



PARLIAMENT OF UGANDA

PARLIAMENTARY DEBATES

(HANSARD)

OFFICIAL REPORT

THIRD SESSION - SECOND MEETING

WEDNESDAY, 29 NOVEMBER 2023



IN THE PARLIAMENT OF UGANDA

Official Report of the Proceedings of Parliament

THIRD SESSION - 18TH SITTING - SECOND MEETING

Wednesday, 29 November 2023

Parliament met at 1.58 p.m. at Parliament House, Kampala.

PRAYERS

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

The House was called to order.

COMMUNICATION FROM THE CHAIR

THE SPEAKER: Honourable members, welcome to this afternoon's sitting. As we get into the festive season, we will be going on recess soon. I request you, as leaders, to ensure that you talk to your electorate on how they should live responsibly to avoid issues of getting bad character, especially the students who are on holiday. Thank you all for coming for the session.

2.01

MR GEOFFREY MACHO (Independent, Busia Municipality, Busia): Madam Speaker, I thank you for your communication of today. Indeed, festive days are testing days in the lives of people because they are days of enjoyment and celebrations. However, they are days that need a lot of security, family care and support.

Therefore, I pray that Government should come and give us the strategic security plan, majorly to the border areas. Whenever December comes, there is a lot of insecurity at the borders, and Busia in particular. True, I agree with you that as parents, we should guide our families so that as we enter the festive days, we come out of them well, still celebrating.

THE SPEAKER: Thank you. Hon. Ssemujju, do you have a procedural matter?

MR SSEMUJJU: Thank you, Madam Speaker. Yes, I have a procedural issue and I seek your indulgence, Madam Speaker. Please allow me to give a background as I raise it.

This Parliament, under your leadership, has been different. There has been an attempt to move together in our divergence. This Parliament is aware that the Leader of the Opposition in Parliament and his team walked away on matters of human rights. I thank you that today you have put this matter on the Order Paper.

Having received this Order Paper in advance, as our rules provide, it is the reason why we have returned - because we value matters of human rights more than any other issue.

The procedural issue, accompanied with a request, is that you vary the Order Paper - which power you have and have done so. For the good of all of us, bring this matter earlier such that we engage with it before we engage with other matters.

The reason is that those of us who have not been coming here have millions of people that we represent here. Their expectation is that a matter of this magnitude will actually persuade you to give it priority.

So, the procedural matter, accompanied with a request, is that you vary the Order Paper - like

you have done in many other instances before - and have this matter come before this Bill and the statement on netball. This is so that we sit here with comfort that a matter that a side of Parliament considers very serious is handled and we can comfortably deal with these other matters.

I beg for your indulgence and thank you because you have accommodated all of us this far. That is the procedural issue and request I am raising to you, Madam Speaker. Thank you very much.

THE SPEAKER: Thank you very much, Hon. Ssemujju. Since you said that you want it brought before issues of netball, I will move it to before netball. That is okay - I am responding to Hon. Ssemujju. The Leader of the Opposition, please first wait. I am the one who put this on the Order Paper and I want it sorted today. I am going to bring it before netball. I know netball will take a lot of time. Can we have the laying of papers?

LAYING OF PAPERS

(I)REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS OF ECONOMIC POLICY RESEARCH CENTRE (EPRC) FOR THE YEAR ENDED 30TH JUNE 2023

THE SPEAKER: Honourable members, pursuant to Article 163(4) of the Constitution of Uganda 1995 and Rule 174(4) of the Rules of Procedure of Parliament, accordingly, this will be referred to the Committee on Public Accounts (Central Government) after laying.

2.06

MR SOLOMON SILWANY (NRM, Bukooli County Central, Bugiri): Madam Speaker, I beg to lay the report of the Auditor-General on the Financial Statements of the Economic Policy Research Centre for the Year Ended 30 June 2023. I beg to lay on the Table.

THE SPEAKER: Thank you. I forward the report to the committee. Next?

(II)THE PROPOSAL TO PREFINANCE THE RECONSTRUCTION OF MASAKA–MUTUKULA ROAD (89.5KM) AND REHABILITATION OF NYENDO–VILLA MARIA (11KM), UPGRADING OF 3.5KM ACCESS ROAD TO UGANDA PEOPLE’S DEFENCE FORCES BARRACKS IN MASAKA AND 3.5KM ACCESS ROAD TO MASAKA INDUSTRIAL PARK AT A TOTAL COST OF SHS 691,680,000,000

2.08

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

(Mr Henry Musasizi): Madam Speaker, I beg to lay on the Table the proposal to pre-finance the reconstruction of Masaka–Mutukula road (89.5km) and rehabilitation of Nyendo–Villa Maria (11km), upgrading of 3.5km access road to Uganda People’s Defence Forces barracks in Masaka and 3.5km access road to Masaka Industrial Park at a total cost of Shs 691,680,000,000 -

THE SPEAKER: Hon. Salim, please move. You are squeezing *Hajji* here. Yes, go ahead.

MR MUSASIZI: Can I repeat?

THE SPEAKER: No, it is okay.

MR MUSASIZI: 3.5-kilometre access road to Masaka Industrial Park and an additional scope of 28.5 kilometres for Kikagati-Kafunzo Road at a total cost of Shs 691,680,000,000. I beg to lay, Madam Speaker.

THE SPEAKER: Thank you. Honourable members, pursuant to Article 159(2) of the Constitution and Rule 178 of the Rules of Procedure of Parliament, the proposal is accordingly referred to the Committee on National Economy for consideration.

Clerk, have you uploaded the report on human rights? I hope you all have that report. Next item.

MINISTERIAL STATEMENT
ON ALLEGED AND FORCED
DISAPPEARANCES OF PERSONS

THE SPEAKER: The honourable minister says he is on his way. Can we first handle the Bill? I am more interested in finalising this than anybody else.

2.11

**THE LEADER OF THE OPPOSITION
IN PARLIAMENT (Mr Mathias Mpuuga):**

Madam Speaker, as I came in, I found my brother, Hon. Ssemujju, making a passionate plea to you to allow for this matter to be given priority, for the reasons you have - more than any other person - fully appreciated, and we appreciate you for that understanding.

Madam Speaker, because of the gravity of the subject –

THE SPEAKER: Just a minute, Leader of the Opposition. Government, where is the minister?

2.11

**THE THIRD DEPUTY PRIME MINISTER
AND MINISTER WITHOUT PORTFOLIO
(Ms Rukia Nakadama):**

Madam Speaker, the minister is on his way. However, he was held up in Kololo; that is what he told me, but he is on his way. He will be here anytime from now.

THE SPEAKER: Honourable members, I had a meeting with Gen. Muhoozi in my office and he said he was going for lunch. Let us give him the benefit of the doubt. I know you have been patient; so let us continue to wait for few minutes. It does not cost us much.

BILLS
SECOND READING

THE JUDICATURE (AMENDMENT) BILL,
2023

2.12

MR IBRAHIM SSEMUJJU (FDC, Kira Municipality, Wakiso): Madam Speaker, this motion is under Rule 59. The motion is

that; you suspend Parliament for 15 minutes. *(Interjections)* Do not say “No,” Parliament does not operate by shouting –

THE SPEAKER: Honourable members, there is only one person who makes a decision in this House so, let us allow the Member to move his motion and then –

MR SSEMUJJU: I do not know what is wrong with Kyankwanzi graduates.

THE SPEAKER: Why are you quarrelling like this is Kira Municipality? *(Laughter)*

MR SSEMUJJU: No, I thought that after two years in Parliament, even if there was no orientation, people would know that rules here are very important. They are shouting as if they are in Kyankwanzi bull-roasting.

THE SPEAKER: Present your motion.

MR SSEMUJJU: The motion falls under Rule 59 and it is that you suspend Parliament for 15 minutes, since in your ruling earlier on, you said this matter is “very serious” and you wanted to deal with it.

Madam Speaker, knowing the conduct of many of the ministers, including those who are here, shouting as if that is the form of interaction- This is to allow this minister who is “on his way,” to come to Parliament and attend to a matter that, in your own judgement and ruling, is important and you have altered the Order Paper, as a result.

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

THE SPEAKER: I put the question - you do not teach me what to say; you know you have been out of Parliament for some days, Hon. Malende. Is the motion seconded?

I put the question to the motion of suspension of the House for 15 minutes.

(Question put and negated.)

THE SPEAKER: Honourable members, I have only one amendment that can keep us busy as we wait; the Judicature (Amendment) Bill. One thing you should know is that you have a partner who is willing to sort out these issues.

Honourable members, you will recall that the Judicature (Amendment) Bill, 2023 was read for the first time on 22 November 2023, and duly referred to the Committee on Legal and Parliamentary Affairs. I am reliably informed that the committee is ready to report. I now invite the Minister of Justice and Constitutional Affairs to move a motion for the second reading. Honourable minister?

2.17

THE GOVERNMENT CHIEF WHIP (Mr Hamson Obua): Madam Speaker, I beg to move that the Bill entitled the Judicature (Amendment) Bill, 2023 be read for the second time.

THE SPEAKER: Is the Bill seconded? It is seconded by the whole Front Bench, Hon. Ogwang, Hon. Rwakoojo, the finance minister, the entire right side, Hon. Macho, Hon. Acuti, and by all the Independent Members. *(Laughter)* Would you like to speak to your motion?

MR OBUA: Madam Speaker –

THE SPEAKER: Before he presents, when you are in this House, put on a smile; it is not a do-or-die situation. This is your House. Nobody should intimidate you in this House. Smile and feel at home. I can see Hon. Ssolo trying to be annoyed. *(Laughter)* “Hilderman” is also trying to be annoyed, yet when he looks at me he smiles. *(Laughter)* Yes, can you move?

MR OBUA: In a nutshell, the object of the Bill is to give effect to Articles 130 and 134 of the Constitution of the Republic of Uganda, by prescribing an additional number of Justices of the Supreme Court and Justices of the Court of Appeal.

The Bill further empowers Parliament to increase both the number of Justices of the Supreme Court and Justices of the Court of Appeal to such higher numbers, as Parliament may by resolution prescribe.

The Judiciary staff establishment or structure was approved by the Cabinet to facilitate the increase of the number of Justices of the Supreme Court and Justices of the Court of Appeal.

In a nutshell, Madam Speaker, just like you indicated, this is the amendment we intend to introduce to the Judicature Act by amending it through this Bill. I beg to submit and move.

THE SPEAKER: Thank you.

MR GAFABUSA: Thank you, Madam Speaker. I thought you asked the minister to speak to the motion. In my understanding, he was supposed to justify why we need this amendment but the minister is telling us the object of the Bill; the two are different in my view.

THE SPEAKER: Okay, can you give us the other view, which you think is correct?

MR GAFABUSA: Yes. My view is that we now have the status quo. The minister is supposed to tell us why we need to change that

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THE SPEAKER: That will come in the report, Hon. Richard Gafabusa. I thought you have been here longer.

MR GAFABUSA: I have been here.

MR SSEMUJJU: Madam Speaker, the rules and practice of this House require that a minister representing another ministry first write to you and there is a letter to that effect; this we have done before.

The procedural issue I am raising is whether Hon. Obua, who is the Government Chief Whip, has been duly assigned to deal with this matter

and the letter is with you; to which, Madam Speaker, you can share with Parliament.

THE SPEAKER: Hon. Ssemujju, I have never shared any letter written to me with Parliament. It is a personal letter written to Anita Among, the Rt Hon. Speaker. However, it does not matter if somebody wants to be my secretary - you can come so that you have access to it. However as far as I know, I got a letter from Hon. Mao. The problem is that you are always in my office. I wish you had asked me, I would have showed it to you. I have just been with him. *(Laughter)*

Hon. Rwakoojo, can you now present the report?

2.22

THE CHAIRPERSON, COMMITTEE ON LEGAL AND PARLIAMENTARY AFFAIRS (Ms Robina Rwakoojo): Madam Speaker, I thank you for this opportunity. This is a report of the Committee on Legal and Parliamentary Affairs on the Judicature (Amendment) Bill, 2023. I have with me a copy of the report and copies of minutes, which I beg to lay on the Table.

On Wednesday, 22 November 2023, a Bill entitled, “The Judicature (Amendment) Bill, 2023” was, in accordance with Rule 128 of the Rules of Procedure of Parliament, read for the first time and referred to the Committee on Legal and Parliamentary Affairs for scrutiny.

The minister has already read the object of the Bill:

1. To give effect to Articles 130 and 134 of the Constitution by prescribing additional numbers of judges to the Supreme Court and Justices of the Court of Appeal.
2. The Bill further empowers Parliament to increase both the number of Justices of the Supreme Court and Justices of the Court of Appeal to such higher numbers, as Parliament may by resolution prescribe.

The committee adopted the qualitative method in interacting with stakeholders, whereby the committee only invited persons and entities whose mandate is connected to the exercise of judicial power in Uganda.

We met the following entities:

- a) the Ministry of Justice and Constitutional Affairs;
- b) the Judiciary;
- c) the Law Development Centre;
- d) Uganda Law Reform Commission.

The committee also received written submissions from the Judicial Service Commission and the Uganda Law Society.

Justices of Court of Appeal and Supreme Court

Article 129 of the Constitution of the Republic of Uganda provides that judicial power in Uganda is exercised by the courts of judicature that consist of;

- a) The Supreme Court of Uganda;
- b) the Court of Appeal;
- c) the High Court; and
- d) such subordinate courts, as Parliament may by law establish, including Qadhis Courts for marriage, divorce, inheritance of property, and guardianship as may be prescribed by Parliament.

Article 129(2) designates the Supreme Court, Court of Appeal, and the High Court of Uganda to be superior courts of record.

Article 130 of the Constitution provides for the Supreme Court of Uganda and its composition and requires that the Supreme Court is composed of the Chief Justice and such other numbers of Justices of the Supreme Court not less than six, as Parliament may by law prescribe.

It is reproduced saying, “*The Supreme Court shall consist of either:*

- “(a) the Chief Justice; and
- (b) such number of Justices of the Supreme

Court not being less than six, as Parliament may by law prescribe.”

Article 134 of the Constitution provides for the Court of Appeal of Uganda and its composition and requires that the Court of Appeal is composed of the Deputy Chief Justice and such other numbers of Justices of the Court of Appeal, not less than seven, as Parliament may by law prescribe and it reads as follows:

“The Court of Appeal of Uganda shall consist of the Deputy Chief Justice and such number of Justices of Appeal, not being less than seven, as Parliament may by law prescribe.”

Articles 130 and 134 prescribe the minimum number of justices of the Supreme Court and Court of Appeal being six and seven, respectively, and delegates to Parliament the duty to prescribe the total number of Justices of the Court of Appeal and Supreme Court by law.

As commanded by Articles 130 and 134 of the Constitution, Parliament enacted the Judicature Act, Cap. 13, to generally provide for matters relating to the Judiciary, especially the composition of the Court of Appeal and Supreme Court.

Section 3 of the Judicature Act gives effect to Article 130 of the Constitution and prescribes the composition of the Supreme Court to be 10 Justices and the Chief Justice, making a total of 11. Section 3 is reproduced below saying:

“The Supreme Court of Uganda shall consist of:

- a) *The Chief Justice; and*
- b) *10 Justices of the Supreme Court.”*

On the other hand, Section 9 of the Judicature Act gives effect to Article 134 of the Constitution and prescribes the composition of the Court of Appeal to consist of the Deputy Chief Justice and 14 Justices of Appeal, making a total of 15. It is reproduced as:

“The Court of Appeal of Uganda shall consist of:

- a) *The Deputy Chief Justice; and*
- b) *14 Justices of the Court of Appeal.”*

Analysis of the provisions of the Bill

This part examines the amendments proposed by the Bill and its legality and effect and effectiveness to deal with the mischief it intends to cure. The committee makes recommendations on each of the proposals in the Bill.

Clause 1: Increase in the number of Justices of the Supreme Court.

Clause 1 of the Bill proposes to amend Section 3 of the Judicature Act by substituting it for the following;

“That the Supreme Court shall consist of:

- a) The Chief Justice; and
- b) Twenty other Justices of the Supreme Court or such higher number of Justices of the Supreme Court as Parliament may, by resolution, prescribe.”

Section 3 of the Judicature Act currently provides as follows; *“The Supreme Court shall consist of:*

- a) *The Chief Justice; and*
- b) *10 Justices of the Supreme Court.”*

Therefore, it is the Chief Justice and 20 - that is what is being proposed. What is currently there is Chief Justice and 10.

The amendment to Section 3 of the Judicature Act has the effect of;

- a) Increasing the number of justices of the Supreme Court from 11, including the Chief Justice, to 21 Justices; and
- b) Changing the mode of prescribing the number of Justices of the Supreme Court from prescribing the number by legislation as is currently the case to prescribing the number by resolution of Parliament.

The Ministry of Justice and Constitutional Affairs and the Judiciary justified the amendment on the need to effectively and efficiently deliver justice to the people of Uganda and to deal with case backlog in the Supreme Court.

The committee was informed by the Ministry of Justice and Constitutional Affairs and the Judiciary that the intention of increasing the number of Justices from 10 to 21 is to create three panels in the Supreme Court instead of the current one panel. These panels will be able to sit at the same time to expeditiously handle cases filed in the Supreme Court, thereby reducing on the huge case backlog that exists in the Supreme Court.

The Ministry of Justice and Constitutional Affairs, and the Judiciary explained that currently, there is a huge case backlog in courts of record and further explained that case backlog in the Supreme Court - that is, cases that have been in court for two and more years from the time of their registration - stands at 353 cases and pending cases - those are cases that have been in court for less than two years from the date of their registration - stand at 792 cases, as at 31 October 2023.

There is a table that shows the cases pending before the Supreme Court for the last financial years and that is it.

The Ministry of Justice and Constitutional Affairs, and the Judiciary averred that the backlog at the Supreme Court requires more manpower to deliver justice to the people of Uganda effectively, hence the proposed amendment to the Judicature Act, Cap. 13 in Section 3, to increase the number of Justices of the Supreme Court, as envisaged by Article 130 of the Constitution.

The Minister of Justice, while appearing before the committee, conceded that the proposed number in the Bill was high. He proposed to the committee that the number can be reduced to four Justices, in addition to the current number of 11.

The committee has examined the Bill and presentations made on the matter and is of the considered opinion that the proposal to increase the number of Justices of the Supreme Court from the current 11 to 21 be rejected.

In arriving at this decision, the committee is of the opinion that instead of appointing additional Justices of the Supreme Court, the case backlog experienced at the Supreme Court can be dealt with through the following measures:

- a) Appointment of Justices at the Supreme Court in an acting capacity, under Article 142(2) of the Constitution.

Article 142(1) of the Constitution empowers the President, acting on the advice of the Judicial Service Commission, to appoint judicial officers in courts of record. On the other hand, Article 142(2) also empowers the President, acting on the advice of the Judicial Service Commission, to appoint a person qualified for appointment as a Justice of the Supreme Court or a Justice of Appeal or a Judge of the High Court to act as such a Justice or Judge, even though that person has attained the age prescribed for retirement, in respect of that office.

Article 142(2) is intended to enable the President fill positions in the Supreme Court, Court of Appeal and High Court in situations where:

- (a) The office of a Justice of the Supreme Court or a Justice of Appeal or a Judge of the High Court is vacant;
- (b) A Justice of the Supreme Court or a Justice of Appeal or a Judge of the High Court is, for any reason, unable to perform the functions of his or her office; or
- (c) The Chief Justice advises the Judicial Service Commission that the state of business in the Supreme Court, Court of Appeal or the High Court so requires.

The committee is of the opinion that Article 142(2)(c) can be invoked by the Chief Justice to appoint Justices on the Supreme Court on a temporary basis, in order to deal with case backlog in the Supreme Court.

The committee observes that it is cheaper and more effective to appoint acting Justices at the Supreme Court to deal with the issue of case backlog since the acting Justices are not entitled to retirement benefits.

Once the case backlog is cleared, then the appointment of such persons is revoked, under Article 142(3) of the Constitution. This will, therefore, remove the need to appoint a high number of Justices at the Supreme Court and alleviate the increased costs associated with increasing the number of Justices, as proposed in the Bill. (*Applause*)

The committee is fortified in this opinion by the recommendation from the Judicial Service Commission which also recommended that instead of increasing the number of Justices of the Supreme Court, as proposed in the Bill, the Government should consider appointing Justices on a temporary basis, as provided for in Article 142(2)(c) of the Constitution.

The Judicial Service Commission informed the committee that the President had in the past appointed judicial officers on a temporary basis to deal with a specific need in the Judiciary. This avenue has not been explored by Government, before proposing to increase the number of Justices of the Supreme Court.

The committee has also examined the issue of case backlog and is of the considered opinion that the solution for case backlog at the Supreme Court is not increasing the number of Justices, but creating efficiency in case management and reviewing the jurisdiction of the Supreme Court, so that the Supreme Court only handles matters of law, thereby reducing the matters that can be filed by the Supreme Court.

Review of the Jurisdiction of the Supreme Court

The committee is aware that the jurisdiction of the Supreme Court is prescribed in Article 132 of the Constitution and sections 4 and 5 of the Judicature Act. Under those provisions of the law, the jurisdiction of the Supreme Court is as follows:

- (a) The Supreme Court is the final court of appeal and handles appeals from decisions of the Court of Appeal while exercising its appellate jurisdiction from decisions of the High Court, or its original jurisdiction as a Constitutional Court;
- (b) The Supreme Court has original jurisdiction in presidential petitions, as prescribed in Article 104(2);
- (c) The Supreme Court also has criminal jurisdiction in the case of an offence punishable by a sentence of death, on a matter of law or mixed law and fact, where:
 - i) The Court of Appeal has confirmed a conviction and sentence of death passed by the High Court;
 - ii) The High Court has acquitted an accused person but the Court of Appeal has reversed that judgment and ordered the conviction of the accused;
 - iii) Where the High Court has convicted an accused person, but the Court of Appeal has reversed the conviction and ordered the acquittal of the accused;
 - iv) Where the Court of Appeal has confirmed the acquittal of an accused by the High Court.

The committee is concerned that currently, all manner of matters can be appealed to the Supreme Court, including matters of fact, which should ordinarily be handled by lower courts. This creates case backlog in the Supreme Court since the number of cases that

are filed exceeds the capacity of the Supreme Court to dispense them.

The committee opines that the Supreme Court should only handle matters of law so that it can guide and set standards for lower courts on the application of such matters of law. The opinion of the committee is informed by the practice in most Commonwealth jurisdictions, where the superior court in most countries only handles serious matters of law and in some cases, only matters that the Supreme Court finds to be of great public importance.

The table below shows the different countries and the jurisdiction of their superior court.

In Kenya, under Article 163 of the Constitution of Kenya, the Supreme Court has exclusive original jurisdiction to hear and determine disputes relating to the elections to the office of the President. Appeals can only be as a matter of right, where the case involves interpretation or application of the Constitution or a matter certified by the Supreme Court or the Court of Appeal as one that involves a matter of general public importance.

In South Africa, the Constitutional Court is the highest court in South Africa and deals with matters of general public importance, in addition to constitutional matters.

According to Section 230 to 236 of the 1999 Constitution of Nigeria, the Supreme Court of Nigeria has original jurisdiction in any dispute between the federation and a state or between states if and in so far as that dispute involves any question - whether of law or fact - on which the existence or extent of a legal right depends. The Supreme Court has no jurisdiction in criminal matters.

Under Article 129 of the Constitution of Ghana, 1992, the Supreme Court has jurisdiction in all matters relating to the enforcement or interpretation of the Constitution and all matters arising as to whether an enactment was made, in excess of the powers conferred on Parliament or any other authority or person by law or under this Constitution. It also has appellate jurisdiction as follows:

- (a) An appeal lies to the Supreme Court as of right, in a civil or criminal cause or matter, in respect of which an appeal has been brought to the Court of Appeal from a judgment of the High Court or a regional tribunal in the exercise of its original jurisdiction; or
- (b) With the leave of the Court of Appeal in any other cause or matter, where the case was commenced in a court lower than the High Court or a regional tribunal and where the Court of Appeal is satisfied that the case involves a substantial question of law or is in the public interest.

There is also India and the United States; I will leave those for Members to read.

From the above table, it is evident that the jurisdiction of the Supreme Court is limited to the most serious cases; those involving constitutional interpretation, matters of law and matters of great public importance.

It is the opinion of the committee that instead of expanding the number of Justices in the Supreme Court, the jurisdiction of the Supreme Court be reviewed in order to limit the cases that are filed at the Supreme Court.

Establish a court case sieving system at the Supreme Court

The committee is aware that due to the varied jurisdiction of the Supreme Court, certain matters that end up at this court should not ordinarily be filed with the Supreme Court. These matters include matters of law that have been settled by the Supreme Court, thereby creating case backlog. This is because there is currently no system to sieve out matters that can be handled by the Supreme Court, in order to ensure that matters that are filed in the Supreme Court are matters deserving its attention.

The committee is of the opinion that there is a need to introduce a case sieving system at the Supreme Court to ensure that only matters of law and serious matters are referred to

it, thereby weeding out matters that are not deserving to be heard by the Supreme Court.

The committee is aware that a case sieving system is employed in a number of countries, including the United States of America and Denmark, and has been very instrumental in reducing frivolous and unnecessary cases that are filed in courts. The court sieving system ensures that only cases dealing with new and novel matters are entertained by the Supreme Court so that the Supreme Court dedicates its time to serious matters of law.

(c) Reviewing the pecuniary jurisdiction of magistrates' courts.

The committee notes that currently, courts of record in Uganda are experiencing high instances of case backlog. The high cases of case backlog in the courts of record is attributed mainly to the low pecuniary jurisdiction of magistrates' courts, which results in the filling of cases before courts of record, thereby creating backlog in the courts of record.

The committee is aware that Section 207 of the Magistrate Courts Act, grants magistrates courts pecuniary jurisdiction over matters of a value not exceeding Shs 50 million in the case of a Chief Magistrate and Shs 20 million for a Grade 1 Magistrate.

The stakeholders with whom the committee interacted recommended that there is urgent need to review and expand the pecuniary jurisdiction of the magistrates' courts to ensure that cases which are currently filed at the High Court can be disposed of at the magisterial level, thereby reducing the case backlog in the courts of record.

The committee is concerned that even if the number of justices of the Supreme Court is increased, those measures will not be successful in dealing with the issue of case backlog in the Supreme Court, since the cases arising from the lower court will not be abated.

It is the opinion of the committee that expanding the jurisdiction of magistrates' courts will

therefore ease the workload of the courts of record and will release the courts to deal with the most deserving of cases instead of wasting time on matters which can easily be handled by the lower courts.

(d) Appointment of court administrators

The committee is aware that judicial officers in Uganda exercise both administrative and judicial functions, which affect their productivity and efficient exercise of their judicial functions.

For instance, the Chief Justice is the head of the Judiciary, and sits on the Judiciary Committee, while other justices of the Supreme Court serve as inspectors of court, represent the Judiciary on administrative bodies, are appointed by the President to serve on other institutions of Government and courts in other jurisdictions and international bodies, and also perform many functions in addition to their judicial work, including human resource management, fiscal administration, case flow management, technology management, information management, jury management, space management, intergovernmental liaison, community relations, research and advisory services and secretariat services.

The appointment, secondment and assignment of judicial officers to other international bodies and jurisdictions, as well as the grant of administrative functions to justices of the Supreme Court and Court of Appeal, takes away from those courts valuable members and denies the court the efficient and timely exercise of its functions, thereby affecting its productivity and creating case backlog.

The committee is of the considered opinion that judicial officers, especially in the courts of record, should not be allocated administrative functions or allowed to take up paid positions in other jurisdictions in order to ensure that they dedicate their time to dealing with judicial work.

(e) Introduction of a performance management system

Section 18 of the Administration of Judiciary Act, 2020 provides for the establishment of a performance management system.

The performance management system is intended to track and manage the performance of all judicial officers in a manner that is consistent and measurable to determine if they are productive and are contributing to the strategic objectives of the Judiciary.

The performance management system would provide empirical information to inform the Government on the optimal number of judicial officers at all levels and would give credence to the proposals made in the Bill.

The committee notes that the performance management system has not been established in the Judiciary, making it impossible for the committee to decide on the optimal number of judicial officers across the entire Judiciary, especially those in the Supreme Court. The lack of a performance management system makes it impossible to measure the output of the Judiciary, making all measures to deal with case backlog impossible to measure their effectiveness.

The committee has also considered the practical and legal implications of the proposal to increase the number of justices of the Supreme Court and finds that the proposal is not properly conceptualised. For instance,

- (a) The committee is concerned that increasing the number of justices of the Supreme Court will increase Government expenditure. The committee is aware that whereas the Government issued a certificate of financial implications, the certificate does not take into account the additional costs required to make additional justices effective in executing their mandates.

The committee is aware that a Justice of the Supreme Court is entitled to certain facilities,

including bodyguards, research officers, house helps and other persons who facilitate the justice to deliver on his or her mandate. These persons are paid from the Consolidated Fund since they are either staff of the Judiciary Service or public officers employed through the relevant laws. The costs associated with employing and paying the persons providing services to facilitate the additional justices have not been considered yet they are astronomical and will burden the taxpayer.

In addition, the committee is also concerned that whereas there is an increment in the justices of the Supreme Court, the other agencies that facilitate the judicial officers such as State-Attorneys from the Office of the DPP and the Attorney-General's Office who must attend court to prosecute matters before the Supreme Court are not planned for recruitment. This will make justices of the Supreme Court redundant and ineffective to deal with case backlog since they will lack professionals to prosecute matters before the court.

- (b) The proposal to increase the justices of the Supreme Court from 11 to 21 is not an international best practice and is not optimal for a country like Uganda with a small population and constrained GDP. The committee is aware that globally, there is correlation between the number of justices of the highest courts, the population density of the country and the country's GDP. The table below explains the matter in detail. I request Members to look at it.

For example, the population of Uganda is 48 million, the GDP is US\$ 169 billion, the number of Supreme Court judges is 11 and the ratio is 1:4,300,000.

The committee observes that on average, most Commonwealth countries have an average of 10 justices of the Supreme Court. The table also indicates that on average, the ratio of population to the justices is 1:5,000,000 people. Currently, the ratio of Supreme Court justices to the population stands at 1:4,300,000 people, well within the global average.

The committee therefore, finds that the number of justices should be left at 11 since that number is an international best practice.

- (c) The committee is also concerned that the justification given by the Ministry of Justice and the Judiciary for expanding the number of justices, being the need to have three panels at the Supreme Court, will pose practical and constitutional challenges and may hinder the development of jurisprudence in Uganda.

The committee notes that the Constitution in Article 132(1) directs the Supreme Court to be the final Court of Appeal and is indeed the superior court in Uganda in all matters. The committee is aware that Article 132(4) of the Constitution directs that decisions of the Supreme Court have a binding effect on all courts in Uganda, save that the Supreme Court can depart from its earlier decisions on a matter.

The committee is concerned that the proposal to have more than one panel at the Supreme Court will result in decisions that may conflict on the same matter since the composition of each panel will be different. This will affect the court users since those conflicting decisions cannot be corrected by any other court owing to the fact that the Supreme Court is the highest court in Uganda, thereby affecting the development of jurisprudence.

The committee is also concerned that it is impractical to have more than one panel at the Supreme Court since Article 131(3) of the Constitution directs that the Chief Justice is to preside over the sitting of the Supreme Court, except in his or her absence, that the sitting is presided over by the most senior judge. The committee is of the considered opinion that the proposal to have three panels at the Supreme Court needs to be reviewed due to its practical and constitutional ramifications.

- (d) The committee is also aware that in 2015, the then Chief Justice, Hon. Justice Bart M. Katureebe, instituted a committee to,

among others, identify the extent of the case backlog in the Judiciary, identify and document the causes of the backlog, review current efforts to reduce the case backlog and make recommendations to address the existing backlog and stop the growth of a new backlog.

The committee was composed of Hon. Justice Richard Buteera, Hon. Justice F. Egonda Ntende, Hon. Justice Dr E. Kitimbo Kisaakye, Hon. Justice Geoffrey Kiryabwire, Hon. Justice Mike Chibita, Hon. Justice Stephen Musota, Hon. Justice Dr Henry Peter Adonyo, His Worship Paul Gadenya, Mr Kagole Expedito Kivumbi, Mr Francis Gimara, Mr Sam Rogers Wairagala and Mr Andrew Khaukha.

The committee made the following recommendations as far as case backlog is concerned -

- (i) Maximise time spent in court: Stakeholders recommended that judges should spend their time more in the courtrooms/chambers handling cases. As such, any events which take judges out of the court should happen in a specific season to avoid disrupting the ordinary work of court.
- ii) Improve performance of judicial officers and officers of court: It was recommended that attendance by judicial officers and officers of court must be strictly monitored and work ethic improved.

The judiciary should put in place a system of rewards and sanctions. For example, judicial officers who have not cleared their backlog should not be promoted. A reward might be in the form of a plaque recognising the achievement made to the institution or different individuals involved.

- iii) Staffing and placement: More judges be appointed and they should be allocated with more reference to their area of expertise. Judges should not be transferred at short notice to avoid leaving part-heard cases.

- iv) Jurisdiction: Expand the jurisdiction of the magistrates' courts so that they can handle more cases.

The committee was not updated on how far the above-cited recommendations have been implemented by the Judiciary in order to assess their effectiveness and form a basis for increasing the number of Justices of the Supreme Court.

During the consultations, the committee also undertook a comparative study from other jurisdictions on the issue of case backlog with the intention of getting best practices to inform the committee recommendations.

Many other jurisdictions have implemented measures that have reduced case backlog and increased efficiency. For example, in Kenya, a court census was carried out in 2013 and it resulted in the development of a case backlog reduction programme, including:

- i) Setting targets for magistrates
- ii) The implementation of a Judiciary Performance Management System, so that the efficiency and workload –

THE SPEAKER: There is a motion.

2.52

THE LEADER OF THE OPPOSITION

(Mr Mathias Mpuuga): Thank you, Madam Speaker. I would like to duly appreciate the committee chairperson for a very clear, elaborate report. As a legal mind, I cannot forget my first year introducing law jurisprudence.

Given the fact that this is a very simple amendment, I would like to move a motion under Rule 59(k) that the committee chairperson goes to the next level; the Committee Stage, deal with it and then deal with other urgent matters. The Bill is very clear and not controversial. I beg to move. *(Laughter)*

THE SPEAKER: Is that seconded? It is seconded by Hon. Ssenyonyi, the one-man leader of JEEMA, Hon. Basalirwa, Hon.

Balimwezo, the honourable member for Nakawa, Hon. Malende, the Leader of the Opposition and by the whole opposition. *(Laughter)*

Honourable members, you have heard the motion that has been moved. Whereas Rule 204(4)b) indeed provides that once a report is submitted, it is given three days, this matter is about justice. Justice delayed is justice denied. Therefore, I want to invoke Rule 7 and the precedents that have already been set for us to go ahead with this.

Since the motion has passed, I now put the question that the Judicature (Amendment) Bill, 2023 be read for the second time.

(Question put and agreed to.)

BILLS
COMMITTEE STAGE

THE JUDICATURE (AMENDMENT)
BILL, 2023

Clause 1

THE CHAIRPERSON: [*Hon. Ssemujju rose*] - Honourable members, procedure at Committee Stage? Let me hear from the shadow Attorney-General first. We are on serious matters now.

2.53

MR WILFRED NIWAGABA (NRM, Ndoorwa County East, Kabale): Madam Chairperson, I have not seen anything requiring a procedural point. *(Laughter)*

THE CHAIRPERSON: Thank you.

Clause 1

MS RWAKOOJO: Clause 1, amendment of the Judicature Act, Cap 13. Delete clause 1.

Justification:

- i) Increasing the number of Justices of the Supreme Court from 11 to 21 will

not solve case backlog in the Supreme Court since case backlog is caused not by lack of Justices there, but by other matters including inefficiency, poor case management and the jurisdiction of the Supreme Court, which allows every matter to be referred to the Supreme Court.

- ii) Increasing the justices of the Supreme Court will result in a bloated bench, deter easy and efficient decision making and will increase the burden on the taxpayer.
- iii) Reviewing the jurisdiction of the Supreme Court, High Court and Magistrates Courts will result in a reduction in case backlog in the entire judiciary and reap more benefits than increasing the number of justices of the Supreme Court.

MR MAO: Madam Chairperson, on Monday we had a very -

THE CHAIRPERSON: Honourable minister, is that okay with you or not?

MR MAO: The Government disagrees with the recommendation of the committee.

THE CHAIRPERSON: What does Government want?

MR MAO: Madam Chairperson, I thought we had reached a middle ground of 15 Justices of the Supreme Court. We reduced the number from what we had requested and made some undertakings, namely, that we are committed to access to justice 360 degrees.

The committee should have come to this House and also reported our undertakings and the efforts that we reported to it, namely, that we have enhanced the numbers at the Directorate of Public Prosecution (DPP) and in the Attorney-General's chambers by hiring more state attorneys.

We have also introduced alternative dispute resolution, including plea bargaining to clear backlog on criminal cases. We are introducing mediation, arbitration and conciliation.

We have also agreed to draw clear boundaries for the work of the Supreme Court so that the Supreme Court is not bogged down adjudicating factual disputes, but restricts itself to matters of law, which is what we know the Supreme Court is supposed to do. We even went into a closed session with the committee.

Madam Chairperson, I feel stabbed in the back by the committee because I thought we had reached an undertaking and we are now appealing to the whole House to overrule the committee.

THE CHAIRPERSON: Honourable minister, the committee has not stabbed you at all. They are proposing that the Chief Justice be given powers under Article 142 where we can get Justices in acting capacities. That is cheaper because it is easier for you to look after the Justices in an acting capacity than the ones on permanent who are not working but are on holiday.

MS RWAKOOJO: I just wanted to show the minister that we were open to the House. On page 6 we said that, "The Minister of Justice and Constitutional Affairs, while appearing before the committee, considered that the proposed number in the Bill was high. He proposed to the committee that the number be reduced to four in addition to the current number of 11."

He goes on to say, "The committee has examined the Bill and presentations made on the matter and is of the considered opinion that the proposal to increase the number of Justices of the Supreme Court from the current 11 to 21 be rejected." Honourable minister, we mentioned what you had said but did not agree with you. *(Laughter)*

THE CHAIRPERSON: Thank you.

MR NIWAGABA: I would like to inform the minister that we did pass the Judicature (Amendment) Act in 2008 and increased the number of Justices of the Supreme Court to 11 but since then, they have never appointed the 11. They are only nine. Therefore, appoint up to 11.

THE CHAIRPERSON: Hon. Katuntu?

MR KATUNTU: Thank you, Madam Chairperson. I think the minister is also stabbing us in the back – those of us who sat with him and had a very candid talk, including issues we cannot bring to this Table. This morning, we had a meeting with the Chief Justice and the Deputy Chief Justice. It was a very useful and candid meeting and we were honest with each other.

It is not about you against Parliament or against the committee. This is about the country; it is about the Judiciary. *(Applause)* All the issues that we raised, honourable minister, you agreed with them. Do you remember? We do not have to bring another conversation here.

THE CHAIRPERSON: Honourable minister, can you -

MR MAO: Madam Chairperson, we agreed on the access to justice; 360 degrees, which goes beyond the Bill. I am dealing with a practical matter. As you know –*(Interjections)*- Order -

THE CHAIRPERSON: Honourable members, we are not going to waste a lot of time on this. For me, it is a very simple thing: it is just a matter of putting the question. Let us put the question and we see.

Honourable members, I put the question that Clause 1 be deleted as proposed by the committee.

(Question put and agreed to.)

Clause 1, deleted.

Clause 2

MS RWAKOOJO: For clause 2, there is substituted the following-

“2. Substitution of section 9 of the principal Act

The principal Act is amended by substituting for section 9 the following -

“9. The Court of Appeal of Uganda

The Court of Appeal of Uganda shall consist of-

(a) the Deputy Chief Justice; and

(b) twenty-nine Justices of the Court of Appeal.”

Justification

This is in light of the need to create a panel of five justices in each of the regions of Uganda, which currently do not have a permanent Court of Appeal/Constitutional Courts, to increase the number of justices of the Court of Appeal/Constitutional Court from 15, including the Deputy Chief Justice, to 30 justices, including the Deputy Chief Justice.

Currently, the law provides for 14 plus the Deputy Chief Justice, making them 15. Then, we considered the other regions that traditionally do not have a Court of Appeal – northern, western and eastern. We agreed to have five judges in each and that comes to 15. When you add the current 15, under the Constitution, they come to 30. That is how we got to that.

THE CHAIRPERSON: 29 plus 1 to make 30. Okay. Honourable minister?

MR MAO: Madam Chairperson, justice is done in the name of the people and for the people. We are dealing with practical problems, not matters of theory. We are proposing to have up to nine circuits and that is why we put the number at 56. I thought the committee had agreed.

Therefore, the Government disagrees with the position of the committee –*(Interjections)*- Madam Chairperson, we have had some rapid consultations on the Front Bench –*(Laughter)*- and I know that Parliament is still here. Should there be a need, we shall be back. *(Applause)*

However, I would still beg the House to add five more to the proposed 30. I think the spirit

of give-and-take is healthy because I am the one dealing with the people who are waiting for their appeal cases to be heard.

The practical matter I am dealing with is the health of many of the Court of Appeal judges and the backlog which ties them down to carry out more research and to write judgments, which means the panels cannot be constituted at the same time.

I ask that Members add five to the 30 proposed by the committee. I beg to move.

THE CHAIRPERSON: Honourable members, let us have a win-win situation. At the end of the day, it is all of us who end up in court during election petitions. They will not be hearing our appeals. He is requesting for an additional five.

MR KATUNTU: Madam Chairperson, our chairperson may have second thoughts about that request.

MS RWAKOOJO: Madam Chairperson, I concede.

THE CHAIRPERSON: Thank you. However, will you appoint them? *(Laughter)* For the 11, you have not appointed all of them. First, assure us that they are going to be appointed.

MR NIWAGABA: The current law provides for 15 in the Court of Appeal, but only 12 have been appointed since 2008. So, will you appoint the 35, when you have failed to appoint the 15?

MR MAO: Madam Chairperson, first, I would like to thank, most sincerely, the chairperson of the committee for this important concession. I also thank you, Madam Chairperson, for filling the vacancy which was in the Judicial Service Commission. Now that the Judicial Service Commission is fully functional, we promise that these appointments shall be made. There are enough Ugandans who are qualified, including some among you who may be considering career moves. *(Laughter)*

THE CHAIRPERSON: Thank you. Honourable members, I put the question that clause 2 be amended as proposed by the Minister of Constitutional Affairs and conceded to by the chairperson of the committee.

(Question put and agreed to.)

Clause 2, as amended, agreed to.

The Title, agreed to.

MOTION FOR THE HOUSE TO RESUME

3.08

THE MINISTER OF JUSTICE AND CONSTITUTIONAL AFFAIRS (Mr Norbert Mao): Madam Chairperson, I move that the House resumes and the Committee of the whole House reports thereto.

THE CHAIRPERSON: I put the question that the House resumes and the Committee of the whole House reports thereto.

(Question put and agreed to.)

(The House resumed, the Speaker presiding.)

REPORT FROM THE COMMITTEE OF THE WHOLE HOUSE

3.09

THE MINISTER OF JUSTICE AND CONSTITUTIONAL AFFAIRS (Mr Norbert Mao): Madam Speaker, the Committee of the Whole House has considered the Bill entitled, "The Judicature (Amendment) Bill, 2023" and passed it with amendments.

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

3.09

THE MINISTER OF JUSTICE AND CONSTITUTIONAL AFFAIRS (Mr Norbert Mao): Madam Speaker, I move that the report from the Committee of the whole House be adopted. I beg to move.

THE CHAIRPERSON: I put the question that the House adopts the report of the Committee of the Whole House.

(Question put and agreed to.)

Report adopted.

BILLS
THIRD READING

THE JUDICATURE (AMENDMENT) BILL,
2023

3.10

THE MINISTER OF JUSTICE AND CONSTITUTIONAL AFFAIRS (Mr Norbert Mao): Madam Speaker, I move that the Bill entitled, “The Judicature (Amendment) Bill, 2023” be read the third time and do pass. I beg to move.

THE SPEAKER: Thank you, honourable minister. The quorum we have virtually is 62 and physically 181 Members. So, we have the quorum. I put the question that “The Judicature (Amendment) Bill 2023” be read the third time and do pass.

(Question put and agreed to.)

A BILL FOR AN ACT ENTITLED, “THE
JUDICATURE (AMENDMENT) ACT, 2023”

THE SPEAKER: The Bill is passed and settled. *(Applause)* Thank you. Next item?

RESPONSE TO ISSUES RAISED BY THE
LEADER OF THE OPPOSITION:

STATEMENT TO PARLIAMENT ABOUT
ALLEGED HUMAN RIGHTS ABUSE AND
SHRINKING OF CIVIC SPACE

THE SPEAKER: Honourable members, as I guided yesterday, today we will receive a response by the Executive to the concerns raised by the Leader of the Opposition in Parliament regarding the enforcement of disappearances of persons and other human

rights related matters. This is in fulfilment of the directive of the Presiding Officer then on 19 October 2023.

The minister was supposed to bring a statement on the 19th which fell on a weekend. They were then supposed to come back on the 21st and they wrote to my office asking for an extension for one week.

Today, the minister has informed us that he is ready, and because the minister has given us the document which has been duly uploaded; can we now listen attentively to the minister.

3.12

THE MINISTER OF STATE FOR INTERNAL AFFAIRS (Gen. David Muhoozi): Madam Speaker, this is a response to the issues raised by the Leader of the Opposition in Parliament, regarding his statement about alleged human rights abuses and shrinking of civic space.

This follows a directive by the Speaker, to make a response.

Introduction

This statement constitutes the response to the issues raised in the statement by the Leader of the Opposition in Parliament titled ‘Human Rights Abuse and Shrinking of Civic Space’. It is attached as Annex A herewith. This statement contains the following:

That Uganda is among the worst human rights abusers in the world.

It also included fresh resubmission of matters regarding the November 2020 riots and attendant deaths and other issues namely:

1. That the report about those events was never published.
2. That a reported Police Patrol vehicle cited as 999/17, and its alleged involvement in indiscriminate shooting of people during the riots in November 2020.

3. Military police vehicle Reg. No. H4DF 2382 and its alleged deliberate cause of death to Senteza Frank.
4. Police vehicle Reg. No. UP4841 and its alleged advertent cause of death to Ritah Nabukeera.
5. Submission of 21 names of people reportedly killed during the riots in November 2020.
6. Submission of the names of 18 persons reportedly missing and re-submission of the same list of reported missing persons with next of kin/contacts through the Speaker of Parliament vide letter of 19 October 2023.
7. The statement also raised alleged victimisation of Muslims and claimed that there are more Muslims in detention /custodial centres than any other denomination.
8. It also contained an allegation about widespread detention without trial and claims that over 500 NUP supporters arrested in 2020/2021 were detained without trial and released after payment of a ransom from both military and civil custody and that 50 reportedly remain incarcerated at Kitulya Government prison.
9. Alleged human rights violations in fishing communities including claims of rape, defilement, property destruction, murders, unjustified arrests and illegal closure of landing sites.

Madam Speaker, allow me to respond to each of these as follows:

“The statement that Uganda is among the worst human rights abusers in the world” is sweeping, unsubstantiated, and false. It is, and remains Government’s enduring policy and conviction, to respect and protect human rights.

In the unlikely event that infraction by individual agents of Government (whether in

the course of their employment or outside the scope of their employment), or even where private citizens are involved in alleged abuses, the matter can only be addressed in specific terms and not in a casual and generalised way.

Relatedly, I would want to comment from the onset and to debunk the misrepresentation in the title of the statement by the honourable Leader of the Opposition, about the generalised claim of gross abuse of human rights and so-called shrinking civic space.

Madam Speaker, democracies evolve worldwide. Uganda is one of them. We have made tremendous remarkable strides from the individual merit of the movement system of yester-years which was all inclusive, to the multi-party dispensation that obtains today.

The decision to introduce the current political dispensation was conscious and deliberate to allow those who felt uncomfortable under the movement broad-based system, to seek the ideological shelter of their comfort for political expression.

While the movement system was non-exclusive and served well in the interim period to foster national unity post-liberation, the multi-party system allows for people to politically organise distinctively and exclusively around their party ideology.

This expanded civic space created by that bold measure of Government, has enabled the obtaining of diversity in the character of our national politics, including the composition of Parliament, which is comprised variously, by members of the NRM, different political parties, independents, special interest groups, to mention but a few.

Quite often, you may hear voices castigating this diversity, this variety, with all its peculiar characteristics. However, such are the compromises of democracy, especially nascent democracies, to afford equal space to everyone to participate in the politics of the country, some costs notwithstanding.

Possibilities and opportunities have, therefore, been opened for everyone thanks to the Government's big tent approach. In summary, the space that allows for the emergence of such diverse but special and expression can be anything but shrinking.

Issues to do with the November 2020 riots and attendant loss of lives, injuries, destruction and related matters - Madam Speaker, this is yet one other additional response on this matter and all others incidental thereto.

Contrary to what the Leader of the Opposition claims, an investigation was done immediately after the riots and a report to that effect was presented to the last Parliament by the then Minister of Internal Affairs. That, in addition to other subsequent numerous responses made about the subject matter, including in this Parliament, I needed to make that clarification from the onset to clear the air.

That said, and by way of a recap, violent riots broke out and rocked various parts of the country in November 2020 before they were quelled by police and other security agencies. These riots covered Kampala and Wakiso, which were the epicenter of the riots, as well as Mukono, Masaka, Kyotera, Lwengo, Mpigi, Luwero, Wobulenzi, Mityana, Lugazi, Njeru, Jinja, Buwenge, Iganga, Namayingo, Namutumba, Luuka, Kamuli, Budaka, Busia, Mbale, Arua and Gulu, respectively.

During these riots, extensive loss of property, (private and public) and damage to and loss of lives were registered. The destruction incidental to the riots, or directly arising from the various riotous acts, was immense. This included; deliberate acts of arson, or torching of buildings and vehicles, use of stones and other objects to hit innocent members of the public, motorists, security personnel and property, physical assault, manhandling and abuse of members of the public as well as law enforcement officers, staging of illegal roadblocks and demanding money with menaces from members of the public.

There was also burning of tires to damage and block public roads and throwing petrol bombs into buildings and at security/law enforcement officers, among others. During this chaos, even ordinary sanctified places like court premises were not spared. Wobulenzi Court premises were set ablaze. Fifty six people lost their lives, including those by gunshot wounds and others whose deaths were through other causes incidental to the riots.

The latter category includes those that lost their lives as a result of motor vehicle accidents, involving for example, vehicle registration number UAN 827N, whose driver lost control after being hit by a stone and knocked two people dead namely; Nalwada Kevin and Nsimbe Shafik. Forty six people out of the 56 victims were male adults and three were male juveniles. Forty eight of the victims were from Kampala metropolitan areas. This includes Kampala, Wakiso and Mukono. Two were from Jinja, two from Luwero, one from Rakai, one from Kinoni in Lwengo, one from Butambala and one from Mpigi, respectively.

Madam Speaker, security operations are governed by the law to ensure and guide the participating forces on the employment of lethal force. This is ensured through a number of ways, including training, briefing before operations, and debriefing post-operations, as well as dissemination of rules of engagement, which have been distilled and reduced into pocketbooks for the tactical operators. The standard operating procedures on the use of force booklet is attached as Annex B to this statement. These are the aid memoirs to assist operators to make informed and rational judgment depending on the circumstances of each case and the prevailing situation, but mindful of the principles of necessity and proportionality in the use of force. These measures, Madam Speaker, were in place.

The investigations done post the riots established the cause of death and injury without conclusive findings about the circumstances of each of the deaths and injuries; save for Auxiliary No.01700LDF Mustapha Ssali, who was charged and convicted for the killing of

Mutaasa Ibrahim on 18th November 2020 at Wandegeya police station and RA/172962 Lands Cpl Mugisha Augustine charged and convicted for the killing of civilian Grace Walungama and fellow LDU Ssenoga Hussein at Lungujja on 18 November 2020.

These two were each sentenced to 35 years and life imprisonment respectively and they are serving their sentences at Kitalya Prison.

The other specific attribution of cause of death is in respect of two deceased persons namely; Nalwada Kevin and Nsimbe Shafik who were knocked down by the vehicle registration number UAN 827N Toyota-Alex when the driver lost control after being stoned by rioters.

There is an attached annexure, Madam Speaker and members, which shows the number of who were arrested and arraigned in the courts of law totalling to 1,088; 949 of whom were charged and 333 convicted for various offences related to the riots. Fourteen of these, the total number of the people arrested were charged for terrorism and aggravated robbery and remanded. One hundred twenty eight were discharged, 474 were released on bail, 60 were bonded and 79 were cleared by the police. Annex J contains the details of these statistics.

Madam Speaker, Government keeps open the window for any fresh and incomparable evidence pointing to individual culpa regarding alleged wanton and unjustifiable use of excessive force in order to ensure that the ends of justice and accountability are served. The list of the deceased persons is also herewith attached as an Annexure C.

Vehicles mentioned in the statement by the Leader of the Opposition:

Investigations are not conclusive regarding the alleged involvement of the crew of a vehicle mentioned as UP 999 and marked number 17 on its door, in the November 2020 riots. The BBC documentary dubbed "*Three Killings*" has been established to be the source of this allegation.

The registration number of the said motor vehicle is not shown and is under verification. Where the clip was taken, when and by whom are not easily ascertainable to enable the requisite verification of the contents of the said clip.

The investigations done post the riots:

The allegation that Military Vehicle Registration No. H4DF 2382 was advertently responsible for the death of Senteza Frank is also not true.

Investigations conducted, reference Natete-TAR 90/2020, reveal that the said Senteza Frank, fell off a speeding vehicle number UBH 856T minibus Toyota Hiace used by the NUP supporters during the incident at Busega Roundabout, where the deceased, who was reportedly part of the inner detail of the NUP leader Robert Kyagulanyi Sentamu, had with others aboard the mentioned minibus vehicle jumped out and encircled their principal's vehicle, which had slowed down for him to wave to the roadside crowds.

When the principal's vehicle sped off, all the others, except the deceased, managed to re-board the moving Toyota Hiace minibus in time. The deceased was not as fortunate and fatally fell off after missing a step in his unsuccessful attempt to re-board the said minibus vehicle.

The military police vehicle mentioned was following this motorcade from behind when this incident happened but it is not responsible for this fatality. There was media footage at that time regarding this incident, which vindicates this narrative. The deceased was rushed to Rubaga Hospital where he was pronounced dead on arrival. He was hurriedly buried with no post-mortem conducted. The crew of the military police vehicle is available and so are other ordinary people who witnessed the incident and have all given their credible testimony about the matter. A coroner's probe into the death, had it been allowed to be done, could have rested this matter.

Needless to mention, the conduct of the occupants of the above-mentioned minibus of jumping on and off a moving vehicle, which resulted in this fatality, was without total disregard of caution and in breach of the traffic and road safety laws of the country.

The allegation that a police vehicle, Registration Number UP 4841 was involved in the deliberate killing of Ritah Nabukeera, and the matter remained un-investigated, is also not true. The driver, Constable No. 39975 Atikuru Nasasira, was arrested and the matter was subjected to investigations. Following the conclusion of investigations, the file was forwarded to the Resident State Attorney, Nakawa for sanctioning of the charge against the suspect in the courts of law.

The Regional State Attorney, however, did not sanction the charges reportedly because the evidence on record was not sufficient to support the charge of causing death through reckless driving, contrary to section 108(1) of the Traffic and Road Safety Act (as amended). All this is available for cross checking.

2. Injuries

A number of people were injured in the riots and their names are listed in *Annex D* of the report. These include the widely publicised case of the Police female officer, whose violent attack by rioters with a hammer was captured on social media. This is ASP Consolata Kasule.

3. Compensation

The Government has undertaken to compensate the victims of the riots (deaths and injuries), who opted to settle out of court, while those who sued the Government have their cases on-going and will be handled according to the outcome of the cases. The office of the Attorney-General is handling the matter.

4. Missing persons

The safety and security of persons residing within the territory of Uganda is the responsibility of the Government. Disappearance of persons,

whether at the hands of State or even by private persons, would inevitably be of concern to the Government. The Constitution of the Republic of Uganda guarantees the protection of personal liberty and provides permissible lawful circumstances, under which the right to liberty can be interfered with. The manner of arrest, including by members of the public, is well provided for in the law. Once lawfully arrested, a suspect should be held in a legally gazetted place.

In addition, our criminal justice system is premised on the presumption of innocence. During arrest, or once arrested, only reasonable proportionate, justifiable, and lawful application of force is permitted to cause the arrest of a suspect or to restrain him or her in the event that the suspect acts in a manner incompatible with lawful confinement. No one, except a court of competent jurisdiction, through a fair trial process, can determine the guilt of a person and the accompanying penalty. This renders actionable, anything outside the law regarding the conduct of arrests and management of suspects in custody. This is the law. It has also been reinforced by various SOPs, including guidance from the Commander-in-Chief himself, attached herewith as Annex E.

That said, the Uganda Police Force conducted investigations into the matter of the alleged missing persons. The Police, however, was confronted with a number of challenges and constraints, which compromised the integrity of the findings from the people given by the honourable Leader of the Opposition as next of kin.

The next of kin of the reported missing persons did not cooperate with the police investigators until the police team had to hold out as members of an NGO, in order to interview these people. For example, Florence Nabakooza, the next of kin of Dennis Wangolo alias Shafik declined to meet the investigators stating that she had not got instructions from NUP to meet any person; Oliver Nanyonjo, the reported next of kin to Mustafa Luwemba, made further reference to one Musisi, who became hostile when the team requested to meet him.

Later, there emerged trending videos and audios, from the honourable Leader of the Opposition that the police team wanted to meet these next of kin at night, which was not true. The next of kin preferred dealing with NGOs, as opposed to the official investigative agency of the Government - the police, which made the work to find the truth about the matter extremely difficult.

The people who were allegedly arrested with some of the reported missing persons also refused to make statements. For example, Musa Ssali, Amimu Kassasa, Muwaire and Hakim Ssembajwe, who were allegedly arrested with Micheal Jackson Ssemudu, declined to provide information to the police.

Most of the alleged disappearances were never reported to the police. For example, the alleged disappearance of John Ddamulira, Peter Kirya, Denis Wangolo, Isima Ssesazi, Hassan Mubiru, Joseph Baguma alias Ssemujju Joseph, and Dennis Zzimula alias Boyi, were all never reported to the police. It is the law and official practice that for one to be declared a missing person, a missing person's report must be filed. This can only be with the police, which was not done, and which is still being resisted by the people approached.

Hearsay testimony by the next of kin and witnesses:

Most of the next of kin are not eyewitnesses to the alleged disappearances. They were recounting to the investigators cum NGO, the stories of the arrests as told by unidentified and unascertainable third parties or third sources, which renders these secondary testimonies unreliable, unless corroborated.

4. Fictitious people

Investigations revealed that there exists no Joseph Ssemujju, as listed in the Leader of the Opposition's tabulated matrix (Serial No.10). The contacted next of kin insisted that the alleged Joseph Ssemujju is actually Joseph Baguma (Serial No.17), whose alleged disappearance was never reported.

Searches were carried out in different government databanks, to wit Interpol, Forensics, NIRA, City Mortuary Kampala, and Immigration. In NIRA records, information of nine people out of the 18 was not available. The data profile or lack thereof, from the various agencies for the given names, is contained in Annex F and I will refer to each of the names later.

Some cases where the Leader of the Opposition attributed alleged disappearances to security operatives had been reported earlier by the relatives of these people as un-witnessed disappearances. These include; George Kasumba, Godfrey Kitembo, and John Bosco Kibalama fall.

Despite most of the alleged occurrences being reported to have taken place in broad daylight, none of the alleged witnesses mentioned the registration number plates of the alleged vehicles involved. It has also been established that there is a well-orchestrated smear campaign of aiding people who seek to go abroad in search of livelihood opportunities to claim political persecution and or persecution for belonging to sexual minorities. These false and mendacious claims against the Government are unfortunately, sometimes believed by those in the host countries, who are gullible to take these claims as true without verification.

Others still are fugitives from justice. For example, the suspects who had evaded appearing in court for assaulting a one Ivan Kamuntu alias Majambere, were aided to leave the country. These are Godfrey Onzima alias Tower and Kikomoko alias Yekolera alias Itongwa, who assaulted Majambere and were due for prosecution when they fled. Onzima eventually returned and was charged but granted bail.

Inconsistencies in the numbers and testimonies in the various claims of reported disappeared persons presented variously to the Human Rights Commission, the Parliamentary Committee on Human Rights, and the latest statement by the Opposition respectively. The respective reports are hereby attached as Annex

G1, G2 and G3 respectively for reference regarding the inconsistencies.

In a nutshell, lack of cooperation and the refusal to report, coupled with the other concerns raised in this response make it extremely difficult to come to the bottom of the matter of alleged disappeared persons.

5. Alleged Victimisation of Muslims and claim that there are more Muslims in detention than any other denomination.

Uganda is a secular country. The right to freedom of worship is guaranteed by the Constitution of the Republic of Uganda. The Government is, and has always been, committed to respecting the rights of all people irrespective of their faith.

Participation in crime in all its manifestations is an individual choice. Any attempt, therefore, to seek shelter in ethnicity, religion, gender or political affiliation, in order to evade criminal liability is grossly misleading and untenable.

In the unlikely event that there are wrongs committed by law enforcement or security agencies, in the course of their work, including in the conduct of arrests, these should be addressed according to the specific circumstances of each particular case, but not on the basis of the identity of the suspect.

It would be wrong and unlawful, for law enforcement to mistreat a Muslim, by applying methods that are in contravention of the law, as it would any other person of a different faith, or even those that do not subscribe to any religion for that matter. This is because the sanctity of human life and attendant rights are common to all, irrespective of identity or social standing, and should be respected and protected as such.

The statistics from the Uganda Prisons Service as of 30 September 2023 indicate that Muslims constitute only 16.4 per cent of the inmates in all Uganda's Prisons. They fall far behind Catholics who are 43.1 per cent and Protestants who are at 29.5 per cent respectively.

It is, therefore, clearly not true that the number of Muslims in prisons is bigger than that of the other denominations, even in relative terms, in terms of population ratio.

It is also equally not true that because the Catholics and Protestants are targeted on account of their faith. The detailed statistics from the Uganda Prisons Service are attached as Annex H1, H2, H3 and H4 for reference.

6. Pre-Trial Detention

The Government strives to ensure that only persons charged before competent courts of law are held in prisons, and every suspect has a commitment warrant.

Indeed, Government is duty-bound to ensure that the persons in custody are lawfully arrested, duly charged and lawfully remanded in prison. Their fate, therefore, after all this due process, lies with the courts of law once they are charged.

However, it may be the case sometimes, due to the nature of investigations of some cases, for suspects to be held beyond 48 hours before they are charged. Government is working around the clock to ensure that these issues are sorted and due process is followed, including the possibility of legal reforms, as well as other pragmatic administrative measures, to improve our criminal justice system. I am glad that as I came here, one such measure was being handled by Parliament.

The Government acknowledges that in the recent past, the judicial system was bedevilled with pre-trial detention, also partly owing to the limited number of judicial officers and prosecutors. Government has addressed and continues to address this matter, through the recruitment of more judicial officers, prosecutors and state attorneys, and the increase of High Court Circuits, Court of Appeal Circuits and Magistrates courts.

Indeed, the independence of the judiciary has also been enhanced by the enactment of the Administration of the Judiciary Act, 2020.

It is expected that these interventions will bolster the efficient disposal of cases and thereby drastically address the issue of pre-trial detention. In any case, there are also remedies other than suing the Government, within the law presently, for those cases of detention beyond the prescribed period before trial. These include the right to invoke the *writ of habeas corpus*, among others.

7. Alleged Human Rights Violations in Fishing Communities

Prior to the Government's strategic decision to deploy UPDF on the waters of Uganda, the fishing industry was on the brink of collapse and fish processing industries had begun to close. This was attributed to the indiscriminate and unregulated fishing by the fishing community. There has been tremendous improvement in the fishing industry, thanks to this intervention by the President of setting up the UPDF task force to deal with irregular fishing.

In the course of its work, however, complaints of misconduct by personnel of this unit have sometimes been registered. The UPDF has a code of conduct, which, since its inception as NRA, has been integral to the law governing the UPDF. That is the UPDF Act and the NRA Statute before it. The UPDF arose out of popular frustration against misrule, including repressive behaviour against the population by members of the armed forces.

No wonder, in the Constitution of Uganda, the befitting name of choice for the force was UPDF, emphasising the founding character of the UPDF as a people's force. I would like to assure the House that this remains the case and whoever deviates within the ranks is dealt with according to the law.

What I know and what is public, is that illegal fishing gear, as well as immature fish, once impounded, is usually publically disposed of.

I wish, therefore, to report that many of these complaints have been dealt with and the culprits punished. The details of the information about the cases registered and action taken are

available with the Ministry of Defence and Veteran Affairs.

8. Alleged Political Prisoners in Custody

Uganda is a democratic country under the multiparty dispensation. The rights to freedom of association and expression are guaranteed under the 1995 Constitution of the Republic of Uganda. It is not a crime to belong to a political party and to lawfully carry out and participate in the activities of political parties.

Premised on the above, the Government of Uganda does not arrest people because of their political inclination. People are arrested and charged for suspicion of the commission of crimes that are clearly prescribed under the law.

The people reportedly held in custody were charged with various offences and the courts will determine their cases. If there are complaints about the conduct of these cases, there are remedies within the law, which can be invoked by the complainants. Agencies and institutions of Government are not above the law.

The General Court Martial's jurisdiction, which is being challenged in the LOP's statement, is a lawful court and has jurisdiction over the trial of civilians, where such civilians are charged with offences of the nature that brings them under the ambit of the jurisdiction of this Court. This is the position of the law until the matter of the court's jurisdiction is settled by the Supreme Court, where an appeal about the court's jurisdiction presently lies.

The details of the persons under trial or who were tried at the GCM are in Annex I for reference.

9. Conclusion

The Government of Uganda is committed to the respect, observance, promotion and protection of human rights of all its citizens. It is one of its core values and beliefs. Government has its roots in resistance against misrule,

characterised by gross violations of human rights.

Therefore, wrongs within its ranks, in the unlikely event that they happen, cannot be systemic. They can only be individual mistakes, which should certainly also be dealt with. It is the Government's consistent commitment to expose and punish mischief within its ranks, even when sometimes it may take time to do so, for a number of unintended reasons and circumstances.

The Government believes in accountability. It believes in the rule of law and compliance with due process. Incidentally, there is no limitation period in our laws, as far as criminal liability is concerned. Any fresh and credible information is welcome, provided it is reported officially to the appropriate authorities, in order to aid the conduct of formal investigations.

This response, Madam Speaker, suffices to illustrate that compliance with due process, is not mere sloganeering or a formality. It is the Government's founding and enduring philosophy.

Last, we would want to remind our colleagues in the Opposition that democracy is not just about exercising rights. It is also about observance of the duties and obligations that accompany those rights. It is about the exercise of civility and leadership, even in instances where we may have divergent perspectives on how to build, grow and consolidate our democracy.

Towards this end, the Government has always been willing to constructively engage on these and other pertinent matters. Hopefully, our colleagues are also willing to reciprocate and stand tall above prejudice and politicking, to use the available abundant civic space, for the advancement of our common good.

This is our considered response. I beg to submit, Madam Speaker. *(Applause)*

THE SPEAKER: Thank you, honourable minister. Honourable members, in the public gallery, this afternoon, we have a delegation

of student leaders from the Uganda National Students Association, Bulambuli. You are most welcome. They are represented by Hon. Gerald Nangoli and Hon. Irene Muloni. Thank you for sending us very good Members of Parliament. Please, join me in welcoming them. *(Applause)*

Honourable members, I have an invitation from the Chairperson of the Parliamentary Prayer Breakfast Fellowship. The invitation is for tomorrow from 7.30 a.m. to 9.30 a.m. Apostle Grace Lubega will be ministering in the Conference Hall. Please, come for the end of year prayer breakfast.

We have had a report from the honourable minister and it is very long, when you look at the annexes. - The Leader of the Opposition?

Honourable members, this is a polite warning; I do not want to hear noise from either side. Please listen to the person speaking.

3.49

THE LEADER OF THE OPPOSITION (Mr Mathias Mpuuga): Madam Speaker, I appreciate the Minister of State for Internal Affairs for reading a statement signed off by his senior, who has never attended plenary, since he was vetted in a committee, which I was part of.

Leon Trotsky was a political philosopher from the 19th Century and he had this to say, "*If you feel pain, you are alive. If you feel other people's pain, you are a human being.*" Let each of us place ourselves in any of those spaces, whether we are both or one of those.

The power of the people is resident in this House of Parliament, and the power to sustain it is domiciled in Parliament. Therefore, nobody can repurpose the power of Parliament to sustain, maintain and assure the power of the people.

I graciously received this document at around 11 O'clock from the minister and I appreciate it. It is a 17-page document, authored over a period of 40 days. If you divide 40 by 17, it may speak to the number of paragraphs authored on

each day. We appreciate the attempt to respond to this. Madam Speaker, it should never take anybody with any power 40 days to respond to the needs of the people, especially when it relates to human rights. It is 40 days plus two and a half years, Madam Speaker.

Now that we have received this, I ask for your indulgence to allow my team and I, to make a rejoinder to this statement. This rejoinder will place each one of us in the philosophy of Leon Trotsky, whether we are alive, or indeed, humans.

I do not need 40 days. I will be back on Tuesday, to make a rejoinder –(*Applause*)– and in that rejoinder, I will make very particularised prayers for which this House of Parliament will be on test. I am glad that I am here and I have learned new phrases such as “un-witnessed disappearance”. When Hon. Mao was –

THE SPEAKER: Can we first handle your prayer?

MR MPUUGA: Madam Speaker, I hope that the prayer finds your consideration, that we make a rejoinder, so that we can make good sense out of this 17-page document authored across 40 days. I pray. (*Applause*)

THE SPEAKER: Thank you. That is the civil Hon. Mpuuga I know. Honourable members, the report came a little late and we expect a rejoinder from the Opposition. It is prudent enough that we allow the Leader of the Opposition to bring his rejoinder on Tuesday, at 2.00 p.m. and then, we will take a decision on that day. I now adjourn the House to 2.00 p.m. tomorrow.

(The House rose at 3.55 p.m. and adjourned until Thursday, 30 November 2023 at 2.00 p.m.)