaker, let me clarify further with the Attorney-General. I am glad he has provided some pointers. Again, my question does not seem to be answered.

The court is saying that you should deal with this in an arbitration way. It provided a remedy as far as I am concerned and I am interested in establishing whether that remedy was explored. As one of the colleagues did raise, many times you have dissuaded us from debating matters that either are in court or that have been determined by the court.

If a court determines a matter, the Parliament cannot undo it. Therefore, the legal guidance - I am giving and there are many more senior lawyers than myself here but it is important that we cover ourselves legally.

I want to dissuade us whether it be from - and it does not matter whom you are for. In fact, for me, I am for Uganda. That is why I want to know who did wrong and how it gets to be determined. I am not going to say that I am for Tibet or I am for the decision taken by the minister.

All of that for now, as far as I am concerned, is conjecture that does not help us. The court provided a remedy and said go and do arbitration. We need an update -

THE SPEAKER: There is information.

MR SSENKYONYI: We need an update on whether or not arbitration was done. As you provide that information, when the court orders that go and do arbitration, you are meant to report to the court because it gave its guidance. So, how did this matter end?

My colleague, a senior lawyer, wanted to give information - (*Interruption*)

MR ODOI-OYWELOWO: Thank you, Madam Speaker and the Leader of the Opposition yielding the Floor. There is no court order to go to arbitration. The suit was dismissed because there was an "Arbitration clause" that the parties were bound to go to arbitration in the first place.

The critical information is in respect to matters legal. When you are subject to arbitration and you elect to go to court, the prevailing position of the law is that you have abandoned your right to go to arbitration.

MR SSENKYONYI: Thank you for that information.

THE SPEAKER: Let me hear from the Attorney-General.

MR SSENKYONYI: Madam Speaker, allow me just 30 seconds since he gave me the information. I appreciate the senior counsel for the information he has provided.

I do not know if that would be the Attorney-General or senior counsel who has provided that to guide the House further. You have abandoned arbitration which is provided for in the concession agreement, gone to court and it has dismissed your suit. What is your remedy?

I want to be sure that Parliament is the remedy because as we are determining this matter regardless of who, the court was involved. So, if the court is saying that I am dismissing your suit, you should have gone for arbitration. Did it happen?

That is an option that they did not explore at the first instance. What is the latest update Attorney-General?

THE SPEAKER: Honourable members, stop shouting that we are bad. That is why we accommodate petitions.

MR KAFUZI: Thank you. I am glad that the Leader of the Opposition has brought it out the way he has. Now, allow me to use his position to clarify.

I want you to understand - when the report was read and presented, they talked of suits that were dismissed but there was also a suit that succeeded.

The suit that succeeded is the suit of Gilbert Mujogya, a son of the King of Toro, who was a shareholder in Kilembe Mines and was not consulted or involved in the concession.

He woke up one day only to realise that Tibet Hima and the Government had entered a concession, and yet he was a part owner of the mine who was not consulted. So, he challenged that in court. On the basis of his challenge -

THE SPEAKER: That is on page 28.

MR KAFUZI: The court nullified the concession meaning that whether they had gone for arbitration or Hon. Anite had cancelled or not, the concession was a nullity *ab initio* as far as it did not involve the shareholder. (*Applause*)

That is what informs the decision of Tibet to go for a petition. Okay?

THE SPEAKER: Yes.

MR KAFUZI: Because there is no concession on which they can base -

THE SPEAKER: Honourable members, please listen.

MR KAFUZI: There is no concession on which they can find an action. So, the last resort is a petition. That is why they are here.

If you are not clear, let me explain again. The Government of Uganda - let me start afresh. The Government of Uganda advertised for an international bidder to come and run Kilembe. Okay?

THE SPEAKER: You wait.

MR KAFUZI: The presumption is that the Government of Uganda has done all due diligence and involved every person who is required and Tibet and others willingly put in their bids.

Tibet won the bid and signed a concession. Along the way, the concession was cancelled for one reason or another but whether that concession had been cancelled or not, Mujogya, a shareholder in Kilembe, decided to challenge the legality of the concession itself - because he was a shareholder who was left out and was not involved.

And on the basis of that, the court said this "concession was *void ab initio*." It was wrong from the start and because it was wrong from the start- the Government is the one that invited Kilembe and gave them a concession, which later turned out to be non-existent.

Remember, they had already paid and committed their finances, resources, time and money. Therefore, they choose to come here with a petition and then you make a decision as parliamentarians.

THE SPEAKER: As to whether they should be given compensation or be refunded. Just a minute. The petitioners have come here because you cancelled the concession and they are saying that you cannot cancel the concession and also take away the money.

That is what the petitioners have come to say here. Therefore, we have to decide as a country. Should we defraud the investors? Is that what we are trying to do?

MR SSENKONYI: Thank you, Madam Speaker. The Attorney-General allowed me to clarify one simple issue and the reason I have tried to insist on this matter is that all of us must cover ourselves legally. That is very important.

Severally, you have told us that whether it be motions or reports that we adopt legally, in this House, are only advisory to the Government.

THE SPEAKER: A report to the Bill.

MR SSENKYONYI: Yes, even a report to a Bill is advisory. But, once it has been passed, that is a different matter. However, none of these reports, petitions and eventually - when we pass it, for as long as it is law; it is only advisory to the Government.

THE SPEAKER: Yes, true.

MR SSENKYONYI: I am thinking that we must find a legal remedy so that even if we eventually pass whatever we pass here, tomorrow they will say; “well, it was just advisory, they chose to do something else.” –

I do not know where the Attorney-General has gone, but that is the clarification that I am seeking to see how he guides the Government and ourselves for something proper, legally.

THE SPEAKER: The Attorney-General is around.

MR SSENKYONYI: [Hon. Silwany rose] That is a further clarification – Hon. Silwany, this is for lawyers. *(Laughter)* [Hon. Akamba rose]

Let me finish my clarification to senior counsel. Calm down. It is okay when I say you are not a lawyer; It is okay. I am also not a doctor or an engineer; I am a lawyer; it is not an offence.

THE SPEAKER: Hon. Solomon, but you did a history. *(Laughter)*

MR SSENKYONYI: Yes, it is okay, be proud of what you studied, Hon Silwany. If somebody says, “Hon. Ssenyonyi, you are not a doctor”, I will not take offense.

As I finish up, the Attorney-General, please guide us on what will be the ultimate remedy. Because I worry that, whatever we pass here in Parliament will be taken as advisory and the Government can choose to follow it or not.

So, if somebody was defrauded, as you are saying and then Parliament cannot help them because it will be advisory, how do we cover ourselves as a country so that tomorrow investors do not say, “we shall not come, you are defrauding us.”

That is the legal direction that I am hoping the Attorney-General helps us with. Otherwise, we do not want to say it was just an advisory; we abandoned it and moved on to do whatever we wanted to do.

THE SPEAKER: Hon. Attorney-General?

MR KAFUZI: The Leader of the Opposition (LoP) thinks that because Hon. Silwany is a gynaecologist, he should not contribute to the debate. *(Laughter)*

Madam Speaker, of course, that is a joke - it is a light moment and I would like to appreciate the LoP once again. You see, the ideal thing to do is to look at the prayers of the petitioner in the petition. What are they praying for?

Based on the facts, as they have been set before you, you are able to determine what prayers they qualify for and what they do not.

For example, we all agree, or we at least have come to know, that the concession was null and void. However, they had acted upon it, invested, and paid money.

Do we simply say you paid for something that does not exist? Even your proposal can come in answer to their prayers. That is why I am saying, I do not want to be the one now to decide for Parliament. Yes, yes. I want Parliament to make a decision but guided by the prayers.

THE SPEAKER: Hon. Akamba, Hon. Baka is back then local Government and Hon. Apea.

7.02

MR PAULAKAMBA (NRM, Busiki County, Namutumba): Thank you, Madam Speaker. In a situation where the court dismissed a matter that had been filed by Tibet against the Attorney-General, on the account of not first exploring the remedy under the concession, it left Tibet with two options.

First, to choose whether to go for arbitration or Tibet has also a right to approach the other party, which is the Government, and say, “Government here is a situation, we entered

into a concession that has been determined by court to be null and void, but I have put in money. What should I do?" Tibet chose not to go for arbitration and opted for a petition.

This Parliament is the third Arm of the Government. In a situation where the country is always on the lookout for investors and this particular investor had come, it did not have knowledge that Kilembe Mines had not consulted or had not sought the consent of the other shareholder in Kilembe Mines.

It would be far-fetched for us to think that Tibet should walk away without a remedy. I think that this Parliament is well-vested with the authority to look into the petition by Tibet.

And since our resolution is advisory to the Government, it will be upon the Government to look into the resolution of this Parliament, whether to renegotiate with Tibet or not. Otherwise, I think that the petition is laid properly before this Parliament-*(Interruption)*

MR OGUZU: Thank you, Counsel, for your submission. The issue brought by the petitioner here is to seek remedy for the Government's actions. You are aware that before those people came here, they went to court and exercised their right. The court told them that they could not seek remedy in court.

The best thing they should have done was to go to arbitration. I am not sure if they exercised that or not. That matter was -*(Interjection)*- just let me finish. That matter was already determined by the court.

By asking Parliament to deliberate on this matter, don't you think Parliament will be moving in that direction -*(Interjection)*- let me raise my clarification -

MR AKAMBA: I am going to clarify your issue.

MR OGUZU: You hear and allow me to - no, no, no. Let me raise the clarification issue and, then, you clarify.

MR AKAMBA: You have already sought clarification and I am ready to give you the clarification -

MR OGUZU: You cannot clarify what you have not heard -

MR AKAMBA: I have heard. Let me clarify -

MR OGUZU: I have not finished -

MR AKAMBA: Let me clarify -

MR OGUZU: You cannot clarify what I have not raised - you only listen. In this matter, as rightly observed, there are interests for this country and interests for the investors. For whatever reasons, those are all good interests. What we want is a fair deal.

Now, my clarification is since those matters were already decided by the court, don't you think that by allowing Parliament to go and make recommendations outside -

THE SPEAKER: That one was already decided upon. Let us go to the next item. Yes, Hon. Anite?

MS ANITE: Thank you, Madam Speaker. Before we go to the next item, I just wanted to bring it to the attention of the House that whereas Tibet-Hima paid part of the concession fee in that concession agreement, which was a nullity, they also benefited from the Government, through the sale of electricity to Uganda Electricity Transmission Company Limited (UETCL) for power supply for the Mubuku 1 hydro project.

Therefore, even in that nullity, they, still, were collecting money from the Government. So, I would like to ask the august House that we pass the report with the amendment, because I have no responsibility - that we go and reconcile against the money that they made, and then we come back and report to this House.

THE SPEAKER: Or you pay them or they pay us.

MS ANITE: Whichever – because they also took money from us, in this illegality. They also made money.

THE SPEAKER: The amendment we are making is moving from “political responsibility” to “collective responsibility”. Are we together?

Honourable members, I now put the question that the report of the Committee on Environment and Natural Resources on a petition by Tibet-Hima Mining Company Limited against termination of their concession agreement with the Government of Uganda be adopted by this honourable House, with an amendment of “political responsibility” to “collective responsibility”, be adopted by this House.

(Question put and agreed to.)

Report adopted.

THE SPEAKER: House adjourned to tomorrow at 2.00 p.m.

(The House rose at 7. 10 p.m. and adjourned to Thursday, 28 November 2024, at 2.00 p.m.)