

**Wednesday, 24 March 2021**

*Parliament met at 3.23 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’s sitting. I apologise for the late start but I know that in our usual way, we shall be able to catch up.

I have only one matter to communicate, that the vaccination, which I announced yesterday, will start tomorrow at 8 o’clock in the morning and run up to evening and similarly, on Friday from morning until evening. Please, Members of the 10thParliament, 11thParliament and staff, use the opportunity to take the vaccination for COVID-19.

There is one matter of national concern.

3.25

**MR ROBERT CENTENARY (FDC, Kasese Municipality, Kasese):** Thank you, Madam Speaker. I rise on a matter of national importance concerning the World Bank loan to finance infrastructure development in municipalities under theUganda Support to Municipal Infrastructure Development(USMID) programme.

This loan was obtained in 2018 and we expected to start utilising it for infrastructure development in the various municipalities. However, until now, this project has not yet kick-started. Specifically, I am talking about Kasese Municipality.

There was a procurement process, which was supposed to have been concluded. So far, in the previous financial year, Shs 13 billion, which had been credited on the account of Kasese Municipality was returned to the Ministry of Finance, Planning and Economic Development. Currently, we have another Shs 27 billion, which is at the verge of being returned to the ministry, yet our roads are in a very sorry state.

Madam Speaker, we borrowed this money, which attracts interest accruing to the World Bank, yet, we are not utilising it. I request that the minister for lands, who is responsible for this project comes to Parliament and explains why this project has not kicked off yet. Parliament appropriated and money has been disbursed to various municipalities but the project is not kicking off. *(Interruption)*

**MR SENYONGA:** Thank you, Madam Speaker. The information I would like to give my colleague is that the Committee on Public Accounts (Local Government) was supposed to visit those areas, specifically municipalities that we got the loan for. However, ever since we went for campaigns, the committee is as if it is on a holiday. Being a former mayor, my colleagues have been communicating to me. It is not only Kasese but the money for USMID needs to be taken seriously.

Madam Speaker, I beg that you direct the committee to revisit the issue because the minister is going to delay. If the committee goes there, it will dig up a lot, which can help those municipalities to utilise the money.

**MR CENTENARY:** As I conclude, Madam Speaker, Kasese, Fort Portal and Hoima were put under the same procurement lot. If the lead agency, which is Hoima Municipality, has failed to spearhead the process of procurement, let them not make the other municipalities lose an opportunity for infrastructure development because this project is long overdue. I beg to move.

**THE SPEAKER:** Honourable members, Kamuli Municipality is one of those under a different cluster. I do not want to speak for the minister but I am aware that some work is going on. However, the minister will give full information. It is not exactly dead – at least, I know from being a citizen from that side.

However, let the minister come and update us so that the whole country knows where we stand on that programme. Today is Wednesday. The minister could come with an update next Tuesday.

MINISTERIAL STATEMENT ON THE PROGRESS AND STATUS OF UGANDA’S EXPORT OF FISH MAWS TO THE PEOPLE’S REPUBLIC OF CHINA

3.30

**THE MINISTER OF AGRICULTURE, ANIMAL INDUSTRY AND FISHERIES (Mr Vincent Ssempijja):** Thank you, Madam Speaker. This is a statement on the progress and status of Uganda’s export of fish maws to the People’s Republic of China.

The Government of Uganda, through the Ministry of Agriculture, Animal Industry and Fisheries has been pursuing the export of fisheries products, including fish maws, to the People's Republic of China.

After a series of letters written by the Minister of Agriculture, Animal Industry and Fisheries and the Commissioner Customs Uganda Revenue Authority (URA) to the General Administration of Customs of China (GACC), an affirmative response was received in September 2019 by URA Customs Commissioner’s office, detailing the procedures to follow.

In December 2019, Uganda’s embassy in China forwarded to the Permanent Secretary of the Ministry of Agriculture, Animal Industry and Fisheries a draft protocol on inspection, quarantine and veterinary sanitary requirements for wild fishing aquatic products to be exported from Uganda to China.

The draft protocol was cleared by the Solicitor-General with minor changes and requested the Ministry of Agriculture, Animal Industry and Fisheries to consult the Ministry of Finance, Planning and Economic Development, Ministry of Foreign Affairs and URA before we could sign.

The URA provided their response but the Ministry of Finance, Planning and Economic Development has not yet provided their comments. I wrote a reminder to the Permanent Secretary of the Ministry of Finance, Planning and Economic Development in February 2021 but he has not responded. I tried to contact him before I came to Parliament and he said he is going to respond.

The draft protocol was forwarded to the Permanent Secretary of the Ministry of Foreign Affairs for onward transmission to the People’s Republic of China, with our comments for further action.

The draft protocol includes the responsibility of ensuring that only safe and good quality wild fishing aquatic products exported from Uganda are exported to China, and requires the agriculture ministry to ensure that only fish processing plants that meet the international food safety and quality standards are the ones processing and exporting to China.

The Ministry of Agriculture, Animal Industry and Fisheries has developed guidelines and standard operating procedures for interested fish processing companies to follow before they are authorised to export the wild fish products to the People’s Republic of China. The companies have already indicated that they are now developing their capacities and getting ready to take up the opportunity when the protocol is eventually signed.

Madam Speaker, I would like to present and assure Members of Parliament that China has opened the door for us, not only for the fish maw but all the fish and aquatic products from Uganda. The only thing left for us to do is to meet the standards, which the companies are now working on. I beg to submit.

3.35

**MR PAUL MWIRU (FDC, Jinja Municipality East):** Thank you very much, Madam Speaker. I would like to appreciate the spirit the minister has demonstrated in attempting to answer the issue I raised about the fish maw; that is a very good spirit.

When I raised the matter and laid the draft protocol on the Table, the issue was about restraint of trade. We cannot restrain our people from participating in the trade of the fish maw. If you go to the fishing communities today, you will notice that the fish maw is one of the most expensive items from the Nile Perch.

What is happening, which the minister has fallen short of informing this House about, is that there is a cartel of people that have engulfed the ministry. They are working to ensure that they exclude our people from participating in the export of fish maw to other countries. This protocol is to the effect that fishermen or traders cannot export fish maw to any other country other than China. On top of that, they have to go through that particular company. That was the issue.

The statement presented by the minister has nothing to do with addressing that issue. There is the issue of free trade. The standard should be set; we do not object to quality standards being set. However, what we are saying is that they should allow free trade. For instance, if I do not want to sell my fish maw to China, I should not be compelled to bring it to a company owned by a brother to the honourable Minister of Agriculture, Animal Industries and Fisheries so that he goes and sells it for me in China. I should be allowed to go and sell my fish maw to Malaysia or any other country.

The protocol, as is now, restrains trade. You can only trade in fish maw and sell to companies licensed by people who use the ministry to sell it to only China. It is that freedom of trade that the people who asked me to raise this matter want to be addressed. I thank you, Madam Speaker.

3.37

**MR KENNETH EITUNGANANE (Independent, Soroti County, Soroti):** Thank you very much, Madam Speaker. The issue of fish maw is more than what meets the eye. At the moment, it is a very lucrative business in the fish industry and people call it “white gold.” There is a lot of money being exchanged within the fish maw trade. It is the highest paying item within the lake now. Hence, there is a group of people that have colluded and formed a cartel to deny the common fisherman opportunities and prevent them from benefitting.

The only option, honourable minister, is that you must interest the Government in coming up with a fish processing plant, particularly one that can process fish maw. This will help streamline the business and benefit fishermen. Right now, it is almost going into a black market. Once you deny people the opportunity of selling fish –

There is a market in Korea, for example, and I know that fish maw is being exported to Korea. If you are going to restrict it to China and to particular groups of people, then streamline the arrangement so that locals know. If this is how they are going to sell their fish maw, they should know the price. Now, it is not being handled in a structured way. This has given the opportunity to unscrupulous people to benefit at the expense of the fishermen.

Madam Speaker, I only request that the minister comes out clearly - interest the Government, attract investors here so that they begin making finished products for us to earn revenue and employ our people. The rest of the gaps can then be filled. Otherwise, if we leave it the way it is now, it will only enrich very few individuals at the expense of the common man and fishermen. I beg to submit.

3.40

**MR JOHNSON MUYANJA (NRM, Mukono County South, Mukono):** Thank you, Madam Speaker. I would like to thank the minister and my colleagues.

The concerns about the fish maw are not only about exporting it, but even locally, it is becoming very expensive. The local fishermen should be helped by the Government. We have groups of rich fishermen and they are the only ones benefiting, yet the locals are suffering. It is becoming a real struggle.

The military operatives on the waters are also now aware of the benefits. They get involved knowing that if they get five of these *–(Interruption)-* That is what has caused the problem on the lake. At the end of the day, the locals are not benefiting. Therefore, the minister should address all the concerns seriously and even tell us how to support the local ones. Thank you.

**THE SPEAKER:** Honourable minister, if what Members are saying is true, I think one has reason to get alarmed. We are being told that you export to China through a particular company; how can that be?

3.41

**MR EMMANUEL KALULE (NRM, Gomba East County, Gomba):** Thank you, Madam Speaker. In view of the fact that our economy is suffering because of the COVID-19 pandemic, I wonder whether the minister could not find ways of breeding this type of fish so that we produce more of it. I heard him say that they are interested in wild fish but I thought he meant fish that are freely in the lakes.

I wonder whether we could not, through research, start breeding this type of fish so that we can have more fish maw and expand the export business as well as add more income to this country. I hope the minister helps me with this. Thank you.

**MR SSEMPIJJA:** Thank you very much, Madam Speaker. Allow me to start with the question raised by the Member from Gomba.

Madam Speaker, the fish maw, popularly known here as *enuuni* is an airbag. In fact, scientifically, it helps this big fish to float and swim. That is why the Nile Perch is faster in those high waters. It is an airbag but it also has other health products and that is why it has a big market out there.

There are so many other types of fish that have fish maws but they are not in Uganda. This comes from a fish that grows in fresh water. Other bigger fish with bigger maws grow in salt water. Therefore, it has different aspects and that is why it has a bigger market.

Again, for whatever reasons, China is the biggest buyer of fish maws, not only these from Uganda but from other countries as well. Up to day, the fish maws have been going indirectly to China through other countries. That is why Hon. Kenneth mentioned the black market; the maws have not been directly going to China, which pays more.

When the President of Uganda recently visited China, this is one of the commodities that were discussed with the Chinese leaders to allow Uganda trade directly with China, and this is one of the items that were allowed. We have a list of commodities that China has allowed Ugandan traders to sell on the Chinese market and this is one of them. However, you can sell it anywhere.

Madam Speaker, I would like to thank you very much, when we tabled our Fish and Aquaculture Bill. You sent it to the committee. We have already shared with the committee and all these, including the fish maws and other aquatic products, are now embedded in this Fisheries Bill.

Madam Speaker, as you know, the old Bill is now old - I think it was enacted in 1951. The fish maws were not there at that time *–(Interjection)–* they were elsewhere *–(Laughter).* Maybe they had no economic value and were not of interest to the lawmakers at that time. You know it has taken us 100 years; this is the first day after we have commemorated the 100 years. I think that time is far back and these people did not take interest in fish maws and other products.

Therefore, as you directed that this Fish and Aquaculture Bill should be expedited so that we conclude it before the end of this term, we have already met the committee. I think it is going to do whatever it takes to make sure that it comes back here. When you look at the Bill that I presented, there is no way we are going to allow one person or a cartel or a company, to trade in our products and restrain others from joining the business. That is not there and we cannot allow it.

In fact, I do not remember anybody in my ministry who has a brother - even if they had those intentions; I want to assure the honorable members that nobody can do that. As long as I am the Minister there, no one is going to bring such arrangement. Thank you.

**THE SPEAKER:** Thank you. Let us go to the next item.

**MR MWIRU:** Thank you, Madam Speaker. You will recall that when the President banned the export of animal hides and skins, it so happened that the ministry of trade enforced that ban. There are companies that pretended to be establishing themselves within the country, and that affected - because they set prices, to the detriment of the traders within the communities.

They set very low prices to the extent that the traders could not even export their hides and skins out of the country because of the ban. I tried to engage the trade minister over the same but nothing happened.

Similarly, what we are trying to create by this protocol is going to be the same and once it is effected, our traders will have nowhere to run.

Madam Speaker, this is not a matter that the honorable minister can simply juggle in terms of response because it is going to affect the lives of our people. I only wonder whether it is not procedurally right that we give him enough time to consult on the protocol, so that he even finds out whether the stakeholders were consulted.

The petition I laid before Parliament had signatures of the people who deal in that industry. They wanted to be involved so that they would be part of the consultation. However, from the way he is speaking, he is talking as a good man but in respect of answering the issue at hand, I move that we give the Minister time, so that he makes a comprehensive response other than what he is doing. If we make a mistake, to go by his statement and the protocol is effected, our people will be affected. I seek your indulgence.

**THE SPEAKER:** Isn’t it something we could capture in the law?

**MR SSEMPIJJA:** It is well captured in the law we are going to discuss here.

**THE SPEAKER:** Because if it is there, then we debate and seal it from here.

**MR NSAMBA:** Thank you, Madam Speaker. I stand here to seek clarification from the Minister. The first time Hon. Masika spoke about fish maws, he spoke with some bit of knowledge. In addition, being that he lived in China, he somehow knew the value of the fish maws and how they are beneficial. Now, we are not valuing them at the same level the Chinese do.

I need to understand whether the Ministry of Agriculture has taken a step in terms of research, to find out what we can do as Ugandans with these fish maws. What do they do with them when they take them to China? Are we going to continue exporting raw materials or can we create an industry now that we have that product here? Instead of focusing on exporting a raw material, have you done some research so that we look at the end product? As Uganda, can we have that? Instead of selling them fish maws, can we find a way of adding value to the fish maws? Is there any kind of research that has been done, Mr Minister? Or there is some kind of research that is going to be done?

**MR NAMBESHE**: Honorable minister, the clarification I am seeking is to emphasise the point that has been raised by the previous Speaker. I know the President has been the champion of value addition and in your statement, you clearly show that he is the one behind regulating the fish maw trade; through this memorandum and the protocol.

As a ministry, have you taken any step to advise or even remind the President about the importance of what he has been preaching, so that he does not appear to be preaching water but taking wine?

**THE SPEAKER:** Honourable members, if I am not mistaken, I heard that the maws are used to make caviar. Caviar is one of the most expensive items on a menu anywhere in the world. It is very expensive.

**MR SSEMPIJJA:** That is right, Madam Speaker. If we have time, I can bring the scientific explanation on the fish maw, which came from our researchers. It has also been discussed in Cabinet. It has health benefits. It has a lot of sexual benefits. I think that is why it is very expensive. They also use it for stitches. That is why currently, when you are stitched - it is one of the items used in threads for stitching. When you are stitched with the product from fish maws, it dissolves.

It has many other benefits that our researchers have found out. We can later on come back to share with the Members of Parliament.

The value addition, therefore – we have been eating it. Cooking is also adding value. You can cook and eat it. *(Laughter)* However, there is that technology that you need to sieve through this product to get those elements that are needed in the medical field. It can still be studied more to see whether we can add value from here but it is a sophisticated product.

On the other hand, as things develop that way, certainly, there is a lot of fighting for this fish maw. I agree with hon. Mwiru. The rich men who own boats and nets do not go to the waters; they send boys. When the boys catch a big Nile perch, they cut it and remove the fish maw and put it under their clothes and throw away the carcass of the fish. It is as bad as that.

There is also a conflict between the boat owners and the factories here. They think the factories are getting a bigger cut of the deal; the fish maw should be left to them.

When the committee brings back the Bill, please, make sure that everything is embedded there. It seems this is another “white gold”. Thank you, Madam Speaker.

MINISTERIAL STATEMENT ON THE COMMEMORATION OF WORLD METEOROLOGICAL DAY

3.57

**THE MINISTER OF STATE FOR WATER AND ENVIRONMENT (ENVIRONMENT) (Ms Beatrice Anywar):** Thank you, Madam Speaker, for this opportunity. I am happy to present a view on the celebration but I also kindly request that after my presentation – on Sunday, we celebrated the World Forest Day with you here – I would like to say something for record purposes.

Uganda joins the rest of the world to commemorate the World Meteorological Day, which is on 23 March every year.

This year’s celebrations will be held on 30 March 2021 in Jinja District under the theme “The Ocean, Our Climate and the Weather”. The celebration will include an awareness and media campaign to further emphasise the importance of weather and climate products, the channels of dissemination and usability of the information.

Because of COVID-19, this year’s main activities will be scientific with fewer people involved than usual and an awareness campaign rather than a public celebration.

As we commemorate this year’s World Meteorological Day, we intend to have Ugandans sensitised about the importance of meteorology through media and stakeholder engagements, especially the farmers and practical exercises, such as exhibitions.

A number of activities have been planned within the week to 30 March 2021. These include:

1. Planting of trees in selected areas identified by the district of Jinja.
2. Open weather and climate week for the stakeholders of the nearest Uganda National Meteorological Authority (UNMA) station - the Jinja Aerodrome weather station. Stakeholders will be able to freely interact with the staff to have questions answered.
3. Exhibitions of new developments at the celebration venue.
4. Corporate social responsibility activities at vulnerable schools in Butagaya Subcounty, Kagoma County, Jinja District where a water harvesting system will be donated.
5. An awareness media campaign to raise awareness on the day where different leaders and staff will have talk shows on radio stations.
6. The Directorate of Forecasting Services and that of Applied Meteorology Data and Climate Services will each have exhibition activities at Jinja District headquarters and at the Source of the Nile Hotel.
7. A stakeholders’ dialogue will crown the activity on 30 March 2021 at the Source of the Nile Hotel.

As you are aware, the UNMA was established by an Act of Parliament 2012. It doubles as the national focal institution for the Intergovernmental Panel on Climate Change (IPCC) in Uganda. The IPCC is hosted by the World Meteorological Organisation (WMO) and co-supported by the UN Environment – those are former United Nations Environmental Programme and WMO - constituted by thousands of experts from all over the world, mandated to analyse scientific research findings on climate change through different working groups.

Madam Speaker, our mandate is to promote, monitor weather and climate as well as provide weather predictions and advisories to Government and other stakeholders for use in the sustainable development of this country.

One of the main outputs of UNMA is the rainfall outlook, which is forecast often. As a demonstration, the March to May rainfall outlook constitutes the first major rainfall in most parts of this country. The rains will be characterised by lightning, strong winds, thunder and hailstones. These are already projected by this department.

Therefore, we would like to inform this Parliament that the coming rains, as indicated, will be characterised heavily by floods, hailstones, waterlogging, land/mudslides, gusty winds, lightning strikes and high risk of malaria and cholera amongst others. Sectors such as agriculture, my ministry, energy, disaster management, health Infrastructure, works and transport should take heed to this information.

The predicted rains require action in sufficient time and in an appropriate manner, so as to take advantage of the information we normally give out. This forecast should be used for planning in all rainfed economic activities so as to improve economic welfare and livelihoods of all our communities in their localities.

We are also faced with a number of challenges in spite of the output outlined above. We have severe budget cuts which most times affect our planned activities.

There is also inadequate weather monitoring equipment and infrastructure. There is need to maintain support and secure some of these recent investments that are incomplete such as the three weather radars. Radar one at Entebbe Airport has been fully installed but requires supportive infrastructure. The installation of radar two at Rwampara and radar three in Lira are currently underway. These need supportive infrastructure, staff and security due to their remote locations. Therefore, the Shs 14 billion cut out of our vote has curtailed us and we want to bring it to your notice.

In line with Government policy on environment and disaster reduction, the meteorological authority plans to strengthen contingency planning to mitigate the impact of these disasters and protect the most vulnerable persons.

We intend to build a strong and durable economy addressing eight fundamental human needs including, amongst others, food, shelter and infrastructure, which are very sensitive to weather and climate variability and changes.

We intend to implement an economic stimulus and growth strategy to improve the wellbeing of Ugandans and boost economic transformation.

We intend to develop the 14 agricultural products identified by His Excellency the President for food security and good nutrition.

We intend to intensify monitoring and forecast of weather, water levels, floods as well as effectively disseminating information to guide policy actions by stakeholders and enhance the provision of improved agricultural outputs to farmers. Also, upscale agricultural extension services and provide rainwater harvesting technologies to boost production, etcetera.

We also intend to focus on the new dimension of increased access and uptake of accurate water, weather and climate information to boost production and disaster-risk reduction at all levels of undertaking in our country.

I, therefore, call upon all Ugandans to join the celebrations and to take note of the changing weather patterns, and plan for their activities in that regard. I beg to submit.

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

4.11

**MS JACQUILINE AMONGIN (NRM, Woman Representative, Ngora):** Thank you, Madam Speaker, I would like to thank the Minister of State for Environment for the statement regarding the commemoration of the World Meteorological Day.

The clarification I seek from the minister is in regard to awareness on weather changes in the country. This information is very limited, especially for the farmers, yet it would help us, the farmers, to carry out our planned activities. As we celebrate the World Meteorological Day, as a ministry, what have you put in place to ensure that information for different parts of the country is timely, to enable farmers plan effectively?

The honourable minister talked about floods and for me who comes from a lowland area like Teso, it is worse. I also look at a situation where these floods could be taken as an advantage for farmers to continue cultivation. What plans has the Ministry of Water and Environment put in place, working with the ministry in charge of agriculture, to ensure that floods are taken advantage of instead of flooding being a challenge to the Ugandans in the greater Masaka, Teso, some parts of Acholi and some part of western Uganda? Isingiro is always very dry.

What plans do you have in place so that we can take this as an opportunity to utilise these floods for continuous agriculture where we have a comparative advantage? Thank you.

4.12

**MR PATRICK NSAMBA (NRM, Kassanda County North, Kassanda):** Thank you, Madam Speaker. I want to thank the minister for the statement that was made and all the activities they are doing to celebrate the World Meteorological Day.

I am a farmer and we rely heavily on the environment in Uganda to do farming. This meteorological information is of great importance to us as farmers. It is very unfortunate that we have not put enough emphasis on it despite the fact that majority of Ugandans rely on the environment to do their economic activities.

Madam Speaker, when you hear the minister saying that there will be a lot of hailstones and too much rain, that is how our meteorological information has been reported over the years. With celebrations in 2021, we should be beyond that.

The synoptic data centre which we have is only in Entebbe. I wanted the minister to say, “According to the information we got from here, this is going to happen in Central Uganda and this is going to happen in Western Uganda”. Are these hailstones going to be in Karamoja, for example? Are they going to be in Acholi, for example?

With the way of simply reporting this information in a casual way - I think that next time we are celebrating World Meteorological Day, we should give good information.

Madam Speaker, the last time the Auditor-General made a report about this department or authority, he indicated that it even has no Board, as of now. We need the minister to come here and tell us that they are working out things; the Board is in place. The Auditor-General indicated that the department is starved; it has no equipment that can give us reliable information and that even the available instruments are not calibrated on time.

You find a situation where they are giving us information but we would probably be getting better quality for the money we spend on that department. The Auditor-General indicated, in his report, that they do not even have a data bank. For example, if they send information from Arua, they cannot store it in Entebbe and that is the information that we have.

Honourable minister, we want clear-cut answers as farmers. If, in 2018, it was reported that the instruments are insufficient, what is happening three years down the road? Are we on the same page?

We need to hear information that you are reporting data more efficiently through this department and that work is going on to ensure that Ugandans and farmers in this country – or even other business people – get good information.

Madam Speaker, there is great importance for meteorological information, which we are not attaching to this authority yet it is critical. Thank you very much.

4.15

**MR JOHN BAPTIST NAMBESHE (NRM, Manjiya County, Bududa):** Thank you very much, Madam Speaker. I have an axe to grind with my colleague who has just yielded the Floor. Credit must be given where it is due.

Of recent, the Uganda National Meteorological Authority gives accurate predictions about weather. I have actually been following, especially given the fact that I hail from the disaster-prone district of Bududa. Therefore, I am bound to believe in the predictions that you have just given to us; that there will be heavy downpour, thunder and floods. You know that in Bududa, floods culminate into catastrophic landslides.

Honourable minister, I have been wondering out loud if indeed the awareness campaign is to address this particular challenge that has been forecast by the Uganda National Meteorological Authority. I know Jinja is part of Eastern Uganda; I endear myself to it and indeed I am a resident.

However, don’t you think this commemoration of World Meteorological Day would have given more psycho-socio support to those flood or landslide-prone areas; those which will be hard hit by floods and landslides like Bududa, honestly speaking?

If you had shifted this function – I am not directing because I am short of those powers. If you were to shift it to places like Bududa and now that it is not going to be heavily attended - it is scientific, as you put it in your statement – don’t you think you would have used the services of print and electronic media to reach a wider part our populace?

If it were in Bududa honestly, the survivors of these floods and landslides would have been accorded psycho-socio support and the awareness campaign would have more meaning and actually be felt.

My one-million-dollar question would be, now that you are in the know of what is looming, what plans do you have as a ministry to mitigate some of these likely disasters? You know very well that whenever floods or heavy downpours occur, they claim lives and infrastructural development. However - like you have put it in your statement – it is lacking in that aspect of the plan and equally the budget for the same.

Madam Speaker, most of the challenges of climate change are human-induced, like the case of Bududa. I would have loved the ministry to walk the talk. This Ministry of Water and Environment – your docket, honourable minister – has already recommended millions of trees for massive planting in Bududa and the Elgon; both Sebei and Bugisu Sub regions because of human-induced activities of wanton felling of trees.

However, when I see that you have made the allocation to my neighbours in Jinja where the level of disaster – They also have disaster but it is about levels. Where it is worse, you are doing the complete opposite. Don’t you think you are paying lip service to your people? Thank you very much, Madam Speaker.

4.20

**MR JACOB OBOTH (Independent, West Budama County South, Tororo):** Madam Speaker, I must thank the minister in charge of the environment. I have very fond memories of her before she became a minister. In this very Parliament, we used to sit on the Committee on Natural Resources and we processed the National Meteorological Authority Bill together.

It is quite disheartening to hear her lament when we are supposed to celebrate. I would like to join my brother from the hills; hon. Nambeshe and advise him that he should not insist on shifting the venue to Bududa. Since the minister has the forecast, she may not disclose what will happen that very day in Bududa.

The minister has been very selective with information as if it is intelligence information. *(Laughter)* Therefore, it is only Jinja which is safe on that day for celebration and I would like to give that information. All other places may not be as safe.

Honourable minister, you talked about the Minister of Agriculture, Animal Industry and Fisheries – and hon. Nambeshe read my notes. Madam Speaker, you have travelled widely. There are countries where you cannot leave your house without looking at the weather forecast. The information about weather forecast is very important. It has economic sense - you mention the Ministry of Agriculture, where is the Ministry of Finance. What happened in Tororo a few weeks ago- and thank you, Madam Speaker – the Office of the Prime Minister, we thank you- they delivered some few *mabaati* and some little food, which is better than nothing at all.

Probably, what could have been avoided or mitigated, people would have not been hurt and that information was not shared with us. It is time the Government zones this country according to the meteorological report they have given so that the awareness is more specific than general. We should not afford the luxury of speaking here generally that there will be thunder or lightning.

Madam Speaker, we only know and we believe the forecast made by you here sometimes, when you say there will be thunder and rain, we know *-(Laughter)-*  but for the Minister of Environment to come and talk generally, we need to zone because there will be fear. People need to plan from the agricultural aspects, from the economic activities, transportation because they need to plan.

Tell this House and this country what Government is doing first to give to the zoning the information about what will happen where, in Busoga, Ankole, Acholi, Lango or Teso so that people know. It will inform Government for proper budgeting and planning; rather than you coming to say that there will be lightning.

From the 1960s, Tororo is known as the corridor for lightning in the whole of East Africa. The frequency of lightning around Tororo corridor coming up to Busoga- but I do not know- you find schools without lightning arrestors. You find drainages during floods without a plan.

Honourable minister, the mother of forests *–(Laughter)-* Now speaking as a Japadhola, *Mama Mabira*, are you still the one I knew or you have changed? Give us some hope that you are in charge.

**MS ANYWAR:** Thank you, Madam Speaker and honourable colleagues for your thoughts and advice to this important presentation. Maybe, I could start with my brother here.It is true that when this document was prepared, it was coming to about seven pages and it included the different areas that would receive which amount of rain. For the purpose of our presentation here, it could not be contained in all that I am given here.

Madam Speaker, maybe for the sake of my colleagues, if you allow, we can still have that write up brought back and shared on intranet so that you get the information. I could not contain it in my statement today. My apologies for that but we had it and I just had to leave it out. If that is the case, by even tomorrow, we shall bring it to the Clerk.

For the Act- , yes, those are good memories, we fought for this authority because we attached a lot of importance to that and it is true. However, as I had presented earlier, there is a lot, which we should have done but it is not a lamentation. It is a reality with our country.

If the envelope is not coming enough to do what is all planned for, that is where I come and present it to you here, honourable members. As a House, you still have the authority to add on to our Budget and make things move. The minister of finance is also here and he can also be advised so that we move as expected. That is only lamentation but a reality.

Madam Speaker, the colleagues who asked about the information, which is not forthcoming in the public, I am happy that hon. Nambeshe appreciated that there is an effort to have this information going out. Indeed, we have tried to send this information. If you wake up in the morning, some of these media houses, you could have some information about what is going to happen.

Indeed, it is not completely enough as it is expected by the population. We can only say that we shall do much better. We have started; we want to build on that and we are requesting for more funding to make it up to date. The efforts are being made.

Madam Speaker, a colleague also said that we could make good use of the floods and indeed, we can make good use of these floods if we have planned and diverted them to somewhere. However, floods, which are already bringing down people’s properties and destroying infrastructure cannot be helped.

The ministry is thinking that we already have enough rain in this country, which we are literally donating to neighbours. Most of it is just flowing downstream. We have a ready programme with some undertakings, which are not yet conclusive. We want to have some reservoir to tap most of this water in big reservoir so that we do not donate it to the neighbouring countries and we use this water in the dry corridors and for irrigation in some of our places.

Once we have these reservoirs in place, we shall not have water flooding especially like the one at the water level at Lake Victoria.

In other places, we also intend to have small dams created. The best thing I can say for now as a minister is that we will advise those who are in prone areas of disaster due to floods- for the time being, we do not need to risk the lives of our people but we need to see that we save them.

I know of a colleague there who has given some- Can I finish?

**THE SPEAKER:** We have other business.

**MS ANYWAR:** Can I finish? That is the comfort I can give that we want to tap this water and we are even encouraging water harvesting. Water should not just be moving around.

However, above all, the issue of degrading our environment must also be one of the solutions to these floods. Like in Kampala, you have seen, just even yesterday, what happens that we have floods whenever it rains? We have built in the ways of where the water should flow.  Therefore, the water had to be- *(Mr Mukitale rose\_)*

**THE SPEAKER:** Honourable minister, he did not listen to your statement. He has just arrived. Please, we have other work.

**MS ANYWAR:** Okay. Madam Speaker, thank you very much for the guidance. The board- *(Mr Mukitale rose\_)*

**THE SPEAKER:** Honourable member, you have just arrived. You did not listen to-

**MR MUKITALE:** Madam Speaker, I have been listening. This is a transboundary water resource and we are discussing Uganda but the water we are receiving is from five other countries. I would like to know what the transboundary Nile basin reparation state intervention is because everything-

**THE SPEAKER:** You will ask that question separately. Please, conclude. I have other work.

**MS ANYWAR:** As I conclude, I would like to say that we are supposed to celebrate all over Uganda. Jinja is not a mistake. God willing, if we are still there, we can take it to Bududa next year. We will even plant more trees in that area. However, this year’s choice has been made. Bududa can be chosen next year or another time. Please, bear with us; it is for the good of all of us.

What mitigation measures have we put in place and what warnings are there? I said in my statement that we have circulated the information. We want our colleagues in other ministries, like the ministry in charge of disaster preparedness, to be prepared. As you are aware, it also has its own challenges. The ministry in charge of agriculture also needs to get prepared.

The time for us to plant trees in now. Madam Speaker, I know you also have some concerns around this. I want to be categorical - this is the time for those who are ready to plant trees.

To the colleagues here, we have been giving out seedlings to people but most of them have been given out to people who are not ready to ensure that when planted, these trees grow well. They just dumped or wasted.

I want to see serious tree growers who we can give seedlings to, so that they lead by example, starting with you, Madam Speaker. We shall be happy to deliver some of these seedlings to you. We should lead by example in this season by planting more trees. We should be part of the 40 million or so growers of trees. I will be happy to do that.

Madam Speaker, allow me talk about the forests –

**THE SPEAKER:** No. Thank you, honourable member. Please, let us go to other items.

**MS ANYWAR:** Thank you.

LAYING OF PAPERS

4.35

**THE MINISTER OF STATE FOR EDUCATION AND SPORTS (HIGHER EDUCATION) (Dr Chrysostom Muyingo):** Thank you very much, Madam Speaker. On behalf of the Ministry of Finance, Planning and Economic Development, I beg to lay on the Table the Insurance Appeals Tribunal Regulations, 2019.

**THE SPEAKER:** Honourable members, the regulations are now available for you to use.

Honourable members, as you recall, we had received the report on the Succession (Amendment) Bill and commenced on the committee stage, but there were areas that the minister and the mover wanted to address. I believe they have now addressed those areas.

BILLS

COMMITTEE STAGE

THE SUCCESSION (AMENDMENT) BILL, 2018

**THE CHAIRPERSON:** Honourable members, as you recall, we had stood over clauses 1 and 2, which form the interpretation section. Let us go to clause 3; we shall come back to the interpretation section later. Does the chairperson have something to say?

Clause 3

**THE CHAIRPERSON, COMMITTEE ON LEGAL AND PARLIAMENTARY AFFAIRS (Mr Jacob Oboth):** Madam Chairperson, we have no amendments on that clause. We agree with the record that you have that clause 1 was stood over, clause 2 was considered and passed, and now we should be going to Clause 3.

However, what is important is that at that point when we stood over those clauses, you directed for harmonisation and we expect the Attorney-General, who is in front of you, to concede that we already agreed and harmonised those areas. Therefore, the position we shall be presenting is the harmonised proposal for this amendment. Since it is coming without your leave, I think he is going to concede.

**MR KAFUUZI:** Madam Chairperson, we held what I consider fruitful engagements with the Committee on Legal and Parliamentary Affairs. We harmonised all of the positions and we may not have any kind of ping-pong. We are likely to sail through smoothly with your guidance. Thank you.

**THE CHAIRPERSON:** Honourable members, now it is agreed that we proceed with the report of the committee because everything is harmonised and there are no spontaneous amendments.

I put the question that clause 3 do stand part of the Bill.

*(Question put and agreed to.)*

*Clause 3, agreed to.*

*Clause 4, agreed to.*

*Clause 5, agreed to.*

Clause 6

**MR OBOTH:** Madam Chairperson, in clause 6, we propose to amend section 13 by redrafting it as follows:

“13. Domicile of origin of a child.

(1) The domicile of a child follows the domicile of the child’s parent or the child’s guardian from whom the child derives his or her domicile of origin.

(2) Where the parents of a child have different domicile, the domicile of a child shall follow the domicile of the parent who has custody of the child.”

The justifications are:

1. To make provision for a child’s domicile where the parents of a child have a different domicile; and
2. To make the provision broadly apply to any child in Uganda regardless of the domicile of the parent, since the 2018 Bill proposes to restrict it to situations where the parent of a child is domiciled in Uganda.

**THE CHAIRPERSON:** Honourable members, I put the question that Clause 6 be amended as proposed.

*(Question put and agreed to.)*

*Clause 6, as amended, agreed to.*

Clause 7

**MR OBOTH:** In Clause 7, we would like to insert the following new subsection in the proposed section 14 to read as follows, and renumber the current provision accordingly:

“(2) A spouse may, upon dissolution of a marriage or upon judicial separation or any other separation recognised under customary law, acquire any other domicile.”

The justification is for completeness and to grant a person the right to acquire another domicile upon the dissolution of a marriage.

**THE CHAIRPERSON:** Honourable members, I do not know whether there is really need to say the section because in renumbering – maybe we leave it to the draftsperson to identify the proper clause. I put the question that Clause 7 be amended as proposed.

*(Question put and agreed to.)*

*Clause 7, as amended, agreed to.*

*Clause 8, agreed to.*

Clause 9

**MR OBOTH:** Madam Chairperson, we propose to delete Clause 9.

The justification is that the proposal to delete Section 16 of the principal Act will create an ambiguity in the law as to whether a child can acquire another domicile otherwise as provided in Section 13.

**THE CHAIRPERSON:** I have not understood. It says Clause 9, then it says “delete section 16”.

**MR OBOTH:** Madam Chairperson, Clause 9 repeals Section 16 of the principal Act and we are saying that Clause 9 itself should be deleted because Section 16 is still necessary because the proposal to delete Section 16 of the principal Act will create an ambiguity in the law as to whether a child can acquire another domicile otherwise as provided in Section 13, which we have just dealt with.

**THE CHAIRPERSON:** Okay. Honourable members, I put the question that Clause 9 be deleted.

*(Question put and agreed to.)*

*Clause 9, deleted.*

*Clause 10, agreed to.*

Clause 11

**MR OBOTH:** Clause 11: Repeal of Part III of the principal Act

We propose that clause 11 be deleted.

The justification is that the deletion of Part III of the Succession Act, as proposed in the Bill, is rejected with the justification that it will create a lacuna in the law, thereby creating an absurdity. Part III deals with how a person is related to another person descending from the same stock or common ancestor.

Secondly, this is important in succession to determine inheritance, beneficiaries and grant of letters of administration and probate since proof of relation to the deceased is a requirement in most, if not all, succession processes under the Act.

**THE CHAIRPERSON:** Honourable members, the question is that clause 11 be deleted.

*(Question put and agreed to.)*

*Clause 11, deleted.*

New Clause

**MR OBOTH:** Madam Chairperson, we propose to insert a new clause immediately after clause 11 and the heading is, “Replacement of Section 20 of the Principal Act”.

“Replacement of Section 20 of the principal Act

For Section 20, there is substituted the following -

20. Lineal consanguinity.

(1) Lineal consanguinity is that which subsists between two persons, one of whom is descended in a direct line from the other.

(2) For avoidance of doubt, every generation constitutes a degree, either ascending or descending.”

“Amendment to Section 22 of the principal Act

Section 22 should be amended by -

**THE CHAIRPERSON:** Let us do one first. Honourable members, the question is that a new clause be introduced as proposed.

*(Question put and agreed to.)*

**MR OBOTH:** Madam Chairperson, that was a continuation of replacement of Section 20 and it would affect up to Section 23. Therefore, we would continue until we get to Clause 12. However, since a vote has been taken, we take it that is for that insertion and replacement. Therefore, we can go to Section 12.

**THE CHAIRPERSON:** No, you had not spoken to sections 22 and 23 for the *Hansard*.

**MR OBOTH:** Okay. I will go right ahead and read.

Amendment to Section 22 of the principal Act

Section 22 should be amended by inserting a new paragraph after

paragraph (b) as follows-

“(c) male or female relatives of a deceased person.”

Amendment of Section 23 of the principal Act

Section 23 of the principal Act is amended-

(a) In subsection (2) by inserting immediately after the word-

(i) “Father” the words “or mother”.

(ii) “Grandfather” the words “or grandmother”.

(iii) “Uncle” the words “or aunt”.

(b) In subsection (3) by inserting immediately after-

(i) The word “grandson” the words “or granddaughter”.

(ii) The word “brother” the word “or sister”.

(iii) The word “son” the words “or daughter”.

(iv) The word “uncle” the words “or aunt”.

(v) The words “great nephew” the words “great-niece”.

(c) In subsection (4) by inserting immediately after-

(i) The word “grandson” the words “or granddaughter”.

(ii) The word “great uncle” the words “or great aunt”.

Justification

To remove matters that conflict with Article 21 of the Constitution since in their current form, sections 20, 22 and 23 conflict with Article 21(1) in so far as not applying equally to female persons. I beg to move.

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

*(Question put and agreed to.)*

Clause 12

**MR OBOTH:** Clause 12: Replacement of section 26 of the principal Act

For clause l2, there is substituted the following-

“12. Amendment of Section 26 of the principal Act

Section 26 of the principal Act is amended-

1. In subsection (1) by substituting for the term “legal heir” the words “spouse or lineal descendants”.
2. By inserting immediately after subsection (2) the following-

“(2a) Upon the death of the surviving spouse, the residential holding or any other residential holding shall devolve to the lineal descendants equally and shall occupy it subject to terms and conditions set out in the Second Schedule to this Act.

(2b) A person who evicts or attempts to evict a lawful occupant of the residential holding or any other residential holding commits an offence and is liable to a fine not exceeding one hundred sixty eight currency points or imprisonment not exceeding seven years or both.

(2c) Where the residential holding or any other residential holding devolves to the lineal descendants under subsection (2a), the lineal descendants shall be deemed to be entitled to the residential holding or any other residential holding as joint tenants.

(c) In subsection (4) by substituting for the term “a magistrate” the words “court of competent jurisdiction”.

Justification:

1. To require the residential holding or any other residential holding to devolve to the surviving lineal descendants upon the death of the surviving spouse.

2. To protect the surviving spouse and lineal descendants from being evicted and to clarify the nature of ownership between the persons to whom the residential holdings devolves to.

3. The proposal to refer to "court of competent jurisdiction" is borne out of a realisation that not all matters under succession law go to a magistrate court, given its limited pecuniary jurisdiction. Since some matters can be handled by the High Court, the reference to only a magistrate court is a misnomer.

I beg to move.

**THE CHAIRPERSON:** Honourable members, the question is that Clause 12 be amended as proposed.

*(Question put and agreed to.)*

*Clause 12, as amended, agreed to.*

Clause 13

**MR OBOTH:** We propose to amend clause 13 by substituting for the proposed subclause (1) (a) the following:

 “(a) where the intestate is survived by a spouse, a lineal descendant and a dependent relative –

1. the spouse shall receive 20 per cent;
2. the dependent relatives shall receive 4 per cent;
3. the lineal descendants shall receive 75 per cent;
4. the customary heir shall receive 1 per cent”

(b) by inserting immediately after the proposed subclause (1) the following new sub clauses:

"(2) Notwithstanding subsection (1), 20 per cent, of the estate shall not be distributed but shall be held in trust for the education, maintenance and welfare of the following categories of lineal descendants until they cease to qualify as such –

(a) a child of the intestate and where he or she attains eighteen years of age, until he or she ceases to qualify under paragraph (b) or (c);

(b) a lineal descendant of the deceased who is above 18 years of age but below 25 years of age, if at the time of the death of the intestate was undertaking studies and was not married; and

(c) a lineal descendant of the intestate who has a disability, if at the time of the death of the intestate was not married and was wholly dependent on the intestate for his or her livelihood.

(3) Where an estate produces an income by way of periodical payments, the percentage referred to in subsection (2) shall be derived from that income.

(4) For the avoidance of doubt, the percentage specified in subsection (2) shall be deducted from the gross estate before the distribution of the estate under subsection (1)

(5) Where the lineal descendants specified in subsection (2) do not require all the 20 percent that is held in trust for their education maintenance and welfare, the balance of that percentage that is not required, shall be part of the estate to be distributed to all the beneficiaries under subsection (1).

(6) A lump sum settlement may be made for the maintenance and welfare of a lineal descendant who has a disability, specified in subsection (2) (c).

(7) A spouse who remarries before the estate of the deceased is distributed shall be entitled to the share he or she would be entitled to under subsection (1).

(8) When distributing property among the customary heir and dependant relatives, priority shall be given to the parents of the deceased.

(c) The proposal is to delete subsections (2) and (3).

Justification:

1. To ensure that the children of the deceased person who are school going continue to be provided for from the estate of the deceased person;
2. To reduce the entitlement of the surviving spouse from 50 per cent, as proposed in the Bill to 20 per cent, since 20 per cent, of the estate is already reserved for the spouse and lineal dependents, thereby increasing the entitlement of such persons. This will increase the entitlement of lineal descendants (children of the deceased) to 75 per cent from 41 per cent. This is intended to ensure that a large percentage of the estate goes to the children of the deceased person since, in most cases, they are the neediest of all the beneficiaries under the estate and they constitute about 70 per cent, of the total population of Uganda;
3. To ensure equity and fairness in the distribution of the estate of the deceased person by taking into account the unique circumstances of the beneficiaries, especially those who are infant and those persons with disabilities;
4. To incorporate proposals contained in Clause 7 of The Government Bill, 2019 into Clause 13 of the 2018 Bill of hon. Mujungu. I beg to move.

**MS AMONGIN:** Madam Chairperson, I would like to make a proposal on –

**THE CHAIRPERSON:** No, we do not take spontaneous amendments. Honourable members, I put the question that Clause 13 be amended as proposed.

*(Question put and agreed to.)*

*Clause 13, as amended, agreed to.*

Clause 14

**MR OBOTH:** Madam Chairperson, for Clause 14, we propose to substitute the following:

Replacement of Section 28 of the principal Act

The principal Act is amended by substituting for Section 28, the following:

“28 - Distribution of deceased’s property between members of the same class

(l) Where a lineal descendant entitled to benefit under the estate of a deceased person, predeceased, the intestate person the portion of the estate that would have accrued to the deceased beneficiary shall be granted to the lineal descendants of the deceased beneficiary if any.

(2) A person aggrieved by the distribution of property under this section may appeal to the High Court within 14 days, from the date of the decision of the administrator.”

The justification is that the discretion proposed in sub-clause (1) of Clause 28 of the Bill –

(a) Gives too much power to an administrator to make a decision as to what each beneficiary's share should be. This will be abused and will create a conflict of interest since, in most cases, the administrator is one of the beneficiaries under the estate.

(b) Is redundant since we have already reserved 20 per cent of the estate for the benefit of children, lineal descendants with disability and the surviving spouse;

(c) Will have implementation challenges, especially in determining the contribution made by persons to the estate. This will instead increase powers of administrators to determine which widow, for instance, gets a bigger share. It is very tough business to allege that one can easily determine contributions made by surviving spouses in the estate. Our society is poor at financial record keeping.

Then again, how do you determine the non-monetary contributions if you were not there and the other spouse is dead. It may easily lead to a situation where widows compete for favours from the administrator.

1. In addition, to grant a right to the lineal descendants of a deceased beneficiary to inherit the portion of the estate that would have accrued to their deceased parent.
2. To incorporate proposals in clause 8 of the 2019 Bill into Clause 14 of the 2018 Bill.

**THE CHAIRPERSON:** Honourable members, the question is that clause 14 be amended as proposed.

*(Question put and agreed to.)*

*Clause 14, as amended, agreed to.*

Clause 15

**MR OBOTH:** Clause 15 is on the replacement of Section 29 of the principal Act. Clause 15 is amended –

(c) in the proposed subclause (1) by inserting the word “lineal descendant” immediately after the word “spouse” wherever the word appears in the provision.

(d) by deleting sub-section (2)

Justification

1. To expand the provision to include other persons who are entitled to occupy the principal residential property as enumerated in Section 26.
2. Lastly, the proposed sub-clause (2) is deleted since it is misplaced and has instead been inserted in Clause 12 where it is most appropriate.

**THE CHAIRPERSON:** Honourable members, the question is that Clause 15 be amended as proposed.

*(Question put and agreed to.)*

*Clause 15, as amended, agreed to.*

Clause 16

**MR OBOTH:** For clause 16, substitutethe following:

“Replacement of section 30 of the principal Act.

The principal Act is amended by substituting for section 30 the following:

‘30. separation of spouse

(1) A surviving spouse of an intestate shall not take any interest in the estate of an intestate if, at the death of the intestate -

1. the surviving spouse was separated from the intestate as member of the same household; or
2. the marriage between the surviving spouse and the intestate was suspended either by agreement or by judicial order.

(2) Subsection (1) shall not apply where –

(a) the surviving spouse has been absent on an approved course of study in an educational institution; or

(b) the intestate was, at the time of his or her death, the one who had separated from the surviving spouse as a member of the same household.

(3) Notwithstanding subsection (1), a court may, within six months after the death of the intestate, on application made by or on behalf of a surviving spouse, declare that subsection (1) shall not apply to the surviving spouse.

(4) A declaration made under subsection (3) shall authorise the applicant to take no more than –

(a) a proportion of the intestate’s property entitled to him or her under section 27; or

(b) a proportion of the property that was acquired before the spouse separated from the intestate as a member of the same household.

(5) For the avoidance of doubt, a child or lineal descendant sired by the surviving spouse and intestate shall be entitled to benefit from the estate of the intestate notwithstanding the separation of the surviving spouse from the intestate as a member of the same household.’”

Justification

1. To consider as material the spouse at whose instance the separation occurred, and ensure that the spouse who was not at fault for the separation benefits from the estate of a deceased spouse, notwithstanding the separation of the parties prior to the death of the other spouse.
2. To bar persons who separate from their spouses and contract other marriages from benefitting from the estate of deceased spouse.
3. To empower a spouse who had separated from the intestate as a member of the same household to inherit a portion of the property that was acquired before the spouse separated from intestate as a member of the same household.
4. Further, to incorporate proposals made in Clause 9 of the 2019 Bill with those made in Clause 16 of the 2018 Bill.
5. Lastly, to clearly allow children arising out of the marriage of the surviving spouse and the intestate to benefit from the estate, notwithstanding the separation of the surviving spouse from the intestate as a member of the same household.

These are practical things, Madam Chairperson.

**THE CHAIRPERSON:** The question is that clause 16 be amended as proposed.

*(Question put and agreed to.)*

**MR OBOTH**: Madam Chairperson, just before Clause 17, we propose insertion of new clauses immediately after Clause 16.

There is inserted the following new clauses:

“Repeal of Section 31 of the principal Act

Section 31 of the principal Act is repealed.

Repeal of section 34 of the principal Act

Section 34 of the principal Act is repealed.”

Justification

1. Sections 31 and Section 34 are obsolete and need to be removed from the principal Act.
2. Section 31 currently requires the customary heir to give notice of his or her appointment to the Administrator-General and the deceased person’s personal representative. This provision is redundant.
3. Currently, Section 34 of the Succession Act bars a person not domiciled in Uganda and contracts a marriage with a person equally not domiciled in Uganda from acquiring interest in the property of their spouse unless they have a settlement providing otherwise. This section reverses the rights acquired at marriage and where it applies to Ugandan citizens, it is open to challenge for infringing on Article 21(1).
4. Finally, on this, to adopt proposals made by the 2019 Bill in clauses 10 and 11 of the Bill.

**THE CHAIRPERSON:** Honourable chairman, I just need clarification. I see here Section 31 of the principal Act is repealed and after that I see “repeal Section 34”. So, are both the sections repealed?

**MR OBOTH:** We are moving towards the repeal of the two sections - 31 and 34 - for the reasons we have just given.

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

*(Question put and agreed to.)*

Clause 17

**THE CHAIRPERSON:** I put the question that Clause 17 do stand part of the Bill.

*(Question put and agreed to.)*

*Clause 17, agreed to.*

Clause 18

**MR OBOTH:** Clause 18 is amended –

a) by substituting for paragraph 8 the following:

“(a) by substituting for subsection (2) the following:

‘(2) a spouse may, during the subsistence of a marriage, hold property in his or her name and may by will dispose of such property.’”

b) In paragraph (b) in the proposed subsection (3):

1. By substituting for the words “not incapacitated from”, the words “capable of”.
2. By inserting, immediately before the word “hearing”, the words “physical impairment”.

(c) In paragraph (c), the proposed sub-section (4), by substituting the words “is of sound mind”, with “does not have a mental illness”.

(d) By inserting a new subclause (7) as follows:

 “(7) Sub-section (6) shall not apply where the testator has made provision for the accommodation at the same station in life, for the spouse and the lineal descendants referred to in Section 26(1), who are entitled to occupy the principal residence at the time of his or her death.”

The justification is that:

1. The proposal to delete sub-section (2) of Section 36 will create a lacuna in the law, as to whether spouses can, during the subsistence of a marriage, hold property in his or her individual name and dispose of such property by Will;
2. In addition, to cater for persons who have physical impairments such as missing limbs, who may not be able to write Wills, witness Will or attest to Wills to be able to do all those acts without hindrance;
3. To expand sub-section (2) of Section 36 to all spouses, regardless of gender;
4. To empower the provision of alternative accommodation by the testator, as proposed in clause 14 of the 2019 Succession (Amendment) Bill;
5. To incorporate the proposals made in 2019 - Succession (Amendment) Bill - that is the Government Bill.
6. For purposes of clarity.

I beg to report on that.

**THE CHAIRPERSON:** Honourable members, the question is that Clause 18 be amended, as proposed.

*(Question put and agreed to.)*

*Clause 18, as amended, agreed to.*

**THE CHAIRPERSON:** There is a new clause.

**MR OBOTH:** Madam Chairperson, before clause 19, we have an insertion of a new clause. Immediately after clause 18, there is inserted the following new clause:

“Replacement of Section 37 of the principal Act –

**MR NANDALA-MAFABI:** Thank you very much, Madam Chairperson, for giving me this opportunity. I have been listening in to this Succession (Amendment) Bill and it is a very important one.

However, from your ruling that we are not supposed to make any amendments or comments, this Bill affects all of us, including you. Is it procedurally right that we simply keep quiet until the committee chairperson talks, leaves the stage and we say, “Aye”? Is it procedurally right for us to sit here, simply saying, “Aye” or “Nay”?

**THE CHAIRPERSON:** Honourable member, who has stopped you from making a comment? You have not stood up. However, my ruling on spontaneous amendments remains; we have just had here the Coffee Bill. There were spontaneous amendments made on this Floor. There was a lot of argument. They were inserted but eventually, the same spontaneous amendments were rejected by the President.

Please, there was an opportunity to go to the committee but if you have comments, speak but do not amend.

I put the question that a new clause be introduced, as proposed. Had you presented it?

**MR OBOTH:** Madam Chairperson, before hon. Nandala-Mafabi came in, I was proposing an insertion of a new clause, immediately after Clause 18. I had read the heading of replacement of Section 37 of the principal Act.

The principal Act is amended by substituting for Section 37, the following:

37. Preservation of principal residence and maintenance of spouse, children, lineal descendants and dependents to be made in a Will.

1. A person who makes a Will shall make reasonable provision for the maintenance of his or her spouse, children, lineal descendants and dependent relatives;
2. The principal residence of a testator shall not form part of the property to be disposed of in a Will, except where the testator makes reasonable provision for the accommodation at the same station in life for the spouse, children and lineal descendants referred to in Section 26(1), who occupy the principal residence at the time of his or her death;
3. Section (1) shall apply to a spouse, a child and;
4. A lineal descendant who is unmarried or who is suffering a mental or physical disability and
5. A dependent relative who is wholly or substantially dependent on the deceased person.
6. Section 38 shall apply where a deceased person, by his or her Will, disposes of all his or her property without making reasonable provision for the maintenance of his or her spouse, lineal descendants or dependent relatives.

The justification is:

1. To impose a specific obligation on the testator to make provision for the maintenance of the surviving spouse, children, dependent relatives and lineal descendants, as proposed in the 2019 Succession (Amendment) Bill;
2. Consequential amendment arising from the amendment of section 38, wherein it was expanded to cater, not only for dependent relatives, but also a spouse and lineal descendants;
3. To incorporate proposals made in Clause 14 of the 2019 Bill, save for the proposed sub-section (2) of the proposed Section 37 in the 2019 Bill, which was incorporated in the amendment proposed to Section 36 in Clause 18 of the 2018 Bill.

I beg to move.

**MR NANDALA-MAFABI:** Madam Chairperson, when you are on earth, you live with people and when you are making your Will, it is to determine how you lived with them.

Supposing you have been having a hard life with part of your family members, why should you really make a Will for them, so that they can continue with it? You maybe died because they are the ones who caused your death.

Madam Chairperson, for me, that insertion is not good. A Will is made out of somebody’s own heart, that “I want to do my things like this”. I can Will all my things to a church or mosque. Why should a law come in to force me to Will my things; that because I have children, I should leave them with them? Supposing children are just rogues on the road, why should I waste the resources I worked for?

Supposing I believe that I have educated these children and they should have worked during their lives. Why should I Will to them?

**MR OBOTH:** Madam Chairperson, I want to inform us that the law is not imposing on you an absolute obligation. However, if you have to do otherwise, you have to give reasons and that is what we propose there. There should be reason; if you want to do otherwise - you give the reasons in the will and explain. You can deny to give your children anything in the will but you have to have reasons.

**MR NANDALA-MAFABI:** Madam Chairperson, that is the reason there are those which belongs to you with your spouse. On that, we have no problem with it. However, where you have your own- for example, maybe we have a property with equal shares but I have not said that we own it jointly- because these properties are owned.I would like to help colleagues - if you say that I jointly owned, that means that when one dies, the remaining goes to the survivingone.

However, in this case, they are not jointly owned.If I have my 50 per cent in that property and I die and I have decided that this will belong to Busamaga Church of Uganda, why would you force me to will it to my children?

**MR OBOTH:** Madam Chairperson, the provision to that amendment is that if you have children below 18 and you have children who have been depending on you as provided in the previous clauses we passed, you must give reasons. I do not see the Chairman of Bugisu Cooperative Union, Secretary General of FDC, An Anglican Christian and a Christian as such or any Christian that you have issues with children under 18 years. And you take yourself to put it in writing in your will that these children have annoyed me and so, I do not want to give them anything.

It is the responsibility of the State and this Parliament to protect those children who cannot speak for themselves. Therefore, if you want to deny them inheritance, from the wealth I know you have, you must give reasons. How about that?

**MR NANDALA-MAFABI:** Madam Chairperson, I do not mean children under 18 because those are still under my obligation up to university at 21 years. However, this is a case whereby all children are grown up and I am making my will; it is not my obligation at that point because the Constitution of Uganda is clear. My children are entitled to education, food and others up to the age they become adults.

The moment they are adults, it is my property and I choose who to give it. And I can decide to give it to the church, mosque or the disadvantaged. The argument I am putting across is that if you bring this section like this, it is very dangerous because it is imposing that when you die, you must make sure - even if you have a rogue, you must give him property. Supposing I give him tonight and he sells it that same night?

This is a wrong clause and since it has just come in, I would propose that we drop it.

**MR OBOTH:** I completely understand hon. Nandala-Mafabi. He is not saying that for himself but for the experience he has that there are some misbehaved children. However, the children talked about here*-(Interruption)*

**MR NANDALA-MAFABI:** Order, Madam Chairperson. I am not saying it is experience from me. For your information, I am talking for some of you. My children are one of the most well behaved children and they are very good in case you are not aware. I am helping some of you and I am a Christian. My children have been brought up in a Church of Uganda.

**MR OBOTH:** That is what I exactly said and I said that you are not speaking for yourself but you are sharing experiences from what you know other parents or children are going through. You know that I know you with all your children and the wife. Therefore- I know he has a wife.

Madam Chairperson, I hope we can proceed.

**THE CHAIRPERSON:** Honourable chairperson, what was the rationale behind this provision?

**MR MULINDWA:** I would like to clarify to hon. Nandala-Mafabi on the issue of not willing to give anything to the other children. It is clear under the law that you give justification where you are not willing to give to the other children where they are under or above 18 years. Therefore, we should not waste time on that. Let us proceed as the chairperson has suggested. Thank you.

**MR NANDALA-MAFABI:** Hon. Ssozi is not serious. The law and the Constitution of Uganda are very clear; you must maintain your children. Therefore, you should not say when below 18 unless they are not – the moment he is at the university, you maintain them up to 21. *(Interjections)* Please, listen to me because I know the law. You are just a street boy on the road. I am just telling you the law.

**MR SSOZI:** We are aligning this with Article 21 and 26 of the Constitution.

**THE CHAIRPERSON:** Hon. Nandala, do not use unparliamentary language, please.

**MR NANDALA-MAFABI:** Okay. I withdraw the “street” statement. He is just a layman in matters of the law. What I am saying is that if it is children, you must maintain them up to 18 and if they are at school, we have said up to 21 years. Therefore, there is no way you cannot look after your children until they finish school.

However, we are trying to put up a place for older children, like a child who is 30. How do you make provision for one of 30 years? These are things we are trying to put up.

**MR MULINDWA:** Senior colleague, what the honourable chairperson was clarifying here is that you are free to make your will the way you want but you give justifications as to why you are not willing to give to the other children. The law is very clear as amended here. We are simply making it gender sensitive aligning it with Article 21 on equality and equity and Article 26; individually to own the property or in association with others and Article 31 where we align it that all spouses must have equal rights at marriage, divorce and after. That is what we are aligning it with. I pray that we proceed.

**MS KAMATEEKA:** Honourable chairperson, the intention of the law is to reign in responsibility and have peace after you have passed away. As a parent, you are supposed to have lived at peace with your children. However, if you were not able, you are supposed to give reasons why you are disinheriting some of them. As your children, they expect inheritance from the estate.

Therefore, if you are not giving your child an inheritance, what are your reasons? Otherwise, if we let this to continue, it would mean that parents on their passing would, as hon. Nandala said, just give their estate over to the church or anybody they want. You have a responsibility to make sure that your estate remains in order and that there will be peace. Thank you.

**THE CHAIRPERSON:**  Honourable members, apparently-

**MS OGWAL:** Madam Chairperson, I pray that we put this matter to rest. We Africans have responsibility beyond the age of 18 or 21 years which hon. Nandala is talking about.

You are aware that some of our members of the family have suffered disasters and their education has been retarded. Therefore, you find that a child is above 21 years but is still struggling in school.

Not only that, we parents suffer because we want to leave something behind for our children to live on. Why do you disinherit a child because you think they are of age? Then what is the use? I am now very suspicious of these men. There is a tendency even when they are old like my son hon. Nandala here, he may end up with a young girl of 20 years and he wants to leave his estate with this young girl, when his own children are struggling in life.

I think this law has to be very clear, that family members must be provided for, whether they are 18 years old or above 21. Some of them may have some ill health. You know that in our community, we have sickle cells and other ailments which tend to retard the education of children. I think we have to be mindful of all those human hiccups that we may suffer from in our families. Thank you.

**THE CHAIRPERSON:** Honourable members, this new clause is coming in a situation where the children are below 18 years, persons who are above 18 years but are unmarried or disabled and dependent relatives who are substantially dependant on the testator.

**MR KAFUUZI:** We want to remove the word “unmarried” and maintain “disabled” because that would bind you to make a will to cater for someone who is 50 years if that person is unmarried. Therefore, we want to omit the word “unmarried.”

**THE CHAIRPERSON:** Is that okay, chairperson?

**MR OBOTH:** I think that is to do away with the concerns of colleagues that it would be an obligation to somebody who is aware of this position of the law. Unmarried means you can even be 60 years old and you still – but it does not take away the responsibility or the specific obligation of parents to be parents even when they die.

Madam Chairperson, I would like to move that the proposed amendment be put to vote.

**THE CHAIRPERSON:** What about what the Attorney-General has said?

**MR OBOTH:** Yes, I concede to that very minor adjustment.

**THE CHAIRPERSON:** I put the question that section 3 be amended by removing the word “unmarried” and that a new clause be introduced as proposed.

*(Question put and agreed to.)*

Clause 19

**MR OBOTH:** Clause 19 is amended -

i) By inserting a new paragraph to read as follows:

“(a) Substituting for the headnote the following:

‘38 Power of court to order Maintenance’”

ii) In paragraph (a), by substituting for the proposed subsection (1) the following:

“(1) Where a person dies domiciled in Uganda and by his or her will disposes of all his or her property without making reasonable provision for the maintenance of his or her spouse, lineal descendant or dependant relative, court may, on application, order that such reasonable provision be made out of the deceased's estate for the maintenance of the deceased person’s spouse, lineal descendant or dependant relative.”

iii) In paragraph (b), by substituting for the proposed subsection (2) the following:

“(2) The provision for maintenance to be made by an order under subsection (1) shall-

(a) where the deceased’s estate produces an income by way of periodical maintenance, the order shall provide for their termination not later than -

1. in case of a spouse, until he or she remarries;
2. in case of a child, until the child completes his or her education or attains the age of 25 years, whichever first occurs.

(c) in the case of a lineal descendant who has not been married, or who is, by reason of mental or physical disability, incapable of maintaining himself or herself, until he or she marries or upon the cessation of the disability, whichever first occurs; and

(d) in the case of other dependent relative, as the court may determine.”

iv) By substituting “dependents” appearing in subsection (4) and “dependents” appearing in subsection (5) with the words “spouse, lineal descendants or dependent relative”.

The justification is:

1. To limit the termination of maintenance order to only where the surviving spouse remarries.
2. To limit the receipt of maintenance by a child to when the child completes his or her education or attains the age of 25 years, whichever first occurs.
3. To make provision for the maintenance of the deceased’s offspring who are above the age of majority.
4. To incorporate proposals made in clause 15 of the 2019 Bill.

**MR NANDALA-MAFABI:** Thank you very much, Madam Chairperson and the chairperson of the committee. I thought a spouse is taken care of. Why? According to this law, we have said that you will share the property because he or she was your spouse. Why are we then bringing in the spouse here?

The issue should be the children or dependants. Otherwise, a spouse should be taken as special in the sense that the first priority on your estate shall be your spouse, not lumping the spouse together with dependants or children. I thought we had taken care of it earlier.

**MS OGWAL:** Chairperson, I thought that the priority always goes to the spouse, particularly when it comes to women. However, where a man consciously does away with his property and leaves out the spouse, there is a problem.

I would not want us to use this law to become a court. The man could have discovered extra-marital relationships while he was sick. So, by the time he dies, he feels like he should not die and leave his property with this woman he has discovered has got other relationships. That is a fact.

For a man to die and not prepare for the spouse is very strange. When he has chosen not to do that, there must be a reason. We are now trying to use this law to act like a court. Even if the man had a reason not to provide for his spouse, we are making sure that the law does. We have to be conscious.

I am not a lawyer but as an elder in my clan, I am sometimes forced into resolving some of those issues. I know of one issue where there was a marriage that went on for over 30 years but there were some quarrels. When, the man died, the woman claimed to be the one to manage the estate. The clan came in and we discovered that they were no longer living as husband and wife. Maybe that is why the husband did not prepare for her.

When we bring this law, we are trying to resolve issues against a person who had reason for not providing for the spouse. Madam Chairperson, I seek clarification on that.

**MR OBOTH:** Thank you, Madam Chairperson. Clause 37, which we have just passed, sets the principle that the surviving spouse should take the priority. However, there are some instances where people know that is the law and they do not do it. So what is the remedy? It is 38. If you know what to do and you do not do it, it is not only seen in this law, it also gives a remedy for somebody to go to court and seek for remedies.

This is for exceptional circumstances and I believe that settles it and it sets the principle and when you go off track, you are brought back. Even when you know that there is a provision of the law that when you die without making these provisions, there would be an order - somebody can go to court. It will help some of us to think twice about leaving everything in the hands of court.

**MR MAKMOT:** The information that I want to give is that there is a theory of *feminisation* of poverty, which recognises that - for example, the case that my senior, Hon. Cecilia Ogwal stated, is a case where you have been married let us say for a very long period of time and all of a sudden, due to ill health or some emotional thing - sometimes, if given time, people can reconcile, somebody makes a will and passes on yet a spouse may have contributed significantly over a period of time.

Now in that situation, I think the law here is trying to recognise that in this acquiring property, the spouse could have made a contribution over time maybe keeping the children at home or whatever. I think this is a recognition that the law is looking beyond the emotional circumstances of the time and I think it goes to speak about constructive trust and unjust enrichment, which is not equitable. That is the information I would like to give. Thank you.

**MR NANDALA-MAFABI:** Madam Chairperson, when rich men or women know they have property - you are saying when he or she is domicile in Uganda - I decide to relocate to Kenya and say, I am no longer a domicile in Uganda but have property in Uganda; how do you treat it? These English words can become dangerous. A man or woman can denounce his citizenship within a week and say, I am not a Ugandan. Now you are saying the law is domiciled in Uganda and yet the property he accumulated - *(Interjection)* - procedure from Canada –*(Interruption)*

**MR MAKMOT:** Madam Chairperson, I am domiciled in Uganda, for that matter. The issue of domicile was a matter that was concluded; it is not what we are dealing with at hand. So, is it procedurally right for a Member to reopen this when we are actually dealing with another clause without a substantive motion? Thank you.

**MR OBOTH:** … in case of a lineal descendant who is – we want to delete, “who has not been married” and maintain “who is by reason of mental, physical disability.” Therefore, we delete “unmarried” because it might encourage many people to just stay unmarried.

**THE CHAIRPERSON:** Honourable members, the proposal is amended by deletion of the words “who has not been married”. I now put the question that clause 19 be amended as proposed.

*(Question put and agreed to.)*

*Clause 19, as amended, agreed to.*

*Clause 20, agreed to.*

Clause 21

**MR OBOTH:** In clause 21, in the proposed Section 44;

1. Substitute for the word “infant” the word “child” wherever the word is used in the provision.
2. In paragraph (b), delete the words “if the father and mother of the deceased parent of the infant are dead”
3. In paragraph (c), delete the words “if the brothers and sisters of the deceased are dead”
4. Delete paragraphs (d) and (e);
5. Renumber the current provision as sub-clause (1) and insert immediately after it, the following new sub sections”

(2) Where there is no person willing or entitled to be a guardian under subsection (1)(a) to (c), the court may, on the application of any person interested in the welfare of the infant, appoint a guardian.

1. For avoidance of doubt, a person shall not be eligible for appointment as a guardian under this section unless that person is a citizen of Uganda.”

The justification is for consistency since the nomenclature used in the Bill has been “child” and not “infant”, and to require a person appointed guardian to be a citizen of Uganda as required in the Children Act.

Secondly, for completeness to make provision for the court to appoint a guardian where any of the persons with priority are not eligible for appointment.

**THE CHAIRPERSON:** Now, honourable members, last time during the Administrator-General’s Act, we had the occasion to deal with this matter. The word “infant” is not there by accident. An infant could be a child but a child is not necessarily an infant.

In law, the infant is someone who needs care, who has no capacity to contract, who needs a guardian. That is why the word “infant” is there, it is not by accident. You cannot remove the word “infant.”

**MR NANDALA-MAFABI:** Maybe what we can do, according to the chairperson of the committee, is to go again to the interpretation section. If you are talking of a child, I am sure if you have a mother now, even if you are 100 years, the mother calls you her child.

Therefore, a child is a child but an infant is different. An infant is someone who needs serious help and cannot do anything on his or her own. Therefore, we cannot delete “infant.” Maybe we can say, infant or child according to I do not know what.

The old law is very clear; it says, “infant.” I would like to ask the chairperson why we are deleting the word “infant” from the old law. What problem does it have? They call it according to the statutory guardians under Section 44.

**MR KAFUUZI:** Madam Chairperson, in this case, I propose that we replace the word “infant” with “minor” to create a clear distinction pertaining to age. Not every child is a minor.

**THE CHAIRPERSON:** I wish you could just leave the word as it is.

**MR KATUNTU:** Madam Chairperson, you see, you do not have to be ambiguous. Simply define “a minor” and “an infant” in the definition section. There will be no controversy on the matter of age or what you want to mean.

If you want some clarity, then we go back and define who “a minor” or “an infant” is.

**THE CHAIRPERSON:** The minor is also an infant.

**MR KATUNTU:** Just define it.

**THE CHAIRPERSON:** You know, you are dealing with succession matters. You are dealing with guardianship. A guardian can only be appointed for someone who is a minor, an infant. You cannot have a guardian for someone who is 20 years; it is not by accident.

**MR OBOTH:** Madam Chairperson, the way forward is that with your wealth of experience in that chair and the guidance you are giving, we would like to boldly say that we adopt the word “infant”. There is no infant who is not a child but you can have a child in the succession law here who is not an infant. I absolutely agree with that guidance. Please, go ahead on that.

**THE CHAIRPERSON:** Okay.We leave the word “infant” there and we amend paragraphs (b), (c), (d) as proposed. I put the question that the rest of those, (b), (c), (d) and (e) be amended as proposed.

*(Question put and agreed to.)*

*Clause 21, as amended, agreed to.*

**MR OBOTH:** Madam Chairperson, we have an insertion of a new clause in the Bill, immediately after clause 21 and it reads:

“Customary guardian

(1) Family members of a child – and I think some may be consequential amendments where the word “child” appears – may appoint a guardian of a child in accordance with their customs, culture or tradition where:

(a) Both parents of the child are dead or cannot be found;

(b) The surviving parent of a child is incapable of being a guardian or in ineligible of being appointed guardian; or

(c) The child has no guardian or any other person having parental responsibility over him or her.

(2) For the purpose of this section "customary guardianship" means having parental responsibility of a Ugandan child by a Ugandan citizen, resident in Uganda, in accordance with the customs, culture or tradition of an indigenous community in Uganda."

The justification is to make provisions for the appointment of a customary guardian of a child by a family, in accordance with the customs, culture or tradition of an indigenous community in Uganda.

For further clarity, an indigenous community in Uganda is taken right from our Constitution, the schedule, where others who do not know may say, “tribe.” For example if you come from Bugweri, you cannot be a customary guardian in West Budama for reasons that you do not know how we do things there.

**THE CHAIRPERSON:** The structure of this provision would imply that it was on the presumption that the word “child” had now been adopted instead of the word “infant.” Isn’t it? Doesn’t this presuppose that the word “infant” had been substituted by the word “child” in the previous provision?

**MR OBOTH:** Yes, Madam Chairperson. Now that we have adopted the word “infant” instead of the word “child” that would go as a consequential amendment throughout the Bill.

**THE CHAIRPERSON:** Honourable members, the word “infant” be substituted with the word “child” in the proposal. I put the question that a new clause be introduced as proposed.

*(Question put and agreed to.)*

*New clause agreed to.*

Clause 22

**MR OBOTH:** Insertion of new Section 44(a) in the principal Act.

The proposed Section 44(a) is amended –

(a) In the proposed subsection (1), by deleting the words “appointed under section 43;”

(b) By inserting a new subsection, immediately after the proposed subsection (2) and re-numbering the provision accordingly to read as follows:

“(3) A person shall be eligible for appointment as a guardian in subsection (2) if he or she is above 18 years of age and is a citizen of Uganda;

(4) A person appointed under subsection (2) shall, before taking up guardianship of an infant, apply to court to confirm or reject the guardianship.”

The justifications are:

1. The proposal to amend the proposed subsection (1) is to expand the provision to apply to all circumstances where a person is appointed in the Act and not to limit it to appointments made in section 43;

2. Further, the prescription of qualifications is to comply with Part VI(a) of the Children's Act on qualification of a guardian;

3. Lastly, the proposal to require a person appointed guardian by another guardian to apply to court is to prevent the provision from being abused and to comply with the appointment of a guardian under part VI (a) of the Children’s Act.

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

*(Question put and agreed to.)*

*Clause 22, as amended, agreed to.*

Clause 23

**MR OBOTH:** Amendment of Section 45 of the Principal Act

For Clause 23, there is substituted the following –

Replacement of Section 45 of principal Act

The principal Act is amended by substituting section 45 with the following:

"45. Power of the court to remove a guardian

(1) A person may apply to the High Court to remove a guardian appointed under this Act;

(2) Court may only remove a guardian where it is satisfied that: (a) It is in the best interest of the infant to remove the guardian;

(b) The guardian has failed, refused or neglected to act as guardian;

(c) The guardian has neglected his responsibilities as a guardian;

(d) The guardian has not complied with the conditions of the guardianship; or

(e) The guardianship was obtained by fraud or misrepresentation; and

(3) Court shall upon issuing an order for the removal of a guardian, appoint another person to act as a guardian of the infant."

The justifications is to comply with grounds for removal of a guardian under the Children's Act and to specify which court may remove a guardian.

**MR NANDALA-MAFABI:** Madam Chairperson, the old law talked about a Grade III Magistrate, which level has been removed. It was saying that if it is satisfied that it is for the welfare of the infant, why all these words?

I would suggest that we maintain the word “welfare” because basically, the welfare of the infant is food, clothing, shelter, school and the like. Why are we changing? What is best interest? How does an infant know what their best interest is? It should basically be what affects the infant but the infant cannot know what is best to him or her. My proposal would be that we maintain the words “for the welfare of the infant”.

**THE CHAIRPERSON:** Honourable members, the issue of the best interest is the test the court uses to determine whether you are qualified. It is not the child but the court which determines. I put the question that Clause 23 be amended as proposed.

*(Question put and agreed to.)*

*Clause 23, as amended, agreed to.*

Clause 24

**MR OBOTH:** Clause 24 is on replacement of Section 46 of the principal Act. In clause 24, substitute the proposed section 46 with the following:

“46. Powers and duties of a guardian

(1) A guardian appointed in this Act shall be the personal representative of the infant for the purposes of managing the infant’s share in the estate of a deceased person.

(2) A guardian shall apply to court to exercise any of the following powers and duties-

(a) to have custody of the infant;

(b) to administer the property of the infant;

(c) to receive, recover or invest the property of the infant; and

(d) to dispose of the property of the infant.

(3) A guardian shall take all reasonable steps to safeguard the property of the infant from loss or damage and shall annually account, in respect of the infant’s property, to the surviving parent, court or custodian of the infant or to any other person as the court may direct.

(4) A guardian who misappropriates the property of an infant commits an offence and is liable upon conviction to imprisonment for a term not exceeding five years or to a fine not exceeding one hundred and fifty currency points.

(5) A guardian who misappropriates the property of an infant shall, in addition to the punishment in subsection (4), make good the loss occasioned to the infant.”

Justification

1. For completeness, to ensure that the provision applies to all guardians appointed under the Act;
2. To specify the duties and functions of a guardian;
3. To ensure prudent administration of the property of an infant by appointing the guardian a personal representative of the infant, requiring the guardian to account for the property of the infant and if he or she misapplies that property, he or she makes good the loss occasioned and may also face criminal sanctions.

I beg to move.

**THE CHAIRPERSON:** Honourable members, I put the question that clause 24 be amended as proposed.

*(Question put and agreed to.)*

*Clause 24, as amended, agreed to.*

**MR OBOTH:** We propose to insert the following new clause immediately after Clause 24:

“Insertion of sections 46A and 46B in the principal Act

The principal Act is amended by inserting immediately after Section 46 the following new sections-

‘46A. Termination guardianship

(1) The guardianship of an infant shall automatically terminate upon the occurrence of any of the following circumstances, whichever occurs first-

(a) the death of an infant;

(b) the death of the guardian; or

(c) upon the infant turning 18 years.

(2) When guardianship terminates, all the property which the guardian administered shall-

(a) in case of termination under subsection (1)(a), vest in the surviving parent of the infant if any or in the administrator of the estate of the deceased infant.

(b) in case of termination under subsection (1)(b), vest in the surviving parent of the child if any or the infant until a new guardian is appointed; or

(c) in the case of termination under (1)(c), vest in the infant.

46B. Application of Cap 59 to guardianship under this Act

(1) Part VIA of the Children Act shall apply to the grant, revocation and exercise of the powers of a guardian appointed under this Act.

(2) Where any provision of this Act conflicts with a provision in the Children Act in regard to the appointment, revocation and exercise of powers of a guardian under this Act, the provisions of the Children Act shall take precedence over the provisions of this Act and shall in such circumstance apply.’”

Justification

1. For completeness, to provide for the termination of guardianship of an infant; and
2. To harmonise the provisions of this Act with those of the Children Act in regard to the appointment and operation of a guardian.

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

*(Question put and agreed to.)*

Clause 25

**MR OBOTH:** Clause 25 is on replacement of section 47 of the principal Act.

In the proposed amendment to Section 47, replace the word “importunity” with the words, “abuse of position of trust, abuse of position of vulnerability.”

Justification

1. To expand the provision to ensure that a will obtained by abuse of position of trust or vulnerability are also void.
2. For us to use simple words.

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

*(Question put and agreed to.)*

*Clause 25, as amended, agreed to.*

**MR OBOTH**: Before Clause 26, we propose an insertion of new clauses immediately after clause 25. Immediately after Clause 25, we propose to insert the following new clauses:

“Amendment of Section 50 of the principal Act

Section 50 of the principal Act is amended in paragraph (c) by inserting immediately after the words, ‘each of the witnesses must’, the words ‘in the presence of the testator, write his or her name and address on the last page of the will”.

“Replacement of Section 54 of the principal Act-

The principal Act is amended by substituting Section 54 with the following:

‘54. Effect of gift to attesting witnesses

(1) A will shall not be considered as insufficiently attested by reason of any benefit given by the will, either by way of bequeath or by way of appointment to any person attesting it, or to his or her spouse, and the bequest or appointment shall not be void so far as concerns the person so attesting, or the spouse of that person, or any person claiming under either of them where the will-

1. meets the requirements of Section 50(c); and
2. would be sufficiently attested if the signature of that person who attests is not included in the number of the required under Section 50 (c).

(2) A legatee under a Will shall not lose his or her legacy by attesting a codicil which confirms the Will;

(3) Where a Will is handwritten or produced in a typed format on the instructions of the testator by a person, other than the testator and that person who writes or produces the Will has a benefit given by the Will, either by way of bequest or by way of appointment, the bequest or appointment shall be void, as far as that concerns the person who wrote or produced the Will, or the spouse of that person or any other person who would claim under that person or under the spouse of that person;

(4) Subsection (3) shall not apply to the surviving spouse, lineal descendants or dependent relatives of the testator, where the Will meets the requirements of Section 50(c).

The justification is –

1. In Section 50, to make an addition to the legal requirements of making a Will that is valid in law, by requiring for each of the witnesses to write his or her name and address on the last page of a Will, in order to ensure his authentication of the persons who witnessed a Will.
2. In addition, in Section 50(4) to ensure that a person who witnesses a Will is not unreasonably precluded from getting a benefit under the Will, if the other signatures are sufficient to prove the authenticity of a Will, as required in Section 50.
3. The proposal to bar persons presenting handwritten or typed Wills from benefitting from the Will presented by any other person, other than testator, is intended to ensure the authenticity and validity of such a Will is questionable and to ensure that there is no conflict of interest in proving such Wills.

To adopt the proposal made in Clause 20 and 21 of the 2019 Succession (Amendment) Bill. I beg to move.

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

**MR KAFUUZI:** Yes; we harmonised and I do not wish to appear to be departing. However, there is a matter that I believe will create a problem.

My senior colleague, in his presentation, says, “the last page of the Will; that the witnesses sign on the last page of the Will. I wish that we replace that with “all pages of the Will”.

My justification being that there is a possibility of forging the rest of the Will and attaching what you consider the signed last page.

On the other side, there is fear that if we say “all pages of the Will” and one page is skipped, then we open up the Will for being thrown out. However, my understanding is that the Will has to be authenticated and signing or attesting on each and every page will be the best in the circumstances, to avoid forgeries.

**THE CHAIRPERSON:** What is your view on that one?

**MR NANDALA-MAFABI:** Thank you very much. That is one of the things which I wanted to raise; that each page of the Will must be signed.

The other one which I am getting perturbed about is where you say – I need clarification from the chairperson of the committee. Supposing I have made my Will with all these signatures, is there a conflict with it, as far as the earlier clause where you said, “There should be enough for family members like a spouse, children and dependents”? If we have made such a Will, will it have a problem in –

I think let me look at the clause we passed, where you said we must leave enough. It is the new clause, which was before Clause 19. If I have my Will properly written and attested to it - will it be in conflict, if I do not consider the new clause, which was inserted before Clause 19?

**MR KATUNTU:** Thank you very much. Madam Chairperson, the principal signatory to the Will is dead. That is when the Will becomes relevant. The only other people who can testify to the contents of that document are the witnesses.

It is only possible to testify on a document which you have signed. If, for example, this Will was ten pages, it may not be possible for you to remember each and everything in the nine pages. The only way you can remember is by actually endorsing your signatures and particulars and say, “yes, that is the content of the document I signed.” Therefore, having the signature only on the last page endangers that Will

I want to agree with the learned Attorney-General because this is a unique document, colleagues. We are talking about a document whose author has died. It is not like an ordinary contract, where even the parties could be alive to testify on what they wished.

Sometimes, Madam Chairperson, the people who witness do so, but do not indulge in reading the contents of the Will because that is acceptable. You go and witness each page without even knowing the contents, as long as the author is there to say “can you witness this for me?” I think it is of paramount importance that we adopt the wisdom of the learned Attorney-General that we sign each and every page.

On the other question raised by hon. Nandala-Mafabi - Chairperson, carry your own cross.

**MR OBOTH:** Thank you, hon. Katuntu, who was a chairperson of this committee; the longest serving member of this committee. Hon. Nandala-Mafabi’s question is taking us back to the clauses that we passed.

The clauses that we passed set the principle. Here now, we are on the effectiveness and authenticity. We are providing for the Will. As regards the principle of who benefits from the Will, we have moved from that. We are now on what constitutes a Will. We cannot now talk about whether this is now invalidating what we have said before.

This is about what constitutes a valid Will and I want to concede to the wisdom of the learned Attorney-General. Actually, this one bypassed our minds. Even for the committee reports, we endorse every page. The original position was when people were still very honest. That has changed. *(Laughter)* Thank you.

**THE CHAIRPERSON:** Honourable members, the question is that the new clause be amended, as proposed by the Attorney-General.

*(Question put and agreed to.)*

*New clause, as amended, agreed to.*

*Clause 26, agreed to.*

**THE CHAIRPERSON:** Honourable members, this is the appropriate time to adjourn. Can we ask the mover to move the House to resume?

MOTION FOR THE HOUSE TO RESUME

6.21

**MS ROSETTE KAJUNGU (NRM, Woman Representative, Mbarara):** Madam Chairperson, I move that the House do resume and the Committee of the whole House reports thereto. I beg to move.

**THE CHAIRPERSON:** Honourable members, I put the question that the House do resume 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

6.22

**MS ROSETTE KAJUNGU (NRM, Woman Representative, Mbarara):**  Madam Speaker, I beg to report that the Committee of the whole House has considered the Bill entitled, “The Succession (Amendment) Bill, 2018” and has passed it as follows; clauses that have been passed without amendment are clauses 3, 4, 5, 8, 10, 17, 20 and 26.

There have been insertions in clauses 18, 16, 11, 21,-

**THE SPEAKER:** You report that a number of new clauses have been inserted. The numbering will change depending on the drafts people. You are not amending the preceding clause but you are introducing new ones after. So, do not number them.

**MS KAJUNGU:** Thank you, Madam Speaker, for your guidance. The Committee of the whole House has inserted a number of clauses and also some clauses have been amended. The amended clauses are 6, 7, 12, 13, 14, 15, 16, 18, 19, 21, 22, 23, 24 and 25. Clauses 9 and 11have been deleted. I beg to submit.

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

6.24

**MS ROSETTE KAJUNGU (NRM, Woman Representative, Mbarara):** Madam Speaker, I beg to move that the report of the Committee of the whole House be adopted.

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

*(Question put and agreed to.)*

*Report adopted*.

**THE SPEAKER:** Honourable members, I would like to thank you for the work done today. The House will resume tomorrow at 2.00 p.m.

*(The House rose at 6.25 p.m. and adjourned until Thursday, 25 March 2021 at 2.00 p.m.)*