



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!"*

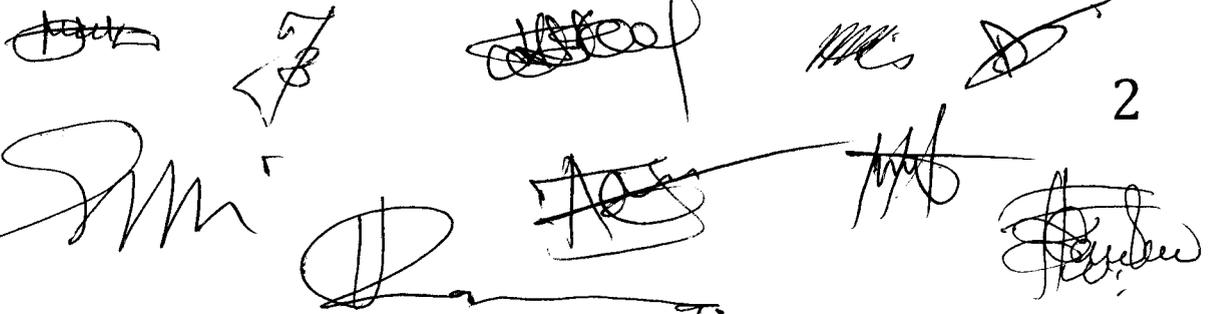
This is exactly the statement he authored on his social media handle.

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:

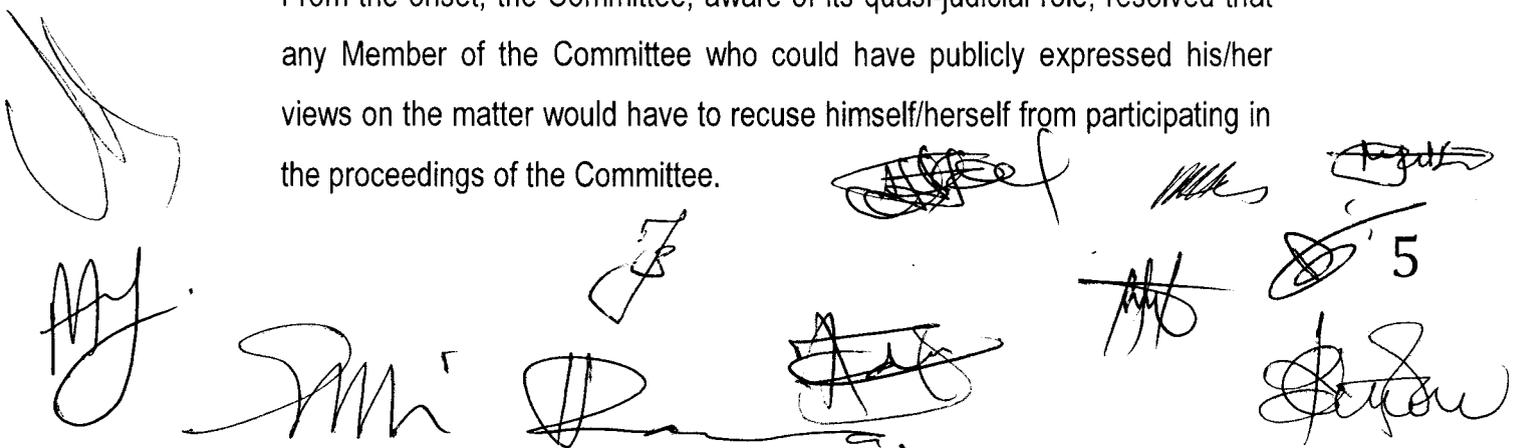
- (a) Whether the impugned social media statements were made by Hon. Francis Zaake;
- (b) Whether there is any breach of the Rules of Procedure of Parliament, including any breach of privilege or matter of discipline;
- (c) What are the observations and recommendations on the issue?

### 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

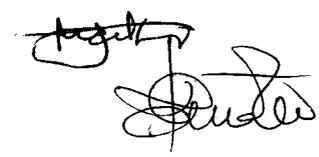
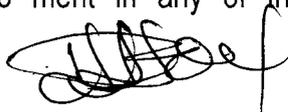
The Committee considered the provisions of the Constitution of the Republic of Uganda applicable to the matter; the Rules of Procedure of Parliament; decided cases, particularly from Parliaments and Courts of Commonwealth countries; treatises and papers on Parliamentary procedures and practices.

#### 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—*

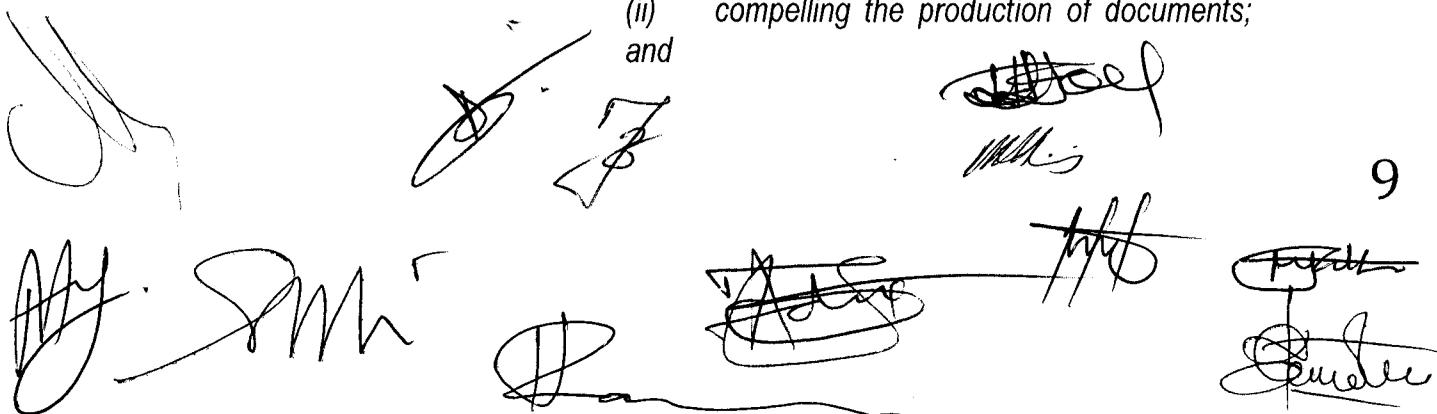
(a) *may call any Minister or any person holding public office and private individuals to submit memoranda or appear before them to give evidence;*

(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.

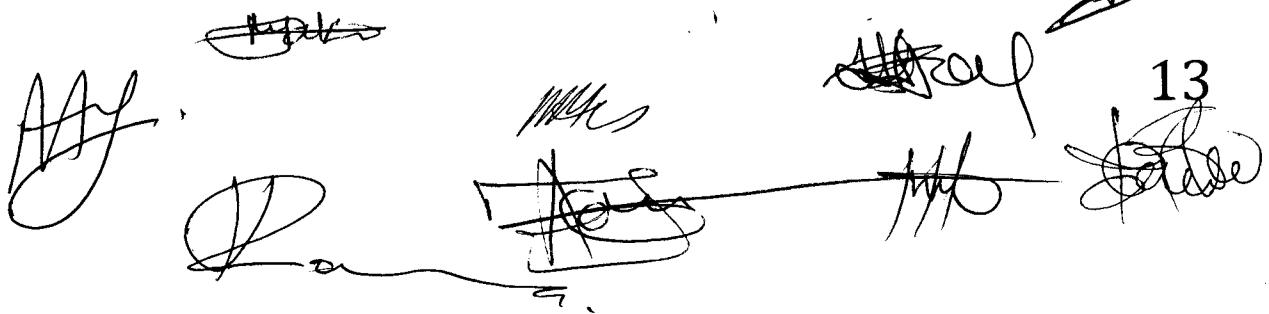
The Committee was alive to these constitutional provisions and the essence of a right to a fair hearing. The committee is also alive to the fact that the Rt Hon Deputy Speaker is not a sitting member of the Committee. The Committee is properly constituted and none of the members has been pointed,

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

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.

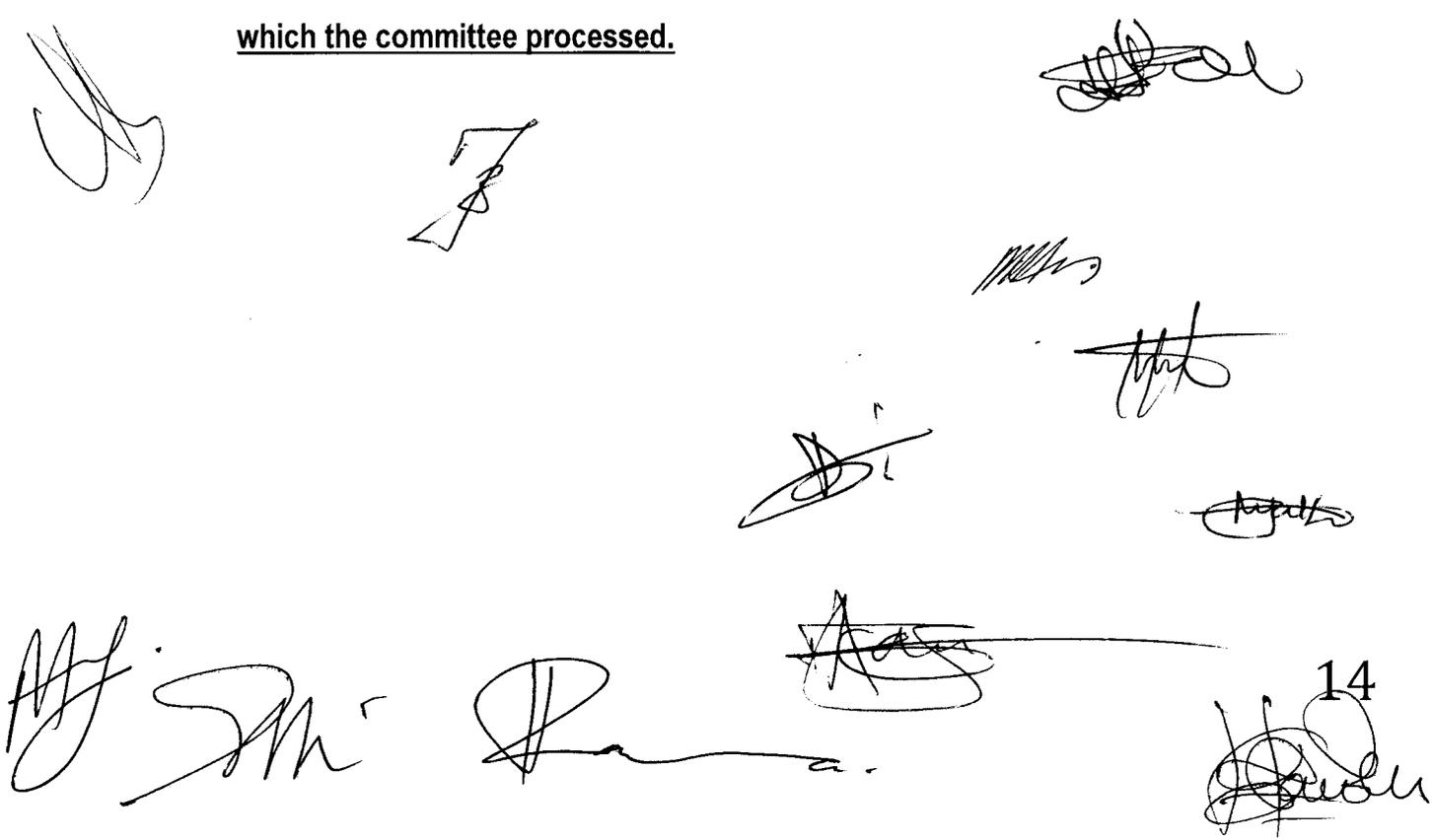
The Committee gave the Hon. Zaake all the opportunity to present his case in accordance with the well-known principles of natural justice and fair hearing. He was allowed to appear with Counsel, and indeed appeared with two lawyers. He was informed of his right to cross examine any witness and attend 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



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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