



PARLIAMENT OF UGANDA

**REPORT OF THE STANDING COMMITTEE ON RULES,  
PRIVILEGES AND DISCIPLINE ON THE INQUIRY INTO  
ALLEGATIONS OF MISCONDUCT AND MISBEHAVIOUR MADE  
AGAINST HON. FRANCIS ZAAKE, MP MITYANA MUNICIPALITY  
AND PARLIAMENTARY COMMISSIONER**

Office of the Clerk to Parliament

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Parliament Buildings  
KAMPALA

March 2022

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# 1. INTRODUCTION

Rt. Hon. Speaker, this is the report of the Standing Committee on Rules, Privileges and Discipline on the inquiry into allegations of misconduct and misbehavior made against Hon. Francis Zaake, MP Mityana Municipality and Parliamentary Commissioner

## 1.1 BACKGROUND

On 15<sup>th</sup> February 2022, during a Sitting of Parliament, Hon. Martin Ojara Mapenduzi (*MP Bardege-Layibi Division, Gulu City*) rose on a point of privilege making reference to rules 59(1)(b) and (m) of the Rules of Procedure of Parliament, regarding an allegation of misconduct and misbehaviour against Hon. Francis Zaake (*MP Mityana Municipality, Mityana District/Parliamentary Commissioner*). Hon. Mapenduzi quoted a post from social media, in which Hon. Zaake allegedly disparaged the person of the Rt. Hon. Deputy Speaker of Parliament and allegedly denigrated the integrity of the Office of the Speaker and the Parliament of the Republic of Uganda. (*Appendix i and ii*)

Hon. Mapenduzi stated that:

**“Madam Speaker, thank you for giving me the opportunity to raise this matter of national importance. I rise up under rule 59(1)(b) and (m) of the Rules of Procedure of the Parliament of Uganda. I arise on a point of privilege, which is of utmost importance and urgency to this Honourable House.**

**Last week, the nation woke up to a rant by a Member of this House, who is a Commissioner of Parliament, Hon. Zaake Francis, through his known social media handle, where he insulted the integrity of this House and above all, the integrity of the Office of the Speaker.**

He wrote and I want to quote. This is exactly how he put it:

*"The fact that my body has severely encountered torture from security operatives, it is on record of Court that indeed, I was tortured. To my consternation, the Deputy Speaker of Parliament, while presiding over a session of Parliament controverted the finding of High Court in Suit No. 85 of 2020 that I was tortured by sarcastically stating but with the utmost level of recklessness that though tortured, I won a medal in East African Parliamentary Games."*

He continued,

*"The utter bunkum emanating from her dishonest lips was only intended to mock and break me down, this is idiocy! Parliament deserves better, how a person of her caliber lacks intelligent prowess to appreciate that healing is a natural phenomenon. The loose cannon in her couldn't contemplate the duty that her office owes members and the country at large, disturbingly she ejaculated while presiding over a session to condemn torture, aah! How hypocritical, shame upon you!"*

This is exactly the statement he authored on his social media handle.

Madam Speaker, in compliance with this, based on the requirement of this House, I beg to lay on the Table a print out of what the Honourable Member wrote.

Madam Speaker, all of us may have our own emotions and issues to deal with, but there are avenues in our Rules of Procedure, through which anything done by the presiding officer in the House, can be challenged. The Member never exercised any of the remedies provided for in the rules, but chose to go to social media.

The conduct of the Member not only denigrated the integrity of Parliament in the eyes of the citizens of Uganda, but was also a breach of rule 84 and 85 and paragraph 5 of the Code of Conduct of Members of Parliament embedded in Appendix F of the Rules of Procedure of Parliament.

In my view, Madam Speaker, this amounted to gross misconduct and misbehavior on the part of the Honourable Member for which I intend to

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move a motion, under Section 5 of the Administration of Parliament Act, for his removal from the office of Commissioner of Parliament.

I will also be moving to this House, at an appropriate time, under rule 16, to suspend rules 56 and 110 of the Rules of Procedure. Thank you very much, Madam Speaker.”

The following Members spoke with respect to the matter:

- Hon. Jonathan Ebwalu (MP, Soroti West Division);
- Hon. Geoffrey Macho (MP, Busia Municipality);
- Hon. Mary Annet Nakato (DWR, Buyende);
- Hon. Agnes Atim (DWR, Amolatar);
- Hon. Esther Afoyochan (DWR, Zombo/Parliamentary Commissioner);

The Presiding Officer, the Rt. Hon. Deputy Speaker, while stating that other processes may go on, referred the matter to the Committee on Rules, Privileges and Discipline under Rule 175 of the Rules of Procedure, stating that the Constitution dictates a fair hearing for every citizen before a decision is taken. The Committee was directed to report to the House within two weeks.<sup>1</sup>

## 1.2 MANDATE OF THE COMMITTEE ON RULES, PRIVILEGES AND DISCIPLINE

The Constitution of the Republic of Uganda empowers Parliament to make its own rules to regulate its procedure. **Article 94 (1)** provides thus:

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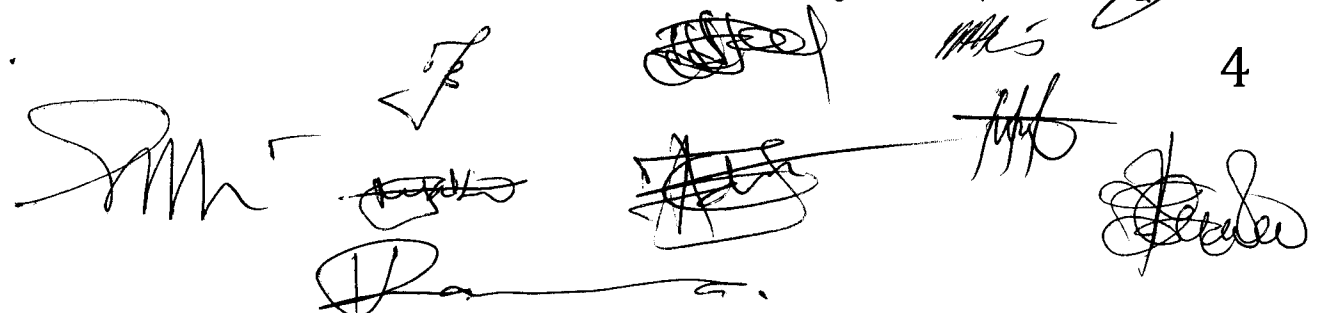
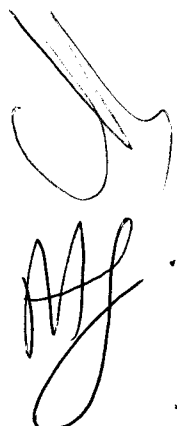
<sup>1</sup> See **Appendix iii** for letter from Clerk to Parliament to Chairperson, Committee on Rules, Privileges and Discipline.

***Subject to the provisions of this Constitution, Parliament may make rules to regulate its own procedure, including the procedure of its committees."***

Further, **Article 90(2)** provides that ***Parliament shall, by its rules of procedure, prescribe the powers, composition and functions of its committees.***

In exercise of the stated constitutional mandate, Parliament made the Rules of Procedure of Parliament providing for, among others, the Committee on Rules, Privileges and Discipline. Under **rule 175** the functions of the Committee are as follows:

- (1) *The Committee on Rules, Privileges and Discipline shall, by order of the House—*
  - (a) *inquire into any complaint of contempt of Parliament or breach of privilege which may be referred to it and to recommend to the House such action as the Committee may consider appropriate;*
  - (b) *consider any matter of discipline referred to it by the Speaker or the House including attendance of Members at sittings of Committees, and to report its findings to the House;*
  - (c) *review these Rules from time to time and to make such recommendations to the House for amendment as the Committee considers necessary for the satisfactory functioning and efficient transaction of the Business of the House and its Committees;*
  - (d) *examine and advise the House on amendments proposed to these Rules, by Members or other Committees of the House; and*
  - (e) *carry out such other functions as are conferred by these Rules or assigned by the House.*
- (2) *The findings and recommendations of the Committee on Rules, Privileges and Discipline shall be presented, debated and approved by the House.*
- (3) *Without prejudice to sub rule (2), where an affected party agrees to the findings and recommendations referred to in that rule, there shall be no debate save approval of the report by the House.*
- (4) *Once the House has pronounced itself on any report presented under this rule, the decision of the House shall be binding on all the parties.*



### 1.3 ISSUES FOR DETERMINATION

Upon due consideration of the matter referred to it, the Committee found the following to be the pertinent points of reference to guide the inquiry:

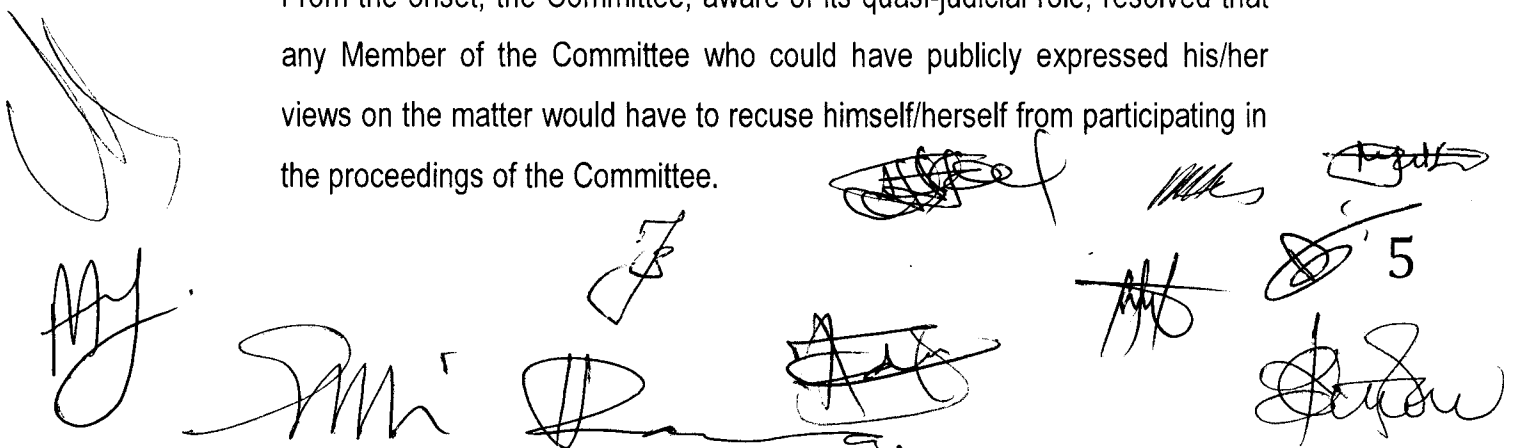
- (a) Whether the impugned social media statements were made by Hon. Francis Zaake;
- (b) Whether there is any breach of the Rules of Procedure of Parliament, including any breach of privilege or matter of discipline;
- (c) What are the observations and recommendations on the issue?

### 1.4 METHODOLOGY

The Committee, being conscious of its powers under the Constitution and the Rules of Procedure of Parliament and its quasi-judicial nature, employed the following methods of work:

- i) Public hearings;
- ii) Review of documents and written submissions;
- iii) Review of social media content;
- iv) Review of applicable laws and other Literature

From the onset, the Committee, aware of its quasi-judicial role, resolved that any Member of the Committee who could have publicly expressed his/her views on the matter would have to recuse himself/herself from participating in the proceedings of the Committee.



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The Committee further resolved that;

- Hon. Zaake had a right to be represented by Counsel;
- he was at liberty to attend any Committee meeting that would be held for purposes of examining witnesses; and that he would, if he so wished be given an opportunity to cross-examine the witnesses;
- he had a right to access all evidence that was adduced to the Committee by witnesses;
- Hon. Zaake would be informed of the list of witnesses that would appear before the Committee.

Pursuant to the above, the Committee wrote to Hon. Zaake vide letter dated 21<sup>st</sup> February 2022 informing him of: the allegations; his rights; and the Committee's schedule (**Appendix iv**).

#### 1.4.1 Public Hearings

The Committee carried out public hearings and heard from the following:

- i) Hon. Martin Ojara Mapenduzi (*MP Bardege-Layibi Division, Gulu City*);
- ii) Hon. Jonathan Ebwalu (*MP Soroti West Division*);
- iii) Hon. Geoffrey Macho (*MP, Busia Municipality*);
- iv) Hon. Mary Annet Nakato (*DWR, Buyende*);
- v) Hon. Francis Zaake (*MP, Mityana Municipality/Parliamentary Commissioner*);
- vi) Mr. Abudu-Sallam Waiswa (*Head, Legal Services, Uganda Communications Commission (UCC)*);
- vi) Mr. Michael Bamwesigye (*Head, Information Technology & Security, UCC*);

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- vii) Mr. Solomon Wilson Kirunda, Ag. Director, Department of Litigation and Compliance who represented the Clerk to Parliament.

#### 1.4.2 Review of Documents and Written Submissions

The Committee reviewed the following:

- a copy of the social media post allegedly made by Hon. Zaake presented by Hon. Mapenduzi on 15<sup>th</sup> February 2022 (**Appendix ii**) and his further written submissions dated 3<sup>rd</sup> March 2022 presenting more copies of social media content (**Appendix v**);
- the Hansards of 8<sup>th</sup> and 15<sup>th</sup> February 2022 (**Appendices vi and i**);
- submissions written and presented by Hon. Zaake, dated 28<sup>th</sup> February 2022 (**Appendix vii**);
- Hon. Zaake's written submission delivered to the Committee on 1<sup>st</sup> March 2022 jointly drawn and filed by M/s Kiiza & Mugisha Advocates and M/s Pace Advocates (**Appendix viii**);
- the written submission dated 25<sup>th</sup> February 2022 and presented by officials from the Uganda Communications Commission (UCC) on 3<sup>rd</sup> March 2022 (**Appendix ix**); and
- A copy of the complaint of the Division Commander of the Parliamentary Police Division dated 10<sup>th</sup> February 2022 to the Inspector General of Police (**Appendix x**).

#### 1.4.3 Review of Social Media Content

The Committee reviewed content from the social media accounts (Facebook and Twitter) on which it was alleged that the impugned content had been posted and whose ownership was attributed to Hon. Francis Zaake.

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#### 1.4.4 Review of Applicable Laws and Other Literature

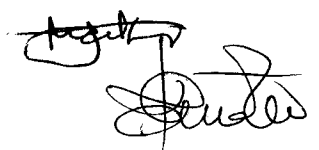
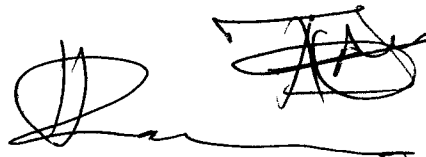
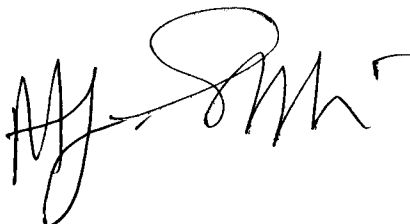

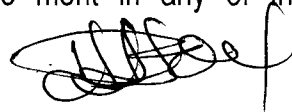
The Committee considered the provisions of the Constitution of the Republic of Uganda applicable to the matter; the Rules of Procedure of Parliament; decided cases, particularly from Parliaments and Courts of Commonwealth countries; treatises and papers on Parliamentary procedures and practices.

#### 1.5 OBJECTIONS RAISED BY HON. FRANCIS ZAAKE

When Hon. Zaake appeared before the Committee on 28<sup>th</sup> February 2022, he challenged the jurisdiction and independence of the Committee. This was made orally and in his written submission.

- (i) He argued that the Committee had no jurisdiction to entertain the matter since the impugned statements were made outside the precincts of Parliament.
- (ii) He further argued that the Committee was biased, partial and lacked independence since the matter in question was referred to it by the Rt. Hon. Deputy Speaker and there was no way the Committee would decide against her.

The Committee considered the objections and in a ruling delivered by the Chairperson on 2<sup>nd</sup> March 2022, found no merit in any of the raised preliminary objections (**Appendix xi**).



### 1.5.1 Lack of Jurisdiction

In the ruling, it was noted that on the 28<sup>th</sup> of February 2022, Hon. Zaake appeared before the Committee and objected to its jurisdiction to handle the matter. Hon. Zaake presented written submissions on 1<sup>st</sup> March 2022, in which he further challenged the jurisdiction of the Committee.

The Committee considered **Article 94 of the Constitution** which empowers Parliament to make rules to regulate its procedure and that of its Committees.

The Committee notes that **Article 90 of the Constitution** provides as follows:

#### **"90. Committees of Parliament**

(1) *Parliament shall appoint committees necessary for the efficient discharge of its functions.*

(2) ***Parliament shall, by its rules of procedure, prescribe the powers, composition and functions of its committees.***

(3) *In the exercise of their functions under this Article, committees of Parliament—*

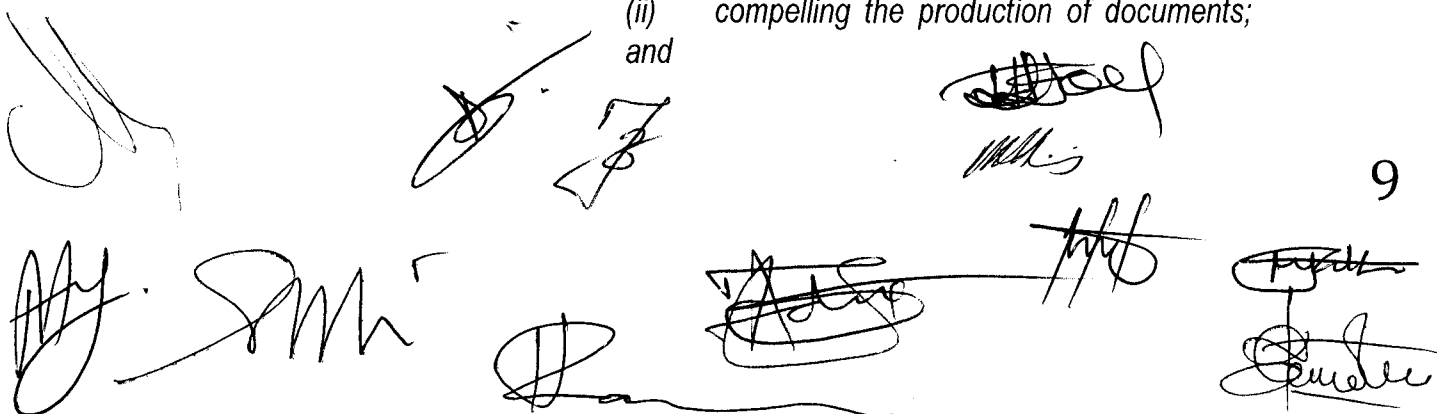
(a) *may call any Minister or any person holding public office and private individuals to submit memoranda or appear before them to give evidence;*

(b) *may co-opt any member of Parliament or employ qualified persons to assist them in the discharge of their functions;*

(c) *shall have the powers of the High Court for—*

(i) *enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise; and*

(ii) *compelling the production of documents; and*

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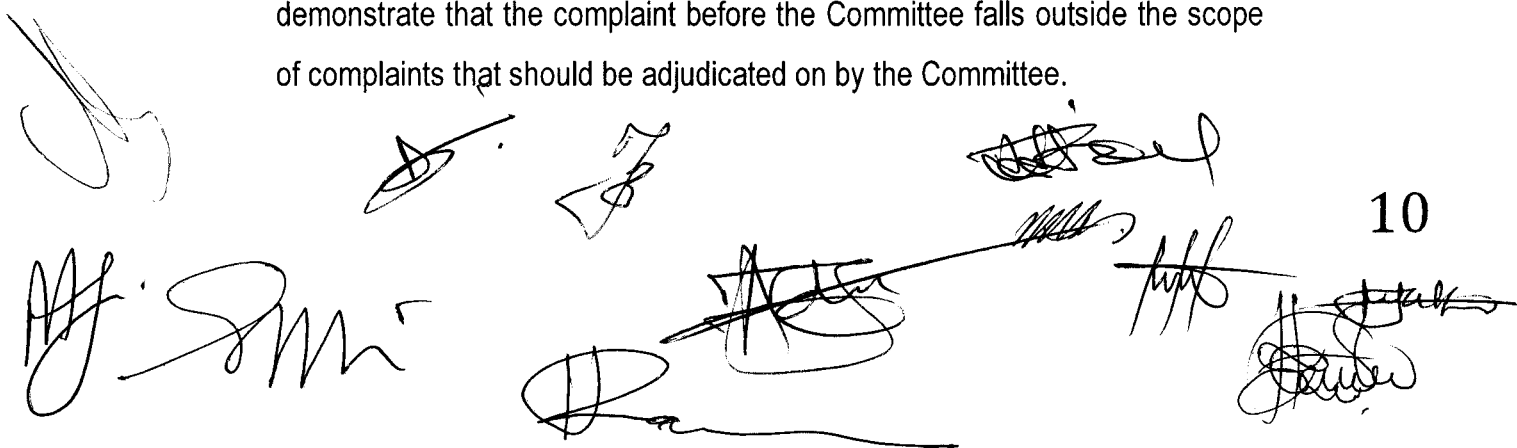
(iii) *issuing a commission or request to examine witnesses abroad.* (**Emphasis added**)

The Committee also considered **Rule 175 of the Rules of Procedure** on the mandate of the Committee on Rules, Privileges and Discipline and **The Code of Conduct (Appendix F)** of the Rules of Procedure and found that it had jurisdiction to entertain the matter.

The Committee had opportunity to examine the above provisions of the law i.e., the Constitution and the Rules of Procedure. It also considered the objections raised by Hon. Zaake. The Committee considered Article 94, cited by Hon. Zaake which reads: "Subject to the provisions of this Constitution, Parliament may make rules to regulate its own procedure including the procedure of its committees."

In interpreting Article 94, regard must be had to other provisions of the Constitution. Article 90(2) provides that: *Parliament shall, by its rules of procedure, prescribe the powers, composition and functions of its committees.*

Pursuant to the above Constitutional mandate, Parliament made its rules of procedure vide **Statutory Instrument 30 of 2021**. These are the rules that regulate the conduct of business in Parliament as well as the Code of Conduct and discipline of Members of Parliament. The Committee noted that Hon. Zaake and his legal team did not address their minds to Article 90(2) which provides for powers of the Committee, and rule 175 of the Rules of Procedure –from which this Committee derives its jurisdiction– to demonstrate that the complaint before the Committee falls outside the scope of complaints that should be adjudicated on by the Committee.



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Parliament, in accordance with rules 156 and 158(1)(b) appointed the Committee on Rules, Privileges and Discipline, providing it with functions in the rule hereunder:-

Rule 175 provides:

- (1) *The Committee on Rules, Privileges and Discipline shall, by order of the House—*
- (a) *inquire into any complaint of contempt of Parliament or breach of privilege which may be referred to it and to recommend to the House such action as the Committee may consider appropriate;*
- (b) *consider any matter of discipline referred to it by the Speaker or the House including attendance of Members at sittings of Committees, and to report its findings to the House*"

Given the above provisions, the Committee was satisfied that it had jurisdiction to entertain the matter, and therefore proceeded to consider the complaint which was referred to it.

The Committee decided that it would proceed to dispose of the matter before it, despite the absence of Hon. Zaake who had clearly chosen to snub the Committee's proceedings. The Committee took cognizance of the principle that all that is required of a quasi-judicial body is to accord a party a reasonable opportunity of being heard and where an individual fails or refuses to appear before it, it cannot be stated that he or she was denied a right to be heard<sup>2</sup>. Once the opportunity is given, the party who is given such opportunity is at liberty to utilize it or not and if not utilized, then the only point on which the party not utilizing the opportunity can be heard is why such a party did not

<sup>2</sup> See the Decision of Kakuru, JCC in *Fox Odoi Oywelowo v Attorney General, Constitutional Petition No 54 of 2013*

utilize it. In the instant case, the Committee, through several invitations, gave Hon. Zaake a reasonable opportunity to be heard<sup>3</sup>. It is not up to the Committee to inquire into reasons why Hon. Zaake opted to snub the proceedings.

### 1.5.2 Partiality and Lack of Independence

The Hon. Zaake complained of bias, partiality and lack of independence by the Committee. His contention was that the supreme law demands that only impartial tribunals dispense judicial or quasi-judicial functions. He stated that people who appear before the committee are entitled to the reality and climate of independence and impartiality guaranteed by Articles 28(1), 42, and 44(c) of the Constitution of the Republic of Uganda.

He further contended that with the Deputy Speaker, Rt. Hon. Anita Among as personally and individually interested and concerned in this matter as she confessed before referring the matter to the committee, nothing short of a miracle would see the committee make recommendations adverse to those of the Deputy Speaker. He alluded to Article 28 and 42 of the Constitution on the right to a fair hearing and a right to just and fair treatment in administrative decisions.

The Committee was alive to these constitutional provisions and the essence of a right to a fair hearing. The committee is also alive to the fact that the Rt Hon Deputy Speaker is not a sitting member of the Committee. The Committee is properly constituted and none of the members has been pointed,

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<sup>3</sup> Copies of the invitations attached hereto and marked Appendix iv and xii)...

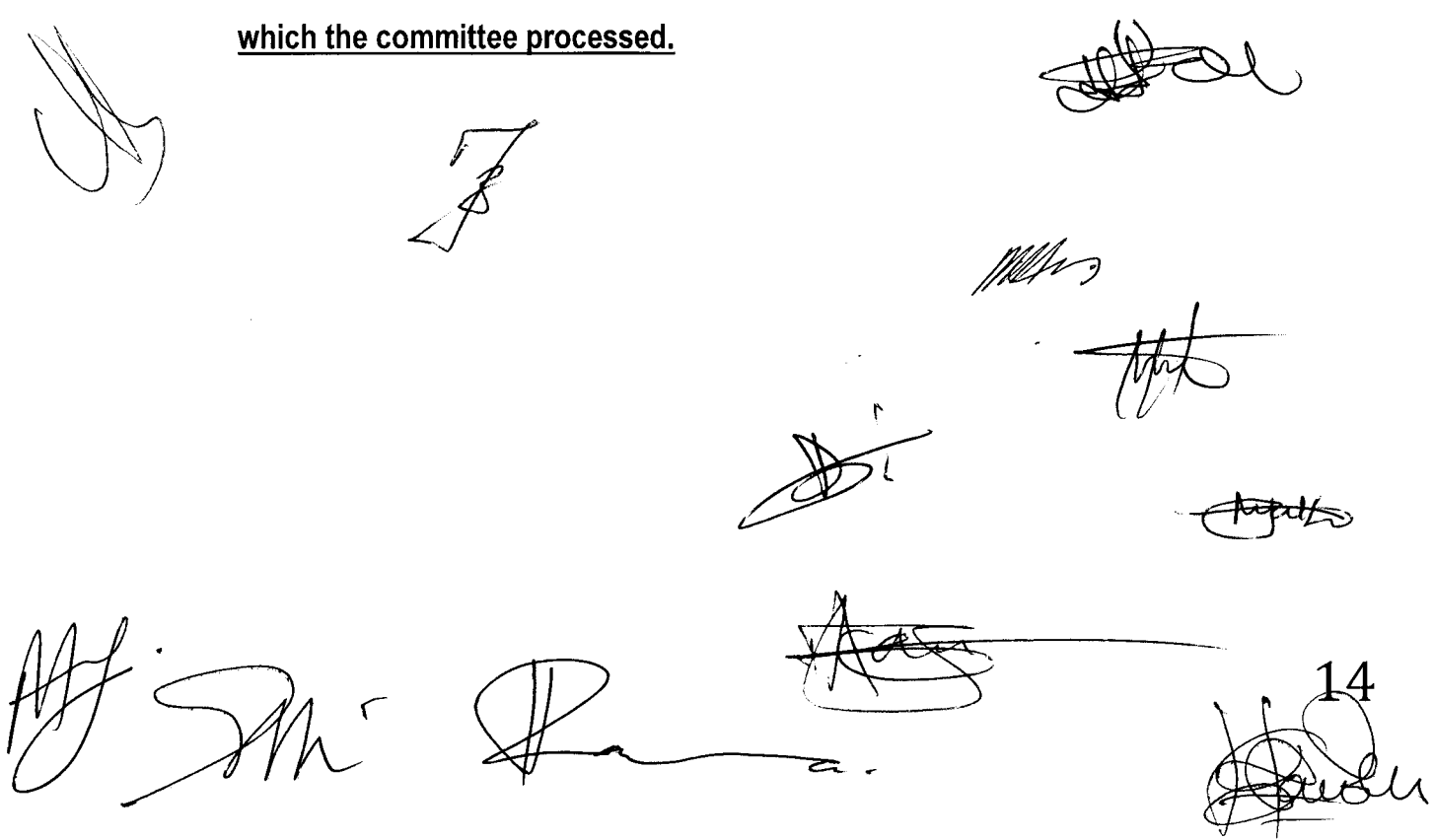
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out as being biased or likely to be biased. Indeed, no application has been made for any member of the Committee to recuse themselves from the proceedings on account of any alleged bias. The objection relating to bias must be made against a sitting member of the tribunal and should not be premised on extraneous factors. In the Committee's considered view, a distinction must be drawn between mere fear by a party of the likely decision of a tribunal and bias attributed to the tribunal. The Committee has had the opportunity to consider the principles on bias enunciated in the case of **Obiga Mario Kania v Electoral Commission (EPA No. 14/2011)** where it was held that *to determine bias, there must appear to be real likelihood of bias. Surmise or conjecture is not enough.* The reasons advanced by Hon. Zaake in the Committee's view amount to conjecture or surmise. They are not sufficient to render the Committee biased. That could possibly be the very reason why no application was made for any of the Committee members to recuse themselves.

The Committee gave the Hon. Zaake all the opportunity to present his case in accordance with the well-known principles of natural justice and fair hearing. He was allowed to appear with Counsel, and indeed appeared with two lawyers. He was informed of his right to cross examine any witness and attend all committee meetings. All evidence before the Committee was provided to him. He sought adjournment on two occasions, which were granted. And instead of appearing on the second occasion he decided to keep away. Even then, every evidence that came before the Committee after he failed to attend was forwarded to him. On the day to which the meeting was adjourned, after waiting for one hour, the Committee, on its own motion contacted the lawyers of

the Hon. Zaake who had written to the Committee the previous day; the lawyers informed the Committee that their instructions had been withdrawn. A phone call was made to Hon. Zaake, which was not answered. This was followed by a WhatsApp message. Audio recordings of the proceedings of the Committee were forwarded to Hon. Zaake on 22<sup>nd</sup> February 2022. On 4<sup>th</sup> March 2022, further evidence of the social media publications (tweets) as presented to the Committee by Hon. Mapenduzi on 3<sup>rd</sup> March were forwarded to Hon. Zaake, together with audio recordings of the Committee's proceedings of the 3<sup>rd</sup> and 4<sup>th</sup> of March 2022.

The Committee did what any reasonable tribunal acting judiciously would have done. It is, therefore, surprising that the Hon. Zaake would imagine that the Committee was acting with bias and partiality. Whereas Hon. Zaake stated that the Rt. Hon. Deputy Speaker was the complainant in this case, the records before the Committee show that the complaint was by Hon. Martin Ojara Mapenduzi; it is this complaint which the committee processed.



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## 2 FINDINGS AND ANALYSIS

### 2.1 SUMMARY OF EVIDENCE

The Committee considered all the testimonies from the witnesses that appeared before it and the documents presented. Below is a summary of the evidence.

#### 2.1.1 Submission of Hon. Mapenduzi and Other MPs before the Committee

Hon. Mapenduzi and the other Members' complaint was that Hon. Zaake's alleged misconduct and misbehaviour brought the institution of Parliament of Uganda into disrepute, as well as that of the Office of the Speaker and the Deputy Speaker. It was stated that by posting disparaging statements on social media, Hon. Zaake breached his privilege and also depicted misconduct and general misbehaviour. Hon. Mapenduzi stated that he believed Hon. Zaake failed to follow the established procedures under the Rules of Procedure of Parliament to challenge any statement made on the floor of the House, and instead used social media platforms to make the following statement:

***"The fact that my body has severely encountered torture from security operatives, it is on record of Court that indeed, I was tortured. To my consternation, the Deputy Speaker of Parliament, while presiding over a session of Parliament controverted the finding of High Court in Suit No. 85 of 2020 that I was tortured by sarcastically stating but with the utmost level of recklessness that though tortured, I won a medal in East African Parliamentary Games."***

***“The utter bunkum emanating from her dishonest lips was only intended to mock and break me down, this is idiocy! Parliament deserves better, how a person of her caliber lacks intelligent prowess to appreciate that healing is a natural phenomenon. The loose cannon in her couldn’t contemplate the duty that her office owes members and the country at large, disturbingly she ejaculated while presiding over a session to condemn torture, aah! How hypocritical, shame upon you!” (Appendix xiii)***

Hon. Mapenduzi averred that this statement contravened the Rules of Procedure, and the other Members of Parliament who appeared before the committee supported this view.

## **2.1.2 Submission of Uganda Communications Commission (UCC)**

The evidence from the Uganda Communications Commission was technical. It provided insights into the social media handles. UCC sought to verify and confirm the user/ownership and authenticity of the Twitter and Facebook accounts that were attributed to Hon. Francis Zaake, the content of which was the subject of the investigation by the Committee. The accounts in question were:

- (i) <https://www.facebook.com/HonZaakeFrancisButebi>; and
- (ii) <https://twitter.com/ZaakeFrancis>

The evidence provided by Uganda Communications Commission was as follows:

- (a) Facebook and Twitter are over-the-top applications provided by technology firms based in the United States of America (USA).
- (b) Whereas Twitter and Facebook do obtain similar identification information about their account holders at the point of account

opening, the Commission does not have direct access to their registers of such information. Due to the difference in jurisdiction, a court order is required to be presented to Twitter or Facebook to provide this information.

(c) Whereas the Commission has acquired different technical capabilities to facilitate the implementation of its regulatory mandate under sections 5(1) and 45 of the Uganda Communications Act 2013, the respective system to facilitate such assessment independently is currently undergoing technical upgrades and therefore not available.

(d) That the above technical limitations notwithstanding, the Commission had, through the use of open-source techniques, obtained the following information:

(i) Facebook page <https://www.facebook.com/HonZaakeFrancisButebi> exists on Facebook and is associated with the email address: [zaakefrancis12@gmail.com](mailto:zaakefrancis12@gmail.com)

(ii) The said Facebook account <https://www.facebook.com/HonZaakeFrancisButebi> is officially verified by Facebook and is reported to have been opened using Government-issued documents. The Commission therefore deduced that before Facebook verified the account, the user must have submitted an official document describing him as such.

(iii) No information had been obtained about the Twitter account, <https://twitter.com/ZaakeFrancis>. UCC averred that the impugned post had been deleted and was no longer available on the account.

- (iv) UCC could conduct further investigations in respect to the matter if Parliament furnished it with the device(s) which could have been used to post the impugned posts. **(Appendix ix)**

The Committee was further informed by the officials from UCC that it is possible to trace any post that was deleted from Twitter or Facebook if the device used to post it as stated in (iv) above is provided.

During the hearing, the UCC officials read out the personal information provided in the Twitter handle <https://twitter.com/ZaakeFrancis> and they were:

- The Twitter handle <https://twitter.com/ZaakeFrancis> bears the following particulars:
  - **Zaake Francis**
  - @ZaakeFrancis
  - Commissioner of 11<sup>th</sup> @Parliament\_UG
  - Director @zaakefoundation
  - Secretary for Youth @NUP\_UG
  - MP, Mityana Municipality
  - (Location): Mityana, Uganda parliament.go.ug
  - (Date of Birth): Born 12 January 1991
  - Joined December 2017

There were several posts on the Twitter account that were read before the Committee and it showed that the account is active and is in the names of Zaake Francis, a Member of Parliament and Commissioner of Parliament of Uganda. The latest posts were about the submissions presented by Hon. Zaake in the Committee **(Appendix xiv)**.

### 2.1.3 Consideration of Other Issues raised by Hon. Francis Zaake

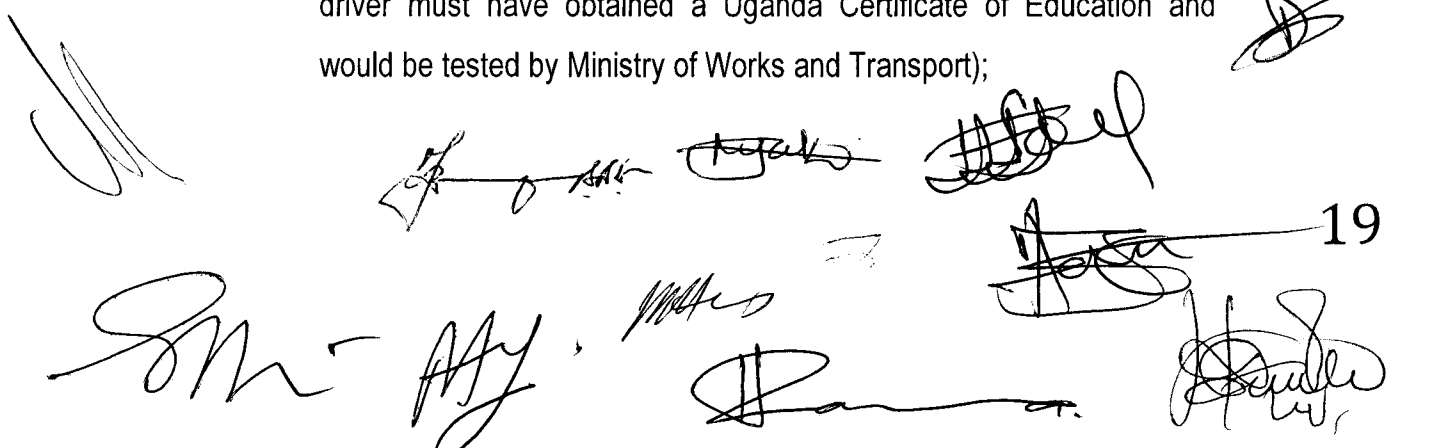
It was Hon. Zaake's submission that his security detail, to which he was entitled as a Commissioner of Parliament, was unceremoniously withdrawn without any explanation. According to him, he was already being punished before being heard.

The committee invited an explanation from the Clerk to Parliament on the allegation of the withdrawn security detail (*Appendices xv and xvi*).

The Committee received evidence that matters regarding security in Parliament are handled by Uganda Police and that the Police Officer assigned to guard Hon. Zaake, a one Police Constable 40863 Ewasu Sam, was withdrawn by the Inspector General of Police following alleged misconduct by the said officer. (*Appendix xvii*)

Further, the testimony from the Office of the Clerk to Parliament revealed that a personal bodyguard was not one of the stipulated benefits of a Parliamentary Commissioner. The Parliamentary Commission provides a Backbench Commissioner with the following:

- A fully furnished office;
- One station wagon vehicle;
- Fuel per month deposited on a fuel card;
- A driver identified and recommended by the Commissioner. (The driver must have obtained a Uganda Certificate of Education and would be tested by Ministry of Works and Transport);



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- A political assistant recommended by the Commissioner. (He/she must be a graduate);
- Monthly honoraria;
- Two domestic servants.

A bodyguard could only be allocated by the Inspector General of Police, upon a threat being detected or an application being made by any citizen of Uganda. That by decision of the Parliamentary Commission on 27<sup>th</sup> October 2021, security was posted at the residences of the Parliamentary Commissioners and they remain under the command of the Inspector General of Police and not Parliament. Evidence was adduced showing that it was the Division Police Commander of the Parliamentary Police Division who lodged a complaint against Hon. Zaake's body guard who exhibited 'bad manners' and was not cooperative in surrendering his firearm for safe custody at the armoury when entering the precincts of Parliament (**Appendix x**).

## 2.2 CONSIDERATION OF THE EVIDENCE AND THE ISSUES FOR DETERMINATION

### 2.2.1 Whether the Impugned Social Media Statements were made by Hon. Francis Zaake

According to the complaint before the committee, the impugned statements were made on social media accounts owned by and attributed to Hon. Zaake. Hon. Mapenduzi stated that he took screenshots of the statements and presented them before Parliament. The same were presented before the Committee. UCC brought evidence to show that the Facebook account on which the statement was also posted belonged to Hon. Zaake. UCC officials

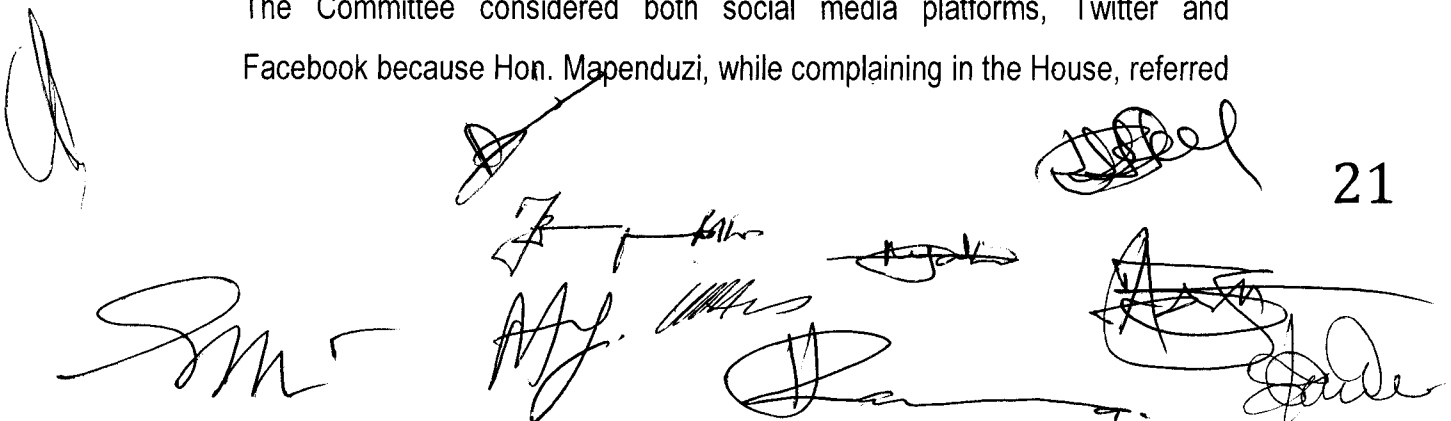
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also read several posts on the Twitter account which is attributed to Hon. Zaake. Some of the posts clearly showed an active account with even the latest proceedings of the Committee and photos being posted.

The Committee observes that Hon. Zaake did not bring any evidence to deny the ownership of the accounts, nor did he make clear attempts to deny the impugned posts. Hon. Zaake did not at any time deny ever making the statements attributed to him. He did not deny that it was a statement posted on his social media accounts and by himself. In his written submission filed before the Committee by his legal counsel, Hon. Zaake's contention was not that he had not made the statements or caused them to be published on his social media accounts. His contention was that the statements were made outside proceedings of Parliament and outside the precincts of Parliament which denied the committee the jurisdiction to inquire into them. The Committee however found that the impugned posts were deleted and were no longer on the account. The Hon. Zaake only stated that:

***"...Mr. Chairperson, some social media comments allegedly responding to the Speaker's insensitive joke have been attributed to me in recent days, although without any technical proof that I made them. It is on account of that alleged but unproven social media response that the same Deputy Speaker who made fun of my pain and humiliation referred me to this Committee for 'trial'..."***

The Committee considered both social media platforms, Twitter and Facebook because Hon. Mapenduzi, while complaining in the House, referred



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to "Hon. Zaake's known social media handle". Whereas the term "handle" refers to Twitter, the document Hon. Mapenduzi laid on Table was actually a Facebook post, as confirmed by UCC.

The committee is cognizant of the general rule in proceedings of this nature that the burden of proof lies on the party who asserts the affirmative of the issue or question in dispute. When that party adduces evidence sufficient to raise a presumption that what he asserts is true, he is said to shift the burden of proof: that is, his allegation is presumed to be true, unless the person complained about contests and adduces evidence to rebut the presumption.

Based on this principle, once Hon. Mapenduzi adduced evidence against Hon. Zaake, it was expected that if Hon. Zaake wished to contest the allegations of Hon. Mapenduzi, he would have unequivocally denied the allegations and adduced evidence to controvert the evidence adduced in support of the complaint. It should be noted that the Hon. Zaake requested for the evidence that had been adduced by Hon. Mapenduzi. The Committee provided this evidence. However, when he appeared, he raised objections as to jurisdiction and submitted that he was before the Committee, not to defend himself, but out of courtesy and because of the respect he had for his colleagues and the institution. And for purposes of the record, Hon. Zaake went through a chronology of what he said were torture episodes. He expressed bitterness about the remarks that the Rt. Hon. Deputy Speaker made during the plenary sitting of 8<sup>th</sup> February 2022. He concludes:

***"If you were me, you would understand how hard it is for me not to think that she should be the one appearing before this Committee but not me. Nevertheless, I forgive her. I forgive her not just for making fun of my plight, but also for the mob justice she is about to preside over against me."***



**The Committee observes that the following is the uncontroverted evidence:**

- The Twitter handle <https://twitter.com/ZaakeFrancis> bears the following particulars:
  - **Zaake Francis**
  - **@ZaakeFrancis**
  - Commissioner of 11<sup>th</sup> @Parliament\_UG
  - Director @zaakefoundation
  - Secretary for Youth @NUP\_UG
  - MP, Mityana Municipality
  - (Location): Mityana, Uganda parliament.go.ug
  - (Date of Birth): Born 12 January 1991
  - Joined December 2017
  
- The particulars of Hon. Francis Zaake, as provided to the Parliament of Uganda and contained in his personal file opened on 8<sup>th</sup> May 2016, include the following:
  - Name: Francis Zaake
  - Date of Birth: 12<sup>th</sup> January 1991
  - Email address:
    - Personal contact: [zaakefrancis@gmail.com](mailto:zaakefrancis@gmail.com)
    - Next-of-kin 1<sup>st</sup> Person: [ssembuusiemmy@gmail.com](mailto:ssembuusiemmy@gmail.com)
    - Next-of-kin 2<sup>nd</sup> Person: [zaakefrancis12@gmail.com](mailto:zaakefrancis12@gmail.com)

**The above particulars bear the details of Hon. Francis Zaake. Without unequivocal denial by Hon. Zaake, the Committee finds that the said Twitter handle belongs to Hon. Zaake.**

- The Facebook printout laid on Table before Parliament and provided to the Committee is from the Facebook account <https://www.facebook.com/HonZaakeFrancisButebi> The email address used to open up the account is [zaakefrancis12@gmail.com](mailto:zaakefrancis12@gmail.com) This is the same account found in Hon. Zaake's personal file as held by the Parliamentary Commission.
- The said Facebook account contained a post with similar content as the one on Twitter. It must have been a snapshot.

**The Committee holds the view that the same Facebook account belongs to Hon. Francis Zaake. The impugned social media content must have been posted by Hon. Zaake and or somebody associated with him, managing his said social media accounts.**

## **2.2.2 Whether there is any Breach of the Rules of Procedure of Parliament including any Breach of Privilege or Matter of discipline**

The Committee sought to determine whether the statements made by Hon. Zaake constitute a breach of the rules, breach of privilege, and or a matter of discipline.

It was stated in evidence by Hon. Mapenduzi that Hon. Zaake was in breach of rule 84 of the Rules of Procedure of Parliament.

**Rule 84 of the Rules of Procedure provides that:**

**"It is out of order to use offensive, abusive, insulting, blasphemous or unbecoming words or to impute improper**

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***motives to a Member or to make personal allusions.” (Emphasis added)***

Hon. Mapenduzi further stated that Hon. Zaake was in breach of rule 85 of the Rules of Procedure of Parliament, together with Appendix F (The Code of Conduct for Members of Parliament).

**Rule 85** provides for general behaviour that:

***“The behaviour of a Member shall be guided by the Code of Conduct of Members prescribed in Appendix F.”***

The Committee notes that Paragraph 1 of The Code of Conduct for Members of Parliament (Appendix F) provides for the purpose of the Code as follows:

***“1. Purpose of the Code***

***The purpose of the Code is to assist Members in the discharge of their obligations to the House, their constituents and the public at large.”***

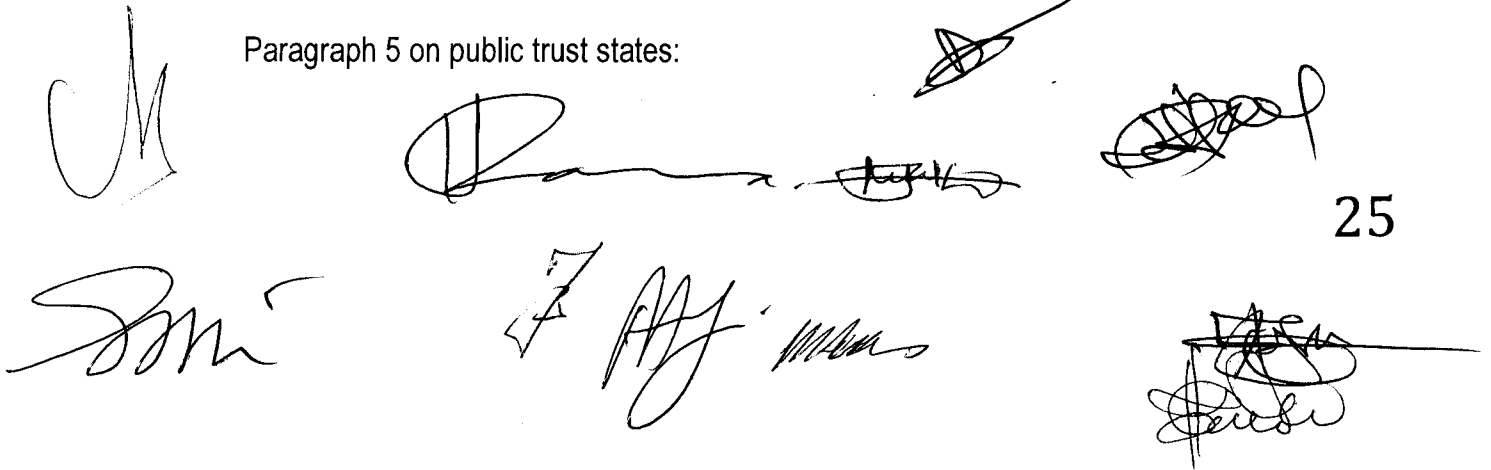
Paragraph 2 of The Code of Conduct places a public duty on Members to act on all occasions in accordance with the public trust placed in them:

***“2. Public Duty***

***(1) By virtue of The Oath of allegiance taken by all Members, Members have a duty to be faithful and bear true allegiance to the Republic of Uganda and to preserve, protect and defend the Constitution and to uphold the law and act on all occasions in accordance with the public trust placed in them.***

***(2) Members have a general duty to act in the interests of the nation as a Whole; and special duty to their constituents.”***

Paragraph 5 on public trust states:

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**“5. Public Trust**

***Members shall at all times conduct themselves in a manner which will maintain and strengthen the public’s trust and confidence in the integrity of Parliament and never undertake any action which may bring the House or its Members generally, into disrepute.” (Emphasis added).***

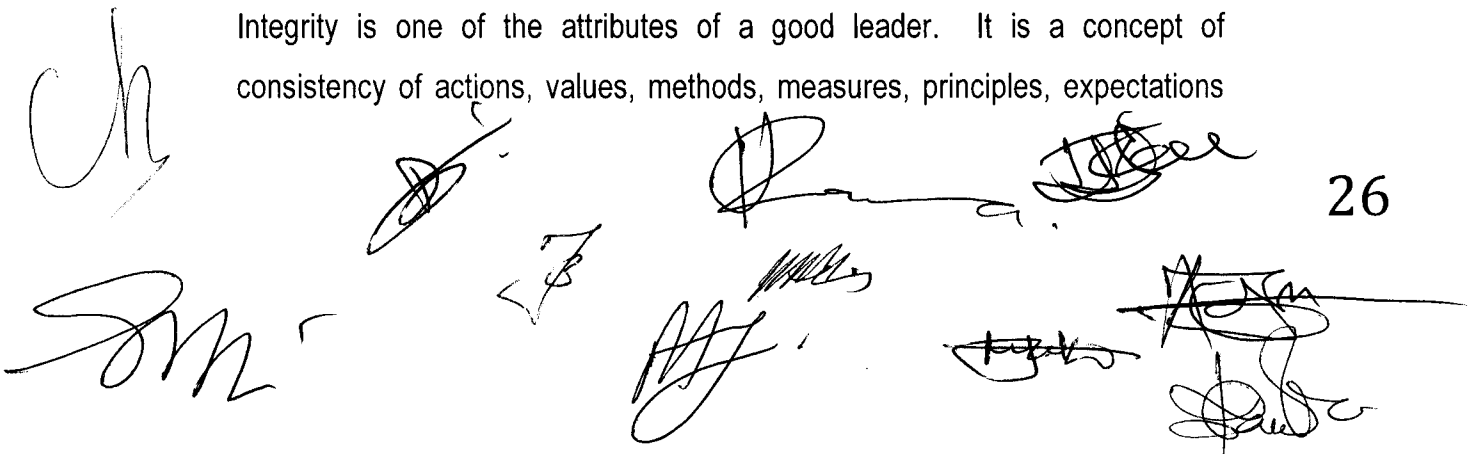
The above paragraph is very clear on the fact that the duty to act in a manner which will maintain and strengthen the public’s trust and confidence in the integrity of Parliament is born by the members of Parliament at all times, not only when they are within the precincts of Parliament. This fact was brought to the attention of Hon Zaake’s lawyers, but they did not offer any contradictory finding on this duty.

According to the Cambridge Dictionary ([dictionary.cambridge.org](http://dictionary.cambridge.org)), “**integrity**” is the quality of being honest and having strong moral principles that you refuse to change. It relates to: honesty, uprightness, probity, rectitude, honour, honourableness, upstanding, good character, principle(s), ethics, morals, righteousness, morality, nobility, high-mindedness, right-mindedness, noble-mindedness, virtue, decency, fairness, scrupulousness, sincerity, truthfulness, trustworthiness.

“Integrity” means “the state of being whole and undivided”. This relates to: unity, unification, wholeness, coherence, cohesion, undividedness, togetherness, solidarity, coalition.

The word has further been used to refer to someone’s high standards of doing their job and that person’s determination not to lower those standards.

Integrity is one of the attributes of a good leader. It is a concept of consistency of actions, values, methods, measures, principles, expectations

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and outcomes. It connotes a deep commitment to do the right thing for the right reason, "regardless of the circumstances"<sup>4</sup> (See: *Leadership and Integrity, Michael Ray Hopkin*).

The Committee reviewed the Rules of Procedure referred to by Hon. Mapenduzi vis-à-vis the facts. It observes that **rule 84** is not applicable in the circumstances. This rule is only applicable when the House is sitting. In the present circumstances, the statements made on social media were outside of debate.

However, the Committee observes that **rule 85** and the attendant Appendix F, particularly Paragraph 5, is applicable and indeed, indicts Hon. Zaake's conduct.

The Parliament of Uganda derives its privilege powers from Article 97 of the Constitution which provides that:

***"97. Parliamentary immunities and privileges.***

***(1) The Speaker, the Deputy Speaker, members of Parliament and any other person participating or assisting in or acting in connection with or reporting the proceedings of Parliament or any of its committees shall be entitled to such immunities and privileges as Parliament shall by law prescribe."***

The statement posted by Hon. Zaake:-

***"The fact that my body has severely encountered torture from security operatives, it is on record of Court that indeed, I was tortured. To my consternation, the Deputy Speaker of Parliament, while presiding over a session of Parliament controverted the finding of High Court in Suit No. 85 of 2020 that I was tortured by sarcastically stating but with the utmost level of recklessness that though tortured, I won a medal in East African Parliamentary Games."***

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<sup>4</sup> See: *Leadership and Integrity, Michael Ray Hopkin*

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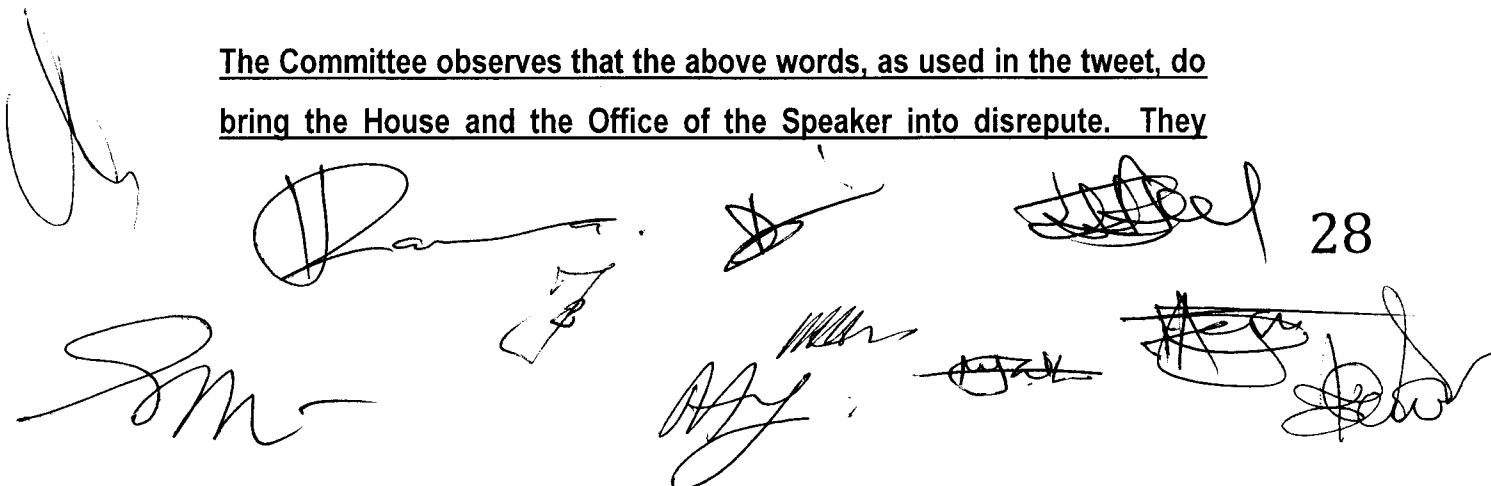
***"The utter bunkum emanating from her dishonest lips was only intended to mock and break me down, this is idiocy! Parliament deserves better, how can a person of her caliber lack intelligential prowess to appreciate the fact that healing is a natural phenomenon!***

***The loose cannon in her couldn't contemplate the duty that her office owes members and the country at large, disturbingly she ejaculated while presiding over a session to condemn torture, aah! How hypocritical, shame upon you!"***

The words underlined in the tweet bear the following as their ordinary meanings:

- Bunkum: insincere or foolish talk: nonsense.
- Dishonesty: lack of fairness, honesty, or integrity; fraud
  - deceitfulness shown in someone's character or behaviour.
  - Untrustworthy.
- Idiocy: impenetrable stupidity; intelligence far below average; mental retardation; intellectual disability; extremely foolish behaviour.
- Loose cannon:
  - an unpredictable or dangerously uncontrolled person who is liable to cause unintentional damage.
- Ejaculate:
  - (Verb): (of a man or male animal) eject semen from the body at the moment of sexual climax.
  - (of a man or male animal), to produce a sudden flow of semen from the penis. (Cambridge Dictionary)
  - (Dated): Say something quickly and suddenly.

**The Committee observes that the above words, as used in the tweet, do bring the House and the Office of the Speaker into disrepute. They**



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denigrate public trust and confidence in the integrity of Honourable Members and of the House. The law demands of Members of Parliament to, at all times, behave in an honourable manner. Members of Parliament took oath to uphold all laws without fear or favour.

By making the impugned statement, Hon. Zaake's conduct did manifest one who was in breach of public trust. He did not protect the integrity of Parliament. Instead, the conduct brought the entire Parliament and its leadership into disrepute. The statement, no doubt, undermined the dignity and integrity of the Office of the Speaker, the Presiding Officer of Parliament. It lowered the esteem of the institution of Parliament in the eyes of the citizens who ought to look up to their leaders.

The Constitutional Court of Uganda had occasion to pronounce itself on the expected conduct of members of Parliament in *Severino Twinobusingye v Attorney General, Constitutional Petition No. 47 of 2011*. At pages 24 – 25, it stated:

*"We hasten to observe in this regard, that although members of Parliament are independent and have the freedom to say anything on the floor of the House, they are however, obliged to exercise and enjoy their Powers and Privileges with restraint and decorum and in a manner that gives honour and admiration not only to the institution of Parliament but also to those who, inter-alia elected them, those who listen, to and watch them debating in the public gallery and on television and read about them in the print media. As the National legislature, Parliament is the fountain of Constitutionalism and therefore the Honourable members of Parliament are enjoined by virtue of their office to observe and adhere to the basic tenets of the Constitution in their deliberations and actions.*

*The Speaker, as the head of the House, has a big role to play in guiding parliamentarians not to use unparliamentary and reckless*

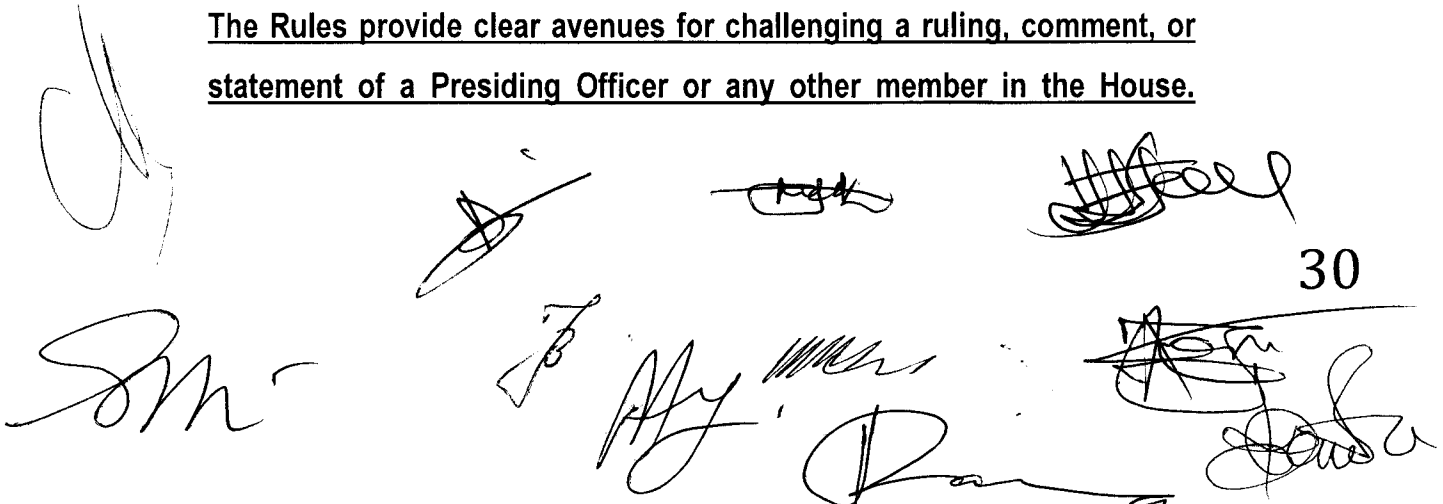
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**language that may infringe on other people's rights which are entrenched in the Constitution, by calling them to order. Parliament should avoid acts which are akin to mob justice because such acts undermine the respect and integrity of the National Parliament. It is not in keeping with the basic tenets of the Constitution, for example, when an Honourable Member of Parliament advocates for executing people without trial, like Idi Amin did to many Ugandans and this member is not called to order, but is just cheered on by the rest of the House."**

Even though the events that led to the above observation were in the House, what is clear is that members of Parliament are held at a high standard even when not in the House. In the words of the learned Justices of the Constitutional Court, members of Parliament are "*obliged to exercise and enjoy their Powers and Privileges with restraint and decorum and in a manner that gives honour and admiration not only to the institution of Parliament, but also to those who, inter-alia elected them, those who listen to and watch them debating in the public gallery and on television and read about them in the print media.*"

**Following evaluation of the submissions and evidence, the Committee observes that Hon. Zaake did not take steps as provided in the Rules of Procedure to challenge the words of the Presiding Officer which allegedly led him to post the impugned social media posts. This is clearly so upon examining his statements made to the Committee. In his own words, he was shocked and deeply hurt by the remarks made by the Rt. Hon. Deputy Speaker.**

**The Rules provide clear avenues for challenging a ruling, comment, or statement of a Presiding Officer or any other member in the House.**



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Hon. Zaake should have taken advantage of rules 55 and 72 (2) to address his displeasure.

Rule 55 provides as follows:

**"55. Personal explanations**

**(1) A Member may explain a matter of personal nature but no controversial matter may be brought in the explanation nor may debate arise upon it.**

**(2) Unless the situation warrants otherwise any personal explanation under this rule shall be submitted to the Speaker in writing by 11:00 am on the day on which it is to be made."**

Rule 72(2) provides:

***"The conduct of the Speaker, Members, the Chief Justice and Judges of the Courts of Judicature shall not be raised, except upon a substantive Motion, and in any amendment, question to a Member or remarks in a debate on a Motion dealing with any other subject, any reference to the conduct of persons mentioned is out of order."***

Hon. Zaake, therefore, could have raised a substantive motion to question the conduct and or remarks made by the Rt. Hon. Speaker. It is, therefore, the Committee's view that the conduct of the Hon. Francis Zaake was not proper and amounted to misbehaviour and misconduct of a member of Parliament.

On the allegations of breach of privilege, the Committee finds no merit in this complaint. There is no privilege provided for under the law which Hon. Zaake breached. It is the Committee's considered view that this House finds the Hon. Zaake innocent of this complaint.

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### 3 CONCLUSION AND RECOMMENDATIONS

#### 3.1 CONCLUSION

The Committee, having found that:

1. Hon Zaake made the impugned comments/statements on his social media accounts of Facebook and Twitter;
2. The statements brought Parliament into disrepute;
3. Hon. Zaake was in breach of the rule on public trust and confidence found in paragraph 5 of Appendix F, The Code of Conduct of Members of Parliament;
4. Hon Zaake failed to use the avenues provided for in the Rules of Procedure to challenge matters that arose during the Sitting of the House on 8<sup>th</sup> February 2022.

The Committee is of the view that the above is tantamount to indiscipline on the part of Hon. Francis Zaake.

#### 3.2 RECOMMENDATIONS

In light of the above findings, the Committee recommends:

1. That Hon. Francis Zaake apologises to the House;

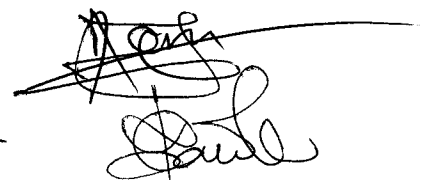
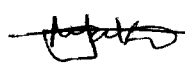
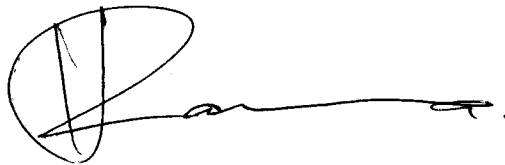
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2. That the Parliamentary Commission should take steps to address Hon. Zaake's concern about his personal security
  
3. Before we take leave of this matter, the Committee does remind all Honorable Members of Parliament that they owe the institution of Parliament and the general public a duty to maintain public trust and confidence in the integrity of Parliament. Honourable Members should be well versed with the Code of Conduct as provided for in Appendix F of our Rules of Procedure.
  
4. The Committee appeals to Hon. Members to act with restraint and decorum both within and outside the precincts of Parliament. Each Member of Parliament bears a duty to give honour and respect to the institution of Parliament.

*Rt. Hon. Speaker,*

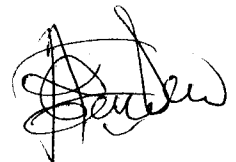
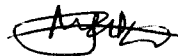

*Hon. Members,*

*I beg to move.*



## Appendix A: DOCUMENTS

- i. Hansard for Plenary proceedings of Tuesday 15<sup>th</sup> February 2022.
- ii. Document laid before the House by Hon. Martin Ojara Mapenduzi, on 15<sup>th</sup> February 2022.
- iii. Letter dated 17<sup>th</sup> February 2022 from Clerk to Parliament to The Chairperson, Committee on Rules, Privileges and Discipline. RE: Misconduct and Misbehaviour by Hon. Zaake Francis (Parliamentary Commissioner).
- iv. Letter dated 21<sup>st</sup> February 2022 from Clerk to Parliament to Hon. Francis Zaake: RE: Inquiry into Allegations of Misconduct and Misbehaviour.
- v. Letter dated 3<sup>rd</sup> March 2022 from Hon. Ojara Martin Mapenduzi to the Chairperson, Committee on Rules, Privileges and Discipline. RE: Submission of the Print-out of the Twitter Messages in Support of my Complaint on the Misconduct and misbehavior of Hon. Francis Zaake (MP Mityana Municipality/Parliamentary Commissioner)
- vi. Copy of Hansard dated for Plenary proceedings of 8<sup>th</sup> February 2022.
- vii. Letter dated 28<sup>th</sup> February 2022 from Hon. Francis Zaake to The Chairperson, Committee on Rules, Privileges and Discipline; RE: Statement on the Ongoing Inquiry into Allegations of Misconduct.
- viii. Letter from Hon. Francis Zaake to The Chairperson, Committee on Rules, Privileges and Discipline, dated 1<sup>st</sup> March 2022; RE: "Hon. Francis Zaake's Written Objections"
- ix. Letter dated 25<sup>th</sup> February 2022 from the Ag. Executive Director, Uganda Communications Commission, to The Clerk to Parliament. RE: Authenticity of Twitter and Facebook Accounts of Hon. Francis Zaake Butebi, MP Mityana Municipality.
- x. Copy of Letter dated 10<sup>th</sup> February 2022 from SP Agaba Steven Rugubwa, Division Police Commander Parliament, to The Inspector General of Police, Uganda Police Force. Re: NO.40863 PC Ewasu Sam.
- xi. Ruling on the Objections raised by Hon. Zaake Francis, delivered by the Chairperson of the Committee on Rules, Privileges and Discipline, on 2<sup>nd</sup> March 2022.



- xii. Letter dated 22<sup>nd</sup> February 2022 from the Clerk to Parliament to Hon. Francis Zaake. Re: Inquiry into Allegations of Misconduct and Misbehaviour.
- xiii. Document laid before the Committee on Rules, Privileges and Discipline by Hon. Martin Ojara Mapenduzi, on 22<sup>nd</sup> February 2022.
- xiv. Set of printed copies of posts from URL: <https://twitter.com/ZaakeFrancis> laid by a Uganda Communications Commission Official before the Committee on Rules, Privileges and Discipline on 3<sup>rd</sup> March 2022.
- xv. Internal Memo dated 2<sup>nd</sup> March 2022 from Clerk Assistant (Committee on Rules, Privileges and Discipline) to Clerk to Parliament/Secretary to the Parliamentary Commission. Re: Inquiry into allegations of misconduct and misbehavior made against Hon. Francis Zaake – MP Mityana Municipality/Parliamentary Commissioner.
- xvi. Internal Memo dated 28<sup>th</sup> February 2022 from Clerk Assistant (Committee on Rules, Privileges and Discipline) to Clerk to Parliament/Secretary to the Parliamentary Commission. Re: Inquiry into allegations of misconduct and misbehavior made against Hon. Francis Zaake – MP Mityana Municipality/Parliamentary Commissioner.
- xvii. Internal Memo dated 1<sup>st</sup> March 2022 from Clerk to Parliament to The Clerk Assistant, Committee on Rules, Privileges and Discipline. RE: Inquiry into allegations of misconduct and misbehavior made against Hon. Francis Zaake – MP Mityana Municipality/Parliamentary Commissioner.

**Other documents reviewed:**

Letter dated 21<sup>st</sup> February 2022 from Clerk to Parliament to Hon. Martin Ojara Mapenduzi. Re: Inquiry into Allegations of Misconduct and Misbehaviour made against Hon. Francis Zaake (MP Mityana Municipality/ Parliamentary Commissioner)

Letter dated 22<sup>nd</sup> February 2022 from Hon. Francis Zaake to the Clerk to Parliament. Re: Inquiry into Allegations of Misconduct and Misbehaviour.

Letter dated 22<sup>nd</sup> February 2022 from the Clerk to Parliament to the Executive Director, Uganda Communications Commission. Re: Authenticity of the Twitter and Facebook Accounts of Hon. Francis Zaake Butebi, MP Mityana Municipality.

Letter dated 24<sup>th</sup> February 2022 from Clerk to Parliament to the Executive Director, Uganda Communications Commission. Inquiry into Allegations of Misconduct and Misbehaviour made against Hon. Francis Zaake (MP Mityana Municipality/ Parliamentary Commissioner).

Letter dated 28<sup>th</sup> February 2022 from Clerk to Parliament to the Executive Director, Uganda Communications Commission. Inquiry into Allegations of Misconduct and Misbehaviour made against Hon. Francis Zaake (MP Mityana Municipality/ Parliamentary Commissioner).

Letter dated 2<sup>nd</sup> March 2022 from Clerk to Parliament to the Executive Director, Uganda Communications Commission. Inquiry into Allegations of Misconduct and Misbehaviour made against Hon. Francis Zaake (MP Mityana Municipality/ Parliamentary Commissioner).

Letter dated 4<sup>th</sup> March 2022 from the Clerk to Parliament to Hon. Francis Zaake: RE: Inquiry into Allegations of Misconduct and Misbehaviour.

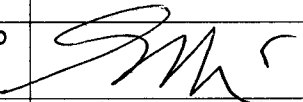
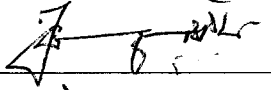

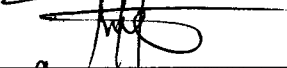
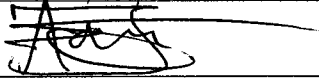


#### Appendix B: LEGISLATION REFERRED TO

- The Constitution of the Republic of Uganda
- The Rules of Procedure of the Parliament of Uganda
- Case law
  - *Severino Twinobusingye v Attorney General*, Constitutional Petition No. 47 of 2011
  - *Obiga Mario Kania v Electoral Commission* (Election Petition Appeal No.4 of 2011)
  - *Fox Odoi Oywelowo v Attorney General*, Constitutional Petition No 54 of 2013

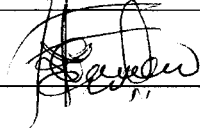
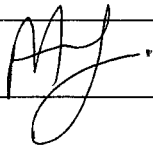
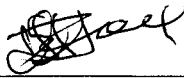

**Appendix C: ENDORSEMENT OF THE REPORT**

**Report of the Standing Committee on Rules, Privileges and Discipline on the Inquiry  
into Allegations of Misconduct and Misbehaviour made against Hon. Francis Zaake,  
MP Mityana Municipality and Parliamentary Commissioner**

March 2022

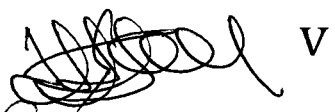
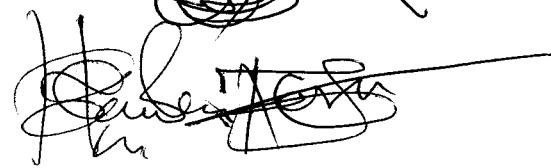
|     | Name                             | Constituency            | Party | Signature   |
|-----|----------------------------------|-------------------------|-------|---|
| 1.  | Hon. Abdu Katuntu                | Bugweri County          | INDEP |    |
| 2.  | Hon. Fr. Charles Onen            | Laroo-Pece Division     | INDEP |    |
| 3.  | Hon. Achayo, Juliet Lodou        | Ngora County            | NRM   |    |
| 4.  | Hon. Adidwa Abdu                 | Bukooli County South    | INDEP |   |
| 5.  | Hon. Adome, Francis Lorika       | Moroto Municipality     | NRM   |  |
| 6.  | Hon. Akumu, Catherine Mavinjina  | Older Persons, Northern | NRM   |   |
| 7.  | Hon. Aleper, Margaret Achilla    | DWR Kotido              | NRM   |   |
| 8.  | Hon. Atim Ogwal, Cecilia Barbara | DWR Dokolo              | FDC   |  |
| 9.  | Hon. Bingi, Patrick Nyanzi       | Butemba County          | NRM   |   |
| 10. | Hon. Kabuura, Derrick            | Bushenyi-Ishaka         | NRM   |   |
| 11. | Hon. Kahunde, Hellen             | DWR Kiryandongo         | NRM   |   |
| 12. | Hon. Kamara, John Nzeyimana      | Bufumbira North         | NRM   |   |
| 13. | Hon. Kanushu, Laura              | PWD National            | NRM   |  |
| 14. | Hon. Katoto, Mohammed            | Katerera County         | NRM   |   |
| 15. | Hon. Katusabe, Godfrey           | Bukonzo West County     | FDC   |   |



|     |                                  |                       |       |   |
|-----|----------------------------------|-----------------------|-------|---|
| 16. | Hon. Kauma, Sauda                | DWR Iganga            | NRM   |    |
| 17. | Hon. Kayemba, Geoffrey Ssolo     | Bukamansimbi South    | NUP   |   |
| 18. | Hon. Kunihira, Faith Philo       | Dwr Kyenjojo          | NRM   |   |
| 19. | Hon. Malende, Shamim             | Kampala District      | NUP   |   |
| 20. | Hon. Masaba, Karim               | Industrial Division   | INDEP |   |
| 21. | Hon. Musana, Eric                | Buyaga East County    | INDEP |   |
| 22. | Hon. Mutembuli, Yusuf            | Bunyole East          | NRM   |    |
| 23. | Hon. Nakazibwe, Hope Grania      | DWR Mubende           | NRM   |   |
| 24. | Hon. Nalule, Asha Aisha Kabanda  | Butambala District    | NUP   |   |
| 25. | Hon. Nambooze, Teddy             | Mpigi District        | NUP   |   |
| 26. | Hon. Nebanda, Florence           | DWR Butaleja          | NRM   |   |
| 27. | Hon. Nyakato, Dorothy            | DWR Kitagwenda        | NRM   |   |
| 28. | Hon. Okiror, Bosco               | Usuk County           | NRM   |   |
| 29. | Hon. Okot, Boniface              | Youth Northern        | NRM   |   |
| 30. | Hon. Opio, Samuel                | Kole County North     | INDEP |   |
| 31. | Hon. Otingiw, Isaac Ismail       | Padyere County        | NRM   |   |
| 32. | Hon. Ssebikaali, Yoweeri         | Ntwetwe County        | NRM   |  |
| 33. | Hon. Tibasiimwa, Joram           | Older Persons Western | NRM   |   |
| 34. | Hon. Timuzigu Kamugisha Michael  | Kajara County         | NRM   |   |
| 35. | Hon. Twinomujuni, Francis Kazini | Buhaguzi County       | NRM   |  |
| 36. | Hon. Wakayima, Musoke            | Nansana Municipality  | NUP   |   |







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**PARLIAMENT OF UGANDA**

**MINORITY REPORT ON THE ALLEGATIONS OF MISCONDUCT  
AND MISBEHAVIOR AGAINST HON. ZAAKE FRANCIS**

*Moved*

**Moved Under Rule 205 of the Rules of Procedure**

**March, 2022**

## Introduction

On 15<sup>th</sup> February 2022, during plenary Hon. Ojara Mapenduzi rose on a matter of national importance under rule 59(1) (b) and (m) of the Rules of Procedure of the Parliament of Uganda alleging that Hon. Zaake Francis, Commissioner of Parliament had through a post on social media platform insulted the integrity of this House and the Office of the Deputy Speaker.

Hon. Ojara Mapenduzi tabled before the plenary a document which contained the impugned post and quoted some parts of the post verbatim.

Hon. Mapenduzi submitted that the conduct of the Member not only denigrated the integrity of Parliament in the eyes of the citizens of Uganda, but was also a breach of rule 84 and 85 and paragraph five of the Code of Conduct of Members of Parliament as embedded in Appendix F of the Rules of Procedure of Parliament.

To him, this amounted to gross misconduct and misbehavior on the part of the honourable member for which he intended to move a motion, under Section 5 of the Administration of Parliament Act. In her ruling that day, the Speaker referred the matter to the Committee on Rules, Privileges and Discipline under Rule 175 of Rules of Procedure.

Pursuant to Rule 205 of the Rules of Procedure of the Parliament of Uganda, we hereby present a dissenting opinion from the opinion of majority of the Committee.

## 2.0 AREA OF DISSENT

We dissent with the majority of the Committee on the following:


1. *Jurisdiction of the Committee on Rules, Privileges and Discipline over this matter.*
2. *Standard of proof.*
3. *Authenticity and ownership of the impugned account*
4. *Impartiality of the Committee*
5. *Methodology*

*Dr. ...*

*Kyesa.*

Key case.

6. Admissibility of Social media evidence



**DISSENTING OBSERVATIONS**

**1. Jurisdiction of the Committee on Rules, Privileges and Discipline over this matter.**

On 2<sup>nd</sup> March 2022, the Hon Chair made a ruling that this Committee has jurisdiction to investigate the instant matter. With utmost respect we disagree.

Article 94 (1) of the Constitution limited the Rules of Parliament to only regulating its own procedure, including the procedure of its committees.

We are not blind to the provisions of paragraph 5 of the Code of Conduct for Members of Parliament under Appendix F to the Rules which imposes a duty on Members of Parliament to conduct themselves in a manner which will maintain and strengthen the public trust and confidence in the integrity of Parliament.

However, this alone cannot be stretched to apply to Members' conduct over social media platforms including *facebook* or *twitter*. Social Media platforms are avenues for free thinking and speech. They provide room for socio-psycho healing. For example Face book asks; "what's on your mind". This therefore means that the person is meant to write what is on the mind. The regulations therefore that govern parliament and the precincts of parliament cannot be extended to such platforms.

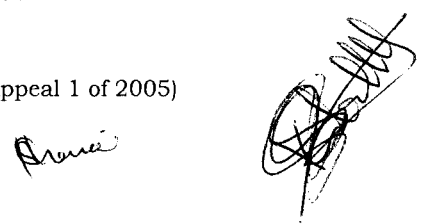
The term *Precincts of the House or Parliament* is defined under Rule 2 to mean the Chamber, the lobbies, the galleries and grounds of Parliament building and such other places as the Speaker may from time to time specify. Social media platforms are not categorized as such.

Also Jurisdiction is a creature of law. It cannot be inferred where it has not been expressly granted by law.<sup>1</sup>

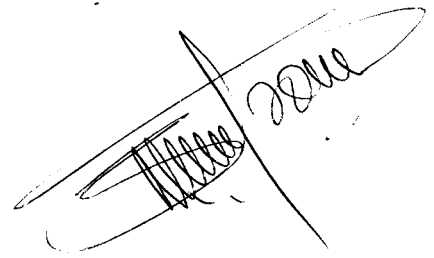
Further in our view, Article 90 (1) & (2) of the Constitution only empowers Parliament to appoint committees necessary for the efficient discharge of its functions, but does not render Article 94 (1) of the Constitution redundant. The enduring import of Article 94 (1) is that the Rules of Procedure are meant to be applied as far as parliamentary procedure is concerned.

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<sup>1</sup> Baku Raphael Obudra and Ors v Attorney General (2) (Constitutional Appeal 1 of 2005)



Key esc.



## 2. Impartiality of the committee

The committee's decision to be blind about the censure move that was repetitively mentioned by Hon. Zaake and his lawyers as reason for the committee's partiality compromises our finding. We infer that even when the matter of censure of Hon. Zaake was not the matter before the committee it was important that members pronounced themselves about signing of the purported censure motion. Suppose it is true as claimed by Hon. Zaake that members of the committee had actually signed for him to be censured it would mean that indeed Hon. Zaake was investigated by people that were already biased about him.

## 3. Authenticity and ownership of the impugned account

In Hon. Zaake's submission he categorically disowned the posting on social media in his statement as below;

***..... I consider the allegations against me to be malicious, unfounded and in bad faith.....some social media comments allegedly responding to the Speaker's insensitive joke have been attributed to me in recent days although without any technical proof that I made them. It is on account of that alleged but unproven social media response that the same Deputy Speaker who made fun of my pain and humiliation referred me to this committee for trial....***

By the aforementioned quotation Hon. Zaake disowned the posting and it was upon the complainant to adduce further evidence to actually prove that it was Hon. Zaake that authored the tweet. It was also incumbent upon the committee to investigate the matter conclusively which the committee did not do.

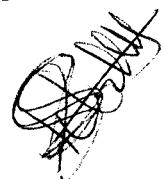
It has not been established that Hon. Zaake Francis is the holder of the Facebook account where the alleged offensive materials were posted. In the case of **Fred Muwema vs Facebook Ireland Limited [2016 No. 4637 P]** court held that the details collected by Facebook relating to the identities and location of person (s) operating a given Facebook page could only be secured from Facebook to prove the residency of the device used in making an alleged offensive posting and the identity of the person doing so when legally sought.<sup>2</sup> Further, this position was clearly explained by the Uganda Communication Commission in letter dated 25<sup>th</sup> February 2022.

No such order was obtained and no evidence was obtained from Facebook to prove identity of the account holder. The complainant only laid on table a photo of what he termed as a Facebook under title 'MP Zaake Francis Butebi'. In other

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<sup>2</sup> This position of the law was followed in the case of Stella Nyanzi v Uganda [2020] UGHCCRD 1

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words, we do not have sufficient evidence to prove that the post was on a Facebook account belonging to Hon. Zaake Francis.

Additionally, Uganda Communications Commission (UCC) provided as proof email address; [zaakefrancis12@gmail.com](mailto:zaakefrancis12@gmail.com) that was used to open the facebook account on which the alleged posting was made. In the process of further investigation the committee called for Hon. Zaake's personal data file at Parliament where it was found that actually the email [zaakefrancis12@gmail.com](mailto:zaakefrancis12@gmail.com) belonged to a next of kin of Hon. Zaake. This makes us wonder whether a Member would be responsible for actions of their next of kin.

Also as proof of authenticity of the tweet, the UCC attributed the facebook post to Hon. Zaake by the blue tick. We note that of recent there have been fake social media postings of highly placed persons including one that announced the purported death of the Speaker of Parliament and one that announced resignation of a highly placed army officer. All these postings bore a blue tick but were found to be fabricated. We therefore hold the opinion that appearance of a blue tick alone is not sufficient to prove authenticity of a circulating social media print or screenshot because it could also be a Photoshop.

In the submission of the UCC they conceded to not having capacity to make an independent investigation as seen in paragraph five of their written submission;

**"whereas the commission has acquired different technical capabilities to facilitate the implementation of its regulatory mandate under sections 5 (1) and 45 of the UCC Act 2013, the respective system to facilitate such assessment independently is currently undergoing technical upgrades and therefore not available."**

Section 5 of UCC Act states; functions of the Commission

(1) The functions of the Commission are—

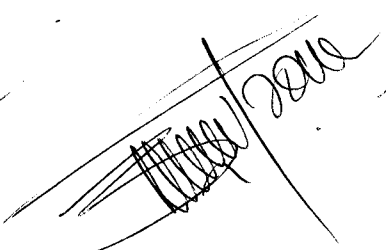
.....  
.....

(j) to receive, investigate and arbitrate complaints relating to communications services, and take necessary action.

.....  
45. Investigation of complaints. The Commission may investigate any matter within its functions under this Act which relates to— (a) communications services or apparatus provided or supplied in Uganda; and (b) any representation made to the Commission by or on behalf of a person whom

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the Commission considers to have an interest in the matter which is the subject of the representation.

Our opinion is that the UCC could not in any way help the committee in reaching any meaningful findings since they too judged themselves as not being in position to help.

Additionally, throughout our investigations it was not shown how Hon Mapenduzi obtained the impugned post and whether it was handled in such a way that does not compromise the integrity of its content as provided under S. 8 (4), (5) and 6 of the Electronic Transactions Act. For clarity Sec 8 provides as follow;


**4)When assessing the evidential weight of a data message or an electronic record, the court shall have regard to—(a)the reliability of the manner in which the data message was generated, stored or communicated;(b)the reliability of the manner in which the authenticity of the data message was maintained;(c)the manner in which the originator of the data message or electronic record was identified; and(d)any other relevant factor.**

**(5)The authenticity of the electronic records system in which an electronic record is recorded or stored shall, in the absence of evidence to the contrary, be presumed where—(a)there is evidence that supports a finding that at all material times the computer system or other similar device was operating properly or, if it was not, the fact of its not operating properly did not affect the integrity of the electronic record and there are no other reasonable grounds to doubt the integrity of the electronic records system;(b)it is established that the electronic record was recorded or stored by a party to the proceedings who is adverse in interest to the party seeking to introduce it; or(c)it is established that the electronic record was recorded or stored in the usual and ordinary course of business by a person who is not a party to the proceedings and who did not record or store it under the control of the party seeking to introduce the record.**

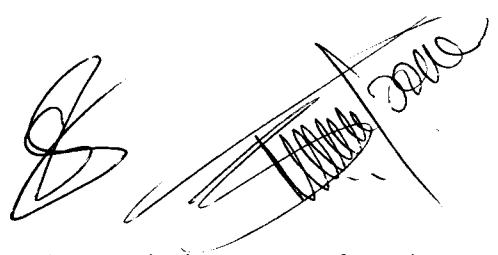
**(6)For the purposes of determining whether an electronic record is admissible under this section, evidence may be presented in respect of set standards, procedure, usage or practice on how electronic records are to be recorded or stored, with regard to the type of business or endeavours that used, recorded or stored the electronic record and the nature and purpose of the electronic record.**

The Honourable Member was duty bound to show how he extracted that information from either Facebook or twitter, the device or gadget he used to do the work and how he kept that information from the day he obtained it until he

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laid it before Parliament. No wonder Honorable Mapenduzi was confused on whether the information was on twitter or facebook. Whereas on the Hansard of Parliament he talked of twitter, he actually laid on table postings that were later identified by UCC as being facebook posts.

#### **4. Hon. Mapendu's submissions on possible avenues Hon. Zaake would have utilized to address his concern with the Presiding Officer**

Hon. Mapenduzi asserts that even if Hon. Zaake had been aggrieved, there are clearly provided avenues through which he would have presented his grievance. Looking at the would be available options in this case they seem not to work. Rule 55 and Rule 72 (2) of the Rules of Procedure provide the following;

#### **Rule 55: Personal explanations**

(1) A Member may explain a matter of personal nature but no controversial matter may be brought in the explanation nor may debate arise upon it.

#### **72. Contents of a speech**

(2) The conduct of the Speaker, Members, the Chief Justice and Judges of the Courts of Judicature shall not be raised, except upon a substantive Motion, and, in any amendment, question to a Member or remarks in a debate on a Motion dealing with any other subject, any reference to the conduct of persons mentioned is out of order.

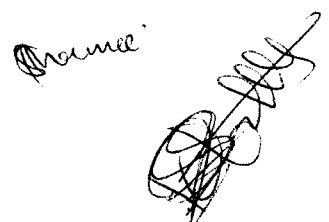
Rule 55 provides for personal explanation and we strongly believe that after the Deputy Speaker's comments there was no matter for Hon. Zaake to explain himself about. In any case it would have been the Deputy Speaker to explain herself about the statement she made.

Rule 72 (2) Calls for a motion in the House. It should be recalled that at the time the statement was made Hon. Zaake was officially out of parliament on the directive of the Leader of the opposition and with full knowledge of the speaker. There was no way Hon. Zaake would have been on the floor of parliament to present his motion. Besides as the Deputy speaker indicated in the hansard, **"the Rt. Hon. Speaker, Jacob Oulanya as you are aware, and I have communicated, he is indisposed and cannot be here to preside over the House. I should have stepped aside for him to preside over this matter that concerns me."**

We join Hon. Zaake in wondering whether the Speaker was meant to be a judge in her own case if Hon. Zaake had chosen to follow rule 72 (2).

#### **5. Whether the complaint was brought in bad faith**

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It is our considered opinion that the conduct of Hon. Mapenduzi of initiating the process for removal of Hon. Zaake as a Commissioner of Parliament as captured in the Hansard of 15 February 2022 was a forethought decision and in bad faith as reflected in his submission below; **"....In my view Madam Speaker this amounted to gross misconduct and misbehavior on the part of the honourable Member for which I intend to move a motion, under section 5 of the Administration of Parliament Act for his removal from the office of Commissioner of Parliament"**

It is on record that on 22<sup>nd</sup> February 2022, Hon. Mapenduzi, who is the complainant in this matter appeared before the Committee to lead evidence in support of his complaint for disciplinary action to be taken against Hon. Zaake. Immediately thereafter, a notice of motion to remove Hon. Zaake Francis was published on the notice board. Clearly showing that regardless of the findings of this Committee, Hon. Mapenduzi was determined to penalize Hon. Zaake Francis at all cost. This probably explains Hon. Zaake's fears as indicated in his statement that the proceedings were not intended to establish the truth but to pave way for his removal as commissioner.

Hon. Zaake's fears were also reflected in the Hansard where the presiding officer sounded like she was mobilizing her 'family members' in her support;

"I will, therefore, as we continue **with the other processes, and I am saying as we continue with the other processes** because I also belong to a family, guide the complainant that this matter is going to be referred to the Committee on Rules, Privileges and Discipline under Rule 175 of Rules of Procedure. The Committee on Rule Privileges and Discipline must report to this House within two weeks. We want this report tabled in the House within two week because we want action. Government Chief Whip can whip us because I am also under him."

In our opinion family referred to the ruling party whereas ordinarily the Speaker in Parliament is supposed to be neutral.

#### **6. Whether the impugned tweet put Parliament into disrepute**

Hon. Mapenduzi asserts that the words on twitter put Parliament into disrepute. We disagree with Hon. Mapenduzi for if he had ignored the social media posting, the alleged insult would have been limited to a very small cross section of the population and would have ceased fast. However we strongly believe that Parliament's allocation of a lot of time to a matter that the public

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sees as trivial amidst serious challenges of escalating prices of essential commodities and gross human rights abuses has put Parliament into disrepute.

### **7. Methodology**

A matter of the impending censure was brought to the attention of the committee severally and that some Members had actually signed the censure motion. We are of the opinion that the chairman would have put a question to the members to come clean on the matter which was not done even after a procedural point was raised on the matter but the chairman overruled it.

Secondly, Hon. Zaake mentioned withdraw of his security officer as an indication of prejudgment. A letter was presented by the representative of the Clerk to Parliament indicating that the security officer had been withdrawn for indiscipline. However there was no proof that this matter was ever brought to the attention of Hon. Zaake who is alleged to have asked for the said security officer. The letter was instead copied to the Clerk to parliament who said in his submission that his office did not have anything to do with the deployment of the said police officer and did not know much about him. We are strongly opined that the said letter from the Police Commander of Parliament needed further investigation because there was a likelihood that it had been fabricated to just cover up arbitrary withdraw of the security officer from the Commissioner of Parliament.

### **8. Burden and Standard of proof.**

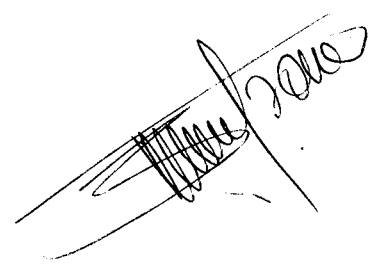
The burden of proof of liability for any misconduct on the part of Hon. Zaake Francis lied on the Complainant (Hon Mapenduzi), as provided under Section 101 of the Evidence Act. In this regard, no credible evidence has been brought whatsoever to prove that the impugned information was posted and, if so, by who.

We disagree that the burden of proof shifted when the allegation was brought by Hon. Mapenduzi. Under Section 101 of the Evidence Act Hon. Mapenduzi bore the burden to prove his allegation even if Hon. Zaake contested the jurisdiction of committee. Besides, in a letter dated 28<sup>th</sup> February 2022, Hon. Zaake contested the social media posts attributed to him.

In that regard it was not proper to attribute the statements and their implications to Hon. Zaake Francis without evidence that he made those posts on social media.

### **Conclusion:**

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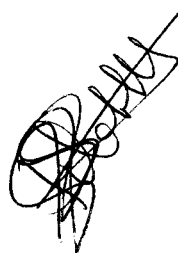


1. The Complainant failed to prove that the social media posts were actually made by Hon. Zaake. Failure to investigate the matter conclusively notwithstanding we condemn the use of strong language in any form of communication
2. The Uganda Communications Commission lacks capacity and competence to investigate social media complaints
3. Hon. Mapendunzi lodged the complaint in bad faith
4. Not enough effort was made to ensure impartiality of the Committee
5. Whereas Parliament is mandated to make laws that govern Parliament, the Rules of procedure are specific to regulating proceedings before Parliament and its Committees. The quasi-judicial mandate of this Committee does not extend to conduct and affairs of Members outside parliament. Assuming such mandate would be assuming the role of the Judiciary.

### **Recommendations**

1. We recommend reconciliation between the parties involved in the matter for smooth running of Parliament and avoidance of unnecessary tension.
2. We recommend that Parliament amends the law to provide for a panel of presiding officers in situations where both Speaker and Deputy Speaker could be either indisposed or conflicted.
3. We recommend that Parliament rejects the main report

*Amun*



MEMBERS OF THE COMMITTEE ON RULES, PRIVILEGES AND DISCIPLINE WHO SIGNED  
MINORITY REPORT ON THE ALLEGATIONS OF MISCONDUCT AND MISBEHAVIOR  
AGAINST HON. ZAAKE FRANCIS.

| NO. | NAME                         | CONSTITUENCY             | SIGNATURE |
|-----|------------------------------|--------------------------|-----------|
| 1   | Aisha Kalande<br>Mabule      | Butambala<br>District    |           |
| 2   | LAKAYIMA<br>MUSOKE           | NANSANA<br>MURIBI PALITY |           |
| 3   | KATEMBA SSOLO<br>G.G.F.M.E-Y | buko mawambi<br>south    | kyebc.    |
| 4   | MASABA KAZIM                 | INDUSTRIAL<br>DIVISION   |           |
| 5   | Shamm Matende                | Kampema<br>district      | Shamm     |
| 6   |                              |                          |           |
| 7   |                              |                          |           |
| 8   |                              |                          |           |
| 9   |                              |                          |           |
| 10  |                              |                          |           |