****

**Monday, 18 December 2017**

*Parliament met at 10.11 a.m. in Parliament House, Kampala.*

PRAYERS

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

*The House was called to order.*

COMMUNICATION FROM THE CHAIR

**THE SPEAKER:** Honourable members, I welcome you to this morning sitting. Today, we shall receive two reports on the Constitutional (Amendment) (No.2) Bill, 2017. It is anticipated that we shall receive the report; debate it today and tomorrow so that, as many Members as possible, are given an opportunity to express their views.

I would like to appeal to the honourable members to exercise tolerance and a spirit of accommodation. Parliament is for discussing. You discuss ideas; say what you would like to say and vote for or against the position you are taking.

I also would like to remind the members who were suspended last time that if they do misconduct themselves again, they will be suspended again, this time for seven Sittings. Those sittings run beyond Christmas. Therefore, do not endanger your right so speak and vote. I am just asking you, honourable members, that we tolerate and listen to one another. Debate what will be presented to us.

That is the end of my communication. Thank you.

What rule are you rising on?

**MR MUNYAGWA:**  Rule 221. Madam Speaker, I rise on a point of procedure arising from rule 221 which is on contempt of Parliament.

It is stated in rule 221 that *“An act or omission which obstructs or impedes Parliament in the performance of its functions or which obstructs or impedes a Member of or officer of Parliament in the discharge of his duties or affronts the dignity of Parliament or which tends either directly or indirectly produce such a result shall be contempt of Parliament”.*

Madam Speaker, when I was coming to Parliament this morning, I met hon. Simeo Nsubuga who said “Hon. Munyagwa, you are my friend, but this time be careful when you are dealing with today’s Parliamentary Business” -(*Interjections*)- the evidence is there. He told me the other time, it was hon. Kibuule alone but today they came with 17 guns. It is evident that there are guns in this House.

When the Government Chief Whip came to me here, I tried to consult her whether it was true guns were in the House and she said I should mind my business.

**THE SPEAKER:** Honourable members, first of all, whatever hon. Simeo Nsubuga said is not on the daily *Hansard*. Therefore, I do not know about it - also, in this House, there are over 400 Members and I am one of them. I would like to tell you that you are under the protection of this House and no one is going to attack you. Let us proceed with the report. (*Applause*)

**MR KATUSABE:** Thank you very much, Madam Speaker. I rise on a point of procedure. Our old rule 64, new rule 72 and Article 127 of the Constitution of Uganda -

**THE SPEAKER:** Which rule?

**MR KATUSABE:** I am saying rule 64 in the old Rules of Procedure-

**THE SPEAKER:** Why are you searching the old rules of procedure?

**MR KATUSABE:** Rules of procedure-(*Interjections*)- excuse me. Then, rule 72 in our new Rule of Procedure is very clear. This is about subjudice.

Madam Speaker, Article 102(b)-

**THE SPEAKER:** What are you discussing?

**MR KATUSABE:** I am discussing the Rules of Procedure, Madam Speaker. It is a procedural matter and I am basically saying-

**THE SPEAKER:** You are in breach of the rule against anticipation. My communication was very clear. It was about tolerance, cooperation and supporting one another. That was all. I do not know how you can raise a point of procedure about what I have said.

**MR KATUSABE:** Much obliged, Madam Speaker.

BILLS

SECOND READING

THE CONSTITUTION (AMENDMENT) (NO.2) BILL, 2017

**MS CECILIA OGWAL:** Madam Speaker, I would like to congratulate the whips on both sides of the House for massive mobilisation of Members today. However, as we deliberate on the constitutional amendment, I have noticed that the Minister of Justice and Constitutional Affairs is not in the House. I know the government has always said that as long as the Government Chief Whip is there, she can handle issues raised. The whip can handle any administrative matters; but today, we are talking about constitutional amendment. We would have expected the substantive Minister of Justice and Constitutional Affairs to be in the House to guide us accordingly.

Madam Speaker, procedurally, even the Attorney-General is not here, and yet these are the people whose guidance we need as we deliberate on this matter because the whole country is anxious to know how we are going to deal with it.

Madam Speaker, some of us are very disciplined and we want to discuss with a sober mind. However, we also want to be guided appropriately so I would want to ask the usual Government Whip to explain to us where she has kept both the Attorney-General and the Minister in charge of Justice and Constitutional Affairs. This is because the Speaker would want to proceed with the business of the day. I thank you, Madam Speaker.

10.25

**THE GOVERNMENT CHIEF WHIP (Ms Ruth Nankabirwa):** Thank you very much, Rt Hon Prime Minister. *(Laughter)* I am from Cabinet, where the Prime Minister was in the Chair; my apologies.

Madam Speaker, I know the procedure is that the report will be tabled. By the time it is tabled, both the Attorney-General and the Minister for Justice and Constitutional Affairs will be here. I left them in Cabinet because Monday is always Cabinet day. It is supposed to handle very urgent matters and within 30 minutes, Madam Speaker, my cabinet ministers will be here.

**THE SPEAKER:** Honourable minister, the Deputy Attorney-General and the Minister of Justice are here, so I am directing one of them to come.

**MR NIWAGABA:** Madam Speaker, I wish to raise a procedural matter that is embedded in one of the laws governing this country and that is the East African Treaty.

Under Article 38(2) of the treaty, it is indicated that, “Where a dispute has been referred to the Council or Court, the Partner States shall refrain from any action which may be detrimental to the resolution of the dispute or might aggravate the dispute.”

Madam Speaker, the Bill that is scheduled for second reading, as has been called by the clerk at table, is subject of the dispute in reference No. 14 of 2017 between hon. Winfred Kiiza, hon. John Baptist Nambeshe, hon. Gerald Karuhanga, hon. Ibrahim Ssemujju, hon. Betty Nambooze, hon. Alice Alaso and hon. Irene Ovonji Odida v. the Attorney-General of Uganda.

Madam Speaker, that reference particularly pages 17 up to 21 reads as follows: Under Clause 3 (2) and (8), the question of Article 102(b), which is the subject of this particular motion, is being challenged for being in contravention of the treaty and the applicants therein are seeking for the following orders, among others:

1. A declaration that the removal of the age limit safeguard and all amendments of the Constitution to remove the age limit and article 102(2)(b) of the Constitution is contrary to Articles 6(d), 7(2), 8(1)(c) and 123(3)(c) of the Treaty.
2. The applicants are also seeking an injunction restraining the respondent from continuing to do acts that are detrimental or aggravate the disputes, particularly considering the Bill under consideration and marred an order to enforce compliance with adherence to the treaty and directing the Government of Uganda to adhere and comply with the treaty.”

Madam Speaker, this particular treaty binds our country, Uganda, and binds this House because it is part of the laws that are enforced. This particular reference was brought to your attention by the advocates for the applicants by their letter dated 27 November 2017. I wish to lay on the Table both a copy of the reference and this letter.

Therefore, the point of procedure I seek to hear from you, Madam Speaker, is whether it would not be procedurally right to stay consideration of this particular matter in light of the East African Court of Justice Reference No.14 of 2017. I wish to lay on the Table both the copy of the Reference and the letter that was communicating the subject matter to your office.

**THE SPEAKER:** Thank you very much. Honourable members, I am aware that Uganda is a member of the East African Community and that we are party to the treaty. However, I do not know whether Article 38 has been tested in any of the jurisdictions in the region. I do not know the nature of dispute that is envisaged under that article, so I will rule on it later. In the meantime, let us proceed. *(Applause)*

BILLS

SECOND READING

THE CONSTITUTIONAL (AMENDMENT) (N0.2) BILL, 2017

10.28

**MR RAPHAEL MAGYEZI (NRM, Igara County west, Bushenyi):** Madam Speaker, I move in accordance with Rule 129 of our Rules of Procedure of Parliament for the Bill entitled, “The Constitutional (Amendment) (No.2) Bill, 2017” to be read a second time.

**THE SPEAKER:** Is it seconded?

**MR MAGYEZI:** Madam Speaker –

**THE SPEAKER:** Hon. Kasibante take your seat, hon. Akol take your seat. How many people are going to use that microphone, five of you? Are five of you using that microphone together? Yes, hon. Ssemujju.

**MR SSEMUJJU:** Madam Speaker, I rise on two points of procedure. First, last week, the Leader of the Opposition presented a statement here on matters that relate to the consideration and processing of this “Magyezi” Bill.

Madam Speaker, under our rules, we were supposed to debate that statement for not more than one hour. You ruled that since this matter is before court, we cannot proceed with the debate - God is good the same matter is back.

Madam Speaker, by your own practice, when the issue of the hon. Sam Kutesa soliciting for a bribe was presented here, and I put this Parliament on notice that I want to bring a motion to have that matter considered, you ruled that for this matter we should wait for court.

Madam Speaker, I want to plead with you, because sometimes we get confused as to which ruling of the Chair we should take *–(Interjections)-* I will come to that. Let me raise the second issue of procedure.

Madam Speaker, the second point of procedure I am raising relates to rule 201, if you have the new Rules of Procedure. However, let me start with 201 (b) *“In case of a complaint as to the authenticity of the report, the Speaker shall halt the debate on the report and refer the matter to the Clerk for investigations who shall report back to the Speaker before the next sitting of the House”.*

Under our rules, before a Bill is processed, a certificate of financial implications must be issued. Madam Speaker, this is one point of procedure, but it deals with authenticity and whether this Bill is before this Parliament legally. I hope you will give me some time to raise that because it is important for this Parliament.

**THE SPEAKER:** Honourable member, the report has not been presented; you are already speaking about it -

**MR SSEMUJJU:** I am talking about the processing of the Bill.

**THE SPEAKER:** No. You are talking about the authenticity of the report, which has not yet been presented to this House.

**MR SSEMUJJU:** Madam Speaker, if you allow me, I am now talking about the authenticity of the Bill.

**THE SPEAKER:** No

**MR SSEMUJJU:** Madam Speaker, a Bill must be accompanied by a certificate of financial implications -(*Interjection*)- it is not how much you chorus and how much you are angry. I have a right; I am not here on invitation. Therefore, you can chorus whatever you want to chorus but I must be heard.

Madam Speaker, I am dealing with the issue of the Bill itself. The reason I am raising the issue of the Bill is because this matter was supposed to have been handled during the processing of the Bill by the Committee on Legal and Parliamentary Affairs. I raised these matters-

**THE SPEAKER:** Where? No. Hon. Ssemujju, you are a member of the committee. No, hon. Ssemujju; you are discussing the report before it is presented. Please hon. Ssemujju.

**MR SSEMUJJU:**  Madam Speaker, I am raising a matter relating to the Bill; the constitutional amendment. I am not raising a matter regarding the report. The requirement under our rules is that first, a Bill must be published –(*Interruption*)

**MS RWAKOOJO:** Madam Speaker, is it in order for a member of the committee, after reading rule 201 and digesting it - he is a member of the committee and he knows that the certificate of financial implication was presented before the committee-(*Interjection*)- you are pre-empting the report. Hon. Ssemujju is a member of that committee, he was with us; we called the minister of finance and the certificate was presented. Why should we delve into the merits of the report before allowing it to be presented? Is it in order, Madam Speaker?

**THE SPEAKER:** Hon. Ssemujju and all the other Members, you are members of the committee, you have a minority report, wait until the minority report comes then you can present your issues. (*Applause*) Are you a member of the committee?

**MR SSEMUJJU:** Madam Speaker, I am standing here in my right as MP for Kira Municipality.

**THE SPEAKER:** No. Honourable member, you are abusing the rules of this House. In our rules, there is no individual position, if you disagree, you sign a minority report; even if you are alone, you should have written your own report as a minority report. Please, take your seat. You should have written your own minority report as an individual.

**MR RAPHAEL MAGYEZI:** Madam Speaker, you will recall that the Constitutional (Amendment) Bill was read for the first time on the 3rd October and was referred to the committee on legal for scrutiny.

The object of the Bill is to amend the Constitution in accordance to articles 259 and 262. It shall provide for the time within which to hold elections, provide for eligibility of the person to be elected President, and increase the number of days to file and determine a presidential election.

I have been made to understand that the committee has concluded its work and that they are ready to report to the House. I therefore move that the Bill now be ready for the second time. I beg to move.

**THE SPEAKER:** Honourable members, I put the question that the Bill be read for the second time.

*(Question put and agreed to.)*

**THE SPEAKER:** Can you manage your side? Sit down. Are you Members assaulting the Leader of the Opposition? Give her space.

10.43

**THE LEADER OF THE OPPOSITION (Ms Winfred Kiiza):** Madam Speaker –[(Member: “Madam Speaker, strangers in the House!”]

**THE SPEAKER:** Honourable members, those are officers of this House - I am telling you they are. Take your seats; take your seats, please. Honourable members, these are my bodyguards, don’t you know them? They are; no, they are not strangers. Hon. Ogwal, these are my people – shouldn’t the Speaker have security? Take your seats*.* I had given the Floor to the Leader of the Opposition.

**MS KIIZA:**Thank you, Madam Speaker. I rose on a point of procedure. The Members *–*

**THE SPEAKER:** What is the point of order?

**MS KIIZA:** Madam Speaker, I wish to raise two procedural matters. The first is the one that these Members of Parliament are concerned with, regarding to their security. When we resumed this Parliament – in the statement I made, together with the communication you made, it was very evident that Members were mindful of their security. Faces of people who are not familiar to this House always send traumatising signals to the Members.

Madam Speaker, some Members can even recognise the faces of the people who attacked them. We would want that matter to be dealt with before we continue debating because we do not know what will happen.

Madam Speaker, I can tell you that nobody is interested in harming you. We love you very much *–(Interjections)-* therefore, there is no reason to pretend. Some of you may harm her before anyone does –*(Interjection)*– do you think we do not know you? No one here is going to harm you, Madam Speaker. If Members are conscious about the new faces in Parliament, they have every right to get worried. Once beaten, twice shy. They are still memorising what happened on 27 September 2017. Therefore, wouldn’t it be procedurally correct that Members debate in a free atmosphere that does not send signals of fear?

The second procedural issue, which I would like to request you to handle concurrently, concerns the Bill that has been read the second time. Like hon. Niwagaba and hon. Ssemujju Ibrahim mentioned, when I made that statement in this House, you guided that the matter was before court and therefore, debate would not ensue. When hon. Niwagaba raised the issue, you said you had not found out how such matters can be dealt with.

Madam Speaker, the fact that there is no precedent does not make us the first offenders of the treaty. Therefore, I would like to know under which rules shall we proceed, when the same matter we are about to debate is in court? We are likely to be in prejudice of the matter that is before court. Wouldn’t it be procedurally correct that the same ruling made on that day, applies so that we do not debate until we acquaint ourselves? Otherwise, some of us who went to court are aware that debate should not ensue after we have made our presentation to court. Therefore, wouldn’t it be procedurally correct that you adjourn briefly so that you acquaint yourself with the matter?

Madam Speaker, we fear going into a matter under your Chair that is before court, and later we are told that what we discussed was in jeopardy of court processes. Wouldn’t it be procedurally correct that we confirm whether we are not in breach of any law before we continue with this matter?

**THE SPEAKER:** Can I ask hon. Kaberuka, to handover the chair he is using to Sergeant-At-Arms? Sit with the other Members behind. Are they together? Is there no single chair here? Order!

Honourable Leader of the Opposition, there are two issues concerning the matter you have raised. Last time, when you made the statement, I told you that I did not know how much we can discuss because we were all recessing. Today, the issue is that the treaty is directing the Parliament of Uganda, which is a sovereign state not to do anything. I said, has this article been tested in this region? What is the nature of dispute envisaged by Article 38? Can a court in Arusha say Parliament close? That is why I said, I needed time to study it and find out how far the jurisdiction of that court goes. Does it involve stopping a Parliament from sitting? That is what I would like to find out. I had said I was going to give my ruling. However, in the meantime, let us proceed.

Honourable members, I took charge of the security of this place. Sit down. When we opened last week, I gave instructions about the security of this institution and I told you Parliamentary Police would be in charge of this institution. There is no Special Force Command (SFC) in this building. I am assuring you that there is no one here who is not part of Parliament.

**MS RUTH NANKABIRWA:** Madam Speaker, you have assured us that you are going to make sure that this institution, including Members of Parliament will be safe and secure. You are the same person in that Chair assuring us that we are safe. Therefore, is it in order for some Members of Parliament to continuously defy your guidance and waste the time of this august House? Is it in order for some Members to use this chance to derail the progress of today’s business?

**THE SPEAKER:** Honourable members, the people here are the Parliamentary Police. Can I invite the Chairperson of the Committee of Legal and Parliamentary Affairs to present his report?

PRESENTATION OF THE REPORT OF COMMITTEE OF LEGAL AND PARLIAMENTARY AFFAIRS ON THE CONSTITUTIONAL (AMENDMENT) (NO. 2) BILL, 2017

10.56

**THE CHAIRPERSON, COMMITTEE ON LEGAL AND PARLIAMENTARY AFFAIRS (Mr Jacob Oboth):** Madam Speaker, I beg to lay on the Table a copy of the main report before I make the presentation, which is accompanied by the minutes of the proceedings of the committee.

**THE SPEAKER:** Honourable members, take your seats. The practice of Parliament –

**MR OBOTH:** Madam Speaker, I also beg to lay on the Table copies of stakeholders’ submissions.

Madam Speaker, this is the report on the Constitutional (Amendment) (No. 2) Bill, 2017, which was read for the first time, on the 3 October 2017, and subsequently referred to the Committee on Legal and Parliamentary Affairs for scrutiny.

Madam Speaker, by the time this matter was referred to our committee, it was under rule 110 of our old Rules of Procedure, which is now rule 120 of the new Rules of Procedure. The reference made to rule 110 is the same in wording with rule 120.

Madam Speaker, since this report was uploaded on the iPad, could you guide me on whether I should read it verbatim or go to the main observations and recommendations? I seek your guidance.

**THE SPEAKER:** Just a minute. Hon. Karuhanga, what is your procedural point? The rest of you sit down.

**MR KARUHANGA:** Thank you, Madam Speaker. My point of procedure is specifically on rule 201(2) of the new Rules of Procedure. Rule 201(2) provides that, *“Debate on a report of a committee on a bill, shall take place at least three days after it has been laid on the Table by the Chairperson or the Deputy Chairperson or a Member nominated by the Committee or by the Speaker.”*

Madam Speaker, the procedural point I am raising is specifically from rule 201(2). The chairperson of the committee laid the report a few minutes ago and the rule instructs that once the report of the committee on a Bill is laid on the Table by the chairperson or deputy chairperson or a Member nominated by the committee or by the Speaker, the debate shall ensue three days later.

Madam Speaker, the coining of this particular rule is mandatory in nature. The language here is “shall”. I would like to believe that when we were passing these rules, a situation like this had been anticipated and the curing of it was well coined to stop any mob justice of sorts that may ensue.

Therefore, I would like to believe equally that this was intended to allow us, as Members, to deal with all the issues and objections, to analyse, study, assess and consult because we represent the people of Uganda so that when we come here, we speak for Ugandans and not ourselves. (*Applause*)

That is why I choose to put aside the other points of procedure I would probably have raised because I am equally constrained.

Madam Speaker, I do not know whether it has been brought to your attention that under Constitutional Petition (No.28) of 2017, Opio Phillip Roland v. the Attorney-General of Uganda, the petitioner addresses himself on Article 102 of the Constitution.

Madam Speaker, in light of this petition and in light of our Rules of Procedure and considering that you are the custodian of our Rules of Procedure, which I believe you will firmly uphold, wouldn’t it be procedurally right - For record purposes, I beg to lay on the Table the Constitutional Petition (No. 28) of 2017, Opio Phillip Roland v. the Attorney-General of Uganda where he specifically addresses the issue of Article 102 that we are dealing with in this amendment. I beg to lay.

**THE SPEAKER:** No, what is the gist? Is that a judgment?

**MR KARUHANGA:** It is still in court, Madam Speaker. Rule 72(3) states: *“In determining whether a criminal or a civil proceeding is active, the following shall apply - (c) civil proceedings shall be deemed to be active when arrangements for hearing, such as setting down matters for hearing have been made, until the proceedings are ended by judgement or settlement or withdrawal”*.

Madam Speaker –(*Interruption*)

**MR TUMWEBAZE:** Madam Speaker, the honourable member rose on a point of procedure. Is he in order to flip-flop from one rule to another, including the matter he is laying on the Table? Is he in order to waste parliamentary time by flip-flopping between Rules of Procedure, which are not easy to comprehend and quote?

**THE SPEAKER:** Honourable members, ever since the Ninth Parliament, we agreed to use less paper and that is why we bought you iPads. Last week, on Thursday, I directed the Clerk to upload all these reports on your iPads so this rule does not apply.

**MR OBOTH:** Madam Speaker, I have already given the background to this report. If I may seek your indulgence, I will go to the main observations and recommendations.

Madam Speaker, the committee is cognisant of Chapter 18 of the 1995 Constitution of the Republic of Uganda, which provides for the amendment of the Constitution under Article 259. The chapter also specifies the amendments that require a referendum, amendments requiring the approval of the district councils and the quorum required for Parliament to pass constitutional amendments.

In scrutinising this Bill, the committee is alive to Article 262 of the Constitution, which empowers Parliament to amend any provision of the Constitution other than those articles requiring the approval of the district councils or those which can be amended by referendum.

In that regard, therefore, the committee noted that the proposals contained in the Bill are only those that can be amended and passed by Parliament, as prescribed under Article 262 of the Constitution.

The committee noted that matters of constitutional amendment, saved by the Ninth Parliament, are not included in this Bill. The committee recalls that during the scrutiny of the Constitution (Amendment) Bill, 2015, it received diverse views from stakeholders that went beyond the scope of the Bill –

**THE SPEAKER:** Chairperson, please hold on a bit. Honourable members, take your seats. I told you that I would give my ruling a bit later on the issue of the matter, which is in the East African Court.

First, I told you that I do not know the nature of dispute envisaged under that treaty. I do not know whether it is about a border dispute between the partner states for which the court would say, “Do not move” or it meant that they can sit in Arusha and say, “Do not work”, which you are trying to do.

However, this is my ruling. Hon. Niwagaba raised a procedural matter stating that since there is a pending reference number 14 of 2017 of hon. Winfred Kiiza v. the Attorney-General, the views before the House ought not to be considered. Hon. Niwagaba stated that Uganda is a party to the Treaty for the establishment of the East African Community and that Article 38(2) urges Member States to refrain from doing anything being an action that would be detrimental to the resolution of the dispute.

As I said, I do not know the disputes and who they are between. Is it a dispute between the countries or between two bodies? I do not know whether this constitutes a dispute within the meaning of Article 38 and I will ask the Attorney-General to guide us.

However, I have considered the documents laid on the Table by Victoria Advocates and Legal Consultants and also the copy of reference files and I would like to guide as follows:

1. Under Article 79(1) of the Constitution of the Republic of Uganda, Parliament is mandated to make laws on any matter for peace, order, development and good governance of Uganda.
2. Under Article 259 of the Constitution, Parliament may amend, by way of addition, variation or repeal, any provisions of the Constitution in accordance with the procedure established.

The Constitution can only be amended by an Act of Parliament, the sole purpose of which is to amend the Constitution and the Act has been duly passed as provided in the Constitution.

In consideration of the Constitution (Amendment) (No.2) Bill, 2017, Parliament is exercising one of its core functions. In exercising the legislative function, we must note that Parliament’s freedom from outside control cannot be over emphasised, especially as it performs its constitutional functions.

The matter in question was referred in the East African Court of Justice. I know that Uganda is not only a party to the Treaty of the EAC but a very active partner, which recognises the Organs of the Community, including the East African Court of Justice.

My task here is to determine whether any action by Parliament, in considering this Bill, might be detrimental to the resolution of the dispute. The dispute must be between parties. Who are the parties in dispute? I do not know.

In determining this, I will not dwell on the merits but I will just say that Article 38(2) reads, *“Where disputes have been referred to the council or the court, the Partner States shall refrain from any action which might be detrimental to the resolution of the dispute or might aggravate it.”* I do not know which dispute has been deferred to the council or to the court.

I am mindful of the provisions of Article 6, which provides that, *“The fundamental objectives and principles that shall govern the achievements of the Community by the Partner States shall include –*

1. *mutual trust, political will and sovereign equality;”* I would like you to note that one.
2. *“peaceful coexistence and good neighbourliness;*
3. *peaceful settlement of disputes;*
4. *good governance, including adherence to the principles of democracy, the rule of law, accountability, transparency, social justice, equal opportunities, gender equality as well as the recognition, promotion and protection of human and people’s rights in accordance with the provisions of the African Charter on Human and People’s Rights;*
5. *equitable distribution of benefits;*
6. *cooperation for mutual benefit.”*

As Parliament, we have a duty to promote good governance and ensure rule of law and adhere to the principles of democracy, as provided in the Treaty yet the same Treaty enjoins the principle of sovereignty of each Partner State under Article 6.

In performing our functions as Parliament, we also have to be mindful to the *sub judice* rule namely rule 72, which states that, *“(1) Subject to sub rule (5) of this rule, a Member shall not refer to any particular matter which is sub judice.*

*(2) A matter shall be considered sub judice if it refers to active criminal or civil proceedings and in the opinion of the Speaker, the discussion of such a matter is likely to prejudice its fair determination.*

*(3) In determining whether a criminal or civil proceeding is active, the following shall apply -*

1. *criminal proceedings shall be deemed to be active when a charge has been made or a summons to appear has been issued by court;*
2. *criminal proceedings shall be deemed to have ceased to be active when they are concluded by verdict and sentence or charges have been withdrawn;*
3. *civil proceedings shall be deemed to be active when arrangements for hearing, such as setting down matters for hearing have been made, until the proceedings are ended by judgement or settlement or withdrawal;*
4. *appellate proceedings whether criminal or civil shall be deemed to be active from the time when they are commenced by application for leave to appeal or by notice of appeal until the proceedings are ended by judgment or withdrawn.*

*(4) A member alleging that a matter is sub judice shall provide justification to show that sub rules (2) and (3) are applicable.*

*(5) The Speaker shall make a ruling as to whether a matter is sub judice or not before debate or investigations can continue.”*

Honourable members, the *sub judice* principle needs under judicial consideration means under judicial consideration. It is an aspect of establishing the independence of the Judiciary. It is also a way of recognising the doctrine of separation of powers.

The rule governs what we can say in public with regard to an on-going legal proceeding before court. It is trite law that the basis of *sub judice* is that in any legal system, the role of courts is to deal with legal issues before it. This law should not be interrupted by others who may make public statements as to how the court is proceeding with the matter. The rule then applies where court proceedings are on. The rule applies to all and sundry; that is the parties in the case, lawyers and the public.

As I have said, honourable members, Parliament has a duty to do and I am not convinced that there is a dispute to which this House is a party. There is none. Therefore, we are not going to be - this is on Article 38. Let us proceed.

**MR OBOTH:** Madam Speaker, the committee noted that in the amendment, as I had stated earlier, we adopted under paragraph three, the methodology the committee used.

The committee extended invitations to identified stakeholders and other interested parties to come before it and submit written memorandum expressing their views.

The committee resolved to meet His Excellency the President in his capacity as a former presidential candidate, but also because a number of stakeholders the committee interacted with cited him as a direct beneficiary of especially, the proposed amendment to Article 102(b).

The committee notes that it extended similar invitations to other former presidential candidates of the 2016 general elections but only Prof. Venansius Baryamureeba honoured the invitation.

Whereas the committee had planned to carry out nationwide public regional consultations and external benchmark visits on the Bill, it was not possible. The committee was informed by the parliamentary administration that funds for these activities were not available.

The committee also looked at relevant case law such as the case of Amama Mbabazi v. Y.K Museveni, Electoral Commission and the Attorney-General, Presidential Election Petition No. 1 of 2016.

The committee further carried out desk research on similar provisions on other jurisdictions such as the republics of Kenya, Rwanda, USA, United Kingdom and others - (*Interruption*)

**THE SPEAKER:** Point of procedure, hon. Ssewanyana. The rest of you sit down. Honourable members, take your seats.

**MR SSEWANYANA:** Thank you, Madam Speaker. Alluding to the description of the word “table” in the Rules of Procedure of Parliament, “table” means the Clerk’s table, it never meant the iPad. “Tabling” means the laying of an official document on the Table and laying before Parliament shall be construed accordingly.

Therefore, when you go to our rule 201, the interpretation of tabling under the Rules of Procedure means the laying of an official document on the Table and laying before Parliament, which is this one, shall be construed accordingly. It never meant on an iPad when I am at home. It is in Parliament.

Rule 201(2) says, *“Debate on a report of a Committee on a bill shall take place at least three days after it has been laid on the Table by the Chairperson or Deputy Chairperson or a Member nominated by the committee or by the Speaker.”* Therefore Madam Speaker, it really disturbs my mind where you get the authority of making an iPad to become a table of Parliament. This is the procedural matter - (*Interruption*)

**THE SPEAKER:** Hon. Member for Mityana.

**MR MAKUMBI:** Madam Speaker, you have rightly ruled on that matter with a lot of deliberation and all the sides were attentive to that effect. Is the honourable member of Parliament for Makindye in order to continue discussing a matter on which you have ruled?

**THE SPEAKER:** Honourable members, I want you to understand the rationale behind these rules. The rules were made to make you know what is going to happen. However, on this occasion, I gave you notice three days early, I said they should be uploaded, you should read the reports -

**MR OBOTH:** Madam Speaker, in the process of scrutinising the Bill, the committee met and received memoranda from the following stakeholders:

1. Hon. Raphael Magyezi (MP) Igara West
2. Equal Opportunities Commission
3. Ministry of Justice and Constitutional Affairs
4. The Rt hon. Prime Minister of the Republic of Uganda
5. Uganda Law Reform Commission
6. The Electoral Commission
7. The National Resistance Movement Party
8. The Democratic Party
9. The Conservative Party
10. Dr Mwambutsya Ndebesa
11. Justice Forum – JEEMA
12. Professor Tarsis Bazana Kabwegyere
13. Leader of the Opposition (LOP)
14. Uganda Local Government Association (ULGA)
15. Uganda Association of Uneducated Persons (TUAUP)
16. Hon. Capt Ruhinda Maguru Daudi III
17. Makerere University School of Psychology
18. Mr George W. Bakka
19. Mr Gilbert Mutungi
20. Mr Moses Mfitumukiza
21. Mr Egole Lawrence Emmy
22. Fr Peter Bakka
23. Mr Langoya Alex
24. Mr Owachgiu Richard
25. Maj Gen. (Rtd) General Jim Muhwezi
26. FRONASA Veterans
27. Society for Justice and National Unity (SoJNU)
28. Prof. Venansius Baryamureeba
29. Prof. E.F Ssempebwa
30. Mr Peter Mulira
31. Hon. Amanya Mushega
32. Dr Tanga Odoi
33. Kick All Age Limits Out of the Constitution (KALOC)
34. Centre for Information, Research and Development
35. Hon. Kenneth Lubogo
36. Masindi District Local Government Council
37. Mr Fred Guweddeko
38. Buganda Region NRM Youth Voluntary & Advocacy Mobilisers (BREVOM)
39. Guild Presidents' Forum on Governance (GPFOG)
40. Mr Gabula Sadat
41. Kampala Business Community Informal Sector (KBCIS)
42. Kampala Arcades Traders Association (KATA)
43. Wansanso Kibuye Co-operative Saving & Credit Society Ltd
44. Kampala Operational Taxi Stages Association (KOTSA)
45. Kampala Tukolebukozi Timber Association (KATUTA)

46. Nakivubo Road Old Kampala (Kisekka) Market Vendors Ltd

47. Uganda Mechanics and Engineering Association

48. Urban Community Vector Control Group (UCOVEC)

49. Uganda Markets & Allied Employees Union (UMEU)

50. Hon. Thomas Tayebwa

51. St Balikuddembe Market Stalls, Space & Lock-Up Shops Owners Association Ltd

52. Uganda Printing and Publishing Corporation

53. Minister of Finance, Planning and Economic Development.

Madam Speaker, the scope of work of the committee *–(Interruption)*

11.33

**THE DEPUTY ATTORNEY-GENERAL (Mr Mwesigwa Rukutana):** Madam Speaker, I beg to move that for the elaborate reasons you have given, rule 201 of our Rules of Procedure of Parliament be suspended so that we can proceed with the debate *– (Interjections)*

**THE SPEAKER:** Order! Please take your seats first.

**MR RUKUTANA:** With the establishment of e-communication, when Members of Parliament were availed with iPads, the rule no longer serves any useful purpose. This is because that rule was intended to ensure that Members of Parliament take note of what is coming on the Floor. For that reason, Madam Speaker, I beg to move, under rule 16 of the Rules of Procedure of Parliament, that rule 201(2) be suspended. *(Interjections)*

**THE SPEAKER:** Order! Honourable members, I would like to remind you about rule 88 of the Rules of Procedure of Parliament: your conduct in this House.

**MR SSEKIKUBO:** Thank you very much, Madam Speaker. I rise on a point of procedure. This House is guided by rules and we hold these rules dear because any House without rules is bound to hit trouble.

Madam Speaker, it is for that reason that when we are debating these matters, whichever side of the political divide you are, we should listen to one another. *(Applause)*

However, you all know that once a Member raises a point of procedure, it is also proper that a Member is listened to. I am raising a critical matter and I raise it in accordance with rule 154(1) of the Rules of Procedure of Parliament. The rule provides that, *“Except as provided by these rules in respect to the Business Committee, Appointments Committee and the Budget Committee, a Member shall not belong to more than two Committees.”*

This goes down to the root of the reports we make before this House, Madam Speaker. In regard to rule 154(1); the first rule on page 149 of the Rules of Procedure. I beg your pardon, Members. Let us reach there together; do not worry, we shall reach there. It is rule 154(1), page 149. It says, *“Except as provided by these rules in respect to the Business Committee, Appointments Committee, and the Budget Committee, a Member shall not belong to more than two committees.”*

Madam Speaker, I have herewith the report of the Committee on Legal and Parliamentary Affairs, chaired by hon. Oboth. However, the Members who signed the report - it is fatal that Members who belong to other committees were imported to this committee. For what reasons - you may have wanted to have the majority on the committee but the moment you endorse a report when you are not a Member of the committee, it is fatal to the report – *(Interjection)*. I am mentioning it here but I would like to agree with Members that once you do that, the findings of the report become fatal.

Madam Speaker, in my hand is the list of Members of the Committee on Defence and Internal Affairs, where the said Members participated in party activities and got stationary from the committee. To our surprise, they appended their signatures to this report. The Members under contention include hon. Lilly Akello and hon. Akampurira Prossy Mbabazi who both sit on the Committee of Defence and Internal Affairs.

Members here can bear me witness that before they went for a retreat in Entebbe, we were together inspecting Katuna and Mirama Hill and they participated as Members of the committee. To that extent, I would like to request hon. Tumwebaze, who has been vocal, to challenge me on this.

Madam Speaker, with that, how do we proceed with this report that has mercenaries that were brought to append their signatures? These Members belong to the Committee of Defence and Internal Affairs but appended their signatures to the report.

Madam Speaker, this is the procedural matter I would like you to look at. I beg to lay on the Table the list of Members who sit on the Committee on Defence and Internal Affairs. The rule is very clear that you cannot belong to more than one committee. Therefore, this report cannot proceed to be debated. I rest my case.

**THE SPEAKER:** The Members are part of this House. Can I hear from hon. Lilly Akello? Where do you belong?

**MS LILLY AKELLO:** Thank you, Madam Speaker. I know the rules of this House very well. I was designated by the Government Chief Whip to sit on the Committee of Legal and Parliamentary Affairs. Thank you.

**THE SPEAKER:** Order, Members. Take your seats; there is someone on the Floor.

**MR AYEPA:** Madam Speaker, last week, at the parliamentary lobby, I found hon. Munyagwa telling hon. Mbogo Kezekia, that he also supports the Constitutional (Amendment) (No.2) Bill, 2017, for the removal of the presidential age limit. I am surprised that he is now causing confusion here and failing to listen to the Bill and calling hon. Lilly Akello a liar, especially after seeing the camera. Yes, the cameras are there. I saw him with hon. Mbogo and he is now disturbing the people. This is not a comedy show.

**THE SPEAKER:** Honourable members, concerning members of the Committee on Legal and Parliamentary Affairs, the Clerk has informed me that when the Deputy Speaker was here, those proposals were brought and approved by this House –

**MS JOY ONGOM:** Thank you so much, Madam Speaker.We are handling a very contentious matter and an honourable member raised an issue that two members of Parliament are sitting on more than one sessional committee. Wouldn’t it be procedurally right for the Clerk to bring us a list and also the registers of those different committees so that we verify them and go on smoothly? We would like things to go on well.

**THE SPEAKER:** Order Members, there is someone on the Floor.

**MR SSENTAMU:** Thank you, Madam Speaker. I rise on a point of procedure, particularly Rule 72 (2) although we seem to have wanted to conveniently bypass it. This rule is to the effect that a matter shall be considered subjudice if it refers to active criminal or civil proceedings.

On the 14th December last week, you are on record to have wisely ruled that the matter is before the East African Court of Justice and you wisely guided that all of us are potential witnesses. Today, your opinion was that the provision has not been tested.

Madam Speaker, the Bill before us today -

**THE SPEAKER:** Hon. Ssentamu, I was dealing with Article 38 of the Treaty of the East African Community; are you aware of it? That is what I am dealing with. (*Laughter*)

**MS AMONGI:** Thank you, Madam Speaker. I rise on rule 8 of the Rules of Procedure particularly rule 8(2) that reads, *“The Speaker’s ruling under sub rule (1) shall become part of the Rules of Procedure of Parliament until such a time, when a substantive amendment to this rule is made in respect to the ruling”.*

Madam Speaker, procedurally, you have made a ruling on the issue of the matter in the East African Parliament. Is it procedurally right, under rule 8(2) for members to continue making reference to this matter?

**THE SPEAKER:** Honourable members, I have made my ruling on that issue. I will ascertain the issue which has been raised about membership on that committee, particularly the number of members. I also would like to check the *Daily* Hansard because I was not here when the transfers were made. Therefore, I will suspend the proceedings for today up to 2 O’clock. I suspend the proceedings up to 2 O’clock but in the meantime, the following Members are suspended:

1. Hon. Ibrahim Ssemujju
2. Hon. Allan Ssewanyana
3. Hon. Gerald Karuhanga
4. Hon. Jonathan Odur
5. Hon. Mubarak Munyagwa
6. Hon. Anthony Akol.

They should not come back in the afternoon. (*Applause*)

(*The House was suspended at 11.58 a.m.*)

*(On resumption at 2.16 p.m. the Speaker presiding\_)*

**THE SPEAKER:** Honourable members, this morning, hon. Ssekikubo objected to the names of two of the Members of the House on grounds that they belong to more than one sessional committee. I have had time to check the records and these are my findings:

On 29 November 2017, on the Floor of this House, the Government Chief Whip designated the following Members to serve on the standing committees and others to sessional committees:

1. Hon. Herbert Kabafunzaki, Rukiga County, ICT sectoral committee
2. Hon. Prossy Akampurira, Rubanda County, Legal and Parliamentary Affairs Committee
3. Hon. Taban Idi Amin, Kibanda County North, Legal and Parliamentary Affairs Committee
4. Hon. Rose Lilly Akello, Kaabong, Legal and Parliamentary Affairs Committee
5. Hon. Suubi Asinde, Iganga, Legal and Parliamentary Affairs Committee
6. Hon. Caroline Kamusiime, Rukiga County, Legal and Parliamentary Affairs Committee
7. Hon. Grace Watuwa, Namisindwa, East African Community Affairs
8. Hon. Jane Avur Pachuto, Pakwach, Committee on Foreign Affairs
9. Hon. Robert Kasule, Nansana Municipality, Legal and Parliamentary Affairs Committee.

On the same day, the Government Chief Whip again nominated the same Members to the following standing committees:

1. Hon. Herbert Kabafunzaki, Committee on HIV/AIDS
2. Hon. Prossy Akampulira, Committee on Rules and Privileges
3. Hon. Rose Lily Akello, Kaabong, Committee on Rules and Privileges
4. Hon. Suubi Asinde, Iganga, Committee on Government Assurances
5. Hon. Caroline Kamusiime, Rukiga, Committee on Government Assurances
6. Hon. Grace Watuwa, Namisindwa, Committee on Local Government Accounts
7. Hon. Jenifer Pachuto, Packwach, standing Committee on Budget
8. Hon. Taban Idi Amin, Kibanda North, standing Committee on Local Government Accounts
9. Hon. Robert Kasule, Nansana Municipality, COSASE.

On the same day, the Opposition Chief Whip, hon. Ibrahim Ssemujju nominated hon. Robinah Ssentongo of Kyotera to the sessional Committee on Health and to the standing Committee on Local Government Accounts.

Honourable members, the question was put on all these names and was accepted on the Floor of this House. *(Applause)*

I have inquired as to why the honourable member went out with the Committee on Defence and Internal Affairs and I have been told that she had been facilitated to go for a site meeting with that committee before she was nominated to the Committee on Legal and Parliamentary Affairs. Having received the money, she felt obliged to go and fulfil that obligation.

Honourable members, this is an issue of accountability. You have been complaining here that Members receive money and do not go for the trips. By the way, honourable members, those that are saying that she should return the money, remember that Members are free to attend any committee as long as they do not vote.

I know that on the Appointments Committee, I have had several Members coming to sit and listen in. The right of the members to attend cannot be fettered. They cannot vote but they can attend; so she was lawfully on that committee because you accepted it on 29 November, 2017. *(Applause)*

**MR NIWAGABA:** Madam Speaker, I move under rule 86 (2) of our Rules of Procedure to give notice to the House that we, on the Opposition side, shall move a substantive motion tomorrow to challenge that decision because of the available matters of evidence in our possession, including attendance sheets and signatures of the Member in issue in respect of committee meetings.

The *Hansard* shows that when this Member was designated to the Committee on Legal and Parliamentary Affairs, she was not formally withdrawn first from the committee, where she was earlier allocated. Therefore, we will move a substantive motion to challenge that decision based on the rules and the evidence we have.

I, therefore beg, Madam Speaker, that you allow us space tomorrow at a time to be given by you for us to present that substantive motion.

**THE SPEAKER:** What is the motion about because you are talking about the decision of the Speaker?

**MR NIWAGABA:** To review your decision, Madam Speaker -

**THE SPEAKER:** Which decision?

**MR NIWAGABA:** Through rule 86(2) of our Rules of Procedure; the ruling you have just made.

**THE SPEAKER:** I am restating what you did on 29 November 2017. That is what you agreed to in this House.

**MR NIWAGABA:** Madam Speaker, the evidence we have is contrary to your ruling. We cannot appeal against your decision but your decision can be reviewed by the House when we bring it here -

**THE SPEAKER:** Take it to the Committee on Rules, Privileges and Discipline. On 29 November 2017, this House, in my absence, decided that those Members are moving to those committees; so it cannot be under rule 86.

**MR SSEGGONA:** Madam Speaker, I think with your permission, you have a duty to guide. In light of Rule 86 (2) of our Rules of Procedure, if I am not satisfied with your decision, where do I go? I am asking the Speaker because I know she knows.

**THE SPEAKER:** Honourable members, this is a decision of the House not of the Speaker. You sat here on 29 November 2017 and took that decision; so it is not the Speaker’s decision. That rule is not applicable.

**MR SSEKIKUBO:** Madam Speaker, in my possession is a set of evidence and it is not my strong point to put back a matter that you seem to have taken a position on. However, if I could be allowed to draw your attention to particular facts in relation to this matter -

**THE SPEAKER:** Hon. Ssekikubo**,** that is an issue for the Committee on Rules, Discipline and Privileges. If she has misconducted herself, take her to that committee.

**MR JACOB OBOTH:** Madam Speaker, we stopped at the process of scrutinising the Bill. We said that the committee met and received memoranda from 54 stakeholders including President Museveni.

Madam Speaker, allow me to go straight to the committee observations, and recommendations and conclusion; and I pray that the *Hansard* captures the details of this report as laid already.

This section of the report gives a critical analysis of the proposed amendments to the 1995 Constitution. The constitutional provisions being amended, a comparative analysis of similar provisions in other jurisdictions, the effect of the amendment on any other constitutional provisions - (*Interruption*)

**MS WINIFRED KIIZA**: Madam Speaker, I rise on a matter of procedure on two aspects. Our rules provide for Members to challenge the ruling of the Speaker and when the Members rise to ruling of the Speaker, they are supposed to be heard.

Madam Speaker, it is unfortunate that the House - and in your own guidance, you told us that the word “Parliament” comes from a French word, *parle* - a place where people are supposed to debate, where they are supposed to speak.

Madam Speaker, in our way of speaking, rulings are made. Our rules provide that when you are not satisfied with the ruling of the Speaker, you can rise. It is unfortunate that when a Member stood to ask where he can seek recourse in a situation where he is not satisfied with the ruling of the Speaker, the Member was brushed off. May I find out whether that rule that allows us to challenge the ruling of the Speaker has been made in vain?

These are rules that guide this House. Rule 86(2) allows us to challenge the ruling of the Speaker. At some point, you will use this rule –(*Interjections*)– I am on procedure. That is one issue whether these rules are made -

**THE SPEAKER:** Honourable Leader of Opposition, are you suggesting that this House did not consider the allocation of those Members in this House? Is that what you are saying?

**MS WINIFRED KIIZA:** Madam Speaker, we are not deciding in anyway against the ruling that was taken on 29. The ruling we are challenging is the one that has been made today. The one that was made in respect of the Members who were named, where the Speaker ruled that the Member was facilitated to just take an oversight role in a committee where a Member is not a member –(*Interjections*)– please allow me to speak.

I think the Speaker set the ground rules that we shall listen to each other whether even when one issues that are not in tandem with the others and I have been diligently listening to you, Members, as you made your contributions. I would like to say that Members are challenging that rule and want to be given an opportunity to challenge that ruling and the Member did mention a rule that provides for a motion.

It would be in that motion that we would give evidence. The Member was giving a notice of a motion –(*Interruption*)

**MR RUKUTANA:** I thank you, Madam Speaker. The honourable Leader of the Opposition is raising a matter, which was duly raised by an honourable member from the Opposition and which, in your wisdom, you ruled on. Having ruled on it, is it in order for the Leader of the Opposition to repeat the same matter that you have already ruled on?

**THE SPEAKER:** She is out of order. Now, Leader of the Opposition, an allegation here was made that hon. Lilly Akello and hon. Akampurira belong to more than two sessional committees. There was also an allegation that the week before they were designated, another allegation came that she actually attended a site meeting under the Committee on Defence and Internal Affairs. I told you I was going to find out what happened.

First, I confirmed that this House approved their allocation to those committees on 29 November 2017. Secondly, on inquiry about what she was doing at Gatuna, I was informed that as a member of the Defence and Internal Affairs committee, she had already been given facilitation to go on that site visit, which she did.

**MS WINIFRED KIIZA:** Madam Speaker, the reason some of us wanted to challenge the ruling of the Speaker is that it was made on the wrong assumption. Let me tell you the wrong assumption.

Hon. Lilly Rose Akello came to this Parliament through a by-election. She was in the Ninth Parliament and did not make it to the Tenth Parliament. It could be true that when she was in the Ninth Parliament, she was a member of that committee. When she came to the Tenth Parliament under a by-election, with the assumption that she was not designated to the Committee on Defence and Internal Affairs -

**THE SPEAKER:** Let us hear from the chairperson of the Committee on Defence and Internal Affairs.

**MS NABAKOOBA:** Thank you, Madam Speaker. The clarification I would like to make is that the committee work which Members are talking about was carried out from 23rd to 30th November and designation was on 29th November.

Therefore, Members were designated while in the field and when they returned, they did not attend committee wok again. They straight away went to the legal committee. Thank you, Madam Speaker.

**MR GILBERT OLANYA:** Thank you, Madam Speaker. On 1st December, the committee travelled to western Uganda. We went to Kabale and Ntungamo and we travelled together with hon. Lilly Akello. Is the honourable member in order to say that hon. Lilly Akello last participated in committee work on 30th November yet on 1st December we were together with hon. Lilly Akello in Kabale?

**THE SPEAKER:** Honourable members, I think you should stop filibustering the work of this House. The position I was restating is the one you took on 29th November. The record of the House shows that hon. Lilly Akello is on the Committee on Legal and Parliamentary Affairs. That is what is here on the *Hansard*. I do not know what else you want me - that is where she is.

**MS WINIFRED KIIZA:** I would like to thank you, Madam Speaker, for your ruling and it is the reason I was saying that the ruling was taken out of –

**THE SPEAKER:** Honourable Leader of the Opposition, you cannot debate the Speaker’s ruling here and you know that.

**MR ODONGA OTTO:** Thank you very much, Madam Speaker, for this opportunity. I am in possession of a High Court document which I intend to lay on the Table, on this procedural matter that I am seeking. It is a court case between Alex Waiswa Mufumbiro and the Parliamentary Commission. There is a notice of motion where this Parliament was dragged to court by Mr Mufumbiro. In that case, they are challenging *– (Interjections) -* can we have one fool at a time? *(Laughter)*

Madam Speaker, this is a case where the Parliamentary Commission was dragged to court on miscellaneous case No. 315 of 2017 where Parliament is fully informed and the Clerk to Parliament, Jane L. Kibirige, swore an affidavit. In the pleading, Mr Mufumbiro is challenging the manner in which MPs were thrown out of this House; he is challenging all the proceedings on 27 September 2017, when Mr Magyezi was given leave.

Specifically, if I could read paragraphs (j) and (k) *– (Interjections) -* there is consent by Parliament and they have scheduled the 7th day of February as the day for hearing at 9.30 a.m. Of interest, Members, let me read paragraphs (j) and (k): “A declaration that all businesses of Parliament and all the motions passed on the 27th day –

**THE SPEAKER:** Honourable member, do you have a judgment on that issue?

**MR ODONGA OTTO:** Madam Speaker, this is in relation to rule 72 of our Rules of Procedure of Parliament and I ask you to guide on whether this matter is not *subjudice.* Parliament has been dragged to court and they are specifically saying that all the proceedings of 27 September 2017 were passed illegally. The matter is active and the Clerk to Parliament has sworn an affidavit –

**THE SPEAKER:** Where is the injunction stopping this House from working?

**MR ODONGA OTTO:** Madam Speaker, under rule 72 –

**THE SPEAKER:** Honourable member, please take your seat.

**MS WINIFRED KIIZA:** Madam Speaker, I still want to speak to you in regard to the Members who were suspended when you had adjourned the House.

Madam Speaker, you suspended the House and told us to resume at 2 O’clock. To that, I believe that the House had been suspended and, therefore, no other matter was supposed to be heard thereafter. You acted *functus officio* by suspending the Members, whom you named immediately after suspending the House.

May I request that you rescind your decision and have these Members called back for purposes *–(Interjections)-* it is a request to you that you rescind your decision, call these Members back and possibly suspend them officially when the House is not adjourned, if there is need for them to be suspended.

Madam Speaker, I would not like us to go into the happenings of the 27th September where people think we are going to suspend Members until all those who are against the lifting of the age limit are moved out of the House. We cannot *– (Interruption)*

**MR TUMWEBAZE:** Madam Speaker, the Leader of the Opposition has moved to challenge your decision on each and every point you have ruled on. Rule 86(2) of the Rules of Procedure of Parliament is explicit and I will read it: *“The decision of the Speaker or Chairperson on any point shall not be open to appeal and shall not be reviewed by the House, except upon a substantive motion made after notice.”*

The Leader of the Opposition has not given notice for a motion to formally challenge your ruling and she continues to submit, flip-flopping from one point to another as if this House has no rules to guide it. Is she in order?

**MR BAHATI:** Madam Speaker *– (Interjections) -* Okay, I will make a clarification –

**THE SPEAKER:** Honourable members, it is a pity that an officer of Parliament is the one promoting disobedience to the rules of the House: the Leader of the Opposition.

Honourable members, you witnessed the unruly conduct of the Members, whom I have suspended and it went on for a long time and I warned them. I have suspended them. The words I used are: “In the meantime, these are suspended.” Those are the words I used. You can go to the *Hansard.* They are suspended and they remain suspended.

**MR OBOTH:** Madam Speaker, I was on the observations, recommendations and conclusions. I am seeking your indulgence, that the detailed report should be captured in the *Hansard* as I read the abridged one and I was saying that the amendment of other constitutional provisions, if any, the stakeholders’ views and analysis of the proposed amendments – clause 1 of the Bill seeks to amend Article 61 of the Constitution by substituting for clause 2 the following:

"(2) The Electoral Commission shall hold presidential, parliamentary and local government council elections within the first thirty days of the last one hundred and twenty days, before the expiration of the term of the Office of the President."

The current constitutional provision - Article 61(2) of the Constitution reads as follows: *"(2) The Electoral Commission shall hold presidential, general parliamentary and local government council elections within the first thirty days of the last ninety days before the expiration of the term of the President."*

Analysis of the views *–(Interruption)*

**THE SPEAKER:** Chairperson of the committee, wait a bit.

**MR NANDALA-MAFABI**: Thank you very much, Madam Speaker. I am not challenging your ruling but raising a procedural issue, which I would like to be educated on so I can understand it.

Madam Speaker, in our rules, Appendix F talks about the Code of Conduct for Members of Parliament; it is on page 234. Rule 84 (2) (1) of the Rules of Procedure says: *“By virtue of the Oath of allegiance taken by all Members, Members have a duty to be faithful and bear true allegiance to the Republic of Uganda and to preserve, protect and defend the Constitution and to uphold the law and act on all occasions in accordance with the public trust placed in them.”*

Under 84(3) *– (Interjections) -* if you listen, you will understand *–(Interjections)–* I am the one holding the Floor. Madam Speaker, Members of Parliament are supposed to be accountable, open, honest and show leadership.

Madam Speaker, you ruled that our colleague, hon. Rose Lilly Akello was a Member of the Committee on Legal and Parliamentary Affairs *–(Interjections)–* you must learn to listen. *(Laughter)*

On 10 August 2017, there was a meeting chaired by hon. Judith Nabakooba and one of the Members present was hon. Akampulira Prossy Mbabazi *–(Interjections)–* at least you have heard. How did hon. Akampulira Prossy Mbabazi know that she was a Member of the Committee of Defence and Internal Affairs before she was designated? This clearly shows that hon. Akampulira must have been designated to this committee before.

On 19 September 2017, under the leadership of hon. Judith Nabakooba, the same committee had a meeting with the Minister of Education and Sports on the learners’ project but the same Members, including hon. Rose Lilly Akello, were present  *(Interjections)–* I would like to first make a case.

On 21 November 2017, under the leadership of hon. Judith Nabakooba - Rose Lilly Akello was also present. On 27 November 2017, again Rose Lilly Akello was present. This cannot be an accident; it cannot be a mental case. So, Madam Speaker -

**THE SPEAKER:** Hon. Nandala-Mafabi, I informed the House that on the 29th – after the 28th and after September and after August – this House approved the designation of those Members to move to the Committee on Legal and Parliamentary Affairs.

**MR NANDALA-MAFABI:** Madam Speaker, it is true that on 29 November 2017, the House designated the Members. However, in this case where Members are on certain committees, it should have been re-designation. The justification is that you cannot designate a Member twice in the same session to two different sessional committees without first withdrawing that Member from the current committee.

Madam Speaker, you are the owner of these rules, which are still new. You should have advised the Government Chief Whip to first withdraw the Members before designating them to another committee.

**THE SPEAKER:** Honourable members, if you were dissatisfied with the decision of this House of 29 November, you should have filed notice to review the situation but you did not.

**MR NANDALA-MAFABI:** Thank you very much, Madam Speaker. We are not filing a notice *– (Interjections)–* I know you want to do something –*(Interjections)–* you are hungry to do something but I would like to tell you this as I sit down. In the Bible, there was -

**THE SPEAKER:** Honourable member, if the House was dissatisfied with the designation of the Members on 29 November 2017 – it is now almost a month later – you should have come and filed a notice to review the decision that had been taken by this House. Now that the decision was taken by this House, I am bound to take the decision of the House.

**MR NANDALA-MAFABI:** Okay, Madam Speaker, I am going to file a notice.

**MR OBOTH:** Madam Speaker, we were on analysis of the views received and for the record – *(Interruption)*

**MR NSEREKO:** Thank you, Madam Speaker. I do not, in any way, intend to challenge your ruling. However, I would like to invite my dear colleagues, from both sides of this House to read and reflect on rule 201. Clearly, I am not challenging the issue of laying but the debate -

**THE SPEAKER:** Who is debating?

**MR NSEREKO:** Madam Speaker, I would like to go into this because -

**THE SPEAKER:** Honourable member, the report has not yet been presented and no one has debated it.

**MR NSEREKO:** Madam Speaker, we have been talking about procedural matters that have led to the laying of this report on the Table. If you will accept to give chance to everyone to speak, it will help us. If someone does not have anything to say, much better and so, I call on honourable members to read Rule 201(2) that clearly states thus: *“Debate on a report of the committee on a Bill, shall take place at least three days after…”* Whereas we all know that - I know this because the legality of the question of debate shall now emanate on as to whether the report was well laid or not.

Madam Speaker, before you rule, the Deputy Attorney-General rose up and maybe having realised there is a fault somewhere, he clearly said he would seek at least suspension. I can see a fault in law, not in fact for the description of what hon. Allan Ssewanyana was calling the Table.

Previous precedents, Madam Speaker, are clear that you have told honourable members that whatsoever they state, must be laid on the Table. We before you and before this House; now, if the precedent we are setting is to upload reports on the *iPads*; then, it will be very unfortunate.

**THE SPEAKER:** Honourable member, allow the chairperson of the committee to present and lay the report.

**MR OBOTH:** The committee observed that the proposal to increase the term within which presidential, local government and parliamentary elections are held from the last 90 days of 120 days -

**THE SPEAKER:** Hon. Cecilia Ogwal, I will call you. First sit down.

**MR OBOTH:** Of the last 120 days is welcomed and should be supported. The committee notes that increasing the number of days will ensure elections are held early enough and not at the end of the presidential term. Holding elections early enough will enable other legal and procedural processes to take place before the expiry of the presidential term. The committee recognises that the -

**MR SSEGONNA:** Madam Speaker, thank you very much for allowing me to raise this point. You have made a ruling before in terms of rule 201 that the uploading of this report together with our minority report on the *iPads* constituted laying on the Table.

I am now rising on a point of order and to be guided by you on whether the honourable member, therefore, is in order to proceed to read a report that has already been laid on the Table? Thank you.

**THE SPEAKER:** Honourable members, when a report is laid, it is also read. You know that.

**MR OBOTH:** Madam Speaker, the committee recognised that the determination of when elections are held in Uganda is the end of term of office of the President -

**THE SPEAKER:** Okay, honourable chairperson, let us allow hon. Cecilia Ogwal to say something.

**MS CECILIA OGWAL:** Thank you, Madam Speaker. I am raising a matter which is very simple and small although I would like to make a very pertinent plea to the House.

Madam Speaker, we are debating a very important matter of national importance and we know -

**THE SPEAKER:** We have not yet started debating.

**MS CECILIA OGWAL:** Madam Speaker, I am pleading with you that this report, which is going to be tabled before the House today - we have been sent here to receive this report on behalf of the voters. So, I am pleading with you, personally to allow the people who have been suspended to come and participate in this debate on behalf of the people who sent them here because it is important they participate. Because we have forgiven the two honourable members who sat in the committee illegally, we should also allow these Members to participate in this debate. If we have excused those two female honourable members, why can’t we also allow our brothers to also participate in this debate? In that spirit of unity - we are all Ugandans sent here in our delegated capacity; we cannot shut out other people because we would have - Madam Speaker, I am pleading with you - there are people who would like to paint the image of this Parliament badly. They would like to make it appear as if it is the Speaker or any other person who has shut out these people. I am pleading with you that in the same way –(*Interruption*)

**MR EDWARD OTTO:** Madam Speaker, I make reference to Rule 86 in respect to the decision of the Speaker. You have made a ruling; you named and suspended members. The rule clearly says that when the Speaker makes a decision, to reopen the matter, one needs to bring a substantive motion. Therefore, is it in order for the senior legislator to come and start reopening that matter without bringing a substantive motion well aware of the rule?

**THE SPEAKER:** Hon. Cecilia Ogwal is out of order. In my opening remarks this morning, I asked Members to tolerate and listen to each other even if they do not agree. I warned the members who were suspended before that if they misconduct themselves, they would then be suspended for seven sittings. I warned everybody that they would endanger their right to speak or vote. That is what I told them.

Hon. Cecilia Ogwal, as a senior member of the Opposition, you should have pleaded with them when they were misconducting themselves. (*Interjections*) Oh! They did not listen to you?

So, hon. Cecilia Ogwal, I will not review my ruling; I will not review my ruling. Take your seat - I think they belong to the gallery. Take your seat.

**MR OBOTH:** Madam Speaker, if I may continue, the term of the President is set at five years in Article 105 of the Constitution and it cannot be extended except through the amendment of the Constitution.

The committee observed that after the presidential election, the Constitution allows certain processes to take place. These processes, which must be completed before the expiry of the presidential term, include counting and declaring results, holding a rerun in case none of the candidates obtains the highest number of votes, challenging a presidential election, court determination of a petition challenging a presidential election and holding a fresh election in case court nullifies a presidential election.

In determining the adequacy of the amendment to clause 1 of the Bill, the committee considered the processes that have to be complied with after the presidential elections but before the expiry of the presidential term. The committee noted that there is a link between the time within which presidential elections are held and the time within which other processes pertaining to those elections can take place.

The committee observed that Article 61 of the Constitution -

**MR NSEREKO:** Madam Speaker, I heard you very well and clearly when you quoted rule 82(1)(d) as you talked about behaviour in this House. We are all here to adhere to these rules to the letter.

It is also very clear that when a Member has finished speaking, they must resume their seats. However, you can see how Members are standing on both sides of the House. It is a point of order because you have told us to continue sitting for as long as we have concluded our speeches.

Is it, therefore, in order for hon. Frank Tumwebaze, hon. Macho, hon. Mugoya, hon. Rwakajara and many others, as you can see, to continue defying your orders in this House when Members on the opposition side of the House are very orderly and adhering to all your orders to the letter? Thank you very much.

**THE SPEAKER:** Honourable members, they are standing on their chairs. *(Applause)*

**MR OBOTH:** Madam Speaker, the committee observed that Article 61 of the Constitution has a direct link to Articles 103(5) and 104(2) (3) and (6) of the same Constitution. This is so because the duration within which elections are held determines the duration within which other processes arising from those elections can be carried out. The relevant Articles are reproduced in the main report and I implore Members to refer to it.

The committee also noted with concern that the above processes, which are carried out independent of each other, require a minimum of 122 days to be complied with yet the Constitution requires elections to be carried out 90 days before the end of the term of the President.

The committee observed that if all of the above processes are to be carried out, the time currently prescribed in the Constitution is insufficient and an additional 32 days is required.

The committee, therefore, agreed that the above timelines are unrealistic and need to be enhanced to ensure elections are carried out early enough so as to allow processes to take place before the term of election of the President expires.

**MS WINIFRED KIIZA:** Thank you, Madam Speaker. I rise on a procedural matter. You rightly put it, Madam Speaker, that I am an officer of this House and therefore, I should not be seen to violate the rules of this House.

In the same vein, I would not want to see Members of this House violate the rules by standing on the chairs and be tolerated. Is that procedurally correct?

Secondly, Madam Speaker, I notice that the level of intolerance in this House is now so strange to the extent that Members have now resorted to standing on their chairs, as they wait to make their submissions. Madam Speaker, I still believe that we are not proceeding well. Therefore, I would like to appeal to Members who feel like I do, that we are violating rules unnecessarily, to first move out and we consult each other. At an appropriate time, we shall come back and let the House understand the outcome of our consultations. May I request that those who believe like I do first move out and consult? That does not require a motion; I can move out alone. *(Applause)*

*(Whereupon some Members exited the Chamber.)*

**THE SPEAKER:** Honourable members, I am surprised that Members who are quietly standing there and doing their own things can be a problem to the Leader of the Opposition. Chairman, let us continue.

**MR OBOTH:** Madam Speaker, the committee noted that in determining the time when presidential elections can take place, regard must -

**THE SPEAKER:** Let the honourable members that are standing occupy these seats now. *(Applause)*

**MR OBOTH:** Madam Speaker, if I may continue, I was saying that the committee noted that in determining the time when presidential elections can take place, regard must be heard to Articles 103 and 104 of the Constitution as well as internationally-based practices.

The committee noted that the Bill is proposing to amend Article 104 of the Constitution – *(Interruption)*

**PROF. OGENGA-LATIGO:** Thank you, Madam Speaker. Because of the recognition we give to the Executive and the shadow ministers, even when this House is sitting normally, it has always been the tradition of Parliament that when we suspend sittings according to rules, the frontbench, on the right hand of the Speaker, is reserved for the ministers and the frontbench on the left hand side of the Speaker is reserved for the shadow ministers.

I would like to say that at least if it is a question of sitting, let the front bench be reserved for the shadow ministers –*(Interjections)*– Madam Speaker, I remained behind to make this appeal. However, if Members think that it is not worth, it is fine but I have made my appeal –*(Interruption)*

**MR RUKUTANA:** Madam Speaker, the honourable member raising the issue of sitting arrangement seems not to be aware that it is the prerogative of the Speaker to reserve a seat for a Member. I would like to invite him to Rule 9 of our Rules of Procedure on sitting arrangements and it reads: *“(1) Every Member shall as far as possible have a seat reserved for him or her by the Speaker… (4) The Speaker shall ensure that each Member of Parliament has a comfortable seat.”*

The Speaker has invited Members who were standing to sit and feel comfortable. Therefore, is he in order to continue in ignorance of these clear rules to raise the matters he is raising?

**THE SPEAKER:** He is out of order. Honourable chair, please proceed.

**MR OBOTH:** The committee noted that the Bill is proposing to amend Article 104 of the Constitution and owing to the relatedness between Article 61 and Article 104 of the Constitution - the time to be prescribed in clause 1 of the Bill should be commensurate with the timelines prescribed in Article 104 of the Constitution.

The committee noted with concern that whereas the Bill proposes to amend Article 104, the timelines prescribed thereunder did not take into account the duration prescribed in clause 1 of the Bill.

The committee observed that whereas the Bill proposes that presidential, parliamentary and local council elections are held 120 days before the end of a presidential term, the amendments made to Article 104, as proposed in clause 3 of the Bill, will require a minimum of 182 days for all the processes accruing after a presidential election to be complied with.

Indeed, the committee observes that the Bill, in clause 3, proposes to amend Article 104(2), (3) and (6) to increase the time within which the following processes and acts are done:

1. In Article 104(2), to increase the time within which an aggrieved candidate can file a petition from 10 to 15 days;
2. In Article 104(3), to increase the time within which the Supreme Court will inquire into and determine the petition from, 30 to 45 days; and
3. In Article 104(6), to increase the time within which a fresh election is held after the annulment of a presidential election from 20 to 60 days.

The above proposals will add 60 days to the current 122 days making a total of 182 days needed to have all the processes complied with. The committee notes therefore that the proposed amendment in clause 1 of the Bill needs to be harmonized with the proposed amendment to Article 104 as contained in clause 3 of the Bill.

In determining the adequate time within which elections are to be held, the committee considered the views obtained from stakeholders and international best practice.

The committee notes that international best practice has not yet developed on when a presidential election should be held. The committee observed that every country chooses a time, which enables it to sufficiently deal with any processes arising from such an election. Examples of these countries are contained in the report.

The committee observed that in arriving at the time within which presidential, parliamentary and local council elections are held, there is need to take into account the timelines prescribed in Article 103, 104 and 105 of the Constitution so that sufficient time is allowed for all the processes that the Constitution allows to accrue after a presidential election is held.

Taking the above into consideration, and guided by the amendments proposed by the committee in Articles 103 and 104 of the Constitution, the committee notes that a minimum of 172 days is needed if adequate time is to be allowed for all the processes envisaged under the Constitution to be complied with. The 172 days are arrived at as follows:

1. In Article 61(2), elections are held within the first 30 days of the last 172 days;
2. In Article 103(7), the Electoral Commission is given two days within which to declare the results of the election;
3. In Article 103(5), the Electoral Commission is allocated 30 days within which to organise and conduct a presidential re-run;
4. In Article 103(7), the EC declares the results of the presidential re-run held under Article 103(5) within two days;
5. Article 104(2) allows an aggrieved person to petition court challenging a presidential election and the committee proposes 14 days;
6. Article 104(3) allows the Supreme Court to inquire into and determine the petition and the committee proposes to allocate it 45 days to do so;
7. In Article 105(6), the Constitution requires that a fresh election is held after the annulment of a presidential election. The committee has allocated the Electoral Commission 44 days.

The proposal to have elections held within the first 30 days of the last one hundred and seventy two days will result in election for presidential, general parliamentary and local government council elections being held on 20 November in the fifth year, as opposed to 18 February as is the case now.

The committee recommends thus:

1. The relatedness of clause (1) and (3) be taken into account in determining the timelines proposed in those clauses;
2. In determining when presidential, parliamentary and local council elections are held, regard should be had to the timelines prescribed in Articles 103 and 104 of the Constitution and adequate time is provided in order for the processes provided for in those articles to be complied with before the expiry of the term of the President;
3. Presidential, parliamentary and local council elections are held within the first 30 days of the last 169 days before the expiry of the term of office of the President; and
4. The determinant of when presidential, parliamentary and local government council elections are held is the term of Parliament rather than the presidential term, which is prone to change.

Madam Speaker, I now move to clause 2 to –*(Members rose\_)*

**THE SPEAKER:** Why don’t you allow the Member to finish his report? Please allow the chair to complete his report. Bring it here. Come where I am -

Clause 2 of the Bill seeks to amend Article 102 of the Constitution by deleting paragraph (b). It reads as follows: *"*Article 102 of the Constitution is amended by repealing paragraph (b)".

The current provision reads as follows:

*“102. Qualifications of the President*

*A person is not qualified for election as President unless that person is -*

*(a) a citizen of Uganda by birth;*

*(b) not less than thirty-five years and not more than seventy-five years of age; and*

*(c) a person qualified to be a Member of Parliament."*

Effects of the proposed amendment

The proposed amendment will have effects, which the committee highlights in its report.

Analysis and observations from views received on this particular clause

Article 102 prescribes the qualification for election as a President of Uganda and provides three conditions a person intending to stand in a presidential election must fulfil before nomination. These are that such a person is –

*“(a) a citizen of Uganda by birth;*

*(b) not less than thirty-five years and not more than seventy-five years of age; and*

*(c) a person qualified to be a Member of Parliament.”*

The Bill proposes to delete paragraph (b) which bars persons below the age of 35 years and above the age of 75 from contesting as a candidate in a presidential election. The justification advanced for this amendment is to comply with Article 1 of the Constitution, which gives the people of Uganda the absolute right to determine how they should be governed and Article 21 and Article 32 which prohibit any form of discrimination on the basis of age and other factors.

Decision of the committee on the proposed amendment to Article 102(b) of the Constitution

In scrutinising the Bill, the committee received representations for and against removal of the age restriction prescribed in Article 102(b). The reasons are clearly highlighted in the main report and this is an abridged version of the report.

In reaching its decision, the committee considered the stakeholders’ views, the reasons advanced for and against removal of the age restriction, the history of Article 102 of the Constitution and the general evolution of the qualifications for election as President, the legal challenges posed by Article 102 in its current form, legal challenges with the proposed amendment as contained in the Bill as well as international best practices.

As indicated above, the committee received a cross-section of views both for and against the proposed amendment to Article 102(b). The committee at all times kept an open mind to the proposals being made by the stakeholders appearing before the committee. The committee observed that both the views for and against were persuasive but not binding on the committee. Nevertheless, the committee took into account the views received in reaching a decision on the matter.

The committee was, in reaching the decision on this matter, persuaded by the reasons advanced for removing the age restriction as indicated in the report. The committee noted that the reasons advanced for removing the age restrictions were legal in nature and kept within the legal and generally constitutional regime applicable to the matter.

The committee further believes that whereas Article 102(b) is not discriminatory, it marginalises against the aged and the youth. The committee notes that Article 102(b) marginalises against the youth and the elderly by limiting their opportunities, especially as far as offering their candidature for the highest office is concerned. The committee observed that Article 32 of the Constitution obligates the State to take affirmative action in favour of the marginalised groups to which the youth and elderly belong.

The committee believes that removing the age restriction in Article 102(b) is one way of streamlining the provision for purposes of redressing the imbalance therein against persons below the age of 35 and those above the age of 75.

The committee also took into account international best practices, which as indicated above, have a move towards removing age restriction against the youth and elderly. International instruments as well as international best practices are in support of removal or relaxing restrictions on the ages of candidacy for most political offices.

The committee further took into account the changing demographics of Uganda in reaching its decision. An elaborate account is advanced by the committee in the report. I implore Members to refer to it.

The committee also noted that Article 50 of the Constitution grants a right to a person of 18 years to vote in any election in Uganda. The committee noted that whereas persons above 18 years of age are allowed to vote without limitations, the same persons below 35 years of age and above 75 years are prohibited to offer their candidature for the highest political office.

The committee came to the conclusion that removing the age restriction imposed on persons below 35 years of age and those above 75 will promote inclusive politics which will in turn guarantee a level-playing field for all and promote adult-youth partnerships in public governance, which is in line with the spirit of the Constitution as outlined in Article 1 of the Constitution.

Recommendations

The committee recommends that:

1) The age prescribed in Article 102(b) be reduced from 35 years to 18 years and for the upper age restriction to be removed.

(2) Article 102 is redrafted to specifically prescribe the qualification for a person to stand for President. These should include him or her being:

(a) a citizen of Uganda;

(b) a registered voter;

(c) a resident in Uganda at the time of submission of his or her candidature and

(d) having completed a minimum formal education of advanced standard or its equivalent.

(3) Article 102 is re-numbered and a new clause is inserted prescribing matters that would bar a person from qualifying as president. These should include:

(a) being of unsound mind;

(b) Holding or acting in an office the functions of which involve responsibilities for or in connection with the conduct of an election;

(c) Being a traditional or cultural leader as defined in article 246(6) of the Constitution;

(d) has been adjudged or otherwise declared bankrupt under any law in force in Uganda and has not been discharged; or

(e) being under a sentence of death or a sentence of imprisonment exceeding nine months imposed by any competent court without the option of a fine.”

Clause 3 of the Bill

Clause 3 of the Bill seeks to amend Article 104 of the Constitution by substituting for clauses (2), (3) and (6) the following:

"(2) A petition under clause (1) of this Article shall be lodged in the Supreme Court registry within fifteen days after the declaration of the election results.

(3) The Supreme Court shall inquire into and determine the petition expeditiously and shall declare its findings and reasons not later than forty five days from the date the petition is filed.

(6) Where an election is annulled, a fresh election shall be held within sixty days from the date of the annulment."

Current provision

Madam Speaker, I would wish to refer Members to the report for the current provision of clause 3 of the Bill.

Effects of the proposed amendment

The committee notes that this proposed amendment will have impacts and it highlights them in the report.

Analysis and observations

The amendment of Article 104 of the Constitution in the manner proposed in the Bill is welcomed and should be supported. The committee noted that the amendment arose from recommendations made by the Supreme Court in the case of Amama Mbabazi Vs Yoweri Kaguta Museveni, the Electoral Commission & the Attorney-General as cited in the report, wherein, Court made a number of recommendations, some of which touched on the matters proposed to be amended in this Bill. The main report contains all the recommendations of court.

The committee observes that the Supreme Court specifically recommended the expansion of the time allocated to an aggrieved party to file a petition, its determination and holding of a fresh election to at least sixty days or such longer and more realistic time frames.

The committee, however, noted with concern that whereas the proposed amendment to Article 104, is hinged on the recommendation of Court in the Amama Mbabazi case quoted above, the proposed amendment as contained in the Bill has some challenges, including;

1. The proposed timelines are unrealistic and need to be reconsidered.

Upon scrutiny of the proposals made by the Bill, the committee came to the realisation that the timelines proposed in the Bill are unrealistic and will not achieve the desired aspirations of the amendment, unless these are enhanced and re-aligned with other Articles of the Constitution. The Bill proposes as follows:

1. To expand the time within which an aggrieved candidate can file a petition from ten to fifteen days;
2. To expand the time within which the Supreme Court will inquire and determine the petition from thirty to forty five days;
3. To expand the time within which a fresh election is held after the annulment of a presidential election from twenty to sixty days.

The committee observed that whereas the timelines proposed in the Bill appear to be enhanced, they still do not offer a petitioner, the Supreme Court and the Electoral Commission adequate time to prepare and file a petition, determine a petition and hold fresh elections respectively. The committee bases this observation on the activities required of the petitioner, Supreme Court and the Electoral Commission in complying with the processes that accrue as variously allowed in Article 104 of the Constitution. The committee observes as follows:

1. Article 104(2) expanding the time within which on aggrieved candidate can file a petition.

The committee observed that Article 104(2) empowers a former presidential candidate to file a petition challenging a presidential election. An analysis of the Supreme Court ruling in relation to this clause is given in the report. There is a disconnect between clause 1 and 3 of the Bill.

The committee notes that there is a connection between clause 1 and 3 of the Bill. Clause 1 of the Bill proposes to amend Article 61 of the Constitution by expanding the time within which presidential, general parliamentary and local government elections to be held within the first 30 days of the last 120 days.

Clause 3, on the other hand, proposes to expand the time within which a person may challenge a presidential election, a time within which the Supreme Court is to determine a petition challenging a presidential election as well as the time within which a fresh election is held upon the annulment of a presidential election. The details of our findings are in this report, which has been circulated to Members.

The Bill does not address the ambiguity in Article 104(6) of the Constitution. The committee observed that that the proposed amendment to 104(6) does not remove the ambiguity in that article. Article 104(6) requires that where an election is annulled, a fresh election shall be held within twenty days from the date of the annulment.

Whereas the Bill proposes to amend Article 104(6), its proposal stops at expanding the time within which a fresh election is held. The committee notes with concern that Article 104(6) is ambiguous in the sense that it is not clear as to whether when a presidential election is annulled, any person can participate in the subsequent election or it is only persons who participated in the annulled election that can participate. The committee was very alert to what has just happened in Kenya.

Recommendations

The committee, therefore, recommends that Article 104 be amended as proposed in the Bill albeit with the following amendments;

1. The relatedness of clause 1 and 3 be taken into account in determining the timelines proposed in those clauses;
2. Increase the timelines proposed in clause 3 of the Bill as follows;
3. In Article 104(2), increase the time within which an aggrieved person files a petition challenging a presidential election to fourteen days;
4. In Article 104(6), expand the time within which elections are held upon the nullification of a presidential election to forty five days from the date of nullification;
5. In article 104(3), to require the Supreme Court to declare only its findings rather than giving both the findings and reasons at the same time as the Bill proposes.
6. To require the fresh election envisaged in Article 104(6) to be carried out in accordance with the law governing presidential elections.
7. In Article 104(7), to require the Chief Justice to take over the presidency in circumstances where a second petition challenging the election of an incumbent President succeeds in accordance with Article 104(6) and the term of that incumbent President expires.
8. To impose a requirement on a person elected President during the subsistence of the term of Parliament, to only serve for the duration of the remaining term of Parliament and not the full presidential term.

Clause 4 of the Bill

Clause 4 of the Bill proposes to amend Article 183 of the Constitution by repealing paragraph (b). It reads as follows; “Article 183 of the Constitution is amended in clause 2 by repealing paragraph (b).”

Current Provision

I would like to implore Members to look at this. It is about the qualification for LCV.

Effect of the proposed amendment

The committee notes that there will be same effects of the proposed amendments which is highlighted above in Article 1 (2) (b).

Analysis and Observations

The committee observes that Article 176 of the Constitution establishes a local government system, a system through which functions, powers and responsibilities are devolved and transferred from the Government to local government units. The system is based on the principle of decentralisation, a principle applying to all levels of local government and, in particular, from higher to lower local government units to ensure people’s participation and democratic control in decision making. This system of local government is based on democratically elected councils on the basis of universal adult suffrage in accordance with the Constitution and the other relevant laws. Madam speaker, for details, I would like to refer Members to the report.

Legal challenges of Article I83 of the Constitution

A close scrutiny of Article 183 (2) (b) reveals the following;

Article 183(2)(b) is contrary to the spirit of objective II of the national objectives and directives principles of state policy and Article 1 of the Constitution of Uganda. The committee gives a detailed account of this in the report.

Recommendation

The committee recommends that Article 183 of the Constitution be amended as proposed in the Bill.

General Recommendations

Drawing from the interactions and conversations we had with the stakeholders, the following are the general recommendations:

1. Need for Constitution Review Commission

The committee noted that a number of stakeholders had requested that the Constitution should be amended after the establishment of a Constitution Review Commission. Whereas the committee observed there was no legal basis in the Constitution supporting this assertion, the committee recognised that Government had in the past made commitments to Parliament to constitute a Constitution Review Commission but this was not done at the time the Bill was referred to the committee for scrutiny.

The committee recalls that in its report of the Constitution *(*Amendment) Bill, 2015, its recommendations were adopted by the House that Government considers establishing a Constitutional Review Commission to collect the views of the people and provide a comprehensive amendment of the Constitution. The committee further recalls that Government has in the past made commitments to Parliament to constitute a Constitutional Review Commission but this was not done at the time the Bill was referred to this committee for scrutiny.

The committee therefore re-affirms the recommendation it made in its report on the Constitution (Amendment) Bill, 2015 and requests that Government fulfils its commitment to constitute a Constitution Review Commission.

1. Urgent need for Government to implement the recommendation of the Supreme Court in the case of Amama Mbabazi vs Yoweri Kaguta Museveni & others, Election Petition (No.1) of 2016.

The committee notes that in the case of Amama Mbabazi vs Yoweri Kaguta Museveni & others, the Supreme Court made a number of recommendations and directed the Attorney General to follow up the recommendations made by Court and other organs of State, namely, Parliament and the Executive.

Court also directed the Attorney General to report to it within two years from the date of judgment the measures that have been taken to implement these recommendations. Madam Speaker, this was made alive to us and out of the ten recommendations, two are being addressed in this Bill. On the 17th of April, the Attorney should have responded.

The committee observed that since the judgment was passed, the Attorney General has not reported to court on the progress of the implementation of the above recommendation and neither have all the recommendations been implemented. The committee, therefore, recommends that Government expedites the process for implementing the recommendations of court.

1. Reinstatement of Presidential Term Limits

During the various meetings the committee had with stakeholders, a number of stakeholders recommended for the reinstatement of presidential term limits. The committee observed that until 2005, the 1995 Constitution of Uganda had a provision of imposing a limit on a number of times a person occupying the office of the President is eligible to hold that office. This was contained in Article 105(2) of the Constitution and it read as follows;

*“Tenure of Office of President*

1. *A person elected President under this Constitution shall, subject to clause (3) of this Article, hold office for a term of five years.*

*(2) A person may be elected under this Constitution to hold office as President for one or more terms as prescribed by this Article.”*

Madam Speaker, the above provision allows the person occupying the office of the President to serve only two five year terms. By implication, a person who had served two terms as a President would not be eligible to stand in a subsequent election. The committee further observed that the presidential term limits that had been imposed in Article 105(2) was removed through the 2005 amendment to the Constitution in the Constitutional (Amendment) Act (No.11), 2005.

By the above amendment, presidential term limits were removed from the Constitution paving the way for a person to serve for more than two terms as President of Uganda. The committee observed that whereas many reasons were advanced for removing the term limits, one of the most prominent reasons was the existence of Article 102(b) which barred persons above the age of 75 from being eligible for election as President.

The reasoning, at that time, was that Article 102 was a deterrent measure against an incumbent seeking unlimited term as President and was sufficient to deter such a person. The committee, therefore, notes that removing the age restriction in Article 102 would remove the last remaining measure against indefinite seeking of the office of the President. The committee notes that international best practices are in favour of measures that limit the duration as well as the number of times a person may be eligible for election as president.

The committee observed that presidential term limits, most often, two terms are a common feature of democratic Constitutions adopted in Africa in the 1990s. Indeed, the committee noted that 33 of the 48 new Constitutions contained such provisions at least for some time.

Indeed, the committee observed that in Africa, majority of the countries where the executive authority is bestowed in the President have presidential terms as illustrated in our table in Appendix 1.

The committee further noted that even among countries without age restrictions as qualifications for election as President, most of such countries have got term limits on persons seeking the office of the President. Indeed, the committee notes that whereas majority of the countries have no upper age qualification for election as President, such countries have term limits imposed on an incumbent, limiting such a person to usually terms of between five to seven years. This is illustrated in Appendix 1 attached to this report.

In supporting those amendments, the committee is persuaded that term limits prevent arbitrary and violent rule often associated with lifelong presidency from reoccurring. Furthermore, term limits offer periodic guarantee of personnel change in the office of the President, open up political space for new ideas and that consolidates democracy by ensuring that there is alteration of political power.

The committee, therefore, recommends that presidential term limits are reinstated and entrenched in the Constitution. (*Applause*)

1. Proposal to subject the proposal to expand the term of President from five to seven years

Madam Speaker, the committee in scrutinising the Bill, received memoranda and presentation from various stakeholders who proposed that the term of the President be extended from the current five years to seven years. They argued that seven years is a short time for a President to implement all his or her manifesto. They also argued that other countries in the East African Community and Africa generally, have extended the term of office of the President to a minimum of seven and a maximum of ten years.

The committee is agreeable to the proposed amendment but note that it is a requirement in the Constitution for such a decision expanding the term of office of the President beyond five years to be subjected to a referendum of the people.

The committee, therefore, recommends that the term of office of the President be extended to seven years but the legal processes prescribed in the Constitution pursuant to which such an amendment can be legally made be complied with.

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

**THE SPEAKER:** Thank you very much, honourable chairperson.

**MR OBOTH:** Madam Speaker, as the rule requires, this committee report is accompanied by the minority report. We have the majority and minority reports.

Now, I would like to call hon. Medard Ssegonna who was at all times working very closely with me and the committee members. We worked on this together. We do not disagree on many things except a few. I would like to take this opportunity to invite him to present the minority report.

**THE SPEAKER:** Honourable members, I direct the Clerk to reflect the full text of the report on the *Hansard* and I would like to invite hon. Amoding to present the minority report. (*Laughter*)

3.55

**MS MONICAH AMODING (NRM, Woman Representative, Kumi):** Thank you very much, Madam Speaker. I move under rule 202 to present a minority report on behalf of my colleagues who have signed this report. I would like to, maybe, read their names before I read the minority report that we are presenting before the House.

Madam Speaker, this report is signed by:

1. Hon. Medard Ssegonna
2. Hon. Wilfred Niwagaba
3. Hon. Abdu Katuntu
4. Hon. Mathias Mpuuga
5. Hon. Monicah Amoding
6. Hon. Muhammad Nsereko
7. Hon. Ibrahim Ssemujju
8. Hon. Anna Adeke

Madam Speaker, the Constitutional (Amendment) (No.2) Bill, 2017, a Private Member’s Bill was read for the first time on 3October 2017 following the acrimony that engulfed the presentation of the motion seeking leave of the House to present a private members’ Bill.

On 27 September 2017, Parliament was invaded by a group of strangers that came to be identified as soldiers from the Special Forces Command, which guards the President. The acrimony saw a number of Members of Parliament assaulted by the said aggressors and the presentation of the motion to a one sided House.

On the same day, at around 4.00 p.m., hon. Raphael Magyezi was granted leave by the House to present the Bill and accordingly, it was presented for the first reading on 3 October 2017. It was published on 28 September 2017 under the instruction issued on behalf of the Clerk to Parliament.

On 28 September 2017, a certificate of financial implication was issued under the hand of the Minister of Finance, Planning and Economic Development. The Bill was thus referred to the Committee on Legal and Parliamentary Affairs for a scrutiny with a specific mandate and instruction of the Speaker to consult the people of Uganda on the matter.

This Bill proposes, among other things and most importantly, to amend by deleting Article 102 (b) of the Constitution of the Republic of Uganda. The clause restricts persons below 35 and above 75 years from contesting or nomination for the office of the President.

Madam Speaker, it is imperative to strongly caution ourselves whenever called upon to make laws, to remind ourselves of that solemn responsibility especially while dealing with our Constitution, which was generated by the consensus of the people of Uganda. We must always summon our memory to highlight the struggles Ugandans have undertaken against tyranny as always reminded by our preamble to the Constitution. The aspirations of our people, as expressed in the same Constitution, must not be lost sight of.

Madam Speaker, if you permit me, I will read this verbatim; Article 79 of the Constitution requires Parliament as follows;

1. “*Subject to the provisions of this Constitution, Parliament shall have powers to make laws on any other matter for the peace, order, development and good governance of Uganda.*
2. *Except as provided for in this Constitution, no person or body other than Parliament shall have the power to make provisions having the force of law in Uganda except under the authority conferred by an Act of Parliament.*
3. *Parliament shall protect this Constitution and promote the democratic governance of Uganda*.”

The duty of this Parliament, therefore, is to make only those laws that promote peace, order, development and good governance. The first summon to conscience must have a reflection on those and nowhere beyond.

Methodology

Madam Speaker, at the beginning of our work, the committee agreed on a number of stakeholders identified and they were called to make presentations and memoranda.

The committee also agreed to conduct country wide consultations on a regional basis, although some Members preferred to consult at district level through sub committees which were identified for that work, as you will see in the appendices.

At the end of the Kampala consultation, we were informed that the leadership of Parliament reversed this decision on the premise that there were no resources to undertake the said important exercise.

We believe very strongly that this was -

**THE SPEAKER:** Honourable member, I do not remember reversing any decision. Can you substantiate?

**MS AMODING:** Madam Speaker, at the conclusion of the in-house consultations in Kampala, which we had here, we waited for the Clerk and our chairperson to communicate to the Members about the planned consultations that we were supposed to conduct as a committee in various regions as we had been allocated in different regions. However, that did not materialise. We were only informed later on that there were no resources even when there was a promise -

**THE SPEAKER:** Did you submit a programme of the activities and the compositions of the committee?

**MS AMODING:** Madam Speaker, I think the chairperson is in the best position to respond to these comments. *(Interjections)* The chairperson is in a better position to give an account of what happened in our discussions as a committee in-house. However, what I know is that we did not go for sub regional consultations as we had agreed in-house. (*Interjections*) I have my chairperson here who should be able to substantiate that, Madam Speaker.

In the absence of substantiation, Madam Speaker, we are presenting this minority report on the basis that we did not go for sub regional consultations, as discussed in the committee. The Parliament did not give resources, which were required by the committee to do that and that is the basis and one of the foundations we did a minority report.

Therefore, if you permit me to continue -

**THE SPEAKER:** Honourable member, when a committee proposes to travel, they provide the days they are travelling, the composition and the quantum and that is what is certified by the Speaker. That is the procedure but you did not present anything. So, do not use the office of the Speaker. Instead, say you did not go.

**MS AMODING:** Madam Speaker, if I may indulge you, the chairperson is here and that matter is on record here that the committee did not go for consultations. The duty to present a plan of action with the budget and the procedure is upon the chairperson. It is not on a Member, who is now presenting a minority report.

**DR LYOMOKI:** Thank you, Madam Speaker. The procedure of Parliament is clear about the presentation of the main and minority report. The honourable member is presenting a report as signed by the committee and the Members in the minority.

The procedural question is, is it right for a Member to be denied the chance to present the report? This is because if there are issues of doubt, then they will be debated upon but I see a Member being denied the right to present the report. (*Interjections*) If there is anything of doubt, then that matter will be discussed when it comes to the time of discussion.

**THE SPEAKER:** Hon. Lyomoki, the allegations the Member made is that the leadership of Parliament reversed their decisions. Therefore, Table any letter that reversed that decision here and if you cannot, withdraw it.

**DR LYOMOKI:** Madam Speaker, the point is a Member is reading a report. If there are issues in that report, I would think that the time would come for us to debate. Then those types of submissions will arise but not for the Speaker to start showing bias against the report.

Are you proceeding well, Madam Speaker, to be biased by a report? You are supposed to be impartial in this House and give guidance to the whole House but not take sides in a report.

**THE SPEAKER:** Hon. Lyomoki, you have no right to make false allegations. Table any letter the Speaker wrote stopping you from travelling and the plans you made quantified. Table them there and if you do not, please, withdraw. Concentrate on the body of your work.

**MS AMODING**: Madam Speaker, before I withdraw from this matter, perhaps as you are directing, this matter we are discussing is a matter of procedure. The procedure that we are handling right now is completely and entirely in the amendments of the chairperson.

The chairperson is sitting here and if he can disapprove me on this matter because he made us believe as a committee, when we were discussing this matter in-house, that he had written to the Speaker and the Clerk.

I remember that after an in-house meeting, we selected a team of four people to go negotiate with the Speaker for the resources to do this work. I would like for him to make that clarification before you make a ruling.

**THE SPEAKER:** No. Honourable members, they were not actually four members. A group of members of that committee came to inform me verbally that we have this and that plan and left. I did not get a breakdown of their dates or how much money they needed. They just came to inform me and left. That is what happened. So on the issue of reversal, I say no.

**DR BARYOMUNSI:** I rise on a point of procedure. Our Rule 202 about minority reports says any member or members dissenting from the opinion of a majority of a committee may state in writing the reasons for his, her, or their dissent.

Therefore, the reason to guide a minority report is a disagreement on the opinion of the majority and not administrative arrangements within the committee. *(Applause)*

In light of the fact that the honourable member is having difficulty in withdrawing the false allegations on the Floor, may I move that her submission in that respect be expunged from the record of this House?

**MR SSEKIKUBO:** Madam Speaker, this is a matter of fundamental public importance. When a member moves for the sake of it that we expunge her submission, I get concerned.

After the committee receiving memoranda and the witnesses here, it was put in the public media that now instead of travelling they would be here and travel to all regions of this country.

I am on record having mobilised my constituents and the districts. I told them that those who could not attend the consultations, there would be an opportunity - we knew there would be Masaka and Mbarara as part of that region.

Madam Speaker, the details of those were being worked out by the chairperson and the clerk of the committee. Honourable members, I would request for your indulgence in regard to the constitutional review process. There is no way a committee can sit to review the Constitution without reaching out to the public as the Odoki and Prof. Ssempebwa commissions did because not all members could come to Parliament.

**THE SPEAKER:** Hon. Ssekikubo, if you say we failed to go, I will accept. But to say that Parliament leaders reversed; I will not accept.

**MR SSEKIKUBO:** Madam Speaker, since we have the chairperson of the committee with us and he has not rebutted - the chairperson of the committee has not denied.

The committee chairperson whom members entrusted would rightly interface with the Clerk and the Speaker is here with us. Your word is as good as mine but now that we have the chairperson, let him come up and tell the country.

**MR OBOTH:** Madam Speaker, this is a case of somebody grieving more than the bereaved. My role as a chairperson is to present the report of the majority which is indeed the report of the committee.

Now if we go into the specifics of what is detailed in the minority report - unless rules are going to be changed that I become a chairperson of both the minority and majority – but what is very clear is that the leadership of Parliament beginning from the Speaker, there is no evidence that the Speaker wrote to us as a committee reversing any decision for going for consultation.

It was a decision we made after consultation with the accounting officer of Parliament and I made that submission in our report especially where the same members - honourable colleagues, let us be realistic, we were going for regions and at most we would invite 100 people from different districts and we would not reach the constituencies. We were not going to carry out a referendum. *(Applause)*

**MR SSEKIKUBO:** But the chairperson is not being sincere to this House.

**THE SPEAKER:** Hon. Ssekikubo, the House does not entertain your internal issues of the committee. What we entertain is the report. Present the report.

**MS AMODING:** Madam Speaker and honourable members, for purposes of the record, I will rephrase where I said, “reverse the decision” and say, “we were not provided with resources to go upcountry for consultation.” Therefore, I will stop it at that and proceed, if you permit me, Madam Speaker.

Madam Speaker and honourable members, before the commencing of the committee retreat to scrutinise views collected from the selected citizens, a number of *– (Interjections) (Members rose\_)*

**THE SPEAKER:** Honourable members, please take your seats. Honourable member, present your report. Order, members!

**MS AMODING:** Madam Speaker and honourable members, before commencing the retreat of the committee to scrutinise views collected from selected citizens, a number of honourable members, including Robert Sebunya (Nansana Municipality), Brenda Asinde Suubi (Iganga District), Taban Idi Amin (Kibanda North), Carolyn Kamusiime (Rukiga District), Rose Lilly Akello (Kaabong District) and Prosy Akampulira (Rubanda District) were assigned to the committee to start from that advanced stage. Actually, they started at the level of the retreat.

**MR GONAHASA:** I was just asking the members who had crossed from the other side to get off this side because the acting is over. They are acting Opposition when they are actually not, Madam Speaker. Thank you.

**THE SPEAKER:** Present your report, please.

**MS AMODING:** The Speaker had sent members on recess but more particularly the six members of the Committee on Legal and Parliamentary Affairs went to participate and represent Parliament in the East African Inter-Parliamentary Games which had been scheduled during the parliamentary calendar. Madam Speaker, we thought that it was unfortunate that the leadership of the committee opted to have them excluded from the retreat by scheduling the same activities when those members were away on official duty. We believe this was done in bad faith.

During the proceedings of the committee on Friday, 8 December 2017, hon. Medard Sseggona (MP Busiro County East and the Shadow Minister of Justice and Constitutional Affairs) together with hon. Abdu Katuntu (MP for Bugweri County), requested for an opportunity to make some proposals for amendment on Saturday, 9 December 2017 at around 7.00 p.m.

The chairperson, hon. Jacob Oboth directed that the vice-chairperson would chair the meeting as he had to attend an introduction party for his niece on 9 December 2017. This opportunity did not materialise as the following day, members had left the hotel and the hon. Medard Sseggona, hon. Abdu Katuntu and hon. Amoding were not available as well. A draft of the majority report was provided on request as directed by the chairperson, thus this minority report.

Madam Speaker, that was an introduction and we thought it is important for these issues to be on record in the dealings and procedures that the committee engaged in, which have led to this minority report that we present before you today.

The justification that we put before this august House include the following:

1. Whether the proposed amendments are of a legal or political nature:

Article 8A of the Constitution requires Uganda to be governed on the principles of national interest and common good as enshrined in the national objectives and directive principles of state policy.

The Constitution does not envisage amendments in the Constitution to entrench a one-man**’**s rule. Such endeavours date as far back as 2005 when Article 105(2) of the Constitution was amended to allow President Museveni to contest for the presidency after his two terms were exhausted.

Some proponents of the age limit removal premise their argument on the fact that Uganda still needs President Museveni. This is evident in the several memoranda presented to the committee. This applies to some opponents of the Bill, some of whom view the Article 102(b) as a way of finally allowing a peaceful transition from one person to another.

The minority report, therefore, observes that the amendment is only brought for the convenience of the President, just like the removal of term limits.

The argument is that the issue of age limit removal is a political question to be resolved by the Parliament that ought to consider that power emanates from the people who should be consulted and that this is the only way of putting into effect the spirit of Article 1 of the Constitution.

Guided by the above considerations, the minority members are of the opinion that repealing Article l02(b) at the moment is very dangerous as it is being done for only one possible beneficiary, the current President.

Constitutional amendments are never made for individuals, but for posterity, peace, order and good governance. This is the practice among civilised nations, as guided by their leaders. Article l02(b) has not yet been tested and we find ourselves in a stalemate without it. May I repeat that Article 102(b) has not yet been tested and we find ourselves in a stalemate with it?

Some proponents of the Bill have argued that the continuity of Article l02(b) of the Constitution will threaten peace and tranquility both within Uganda, East Africa and Africa as a continent, and that it shall impact on the development and slow down the achievements registered since l986.

The minority report rejects that opinion as a political blackmail whose effect is the destruction of institutions and institutionalisation of individuals. These are the examples. In Africa, where there have been peaceful change of great leaders to others without injuring institutions, systems and tranquility - all that a country needs are safety valves, a shared vision and a spirit of constitutionalism that drive their resolve to the Constitution. I think there was an error in typing. Examples of such progressive countries include Zambia, Ghana, Tanzania, Kenya, Ivory Coast, Senegal and Nigeria among others.

The proposed amendment especially on lifting the age limit is a political action, whose consequences are far-reaching and injurious to the democratic growth of Uganda. It is our view that all Ugandans should, to the extent possible, express themselves on this matter if we are to alter the Constitution as expressed in the current situation.

The second component which justifies this minority report is whether the Bill was competently placed before the committee. In clause 2 of the memoranda, the mover of the Bill premised it on the Supreme Court decision in the case of Amama Mbabazi Vs Yoweri Kaguta Museveni, Electoral Commission and the Attorney-General in the Presidential Election Petition No.0l of 2016.

The ruling gave instructions to the Attorney-General, a respondent in the case, to take up actions as directed by the court. The ruling was not in *rem* as it was in *personam* and it states *inter alia* that:

1. *“The Attorney-General must follow up the recommendations made by this Court with the other organs of State, namely Parliament of Uganda and the Executive;*
2. *The Attorney-General shall report to court within two years from the date of this judgment the measures that have been taken to implement these recommendations;*
3. *The Court may thereafter make further orders and recommendations as it sees fit.”*

The mover is not the Attorney-General whom the court directed to take action. The Attorney-General according to the date of judgment which is 26 August 2016, is still within time to comply with the directives of court. After taking action, he was supposed to file a report before court. Honourable members, as you can clearly see, this was not done. What hon. Magyezi did was in response of certain demands as an individual.

The presentation of the Bill by the said private member cannot be in compliance of terms and directives of the Supreme Court but rather the actions of an overzealous member of the House, who should not hide under the cloak of that judgment. Indeed, the age limit was never an issue before court. The critical issues before court as contained in that judgment have deliberately been left out of this Bill.

Furthermore, the Certificate of Financial Implication issued by the Minister of Finance, Planning and Economic Development upon which the Bill was premised is offensive to Section 76 of Uganda Public Finance Management Act, 2015, which provides as follows:

1. Every Bill introduced in Parliament shall be accompanied by a Certificate of Financial Implication issued by the Minister;
2. The Certificate of Financial Implications issued under subsection(l)above, shall indicate the estimates of revenue and expenditure over the period of not less than two years, after the coming into effect of the Bill when passed;
3. In addition to the requirements under subsection (2), the Certificate of Financial Implication shall indicate the impact of the Bill on the economy;
4. Notwithstanding subsections (l), (2) and (3), a Certificate of Financial Implication shall be deemed to have been issued after 60 days from the date of request for the certificate.

This provision is fortified by Rule 117 of the Rules of Procedure, which provides in similar terms as follows:

1. That every Bill introduced in Parliament shall be accompanied by a Certificate of Financial Implication issued by the Minister;
2. The Certificate of Financial Implication issued under subsection (l) shall indicate - I think that was a repetition of section 76 of the Public Finance Management Act, 2015.

However, allow me to draw your attention to the next page. Critical analysis of the Certificate of Financial Implication as appended, indicates the following points which I would like to raise before this House:

1. The purported certificate is in respect of Constitutional (Amendments) 2017, different from Constitutional (Amendment) (No.2) Bill of 2017. Accordingly, the Constitutional (Amendment)(No.2) Bill, 2017 has no supporting Certificate of Financial Implication.
2. In the microscopic event that the reference was being made to the Constitutional (Amendment) (No.2) Bill, 2017, it falsely indicates that the Bill has no possibility of inflicting any additional cost on the Medium Term Expenditure Framework (MTEF), yet as minority in this committee, we have observed that Parliament has already spent over Shs l3 billion, that had not been budgeted for previously to facilitate members to carry out consultations.

In light of the above, it should be noted that the certificate falls short of the required detail, for it does not articulate how much revenue will be generated or how much will be expended in a period of less than two years. It is only then that a determination may be made whether the anticipated revenues and expenditures would be within MTEF. This contravenes the Uganda Public Finance Management Act, 2015, rendering the certificate null and void.

The third issue we would like to draw your attention to surrounds the publication of the Bill. Whereas, the motion was passed on 27 September 2017, and the purported Certificate of Financial Implication was issued on 28 September 2017; the Bill was prepared and forwarded to Parliament on the same day. Parliament proceeded to submit the Bill to Uganda Printing and Publishing Corporation (UPPC) for publication without a Local Purchase Order, as per the letter from the Clerk, dated 29 September 2017, a day after the Bill had been gazetted. We have the letter in our appendices and we would like to draw your attention to that.

The other issue regards whether Article 102 (b) in the Constitution is discriminatory because it is a foundation of this argument that hon. Raphael Magyezi put before this august House.

The minority in the House rejects the assertion by the majority to the effect that Article l02 (b) is discriminatory against people on account of old age within the meaning of Articles 21 and 32 of the Constitution. We agree with numerous stakeholders who distinguished discrimination from limitation or restriction.

The Equal Opportunities Commission argued that age is not an element enshrined in Article 21 of the Constitution that describes what amounts to discrimination. This was echoed by Uganda Law Reform Commission, Prof. Fredrick Ssempebwa, Prof. Mwambustya Ndebesa and Mr Peter Mulira. We agree with them on the correct interpretation of particularly that Article 21.

This Article, if you permit me to read it verbatim, says, *“(3) For the purposes of this article, “discriminate” means to give different treatment to different persons attributable only or mainly to their respective descriptions by sex, race, colour, ethnic origin, tribe, birth, creed or religion, social or economic standing, political opinion or disability.”*

Age is none of the above and we seriously think it was not a component of discrimination as defined in Article 21(3) of the Constitution of Uganda.

The tenets of discrimination under Article 21 are exhausted therein and any addition thereto amounts to an amendment of the Constitution, which is not acceptable in the manner at hand.

The minority also observed that the limitations placed by Article 102 (b) of the Constitution is justified and falls within the ambit of Article 43(2) (c). Article 43(2) provides situations where a limitation may be placed in public interest and in particular 43(2)(c) provides thus: *“any limitation of the enjoyment of the rights and freedoms prescribed by this Chapter beyond what is acceptable and demonstrably justifiable in a free and democratic society, or what is provided in this Constitution”.* It is the view of the minority that the limitation in Article 102(b) is reasonable and justified for a free and democratic society.

The reference to Article 32 as having any propinquity to the Bill is absurd and misconceived. Article 32(1) provides thus: *“Notwithstanding anything in this Constitution, the State shall take affirmative action in favour of groups marginalised on the basis of gender, age, disability or any other reason created by history, tradition or custom, for the purpose of redressing imbalances which exist against them.”*

We were never referred to any custom, tradition or history that marginalised any group of persons on the account of age. We were unable to come across any imbalances arising out or connected to age as a factor for it to amount to discrimination in the terms of Article 21 so as to require a redress under Article 32 of the Constitution.

We also did not come across any person complaining about discrimination on the account of age so as to come within the ambit of Article 32 (1) of the Constitution. No Ugandan had ever offered to contest for presidency below the age of 35 years or above 75 years ever since this Constitution was enacted in 1995.

Furthermore, the Equal Opportunities Commission argued that Article 32 of the Constitution is only meant to provide a mechanism to take affirmative action in favour of the marginalised groups for purposes of redressing the imbalances which exist against them. This Article, honourable members, does not describe age as discriminatory but rather as a ground through which imbalances can be redressed. *(Applause)*

The Uganda Law Reform Commission further opposed the amendment of Article 102 (b) as it hinges on other provisions that have age limits like Article 144 (1) and other provisions relating to public servants. This was re-echoed by Prof Fredrick Ssempebwa in his submission.

The minority, therefore, is of the opinion that Article 102 (b) does not discriminate on account of age but it is only a qualification like any other, for example, Article 102 (a) which requires that for one to be President, he or she must be a citizen of Uganda by birth. Equally, Article 102 (c) requires that for one to become President, he or she must qualify to be a Member of Parliament as provided for under Article 80(1) of the Constitution.

The other component we provide before this House to justify this minority report relates to the claim that the Bill is in accordance to the directives of the Amama Mbabazi v Yoweri Kaguta Museveni case. The proponents of this Bill relied on the decision of the Supreme Court, which said, and I wish to quote verbatim the ruling of the learned Justices:

*“Before we take leave of this matter, we would like to point out a number of areas of concern. We must also note that in the past two Presidential Petitions, this court made some important observations and recommendations with regard to the need for reform in the area of elections generally and Presidential elections in particular. Many of these calls have remained unanswered by the Executive and the Legislature.*

*The late enactment of relevant legislation: We observed that the ECA and the PEA were amended as late as November, 2015. Indeed, the chairperson of the commission gave the late amendment of the law as the reason for extending the nomination date. We recommend that any election related law reform be undertaken within two years of the establishment of the new Parliament in order to avoid last minute hastily enacted legislation on elections.”*

They also recommended on implementation of the recommendations by the Supreme Court. The Justices said: *“We note that most of the recommendations for reform made by this court in the previous presidential election petitions have remained largely unimplemented. It may well be that no authority was identified to follow up their implementation. We have, nevertheless, observed in this petition that the rules require that the Attorney-General be served all the documents in the petition.*

*We have further noted that the Attorney-General may object to withdrawal of proceedings. Therefore, the Attorney-General is the authority that must be served with the recommendations of this court for necessary follow up.*

*We, accordingly, order as follows:*

*a) The Attorney-General must follow up the recommendations made by this court with the other organs of State, namely Parliament and the Executive.*

*b) The Attorney-General shall report to the court within two years from the date of this judgement the measures that have been taken to implement these recommendations.*

*c) That court may thereafter make further orders and recommendations as it sees fit.”*

The decision of court is specifically directing the Attorney-General to take up the recommendations and cause the necessary amendments in Parliament. He is also directed to report back to court within two years from the date of the judgment. The judgement is dated 26August 2016, which means he has time to take all the necessary steps up to 26August 2018, including the day of 25 August 2018. In the case of any challenges found, the court left a leeway for the Attorney-General to come back and new orders to be issued.

The promoters of this Bill argue that they presented it to comply with the directive to the Attorney-General by the Supreme Court. Whereas it is true that the Attorney-General has not taken any step in compliance with the directives of court, it is not true also that he is time-barred.

We observe, therefore, as a minority *-(Interruption).*

**MR KASIBANTE:** Madam Speaker, we are discussing a matter to do with the Constitution of Uganda and the minister in charge of the Constitution has been sleeping for the last five minutes *-(Interjections)-* Hon. Kahinda Otafiire is the Minister of Justice and Constitutional Affairs. We are talking about a matter under his docket but he has been sleeping for the last 5 to 10 minutes. Is he in order, Madam Speaker?

**THE SPEAKER:** Honourable member, his eyes are wide open, so I do not know whether he has really been asleep.

**MAJ. GEN. KAHINDA OTAFIIRE:** With due respect to the speaker, I think he does not know the definition of sleeping because my eyes are wide open and I am aware of what has been said. If there were any issues pertaining to what is being said, I am ready to report. Shame on you, hon. Kasibante. *(Laughter)*

**MS AMODING:** Madam Speaker, in view of these observations that the minority makes, we observe that the Bill does not address the concerns in the judgement. The issue of age limit, for example, has never been in all presidential election petitions, whether No.1 of 2016 or any previous ones. We reject, therefore, the false justification that the Bill was brought to comply with the orders and recommendations in the case of Amama Mbabazi v Yoweri Kaguta Museveni.

As Parliament, we must insist that Government should introduce comprehensive constitutional amendments following a well-known constitutional review commission as undertaken by the Attorney-General before this House. Allowing this Bill will be to sanction the abuse of our institutions and dragging the Judiciary into this pathetic rhetoric.

The other component, Madam Speaker, which is the last, and I beg your indulgence because I have two pages to go, is whether the amendment Bill is a recipe for political and constitutional instability.

Prof. Mwambustya Ndebesa and the rest opined that the proposed amendment of Article 102 (b) of the Constitution is likely to cause constitutional and political instability. Also, that the removal of age limits promotes a strongman phenomenon which slows down growth and development of state institutions in our political order. He cautioned about the danger of having a senile President in office, which could lead to disintegration of the country. Our memories rightly remind us of what happened in Zimbabwe recently.

The Democratic Party opposed the amendment and argued that Article 102 (b) facilitates peaceful and constitutional transition.

Madam Speaker, we also had a presentation from Prof. Venansius Baryamureeba, who opposed the removal of the age limit restriction and argued that there was no evidence to show that anyone has ever contested for office of the President when they are below 35 years or above 75 years of age. He further noted that Uganda’s history is characterised by struggles against the forces of tyranny, oppression and exploitation caused by ambitious leaders who want to over stay in power by exploiting institutions and people. *(Applause)*

We observe, therefore, that the incumbent presidents, with executive powers and control over national resources, have from time to time since independence, used state machinery to manipulate people and systems to claim artificial popularity. There is no record of any former President, who was not popular up to the time of their respective overthrows, as the case is with our current President.

Prof. Fredrick Ssempebwa, on the other hand, argued that the Constitution reflects a consensus that emerged from the Odoki Commission proceedings and the Constituent Assembly. This consensus was not based on isolated principles but on integrated structures and governance towards unity, peace, equality, democracy, freedom and social economic progress of individuals and the nation.

He said that the Constitution is the foundation upon which the body politic is nourished, nurtured and grows. Also, that failure to have orderly succession of Government, a smooth hand-over, fear of the unknown is a recipe for turmoil and instability.

It is the view of the minority that amending Article 102 (b) of the Constitution is likely to throw the country into chaos and instability, as it promotes self-seeking incumbents.

African states are fond of having constitutions for regimes and presidents other than for the population. All countries that have amended their constitutions in reference to both age and term limits have done so in favour of incumbents. An example was Kenya in 2004; their Constitution was amended and both the upper presidential age limit of 79 and the lower age limit of 35 years were lifted to let hon. Mwai Kibaki contest in 2007. Cameroon amended its Constitution in 2008 to allow Mr Paul Biya extend his 25-year rule over Cameroonians past 2011.

On 25 July 2017, the Gambia removed the age limit by amending Section 62 of their 1997 Constitution, purposely to benefit Mr Ousainou Darboe, the leader of the United Democratic Party, to become the Vice-President. In Rwanda in 2016, the amendments made to the Constitution were to enable Mr Paul Kagame to contest again.

We observe that there are countries like Burkina Faso with a lower cap of 35 years and upper cap of 75 years according to their 2010 Constitution. Ivory Coast’s Constitution of 2000, as amended on 11th of October 2016, has two term limits and a lower cap at 40 years while the upper is fixed at 75 years. On the other hand, Djibouti’s Constitution of 2010 puts the age limit between 40 years and 65 years.

We consider these countries to be part of the progressive democracy that we have on the African continent, Madam Speaker.

In Uganda, the only foreseeable beneficiary of the intended amendment is the only person who has been President and is disqualified from standing in the next election.

It is our view, therefore, that the proposal to amend Article 102 (b) of the Constitution only seeks to promote life presidency as well as negate modern practices of constitutionalism.

Recommendations

This particular Bill is based on wrong assumptions and is not justified in democratic governance. It offends the Rules of Procedure and the Public Finance Management Act in respect of the Certificate of Financial Implications. We invite Members to recall the history of our country and reject this Bill in its entirety. *(Applause)*

In conclusion, Madam Speaker, as the minority in that committee, we reject this Bill as presented for the reasons aforesaid and others hereunder, which members will submit on the Floor during debate. We believe that the Bill was not brought in good faith and it is intended to undermine the democratic path of Uganda, the country that we love.

As the Speaker guided, Government should establish a constitutional review commission and spearhead the development of comprehensive constitutional amendments desired by the entire country.

I beg to move on behalf of the undersigned members. I report on behalf of the majority of Uganda that is listening and watching. I beg to move. This is the popular report of Uganda. I beg to lay, Madam Speaker. *(Applause)*

4.49

**THE DEPUTY ATTORNEY-GENERAL (Mr Mwesigwa Rukutana):** Madam Speaker, I beg to move a motion under rule 16 of our Rules of Procedure to have rule 201(2) suspended so that debate on the motion can begin immediately. The grounds for my motion are that, first of all, this sub-rule is intended to ensure that honourable members have notice of the report and –

**THE SPEAKER:** Hon. Nzoghu, please wait.

**MR RUKUTANA:** This rule is intended, as I said, to ensure that Members have at least three days to look at the committee report, scrutinise it and inform themselves on how they debate.

Madam Speaker, with the advent of electronic transmission, I can testify that this report has been on our iPads for the last five or more days. Therefore, every Member of Parliament has had an opportunity to look at the reports, both the main and the minority, study them and they are ready to debate. Secondly, the reports have been read in full to everybody in the House and everybody has listened. Everybody has the capacity now to debate the reports so that we take a decision.

On those grounds, Madam Speaker, I beg to move that rule 201(2) of our Rules of Procedure be suspended as provided for under rule 16 of our Rules of Procedure. I beg to move.

4.52

**MR MEDARD SSEGGONA (DP, Busiro County East, Wakiso):** Madam Speaker, first, I would like to applaud my colleague, the Deputy Attorney-General, for the ingenuity with which he reads the rules, especially where he finds it convenient.

I would invite you, Madam Speaker and my colleagues, to address our minds to the rules and the sub-rules in very particular detail. *“Debate on a report of a committee on a Bill, shall take place at least…”* – and the words “at least” if understood in the legal context would mean at the minimum – “…*three days after it has been laid on the Table…”* – and now note the following - *“…by the chairperson or the deputy chairperson or a Member nominated by the committee or by the Speaker.”* That event has not taken place until today. The Member in this case is hon. Oboth, chairperson of the committee, and my sister, hon. Monicah Amoding.

Secondly, Madam Speaker, we are dealing with a matter to do with amendment of our Constitution. We must be rational, patient - *(Interjection)-* Madam Speaker, I need protection from hon. Severino Kahinda Otafiire who is as lazy as a fish and ought to have done this, and he has been sleeping as we were listening to the report being read.

Madam Speaker, this debate calls into question our credibility as a Parliament, as an institution. Anything that on the face of it looks like machination of any nature –*(Interjection)-* I hope at the age of hon. Kahinda Otafiire, I will have the patience with which he acts.

Madam Speaker, the point I am making here is that there is no rush in working on these amendments. I am glad we are all here, including hon. Sam Kutesa, who I want to welcome. I have not seen him in a long time. Now that we are all in the country, I would implore my colleagues that we observe our rules as they are *-(Interjection)-* He agrees, he has not missed me but I actually missed him. *(Laughter)*

It would be crucial that we go slow –*(Interjection)–* Well, except for some Ugandans who are about to run away, but some of us are here and we have the patience to listen to debate - *(Interruption)*

**MS ANN MARIA NANKABIRWA:** Thank you, Madam Speaker. I rise on a matter of privilege under rule 77. I want to refer the colleague to rule 16 on the suspension of rules, under which the Attorney-General has moved this motion.

We subscribe to these rules and in this House, we rightly agreed to which rules can be suspended and we exempted those that cannot be suspended. Therefore, the information I would like to give to the House is that rule 201(2) is not among those rules that were exempted, that cannot be suspended at any one time. That is under rule 16(2).

I would, therefore, implore the Member that since this rule is not among the rules exempted from being suspended, we could proceed by amending the rule. This is because every Member of this House received this report four days ago -

**THE SPEAKER:** Honourable member, she was drawing your attention to the fact that there are a number of rules which are protected under rule 16(2), and these are rules 5, 6, 11, 12, 13(1) 16 and 97.

**MR SSEGGONA:** Madam Speaker, I actually thought I came to Parliament at the same time with her and my understanding is that you would first listen and then make a response.

I have made my case in respect to the importance of the subject we are dealing with. I have received that information from my sister, hon. Maria Nankabirwa, and I have considered it. It may be useful in future, not today. *(Laughter)*

**THE SPEAKER:** Honourable members, there is a motion by the Deputy Attorney-General to suspend rule 201(2).

5.00

**MR NATHAN NANDALA-MAFABI (FDC, Budadiri County West, Sironko):** Thank you, Madam Speaker. We have a very good Attorney-General whom we had assumed would be the one to protect the Constitution and other laws. We assumed he would be giving the best advice and telling us that when you want to do something, especially about those laws that touch the people of Uganda, you must be very careful.

You can even say today that you will throw this Constitution in water. You are free to do so. You have the numbers and you can do it. You can even say that you are going to throw away these Rules of Procedure now. You are free to do so since you have the capacity *– (Interjections) -* I am saying you have the numbers *– (Interjections) -* Of course, you have to make all the noise to justify the pay you are looking for.

Madam Speaker, we must not be in a hurry. I recall that in 2005, when we were going to consider the constitutional amendment, it took time. We discussed and allowed people to go and consult and we came back. One of the guys who threw us into this problem was hon. Rukutana. By then he was also in Parliament. Recently, I was travelling with him on a plane and he said, “In 2005, we made a mistake; we should not repeat the same mistake” but I am seeing him preparing to make the same mistake *– (Interruption)*

**MR RUKUTANA:** Madam Speaker, is the honourable member in order to put fabricated words that I never uttered in my mouth? I have never travelled with the Member at any time, whether on a plane or car. I have never uttered the words attributed to me.

**THE SPEAKER:** Honourable member, can you substantiate? Where did you travel and on which date did you travel with the honourable member?

**MR NANDALA-MAFABI:** Madam Speaker, when we are going to travel, we do not need to be part of the same arrangement of travel but we can meet a colleague on the plane *–(Interjections)-*

Since you want to know the exact day, we were travelling from Dubai and he was coming from the wedding of the daughter of Sudhir. We met on Emirates. He said, “I am coming back*”* and he was carrying his bag from duty-free, and he knows the day. He then said, “We made a mistake in 2005; we should not repeat it”. However, now he is repeating it here *–(Interjections)–* I am saying this in the name of the Father, the Son and the Holy Spirit. *(Laughter)*

Madam Speaker, having won that case regarding what he told me - *(Interjections) -* Never name your children funny names like “Small”, “Katoto”, they will have that kind of behaviour. You see how they behave. *(Laughter)*

**MR KATOTO:** Madam Speaker, with due respect, hon. Nandala-Mafabi is lying to this House. First of all, the duty-free is not a plane. We all know the duty-free of Dubai. You do not travel in a duty-free. You travel in a plane.

Secondly, Madam Speaker, I was not involved in arguing with him but he is mentioning my name. Is he in order to mention my name when I have not been arguing with him?

**THE SPEAKER:** Honourable member, it is difficult for us to accept what you did on the plane or the duty-free because we have no evidence about it. In addition, you did not tell us what mistake was made. So, please, withdraw.

**MR NANDALA-MAFABI:** Madam Speaker, to withdraw that I never travelled with him on the plane?

**THE SPEAKER:** No, you said that he said “We made a mistake” but you have not told us what mistake.

**MR NANDALA-MAFABI:** Okay, let me tell you the mistake. Madam Speaker, you wanted the mistake? I was waiting for that one also. *(Laughter)*

In 2005, we removed the term limits and the person who led the term limit removal was hon. Mwesigwa Rukutana, who is there – *[Mr Rukutana: “I will still remove them even now.”]-* Now you see he has accepted. *(Laughter)* He said we made a mistake when we removed term limits. However, right now, he wants to remove the age limit. When he saw it, he said that is a mistake –

**THE SPEAKER:** Hon. Nandala-Mafabi, you are supposed to be debating the motion on whether the rules should be suspended.

**MR NANDALA-MAFABI:** I am going there now. Madam Speaker, at least I have won the case now. *(Laughter)*

Suspending the rules is good but there are things we must do which are good for our country. The Bill we are going to debate is a constitutional amendment Bill for which the public has raised issues. I want to tell you that when we were sent for consultations, some of us never went to consult. We were calling people in toilets and small rooms and saying, “Can we speak from here?” and then we would come and say, “They have agreed”. The law says that in order to consult, you must consult your constituents. If you select a few to consult, you have not consulted.

Madam Speaker, our rules are very clear that the report will take three days. The purpose for this is for us to internalise the report and after internalising it, we would want to share it with our constituents and tell them what is happening. From there, we can come and debate *–(Interruption)*

**MR ANYWARACH:** Thank you, hon. Nandala-Mafabi, for giving way. Madam Speaker, rule 16 as it is now was rule 15 in the previous Rules of Procedure. During the election of the Deputy Speaker, I moved a motion to suspend rule 15 first and then I proposed that the election should be by show of hands.

Madam Speaker, I moved that motion at that time because hon. Rukutana, who was seated with hon. Pecos Kutesa, was hatching a plan to move that very motion when the President was present, and that was after the House was suspended. The House was suspended. You were unopposed. When you came back, you resumed the seat of the Speaker from the Deputy Chief Justice and then I rose to move a motion to suspend rule 15. I did this under a clumsy move to extract a ruling from you that it was not necessary to go for open voting because I was moving ahead of hon. Rukutana.

Madam Speaker, that happened during the election of the Deputy Speaker. Now, we are discussing a constitutional amendment. At that time, you rejected the motion and said there was no need to suspend the rule. Also, for purposes of amending the Constitution, there is no situation that warrants a motion to suspend rule 201(2) since it is a constitutional amendment. That is the information I wanted to give to hon. Nandala-Mafabi.

**THE SPEAKER:** Honourable member, if you say that the present rule 16 was rule 15 of the Rules of Procedure, it was because it was protected even under the old Rules of Procedure.

**MR ANYWARACH:** When we were amending the Rules of Procedure, we actually moved to ensure that rule 16 was protected.

**THE SPEAKER:** The motion is on rule 201. They are proceeding under rule 16 to address rule 201.

**MR ANYWARACH:** In a nutshell, what I am trying to say is that if during the election of the Deputy Speaker, you disregarded a motion to suspend the rule that provided for secret voting, I do not see any justification to suspend rule 201 since we are dealing with a constitutional amendment. This is what I am trying to say.

**MR NANDALA-MAFABI:** Madam Speaker, I am very sure of the rules we make; we make them for a purpose. Rule 201 (2), which my young brother mentioned, says, *“Debate on a report of a committee on a Bill, shall take place at least three days after it has been laid on the Table by the Chairperson or the Deputy Chairperson or a Member nominated by the Committee or by the Speaker.”*

Madam Speaker, we are very sure you are right. However, some of us lost our iPads the other time. I am told the reports were uploaded over the weekend. However, the rule does not talk about iPads; it says the chairperson, the deputy chairperson or a Member should lay it on the Table. The word “shall” is used here. There must have been a reason as to why the word “shall” was used.

Madam Speaker, the House is not burning down and Uganda is not ending. In fact, even if you amended next year for President Museveni to have life presidency, it will apply in 2021, not now. It would not apply now, unless there is something motivating you to want it quickly, and that takes us to another level. What is the motivation for you to do it very fast when you are not the beneficiaries? You must have got your own pay and you want to fight for it to be completed. Otherwise, if it is not there –

**THE SPEAKER:** Honourable member, conclude.

**MR NANDALA-MAFABI:** If there is no other ill motive – *(Interruption*)

**THE SPEAKER:** How did you come there, honourable member?

**MR SSEKIKUBO:** I am giving information-

**THE SPEAKER:** I have told him to conclude. Let us hear from other members. Please, conclude hon. Nandala-Mafabi.

**MR NANDALA-MAFABI:** I would like to plead with our colleagues who want this Bill passed immediately that it is not necessary to hurry. Let us take our time to understand it and then we debate. Otherwise, if you want to do so in a hurry, after the three days you can actually do it quicker. You can even do it on Saturday so that you go for Christmas when you are happy, but give it the three days.

As I conclude, I would like to say that you may be many, but remember the war that David fought. Do you remember the story of David who used a stone to kill Goliath? You may think you are many but one stone can finish you. You may think you are happy with what you are eating but you might develop cancer for nothing. All of you are going to die. Why are you very desperate for only one person who wants to become a life president? Please, this country is ours.

Madam Speaker, I plead that you do not allow this rule to be suspended. Both reports have been laid on the Table and we need to internalise them and then after three days, we shall come here and debate them. We are ready to debate even on Christmas Day.

5.23

**THE MINISTER OF STATE FOR LANDS, HOUSING AND URBAN DEVELOPMENT (HOUSING) (Dr Chris Baryomunsi):** Thank you, Madam Speaker. Hon. Rukutana has moved a motion in relation to rule 201(2). That rule is to the effect that Members of Parliament should be enabled time to read and internalise the reports. From the submissions of the various Members, no one is saying he or she is not ready. All the submissions do not indicate that we are not ready.

In light of that, having received both reports on our iPads and read them and listened attentively to both the majority and minority reports, I now move under rule 80 that the question be put – *(Interruption).*

**MR SSEKIKUBO:** Madam Speaker, you had given me an opportunity. You indicated that after Dr Baryomunsi, I will –

**THE SPEAKER:** Honourable members, I would like to hear more views about the motion. Can we have two Members for and two against before we take a decision?

5.26

**MR THEODORE SSEKIKUBO (NRM, Lwemiyaga County, Ssembabule):** Thank you, Madam Speaker. I listened very well to the Deputy Attorney-General. He moved to suspend rule 201(2). The operable rule to that rule is rule 16. Honourable members, I would like to refer you to rule 16(2). Unless we pronounce ourselves on rule 16(2), we may not proceed rightly. It says, *“This rule shall not apply in respect to rule 5, 6, 11, 12, 13(1), 16…”* Rule 16 is on suspension of rules. It means, therefore, we cannot suspend at this point in time.

**THE SPEAKER:** Hon. Ssekikubo, the rule says rule 16 is protected and it cannot be suspended. That is what it is saying. The motion is on rule 201.

**MR SSEKIKUBO:** Most obliged, Madam Speaker. What we are talking about is not an ordinary Bill that we may debate here. In fact, if Members are clear, we are proceeding under Chapter Eighteen, Article 262 of the Constitution. It is very elaborate for when you are amending the Constitution and that duty is upon this very House.

Madam Speaker, there could be a sense of urgency but why are we hurrying to the extent that we are even disabusing our own rules that are in place? I would entreat Members that this is our day and it is the mission of the Tenth Parliament. There were other parliaments, for example, the Ninth Parliament, but tonight we have a mission for the Tenth Parliament. The way we execute that mission shall go down in history, whichever side this vote eventually goes.

Let us appear to be honest to our country. The three days provided for are to enable Members to reflect on the fundamental decisions we are going to make. When Members want to rush as if the sky is falling, that would be a disservice not only to Parliament but also to the country – *(Interruption)*

**MR NSEREKO:** Thank you, hon. Ssekikubo, for giving way. Thank you, Madam Speaker, for having the patience to guide this debate and listen to all views. I urge my comrades - I clearly rose and mentioned this point and the Speaker clearly guided that at such a time, when people would be gearing up for debate, then we shall raise it.

The notion of the insertion of the word, “shall” in rule 201(2)- It states, *“Debate on a report of a committee on a Bill shall take place at least three days after it has been laid on the Table…”* I further stated that hon. Rukutana, the Deputy Attorney-General, had tried to move a motion earlier on with an intention to suspend this rule.

Now, the points you rise on are clearly here. We would like to persuade you to put in mind that we, the framers of these rules, and the magnitude of the debate we are handling for this nation entails a lot. The three days are for every single Member of Parliament, having heard the main and minority reports, to retreat to their ways of caucusing. The rationale for this is so that you retreat, caucus, lobby, consult and try to persuade one another with the view of forming a clear debate.

It is important we come here to debate in a manner to persuade one another, but not with ill-informed decisions but decisions that can help guide this nation from where it is to another level. We have heard the strong points that you had in the majority report and you also heard our strong points in the minority report.

Please, honourable members, appeal to your conscience that three days in time are not very far or too much for this nation. We can all wait and consult. I know some of you, on either side, could have come with a formed decision. However, now is the time for you to go back and reflect, in those three days, and come back to this House and form the best decision to guide this country. Thank you, hon. Ssekikubo, for giving me way to raise a point of information.

**MR SSEKIKUBO:** Madam Speaker, my final appeal is that this is our country. Apparently, Members of Parliament are exerting a lot of pressure on the Speaker so that there can be a fault in the process of the constitutional review exercise. Therefore, to that extent, I wish any Member could be the one in that hot seat. The Speaker’s seat is a hot seat now and you are bent on forcing her to take decisions.

We have bent all other modalities but let us make a final stand on this one. Let us not be adversarial and in serious contestation. We are talking about the Constitution of the Republic of Uganda. The Constitution is for all of us, the present and future generation. Therefore, Members, when we are taking decisions –*(Member timed out.)*

**THE SPEAKER:** No, honourable members, take your seats. Do not grab the microphones. Hon. Nantume, you wanted to speak?

**MS JANEPHER EGUNYU:** Thank you, Madam Speaker, for giving me a chance to speak on this matter. I have stood to support the Attorney-General in suspension of this rule. Honourable members, how much time have we spent on this issue? It is coming to six o’clock and we have not done anything. Secondly, when you sent us for consultations in our constituencies, we went to consult on things we know are in the Constitution of Uganda that was amended in 2005.

I hope, as Members of Parliament, we are well-versed with the Constitution of Uganda that was made in 2005 and hon. Magyezi’s Bill seeks to amend Article 102(b), which is in the Constitution.

Madam Speaker, what took us to our constituencies to consult? I thought as representatives of our people, we went well-versed with what we wanted to tell them according to the law that was put here.

Madam Speaker, if I am not mistaken, it is coming to almost two months ever since it was brought here. Before we waste a lot of time, I would like to support the Attorney-General that we suspend the rules and the debate goes on. I thank you.

5.37

**GEN. ELLY TUMWINE (UPDF Representative):** Thank you, Madam Speaker. We are here as honourable Members of Parliament *– (Interjections) -* Can I be protected, Madam Speaker, and they sit down because I sat down while they were holding the Floor?

**THE SPEAKER:** Honourable members, take your seats.

**GEN. TUMWINE:** We are here to defend the image of this House, which has already been damaged. *(Interjections)* Madam Speaker, when Members were speaking, we sat down and that is the practice of this House. When somebody moves a motion and it is seconded, that motion is debated. That is the practice of this House. From morning to this time, the whole country has been waiting to see whether this Parliament will debate honourably and make a decision.

Madam Speaker, the idea of a multi-party dispensation is that there is that side called the Opposition and this side called the Government side. There is also the middle side of some of us, who wish both of you well. However, when we see Members of Parliament going everywhere and saying they are going to fight, delay and stop things from moving forward and they are given time *-*

I am requesting that the motion that has been moved on the Floor by hon. Rukutana quoting rule 16 of our Rules of Procedure and the one by Dr Baryomunsi that the question be put, be decided on and we move forward.

5.41

**MR GASTER MUGOYA (NRM, Bukooli County North, Bugiri):** Thank you, Madam Speaker. I am a member of the Committee on Rules and Privileges. One of the reasons as to why we came up with rule 16 of our Rules of Procedure and then incorporated the same rule under subrule (2) was to save it. Therefore, what is not prohibited by the law is allowed and hence we are allowed by law, if the majority wish to do so, to suspend rule 201(2). I beg that we proceed accordingly.

5.43

**MR ABDU KATUNTU (FDC, Bugweri County, Iganga):** Thank you, Madam Speaker and dear colleagues. There seems to be a problem with this particular microphone; it seems to be controlled from some other place. *(Interjection)* In the other place, where I sometimes do business, one person speaks at a time, and that is the difference between me and Gen. Kahinda Otafiire.

Madam Speaker, the motion, as moved by the Deputy Attorney-General, seeks to suspend rule 201(2) pursuant to rule 16 of our Rules of Procedure. Whereas it is true that rule 201(2) is suspendable, there must be compelling reasons as to why rule 201(2) should be suspended.

Madam Speaker, acrimony is not in my DNA and that distinguishes me from many people, including Gen. Moses Ali. Madam Speaker, whoever is controlling this microphone -

**THE SPEAKER:** You could probably use the other microphone.

**MR KATUNTU:** I am really comfortable with this one more than that one. Let me say this: If you are schooled in interpretation of the rules, lawyers say, “Justice must not only be done; it must be seen to be done.” The reason as to why it is so is because the business we are considering today, Madam Speaker, is very serious. That is the more reason why even those who have not been in this House for a long time are here today, and one of them is shouting now.

Madam Speaker, it is true you said we should go to our constituencies and consult. However, it is also true that there was a departure from the orthodox constitutional consultation. I have been privileged to belong to the Committee on Legal and Parliamentary Affairs from 2001 and we have handled two constitutional reforms. In both cases, the committee has had the opportunity to go and consult. However, with this particular process, the committee did not consult. The reason why *-(Interjections)-*

I thought listening to each other is not that much to ask for, at least for me because I do not heckle people. I am not a heckler, why should anybody heckle me. If we cannot listen to each other, then this House becomes a mob. If you think listening to me is too much, I can as well sit. I would really request that you listen to us, especially those who purport to have gone to the bush to fight for democracy.

Madam Speaker, the reason why this Parliament enacted rule 201(2) was to enable Members to discuss reports of Parliament when they are already property of Parliament. When did this report become property of Parliament? It became property of Parliament today. I am aware that you directed that the reports be uploaded on our iPads and indeed they were. Now that they are property of Parliament, it is also in your interest that you discuss these reports, specifically recommendations in the majority and minority reports, with your own constituents. Why do you want to run away from the people? Is Uganda ending today?

Madam Speaker, let me give you an example. One of the most senior politicians in this House, and I am privileged to come from the same constituency with him, the Rt. Hon. Kirunda Kivejinja, has written books. One of the books he has written is about the crisis of confidence and he has also written about the pigeonhole Constitution. It is right there in his hands. I am sure when he looks at us going through this process, he is asking, “Why does history repeat itself?” (*Applause*) Why? That was not a beautiful part of our history.

We can do these things but we can do them the correct way. At the end of the day, we know that it is about numbers and we know which side has numbers, but do we have to act like a mob? We have to use numbers responsibly. The point I would like to make *–(Interjections)–* Sometimes I wonder; when I was joining this House, there are people that I looked up to- (*Interruption*)

**GEN. TUMWINE:** Madam Speaker, again I repeat that this is an honourable Parliament that has two sides and independents. Democracy is about numbers, whether you like it or not. We are here because we were voted by numbers - (*Interjections*)- Democracy demands that we listen to the minority and the majority. The debate this morning was dominated by the minority and we listened.

Hon. Katuntu was referring to the administration of justice. Article 126 of the Constitution says that in the administration of justice, *“judicial power is derived from the people and shall be exercised by the courts established under this Constitution in the name of the people and in conformity with law and with the values, norms and aspirations of the people.”* In addition, sub-clause (2)(e) of that same Article says that in administering that justice, *“substantive justice shall be administered without undue regard to technicalities”.*

Madam Speaker, hon. Katuntu has called this a substantive debate-

**THE SPEAKER:** Order, Members.

**GEN. TUMWINE:** Can I finalise, Madam Speaker. Without going into technicalities, is hon. Katuntu, who is holding the Floor, in order to call the decisions that might be taken by the House as being taken by a mob? Is he in order to call this debate “a mob”?

**THE SPEAKER:** I do not know whether I heard that. Did you talk about a mob?

**MR KATUNTU:** I did not. I never said that. I would like to conclude. Interpretation of the law is a profession. I know if it was about a military parade, Gen. Tumwine would be more suited to advise me. However, in matters of interpretation of the Constitution and the law, it would be humility for him to listen to those who are privileged and possessed with the capacity to interpret it. (*Laughter*)

I would like to conclude, Madam Speaker. Asking for the days provided for under our rules is not asking for too much. Suspension of the rules sends a very negative signal to the population that we are rushing because of other reasons. We should be more concerned about the integrity of this process and of this House.

Really, Madam Speaker, I know some people have said that when so and so is on the Floor, raise all disruptions. I know for sure, but it will not help. Let me conclude *– (Interruption)*

**MS ANN MARIA NANKABIRWA:** Madam Speaker, I rise on a point of order. I have listened to a senior colleague, who I respect a lot. However, I rise on a point of order because he has repeatedly insinuated that what we are proposing is illegal. There is nothing that this House is proposing that is illegal; it is within the law. Rule 16(2) of the Rules of Procedure of Parliament protects some rules; it does not protect rule 201(2).

Secondly, he has also said that the committee did not go for regional meetings. The district I come from plus others compose a region. We went for consultations, including Members of the Committee on Legal and Parliamentary Affairs. I reached deeper areas than they did. It would not be right to insinuate that by suspending a rule and that because the committee did not go for regional consultations, therefore this House is not acting in the right direction.

Madam Speaker, is the Member in order to continue insinuating that we are not in order to suspend the rule, which is right?

**MR KATUNTU:** Thank you very much, Madam Speaker. Let me wind up. If I want to call this water, I call it water; I do not insinuate. If you try to see if I am insinuating anything, you will see nothing and you will go on a wild goose chase. That is me. *(Laughter)*

What I have said is what I mean and you do not have to imagine that I am insinuating anything. What I am trying to do, Madam Speaker, is to interpret the rules as I appreciate them in the simplest of languages such that even my friend from Kyankwanzi can understand what I am saying. *(Laughter)* Thank you, Madam Speaker.

6.00

**THE LEADER OF THE OPPOSITION (Ms Winfred Kiiza):** Madam Speaker, thank you for the opportunity. I would like to, first of all, say that the consultations we did ended and we came back. I rise to oppose the motion moved by hon. Rukutana to suspend rule 201 for purposes of avoiding the process within our Rules of Procedure.

Madam Speaker, the Bill was tabled by a private Member, who was trying to respond to issues raised in the case of Amama Mbabazi v Museveni, the Attorney-General and the Electoral Commission. These were the people who were taken to court. Hon. Magyezi, in the Bill he is presenting to Parliament as a private Member, says he wants to cure the issues raised in the ruling that was made by court.

Madam Speaker, in the ruling made by court, the Attorney-General was asked to act. The Attorney-General did not see any urgency in the matters that were put before him and he delayed. He ignored the issues and this caused the private Member to come up with a Private Members’ Bill to answer the concerns that the Attorney-General had ignored. It is unfortunate that the same Attorney-General, who ignored the issues that were put to him by court, who ignored the directive of court, is now looking at the matter as a matter of urgency and wants to grapple with suspending the Rules of Procedure in order to allow debate.

Madam Speaker, I still want to go back to the food that was cooked by your kitchen. On the 27th of September when the hon. Magyezi presented his motion to ask for leave of the House to move a private Members’ Bill, you wisely guided. In your guidance, you told us that Ugandans need to be consulted. You said the question on who shall govern Ugandans was settled in February 2016. You went ahead to say, *“Now, what you have to seek for is, ‘how’. Therefore, the people are central to this issue. It is not an issue that we can decide exclusively without the population. I would like that to be very clear.”*

Madam Speaker, on 3rd October when hon. Magyezi was tabling the Bill for first reading, you had this to say in guiding the House: *“Honourable members, the Bill is sent to the Committee on Legal and Parliamentary Affairs. However, I would like to remind you, honourable members, that this matter touches Articles 1 and 2 of the Constitution. People must be involved in these deliberations. Thank you.”*

Madam Speaker, after listening to the report of the committee, I realise that the committee has given recommendations, which include, among others, –

**THE SPEAKER:** Now you are getting into the body of the issues. You are moving ahead.

**MS WINFRED KIIZA:** Madam Speaker, I want to build my case –

**THE SPEAKER:** Don’t go into the body.

**MS WINFRED KIIZA:** I am opposing the suspension of the rules because there is the issue of the seven-year term. We did not consult the population on this issue. Therefore, telling me to sit here to decide on a matter over which we have not consulted Ugandans and you say we should do it in a hurry will tantamount to taking the powers of Ugandans that are enshrined in Articles 1 and 2 of the Constitution that we are seeking to amend. I, therefore, Madam Speaker, want to propose that we – *(Interruption)*

**MS ADEKE:** Thank you, Leader of the Opposition, for giving way for information. I would like to draw the attention of the Leader of the Opposition to the reading of the rule, which puts the Speaker at the focal point of this discussion, especially on the requirement of her consent. I would like to appeal to you, Madam Speaker, not to give your consent on this motion.

**MR CENTENARY:** Thank you, Leader of the Opposition, for giving way. The additional information I would like to give is in regards to Appendix F, No. 5, of Our Rules of Procedure, which is about public trust. It says, *“Members shall at all times conduct themselves in a manner which will maintain and strengthen the public’s trust and confidence in the integrity of Parliament and never undertake any action which may bring the House or its Members generally, into disrepute”.*

Today, we are debating whether we should suspend our own laws. We know very well that our iPads, which have been consistently referred to, actually did not have internet. We received messages that Members should bring them so that their SIM cards could be swapped for 4G network SIM cards. I know this applies to a majority of the Members. Therefore, if we use that as a basis to suspend our rules because we are presumed to be having these reports on the iPads, I think we are losing it.

I would like to appeal to Members, especially those that are shouting at me that Uganda is not ending today or tomorrow; three days is not a lot. Let us be patient and allow ourselves to process, internalize and compare the reports in order to make the right decisions in regard to the amendment of our Constitution because it is supposed to be durable.

**THE SPEAKER:** Honourable member, please conclude.

**MS WINFRED KIIZA:** I conclude by requesting honourable colleagues to be patient. We need to be patient and appeal to our conscience, look at the people that we represent and the future. What does the future hold for us as we hurry through with this matter?

Madam Speaker, I know that Members are in a rush to have this finished. You will still conclude your matter in whichever way after following the right procedures. We do not need to begin bending the rules for purposes of rushing a constitutional amendment. Let Ugandans know that we amended the Constitution after following the right procedures.

**MR TUMWEBAZE:** Thank you, Madam Speaker. The motion on the Floor is the hon. Rukutana motion. My senior colleague, hon. Katuntu, calmly submitted. I have been here for three terms and he has been here for more years than me. That is why he is my senior colleague and I respect him. He said that it is true each component of the rules carries the same weight as the other. Rule 201 has meaning just as rule 16 has. Rule 16 is elaborate; it is instructive on those rules that we cannot suspend. Therefore, any insinuation or allegation that the motion offends our procedure is an outright lie.

The second point hon. Katuntu mentioned is that even if we suspended the rules, there must be a reason, and I agree with him.

Madam Speaker, when you look at our Order Paper, there is business to follow. However, since morning, we have not transacted at least two items of business. We are aware that this House is due for recess. We have failed to conduct business. Therefore, the intention of the hon. Rukutana motion is that we must allow time to discuss all business on the Order Paper. Therefore, his motion should be supported because it offends no rule.

Madam Speaker, another motion was moved for the question to be put. Therefore, any assertion that suspending the rules means Uganda is not ending today - Indeed, Uganda is not ending today but we had said that for every sitting of this Parliament, we should do productive work. Since morning, we have been seeing filibustering, Members moving from one point to another without doing substantive work. I beg to submit that hon. Rukutana’s motion be voted on and a decision be taken by this House –*(Interjection)*

**THE SPEAKER:** Honourable members, this matter has been in the public domain for several months. I sent you to parts of the country to talk to the people. The people want answers. They want to hear whether you are representing their views. Therefore, I want to put the question that the question be put. I now put the question that the motion moved by hon. Rukutana be approved.

*(Question put and agreed to.)*

**THE SPEAKER:** Honourable members, if there Members who will contribute, you have three minutes each.

**DR LYOMOKI:** Thank you very much, Madam Speaker. I rise on a point of procedure before we can debate. Rule 201 (2) that we have just suspended has two ingredients. There is the issue of the timeframe, which is three days, and then the authorisation of debate. There is no other rule that allows for debate. The procedural issue I am raising is: Under what rule are we debating because rule 201 (2) gives the mandate to the House to debate a motion –

**THE SPEAKER:** You will debate under the rules of debate, which are here. Hon. Mwesigye, you have three minutes. We are proceeding to debate now.

6.16

**COL (RTD.) FRED MWESIGYE (NRM, Nyabushozi County, Kiruhura):** Thank you, Madam Speaker. Allow me congratulate the committee for a perfect job. However, before I proceed, allow me to refresh our minds by quoting President Thomas Jefferson, the founding father of democracy in America. He said, *“No work of man is perfect”. It is inevitable that, in course of time, imperfections of a written Constitution will become apparent. Moreover, the passage of time will bring changes in society which a Constitution must accommodate if it is to remain suitable for the nation.”*

Therefore, the Constitution should be flexible. Chapter Eighteen, Article 262, of the Constitution, clearly states that this Constitution is amendable and changeable. Therefore, it is imperative that practical means of amending the Constitution must be provided.

Madam Speaker, -(*Interruption*) -

**MR CENTENARY:** I would like to interest ourselves in rule 59 of our Rules of Procedure which reads, *“In the House, the question upon a motion or amendment shall not be proposed by the Speaker nor shall the debate on the same commence unless the motion or amendment has been seconded”.* Are we in order, considering-

**THE SPEAKER:** What amendment are you talking about?

**MR** **CENTENARY:** I am reading the Rules of Procedure.

**THE SEPAKER:** What has been amended?

**MR CENTENARY:** *“In the House, the question upon a motion or amendment shall not be proposed by the Speaker nor shall the debate on the same commence unless the motion or amendment has been seconded”.* The Rukutana motion we are debating has not been seconded by anybody. Madam Speaker, may I know who seconded the motion? Are we proceeding right?

**THE SPEAKER:** Hon. Centenary, Members supported the motion and also spoke to it. Honourable members, please take your seats. Let us do some work.

**COL (RTD.) MWESIGYE:** Thank you, Madam Speaker, for your wise guidance. I was saying that this Constitution provides for amendment and change in order to accommodate the movement of time. Time has moved. The situation has changed in Uganda and it calls for the changing of this Constitution. This Constitution is not cast in stone; therefore, it can be changed any time.

**THE SPEAKER:** What is wrong with the microphones? Something is wrong with the microphones.

6.21

**MR ROBERT KAFEERO (NRM, Nakifuma County, Mukono):** Thank you so much, Madam Speaker. I rise to support the main committee report on the following grounds:

Article 21 of the Constitution of the Republic of Uganda is about equality and freedom from discrimination. If I may be allowed to read it verbatim, sub-article (1) says, *“All persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection under the law”.*

Madam Speaker, it is against this background, as rightly stated by hon. Magyezi in his Bill and also in the main committee report, that I find Article 102 (b) discriminatory. When it does not allow people who are less than 35 years old to stand for President and be voted, that becomes discrimination. It should not be accepted. It even becomes worse to say that a person who is 76 years old or more can vote for President but cannot stand to be voted. That is discrimination and we shall not allow it.

Because Parliament has the mandate to make corrections and streamline this as specified under Article 79, we are amending the Constitution the right way as per Articles 259 and 262 of the Constitution as amended. I, therefore, support the motion that the main report be adopted and this Article be amended to the effect that someone who is 75 years or above can stand and be voted for as President.

Madam Speaker, I also put you on notice that at committee stage, I will move the necessary proposed amendments to the effect that the tenure of Parliament is extended to seven years *-(Applause)* (*Member timed out.*)

6.25

**MR DAVID MUTEBI (NRM, Buikwe County South, Buikwe):** Thank you, Madam Speaker, for the opportunity you have given me to contribute to this very important motion. Before I start, I would like to ask the honourable members of both the Opposition and Government sides to be very calm as we deliberate on this very important subject. I know whatever is happening today has ever happened in this country. Whatever we are doing to obstruct the process has been done before, but what followed thereafter was not good for this country.

I rise here to support the motion and I agree with the report of the Committee of Legal and Parliamentary Affairs. I know the 1995 Constitution has lived and has been tested. However, we know at the time this Constitution was made, there were some omissions and contradictions, which this Parliament should work on for the good of the future of our country.

It is a fact that many people have been having objections and doubts as to whether this Parliament has the appropriate mandate to deal with these kinds of amendments. However, you should know that this Parliament, under Article 262 of our Constitution, is the only authorised body that has been mandated to deal with this particular amendment.

Therefore, even though we have our views regarding the referendum and district councils, it was the wisdom of the framers of the 1995 Constitution that the mandate was given to this Parliament. Therefore, we would be absconding our responsibility if we do not take the step to amend this Article, which is not in tandem with Article 1 of the Constitution that gives the Ugandans powers to make the choice of a leader, regardless of the age. This amendment intends to cure that anomaly; you give people the responsibility but then you withdraw it through Article 102 (b) of the Constitution.

It is, therefore, imperative that we should move to amend the Constitution. Article 38 of this Constitution, which preserves civic rights and activities, gives this Parliament the mandate to represent the people. When the Speaker delegated us to consult our people, we did what was appropriate at that time and consulted them - *(Member timed out.)*

**MR AOGAN:** Madam Speaker, we are totally disenfranchised on this side of the House. I am saying so because I have observed one thing; the microphones are totally in disorder. Allow me to speak because it affects all of us.

Madam Speaker, hon. David Mutebi has just been submitting but apart from knowing his name, I do not know what he has said simply because the microphones are not in order.

Procedurally, I do not know whether it would not be proper for you to direct the office of the Clerk to first of all attend to this matter because we are practically not debating. The quality of the debate has totally gone down because of the performance of the microphones.

**THE SPEAKER:** Honourable members, I am also having trouble hearing what the Members are saying. I would like the Clerk to check all the microphones - I think there is a problem - so that we can hear each other. Therefore, I would like to adjourn the House to 10 O’clock tomorrow for continuation of the debate. House adjourned to 10.00 O’clock.

*(The House rose at 6.30 p.m. and adjourned until Tuesday, 19 December 2017 at 10.00 a.m.)*