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**Wednesday, 14 August 2019**

*Parliament met at 2.57 p.m. in Parliament House, Kampala.*

PRAYERS

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

*The House was called to order.*

COMMUNICATION FROM THE CHAIR

**THE SPEAKER:** Honourable members, I welcome you to this afternoon sitting. I have two matters for communication. Tomorrow morning, the body of Mrs Lawino Luwum will be brought here to lay in the State from 10.00 a.m. to midday, but there will be no special sitting.

Mrs Luwum was the wife of the Martyr, Archbishop Janan Luwum. She served here with the husband for a long time. People who are not able to go to Kitgum or would like to come and pay tribute will come here in the morning, although there will be no special sitting.

Secondly, sometime back, I inquired from the Government about the plans to construct a power dam at Murchison Falls. No one has come back to tell us. However, the Minister of Energy and Mineral Development has continued to advertise. Ugandans would like to know whether we are building a dam at Murchison Falls. Everyone is queit about this. Very soon the minister will say, “We advertised, no body objected and so, we are moving on.”

3.01

**THE GOVERNMENT CHIEF WHIP (Ms Ruth Nankabirwa):** Madam Speaker, we can receive the answer this afternoon, if you allow me to go and consult the minister in charge. Telling us whether we are constructing a dam at Murchison Falls does not require much time to research. Otherwise, if the decision was taken, then the minister will have to come and explain to us and then Parliament will decide the way forward on this.

**THE SPEAKER:** I wish you could because I have continued to receive petitions and I do not know what to do.

3.02

**MR KASSIANO WADRI (FDC, Arua Municipality, Arua):** Madam Speaker, this morning, we had the minister and the technical team from the Ministry of Energy and Mineral Development who appeared before the committee of Parliament.

Hon. Tayebwa asked the minister whether as a result of the numerous petitions that had been served on Parliament and th announcement by the Speaker when she was in the Chair, Ugandans needed to be assured that their national natural heritage will not be tampered with.

Madam Speaker, the minister was not clear as to whether a nod has been given or not, which to us as a committee was a reflection of what probably had been taken as a decision in Cabinet. Surely if the ministry and the technical team are not in agreement, then these adverts, which are calling for bids, would have been halted.

We need to know the fate of our natural heritage, which should not be allowed to perish. In any case, as a country, we receive more revenue from tourist attractions as a result of that natural heritage than what we get from the dams. Otherwise, we have constructed many dams in this country yet most parts of the country are still in darkness?

**THE SPEAKER:** The minister should come. You should not look for her. Just direct her to come.

**MS RUTH NANKABIRWA:** I think the suggestion I had put across will sort it out. Otherwise, we can only get information from the minister, which can be debated here, just like hon. Kassiano Wadri told us what transpired in their committee.

Without a formal statement from the minister, we cannot debate. Let us receive a statement from the minister and then we will be able to discuss that statement. My staff have heard and I am sure they have moved out to trace the minister.

**THE SPEAKER:** Okay, thank you very much. Honourable members, join me in welcoming students from Victoria University, Kampala District. They are represented by hon. Nsereko and hon. Nabilah Naggayi. You are welcome. *(Applause)*

Honourable members, because of the work we have, matters of national importance will come slightly later. Let us first run through the Bills and then handle those other issues. Item three.

BILLS

FIRST READING

THE ADMINISTRATION OF ESTATES (SMALL ESTATES) (SPECIAL PROVISIONS) (AMENDMENT) BILL, 2019

3.05

**THE DEPUTY ATTORNEY GENERAL (Mr Mwesigwa Rukutana):** Madam Speaker, I beg to move that the Bill entitled, “The Administration of Estates (Small Estates) (Special Provisions) (Amendment) Bill, 2019” be read the first time.

**THE SPEAKER:** Is it seconded? It is seconded. Where is your Certificate of Financial Implication?

**MR RUKUTANA:** It has a Certificate of Financial Implication but we had made certificate, which will be brought shortly. It will be here by the time I conclude.

**THE SPEAKER:** Since others do not have the Certificate of Financial Implications, we cannot give you a first reading. We will have to defer this until you have all the certificates.

**MR RUKUTANA:** Madam Speaker, I agree with you. May I beg that we stand over this until I have the certificates?

**THE SPEAKER:** Okay, thank you very. Honourable members, we stand over item three for now because there are several items, which are supposed to be moved by the same minister. Let us go to item four.

BILLS

COMMITTEE STAGE

THE KAMPALA CAPITAL CITY AUTHORITY (AMENDMENT) BILL, 2015

Clause 23

**THE CHAIRPERSON:** Honourable members, I put the question -

**MR KIBALYA:** Thank you, Madam Chairperson. We are proceeding to committee stage but we neither see the chairperson nor the vice chairperson of the committee.

**THE CHAIRPERSON:** Chairperson of the committee, you had proposed to insert a new clause, if you are not yet ready, let us defer that and proceed to clause 24. Are you ready?

**THE CHAIRPERSON, COMMITTEE ON PRESIDENTIAL AFFAIRS (Ms Jessica Ababiku):** Madam Chairperson, I apologise for being late. We conceded on clause 23 but we had a new insertion.

Insertion of a new clause –

Section 35 of the principal Act is amended in the headnote by substituting the word “may” with the word “shall” and by substituting the word “may” in line (i) with the word “shall”.

The justification is to make it mandatory for the central Government, which we changed to the Authority, to devolve the functions and service specified in Part B of the Third Schedule of the principal Act to the urban division council for effective service delivery and representation. Thank you.

**THE CHAIRPERSON:** Honourable members, the question is that a new clause be inserted as proposed.

*(Question put and agreed to.)*

Clause 24

**MS ABABIKU:** Thank you, Madam Chairperson. We propose an amendment in section 48 of the principal Act.

We are replacing the entire clause with the following:

“Repeal of section 48 of the principal Act

The principal Act is amended by repealing Section 48.”

The justification is that planning is an administrative function that should not be legislated upon and secondly, it is a consequential amendment arising from the repeal of section 47 of the principal Act.

**THE CHAIRPERSON:** Honourable members, the proposal is that the provision be repealed. I put the question that clause 24 -

**MS NAMUGWANYA:** Thank you, Madam Chairperson. I remember I moved a proposal to reinstate section 47, which establishes the city planning unit and also maintain section 48 as it is. The reason is that the planning function is very important. Even when you look at the Local Government Act, the district planning unit is created by the Local Government Act.

What we have here is similar to what we have in the Local Government Act. Therefore, I feel we should legislate this because planning is a very important function in the city and we should maintain the city planning unit and all those functions in section 48. I beg to move.

**MR AOGON:** Madam Chairperson, I still believe that Public Service has the administrative duty of establishing structures in Government institutions. Therefore, it will be improper for us to try to legislate upon such.

Yes, we have planning units in local Governments but who establishes the structures? It is the Ministry of Public Service.

In my opinion, we do not need to borrow from that. The ideal is for us to allow the Ministry of Public Service to do their work. If we need such a department, let us ask them to do their work and it will be set up administratively. We do not need to make a law here and set a bad precedent. Thank you.

**MR NIWAGABA**: Thank you, Madam Chairperson. We are legislating on a very sensitive area. I would have agreed with my good friend hon. Aogon but although we do have the Physical Planning Act that covers the entire country, including the Kampala City Council Authority area, I do not know how applicable and enforceable that Act is especially in light of the needs of the city as it is.

It is on the basis of that that I would implore Members to agree with the minister, make a specific provision in this law in respect of planning, without extending as earlier suggested. We need to create a specific provision that would allow the authority to have planning for its specific purposes without necessarily referring to the parent Act on planning. I beg that we support the minister on her proposal.

**THE CHAIRPERSON:** Honourable members, I think we should be alive to the realities in this city and this House has been demanding for proper planning. Therefore, let us make it their duty to ensure that there is planning.

I put the question that clause 24 do stand as part of the Bill.

*(Question put and agreed to.)*

*Clause 24, agreed to.*

**MS NAMBOOZE:** Madam Chairperson, I am drawing the attention of the minister and the chairperson of the committee and us all to the provisions of section 46 (3) in the mother Act, which states as follows: *“The Authority shall prepare a comprehensive and integrated capital city development plan, incorporated plans of lower urban councils for submission to the National Planning Authority and the Metropolitan Authority.”*

I thought that we need an amendment there because the proposal is already around and we are going to consider it - that we shall not have anything called the “metropolitan authority”.

**THE CHAIRPERSON:** Are you looking at a chain of command from the urban authority because the main one goes to the National Planning Authority and the metropolitan authority? Are you looking for something at the lower level?

**MS NAMBOOZE:** The amendment would be to delete the provision that “the same plans shall be submitted to the metropolitan authority”.

**THE CHAIRPERSON:** What is the rationale for the deletion?

**MS NAMBOOZE:** Madam Chairperson, it is because we have already proposed not to have a metropolitan authority. We resolved that we cannot have an authority under another authority.

**THE CHAIRPERSON:** The chairperson says that she has handled it.

**MS ABABIKU:** Thank you, Madam Chairperson. We deleted the “metropolitan physical planning authority” and replaced it with a “department to coordinate”. Therefore, I think we are speaking the same language. Thank you.

Clause 25

**THE CHAIRPERSON:** Honourable chairperson, clause 25.

**MS ABABIKU:** Thank you, Madam Chairperson.

Amendment of section 49 of the principal Act

Substitute for clause 25, the following:

“Replacement of section 49 of the principal Act

The principal Act is amended by substituting for section 49, the following:

49. Duty to operate in accordance with the Public Finance Management Act

In the performance of its functions under this Act, the Authority shall have due regard to the provisions of the Public Finance Management Act, 2015.”

The justification is that:

1. The current section 49 is redundant because it is inconsistent with the Public Finance Management Act, 2015.
2. To align the principal Act to the provisions of the Public Finance Management Act, 2015.

**THE CHAIRPERSON:** Are you talking about the entire section 49 or the five sub-clauses?

**MS ABABIKU:** Yes, Madam Chairperson because in the Bill, there is a proposal that provides for budgetary processes or procedures to be followed. However, we are saying that the Public Finance Management Act details the procedures and it is adequate. Thank you.

**THE CHAIRPERSON:** Honourable members, I put the question that clause 25 be amended as proposed.

*(Question put and agreed to.)*

*Clause 25, as amended, agreed to.*

*Clause 26, agreed to.*

*Clause 27, agreed to.*

Clause 28

**MS ABABIKU:** Thank you, Madam Chairperson. For clause 28, we are repealing section 55 of the principal Act; we are deleting the entire clause.

The justification is that the amendment was premised on the belief that Kampala is not a Local Government and as a result, the Local Government Finance Commission will not apply to Kampala. This position, however, was cleared by the Constitutional Court in the Odonga Alex Oryang v. Nabilah Naggayi Sempala and two others, which stated that Kampala is a district.

Thank you, Madam Chairperson.

**THE CHAIRPERSON:** Honourable members, the proposal is to delete section 55. I put the question that clause 28 be amended as proposed.

*(Question put and agreed to.)*

*Clause 28, deleted.*

Clause 29

**THE CHAIRPERSON:** Honourable chairperson, do you have an amendment there?

**MS ABABIKU:** Thank you, Madam Chairperson.

Amendment of section 57 of the principal Act

We are inserting a new paragraph immediately after paragraph (d) as follows:

“(e) The Local Government Finance Commission.”

The justification is that it is a consequential amendment, arising from the amendment made to clause 28. Thank you, Madam Chairperson.

**THE CHAIRPERSON:** Honourable members, I put the question that clause 29 be amended, as proposed.

*(Question put and agreed to.)*

*Clause 29, as amended, agreed to.*

Clause 30

**MS ABABIKU:** Thank you, Madam Chairperson.

“Amendment of section 58 of the principal Act

(a) Delete paragraph (a);

(b) Substitute for paragraph (b), the following:

“(b) In sub-section (5) by substituting for the words, “five years” the words, “the duration of the term of office of the Council”.

The justification is:

1. The specialised expertise is required because of the nature of work of the Capital City Public Accounts Committee. Therefore, section 58(3) of the principal Act should be reinstated.
2. For clarity by ensuring that the tenure of members of the Capital City Public Accounts Committee is aligned to that of the Council.

**THE CHAIRPERSON:** Honourable members, the question is that clause 30 be amended as proposed.

*(Question put and agreed to.)*

*Clause 30, as amended, agreed to.*

*Clause 31, agreed to.*

Clause 32

**MS ABABIKU:** Thank you, Madam Chairperson.

Amendment of section 72 of the principal Act

Replace the entire clause with the following:

“Section 72 of the principal Act is amended:

1. In sub-section (1) paragraph (c):
2. By substituting for the words “act as”, the word “be”.
3. By substituting for the word “Authority”, the word “Capital City”.
4. In sub-section (2) paragraph (f):
5. By substituting for the words “Lord Mayor”, the word “Speaker”.
6. By substituting for the word “Authority” the word “Council”.”

The justification is that it is a consequential amendment. Thank you, Madam Chairperson.

**THE CHAIRPERSON:** Honourable members, the question is that clause 32 be amended, as proposed.

*(Question put and agreed to.)*

*Clause 32, as amended, agreed to*.

Clause 33

**THE CHAIRPERSON:** Honourable chairperson, do you have an amendment?

**MS ABABIKU:** Thank you, Madam Chairperson. We are deleting the entire clause. The justification is that:

1. The provision is redundant, since the representation of the professional bodies on the council has been repealed.
2. The Bill, when passed, will not apply retrospectively.

Thank you, Madam Chairperson.

**THE CHAIRPERSON:** Honourable members, the question is that clause 33 be deleted, as proposed.

*(Question put and agreed to.)*

*Clause 33, deleted.*

Clause 34

**MS ABABIKU:** Thank you, Madam Chairperson.

Amendment of section 78 of the principal Act

We are deleting the words, “and collect”appearing after the word, “levy”. The justification is that collection of property rates is an administrative function, exercised by the Uganda Revenue Authority and not the council -

**THE CHAIRPERSON:** Didn’t you get the amendment? Speak to it, honourable chairperson.

**MS ABABIKU:** Thank you, Madam Chairperson. In this, we are deleting the words, “collecting taxes” because in our consultations, the authority confirmed that they do the preliminary work but the collection of the taxes is done by the Uganda Revenue Authority. Therefore, they do not collect taxes. That was the information they gave us.

However, in the Act, section 78 is providing for levying and also collection. Therefore, we only separated the two functions. Thank you, Madam Chairperson.

**THE CHAIRPERSON:** Honourable minister, do you have an issue there?

**MS NAMUGWANYA:** Madam Chairperson, right now, we do the administration of taxes in Kampala and specifically the local government property rates. We impose, levy and collect them and then, we deflect to the Consolidated Fund. This is not one of the taxes URA collects in the city.

**THE CHAIRPERSON:** So, this is KCCA’s tax?

**MS NAMUGWANYA:** Yes, Madam Chairperson.

**THE CHAIRPERSON:** So, the power to collect is retained?

**MS NAMUGWANYA:** Yes, we want to retain it because this is a local tax, which we do not collect or have authority over.

**MR MUSASIZI:** Thank you, Madam Chairperson. I do appreciate what the minister is insisting on. However, I would like to ask her whether it does harm when you replace taxes with rates. If it does not do any harm, I would like to propose that we replace taxes with rates because the mandate to collect taxes solely lies with the Uganda Revenue Authority. KCCA can only collect rates.

**THE CHAIRPERSON:** Honourable member, you are diverting us. The minister said she still wants the power to collect rates. She is not talking about taxes.

**MR NIWAGABA:** Madam Chairperson, the issue of property rates is an issue of local revenue and the power to impose – actually to assess the property rate – is on the council itself. Therefore, the power to collect property rates should ordinarily be with the very council that assesses them; it should not be transferred to another entity. Otherwise, you are literally making these local governments including KCCA redundant and you would be starving them as well.

Property rate across the board is a vestige of the local governments. I beg that we support the minister’s proposals.

**THE CHAIRPERSON:** Honourable chairperson, are you still insisting on your amendment?

**MS ABABIKU:** Madam Chairperson, I concede on the position of the minister. Thank you.

**THE CHAIRPERSON:** Honourable members, I put the question that clause 34 stands part of the Bill.

(*Question put and agreed to.)*

*Clause 34, agreed to*.

Clause 35

**MS ABABIKU:** Thank you, Madam Chairperson. Under Clause 35, we are deleting paragraph (b).

Justification: According to Article 202 of the Constitution, the power to assume the Executive and Legislative powers of any district is a preserve of the President with approval of two thirds of all Members of Parliament. Even where the President confers such powers on any person, it must be by statutory instrument (Article 202(1)). It is, therefore, unconstitutional for the minister to assume such powers. Thank you.

**THE CHAIRPERSON:** Honourable members, the question is that clause 35 be amended as proposed.

(*Question put and agreed to.*)

*Clause 35, as amended, agreed to.*

Clause 36

**MS ABABIKU:** Thank you, Madam Chairperson. In amendment of section 82 of the principal Act, we are inserting “b” and “c” immediately after the word, “paragraphs”.

The justification is that it is a consequential amendment.

May be we first handle this one before I go to the new clause that we inserted.

**THE CHAIRPERSON:** Honourable members, I put the question that clause 36 be amended as proposed.

(*Question put and agreed to.*)

*Clause 36, as amended, agreed to.*

Insertion of a new Clause

**MS ABABIKU:** Thank you, Madam Chairperson. Insert a new clause immediately after clause 36 to read as follows:

Amendment of Fourth Schedule to the principal Act

The Fourth Schedule of the principal Act is amended:

1. In paragraph 1
2. In sub-paragraph (i)
3. Sub-paragraph (1), by substituting for the words, “Lord Mayor”, with the word, “Speaker”;
4. Sub-paragraph (4), by substituting for the words, “Lord Mayor” with the word, “Speaker”.
5. Paragraph (3)(1), by substituting for the words, “Lord Mayor” with the word, “Speaker”.
6. By substituting a new paragraph immediately after paragraph 3 as follows:

3 (a): Resolutions and recommendations of Council

The Executive Director shall, within two weeks of the council approving the minutes, extract any resolution or recommendation of council from the minutes and submit to the Lord Mayor.

The Lord Mayor shall, within three months of receipt of the resolution or recommendation, submit to council an “Action taken report”, detailing what actions have been taken by the Executive Committee following the resolutions and recommendations of the Council.

The justification is that;

1. It is a consequential amendment.
2. To provide for the requirement of the Executive Committee, not the minister.

1. To provide actions taken report to Council all resolutions or recommendations made by the Council.

Thank you, Madam Chairperson.

**THE CHAIRPERSON:** Honourable members, the amendment relates to the Fourth Schedule –

**MR NZOGHU:** Thank you, Madam Chairperson. Personally, I am not comfortable with two weeks. Possibly, what we could do is to say, “within a period not exceeding two weeks” so that there is latitude for at least the resolution or recommendation to be processed even in a period of one week to ensure that the work of the council does not stall.

**THE CHAIRPERSON:** You said it must be within two weeks?

**MR NZOGHU:** I said not exceeding two weeks.

**THE CHAIRPERSON:** That means it must be within one day –

**MR NZOGHU:** Madam Chairperson, personally, I would be more comfortable with one week because extracting a resolution or recommendation of a council that you attended does not have to take two weeks. Two weeks is too long. Assuming the matter is very urgent and the person decides to be sluggish, what happens? Let us put a period of one week.

**THE CHAIRPERSON:** Honourable minister, what do you say about that proposal?

**MS NAMUGWANYA:** Madam Chairperson, I would like to request that we go by the proposal of the committee for those two weeks. It is because in case of incidentals, we will need those two weeks. We need ample time. Two weeks is not a lot of time. I would like to beg honourable colleagues.

**MR NZOGHU:** Madam Chairperson, maybe the minister did not listen well when I said a period within two weeks. That one is fair enough to provide even for what the minister is talking about. However, to say, “within two weeks…” is better than the weeks that the chairperson is proposing. Thank you.

**THE CHAIRPERSON:** Hon. Nzoghu, what -?

**MR NZOGHU**: Madam Chairperson, within -

**THE CHAIRPERSON:** That is what they have said. It is “within two weeks.” Have you read the report?

**MR NZOGHU:** Madam Chairperson, let me reread it. This is what the chairperson has said; “the Executive Director shall, within two weeks of the council...” and I have said two weeks is too long. I would like us to put it to one week.

**THE CHAIRPERSON:** No, honourable members, let us be reasonable. If they are good enough to do it in two days, that is fine. However, let us give them the upper limit of a fortnight.

Honourable members, I put the question that the Fourth Schedule be amended as proposed?

*(Question put and agreed to.)*

*The Fourth Schedule, as amended, agreed to.*

Clause 14

**THE CHAIRPERSON:** Honourable members, we had stood over clause 14.

**MS NAMUGWANYA:** Madam Chairperson, we stood over clause 14 and you directed that we needed to harmonise this position in order to save time for the House. This is what we came up with: we maintained the creation of that department under the Ministry for Kampala and Metropolitan Affairs.

We also propose to insert what we have just distributed, which reads, “There shall be a Metropolitan Physical Planning Committee which shall consist of:

1. the minister for Kampala Capital City and Metropolitan Affairs who will be the chairperson;
2. The Minister For Lands Housing And Urban Development;
3. The Minister For Local Government;
4. The Lord Mayor;
5. The chairpersons LCV of Wakiso Mpigi and Mukono;
6. The Executive Director of Kampala Capital City Authority;
7. The Chief Administrative Officers of Wakiso, MPigi and Mukono;
8. The Chairperson, National Planning Authority;
9. The Chairperson of the National Physical Planning Board who will Bill the secretary to the committee;
10. The Director Physical Planning of Kampala Capital City Authority;
11. The district planners of Wakiso, Mpigi and Mukono; and
12. Any other person as the minister may deem necessary but not exceeding five.” I beg to submit.

**MR WALUSWAKA:** Madam Chairperson, need arises every time. When the minister says that only the districts of Kampala, Mpigi and Wakiso, what if it is prudent that it is further divided? We should instead talk about districts within Kampala, Mpigi and Wakiso or the districts which may come from them. This is because need can arise and that might force us to amend this law again.

Therefore, I would like to propose to the House that we at least talk about the districts of Wakiso, Mpigi and Mukono and the districts which may be created after.

Secondly *–(Interjection)–* hon. Nzoghu, the chairperson has given me time. Then the minister only talked about three ministers but what happens in Kampala Metropolitan here - there are issues of roads, water and sewerage. Therefore, I propose that we include the Minister of Water and Environment and the Minister of Works and Transport. I beg to submit.

**MR BASALIRWA:** Thank you very much, Madam Chairperson. This proposal by the minister has a fundamental flop. Under the Physical Planning Act that this Parliament passed, every district is supposed to have a physical planning officer. The provisions establishing them are coached in mandatory terms. This proposal wants, in effect, to take away or to amend the provisions of the Physical Planning Act.

Madam Chairperson, it would be prudent for the minister to first ascertain the fate of the district physical planning offices before coming up with this proposal because in effect, it is killing the district planning offices as envisaged under the Physical Planning Act.

**THE CHAIRPERSON:** Would they not be covered by their boss, the Chief Administrative Officer?

**MR BASALIRWA:** Madam Chairperson, the Physical Planning Act establishes the district physical planning offices and there are officers specifically constituting those offices under the law. Therefore, this proposal merely creates a representative but the issue I raise is about the creation of a separate office yet there is a law that establishes a physical planning office.

You are not going to compel districts to cooperate under this metropolitan physical planning committee yet those districts have their own physical planning committee established under the law because this is what this proposal is talking about; that districts could cease to have authority and instead seek that authority from the metropolitan planning authority yet the Physical Planning Act establishes those separate physical planning committees in their respective districts. What is going to be their fate?

**THE CHAIRPERSON:**  I am not the minister but I would have thought that the district physical planning teams feed into the metropolitan planning committee.

**MR NZOGHU:** Madam Chairperson, this is the composition of the district physical planning committee, which I see is in contradiction with what they are presenting. I would like to read it, Madam Chairperson. It consists of the Chief Administrative Officer, since Kampala is also defined as a district -

**THE CHAIRPERSON:** The what?

**MR NZOGHU:** I am saying that this is the composition of the district physical planning committee. It consists of the chief administrative officer, the district physical planner, the district surveyor, the district roads engineer, the district education officer, the district agricultural officer, the district water engineer, the district community development officer, the district medical officer, clerks of all urban and town councils within the district, the district environment officer, the natural resources officer and the physical planner in private practice appointed by the council on the advice of the secretary to the board. This is what constitutes the district physical planning committee.

Therefore, I wonder where the minister got what they are presenting here.

**THE CHAIRPERSON:** Okay, honourable minister, can you tell us the relationship between those district committees and the metropolitan planning committee? Let her tell us the rationale. Let us hear from the mover of the Bill first.

**MS NAMUGWANYA:** Thank you, Madam Chairperson. Let me first give the background to this. The Act we are amending today had created the Metropolitan Physical Planning Authority and as Government, we said that we are trying to rationalise the MDAs in order to cut on operational costs and increase efficiency and effectiveness.

Therefore, we are running away from authorities and consolidating those other mandates in the ministries. We, therefore, decided that instead of creating or establishing an authority, we create a department under the ministry for Kampala. The purpose of this department will be to coordinate only the physical planning function in the metropolitan area; reason being that when you plan for Kampala, you cannot get a tangible plan that you want.

Wakiso feeds into Kampala and so does Mukono. For instance, there are people who do not know that Kireka is not in Kampala. Kampala stops at Banda, along Jinja Road. When you start planning for the physical development of this area, you find it defeating.

Therefore, what informed the framers of that Act was to make a body, which would coordinate the physical planning in the metropolitan area so as to come up with a smart and beautiful city and to make sure that we develop the metropolitan area in an organised way.

Whereas the physical planning committee at the district level has that mandate of carrying out the detailed neighbourhood plans in the metropolitan area, this department will play the role of coordination. For example, if Wakiso wanted to develop Sentema Road but Kampala did not have the money to do its part, we would sit together and agree on how to go about it –*(Interjection)*

**MR MUWANGA KIVUMBI:** Madam Chairperson, sometimes when we are legislating, we need to anticipate the future and not with bad motives. I currently stay somewhere in Buwaate, in Wakiso District. It is hard when I find a section of about half a kilometre of a road that would help me connect to Kampala Capital City Authority (KCCA) Road not tarmacked because there was no planning to connect the two. That is the same with the sewerage lines and everything else.

What is required in the future is to have one body that coordinates this greater city. It is an inevitable happening in the future, irrespective of the political connotation. Right now, what is feasible because we are in politics, is to have a committee that liaises with all these local governments and coordinates development in an organised manner.

We recite laws but let us legislate for reality. In reality, Kampala has expanded. It is in Mpigi, Mukono and beyond. The law must catch up with the development. There is no way we can move backwards and say that we cannot coordinate this way. Whatever we would like to do under this law is to set up a committee in the meantime before we get to the real cosmopolitan authority, which is an inevitable case in the future.

In fact, if we take over Government one day, we will bring it up tomorrow – *(Laughter)*

However, now that we are not -*(Interjection)*– the information I would like to give is that this is something that should have been done yesterday. There must be coordination. That is why the committee that has the local leadership of chairpersons who are political in nature, has brought the chief executives and physical planners of those districts, the national physical planner and the National Planning Authority. Why should somebody have a problem with that?

**The chairperson:** Honourable minister, I would like to be satisfied that what you are addressing is section 21 of the principal Act. Will the functions remain because they show what is to be done?

**Ms Namugwanya:** Madam Chairperson, I received information from hon. Muwanga Kivumbi and I would like to thank him. I stay in Wakiso but when I go to Mubende, they say to me, “*Kulikayo e Kampala*” which means, “Welcome back from Kampala.” They think that I stay in Kampala.

Madam Chairperson, we are handling section 21 and replacing “authority” with “department” in the Ministry for Kampala.

**The chairperson:** I hope you are not interfering with section 22, which spells out the functions. That was the worry of the Members.

**Ms namugwanya:** We are deleting sections 21, 22 and –

**The chairperson:** And substituting with this?

**Ms namugwanya:** Madam Chairperson, the substitution was made by the committee, which created a unit. After that, we sat with colleagues from the other side and said that we could maintain the “department” but then create a committee.

I am sorry; I would like to correct this. I realise that there is a problem in the headnote that “There shall be a metropolitan physical planning coordination committee. The word “coordination” was skipped.

Wakiso, Mukono, Kampala Capital City Authority and Mpigi will each come with their plans then this would simply coordinate. Thank you.

**Ms nambooze:** Thank you, Madam Chairperson. The need for Kampala to coordinate with her neighbours is seen by anybody. It has always been and we should move to provide for it.

However, we deliberately, as a country, adopted decentralisation. It is incumbent upon us to support it. When you look at the functions that are being proposed for this committee – Madam Chairperson, I request that you call it out so that we examine them - you will find that if we adopted the position as proposed by the honourable minister, we shall not only have put the powers for planning of all these four districts at one centre but we shall also be entrusting that job to a group of politicians rather than the technical people.

If you can look at, for example, the Physical Planning Act and see the composition of the district physical planning committee, it is one for technical people. What is being proposed by the minister is a committee of politicians.

Secondly, our Constitution provides for how districts can come together to do something good. This is provided for under Article 178 of the Constitution of the Republic of Uganda.

Our suggestion is that Kampala, Mukono, Wakiso and Mpigi districts be facilitated to come up with the cooperation that will cater for this. We should not sit in Parliament and take powers away from the districts. Instead, we should give them a law that will facilitate those districts ceding power to cooperation and they be properly guided to propose its composition, function and funding.

Madam Chairperson, I would love to see the people of Wakiso, through their district council, sitting and being guided to cede some powers to a certain entity. I would also love to see the people of Mukono, Mpigi and Kampala do the same.

If we sit here as Parliament, we shall be challenged. Our proposal is to have something that reads, “The Kampala Capital City Authority shall cooperate with other neighbouring local administrative units, in accordance with the provisions of the Constitution of the Republic of Uganda, on matters of physical planning. This cooperation shall be guided by the ministry in charge of Kampala and that of Local Government at implementation of the cooperation and shall make regulations and offer guidance on the composition, function and funding of the cooperation.”

**THE CHAIRPERSON:** Did you circulate your amendment?

**MS NAMBOOZE:** Yes, Madam Speaker, I circulated it.

**THE CHAIRPERSON:** Where is it? To who?

**MS NAMBOOZE:** The minister has it. Everybody has it.

**THE CHAIRPERSON:** Does the Speaker have it?

**MS NAMBOOZE:** Yes, Madam Speaker, you have it.

**THE CHAIRPERSON:** Where is it?

**MS NAMBOOZE:** It is there *– (Interjection) –* no, it is not smuggled in.

**THE CHAIRPERSON:** Okay, as we sort out the amendment or lack thereof, I would like you to welcome our neighbours from the Kenya National Assembly in the distinguished stranger’s gallery. They are from the Committee of Powers and Privileges of the Kenya National Assembly. They include:

1. Hon. Vincent Mogaka – The head of delegation
2. Hon. James Matthew Onyango – Member of the delegation
3. Hon. Danson Mwashako – Member of the delegation
4. Hon. Beatrice Kones - Member of delegation
5. Hon. Andrew Mwadime - Member of delegation
6. Mr Stanley Lagat - Member of staff
7. Ms Zainab Wario - Member of staff
8. Ms Halima Suleiman Ahmed – Member of staff and secretary to the delegation

You are welcome.

**MS NAMBOOZE:** Madam Chairperson, the proposals I am making are that we involve the neighbouring districts so that they support this from the very word go; and that we, the politicians, leave the work of physical planning to the technical people because we know nothing of it.

**MR SSEGGONA:** Madam Chairperson, I think we all agreed that the need to coordinate planning in this area is of paramount importance. It is only a question of who does the coordination.

In my opinion, this is raising difficulty because it is the first time we are making a law to establish a department, which is otherwise a function of the Ministry of Public Service; that establishes departments into ministries.

Perhaps it would help us if we looked at the functions of this proposed committee because they would guide us. Some people think we are establishing a committee of politicians to do the planning. Others think we are establishing a committee of remuneration for politicians and technical staff. That would guide us in knowing whether, by necessary implication, we are amending the National Planning Act or not.

Ordinarily, we would not have a problem with a committee involving the chief executives of the districts or the areas concerned – if it is only at the level of coordinating. Will the minister guide us by providing us with the functions of the proposed committee? This is in order for us to make an informed decision other than allowing the committee to be established.

Then, when we get to the functions, we say that we are moving into the cooperation envisaged under the Constitution. Perhaps that clarification could help us determine if we are not moving to implement the provisions of the Constitution or if we are establishing a department simply to coordinate. This is because coordination is important. Could the minister first give us the functions?

**THE CHAIRPERSON:** Honourable members, earlier on, I asked whether the minister is interfering with section 22 of the principle Act and she said that she was not. Hence, that one deals with the functions.

**MR AOGON:** Madam Chairperson, I think it is good for us to take heed of the wise counsel given by hon. Muwanga Kivumbi. What we need to do is to get started. I am happy with the word, “coordination”, which means that we are not taking anything away from the local governments.

My cry is that I have not heard you include the clerks. You talked about the Chief Administrative Officers (CAOs) but in urban councils, it is the town clerks that are there. You should probably revisit that list, establish and see whether they are listed.

You should also look at the background; we are handling a unique situation. Our issue is, how do we coordinate between Kampala and the neighbours? This thing has disturbed people for years; so, we need to get started. Once we have this coordination committee, we can now go, think and come up with something much more improved but we need to get moving.

How long shall we go and come back? We need to get moving. The coordination committee can move as – I am comfortable, Madam Chairperson. It is just okay.

**THE CHAIRPERSON:** I would like to seek clarification on what we should do with clause 22 of the Bill, which handles the functions. What did we do with it?

**MS ABABIKU:** Thank you, Madam Chairperson. As a committee, we deleted everything in relation to the metropolitan physical planning authority. The Physical Planning Act, 2010 and the Ministry of Local Government both have their mandate. As we are being briefed and given information about the structures, the committees are these local governments that are doing their work. Therefore, we felt that anything related to the metropolitan physical planning authority was not necessary and so we deleted it.

Nevertheless, we also said that as we leave the Ministry of Local Government to run and manage the local government sector, we are leaving the Ministry of Lands, Housing and Urban Development to do the physical planning. We need Kampala, our capital city, to take charge because the existence of the metropolitan areas is as a result of the existence of the capital city. Therefore, there should be a department in the capital city to coordinate with the metropolitan areas.

However, when we went to consult on the ground, apart from the technical team that we found and interacted with, the politicians also told us that they want to be involved. They need to be aware of what is communicated on behalf of their local government.

Therefore, the minister’s proposal is not a substitution of these committees that exist in the local government or these metropolitan areas but those committees do their work. As we have this department at the heart of the capital city to coordinate, it will now coordinate through these committee members.

If these committee members, for example, the CAO or the LCV of Mukono have already consulted and done their work with their committees in that local government, then, these people will only come and represent their input or views, which will be amalgamated. Nonetheless, we shall not remove the functions of the ministries of Local Government and Lands, Housing and Urban Development –

**THE CHAIRPERSON:** Where have you provided for that in your amendments? Where have you provided for those district planning committees?

**MR SEBAGGALA:** Thank you very much, Madam Chairperson. We need to be very careful. The reason we cannot have an authority within an authority - and when we remove the name authority and call it a committee - when you look at the functions of Kampala Metropolitan Authority, they are the same functions the committee is talking about.

I believe that we have one Government. When we talk about coordination - for example, the Ministry of Water and Environment is coordinating the entire country whenever there is any need for water supply. The Ministry of Works and Transport is responsible for roads. I believe if there is any programme and project that needs the combination of Wakiso, Mukono and Mpigi, the Government is there.

It is just a phone call away that we need this programme from the National Planning Authority and then they sit. Otherwise, we are going to create a committee that is going to be so powerful within the city that we will need to come back here for other amendments.

Madam Chairperson, let us leave the physical planning functions to the city and other districts and when there is need for any project that cuts across, definitely the Government is there to make sure everything moves in the right direction. Otherwise, we are creating a very powerful committee within the city that will coordinate with other cities. Furthermore, when it comes to coordination, I believe it can be done by the Government in all spheres.

**MR OTIENO:** Madam Chairperson, there are challenges here - we are referring to the Physical Planning Act and committees. Informed by these challenges, the current Physical Planning Act is being amended and one of the reasons it is being amended – and it is in the committee. Some of these issues we are talking about are the very issues, which are being discussed in those amendments. Unfortunately, I do not see the Minister of Lands, Housing and Urban Development here. I looked around and I do not even see the chairperson of the committee.

Most of the issues we are talking about here are the same issues, which are being addressed in the amendment of the Physical Planning Act to address the challenges that are faced in Kampala and the metropolitan areas and to realign it to the emerging challenges of physical planning in this country.

Madam Chairperson, I do not know whether it would not be right for the honourable minister in charge of physical planning, to come to this House and helps us to align the amendments that they are proposing to address the challenges that we are grappling with, in line with what we are discussing in those amendments. This would help us tomorrow not to say again that, we made these provisions in the Kampala Capital City Authority (KCCA) Act or to again come back and say, “We need to amend this to align the two acts because they are talking about the same thing.”

My proposal is that we need to align the two amendments; the amendments we are making here and the amendments, which are being made in the mother law. I think that the other law is the mother law when it comes to physical planning activities in this country.

**THE CHAIRPERSON:** Honourable members,we should not legislate in anticipation. I do not know whether the committee is going to agree or to reject. Let us deal with what we have now.

**MR MAGYEZI:** Thank you, Madam Chairperson. I appreciate the issue of coordination and supervision. There is nobody who can overlook this. However, the relationship between Kampala and the neighbouring local governments cannot be reduced to the issue of physical planning.

Madam Chairperson, remember when we handled the issue of pioneer easy bus? We met a number of challenges in terms of the roles and mandates of the councils with respect to infrastructure, managing transport, handling conflicts between the private sector players and the issue of revenue. The interconnectivity between Kampala, Mukono, Wakiso and Mpigi, if we only handle it as a matter of physical planning, we shall hit a very difficult end.

There will be a time when you will realise that you cannot connect a sewer to manage solid waste and it stops only, for example, in Bweyogerere. It will not be a question of that physical sewer but a connection of the council resolutions and revenues, among others.

If it is acceptable to the chairperson, I would like to propose that in terms of the law on KCCA, we simply handle physical planning in KCCA. When it comes to how they coordinate and manage service delivery with the other local governments, then the councils of those local governments will sit together with KCCA and agree on how to handle the services.

**MR SSEGGONA:** Thank you, Madam Chairperson. Already, in terms of inter-ministerial coordination, there is a function within the Prime Minister’s office. The Prime Minister does the coordination between ministries and departments. Sometimes, ministerial committees are put in place for specific functions.

The information I would like to give to the House is that some of these arguments you hear about are based on history, a portion which remains unresolved and therefore, suspicion at the end of the day. That is why I propose that if we could look at the functions of this particular coordination committee, perhaps, it would help to melt down some of the arguments, which could be based on the ‘big-brother syndrome’ suspicion that has disturbed us over the past few years.

One would then know that this committee is here to do A, B, C and D. I am actually happy that the committee has the decision makers. If you are talking about coordination and it involves the budget, then the owner of the budget is in the committee. However, before you take the owner of the budget with his technical team, tell us what you want this coordination committee to do. That is the only way you can persuade us by giving us information.

**MR MAGYEZI:** Thank you for that –*(Interruptions)*

**MR BYANDALA:** Thankyou very much, hon.Magyezi. Madam Chairperson,the amendments we are discussing in the KCCA Act, all of us here agree that we need coordination. What has brought these arguments is we are trying to put things, which are not for KCCA, in the KCCA Act; that is the problem. All these structural plans whether by the KCCA Act or whom, are to be approved by the Ministry of Lands, Housing and Urban Development. The coordination part we are trying to do should be created in the Ministry of Lands, Housing and Urban Development.

In any case, any structural plan one does has to go to that ministry for approval for any local authority. By the minister trying to bring it under the KCCA Act is wrong and should be rejected. We should only strengthen it under and ensure that the Ministry of Lands, Housing and Urban Development takes keen interest in the coordination function to see that things move so that if KCCA is moving very fast - they are not deterred because Mpigi or Wakiso is slow. That ministry should be active in the coordination function. Thank you.

**MR MAGYEZI:** Thank you. I think this is helping us to get to some direction. We are making a law for KCCA. We should examine the reasons why up to now we have failed to have the Kampala Capital City Metropolitan Physical Planning Authority. These are the very reasons.

You are going to start this as a committee with a physical planner, the district planner and the CAO. And you will hit a snag when you find that even the district health officer is supposed to be on it.

Hon. Byandala gives us a good way forward. If we need coordination on particular services, that can be embedded in the respective ministries.

As regards the power of KCCA to have its own physical plan, let us not establish that power and extend their tentacles to Mukono and Wakiso. They will find it difficult. Thank you.

**MR ABALA:** Madam Chair, I would like to thank you very much. I was asking myself at the beginning whether we are starting a regional government or we are starting something near to a regional government. That is basically what I was looking at because, like my senior has just said – simply having this amalgam in the names of the technical staff and the politicians – I agree that we need coordination but what type of coordination do we need?

Since this idea is not backed by any law and it is against our existing laws, we should throw it away and we go back and address the matter as per the Act. There are bound to be a lot of cases – you shall be shocked when somebody goes to court tomorrow and we are facing issues of litigation.

We are most likely going to drown because when problems arise, we shall come back here and we shall be wasting a lot of time yet we have the opportunity now to address it once and for all. We should go back and address this matter properly as per the existing laws. Thank you.

**MR NGABIRANO:** Thank you very much, Madam Chair. I was getting very happy because there is a question that has been here since the Eighth Parliament when we discussed the original law.

My issue and interest is the size of KCCA. When we discussed the original law, the biggest problem we had was planning for Kampala, which is a very tiny area. Where is Kampala?

One of the points I would like to raise is that this committee gives us the opportunity to expand Kampala to a metropolitan area in terms of planning.

We travel abroad and we see cities covering many kilometres but here we are just bound to a small area called Kampala. Where is Kampala?

What hon. Byandala raised is relevant but we know that in terms of planning, Uganda is one planning unit –*(Interruption)*

**MR SSEGGONA:** Madam Chair, we are dealing with a specific Bill and it has nothing to do with altering the boundaries of Kampala. For those that do not know the boundaries of Kampala, they can find knowledge elsewhere. Altering the boundaries of Kampala is a constitutional matter.

Is the honourable member, therefore, in order to take us into matters that are not before this Committee of the whole House?

**THE SPEAKER:** I think he was just giving us a preamble of his thoughts.

**MR NGABIRANO**: Madam Chairperson, I was talking of the planning area not the capital city of Uganda. My view is, therefore, that this is a chance we have to plan for a bigger area. Physical planning is very important; we cannot overlook it. We should not hide anywhere. It is time we woke up and planned for a bigger area.

In terms of implementation and feeding into these other authorities, that would come at managerial level and how we manage it as a country.

Therefore, Madam Chairperson, I believe that we should maintain this coordination committee – it is a mere coordination committee – as an entry point. We have never started anything in this direction. Let us begin this one. It will help us in the future. Let us begin this one so that we can plan for a bigger area for the development of this country.

**MR NIWAGABA:** Thank you. I would like to ask for some clarification from the honourable. I believe you have read the Bill in its entirety: If you look at the cross reference itself, it neither mentions the Local Government Act nor where these other districts are provided for, nor does it mention the Physical Planning Act. So, where did you get the basis of justifying your position when even the authors of the Bill did not envisage anything in that direction?

**MR NGABIRANO:** I will give the clarification to that point that in mathematics, you start from the known to the unknown. Today, what we know is that Kampala is limited and we need to plan a metropolitan area. So we start with what we see as a problem, then we shall move and plan for where we want to go. Thank you, Madam Chairperson.

**MR MWIRU:** Thank you, Madam Chairperson. What we are grappling with is the effectiveness of what has been in place. Whereas we have solved the issue of where should it be housed, according to the debate by hon. Byandala, one would assume that that one is now solved because that seemed to have been a big problem.

We must address the effectiveness of this physical planning function in the ministry. Madam Chairperson, you will agree with me that all that this national planning committee has been doing is changing roads into plots like in Jinja. If you want anything to do with change of land use, in whichever district, you apply to the ministry here.

We have been seeing them engaged because they are very thin and do not have capacity. As we are sending the function there, if you are looking at a metropolitan cover of arrangement, then we must have measures as Government to beef up that function.

However, if it remains the way it is and then we send there this function, at the end of the day there will be nothing they will achieve.

We cannot pretend that there is no city to talk about in terms of planning. That is why Kampala City is supported by the neighbouring districts in terms of everything.

**THE SPEAKER:** What is your proposal?

**MR AOGON:** Madam Chairperson, the information I want to give to my brother is this: The biggest challenge that we are having is the issue of controlling resources. Everybody is looking at who is going to take the biggest part of the budget. That is why we cannot take this money to the other local governments. That is why we are talking of this coordination.

However, if we are able to take these monies to, for instance, Kira or Mukono, you would just give them their money. Now KCCA wants to have that big-brother syndrome. For now we are saying that let us get started and we coordinate. That is the information. *(Laughter)*

**MR MWIRU:** Madam Chairperson, my proposal would be that we have an interim taskforce housed at the ministry in terms of physical planning to do a review and address the issues that were supposed to be addressed by the Bill. Merely running away from the issue the way it is would not solve the problem. All debaters agree that there is a problem. However, merely saying that it is housed in a wrong place does not take away the problem. Thank you.

**THE CHAIRPERSON:** Therefore, Would you want something for a particular duty so that when that taskforce or committee finishes the duty, they expire?

**MR MWIRU**: Yes. That is why I proposed that we needed to beef up that department, either in terms of a taskforce, in the ministry *–(Interjection)-* Not in KCCA. It has to be in the Ministry of Lands, Housing and Urban Development. That taskforce should take up that function for some time and we see how to address the issues that were to be addressed by the Bill.

**MR SSEWANYANA:** Thank you, Madam Chairperson. We must not forget why we are at this point. We came to this point because of the disagreements and wrangles at KCCA and the minister deemed it fit to make some amendments in the KCCA Act.

However, Section 25 of the KCCA Act – concerning the metropolitan authority – has never functioned because of many problems. Some of the problems have been mentioned by hon. Nambooze in terms of how it would function even without funding. What would be the source of funding?

Secondly, representation has been a problem. I was a councillor at KCCA. These five representatives that the minister is proposing – members of his or her choice – have all caused problems before and that is why we are here now.

Therefore, since we have many departments as proposed by hon. Mwiru – that we even have a full ministry which caters for planning in the urban areas and all neighbouring areas to Kampala are urban areas – we can try to use such channels and forget about this clause 21 which proposes a metropolitan physical planning authority for the time being as we see how the new amendments work on the cooperation and development of Kampala. That is my argument.

**THE CHAIRPERSON:** Honourable members, I would like to know where that unit in that ministry has been for all these years when people were building on the roads, in the reserves - Hon. Kasibante.

**MR KASIBANTE:** Madam Chairperson, I agree with colleagues that we should not use this chance of discussing KCCA to usurp powers of the local government units around Kampala. Whether we change the name from authority to “council”, “committee” or “department” what will eventually matter will be the functions of what we are talking about.

Madam Chairperson, we had earlier tried to cure the problem that had engulfed Kampala and that included having very many power centres at a very small unit. Somebody out there was even complaining that Kampala City is very small. To him, we could just get the boundaries extended and we could call parts of Mukono and Mpigi “Kampala”. He feels that the unit called KCCA is very small. However, within that small unit we had put a lot of power centres and it became a very big problem.

However, this is another temptation we are about to give into: having another power centre created alongside the centres we had tried to streamline *–(Interruption)*

**MR SSEWANYANA:** Thank you. You have just reminded me of another power centre, after creating the metropolitan planning authority. Clause 26 talks about a metropolitan police. It says that there shall be a metropolitan police force for the capital city. That means we are also taking over functions that fall under the Ministry of Internal Affairs to allow Kampala to create its own police to man Mukono and Wakiso.

**MR KASIBANTE:** Madam Chairperson, as I wind up, we should not forget that NEMA and other agencies also own police within Kampala.

What I would like to put across is that within the Constitution we have provisions that call for cooperation where it is deemed fit. We should not hide from our own provisions. This Constitution was made by the very composition we have today. Article 178 is very clear and we should not disown it. If Kampala wants to cooperate with the rest of the districts around it, it is already provided for in the Constitution.

We cannot sit here to debate Kampala and end up taking decisions that affect Mukono. We could just have Mukono and Mpigi substantially here. I would like to suggest to the Government – not within this Bill – to think about creating a national physical planning authority. That authority can begin to coordinate physical planning in the country. That authority could even guide districts on how to cooperate in terms of physical planning *–(Interruption)*

**MR NZOGHU:** Thank you, hon. Kasibante. Madam Speaker, I strongly agree with hon. Kasibante because the Government has already started on the work *–(Interjection)-* the Government is this Front Bench here.

Madam Chairperson, there is already a Bill being handled by the Committee on Physical Infrastructure. In that Bill, the Government proposes that there should be provisions for the functions and powers of the board. Secondly –

**THE CHAIRPERSON:** Honourable member, that Bill is not before this House. We are not going to borrow it. Please, discuss what is in this Bill.

**MR NZOGHU:** Madam Chairperson, I believe that the Ministry of Lands, Housing and Urban Development already has a department of physical planning and a secretariat is going to be established to have the powers of the physical planning department strengthened, with an executive director.

The information I would like to give is that it is actually not necessary to allow the proposal of the minister to go through. The proposal by hon. Byandala, hon. Magyezi, hon. Kasibante and hon. Nambooze that districts should have physical planning units in their respective areas of jurisdictions and have them coordinated by the Ministry of Lands, Housing and Urban Development, is better.

**MR KASIBANTE:** Thank you very much. Finally, we should not be excited. Sometimes when I visit my colleague, hon. Sseggona, I feel bad that tarmac stops at Nateete and beyond that is murram. However, that does not mean that, that road has never been planned for and it does not also mean that we don’t have roads in Kampala that are not tarmacked. This could be because of resources.

Madam Chairperson, this duplication - we have cases in Kampala where someone has got a clearance from National Environmental Management Authority (NEMA) to put some development and then another authority comes and says “No, it is me in charge of this.” We need to have a national physical planning authority to coordinate all this. Thank you very much.

**THE CHAIRPERSON:** Let us have hon. Kivumbi and hon. Waluswaka. Did he say he lives near the city?

**MR MUWANGA KIVUMBI:** Madam Chairperson, I think we must live in reality and in the real world not in mundane as they say, referring to the earthly world.

Madam Chairperson, the reality is Kampala as defined by law and Kampala practically on ground, are two different entities. Kampala, during day time has upwards of millions of people but majority of the people who work in Kampala stay in the districts of Mukono, Wakiso and Mpigi. That is a hard reality.

Therefore, any development challenge you want to address, as you address the development challenges of Kampala, must have an impact on the people who work in Kampala, in one way or another. You are not going to organize a transport system in future, if you have a Government that is serious on that - you are not going to address questions of the railway, sewage, urban development or any need without looking into this geographical territory.

To begin with, you must start from somewhere. As the Chinese say, “A long journey starts with one step.” We must, therefore, make that solid step and Parliament should have the courage to make that bold step and say what do we do as a country? Actually, the political realities on the ground are real. I am a strong advocate for federal and I do not believe in decentralization. That is a reality and I think if we had a federal government, these issues would never have been brought to this Parliament.

However, be it as it may, in the current Uganda we live in, we need to help our people. I drive on a dusty road and later join tarmac road. You can actually catch flue on a dusty road. Therefore, as hon. Byandala said, if the contradiction is that this committee should not be housed by Kampala Capital City Authority (KCCA), it should be the Ministry of Lands, Housing and Urban Development. I think it is a compromise; that the Ministry of Lands and Urban development takes the lead.

Secondly, we must restrict the need *–(Interruption)*

**MS NAMAYANJA:** Thank you very much, Madam Chairperson and I would like to thank my colleague for giving way. The information I would like to give is that today, if KCCA wanted to change any development, they apply to the Ministry of Lands and Housing and Urban Development. So, that function is already there. That means we do not need to create departments or committees that are going to contradict the law. If it is the law for KCCA, let it remain a law for KCCA but not forgetting that we have other laws that we relate with. Thank you very much, Madam Chairperson.

**MR MUWANGA-KIVUMBI:** I agree with some Members that say there is a law. However, Parliament is about creating laws and solving problems. If the current laws have been effective, why are we in impulse? Why are we having all these slums? Why are we having all these challenges? This means that there has been a challenge in development.

Madam Chairperson, I would like to encourage colleagues to think forward by providing a vision for this country that is very inspiring. My humble appeal, therefore, is that we must begin with the committee that coordinates the development needs and meets the challenge but not – *(Interruption)*

**MR SSEGGONA:** Madam Chairperson, the point I am seeking my brother, hon. Muwanga-Kivumbi, to clarify on is where he said - and I agree with him - that he hates driving on tarmac road in Kampala and when he enters in my constituency, which is a reality and where the minister is housed – he finds a murram road. What happens tomorrow when we want to expand or build a railway line to Jinja? Are we going to annex Jinja to this committee?

I thought - and I was highly persuaded by hon. Byandala, the former city engineer, who educated me, when he said that in the Ministry of Lands, Housing and Urban Development, there is a planning function for the entire country. I agree there are many ministries that have not done certain things but what we should not do is to transfer the functions because the ministry is not functional. One day, we shall find a problem in the presidency and we are not going to create another executive.

Therefore, the point I am seeking clarification over is: where we find any minute linkages, for example, Masaka Road starts from Kampala to Masaka and crosses to Mbarara, do we create a coordination committee that extends that far? What is wrong with coordinating through the ministry as a function - like he said that is a compromise.

Madam Chairperson, the very fact that the committee deleted these clauses, I am sure they had ample time to study this. That is why they deleted. We should, therefore, take their wisdom as serious.

**THE CHAIRPERSON:** Honourable members, we need to conclude this issue. Honourable minister, are you still insisting on your amendments in clause 14?

**MR WALUSWAKA:** Thank you very much. Madam Chairperson, when some of us come from our constituencies, like hon. Sseggona said that he puts up the other side. I am even told that the minister also resides away from Kampala. Actually, most villagers in Mukono say they are in Kampala.

Issue that hon. Muwanga-Kivumbi talked about - and for the first time, I agree with him and I think he is crossing over slowly – that we should not hide our heads –*(Interjection)-* he knows where he is crossing to; you should stay where you are.

Anyway, the issues of Kampala affect us and so, I would like to request Members that when we talk about Kampala – already, we have passed a loan for Kampala metropolitan for cameras and you did not oppose it. We passed that loan and the cameras are in Wakiso, Mukono -*(Interjections)*- the Shadow Minister of Internal Affairs will explain to you.

Madam Chairperson, we need a committee as proposed by the minister. Members want a committee that has no politicians but we have suffered in the hands of technical officers. At least, when politicians are there, we keep a clean eye. In fact, Madam Chairperson, when you are here, the Clerk notes each and every thing. Therefore, if you want to delete, do not remove politicians because when we are here – if Mzee is seated, the permanent secretary will write each and everything.

Madam Chairperson, we have some committees like the Committee on Health is there yet Mulago National Referral Hospital is acting independently, Butabika Hospital is independent and the regional referral hospitals are also acting independently. So, we can still have this committee but with these entities acting independently.

Madam Chairperson, that is my submission and I support the proposal of the minister.

**THE CHAIRPERSON:** Yes, hon. Jovah Kamateka.

**MS KAMATEEKA:** Thank you, Madam Chairperson. The mere composition of this proposed coordination committee shows that it is an administrative arrangement. I do not think that it is the position of Parliament to put an administrative committee in place.

The colleagues have mentioned - hon. Muwanga Kivumbi is concerned about the inter-connectedness between the cities or districts.

This country decided to have a decentralisation system in place but we do have problems. You travel on a tarmac road and you reach somewhere in the district and it ends there or you are coming from one district and a bridge is broken but you have to cross to the other side.

There are issues that we will leave to Kampala and there are issues that we will leave to the ministries and the National Planning Authority to handle.

We should restrict ourselves to issues of Kampala; where Kampala needs to coordinate with other towns and neighbouring districts, it will have an administrative arrangement to work with them.

As to issues of sewerage and water systems, they have to go through Kampala to other districts; there the National Planning Authority and the Ministry of Lands and Urban Planning should be able to handle. So the coordination committee for Kampala is not necessary, I submit.

**THE CHAIRPERSON:** Honourable members, I receive a lot of petitions in my office. The last was from two divisions; Rubaga and another division. The Rubaga councillors told me that Government gave them so much money but KCCA was spending it on their behalf in Wakiso - they are doing roads there instead of Rubaga.

I called the Executive Director and asked why they were misapplying this money; he replied that they were complaining about the Busega Road. They argued that in order to get a clear road, they must put some money in Wakiso although it is for KCCA and the minister was there on that day.

Maybe the committee would have helped because the councillors are quarrelling with KCCA for diverting their money but KCCA is saying that they were doing a good road for the country.

**MS NAMUGWANYA:** Madam Chairperson, the road that we are talking about is from Kabuusu-Bunamwaya to Lweza. We imagined as Kampala city working on the road up to Bunamwaya but the purpose of improving that road was to decongest Entebbe Road because of a lot of jam.

This road goes up to Lweza and when you tarmac it, you give a lot of relief to Entebbe Road. There was a loose talk between KCCA and Wakiso and we agreed to construct that road but it remained an issue of other divisions of the city. That instead of working on that road, you would have worked on the roads within the city and with all fairness, hon. Muwanga Kivumbi can help us because he is an accountant.

When you are looking at the return on investment - when we work on that road, the return on investment increases because it helps us to achieve the purpose. That is why we need this kind of arrangement.

You are aware *Pioneer* buses failed; they were brought here to help us get bus transportation in the city but we could not put a bus from the city centre to Banda because that bus had to extend to Mukono to make sense.

However, the people of Mukono said, “Who told you to bring your buses here; these buses will not work in Mukono,” and the arrangement collapsed.

Let us have this department in the Ministry for Kampala not in KCCA and when we are working on physical planning issues, we shall sit together - the people from Wakiso, Mukono and Kampala.

We are taking this route because in the world over, the metropolitan development concept is taking root and when we are speaking to financing bodies like World Bank and Uganda Development Bank, they are pushing us into metropolitan development concept *-(Interruption)-* helping me or putting me off?

**MR NIWAGABA:** I am your friend. Madam Chairperson, we have talked at length on this matter and I would like us to have a middle ground. To me the best middle ground is to have a corporate entity that would handle all these issues.

We could make a provision in this particular Bill that cross-references with the Physical Planning Act - and maybe borrow the National Planning Authority - and make provision in this Bill; to ensure that matters affecting the Greater Kampala as you had wanted shall be done by the National Planning Authority and maybe report to Parliament every two years - something along those lines.

Ultimately, even if you insist on a committee which has no corporate mandate and is merely administrative and yet people are talking about budgetary issues, it will still not serve the purpose.

**THE CHAIRPERSON:** Members, it seems we agree that there should be coordination but where should it be. Let us hear from the Minister of Local Government.

**MS NAMUYANGU:** Thank you, Madam Chairperson. We are one Government and as much as we have Kampala Capital City Authority, the local governments need to work together.

We need this committee and now that all the stakeholders are on board, we are talking about physical planning but when it comes to implementation, we shall have these local governments implement their programmes.

However, what I foresee as missing are the municipal mayors and the municipal town clerks and yet they are not under Local Government or chief administrative officers.

They have been consulted and we do not see any problem because we have had issues where you get projects, which are limited to only Kampala and yet we can work together and facilitate our people to have the infrastructure developed.

However, when it comes to who should chair, I would like to propose that the Ministry of Lands, Housing and Urban Development chairs this committee - not KCCA - because many times they undermine us as being “local”.

**MR JOHNSON MUYANJA:** Thank you, Madam Chairperson. I would like to support the Minister of State for Local Government because what happened when KCCA brought *Pioneer* buses is; they were aware that Mukono was an independent authority but they never bothered to call us for a meeting and yet all the dues collected were going to KCCA alone. So definitely we had to intervene.

When KCCA is planning to have that planning authority, they should not take charge or control that because they have that feeling of being independent - We agreed that we can plan together with Kampala under another ministry, but they rejected the proposal. By then, I was the mayor.

Today, I am a Member of Parliament; I cannot change my mind. We agree that we can plan together but under another ministry so that we have fair distribution of resources –*(Interjection)*– Lands. In Kampala, they do not distribute resources fairly.

**THE CHAIRPERSON:** Honourable members, the person responsible for physical planning in this country is the Minister of Lands, Housing and Urban Development, isn’t it?

**MS NAMUGWANYA:** Madam Chairperson, I concede to the proposal by the Minister of Local Government. *(Applause)*

**THE CHAIRPERSON:** Does the membership remain as it is?

**MR SSEGGONA:** I think, Madam Chairperson, we need to be clear. A concession to the proposal by the Ministry of Lands, Housing and Urban Development does not solve this. What has been raised is to lead this to the lead ministry; the Ministry of Lands, Housing and Urban Development.

I think certain distortions have also been made on the Floor, which we need to clarify. I am a member of the district council in Wakiso. The dispute over buses was about licensing and revenue because Kampala Capital City Authority cleared these buses, charged them and simply exported them to Wakiso, where they were not paying money. That is why we rejected them.

The next thing we saw was the minister responsible for Kampala and the alleged metropolitan area – which we are not aware of – coming to Wakiso over this railway extension in Kyengera and that is where we said we will beat you from there. Finally –*(Interjection)*– yes; because that is our territory.

Finally, on the issue of the road connecting Kampala to Lweza through Wakiso District; first, we would like to thank our colleagues in Kampala. However, let it not be distorted. This is money which was approved by Parliament and the question was only on who we give it.

The minister made it clear that the World Bank may place a condition; we agreed. It was not casual talk; it was a serious discussion between two serious entities, Wakiso – and I was deeply involved as a person in mobilising the local people who wanted compensation over that road. She will agree with me that we decided no compensation; but it was a formal engagement between Wakiso and Kampala.

Wakiso has never aspired to be a colony of Kampala. *(Laughter)* We are happy to work under the Ministry of Lands, Housing and Urban Development. We are not happy to work with Kampala as a lead agency in this.

**THE CHAIRPERSON:** Honourable member, I think the minister has already agreed that let the lead agency be the Ministry of Lands, Housing and Urban Development. She has agreed to that. *(Applause)* *[Mr Sebaggala rose]*

Honourable member, we have spent over an hour on this issue and this is the second day on this issue. Honourable members, I put the question -

**MR SEBAGGALA:** Before you put the question, Madam Chairperson, the major contention – of course, we talked about where this committee should be housed and we have said it is in the Ministry of Lands, Housing and Urban Development.

What we are not so confident about is a committee being within KCCA. Are we saying that this committee should go to Ministry of Lands, Housing and Urban Development and not KCCA? If it goes to Ministry of Lands, Housing and Urban Development, that is okay and all the functions should go to the ministry, not KCCA.

**THE CHAIRPERSON:** Honourable members, if we give the leadership to the Ministry of Lands, Housing and Urban Development, of course they will take over.

**MS NAMBOOZE:** Madam Chairperson, first of all, I thank you for the time you have given to us. I would like to suggest and even request my colleagues to agree to this that we have all noted the importance of a coordinating committee for the metropolitan districts.

We are proposing that this House requests the Minister of Lands, Housing and Urban Development to come up - very quickly and urgently - with an arrangement for such an entity and that we move by the decision of the committee that as far as the KCCA law is concerned, it remains a law for Kampala Capital City. Let us also maintain the position of the committee that those clauses be deleted from this law and instead we wait for the Minister of Lands, Housing and Urban Development to come here so that we adopt the same thing under that ministry.

**THE CHAIRPERSON:** Would you be happy if we deferred this decision to when the other Bill comes because it deals with physical planning? Would you be happy if this particular part went to the other Bill?

**MS NAMBOOZE:** Madam Chairperson, that would be the best arrangement that this particular section of the law be deferred until we handle the law on physical planning. For today, let us wind up with the law on KCCA, which specifically talks about KCCA as an entity.

**MR ABALA:** Madam Chairperson, I have two issues: One, we do not need to legislate in anticipation, that we assume that the Bill will be here tomorrow. Assuming that the Bill does not come, what happens?

**THE CHAIRPERSON:** No, honourable members, the Bill is here; an amendment to the Physical Planning Act, which is before the committee. So, what I am saying is that do you mind if we move this to that Bill? Can we formally move it there so that it comes under that law?

**MR ABALA:** Okay. One thing that I would like to say is, if it is going to be brought tomorrow, in my opinion – the whole House should actually support it – let us “sit” on this one, not to stand over it and wait for the other Bill and then we debate and sort it out once and for all.

**THE CHAIRPERSON:** Minister, can we submit this to the Committee on Physical Infrastructure?

**MS NAMUGWANYA:** Madam Chairperson, I really mind if we are required to wait for that other Bill, reason being that this Act creates the Ministry for Kampala. It creates the minister in this Bill and the portfolio for that minister is the Minister for Kampala and Metropolitan Affairs. The reason why it talks about metropolitan affairs is for this coordination for physical planning in this area. This was informed by the fact that we badly need this coordination of physical planning.

When you look at the provisions of the current Physical Planning Act, they would have been in position to coordinate this physical planning in the metropolitan area but it has not been the case. When you look at the provision of Article 178 of the Constitution of the Republic of Uganda, it would have supported this kind of cooperation but it has not been the case.

That is the reason why we are pushing for this coordination; only coordination for physical planning and that is all. So, I am not very comfortable to say that we wait for that other law because there was a basis for including coordination of physical planning in the metropolitan area in the management of Kampala city.

Madam Chairperson, as one of my colleagues said, Kampala today has a night population of 1.5 million. That is the residents’ population. Then, we have a day population of five million people. That means 3.5 million people trek from Wakiso and other areas every day to come to the city. That is the reason we want to coordinate this physical planning function in this area.

Madam Chairperson, if you are to benchmark the world over, this is the modern way to go now. Physical planning and even economic planning in other countries is done using the metropolitan concept. I would like to beg you, honourable colleagues, that if you want to develop our city, this is the only way to go. Thank you.

**THE CHAIRPERSON:** Honourable minister, the reason I was making that proposal is that under the Physical Planning Act, there is a district planning committee and an urban physical planning committee. So, can’t we have the Metropolitan Physical Planning Committee as well? It is because all these are about physical planning; you will have the same laws.

Also, the minister in charge of planning for land will also be in charge of the metropolitan physical planning. Personally, I think that would solve –

**MS NAMUGWANYA:** That would be very okay with us if we retain the department of metropolitan physical planning. Then, the committee is housed in the Ministry of Lands, Housing and Urban Development such that when we are to coordinate our plans, the committee takes over the supervision of the coordinated plans. I would be very comfortable with that.

**MR BASALIRWA:** Madam Chairperson, I think you mentioned the district physical planning committee and the rest but there is also Section 6 of the Physical Planning Act that establishes the National Physical Planning Board.

**THE CHAIRPERSON:** What is that?

**MR BASALIRWA:** Section 6 of the Physical Planning Act –

**THE CHAIRPERSON:** That is about the functions of the board.

**MR BASALIRWA:** Yes, Madam Chairperson. The hon. Sseggona asked the minister to state the functions of this committee that they seek to establish. The minister should clarify and actually reconcile the proposal for the amendment with the content in Sections 6 and 10 of the Physical Planning Act because Section 6 establishes the National Physical Planning Board and so many functions. Section 10 establishes the district physical planning committees with their respective functions.

The proposal that the minister brings on the Floor is silent on the functions. The danger is that you are likely going to bring proposals that either contradict what is in the Physical Planning Act or amend by implication, the provisions of the Physical Planning Act. Therefore, my view is that if the minister is really determined in having this through, the issue of functions must come out very clearly.

Finally, the issue of physical planning in this country has been settled by the Physical Planning Act. The proposal does not, in any way, make reference to the Physical Planning Act. Whatever we want to do must be anchored in the Physical Planning Act in one way or the other.

**THE CHAIRPERSON:** Honourable members, that is why I proposed that if this House agrees, we submit this proposal to the Physical Planning Committee, they work on it and it is put under one law.

There is an agreement that it should be a coordinated committee and you have agreed that it should be the Ministry of Lands, Housing and Urban Development to oversee it. We are proposing that instead of arguing about it here, let us keep the Kampala Capital City Act separate from the planning. The planning should go to the Physical Planning Act, whether it will be the metropolitan, urban or local, we submit the proposal of the House formally to the Physical Infrastructure Committee.

**MS NAMUGWANYA:** Madam Chairperson, taking that committee to the Ministry of Lands, Housing and Urban Development is not a problem. What I requested, however, was that we maintain the department under the ministry because the department does the technical – why we recommended the creation of this committee is because there is technical coordination.

**THE CHAIRPERSON:** What department are you retaining?

**MS NAMUGWANYA:** The department for metropolitan physical planning to coordinate the technical bit of it. Then, this committee oversees that coordination. It was just my proposal and this is what I am communicating.

**THE CHAIRPERSON:** Honourable members, let us listen to one another. I would like to propose that we defer this decision. Let us examine the linkage between the department and this committee. Also, let us try to make everybody happy by understanding each other. Therefore, we will defer this decision. Otherwise, we have already decided that the Ministry of Lands, Housing and Urban Development takes the lead. Let us now decide how they will coexist.

That means we cannot go to clause 1 because we have not finished the Bill. Are there any amendments to the interpretation section? Normally, we do the interpretation after we have finished the whole Bill. So, let me ask the minister to move the motion for the House to resume.

MOTION FOR THE HOUSE TO RESUME

5.14

**THE MINISTER OF STATE FOR KAMPALA CAPITAL CITY (Ms Benny Namugwanya)**: Madam Chairperson, I beg to move that the House do resume and the Committee of the whole House reports thereto.

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

(*Question put and agreed to.*)

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

REPORT FROM THE COMMITTEE OF THE WHOLE HOUSE

5.15

**THE MINISTER OF STATE FOR KAMPALA CAPITAL CITY (Ms Benny Namugwanya)**: Madam Speaker, I beg to report that the Committee of the whole House has considered the Bill titled, “The Kampala Capital City (Amendment) Bill, 2015” and passed clauses 23, 24, 25, 26, 27, 28, 29, 30 31, 32, 33, deleted 34, passed 35, 36 and amended the fourth schedule. I beg to report.

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

5.16

**THE MINISTER OF STATE FOR KAMPALA CAPITAL CITY (Ms Benny Namugwanya):** Madam Speaker, I beg to move that the report from the Committee of the whole House be adopted.

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

*(Question put and agreed to.)*

*Report adopted.*

**THE SPEAKER:** Honourable members, in the public gallery, we have pupils and teachers of Laker Memorial School in Kitgum. Are you the ones? Please stand up. They are on both sides of the House. You are very welcome and smart. They are represented by hon. Beatrice Anywar and hon. Margaret Lamwaka. They are here to observe the proceedings of the House. You are welcome. *(Applause)*

There was a matter we asked the Minister of Energy and Minerals to tell us about Murchison falls; if you could give us a report.

5.17

**THE GOVERNMENT CHIEF WHIP (Ms Ruth Nankabirwa):** Madam Speaker, I contacted the minister and she requested that she first presents the statement in Cabinet because this is the requirement so that from Cabinet she will proceed to present the same statement here on Wednesday. I request that we allow her to present to Cabinet first because we want to own it as Cabinet.

**THE SPEAKER:** Okay, the Minister of Energy and Minerals is to come and update the country on the issue of constructing a dam at the Murchison Falls National Park.

Honourable members, yesterday, we had also required the Minister for Water and Environment to come and speak to us about the deforestation in Gomba. I had not given the dates but he should come next Tuesday and report. We can now go back to item No.3.

BILLS

FIRST READING

THE ADMINISTRATION OF ESTATES (SMALL ESTATES) (SPECIAL PROVISIONS) (AMENDMENT) BILL, 2019

5.18

**THE DEPUTY ATTORNEY-GENERAL (Mr Mwesigwa Rukutana):** Madam Speaker, I beg to move that the Bill entitled, “The Administration of Estates (Small Estates) (Special Provisions) (Amendment) Bill, 2019” be read the first time. The Bill is here accompanied by a Certificate of Financial Implications.

**THE SPEAKER**: Is it seconded? The Bill is seconded and sent to the Committee on Legal and Parliamentary Affairs for perusal and report back.

BILLS

FIRST READING

THE ADMINISTRATOR-GENERAL’S (AMENDMENT) BILL, 2019

5.19

**THE DEPUTY ATTORNEY-GENERAL (Mr Mwesigwa Rukutana):** Madam Speaker, I beg to move that the Bill entitled, “The Administrator-General’s (Amendment) Bill, 2019” be read the first time. The Bill is accompanied by the Certificate of Financial Implications.

**THE SPEAKER:** Is it seconded? Seconded and sent to the Committee on Legal and Parliamentary Affairs for perusal and report back.

BILLS

FIRST READING

THE ESTATES OF MISSING PERSONS (MANAGEMENT) (AMENDMENT) BILL, 2019

5.19

**THE DEPUTY ATTORNEY-GENERAL (Mr Mwesigwa Rukutana):** Madam Speaker, I beg to move that the Bill entitled, “The Estates of Missing Persons (Management) (Amendment) Bill, 2019” be read the first time. The Bill is accompanied by the Certificate of Financial Implications.

**THE SPEAKER:** Is it seconded? Seconded and sent to the Committee on Legal and Parliamentary Affairs for perusal and report back.

BILLS

FIRST READING

THE PROBATE RESEALING (AMENDMENT) BILL, 2019

5.20

**THE DEPUTY ATTORNEY-GENERAL (Mr Mwesigwa Rukutana)**: Madam Speaker, I beg to move that the Bill entitled, “The Probate Resealing (Amendment) Bill, 2019” be read the first time. The Bill is accompanied by the Certificate of Financial Implications.

**THE SPEAKER**: Is it seconded? Seconded and sent to the Committee on Legal and Parliamentary Affairs for perusal and report back.

BILLS

FIRST READING

THE SUCCESSION (AMENDMENT) BILL, 2019

5.20

**THE DEPUTY ATTORNEY-GENERAL (Mr Mwesigwa Rukutana):** Madam Speaker, I beg to move that the Bill entitled, “The Succession (Amendment) Bill, 2019” be read the first time. The Bill is accompanied by the Certificate of Financial Implications.

**THE SPEAKER:** Honourable members, in future we may have to develop better guidelines for some of these because there is already under consideration a Succession (Amendment) Act in this House.

Therefore, I would not want the committee to have to deal with two Bills. In future we are going to guide that if you are coming after the first Bill, you should go to the committee and show how different it is from the present Bill.

However, for now, I will send it to the Committee on Legal and Parliamentary Affairs for perusal and report back.

**MR MWESIGWA RUKUTANA:** Much obliged, Madam Speaker. I entirely agree with you.

BILLS

SECOND READING

THE LAW REVISION (PENALTIES IN CRIMINAL MATTERS) MISCELLANEOUS (AMENDMENT) BILL, 2015

2.22

**MR MEDARD SSEGGONA (DP, Busiro County East, Wakiso):** Madam Speaker, the Bill entitled, “The Law Revision (Penalties in Criminal Matters) Miscellaneous (Amendment) Bill, 2015” was placed before this House and subsequently sent to the Committee on Legal and Parliamentary Affairs.

In my opening remarks then, I stated the necessity as contained in the object of the Bill as bringing the law in conformity with the decision of the Supreme Court in the case of Attorney-General v. Susan Kigula and Others; and the justification was to bring the law in conformity with the judgment which nullified the mandatory death penalty. As colleagues, we will notice Article 28 (12) of the Constitution requires that a person can only be charged with an offence which is with a penalty prescribed in the law.

Now, following the nullification of the mandatory death penalty by the Supreme Court, it became necessary for Parliament to harmonize provisions which create mandatory death sentences to avoid litigation in future - of whether there is the existence of those offences or not.

We did propose to amend first the Penal Code Act, Cap 120 Laws of Uganda; the Anti-Terrorism Act, 2002; the Uganda People’s Defence Forces Act, 2005 as amended; and the Trial and Indictment Act.

And in brief terms, to justify is to provide for penalties in order to supplement the existing portions of the law because without a penalty, that one is not an offence.

I therefore seek the indulgence of this House to consider those clauses and pass them as proposed by the committee. I thank you.

**THE SPEAKER:** Thank you. Let us hear the committee report.

5.25

**The deputy attorney-general (Mr Mwesigwa Rukutana):** Madam Speaker, I seek your indulgence. At the time the Bill was read for the first time, I raised an objection pointing out that the Law Reform (Revision) Bill, 2019 is already before this House and it had been referred to the Committee on Legal and Parliamentary Affairs for consideration.

I had strong reservations against this Bill. I advised that the honourable private member should either come to us or take the Bill to the committee for harmonisation. I was told that I could raise our objection at this material time when the Bill is to be debated.

Madam Speaker, we have strong reservations because the Bill goes beyond the objects stated in its title. The title and the introductory notes indicate that the private member intends to amend the law in order to put it in conformity with the Susan Kigula case.

If that was the objective and was adhered to, we would not have any problem. However, the proposals go way beyond and propose abolition –

**THE SPEAKER:** Honourable Attorney-General, I wish you could hear the report of the committee first and then your submission could be part of that.

**Mr rukutana:** Much obliged, Madam Speaker.

5.27

**Ms veronica eragu (NRM, Kaberamaido County, Kaberamaido):** Thank you, Madam Speaker. The report of the committee was read to this House and we are ready to proceed.

**THE SPEAKER:** Are you ready for the debate?

**Ms ERAGU:** Yes, we are.

**THE SPEAKER:** Okay. Honourable Attorney-General, do you know what they reported? You should now be the first respondent.

**MR MWESIGWA RUKUTANA:** Madam Speaker, unfortunately, I do not have the report and I have not looked at it *–(Interruption)*

**Mr sseggona:** Madam Speaker, certain factual corrections have got to be put in place.

First, when this matter came up under the chairmanship of the Deputy Speaker, the Attorney-General proposed that we stand over it, he gets in touch with me and we harmonise it.

The Bill came up again on the Floor of the House and he still requested for the same. I asked him for a one-on-one discussion, which we had. He said he would invite me.

First of all, there is no requirement that when a Bill has been presented to the House, passed by the committee with a report made, the private Member continues to run after the Attorney-General’s chambers to seek their views.

Everybody is given an opportunity to appear before the committee and present their views. The Ministry of Justice and Constitutional Affairs was invited and they presented their views.

Thirdly, the issue the Attorney-General is raising that they have already brought a Bill on the law reform has nothing to do with this. Government has been sitting since the passing of the decision in the Susan Kigula case and never responded.

A private Member and other colleagues have identified the lacuna, come to Parliament, sought leave and obtained a certificate of financial implication; they have gone to the committee and justified it, the committee goes through all the stages and then the Attorney-General comes here to say that they are also considering it.

The Bill that he is talking about seeks to empower the Law Reform Commission to revise the existing laws and update them and still come back to Parliament. They are various laws.

I do not know whether the Attorney-General is taking this House seriously by telling us that we must stay whatever we would like to do and wait for that Bill. It is the same guidance you have just offered. We cannot process a Bill of this nature with the committee without involving the Ministry of Justice and Constitutional Affairs.

When it comes to where he thinks that we have exceeded the objects of the Bill, the onus still lies on him to come and say, “This is the object you presented and this is how far you have exceeded.” Still, the remedy is not that we do not consider the Bill but we look at those aspects he considers offending, throw them out and then discuss those that are within the Bill.

However, we cannot process the Bill, come up with the report then the Attorney-General comes to say, “No, we cannot proceed.”

Finally, courtesy would still compel me to disclose that before beginning this sitting, he asked if we could meet again. I said, “I am always available. As long as the Bill is not on the Floor, I can talk.” He had asked me to meet him tomorrow, something he is not disclosing but he is raising what he considers a “technical objection” in the hope that they will save a sinking ship.

I think that it serves well to be honest to the House. If you want to say, “I am sorry, I did not take particular steps”, that is what decency would call on me to do. What it calls on him to do is an entirely different thing.

**THE SPEAKER:** Honourable members, the report was presented here in January. That is when we were told that the Attorney-General and members were meeting to harmonise what I do not know.

As far as I am concerned, once our committee reported, the Bill is for the House. In fact, I do not know what you people are meeting about. That Bill is for this House and the decision should be taken here. Speak for or against the Bill and we take a decision. There is nothing else you are meeting about. Do not go behind our back.

**Mr MWESIGWA rukutana:** Much obliged, Madam Speaker. I entirely agree with you. However, let us look at the reality.

Right now, there are two Bills before this House albeit at different stages of processing. The current Bill has been processed by a committee and there is a report. However, there is a similar Bill before another committee.

I thought that smart working would require that since the two Bills are almost the same, we handle them together instead of a disjointed way.

It is true that I met my colleague this afternoon and we both decried the fact that we have not been able to meet. The directive of this House was that the two of us should meet. We should have looked for each other.

I think my colleague became busy and at one time he had some personal problems –*(Laughter)*- yes, I was here twice and he was not. He cannot blame me alone because we were supposed to look for each other.

The reality is that we have not met. This afternoon, we agreed that we meet tomorrow morning, at 10 o’clock to be exact, and see how we can harmonise it so that we come –

**THE SPEAKER:** Honourable minister, the Bill belongs to this House. It is no longer the business of hon. Sseggona. Whatever you would like to meet him for should regard other things but not about the Bill.

Speak for or against the Bill here. There is nothing for you to harmonise.

**Mr MWESIGWA rukutana:** I think that the ends of justice will be served by allowing us just one more chance to put our heads together.

**THE SPEAKER:** Honourable members, the matter is open for debate. The two can meet as we discuss.

Honourable members, unless you want the chairperson to refresh your memory - can you give a synopsis of your findings so that Members can appreciate what you are doing?

**MS ERAGU:** Thank you, Madam Speaker. To refresh the Members’ memory, I can read the general recommendations.

**THE SPEAKER:** Okay.

**MS ERAGU:** Thank you, Madam Speaker.

General recommendations on the death penalty

The committee, during its examination of the Bill met stakeholders, who had proposed the total abolition of the death penalty from Uganda.

The committee was pointed to a number of reasons for the removal of the death penalty including, death not being a punishment, the fact that mistakes might be committed during the criminal trial, leading to the conviction of an innocent person; death does not give a person an opportunity to reform. The death penalty is not deterrent since people still commit capital offenses well knowing that the punishment is death; there exists other forms of punishment, which are deterrent enough, such as imprisonment for life and so many others.

The committee noted that whereas the above reasons were persuasive, it lacked the mandate, in this Bill, to abolish the death penalty as a punishment under the legal regime in Uganda. The committee based its decision on Article 22 of the Constitution, which empowers the imposition of a death sentence on any person who commits an offence that could carry such a penalty.

The committee also took cognisance of the fact that the inclusion of the death penalty in the Constitution was not accidental or a mere afterthought but deliberate, having been supported by Ugandans, as was reported by the Constitutional Review Commission, which had traversed the width and breadth of Uganda, encompassing people's views on various aspects of the Constitution. Indeed, the Constitutional Review Commission, in its Report had this to say at page 106, paragraph seven:

*"We have seriously considered arguments of both sides, critically analysed the international attitude to capital punishments, the praiseworthy campaign of Amnesty International for the abolition of the death penalty and consideration of the fact that the death penalty has been abolished in several countries, including a few African countries. We fully understand the need for a change of attitude in capital punishments. We have, however, not found sufficient reasons to justify going against the majority views expressed and analysed."*

In such a situation, the committee believed that the imposition or the abolition of the death penalty from the Constitution is a matter that the people of Uganda must be consulted upon, in accordance with Article 1 about them being the sovereign and Article 126 (l) about them being the source of power from whom the exercise of judicial power under which the death penalty is imposed, emanates from.

The committee recommends that Government seeks the views of the people on the appropriateness and necessity of the imposition of the death penalty under the current legal frame work in Uganda.

The committee proposes that the Bill be passed with some amendments.

Madam Speaker, the committee is relying more on the decision of the Supreme Court in the case of Uganda Vs Susan Kigula. It talks of the death sentence being imposed on the most serious crimes; that is the underscore of the speaker. Of course, also to remove the mandatory sentences under the Constitution, as was decided in Susan Kigula case. I thank you.

**THE SPEAKER:** Honourable members, you have heard a brief summary of the report. You are free to contribute. Hon. Mbabaali, you have three minutes to say something.

5.42

**MR MUYANJA MBABAALI (NRM, Bukoto County South, Lwengo):** Thank you, Madam Speaker. I have carefully listened to the case of Susan Kigula, which is being referred to and what the Supreme Court ruled on 21January 2009. Let me quote it in parts: “…*no sufficient evidence was brought to show that being hanged caused more pain and suffering to the person being executed.”* That was the basis on which the Supreme Court ruled to take away the death penalty.

However, if you read ahead, when the hearing started in November 2011, you will realise that Susan Kigula knelt before JB Nakuya, who was the grandmother of the deceased; Susan Kigula’s husband and the lady said, *“I cannot forgive you. What you did was a very grave crime.”*

For that matter, if you go ahead and quote Susan Kigula as one of the best cases, without considering the merits of those who lost their beloved one, the husband - I do not think by that time those who thought they could take away the mandatory death penalty were doing a good job.

Take an example of the rising crime here in Uganda. When you look at our own case here, we cannot “marry” Uganda with other developed countries. As we talk today, our neighbours in Tanzania have a mandatory death penalty and the crime rate is very low. When you bring it here in Uganda and quote someone who has murdered another - under human rights, the moment you kill yourself, you have deprived yourself of human rights. When you kill another one, also, both of you are being out of right to life. That means that death penalty must remain, given the crimes we are going through as a developing country and we must maintain tough laws in this country. Otherwise, the killings continue everywhere. We have had very many cases where husbands are killing their wives and wives are also killing their husbands.

We have had very many cases where people are just killing their grandmothers because of petty issues like land. In addition, we have had very many cases where people are murdering because of a motorcycle, which costs Shs 300,000 and you say, “we do away with mandatory death penalty.” I do not think the House is being serious. It is high time we became very strong on such laws to protect our nationals.

I did not want this one to happen because the Attorney-General was trying to defend Government but I think he is right. The Government should come up with a very strong argument for death penalty to remain. It should only be the prerogative of the mercy to be held by the President of the Republic of Uganda. Otherwise, it is a pity; people have been killing others and he is released after six or eight months. It loses meaning and life becomes lifeless.

Madam Speaker, it is high time we stood very strong over this mandatory death penalty and it is the only way we can protect our citizens against crime; this will reduce crime rates. Uganda will not only be the one to practice death penalty; there are 28 other countries in Africa who have got mandatory death penalties.

I rest my case, Madam Speaker.

**THE SPEAKER:** Thank you.

5.47

**MR GAFFA MBWATEKAMWA** **(NRM, Kasambya County, Mubende):** Thank you very much, Madam Speaker. I stand here to debate and also propose that death penalty should remain. Yesterday, we were trying to debate how the *boda boda* cyclists are killed every day. I watched the two key suspects; Aloysius Tamale, also known as Young Mulo and John Bosco Mugisha alias Mukiga. The way they were narrating the story, it was as if they were not even bothered with whatever they did.

My thinking is that we need to see how police can investigate thoroughly well to ensure that someone is not implicated in the murder, which he or she did not commit. However, I strongly support that the only way we can scare these criminals, for example, if they come to steal and they do not kill me, that is when they will know that death penalty exists. I thank you, Madam Speaker.

5.49

**MR MICHAEL TIMUZIGU (NRM, Kajara County, Ntungamo):** Thank you, Madam Speaker. First, our motto states, “For God and My Country.” We have 10 commandments in the Bible. In Exodus chapter 20, the fifth commandment reads, “Thou shalt not kill.” Therefore, when we say that people should be killed because they have killed someone, it means that we are using that as a punishment. In this case, the person we are killing is not going to change anything but to die.

Furthermore, sometimes people are implicated when they are not the ones who have killed. It can happen and someone is implicated and at the end of the day, that person is not guilty. When we say that we should keep on killing convicts because they have committed murder, that means we shall keep that law, which is inhumane.

Madam Speaker, since it is already constitutional, we need guidance. The chairperson was suggesting that we go and consult our voters on this issue in order to determine whether to remove mandatory death penalty or to keep it. We need guidance on this matter because it is really inhumane to kill a human being because he has killed. Thank you, Madam Speaker.

5.51

**MR MOSES KAHIMA** **(NRM, Ruhaama County, Ntungamo):** Thank you, Madam Speaker, for giving me this opportunity. If we are serious legislators, we should not be dilly dallying with the killers. Death penalty should be maintained. This is a deterrent law; we should be passing deterrent laws in the aspect of human beings.

If we say that we want to rehabilitate murderers, we shall not be helping this country. It is my opinion that we should be stringent and move to give a timeframe for murder cases to be expedited such that these killers and murders are given their death penalty on time.

Madam Speaker, it is my considered opinion that we maintain the death penalty in order to deter people from killing others. That is my submission. Thank you, Madam Speaker.

5.53

**MR JOHN TWESIGYE** **(NRM, Bunyaruguru County, Rubirizi):** Thank you, Madam Speaker. I would like to thank the committee and the team that worked on this Bill. In my view and the views of most of Ugandans, there is nobody who has a right to take away the lives of others.

Secondly, in the circumstances, especially for Uganda, like what the honourable colleague has mentioned, we may not have reached the stage of saying that we copy other people’s behaviours, import them here and encourage this behaviour of killing our people.

Yesterday, we were discussing the death of the *boda boda* cyclists and the manner in which they are being killed. I do not think somebody who kills a person and sells a *boda boda* at Shs 100,000 will not have done it intentionally.

I would like to refer again to our Constitution. At the time the 1995 Constitution was being made, I believe they consulted well and upheld that death penalty should be part of our Constitution. As a Christian, I would not want to say that if you kill, you should be killed. However, for the purposes of protecting the lives of Ugandans, there is need for this deterrent measure to remain in place.

In addition, I would like to also propose that since Ugandans were consulted, there is a need to consult them further to support our cause. I beg to move.

5.54

**MR RICHARD OTHIENO (NRM, West Budama North, Tororo):** Thank you, Madam Speaker, for this opportunity to contribute on this matter. I would like to support the position of the committee that death penalty be retained in our law books and it should be reserved for the severest of cases, specifically in murder cases because we are living in a society where people only understand the language they know best.

If you look at the history of the National Resistance Army (NRA), that army was able to maintain discipline because of the deterrent punishments they adopted at the time; if you kill, you also get killed. And they kill you in public so that the people see that you killed in the same way. In fact, they would do it in the same position where his victim was killed. That is why that army is very disciplined.

It was very different from the Obote army, the then UNLA army. For the UNLA army, I am told they said that the gun is your mother and your father; so, you can kill to get survival. That is why the soldiers were very indisciplined. There was total discipline in the NRA. You could never – it is only these days that the Supreme Court comes in and says “do not kill, you just sentence someone for life” and life means only 24 years. That is why these people do not care. They kill and they take it as something, which is casual and normal. They just play about with life.

You have heard the narratives that the killers make. They come and narrate how they track and kill their victims because they know that at the end of it all, they only go for 24 years and come back and wreck more havoc.

Therefore, I strongly believe that the only way to maintain discipline in this country and to maintain respect for life is that whoever kills will be killed. The death sentence should be maintained in our law books.

5.57

**MS JOVAH KAMATEEKA (NRM, Woman Representative, Mitooma):** Thank you, Madam Speaker. The issue is; should the death penalty be mandatory? I support the position that it should not be mandatory; that it should depend upon the gravity of the case. It should be the judge to decide.

If we say that the death sentence becomes mandatory, that means that whoever kills will be killed. We have seen cases where people kill with a good reason. An example is this lady who was released recently. Her husband wanted to take their children and sacrifice them and she had to kill in self-defence and also defence of her family. There are other cases.

I support the position that the death penalty should not be mandatory but I also support the position that it should not be removed from our statute books.

Law cannot be made in a vacuum. It is made for a society. We all know that Ugandans fear death. In Uganda, it is still deterrent but if you remove it, a man will say that I will kill you, after all, I know that I will go to Luzira – some people do not have food. They do not mind going to Luzira and sitting for 20-30 years. He will actually kill as many people as possible and go to Luzira because the highest sentence is life imprisonment. I do not think that we want that kind of situation.

Therefore, knowing the type of people that we are legislating for and knowing that Ugandans fear death, I support the committee position that even if it was to be removed, Ugandans should have a say. However, as Kamateeka, I support that the sentence remains but not being mandatory. I beg to submit.

6.00

**MR CHARLES NGABIRANO (NRM, Rwampara County, Rwampara):** Thank you, Madam Speaker. We come here to make laws based on prevailing situations. In the name of development and globalisation, we are seeing a lot of crimes taking place freely. We are seeing a lot of murders in this country and elsewhere, open prostitution, robbery and all sorts of crimes happening.

We know that we are under international obligation but I think as a local society of Uganda here, there are some of the things that we are just following. We have not evolved through the proper development process. Therefore, we must customise whatever happens to our own situation here.

Yesterday, we discussed the murder of *boda bodas* and all of us recall that video that we saw. A certain young man called Mukiga – I am a Mukiga and he betrayed our virtues and values and we highly condemn it – such types of murder in broad day light.

I was watching TV and a very young boy said, “I got him, I put a rope behind and he died so quickly”. This happened somewhere in Kyengera, where they killed a taxi driver and they were just joking about it.

We cannot, in the normal development, sustain such behaviour. Therefore – *(Interruption)*

**MR NSEREKO:** Thank you very much, Madam Speaker. The information I would like to give my colleague is that there is an observance when we are in Mecca and we have observed it amongst ourselves. I would like to share it with the House.

When they call for prayer, there are what we call the gold sacks – shops with gold and money – there are two principles there; you do not pick, even if someone drops something, you do not pick it. They will come, pick it and look at the camera and return it to its owner.

Secondly, when they are going to pray – all of you that have gone through Saudi Arabia – because people are scared of losing an arm, there is no theft - people leave money and you see the discipline of everyone. The moment you land, people change immediately.

I am not trying to promote something but every Friday, there is public execution of murderers. The recent story was the one of a prince in the royal family, who when they were on an exhibition killed a friend. He was taken through a trial and during the trial, he admitted because there was evidence and there were other witnesses.

The law was that the prince must be executed. They gave him chance – I think if we introduced this other thing of families meeting after to see whether they can forgive in lieu of mitigation, probably for the mandatory death sentence to be reduced to a life sentence.

This happens in other countries. When you forgive, depending on the law – in the Sharia Law, when you forgive and you pay blood money, then it is all finished. You are cleansed and you have agreed as a family. They give you three chances before you appear for execution.

The family came and they asked them three times – this was the prince – but the king had no right to forgive - “Do you forgive this person?” The family said: “No. What he did to our son is what we want to witness him go through.” They were asked the second and a third time and definitely the third time, he was executed in the same way.

The information I had wanted to give my colleague regarding Mukiga in courts is that the way Mukiga demonstrated the way he murdered the other man, you would feel the pain of the family. Look at the way this man prides in what he was doing? He was smiling: “I killed him. This is what we do. I held this…”

Then they asked him: “What was the rationale?” He said: “Had I left him alive, these *boda boda* people would kill us instead.” With the pain that family had to go through, how do you tell them that for someone who kills, it will be the discretion of the judge to decide whether to *– (Interjections) -* well, I will leave it at that so that I do not conclude the point of my colleague.

**THE SPEAKER:** Okay, but you have smuggled in a contribution. You have already made your contribution. *(Laughter)*

**MR NGABIRANO:** Thank you, Madam Speaker. Hon. Nsereko gave me good information and it is in line with what I was thinking and I agree with his submission.

Madam Speaker, we are also seeing other emerging issues such as revenge and mob justice because people do not have hope because if one knows that if someone killed their relative, tomorrow court would also kill him or do something similar to what he did, I think we shall see stability in society. People will respect the law as they wait for the process to its course.

Finally, Madam Speaker, I want to support the committee’s position. What I have mentioned here today – yes, I represent my people but I did not ask them. To avoid international pressure – because we are a third world country and people will start writing this and that – we should take this chance proposed by the committee to ask our people further about this punishment; it could help us.

However, I would also like to say that we need to reduce crime. We need to be strict. We need to customise our laws and so, the death penalty should be maintained but the process of determination should be so thorough that we do not have cases of people condemned or killed and they are later proved innocent.

Therefore, we should make sure that the process is 100 per cent correct. When the process is correct, then the person who has carried out murder should be paid in the same currency. Thank you very much.

**THE SPEAKER:** Let us hear from hon. Acon *– (Hon. Sseggona rose\_)* You are interfering with our debate.

**MR SSEGGONA:** With profound apologies, Madam Speaker, I thought that it is important that we realign the debate to be understood. In the previous sitting, we made attempts to make the position of both the Bill and the committee clear and that is why I sought your indulgence.

For purposes of assisting our colleagues, especially those who are not lawyers, nobody – in the Bill and the committee – is saying “abolish death penalty.” We are only said that because we found ourselves entrapped by the decision of the Supreme Court, which we cannot change by legislation *– (Interjections) -* yes, because we are barred by Article 92, because that would be unconstitutional. We need to legislate in a manner that realigns and therefore, restores both the offence and the penalty called “death penalty.” That is what we are doing.

However, colleagues need to note that, one, under Article 28 of the Constitution, nobody can be charged with an offence, except if that offence is written in the law and the penalty is prescribed by law.

At the moment, because the Supreme Court declared mandatory death sentence unconstitutional, all those sections of the statutes that create mandatory death sentence left the sections hollow – something is missing in those laws.

To the extent that the penalty is missing, you are likely to face a challenge where you charge Mugisha, Young Mulo and other murders of this world – but they stand to challenge the constitutionality of the section under which they are charged. Why? They will tell you: “You are charging me under a section that has no prescribed penalty.”

What we are doing today and what we are required to do as Parliament is to prescribe a penalty for murder. However, we cannot go back to say “mandatory death.” Why? - because we have been told by the Supreme Court that that “mandatoryness” is unconstitutional.

Susan Kigula and others -

**THE SPEAKER:** Honourable member, doesn’t the committee have amendments to that extent? Why don’t you allow Members to speak and we take a vote?

**MR SSEGGONA:** With your permission, Madam Speaker, I was trying to help Members, especially those that have not scrutinised the particular recommendations and the report – to realign the debate. In other words, not to be tempted to think - because the debate is going to inform the next stage – one debator is going to inform the next debator. Once we move along the line of thinking that the Bill and the committee are seeking to remove the death penalty, which is in the Constitution, then we would lose the debate. That is what I thought I needed to clarity and I thank you for the permission.

6.12

**MR JULIUS ACON (NRM, Otuke County, Otuke):** Madam Speaker, 100 per cent, I support the death penalty. We have to understand this belief where Al-Qaeda or terrorists believe that when one kills and they die, they will get a virgin lady in heaven. If you kill somebody here on earth and you believe that when you die, you will get a virgin lady in heaven, you are the kind of person who should not even go on trial because you already believe that when you are killed you are going to be a successful person in heaven.

For a man who has raped and killed and it is proved, I think this person should not go through trial.

Many times, we have seen when thieves come to someone’s or your house – if a thief steals, kills and he is caught and taken for trial but later on released on bail, it becomes a habit where everybody wants to kill, saying “my friend killed and he was released.”

I usually get disturbed by thieves in my home in Lira. However, I made a trick on the 29 December 2017. I went to my village and told the security guard that “if this guy comes, do not let him escape.”

The thief came with a hammer and panga and started breaking my door. If he had found me, I would have been finished. I instructed the guard and he was shot. I said, “there is no trial”; in our country, the police would say “the tyres are still disturbing…” So, it is a long story - I think the death penalty should remain in our country because it would teach each and every one. Thank you, Madam Speaker.

6.14

**MR JOHNSON SSENYONGA (NRM, Mukono County South, Mukono):** Thank you, Madam Speaker. I would like to support the recommendation of the committee. There are obvious cases – here, we should say that for obvious killings, the penalty should be death. That is what the learned fellow is trying to tell us. It should come come out clear to state that obvious killings -

Madam Speaker, I have a brother who works in Uganda Prisons but the Member is telling us that after these people find out that they have committed a serious case, they prefer to be taken to prison because they are free there. They are given free food; they can even train, enjoy football or go to school.

Much as we are talking about the death penalty, we have never seen it applied. Look at this the recent suspects, one said “I do not apologise, take me to prison.” - because he knew that when he is taken to prison – When you go to Kawuga Prison in Mukono, they have indoor games. The prisons have been improved apart from one missing family members. In fact, they even get other family members. Therefore, heavy punishments like death penalty to obvious cases should be applied. Thank you.

6.16

**MR ISAAC MULINDWA (NRM, Lugazi Municipality, Buikwe):** Thank you, Madam Speaker. I have had the chance to look at Susan Kigula case. However, before, I make my contribution, I would like to thank the committee for their conclusion and the Office of the Attorney-General for their previous input. At the end of my submission, I will need some clarification from hon. Sseggona on the rational of his motion.

I am going to read verbatim some parts of the judgement in the Susan Kigula Case. It reads “*First, that the various provisions of the laws of Uganda, which provide for a mandatory death sentence are unconstitutional because they are inconsistent with articles 20, 21, 22, 24, 28 and 44(a) of the Constitution. They contended that the provisions contravene the Constitution because they deny the convicted person the right to appeal against sentence, thereby denying them the right of equality before the law and the right to fair hearing as provided for in the Constitution.*

*Second, that the long delay between the pronouncement by Court of the death sentence and the actual execution, allows for the death row syndrome to set in. Therefore, the carrying out of the death sentence after such a long delay constitutes cruel, inhuman and degrading treatment contrary to Articles 24 and 44(a) of the Constitution.*

*Third, that section 99(1) of the Trial on Indictments Act, which provides for hanging as the legal mode of carrying out the death sentence, is cruel, inhuman and degrading contrary to Articles 24 and 44 of the Constitution.”* That was the ruling.

Madam Speaker, article 22 of the Constitution talks about protection of right to life. Article 22 (1) says “*No person shall be deprived of life intentionally except in execution of a sentence passed in a fair trial by a court of competent jurisdiction in respect of a criminal offence under the laws of Uganda and the conviction and sentence have been confirmed by the highest appellate court*.” Then 22 (2) says “*No person has the right to terminate the life of an unborn child except as may be authorised by law.”*

Hon. Sseggona, the Constitution is very clear and the court has also pronounced itself on this. What is the rationale of this since you are saying it is hollow? Otherwise, the Constitution is very clear. What is the rationale of your Bill? The court was very clear and the Attorney-General submitted very well. So, what do you want Parliament to put in your Bill? That is the clarification I am seeking from you. Thank you very much, Madam Speaker.

6.18

**MS SANDRA SANTA ALUM (UPC, Woman Representative, Oyam):** Thank you, Madam Speaker. My submission defers from many of my colleagues.

The court ruled that mandatory death sentence is unconstitutional and I would like to agree with them. I know people who were convicted by our court innocently. In this era of our country, where the newspapers have reported that corruption is the order of the day and even the judiciary is not spared - I am worried that if we legislate this way, many innocent Ugandans will be convicted on death penalty even when they are actually innocent.

Secondly, the Constitution - many of us are Christians. We are taught in the *Bible* that we are not supposed to take away the life of anyone. We are taught to leave the punishment to God. I am not advocating for the killers but in this era, where corruption is the order of the day, I fear that if we legislate this way, as we have witnessed, many people will be suffering when they are innocent.

Thirdly, the international community is moving away from this way of punishment. Why? It is because when someone is taken to court and convicted, it is a corrective measure. When you have killed someone, whom are you going to correct? I feel that - *(Interruption)*

**MR NZOGHU:** Thank you very much, Madam Speaker. I would like to request the Member to be more explicit by giving us the relevant examples of what she coined to be the international community that is running away from the mandatory death sentence so that we can be able to follow.

**MS ALUM:** Thank you very much. Unless you were seated on your ears *– (Laughter)* - the previous Members mentioned countries. Even the committee - *(Interruption)*

**MR MBWATEKAMWA:** Madam Speaker, I have listened to my sister, hon. Alum but the point of order I would like to raise is: Is hon. Santa using a parliamentary language to say that someone is sitting on his ears? Is she in order, although he is short?

**THE SPEAKER:** Members, hon. Santa was thinking in vernacular - *(Laughter)*

**MS ALUM:** Thank you very much, Madam Speaker. I wanted to make my point that this issue was mentioned by the previous speakers that there are countries, which are abandoning the mandatory death penalty.

Having said that, I think as a nation, we need to work very hard to make sure that the issue of corruption is dealt with very squarely. Not until we do that, we are not moving in a right direction.

Allow me to also say that laws are made to address a particular problem. We have amended many laws on the Floor of this Parliament. We have even gone ahead to amend the Constitution and we did some without consulting the voters. We actually pretended that we consulted the voters whereas not. Therefore, to my colleagues who are arguing for the mandatory death penalty, I would like to request that we should go to the voters. Otherwise, when this law was made, Ugandans were consulted but things changed with time.

Madam Speaker, my submission is that much as this law was made some years back, at that time, the level of corruption was not high compared to what we are seeing now. The judges were 98 per cent honest but now, you convict somebody but in the process*-(Interruption)*

**MR NZOGHU:** Madam Speaker, I think it is very unfortunate that some of our colleagues submit from what is not true with them. I recall during the constitutional amendment, we on the Opposition side agreed that we return the Shs 29 million and she never returned but she is talking about corruption.

Is the honourable Member in order to masquerade that there is corruption in court and yet, when the Opposition took a decision that we should not take that money but she decided that way.

**THE SPEAKER:** Honourable members, we are not discussing the conduct of the judges or their character. We are discussing the nature of the sentence. Please, hon. Alum, do not go into those things.

**MS ALUM:** Thank you, Madam Speaker, for your wise ruling. Let us respect the judgement of court; they have told us that the mandatory death sentence is unconstitutional and we are here to legislate to that respect. Thank you.

6.26

**MR SILAS AOGON (Independent, Kumi Municipality, Kumi)**: Madam Speaker, my first concern is that biblically, there are certain instructions, which were written in the past. For instance, the Lord Jesus Christ one evening while sitting with his disciples told them to make sure they pray.

A majority of them did not heed and when he was arrested, one of them jumped for a knife to cut off somebody’s ear and the Lord put back that ear.

I find it very difficult to legislate for a death penalty where again in the Bible, we were instructed that if somebody gives you a slap on the left ear, give him the right ear as well.

It would also mean that if somebody killed someone, they should also kill him or her the second time. It is now very difficult for me to legislate as a Christian for death penalty which is mandatory in nature.

That aside, our issues like my sister has rightly put it –(*interjections*) - Madam Speaker, can I be protected from hon. Nsereko he is interfering.

**THE SPEAKER:** Honourable, allow hon. Aogon to contribute.

**MR AOGON:** There are incidences of mob justice, if a team has been accused of killing somebody, how do you know exactly who did what to make that person die. How do we handle such cases and what are the sanctions, which are embedded?

No.2 Poor investigations: what are the sanctions that the committee has prescribed to deal with this because somebody can easily be killed due to poor investigations - these things have happened.

Recently, in news, they said that somebody had been innocently in jail for 17 years and he was on death row so what would you do in such a scenario? (*Interjections)* - You are debating against somebody holding the microphone hon. Nsereko, Madam Speaker, protect me -

**THE SPEAKER:** Hon. Nsereko, do not intimidate; please, face this side.

**MR AOGON:** Kampala is intimidating Kumi and that is notgood (*Laughter*). No.3 is the issue of self-defence. Somebody is attacked and the person needs to defend themselves. What are you going to do in this scenario? Therefore, I do not stand with this issue of mandatory death penalty.

There are people who have failed to access legal aid; you go to court, you are taken and killed because you do not have proper legal representation; what are we going to do in such cases.

Sanctions for people who are failing to investigate should be tightened properly. Some people do not take this work seriously and yet, they know that it concerns the life of others.

You are the prosecutor, investigator but you are not doing a thorough job and yet you are putting somebody’s life in a furnace.

There are issues of corruption like my sister said. Somebody can accept to make a judgement over a few dollars. They will pass a judgement and you will have to go. Is it proper, I do not think so?

This country has to do a lot in terms of security. The state should not run away from its duty of providing security to the citizens of this country because it is mandatory.

Finally, what has Government done to sensitise the citizens in terms of avoiding killing others? There are some who find killing as something easy because they have not been taught to behave well.

How many police officers are down trying to sensitise people? What is the budget passed by Parliament for the police to do community policing. How many of these gatherings have you seen in your constituencies? I do not support mandatory death penalty and I stand with those who are standing with me. I thank you.

6.31

**MR JOHN BAGOOLE (Independent, Luuka North County, Luuka):** Thank you very much, Madam Speaker. Towards the end of the Ninth Parliament, you gave me and hon. Alaso a chance to go to Madrid to attend an international conference about the death penalty law. However, since it was coming to the end of the term, I do not know whether our report was tabled and debated but we were with Mr Solomon Kirunda who works with the Department of Legal and Legislative Affairs of Parliament.

I will check with him tomorrow to find out whether the report was tabled. If it was not, then we shall table it and it will give proper guidance on this issue.

Honourable members, I would like to inform you that from one speaker to another world over, all legislators denounced the death penalty.

Some of them were reasoning that a mistake cannot solve a mistake and then another legislator from Cameroon suggested that instead of having a death penalty in most of the constitutions in the world, we should have a special place for such convicts not keeping them together with chicken thieves or small offenders.

The reason was that once you kill somebody, the moment that person is buried, he cannot feel any pain but if you put him in a special detention place for close to 100 years, then that person will suffer for 100 years.

Solomon has a very comprehensive report, which we shall table and it will guide us on the issue of death penalty. I do not support death penalty as a law. Thank you very much.

**THE SPEAKER**: Honourable Sseggona was trying to tell us - I think the question is; should it be optional or mandatory.

6.34

**MR DAVID ABALA (NRM, Ngora County, Ngora):** Madam Speaker, I would like to thank you very much for giving me the opportunity. I also would like to thank my colleague, hon. Sseggona, for having brought this matter – *(Interjections)* - it does not matter. I am from Teso; I do not know how to mention his name in Luganda. *(Laughter)*

I have two versions. The first – because I have not consulted my people the other side – is that if you looked at the way some of these crimes have been committed, you will automatically support the death penalty.

I would like to give an example of a young girl who was killed in in Ngora subcounty. The murderers killed this young girl. They removed the eyes, the skin, the private parts, the heart, the liver and other parts that if you saw the body, you would automatically say, “the death penalty should be upheld.”

Therefore, there is need to look at the circumstances and nature of the crime, in my opinion. Some people should not be left to go free because some of them have deliberately done it once, second time, third time or ten times and are continuing. In such circumstances, we should not be lenient.

Even the Bible is clear - I would like to read two verses.*(Laughter)* Leviticus 24:17 says, “*Anyone who takes the life of a human being is to be put to death*.” That is from the Bible. It is as simple as that. If you read Deuteronomy 19:19-21 - the element of “an eye for an eye” comes in. If you box me, I box you. *(Laughter)* A tooth for a tooth; an eye for an eye, according to the Bible – (*Interjections*) - Madam Speaker, I am still on the Floor. That is why I want my colleagues to understand that I am informed. *(Laughter)*

It is very bad for us to take life. The Supreme Court did their part. In my opinion, we should have a death penalty, depending on the circumstances and the way the crime is committed. If somebody has been committing the crime repeatedly, such a person should not be left to go; he should face the law.

Secondly, one thing that I am mindful of is that if we leave this matter, like my senior, hon. Sseggona has said that there is a loophole – the Constitution talks about it - unfortunately, there is no way of enforcing it. That is why this Bill has been brought here. In my opinion, depending on the circumstances, we should not throw it away.

By the way, the verse that the current President of the United States of America likes most is: “An eye for an eye.” It is on record; there is no story about it. If somebody says that the international community - that is the international community - our circumstances are different. We must address our situation here, depending on what goes on because in this country, there are people who are hostile, very brutal and are professors in criminality. One way of addressing that is - by the way - maintaining this law, depending on the circumstances in which this offence is committed.

Madam Speaker, I would like to thank you very much. I would like to thank the committee for a very good job done. Thank you very much and I would like to ask my colleagues not to shy away. Even though Jesus said we should forgive people, we can forgive them but forgiveness should be here as we enforce the law.

We must enforce the law and make sure our people are safe because I know that if we do not maintain this, many people are going to be killed and some people enjoy being in prison. They are happy because they know that outside here, you must look for food. Inside there, food is available.

Some human rights organisations take blankets and give them food like meat at the end of the day and so, they enjoy life while in prison. So, one way of making sure we deter them from that is to maintain this law. That is my opinion. Thank you very much, Madam Speaker.

6.40

**MR JAMES WALUSWAKA (NRM, Bunyole County West, Butaleja):** Thank you, Madam Speaker. I will not get tired of thanking you. Some of us can go out for health breaks but you stay because of the important issues. I would really like to thank you for the resilience and stamina. *(Laughter)* Yes. Members, some of us can go out but “Mummy” sits there until issues are resolved.

What I would like to say is that yesterday, we discussed about *boda boda* riders who are being killed and Members were here deliberating. I remembered, in my vision, the pictures of how my senior colleague, hon. Abiriga, was murdered. The way we went for burial in Rhino Camp and you say such people, if got - and there is evidence - should be left; No.

My opinion is: if we remove this death penalty – Oh, my God. We shall be finished because they know it will give them leeway. Let people suffer. If you say the innocent ones will go; Jesus will resurrect them. *(Laughter)* True, because people are arguing that even the innocent ones will be killed. That is fine but let us have a belief that Jesus will resurrect them and say, “Waluswaka, you are innocent; go to heavenly life or Waluswaka, you are guilty; go to hell.”

Otherwise, if we remove the death penalty – look at the people who killed the late Joan Kagezi; just shooting her in cold blood. Honestly Members, let us be serious. I know you are a lawyer, my senior brother but there is where law applies. Even villagers, when you take - and if it fails, then we need to go and consult.

When you go and consult, even villagers say, “Why don’t you bring and we work on him the way the law says?” Villagers are also tired - if there was a way of denying them a court procedure, some of these people would be worked on but we cannot do that. *(Laughter)* Hon. Sseggona, you know that your voters are looking at you.

Finally, I support the death penalty, not in bad faith. The Bible says that the reward for sin is death. People are saying hon. Abala was reading the Old Testament. In Romans 6:23, the wages of sin is death. So, Members, why don’t you want people to be rewarded for the work they have done? I would like to submit by saying that for Butaleja, we have suffered a lot. The reward for sin is death. I would like to thank you, Madam Speaker.

6.43

**MR RAPHAEL MAGYEZI (NRM, Igara County West, Bushenyi):** Thank you very much, Madam Speaker. I stand to oppose the death penalty and to request that as much as possible, let us not make it mandatory. Let us explore all ways to make it optional. *(Applause)* I have listened to the arguments colleagues are giving and I do not find real justification. First, on execution of the innocent, there is a possibility of somebody being killed because of the flaws in the justice system or because there is a dictator in power who wants to remove anybody who is against him. You may say these ones were a few cases but for me the exception proves the law.

My secondly point is on the principle of sanctity of life. This is a Godly society. We must uphold the right to life to the highest possible measure. The value of life cannot be compromised simply because somebody is saying, “If you kill, then you should be killed”. I have heard that one where somebody even read it from the Bible where it is stated that anyone who takes life of a human being should be put to death.

Just think about it more seriously honourable colleagues. Isn’t this a redundancy? Isn’t this a contradiction? Doesn’t this lead us into a spiral of vengeance, retribution and actually mimicking crime? So, I kill and then you kill me. If you take away my life, you should also be killed. How far are you going? This, within itself, -*(Interjections)*– Just follow reason.

So, you are saying, if you kill, then you should also be killed. You are looking at weights of crimes or sins and you think that is correct. So, if I steal from a robber, I am okay. If I rape a rapist, then that is fine. I think, honourable colleagues, we need to look at the purpose of punishment. I would like to challenge anybody with statistics showing that the death penalty leads to deterrent of crimes. It is not there.

Actually, you are punishing somebody so that he does not kill again. However, the person you want to rehabilitate so that he does not kill again is already dead. As a result, you are locked into a contradiction of your own objectives. For me, the death penalty puts a stain of blood on the hands of the nation. It is criminal, degrading and inhuman. We better explore the options to make a criminal be rehabilitated and become a better citizen. So, it should be removed from our books of law. (*Interruption*)

**MR RUKUTANA:** I thank hon. Magyezi for his submission and in particular, for pointing out that the objective of punishment is deterrence. I would like to inform him that it is not only deterrence. The objective of punishment is deterrence, correction and retribution..

When we talk about deterrence, we are not talking about deterring that particular offender. We are talking about being an example to deter other members of the society. In this instance, corrective may not apply because the person will have died but there is another objective where it is suited and that is retribution.

Retribution means punishing or taking vengeance for a wrongdoing. That vengeance also acts as deterrence to people who are still alive. Secondly, it satisfies the aggrieved person to some extent. So, when we talk about why people who have committed crimes should be punished with death, which we have all agreed it is going to be mandatory on our law books, I have heard in the debate, people saying, “You know, we should not uphold the mandatory death penalty.” Nobody; not the court, not the mover of the Bill and neither is the committee saying we should abolish the death sentence completely. We are saying, we should leave the discretion to the court to decide on who deserves to be punished by death or not. We should not, however, make it mandatory in our law books.

I would like to inform hon. Magyezi that those other aspects of considering punishment also appeal so much for our society for reasons some of the Members have mentioned.

**MR MAGYEZI:** Thank you for the information. *(Interruption)* Just a minute, honourable colleague – The purposes, as given by the Attorney General, are three: deterrence, correction and rehabilitation. Certainly, we seem to agree but the last two: correction and rehabilitation are null and void because if the person is dead, you are not going to correct him or her.

In deterrence, you are saying those who kill would fear to be killed. The argument I am giving is that this is not based on any fact or statistics. That because I have a problem with you and when I am going to kill you, I would say, “the law will catch me.” At that time, it is a different situation. There is no such argument –*(Interruption)*

**MR NGABIRANO:** Thank you, hon. Magyezi. I would like to give some information that we are active Ugandan men and women. Instead of lamenting about criminals, we should look at how we can easily replace them by reproducing children who are innocent. Therefore, we should do away with all the criminals and look at –*(Laughter)*

**MR MAGYEZI:** I think that is taking the argument too far. For me, if we believe in the motto of this country, “For God and Our Country”, we should aim at rehabilitating the offenders so that we have better citizens –*(Interruption)*

**MR AOGON:** Thank you, honourable colleague. You know, he is in my line of argument and I thought I should give him some reinforcement in terms of information. Just two days ago, for those of you who watch CNN, BBC or Aljazeera, I saw in “Breaking News” – by the time CNN puts up breaking news, it is something very serious – a man called Jeffrey Epstein, who was a trafficker dealing in young girls, decided to take his own life.

Do you know what happened? The people who took him to court were so angered because this man decided to abort justice by taking his own life before facing the law. They would have loved to see him tried properly, step by step so that he suffers the consequences of what he had done. That is why –*(Interruption)*– First wait. I am on information.

The information I am giving here is that it is very important to allow people to face proper justice and not to think of taking their lives. Some cases are formed and others are different and unique. Some cases are satanic, not well intentioned and are not in good faith.

**MR MAGYEZI:** Thank you for the information.

**THE SPEAKER:** Honourable members, I think our technician forgot to time. They have allowed a lot of freedom today. (*Laughter)*

**MR MAGYEZI:** Madam Speaker, amidst his many words, he has made an important argument on induced suicide. That I kill because I also want to die. Therefore, I know that the fastest way to die is to murder so that the State also gets rid of me.

Personally, the death penalty should be optional. Let us not leave it as mandatory in our books of law. I thank you.

**THE SPEAKER:** Honourable members, I think we have had two separate debates on this issue. So, I would like to put the question that the question for the second reading of the Bill be put.

(*Question put and agreed to.*)

**THE SPEAKER:** Honourable members, I would like you to refresh yourselves with the amendments. There are six clauses and I think it is important you internalise them. We have not come together on the intentions of this Bill. Please, go and study them and we complete this Bill tomorrow.

Honourable members, I put the question that the Bill be read for the second time?

*(Question put and agreed to.)*

**THE SPEAKER:**  We shall complete this tomorrow. I understand the amendments and the report are on your iPads. Please, refresh your minds so that we can complete it tomorrow.

Honourable members, I indicated that in the morning hours, the body of Mrs Mary Luwum will be in the lobby and not the Chamber from 10.00a.m. up to midday. Therefore, our work will not be interfered with. Our sitting in the afternoon will take place.

Honourable members, I thought it is the usual things but the body will be in the lobby from 10 o’clock to 12 o’clock and our other business will continue. Therefore, House is adjourned to 2 o’clock tomorrow.

*(House rose at 6.54 p.m. and adjourned until Thursday 15 August 2019 at 2 o’clock)*