

**Institute of Advanced Legal Studies**  
School of Advanced Study  
University of London

Florence Aceng

Efficiency and effectiveness of the law making process  
of Uganda

LLM 2011-2012  
**LLM in Advanced Legislative Studies (ALS)**

**EFFICIENCY AND EFFECTIVENESS OF THE LAW MAKING PROCESS OF  
UGANDA**

***FLORENCE ACENG***

**F1050**

**Word Count: 15019**

**SUPERVISOR: DR. CONSTANTIN STEFANOU**

**RESEARCH PROPOSAL SUBMITTED TO THE UNIVERSITY OF LONDON,  
INSTITUTE OF ADVANCED LEGAL STUDIES IN PARTIAL FULFILLMENT FOR  
THE AWARD OF THE DEGREE OF MASTERS IN ADVANCED LEGISLATIVE  
STUDIES.**

## DECLARATION

I, Florence Aceng, do hereby declare that the work presented here is my own and that it has never been submitted to any other institute for any award whatsoever.

### Candidate

Signed.....

FLORECE ACENG

Date.....

### Supervisor

Signed.....

DR.CONSTANTIN STEFANOU

Date.....

## **DEDICATION**

This work is dedicated to my loving husband, Michael Lia Otule, my dearest sons Trevor Mcdonald Lia, Timothy Owens Lia and Sean Tevin Lia. To my brothers and sisters and my parents, Mr. and Mrs. Neri and Pascolina Ogong.

## **ACKNOWLEDGEMENT**

I would like to thank the almighty God for granting me wisdom and leading me through my Masters studies successfully. Without his grace, I wouldn't have reached this far.

I express my gratitude to the University of London, Institute of Advanced Legal Studies (IALS) for having admitted me to this course. My special thanks go to my supervisors, Dr. Helen Xanthaki and Dr. Constantin Stefanou for their support, advice and guidance, throughout the entire period of my studies.

My appreciation goes to my Director, Pius Perry Biribonwoha and other staff of the Department of Legal and Legislative Services, especially Sarah and Adrine for their encouragement and support during my studies.

I am grateful to my respondents, without whom I would not have been able to accomplish this task. I also wish to express my gratitude to those who assisted me in whichever form in order to complete my studies.

In a special way I express my gratitude to my loving husband Michael and the rest of my family for their support and encouragement during the more hectic times of my studies. Thank you for your support and prayers.

## **ABSTRACT**

Several factors affect the efficient and effective performance of the law making process in Uganda. These factors can be categorized into factors that affect the: formulation and deliberation, legitimation and execution of the law making process. These factors tend to either, affect how effectively different acts in the law making process work, or cause delays in the law making process.

This research explores these factors by examining the law making process in Uganda with regards to the bills introduced in the 8<sup>th</sup> Parliament. The findings are that, there are multiple areas of the law making process that have weaknesses that need to be worked on.

DECLARATION .....	i
DEDICATION .....	ii
ACKNOWLEDGEMENT .....	iii
ABSTRACT.....	iv
ACRONYMS .....	viii
Organization of Economic Cooperation and Development .....	viii
Uganda Printing and Publication Corporation .....	viii
TABLE OF LEGISLATION .....	ix
Primary Legislation.....	ix
Table of Cases .....	ix
LIST OF FIGURES AND TABLE.....	x
CHAPTER ONE .....	1
1 INTRODUCTION .....	1
1.1 Statement of Problem;.....	1
1.2 Hypothesis; .....	1
1.3 General Objective of the Study;.....	1
1.4 Specific Objectives of Study; .....	1
1.5 Scope of the Study; .....	2
1.6 Literature Review .....	2
1.6.1 Law making process .....	2
1.6.2 Efficiency .....	3
1.6.3 Effectiveness .....	4
1.7 Methodology.....	5
1.8 Limitations of the Study .....	6
CHAPTER TWO .....	7
2 Introduction .....	7
2.1 The policy Process.....	7
2.2 Inspiration .....	8
2.3 Deliberation and Formulation of Policy .....	8
2.3.1 Ministry .....	9

2.3.2	Cabinet .....	10
2.3.3	Factors influencing Efficiency and Effectiveness of Policy Formulation:-.....	11
2.3.4	Challenges .....	16
2.3.5	First Parliamentary Counsel (FPC).....	17
2.4	Factors Influencing Efficiency in FPC:.....	18
2.4.1	Role of the Drafter; .....	18
2.4.2	Drafters and policy;.....	19
2.4.3	Drafting instructions; .....	20
2.4.4	Instruction in form of draft bills;.....	21
2.4.5	Drafting Manual;.....	21
2.4.6	Duration of Bills at FPC (Refer to Appendix D).....	21
2.4.7	Limited resources;.....	22
2.4.8	Information Communication Technology (ICT);.....	22
2.4.9	Under staffing; .....	23
2.4.10	Quality of bills; .....	23
2.5	Final Draft.....	23
2.6	Publication of Government Bills .....	<b>Error! Bookmark not defined.</b>
CHAPTER THREE .....		24
3	Legitimation .....	24
3.1	Introduction of a Bill to Parliament .....	26
3.2	Types of Bills.....	26
3.2.1	Government Bills;.....	26
3.2.2	Private Member Bills (PMBs): .....	26
3.3	Scrutiny Process at Committees .....	27
3.3.1	Department of Legal and legislative services (DLS); .....	27
3.4	Factors influencing efficiency and effectiveness at committees:- .....	28
3.4.1	Lack of legislative program; .....	28
3.5	Bills at Plenary.....	35
3.6	Amendments at Plenary; .....	35
3.7	Factors influencing efficiency and effectiveness at plenary .....	36
3.7.1	Lack of Technical Expertise; .....	36
3.7.2	Size of Parliament; .....	37
3.8	PMBs .....	39



3.9	Presidential Assent.....	41
3.10	Execution and Application .....	41
3.11	Uganda Law Reform Commission (ULRC); .....	42
3.12	Consolidation of Acts; .....	42
CHAPTER FOUR	.....	44
4	Introduction .....	44
4.1	Recommendations .....	44
4.1.1	Policy Process .....	44
4.1.2	Drafters .....	45
4.1.3	Parliament .....	46
4.2	Conclusion:.....	47
APPENDIX A.....		1
APPENDIX B .....		1
APPENDIX C.....		3
APPENDIX D.....		4
APPENDIX E: .....		5
APPENDIX F .....		6
APPENDIX G.....		19
BIBIOGRAPHY .....		20

## ACRONYMS

A.G	Attorney General
CFI	Certificate of Financial Implication
DLLS	Department of Legal and legislative Services
FPC	First Parliamentary Counsel
ICT	Information Communication Technology
LP	Legislative Program
MFPED	Ministry of Finance Planning and Economic Development
MP	Members of Parliament
NRM	National Resistance Movement
OPC	Office of First Parliamentary Counsel
PMB	Private Member's Bill
RIA	Regulatory Impact Assessment
RPPU	Rules of Procedure of Parliament of Uganda
UK	United Kingdom
ULRC	Uganda Law Reform Commission
UPDF	Uganda People's Defense Forces
CSO	Civil Society Organization
IT	Information Technology
OECD	Organization of Economic Cooperation and Development
UPPC	Uganda Printing and Publication Corporation

## **TABLE OF LEGISLATION**

### **Primary Legislation**

Constitution of the Republic of Uganda, 1995

Divorce Act Cap. 249

Electricity Act 1999 Cap. 145

Land Amendment Act 2010

Magistrates Court Act Cap. 16

Succession Act Cap. 162

Trial on Indictment Act Cap. 23

Uganda Law Reform Commission Act Cap. 25

### **Secondary Legislation**

Uganda Public Service Standing Orders 2010

Rules of Procedure of Parliament 2006

### **Table of Cases**

Foundation for Human Rights Initiative V A.G Constitutional Petition no 20 of 2006

Law and Advocacy for Women in Uganda V A.G Constitutional Petition no. 13 of 2005

Uganda Association Of Women Lawyers & Others V A.G Constitutional Petition No. 2 Of 2002

## LIST OF FIGURES AND TABLE

Figure 1.	How often RIA is carried out in Uganda	13
Figure 2	Distribution of seats in the 8 <sup>th</sup> Parliament	24
Figure 3	The number of bills that took less than 45 days at committee stage	29
Figure 4	Indicates distribution of bills per sessions in the 8 <sup>th</sup> Parliament:	31
Figure 5	Size of Parliament of Uganda (from the 1 <sup>st</sup> to the 9 <sup>th</sup> Parliament)	38
Figure 6	PMB introduced in the 6 <sup>th</sup> , 7 <sup>th</sup> and 8 <sup>th</sup> Parliament	40
Table 1	General information gathered from the Ministries	11
Table 2	General information gathered from Drafters	19
Table 3	The Number of Bills each Committee in the 8th Parliament scrutinized	30
Table 4	Gives a glimpse of how long plenary debates take in the Ugandan Parliament.	36
Table 5	General information gathered from the Ministries	40
Table 6	Showing provisions nullified by different court cases	42

## CHAPTER ONE

### 1 INTRODUCTION

The research is intended to carry out an in depth analysis of the different stages of the law making process in Uganda, point out the strong and weak points and will make recommendations on how to make the process more efficient and effective. The study will also bring out the fact that the law making process has some factors which are generic, and if not dealt with earlier in time, it will have cross cutting effects i.e from policy formulation to execution of laws (e.g lack of legislative programme, explanatory notes etc). The study will show that other that time, there are other factors that influence efficiency and effectiveness of the legislative process.

#### 1.1 Statement of Problem;

The law making process in Uganda needs to be improved upon to make the process more effective and efficient. This research will examine the stages of the law making process from its initiation to its publication and will briefly examine the implementation. It will examine practices in the law making process and highlight the problems faced during the various stages.

#### 1.2 Hypothesis;

The hypothesis of this study is that Uganda's law making process is ineffective and inefficient and needs to be improved upon.

#### 1.3 General Objective of the Study;

The study will also measure the efficiency and effectiveness of the law making process in Uganda, examining areas where it may be inefficient or ineffective them making recommendations on how to make improvements by drawing lessons from my findings during the study.

#### 1.4 Specific Objectives of Study;

The key objectives of the study are;

1. To document in detail the law making process in Uganda.
2. To measure the efficiency and effectiveness of the law making process in Uganda and;
3. To make recommendations to improve the process.

## **1.5 Scope of the Study;**

The scope of the study will cover the period from 2006 to date but the study will specifically analyze the process at Parliament beginning from 2006 – to 2011 (8<sup>th</sup> Parliament of Uganda); a period when the current Government adopted a multiparty democratic system of Governance, after ruling for ten years under a single party system.

- Chapter 1** This chapter will have the statement of the problem, justification of the study, objectives, theoretical framework, conceptual frame work the methodology, the scope of the study and the literature review.
- Chapter 2** This chapter will discuss the pre inspiration and the deliberation and formulation stages of the law making process of Uganda
- Chapter 3** This chapter will discuss the legitimating and execution stages of the law making process
- Chapter 4** Recommendations

## **1.6 Literature Review**

### **1.6.1 Law making process**

The process of legislation is where an idea or concept concerning the social framework of society becomes Government policy, which is transformed to legislative shape by means of the legislative process and eventually passes through the legislative machinery to reach the statute books.<sup>1</sup> It also extends to its testing in Courts of law, for those who agree with the argument that judges make law.

Drewny, (2008)<sup>2</sup> points out that when discussing the law making process, there is a tendency to look at the law making process in terms of Parliament only, arguing that the law making process is not confined exclusively to Parliament and is a complex process. He also points out that the magnitude and effectiveness of a Parliamentary contribution to the legislative process varies enormously from one country to another and can also vary within a given country over time; his solution to this problem is ‘The Systems Approach’.

---

<sup>1</sup> Thornton, G. C. *Legislative Drafting* (4<sup>th</sup> edn Butterworth, London 1996 ) 124

<sup>2</sup> Drewny, G. ‘Law Making systems: How to compare’ (2008). *Statute Law Review* , 29(2), 100-110.

Drewry breaks the law making process down into four steps;

*Inspiration*; the initial idea for a policy or a new law.

*Deliberation and formulation*; firming up the idea into a formal legislative or policy proposal.

*Legitimizing*; converting the proposal into an authoritative decision.

*Execution and application*; making the law or policy to work in practice.

He also points out that there is feedback which is the capacity of the system to learn from the success and failures of its previous laws and policy. He adds that the process of law making will be influenced by a number of variables e.g. prevailing economic stability and prosperity by internal and external threats to security.

As already stated this study aims at measuring the efficiency and effectiveness of the law making process. These concepts will be discussed below.

### **1.6.2 Efficiency**

Mader, (2001)<sup>3</sup> defines efficiency as the relation between the cost and benefit of legislative action. He states that evaluating efficiency means measuring the costs and the extent to which the goals of the legislation are achieved.

The term costs includes financial consequence, implementation of and compliance with legal norms, and he says, it also takes into account non-material factors such as psychological and emotional inconvenience and all negative effects of the legislation.

He adds that evaluation of efficiency of legislation means considering, its costs and the extent to which its goals are achieved. This assists in the choice between various measures and judgments on whether a measure is a proportional response to the goals which is sought.

He states that assessment of costs and benefits takes into account two perspectives, the legislator and the public sector. But also adds that it can take into account other perspectives, especially those on whom the legislation is targeting categorizing them into internal and external costs and benefits

Cost benefit analysis has two purposes they are;

---

<sup>3</sup> Luzus Mader, 'Evaluating the Effects; A Contribution to the Quality of Legislation' (2001) Statute Law Review , 22(2), 119-131.

- To determine if it is a sound investment/decision (justification/feasibility),
- To provide a basis for comparing projects. It involves comparing the total expected cost of each option against the total expected benefits, to see whether the benefits outweigh the costs, and by how much.

### **1.6.3 Effectiveness**

Koen J. Muylle<sup>4</sup> discusses how to improve the effectiveness of the law making process in Parliament but points out that that efficiency and effectively is related.<sup>5</sup>

He points out that Parliament's role in the law making process is increasingly reduced because legislation for the most part originates from the Executive. He goes further to say that Parliament is not an appropriate place to draft legislation. The role of Parliament is to examine and improve Government proposals, it thus controls the acts of the Executive, and scrutiny of legislation is an additional way to control the Government.

The paper provides two ways of measuring effectiveness. Output oriented analysis and process oriented analysis. This study will apply the process oriented analysis.

#### *Process Oriented Analysis;*

Process oriented analysis focuses on the way the Act comes about and the Parliamentary process its self. It analyses how Parliament examines Bills submitted by the Executive or an MP.

He states that the problem is to determine the standard against which to measure effectiveness of the legislative process, and points out that some people use time measure to improve effectiveness therefore focuses on ways to get the job done quicker. But adds that this is not adequate, that effectiveness should be measured using other criterion other than speed.

Heinz Schaffer (2001<sup>6</sup> discusses that the concept of evaluation of legislation is wide because of the role of the legislators and other people involved in the law making process. In his view, classic Parliamentary procedures and informal procedures of drafting provide exceptional starting points of such evaluations. This is evaluation in the broad sense.

---

<sup>4</sup> Muylle, K. J.. 'Improving the effectiveness of Parliamentary Legislative Procedure' (2003) Statute Law Review , 24(3), 169-186.

<sup>5</sup> Ibid 170

<sup>6</sup> Schaffer, H.. 'Evaluation and Assessment of Legal Effects Procedures: Towards a More Rational and Responsible Lawmaking Process' (2001) Statute Law Review , 22(2), 132-153.



He says evaluation in the broadest sense is a strategy to improve the effectiveness, productivity and quality of the public sector.

Fundamentally evaluation of legislation is based on the idea that the results and effects of legislation can be studied and used to correct and improve legislation.

In his view there has been a move by Parliamentarians to examine classic Parliamentary scrutiny procedures which could be strengthened and improved. He suggests that such an evaluation would require serious reconsideration of political choices and solutions which are planned or already enacted as legislation. And for the legislators this self-imposed discipline may involve one or more of the following elements, setting time limits in legislation, report systems, public consultation procedures, and better instruction of legal motivation.

Though he does not deal with guidelines of legislative techniques which are made within Ministries to help in the drafting process, he points out that they are important in maintaining the technical quality of legislative drafting.

He gives an example of Austria where Parliamentary report procedures exist, and forms a very important basis of establishing an *ex post facto* evaluation of effects of legislation. The Executive very often prepares such reports on its own initiative without a statutory power or obligation to do so. Sometimes it is in response to Parliament.

He recommends a systematic survey of legislative work. This type of report could be important and an intellectual support for every Parliament which provides a basis of legislative monitoring.

### **1.7 Methodology**

This part describes the methods used to collect data in this study; the research design, study population, data collection instruments (including interviews, questionnaires, content analysis and observation), procedure of data collection (research procedure), and data analysis. Some of the information will be derived by the author<sup>7</sup> through her experience with working as a drafter in the Parliamentary Commission of Uganda for over a period of seven years.

The study is an in depth analysis of the law making process of Uganda and Drewry's system approach which breaks the law making process into four stages will be applied in the study for easier analysis.

---

<sup>7</sup> Florence Aceng, Senior Legislative Counsel, Parliament of Uganda.

Data processing involves all activities from the gathering of data and information in the field, to arranging and organizing them for further analysis and then interpreting the results of the whole process.

At all stages, data processing will be done after each interview and after collection of questionnaire, responses to ensure uniformity and accuracy of data. Data from key informants will be summarized and analyzed.

### **1.8 Limitations of the Study**

The major limitation to this study was information gathering.

During this process many Ministries were approached to give information through questionnaires but only few did. The same problem occurred when gathering information from Cabinet. Most of the MPs of the Parliament of Uganda approached, agreed to give interviews or gave appointments so that they could respond to the questionnaire but at the appointed time, they were not available.

Another limitation to the study was the unwillingness for a number of respondents to be quoted by name.

Information in form of records were hard to come by in all the stages and data was not readily available due to poor record maintenance.

## CHAPTER TWO

### 2 Introduction

No law making process is perfect, but the ineffectiveness and inefficiency in any legislative process can be attributed to defective development of the legislative scheme, and to inadequate scrutiny of the law as it is being made, and more seriously to the absence of coherent systems. The processes by which legislation is developed and produced by state institutions have to be efficiently planned and managed<sup>8</sup> in order to come out with better legislation.

This chapter discusses the Pre- Parliamentary stages of the law making process by using Drewry's 'Systems Approach' of inspiration and formulation. The chapter will be divided into two parts; Part A (policy process) and Part B (drafting process). This will include how policies and legislative proposals are made in Uganda. It will discuss factors influencing efficiency and effectiveness of the law making process and point out the challenges that Uganda faces during the policy formulation process in respect to their efficiency and effectiveness.

### PART A

#### 2.1 The policy Process

The law making process begins from policy. Policy has been defined as 'a set of interrelated decisions taken by a political actor or group of actors concerning the selection of goals and the means of achieving them within a specified situation where those decisions should, in principle, be within the power of those actors to achieve'.<sup>9</sup> The current trend in legislation is that legislation should be evidence based; it should represent the needs of the people for whom it is intended.

Efficiency in the policy making process plays a big role in the outcome of legislation. This is because the policy behind legislation dictates the content, timing and pace of the legislative process.<sup>10</sup> A defective policy will affect the quality of legislation.<sup>11</sup> This is because the

---

<sup>8</sup> Professor Keith Patchett, Preparation, Drafting and Management of Legislative Projects, (Workshop on the Development of Legislative Drafting For Arab Parliaments 3-6 February 2003, Beirut) 2

<sup>9</sup> William Jenkins in *Policy Analysis: A Political and Organizational Perspective* (1978)

<sup>10</sup> Pius Perry Biribonwoha, 'Efficiency of the Legislative Process in Uganda' (2005) 7 Eur. J.L. Reform 135, 145

purpose of legislation is to translate policy into law.<sup>12</sup> Where a policy is defective, drafting instructions drawn from policy will also be defective. In looking at the policy process it is important to understand where policy originates; Drewry terms the source of initial idea for policy and law as inspiration.

## **2.2 Inspiration**

Laws do not come ready made, they are like children. They are conceived and natured until they are mature. All policy and legislation start their existence as ideas, it is from this idea that policy arises and then from the policy legislation is created.

In Drewry's system approach, inspiration concerns the sources of ideas from which policies and laws are derived. Sources for 'inspiration' for legislation and policy in Uganda include; Party Manifestos, Parliamentary Committees, Regional and International Commitments social pressure, research evidence, public opinion, lobbyists and civic organization, as well as Budget Speech, The State of the Nation Address, and Sector Reviews.<sup>13</sup>

For legislation in particular, reports from the various law commissions<sup>14</sup>, Private members, and Parliamentary committees.

Legislation may also arise from change in policy, for example, the Electricity Act of Uganda 1964 was repealed by the 1999 Act to make changes in the management of electricity sector in Uganda from Government to the private sector.

## **2.3 Deliberation and Formulation of Policy**

The deliberation and formulation stage of the law making process consists of turning inspiration from different sources into formal policies and /draft law. This part will analyze factors influencing the effectiveness and efficiency of this stage. The main parties involved in this stage include the Ministry, the Cabinet and the Drafters who play major roles in the deliberation and formulation process.

In Uganda, the Ministry makes the policy. It is supposed to Draft a Cabinet Memorandum based on guidelines provided by the Cabinet Secretariat.<sup>15</sup> During policy development,

---

<sup>11</sup> See World Bank Document 'Administrative Capacity in the EU 8: Slovakia Country Report' Background Paper, World Bank Poverty Reduction and Economic Management Unit Europe and Central Asia, September 2006, at 2-3.

<sup>12</sup> V.C.R.A.C. Crabbe, *Legislative Drafting*, (Cavendish Publishing Limited 1993) 2

<sup>13</sup> Cabinet Secretariat, Office of the President, *Cabinet Handbook* (2009) [5.2]

<sup>14</sup> S. 10 Uganda Law Reform Commission Act Cap. 25

<sup>15</sup> Cabinet Secretariat, Office of the President, *A Guide to Policy Development and Management in Uganda* (2009) [5.0]

Ministries identify the financial, legal and other administrative implications of proposed policies and how they will affect other Ministries. Consultations must be carried out to iron out any differences with other Ministries over proposed new policies.<sup>16</sup>

Policy Memoranda may also be prepared on the directive of Cabinet itself. In the course of considering various policies brought before it, Cabinet may identify the need for additional policy and can then direct the responsible Minister to prepare and submit a Cabinet Memorandum on the policy matter. Cabinet approves policy that the Ministry makes.<sup>17</sup>

A mini case study in Appendix G shows that policy formulation in Uganda always takes a long period of time, which is one of the factors contributing to the delay of the legislative process. The study also shows that a number of key stakeholders were left out including CSOs, the Private sector, and human rights organizations.

### **2.3.1 Ministry**

Ministries are the organs through which Governments develop and execute policies and programs on a day to day basis.<sup>18</sup> In particular, when it comes to the law making process, Government Ministries prepare drafting instructions for legislation.

Before instructions are given to the First Parliamentary Counsel (FPC) for the drafting of Bills, the instructing Ministry or Department must seek Cabinet approval authorizing the subject legislation through Cabinet memorandum when seeking approval of principles of new laws, approval of draft Bills.<sup>19</sup>

In order for the drafting instructions to achieve their purpose effectively, they need to be issued by a competent and authoritative departmental official.<sup>20</sup> Once drafting begins the instructing officer becomes a key player in the drafting team as the channel of communication between the drafter and the instructing body.<sup>21</sup> In Uganda Ministries appoint responsible officials, who liaise with the FPC during the drafting process.<sup>22</sup>

---

<sup>16</sup> Anonymous 1, Ministry of Energy and Mineral Resources, 24/07/12

<sup>17</sup> Pius Biribonwoha, (n10) 141

<sup>18</sup> Cabinet Secretariat, Office of the President, *A Guide to Policy Development and Management in Uganda* (2009) [2.4]

<sup>19</sup> *Ibid* [5.1]

<sup>20</sup> Thornton, G. C. *Legislative Drafting* (4<sup>th</sup> edn Butterworth, London 1996 ) 126-127

<sup>21</sup> *Ibid* Thornton also discusses the attributes this person should have. Katharine MacCormick, John Mark Keyes, *Roles of Legislative Drafting offices* pg 22-23 discusses the duties of the instructing official.

<sup>22</sup> Interview with Nancy Awori, Principle State Attorney, Office of FPC at Ministry of Justice and Constitutional Affairs 06/06/12

### **2.3.1.1 Technical Working Group**

There is a technical working group/committee formed by the line Ministry when preparing draft legislation, composed of technical people from various ministries related to the subject matter and sometimes includes a drafter from FPC.<sup>23</sup>

The technical working group/committee is important in promoting effectiveness of the legislative process because it makes the drafting process more inclusive and progress faster. They also ensure effective communication between the Ministry and helps in the maintenance of documents needed for the formulation of policy.

### **2.3.2 Cabinet**

Cabinet is the highest policy making organ of the Executive, whose functions is to formulate, determine and implement Government policy.<sup>24</sup> Cabinet scrutinizes and approves legislative and policy proposals Ministries present and ensures that ministerial policies are consistent with Government's long term strategic direction and priorities.<sup>25</sup>

Cabinet has a secretariat whose functions includes; supporting the development of policy capacity across Government, supporting Government Ministries in developing capacity for policy analysis, supporting the Executive translate election manifestos into policies and programs for implementations. Uganda's Cabinet system does not consist of permanent committees and most committees do not have a long life span.<sup>26</sup> The office supports Cabinet in discharging of its Constitutional mandate of formulating, determining and implementing Government policy.<sup>27</sup>

The Cabinet secretariat vets all Cabinet memoranda introducing new policies before allowing them to be placed on the agenda. Ministries are encouraged to consult the staff of the secretariat as soon as they begin developing a new policy and should consult the secretariat until the final Cabinet submission is completed.

The table below contains information derived from the questionnaire which will be used to discuss some of the factors influencing efficiency and effectiveness of the policy formulation process.

---

<sup>23</sup> Nancy Awori (n42) was involved in the formulation of the Oil and Gas Policy and also drafted some of its bills.

<sup>24</sup> Article 111, of the Constitution of the Republic of Uganda, 1995

<sup>25</sup> Cabinet Secretariat, Office of the President, *Cabinet Handbook* (2009) [2.2.4]

<sup>26</sup> Ibid [3.3]

<sup>27</sup> ibid [3.9.3]

*Table 1: General information gathered from the Ministries*

	Question	never	rarely	Some-times	usually	Always	total
1.	Ministries adequately carryout stake holder consultations			1	1	8	<b>10</b>
2.	Ministries receive proposals from Uganda Law reform commission(ULRC)	2	3	2		1	<b>8</b>
3.	Apply proposals from ULRC	2	2	2	1	1	<b>8</b>
4.	Proposed Legislation have Government policies in place			5	3	2	<b>10</b>
5.	Carry out RIA	4		1	1	2	<b>8</b>
6.	Communicate with First Parliamentary Counsel during drafting process		1		1	8	<b>10</b>
7.	Are allocated adequate funding for handling legislative proposals.	1	2	6		1	<b>10</b>

### **2.3.3 Factors influencing Efficiency and Effectiveness of Policy Formulation:-**

#### **2.3.3.1 Regulatory Impact Assessment (RIA);**

An RIA is an analysis of the likely impact of a range of options for implementing a policy change.<sup>28</sup> It is important because the process helps deliver policy objectives successfully. it provides a framework for analysis of the likely impacts of a policy change and the range of options for implementing it.

It is a comprehensive and flexible tool which considers: any form of regulation - formal legislation, Codes of Practice, information campaigns etc. the full range of potential impacts - economic, social and environmental.<sup>29</sup>

RIA can be used in Parliamentary debates as they set out the evidence and information gathered about the policy options being considered.<sup>30</sup> It can provide standards for the process of policy formulation, by showing how consultations, costs and benefits, and trade-offs

<sup>28</sup> Cabinet Office, Guide to Legislative Procedure, (2004) [www.Cabinetoffice.gov.uk](http://www.Cabinetoffice.gov.uk) [11.2]

<sup>29</sup> <http://tna.europarchive.org/20061103000234/http://www.Cabinetoffice.gov.uk/regulation/ria/overview/index.asp#whatisria> accessed 8/20/2012 6:41:30 PM

<sup>30</sup> *ibid*

between policy choices have been taken into account by the legislature. This can make the legislative process more transparent.<sup>31</sup>

In Countries like the UK, RIA must be produced for any proposal for legislation which has an impact on business, charities and the voluntary sector. The final RIA must be circulated to Legislative Program (LP) alongside the Bill and other papers when it is considered for approval for introduction and is one of the required documents when a Bill is introduced before Parliament.<sup>32</sup> The British RIA is more detailed<sup>33</sup> which leads to more important information being solicited, this information is vital to the drafting process and leads to better legislation.

Uganda's policy guideline states that RIA should be part of the Cabinet memorandum but most respondents from Ministries observed that RIA is not always carried out.<sup>34</sup> By not carrying out RIA, policies, legislative proposals and drafting instructions will be based on inadequate information. This does not only affect the quality of legislation but slows down the law making process especially when legislation is being drafted and when it is being scrutinized by Parliament. Considering that Uganda already has a framework for RIA in place, Uganda should consider carrying out RIA to improve on the content and context of legislation.

The chart below indicates the extent to which RIA is carried out in Uganda.

---

<sup>31</sup> Jonathan Verschuuren, Ex Ante Evaluation of Legislation; an Introduction. Tilburg University - Center for Trans boundary Legal Development; Tilburg Sustainability Center

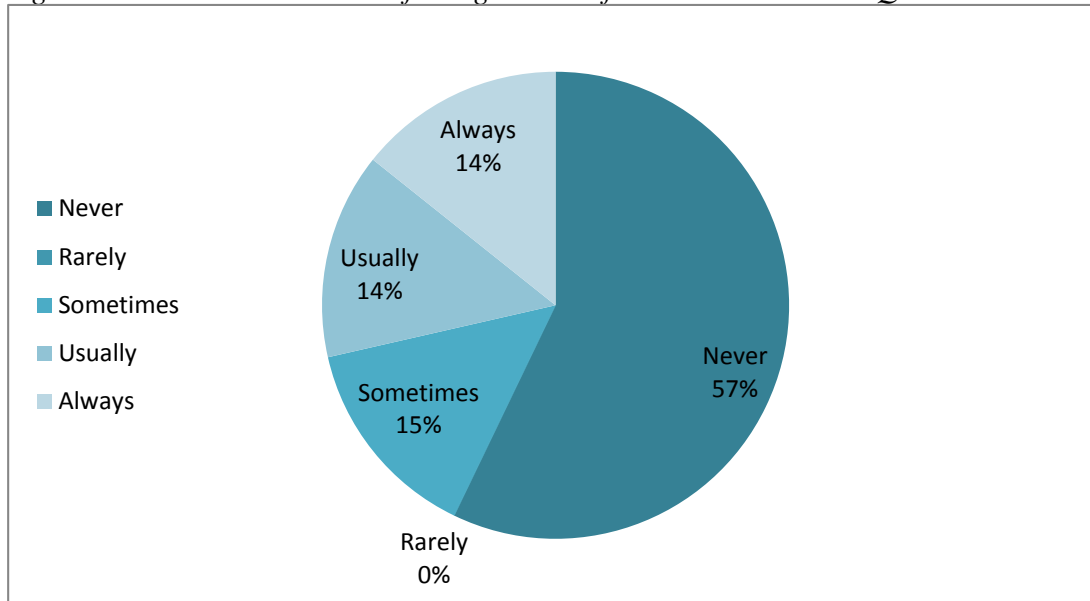
<sup>32</sup> Guide to Legislative Procedure, (2004) (n2828) [11.6]

<sup>33</sup> *ibid* [11.7]-[11.8]

<sup>34</sup> Refer to figure 1 below



Figure 1: This chart is derived from general information on table 1 Qn. 5



### 2.3.3.2 Pre-legislative scrutiny;

Pre-legislative scrutiny is a unique aspect of the British law making process. It provides an opportunity for Parliament to have a real input on a Bill before it is actually published. Bills that have gone through pre-legislative scrutiny as well as the normal Parliamentary processes end up being better Acts, though it leads to more work to Parliamentary counsel, and in most cases it leads to fewer amendments at plenary. Less time is needed at later stages of the legislative process and less likelihood of subsequent amending legislation.<sup>35</sup>

Pre-legislative scrutiny allows thorough consultation on the Bill while it is still in a more easily amendable form, and makes it easier to ensure that both potential Parliamentary objections and stakeholder views are obtained. Uganda however does not carry out pre-legislative scrutiny on bills which would help speed up the law making process.

### 2.3.3.3 Certificate of Financial Implication (CFI);

In Uganda before a Bill is introduced to Parliament, the instructing Ministry must get a CFI from the Ministry of Finance, Planning and Economic Development (MFPED), which indicates financial implications if any, on revenue and expenditure over the period of not less than two years after coming into effect.<sup>36</sup> All proposals that contain recommendations on

<sup>35</sup> Select Committee on Modernization of the House of Commons, *The legislative process*, 23 July 1997, HC 190 1997-98, [20]

<sup>36</sup> S. 10 Budget Act 2001 and R 102 RPPU

expenditure or revenue or that have financial, fiscal or economic implications must be referred to MFPED, proposals without the certificate of clearance from the minister will be rejected by the Cabinet secretariat.<sup>37</sup> Respondents from Ministries during the study indicated that this process takes a long time<sup>38</sup> which causes unnecessary delays in the legislative process.

Uganda's CFI is limited in application. It does not help with the cost benefit analysis of a Bill and is usually a one paged document which simply states the financial implication if any, on revenue and expenditure over a period of not less than two years of its coming into force.<sup>39</sup> A detailed cost benefit analysis would help in the decision making process on whether or not a Bill should be enacted.

#### **2.3.3.4 Memoranda;**

For all the efforts to ensure quality drafting of the text of a Bill itself, it may nevertheless be necessary to provide additional information, to enable a better understanding of its contents and purpose. Muylle points out that the quality of a Bill is not limited to its text, but also concerns the information that comes with it.<sup>40</sup>

The UK Parliament for example, in 1997-98 replaced 'explanatory memorandum' and 'notes on clauses' by a single document, the explanatory notes.<sup>41</sup> They are prepared by Parliamentary counsel and made publically available. The Explanatory Notes must be ready by the time Legislative Program (LP) Committee meets to approve the Bill for introduction. They should ideally be, and almost always are, published at the same time as the Bill. Explanatory notes contains; a summary and background, overview of the structure, territorial extent, commentary and concluding sections on: Public sector financial cost and public sector manpower implications, Regulatory Impact, compatibility with the European Convention of Human Rights, transposition notes, commencement date. Explanatory notes or memoranda are important because they enable better understanding of the Bills content and purpose in Parliament. It can also be used by Court to interpret legislation.<sup>42</sup>

---

<sup>37</sup> Cabinet Secretariat, Office of the President, A Guide to Policy Development and Management in Uganda (2009) [5.6]

<sup>38</sup> Anonymous 2, Ministry Energy and Mineral Resources, 6<sup>th</sup>/09/2012

<sup>39</sup> S 10, Budget Act,2001

<sup>40</sup> Muylle, K. J. 'Improving the Effectiveness of Parliamentary Legislative Procedure' (2003) Statute Law Review , 24(3), 169-186175

<sup>41</sup> ibid

<sup>42</sup> ibid

Uganda does not use explanatory notes, instead it uses explanatory Memoranda/ memoranda which are shallow and merely limited to policy and principle of the bill and its provisions. Uganda would benefit by widening the content of the explanatory memorandum to help guide the stakeholders in the legislative process effectively.

#### **2.3.3.5 Internet connectivity;**

ICT is an essential precondition for engagement in policy formulation, active promotion and competent moderation to effective consultation. The advantage of engaging citizens on line is that it raises the expectations that public input will be used to inform policy making. This motivates the principles of evidence based legislation being promoted in most commonwealth jurisdictions.

In Uganda there are barriers which limit citizens in online policy making which include; low literacy rate, lack of awareness, low levels of internet access. Only few Ugandans have access to internet, contrary to most countries which have adopted wide use of internet in policy formulation.<sup>43</sup> This leads to most stake holders being left out of the consultative process.

#### **2.3.3.6 Legislative Program;**

Efficiency in the legislative process hinges on the way the program is organized,<sup>44</sup> a well organized legislative programs means drafters time will not be wasted drafting Bills that will not be presented to Parliament in a specific session, and if presented Parliaments time will not be wasted scrutinizing a Bill that will lapse with it.<sup>45</sup>

Settling such a legislative program enables Government to agree collectively where its legislative priorities lie, especially where the Ministries' demands for legislative time are likely to outstrip the Legislature's capacity to deal with new legislation. It also provides a basis upon which the Legislature can establish its own timetabling for purposes of flow of draft laws that will be placed before it.<sup>46</sup>

In Uganda each Ministry generates the list of bills it intends to present within a financial year to Cabinet so that it can be presented during the State of the Nation Address,<sup>47</sup> this is considered to be the state of the legislative program. This is vague because it provides no

---

<sup>43</sup> OECD brief, engaging citizens online for better policy making ( 2003)

<sup>44</sup> Pius P Biribonwoha, (n10) 141

<sup>45</sup> ibid

<sup>46</sup> Patchett (n8) 23

<sup>47</sup> Cabinet Secretariat, office of the President, *Cabinet Handbook* (2009) par 5.2, Article 101 of the Constitution of the Republic of Uganda, 1995

timeline for the generation of draft bills.<sup>48</sup> With no clear legislative program, the services of the drafting office are demand driven, with the drafters not knowing at the beginning of the year which Bills the office will be called upon to draft.<sup>49</sup> The effects of the deficient legislative program are felt even in Parliament, where unplanned introductions end up over burdening Parliament's agenda.

#### **2.3.3.7 Collective Agreement;**

Collective agreements are needed when there are questions which significantly engage the collective responsibility of the Government, because they either raise major issues of policy or they are of critical importance to the public and needs to be agreed collectively by Cabinet or by its committees. In some jurisdictions (e.g. UK), when preparing a Bill, collective agreement normally has to be sought from two Cabinet Committees (unless, exceptionally, agreement is given in Cabinet): the Legislative Program (LP) Committee, and the relevant policy committee.<sup>50</sup>

In Uganda sometimes collective agreements are not made before Cabinet approves a bill to be introduced in Parliament (except for controversial bills). This state of affairs has led to bills being presented before Parliament without a common position being reached by the related Ministries, which is one of the main causes of delay of bills because Ministries will still continue 'pulling strings' even when bills are at Parliament.

#### **2.3.4 Challenges**

There are specific challenges the Ministry faces when making not only policy, but also legislative proposals. The fact is that these challenges affect not only how fast but also how well the Ministries fulfill their functions in the legislative process. They include:

##### **2.3.4.1 Limited resources;**

The author's findings from the study indicate that Ministries lack adequate resources in terms of funding, human resource and working tools.<sup>51</sup> Adequate resources would help the Ministry to formulate policies and legislative proposals in the quickest possible time without compromising quality. Because of lack of research materials and financial resources, gathering and analyzing information for formulation of policy is slowed down.

---

<sup>48</sup> Anonymous 1, Ministry of Energy and Mineral Resources 24/07/12

<sup>49</sup> Pius Biribonwoha, (n10) 146

<sup>50</sup> Guideline to Legislative procedure, [6.4]

<sup>51</sup> Anonymous 3, Ministry of Energy and Mineral Resources, 24/06/2012

#### **2.3.4.2 Information Gathering;**

One of the challenges Ministries in Uganda face is gathering information. Most of the information is not documented.<sup>52</sup> Gathering information has to be done from scratch. This makes the research process more difficult which would explain why policies are sometimes based on shallow information.

#### **2.3.4.3 Coordination between different Government Ministries/Department;**

Some policies and legislative proposals require the coordination of different Ministries/departments. An in-depth understanding of inter-sectoral relationship is important for policy makers. It enables effective monetary, credit and fiscal policies to be designed in order to be able to achieve the broader objective of inclusive development.<sup>53</sup> There is lack of coordination among different Government Ministries/departments, which affects the formulation of policy,<sup>54</sup> thus reducing the effectiveness of the Ministries in the law making process because this causes delays and also compromise the quality of legislative proposals.

#### **2.3.4.4 No Guideline for Drafting Instructions;**

In Uganda, Ministries lack a standard guideline for drafting instructions to OPC, with no standard guideline in place, the drafting instructions vary, leading to variance in information which drafters receive with the instructions, and therefore it is inevitable that poor drafting instructions, with inadequate information will be issued to drafters which will eventually affect the quality of bills produced.

#### **2.3.5 First Parliamentary Counsel (FPC)**

The Parliamentary counsel is a team of lawyers which draft Government Bills introduced into Parliament. The Directorate of FPC is an Executive office under the Ministry of Justice and Constitutional Affairs. The office consists of 22 lawyers and other support staff. The directorate comprises three departments as follows; Department of principal legislation, Department of subsidiary legislation, Department of local Governments legislation.<sup>55</sup> Other functions include drafting; statutory instruments, ordinances, and by-laws.

---

<sup>52</sup> The author once went to Ministry of Health to gather information concerning policy of the Mental Health Bill. The Ministry did not have this information and the officials referred the author to a CSO.

<sup>53</sup> Gunjeet Kaur, Sanjib Bordoloi and Raj Rajesh, An Empirical Investigation of the Inter-Sectoral Linkages in India Reserve Bank of India Occasional Papers Vol. 30, No. 1, Summer 2009  
<http://rbidocs.rbi.org.in/rdocs/Content/PDFs/2GKA010210.pdf>

<sup>54</sup> Anonymous, Ministry of Energy and Mineral Resources, 26/06/12

<sup>55</sup> <http://www.justice.go.ug/index.php/departments/fpc>

This discussion will focus on discussing the process of drafting primary legislation: Uganda as in most Commonwealth jurisdictions has a central drafting office and their role is to draft legislation from general instructions or reviewing draft Bills sent from the Ministry in form of drafting instructions.

## **2.4 Factors Influencing Efficiency in FPC:**

### **2.4.1 Role of the Drafter;**

Drafting requires not only specialized knowledge but also specialized skills.<sup>56</sup> The drafter plays a critical role in determining the effect that legislation has.<sup>57</sup> Their role includes; transforming Government policy into legislation, translating instructions or broad ideas into actual drafts.<sup>58</sup> The services the drafter provides include; advising and assisting the instructing officials in developing policy to be implemented in legislation, convening drafting meetings and keeping the Ministry official regularly informed of the progress of the legislation, ensuring legislative counsel are present in drafting meetings, fixing reasonable completion dates for legislation, taking into account length of the proposal, complexity and Government priorities, drafting Bills in a timely manner bearing in mind the completion dates and informing the officials of any delays in drafting, drafting legislation in a manner that is legally sound, clear, comprehensive and responsive, propose solutions to any legal or drafting problems that may arise during the course of the drafting.<sup>59</sup>

Drafters are expected to ensure that the legislation they are drafting is consistent with the Constitutional, other existing laws and international law particularly those relating to human rights and international trade.<sup>60</sup> Parliamentary Counsel also has to subject the policy and the ideas in the Bill to analysis.<sup>61</sup> However there are many incidences where bills are presented to Parliament which is inconsistent with the Constitution and existing laws and even international law. For example the Public Order Management Bill, 2011 which contravenes several articles of the Constitution and other international laws.<sup>62</sup>

---

<sup>56</sup> Tobias A. Dorsey, *Legislative Drafter's Desk book: A Practical Guide*, (The CapitolNet 2006) 5

<sup>57</sup> Katharine MacCormick, John Mark Keyes, Roles of Legislative Drafting offices

<sup>58</sup> Constantin Stefanou, Drafters, Drafting and the Policy Process, in Constantin Stefanou, Helen Xanthaki *Drafting Legislation: A Modern Approach* (Ashgate Publishing 2008) 323

<sup>59</sup> Katharine MacCormick, (n57) 22

<sup>60</sup> Ibid 14

<sup>61</sup> Constitution Committee, *Parliament and the Legislative Process*, 29 October 2004, HL 173 2003-04, Memorandum submitted by Sir Geoffrey Bowman KCB, [8-9]

<sup>62</sup> This bill gives broad discretionary powers to the Ugandan Police to permit or disallow any public gathering, contrary to Articles 23 and 29 of the Constitution, and other International instruments on human rights.

Table 2: General information gathered from Drafters at FPC

Questions	never	rarely	Some-times	usually	always
1. How often do you receive instructions in form of draft bills?			2	3	1
2. Are formal Government policies always in place for every bill you draft?			3	3	
3. Do you consider the documents provided to you by the Ministry adequate in terms of guidance?		2	3	1	
4. Are drafters involved during the earlier proposals of legislation right from ministry through cabinet?		1	5		
5. How often do you receive instructions you consider inadequate?		1		2	2
6. How often do you communicate with the line ministry during the drafting process?				2	4
7. How often do you have to redraft a bill because of parliamentary amendments?		1	3	1	1
8. How often do clients refuse to agree to changes you feel are necessary?		2	2	2	
9. Are political interests a common factor during the drafting process?			2	1	3
10. Does Government facilitate you enough when handling legislation?	1	3	1		1

#### 2.4.2 Drafters and policy;

Drafters make a significant contribution to policy-making. They identify and test the consistency and coherence of different policy options, analyze proposed legislative structures and identify factual permutations, offers possibilities and technical solutions for particular problems. Their insight into the Parliamentary process and into the practice of the Courts when interpreting and applying legislation may also be of value in this process. So they may be able to draw attention to a proposal that is likely to attract particular difficulties either in Parliament or the Courts.<sup>63</sup>

Drafters are not and should not be primarily responsible for development of policy although they have important responsibilities in that area.<sup>64</sup> The drafter's role is to provide a

<sup>63</sup> Working With Parliamentary Counsel, <http://www.cabinetoffice.gov.uk/resource-library/working-parliamentary-counsel> [63]

<sup>64</sup> Thornton (n20)125

professional service.<sup>65</sup> Drafters in Uganda sometimes participate in drafting policy which affects their objectivity when drafting legislation.<sup>66</sup>

### 2.4.3 Drafting instructions;

Instructions are of varying quality; some contain detailed suggestions about how a particular policy intention might be achieved and others might be simply a statement of policy intention.<sup>67</sup> Drafting instructions are a communication of ideas from the instructing officials.<sup>68</sup> The Ministry draws up the drafting instructions that are sent to the drafter along with other relevant documents. These documents that the Ministry sends are supposed to be well researched and have all the necessary information that the drafter will need.

The nature of drafting instructions in broad terms is that, drafting instructions should make clear both the policy which the proposal is required to implement and the proposal itself. Ideally, before the instructing department prepares instructions, it should have a fully developed policy on the basis of which it has formulated an equally fully developed set of legislative proposals.<sup>69</sup>

According to Thornton, good instructions illuminate; the nature of the problem by providing background information; the purpose of the proposed legislation; the means by which those purposes are to be achieved.<sup>70</sup> He emphasizes that drafting instructions should not be inform of draft Bills.

McLeod adds that good drafting instructions should draw attention to any official reports, judicial decisions and academic opinions, which is not usually taken into account by Ministries in Uganda when issuing drafting instructions, causing inadequacy of crucial information needed by the drafter.

In Uganda sometimes legislation is developed without a policy in place<sup>71</sup> and yet adequate information is needed for drafters who express policy through law.<sup>72</sup> Where the policy is

---

<sup>65</sup> *ibid* 126

<sup>66</sup> An example is the Oil and Gas Bill which is now facing challenges in Parliament.

<sup>67</sup> Edward C. Page, *Their Word is Law: Parliamentary Counsel and Creative Policy analysis*(2009, Public Law)

<sup>68</sup> Katharine MacCormick (nError! Bookmark not defined.)

<sup>69</sup> Ian McLeod, *Principles of legislative and Regulatory Drafting*. (Hart Publishing 2009 ) 34

<sup>70</sup> Thornton, (n20) 130

<sup>71</sup> Land Amendment Bill 2007 had no formal government policy in place when it was presented to Parliament and this caused delay in the scrutiny process) (refer to appendix A, No 46. Also refer to table 2, qn. 2,

<sup>72</sup> Tobias, (n56) 5



defective this information will be inadequate thus affecting the content, timing and pace of the legislative process.

#### **2.4.4 Instruction in form of draft bills;**

A number of writers have examined the subject of draft Bills<sup>73</sup> and the conclusion is the same; Draft Bills affect the drafting process negatively. Thornton argues that, instruction in form of a draft bill compromises the outcome of a bill because it raises difficulties and might mislead the drafter, It does not tell the drafter the problem to be remedied and how it is to be remedied and they are usually a compilation of cut and paste laws from other jurisdictions with confused structures and inconsistent languages.<sup>74</sup> Such instructions are discouraged by most scholars because they waste time, may be defective because they are drafted by an inexperienced person and there is usually resistance to make changes to it (refer to table 2 qn. 8).<sup>75</sup> Respondents from FPC stated that they sometimes received drafting instructions in form of draft Bills.<sup>76</sup>

#### **2.4.5 Drafting Manual;**

Muyllé, points out that an essential instrument for drafts person are drafting guidelines or rules for drafting legislation.<sup>77</sup> Uganda has an unpublished drafting manual drafted by L.J. Chinery - Hesse in 1996 and has not been updated since then. Individual laws must be written in ways that most effectively communicate their content; uniformity or at least standardization is called for where possible. This can best be achieved through officially approved instructions and guidelines, which are monitored in the case of Government drafts by a specialized unit in the Cabinet Secretariat. Uganda does not have a drafting manual but other countries like Australia and the USA have officially published drafting manuals for their drafting offices which are revised periodically. Drafting manuals improve on the effectiveness of the drafting process by ensuring a standard on which legislation is drafted and provides guidance for new drafters and a base on which a country can build a drafting tradition.

#### **2.4.6 Duration of Bills at FPC (Refer to Appendix D)**

Parliamentary Counsel's essential task is to give effect to Government's intention in a form capable of withstanding Parliamentary and later Judicial scrutiny. It is important that they

---

<sup>73</sup> Thornton, McLeod, Crabbe.

<sup>74</sup> Thornton (n20) 130

<sup>75</sup> McLeod pg 38 quoting EA Drieger, *The Composition of Legislation*, (2<sup>nd</sup> ed. Ottawa, Department of Justice 1957) xix-xx.

<sup>76</sup> Refer to table 2, qn. 1

<sup>77</sup> Muyllé (n40)175

deliver Bills on time; the Government must get its Bills on time, and they must be in form which will first stand up in Parliament and stand up in Court.

During the study the author discovered that Bills at FPC spend a long time being drafted (on average 6 months),<sup>78</sup> which delays the legislative process. Other underlying factors causing delay include; limited number of drafters, leading to individuals drafting legislation instead of team work, lack of a legislative program which leads legislation being presented simultaneously.

#### **2.4.7 Limited resources;**

A drafter needs basic equipment for producing documents, which includes a functioning computer with a good word processor, internet connectivity, and above all a reliable printer. A drafter should have regular reliable access to a wide variety of important documents including a general dictionary, a legal dictionary and a thesaurus. *Hard copy* of the Constitution, have access to compilations of laws: domestic, regional and international.<sup>79</sup> This information help to keep the drafter updated and help sharpen the mind of drafter. Drafters in the office of FPC lack the basic resources necessary to perform their duties effectively, for instance there is lack of computers, compendium of laws, limited access to the internet etc.<sup>80</sup>

#### **2.4.8 Information Communication Technology (ICT);**

Information technology especially computers and word processing tools have added a new dimension to the drafters work. This includes a wealth of tools for searching their drafts and making corrections as well as searching other database, particularly those available on the internet. IT also gives access to precedence from different countries. It also helps in delivering reference materials to drafters, computers allow the drafters to make changes to the Bills instantly, which accelerate speed with which legislation is drafted but also poses difficult questions about stressful working conditions and quality of legislation produced under these conditions.<sup>81</sup> Meetings can take place faster and easier through video conferencing and it is cheaper these days with the use of Skype where meetings can take place no matter the location of the individuals in the world.

---

<sup>78</sup> Refer to Appendix D

<sup>79</sup> Tobias A. Dorsey (n56) 15

<sup>80</sup> Author's observation, the author frequents the FPC on official duty.

<sup>81</sup> Katharine MacCormick, (n57) 19.

Whereas most Commonwealth Countries have adopted software to assist in the efficiency of the drafting office, Uganda is still lagging behind. The availability and active use of computer programs and software to aid drafting is urgently required if FPC is to improve on its efficiency.<sup>82</sup>

#### **2.4.9 Under staffing;**

The real bottleneck on Government legislation is the shortage of Parliamentary draftsmen to prepare Government Bills.<sup>83</sup> Uganda has few drafters in the FPC; this affects the efficiency of the office in terms of the time it takes to draft Bills and the effectiveness in terms of quality of the Bills the drafters produce. FPC of Uganda has only 16 drafters who draft primary legislation, statutory instruments and ordinances<sup>84</sup> which slow down the legislative process and could compromise quality of legislation.

#### **2.4.10 Quality of bills;**

According to Muylle legislation should be clear, comprehensible, coherent and consistent to existing Acts or Policies. He points out that the problem with modern legislation is that they do not meet quality objectives because they are often drafted in haste and their editorial quality suffers. Adding that at times they are difficult to apply, worded in obscure terms which are very technical and complex. These Acts are usually amended by new Acts of Parliament.<sup>85</sup> Bills in Uganda are drafted in haste because of lack of a legislative time table and limited number of drafters. This affects the outcome of legislation, and may lead to frequent amendments of legislation.

### **2.5 Final Draft**

After legislation has been drafted by FPC and approved by the instructing Ministry or Department, the draft Bill is subsequently presented to Cabinet for approval and authorization is given to the Minister to have the Bill gazette and tabled in Parliament for debate and enactment.

---

<sup>82</sup> Fredrick Ruhindi, 'The Need for Simplicity in Legislation and Challenges in its Attainment' (2009) 2 Journal of CALC 18-26

<sup>83</sup> Robin Cook, *The Point of Departure*, (Simon and Schuster, 2003) 210-211

<sup>84</sup> Appendix A gives an idea of how busy the drafters are, it indicates the number of primary legislation drafted during the 8<sup>th</sup> parliament.

<sup>85</sup> Muylle (n40) 171

## CHAPTER THREE

### 3 Legitimation

Legitimizing is the process of turning a Bill into a legally authoritative and binding Act.<sup>86</sup> The primary function of Parliament is to pass legislation for the public whose affairs, approaches and aspirations will be governed by legislation.<sup>87</sup>

Parliament is a popularly elected representative political assembly that ensures responsiveness and accountability of Government to citizens by performing two vital political functions: first by conducting free and open political debate regarding Government legislation, spending and implementation of policies; second, by representing citizens and groups in their dealings with Government.<sup>88</sup>

The Ugandan Parliament was established in 1962, soon after the country's independence. To date Uganda has gone through a series of 8 Parliaments, the current being the 9<sup>th</sup> Parliament. The Parliament of Uganda is mandated under article 79(1) of the 1995 Constitution to make laws on any matter for the peace, order development and good governance of Uganda.

The focus of this chapter will be the 8<sup>th</sup> Parliament of Uganda, which is under a multiparty democratic system established under Article 69 of the Constitution of the Republic of Uganda, 1995. The 8<sup>th</sup> Parliament had a total of 332 MPs, the majority of whom belonged to the ruling party (NRM), a minority of the seats going to the opposition, independents and the rest to special interest groups including representatives of workers, persons with disabilities and the Uganda People's Defense Forces UPDF.

The chart below is a representation of distribution of seats in the 8<sup>th</sup> Parliament of Uganda.

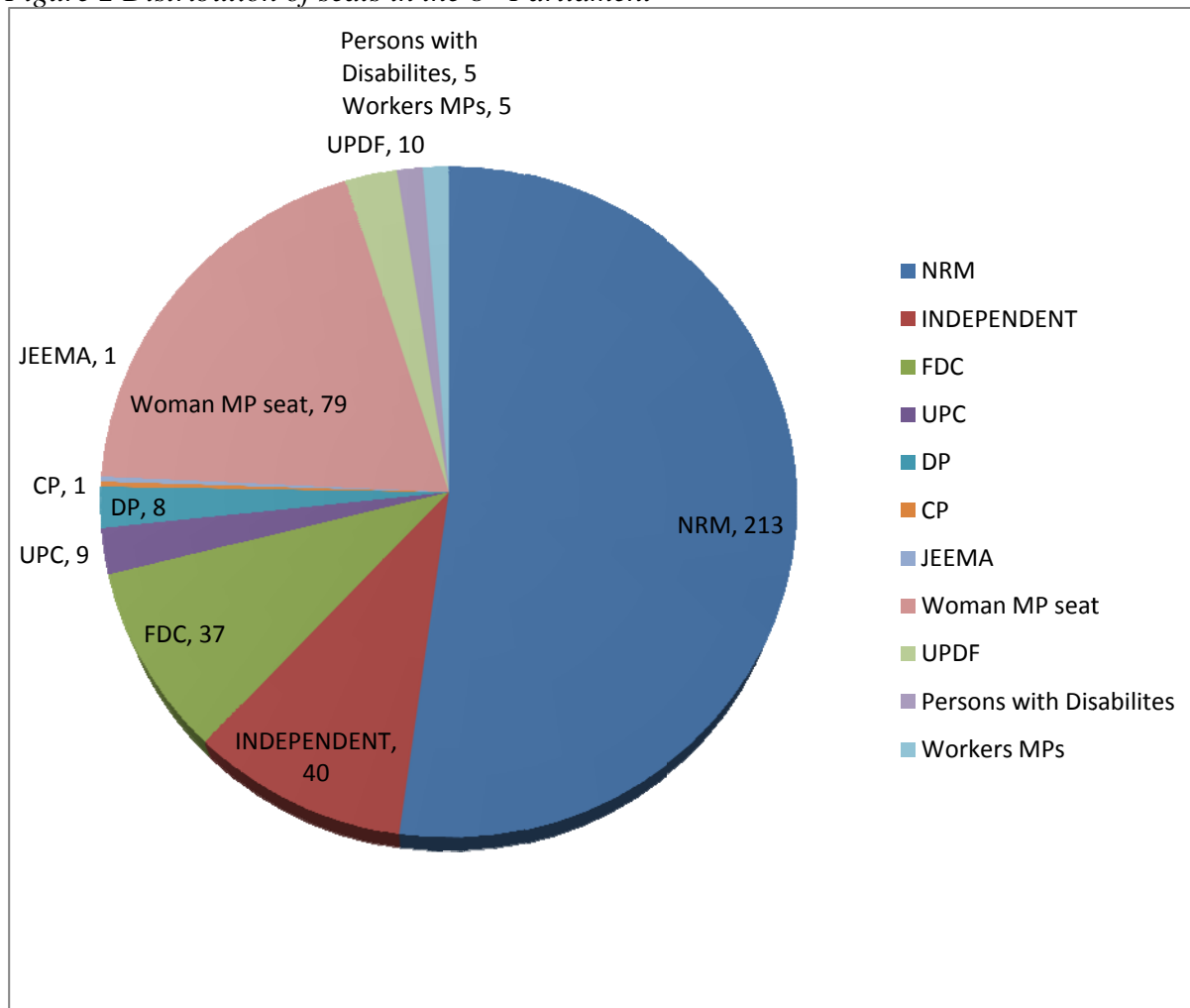
---

<sup>86</sup> Drewny, G. 'Law Making systems: How to compare' (2008). Statute Law Review , 29(2)108

<sup>87</sup> V.C.R.A.C. Crabbe, The Role of Parliamentary Counsel in Legislative Drafting, Unite Nations Institute for Training and Research sub-Regional Workshop on Legislative Drafting for African Lawyers Document No 11 Kampala, Uganda 20 to 31 March 2000)

<sup>88</sup> Parliaments that Work; A conceptual Framework for measuring Parliamentary Performance.

Figure 2 Distribution of seats in the 8<sup>th</sup> Parliament<sup>89</sup>



This chart represents the distribution of seats in the 8<sup>th</sup> Parliament and also shows Executive dominance of the law making process, which will be discussed later.

This chapter will examine the process of legislative scrutiny within Parliament, centering on the scrutiny process at committee (Part A) and during plenary (Part B). It will discuss scrutiny of both Government bills and private member bills.

The writer will study the efficiency of the scrutiny process using Muylle's process oriented analysis which focuses on the way the Act comes about; the Parliamentary process its self.

He states that the problem is to determine the standard against which to measure effectiveness of the legislative process, and points out that some people use time measure to improve effectiveness therefore focuses on ways to get the job done quicker. But adds that this is not

<sup>89</sup> [http://www.ipu.org/parline-e/reports/arc/2329\\_06.htm](http://www.ipu.org/parline-e/reports/arc/2329_06.htm)

adequate, that effectiveness should be measured using other criterion other than speed. (Muylle, 2003)

Muylle also contends that “complaints about the law making role of Parliament concerns the slowness and lack of efficiency of the legislative procedure and the over burdened agenda. He adds that modern society lives and changes at such a pace that when state action is required, it should be done quickly, and that a legislative process that takes at least two or three months to adopt a Bill is not tailored to suit a society”.<sup>90</sup> As will be discussed later, bills usually take longer period in Parliament of Uganda.

### **3.1 Introduction of a Bill to Parliament**

Under Article 94 of the Constitution of Uganda, Parliament may make Rules to govern its own procedure, including the procedure of its committees. In the 8<sup>th</sup> Parliament the rules governing its procedure was enacted in 2006 and is cited as Rules of Procedure of Parliament of Uganda (RPPU), 2006. The RPPU provides for the progress of bills in Parliament.

### **3.2 Types of Bills**

Parliament Scrutinize two types of bills; Government Bills and PMBs, discussed below:-

#### **3.2.1 Government Bills;**

Once a Bill has been published in the Gazette, it is presented to Parliament through the Clerk to Parliament for distribution to Members of Parliament.<sup>91</sup> The Bill is then read for the first time and is then referred to the appropriate Committee which shall examine the bill in detail and make all such inquires in relation to it as the committee considers expedient or necessary and reports to the House within 45 days from the date the bill is referred to the committee.<sup>92</sup>

#### **3.2.2 Private Member Bills (PMBs):**

In Uganda a Private Member’s Bill is introduced into Parliament by way of Motion to which is attached the proposed draft Bill. If the Motion is carried, the printing and publication of the Bill in the *Gazette* is the responsibility of the Government.<sup>93</sup> Following the publication of the Bill in the *Gazette*, the process of the Bill is the same as that followed in respect of a Government Bill.

---

<sup>90</sup> Muylle, K. J.. ‘Improving the effectiveness of Parliamentary Legislative Procedure’ (2003) Statute Law Review , 24(3), 169-186170

<sup>91</sup> R.104 RPPU

<sup>92</sup> R113 RPPU

<sup>93</sup> Currently the DLLS through the Clerk to Parliament orders for the printing and publication of bills and the printing is carried out by UPPC.

## **PART A**

### **3.3 Scrutiny Process at Committees**

In the Ugandan Parliament, sessional committees; analyze Government policy, initiate or evaluate action programs of ministers, critically examine Government Bills, monitor performance of Ministries and ensure Government compliance with approved plans and programs.<sup>94</sup> In the 8<sup>th</sup> parliament there were 13 sessional committees<sup>95</sup> each composed of 20 members designated by whips on the basis of party or organizational representation and interest of independent members in the House at the beginning of every session of Parliament.<sup>96</sup>

Sessional Committee has one of the most intensive periods of work in the Bill's progress through Parliament. The bulk of the work involves scrutinizing and proposing amendments on the bill. The number of amendments (and the amount of work) will vary according to the size and subject matter of the Bill and how well prepared the Bill is before it is introduced into Parliament. Parliament has a department of legal and legislative services which offers technical assistance to committees during legislative scrutiny.

#### **3.3.1 Department of Legal and legislative services (DLLS);**

This department was established in 1995 and given legal force by the Administration of Parliament Act, 1997. It is a department comprised of 11 lawyers, including the author. The main purpose of the department is to provide efficient and timely legislation and legal services to the Parliament, its committees and the Parliamentary Commission.

DLLS also drafts PMBs on instruction by a MP or Parliamentary committee,<sup>97</sup> drafts amendments to be proposed to the House by MPs, or Parliamentary committee and it ensures that Bills passed by Parliament are in tandem with the Constitution and existing laws. Other duties of the department includes; drafting motions, petitions, contracts, questions for oral answers, proclamations; giving legal opinions and representing the parliamentary commission in court. The department however faces the following challenges;

---

<sup>94</sup> R 161 RPPU

<sup>95</sup> R. 159 RPPU

<sup>96</sup> R. 160 RPPU

<sup>97</sup> R 105 (3) RPPU

### **3.3.1.1 Limited staff;**

The department lacks adequate staff to perform its role effectively. It's composed of 11 legal and legislative counsel serving 28 committees, which is unrealistic because committees always hold meetings at the same time, meaning some will go without legislative counsel and yet some Members lack the technical ability to scrutinize bills.

### **3.3.1.2 Limited resources;**

The department also faces the problem of drafting PMBs because they do not carry out adequate research as a result of limited amount of resources, which, affects adequate stake holder consultations, and above all, the drafters in the department receive poor drafting instructions from MPs in regard to PMBs because there is no guidelines in relation to PMBs which MPs can refer to.

It should be noted that the committee also has other support staff including committee clerks, researchers and budget officers.

## **3.4 Factors influencing efficiency and effectiveness at committees:-**

This part will use information in Appendices A, B and C, to analysis the level of efficiency and effectiveness at committee stage. Information in the appendices includes; list of bills that passed in the 8<sup>th</sup> Parliament, duration of bills at committee, and bills that lapsed. It will also include the list of bills that were saved and others which were not.

After analyzing the Appendices, the study will then focus on other factors influencing efficiency during committee scrutiny.

### **3.4.1 Lack of legislative program;**

As pointed out earlier Uganda lacks a legislative program which would have guided Parliament earlier in time on which bills are to be tabled. There is little coordination between Ministries and Parliament as to when a bill can be tabled for consideration. As Muylle puts it “this often leads to ‘traffic jam’ especially at committee level because members have to consider too many important bills at the same time”<sup>98</sup> The lack of a legislative program causes, among others, delay in the scrutiny process, uneven distribution of bills to committees and lapsing of bills. These will be discussed below:-

---

<sup>98</sup> Muylle (n90) 183

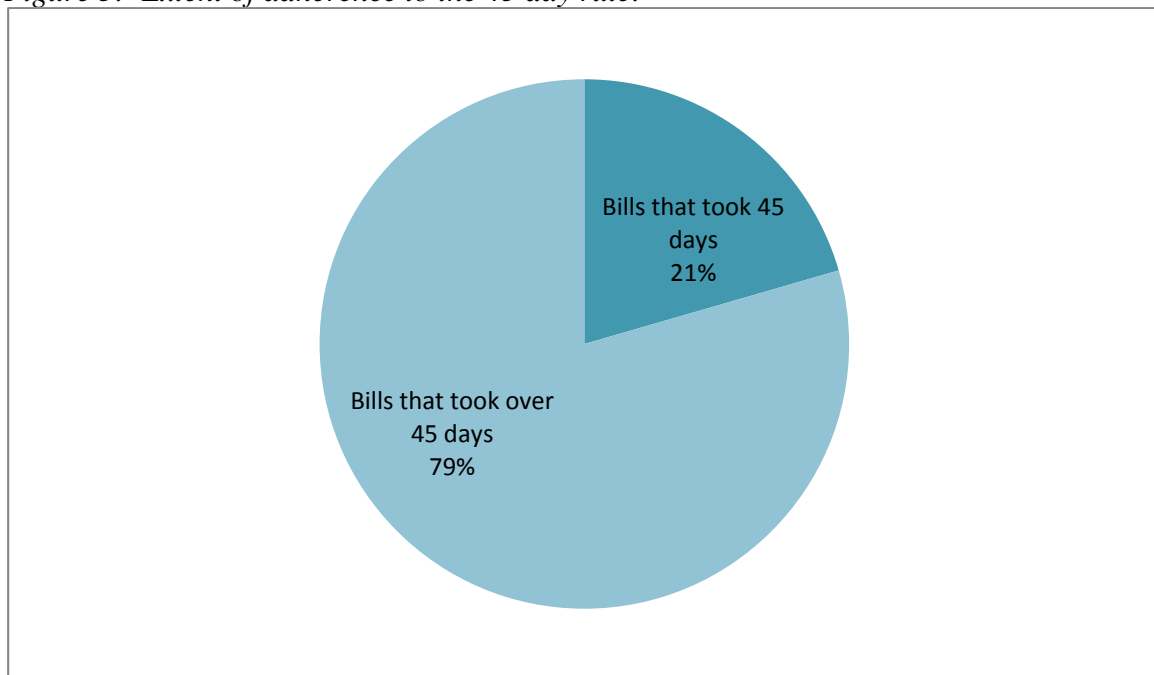


### 3.4.1.1 Delay of bills at Committee;

As alluded above, in Uganda, the committee to which the bill is referred should report to the House within 45 days of the bill being referred to the committee.<sup>99</sup> Appendix A indicates that the total number of bills introduced in the 8th Parliament was 117, out of which only 24 of these were scrutinized within the 45 days. The average period a bill took at committee was 224 days. The shortest period being 1 day and the longest was 1190 days (refer to Appendix A column 8). This clearly indicates that most committees in the 8<sup>th</sup> Parliament did not honor the 45 day rule and spent a longer time scrutinizing the bills, indicating the lack of the efficiency of the scrutiny process and lack of the effectiveness of the 45 day rule.

The Pie chart below illustrates the extent to which the 45 day rule was not adhered to.

*Figure 3: Extent of adherence to the 45 day rule:-*



### 3.4.1.2 Uneven Distribution of Bills;

In Uganda after a bill is read for the first time, the speaker refers the bills to a specific committees for scrutiny. From the table (Appendix A), bills were not evenly distributed to committees. Most of the bills were being handled by either Legal and Parliamentary Affairs

---

<sup>99</sup> R 113 (2) RPPU 2006

Committee or Finance Committee,<sup>100</sup> leaving some of the committees to handle very few bills and others with none, for all the five sessions of Parliament.

This unsystematic method of distribution of bills has dire consequences as it compromises the committee's ability to scrutinize bills since it results to overloading of some committees which may lead to lapsing of bills (see table 3 No. 6). It may also cause redundancy and laxity in the way Members operate especially for committees with either very few bills or none. (Refer table 3)

This will be illustrated in the table below which indicates the number of committees, the number of bills they each handled, how many of these bills passed and how many of them lapsed with the 8<sup>th</sup> Parliament.

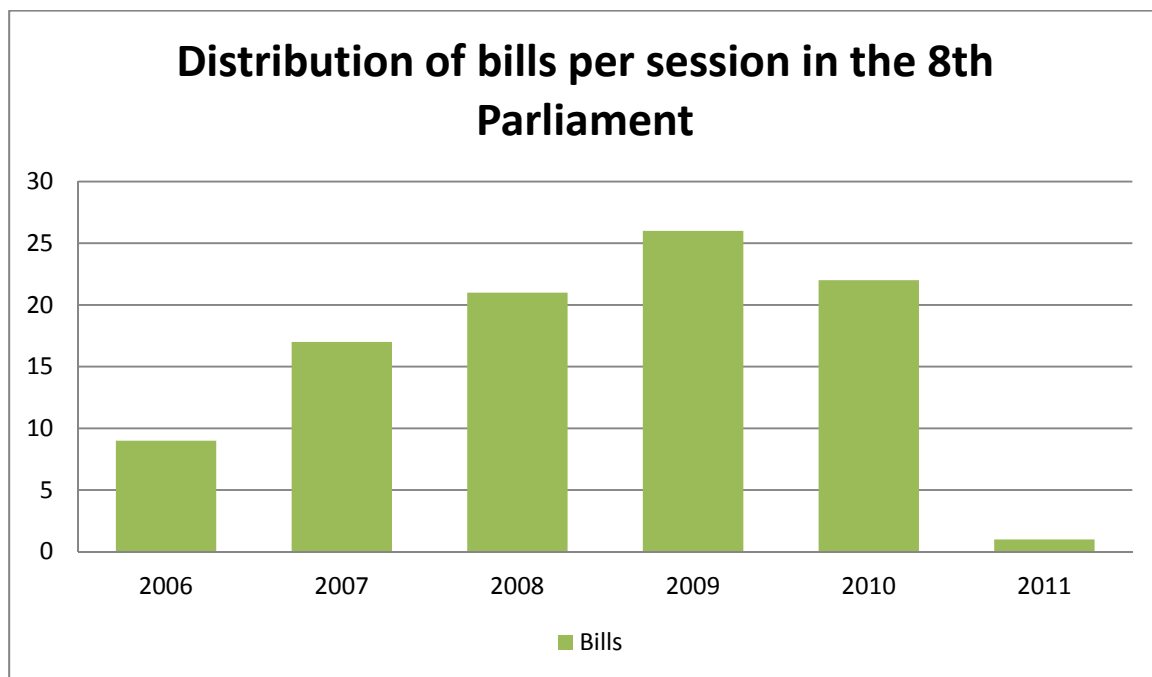
*Table 3: The Number of Bills each Committee in the 8th Parliament scrutinized;*

<b>Committee</b>	<b>No. of Bills</b>	<b>Passed</b>	<b>Lapsed</b>
1. Agriculture, Animal Industry and Fisheries	6	1	5
2. Tourism, Trade, and Industry	1	1	
3. Social Services	5	3	2
4. Gender, Labor and Social Development	1	0	1
5. Physical Infrastructure	3	3	
6. Legal and Parliamentary Affairs	32	20	12
7. Public Service and Local Government	11	9	2
8. Natural Resources	1	1	
9. Presidential Affairs	2	2	
10. Foreign Affairs	0	0	0
11. Defense and Internal affairs	3	2	1
12. Information, Science and Communication Technology	5	5	0
13. Finance	37	34	3

<sup>100</sup> For committee of finance, the large number of bills they handle is explainable because Finance bills have a mandatory period within which they should pass.

Uneven distribution of bills can also be expressed in terms of numbers of bills distribution per session which affects the efficiency of the scrutiny process. Some sessions carry heavy work load and other sessions hardly have any bills to scrutinize. Muylle alludes to the fact that Parliament is slow, lacks efficient legislative procedure and has an overburdened agenda.<sup>101</sup> The overburdened agenda in Parliament is superficial because more Bills are introduced in later sessions of Parliament than in earlier sessions as shown in the table below.<sup>102</sup> As the Parliament progresses, more Bills will be introduced leading to inadequate scrutiny because of time pressure on the committees which have many bills.

*Figure 4: indicates the uneven distribution of bills per sessions in the 8th Parliament:*



### 3.4.1.3 Lapsing of Bills

In the 8<sup>th</sup> Parliament 25 out of 117 Bills that were introduced lapsed (refer to Appendix B). The implication of the lapsing of Bills with a Parliament is that all the time and effort that have been put into preparing it is put to waste. The costs in terms of time and effort put in by the various actors in the legislative process, and money spent will lead to no benefit at the end. For instance in the 8<sup>th</sup> Parliament, wide consultations were carried out during the

<sup>101</sup> Muylle (n90) 170

<sup>102</sup> Note that, in 2011 there were hardly any bills because the country was preparing for both Presidential and Parliamentary Elections and for transformation to the 9<sup>th</sup> Parliament.

scrutiny of the Prevention of HIV/AIDS Bill, 2010. The committee visited more than 5 countries to carry out a comparative analysis, held several consultative workshops and carried out regional field trips to all the four corners of the country. This involved spending huge amounts of money and yet the bill lapsed with the 8<sup>th</sup> Parliament. Though the bill was saved in the 9<sup>th</sup> Parliament, new members of the committee have indicated that the scrutiny process has to start a fresh since they did not participate in the 8<sup>th</sup> parliament, which will again require spending more time and money. This would be a wastage of funds that is needed in other vital sectors like agriculture and health.

There were also a number of bills that lapsed but were not reintroduced in the 9<sup>th</sup> parliament (refer to Appendix B), and those that were withdrawn from Parliament by Ministers for further consultation (e.g see Appendix A No.94). This clearly shows the inadequacy in government plan for bills.

#### **3.4.1.4 Busy Schedules;**

MPs do not have time and some lack interest in legislative scrutiny, coupled with limited understanding of what the intended law is about, so they would need more time to digest the context and content of the Bill.<sup>103</sup> And because of inadequate time, MPs do not consistently attend scrutiny at committee and sometimes quorum is not realized.<sup>104</sup> Members have busy schedules coupled with personal and constituency responsibilities,<sup>105</sup> which slows down the legislative process and limits the number of bills scrutinized within the statutory period as discussed in Figure 4 above.

Mr. Steven Tashobya, the chairman of Legal and Parliamentary Affairs Committee, blames the delay on what he terms a ‘tight Parliamentary calendar’ which does not give committee adequate time to debate reports, handle petitions or fully work on bills. “From April to June, committees handle the budget frame work paper until it is passed in September, so there is not sufficient time for legislation and more so cabinet submits the bills late. From June to the end of last year there were no bills”.<sup>106</sup>

#### **3.4.1.5 Stakeholder consultation;**

In Uganda sessional committees have powers to examine Bills presented for scrutiny in detail and make all such inquiries in relation to it as the Committee considers expedient or

---

<sup>103</sup> Hon. Dr Bayigga Michael Luulume, member of the opposition (Democratic Party), 31/07/12

<sup>104</sup> Hon. Felix Okot Ogong, MP, Trade and Industry Committee, 12/07/12

<sup>105</sup> Anonymous, MP, Committee of Trade and Industry, 18/07/12

<sup>106</sup> Isaac Imaak, ‘MPs failing on Parliamentary role –research’ *Daily Monitor*, ( Uganda 24 September 2012) national, 4

necessary. These inquiries extend to consultation with various stakeholders.<sup>107</sup> During the consultations the committee establishes individual concerns of the stakeholders including public and private interest groups; they also get specialized advice from experts who are invited to give their opinion about the bill being examined.

Due to lack of legislative program in Uganda, invitation to stakeholders with regards to bills is always impromptu since the program of prioritizing of bills is not synchronized. This has led to most stakeholders appearing before the committee, ill prepared with very little information about the subject matter. This is coupled with the fact that in Uganda bills are not uploaded onto the Parliamentary website for the benefit of the public. Inadequate consultation with the stake holders results to ineffective scrutiny of bills because it compromises on the quality of legislation since some important views are left out unsolicited.

#### **3.4.1.6 Technical Bills;**

Muyile notes the concept of Parliaments as a legislature is criticized on two grounds; on the one hand, it has been noted that the Parliaments are rarely able to determine legislative outcomes, and on the other hand, legislatures often lack the technical expertise to draft legislation. In the Parliament of Uganda both at committee and at plenary, Members sometimes pass Bills without making sufficient amendments due to the technical nature of some bills. It was a general consensus of all MPs (respondents) that they lack the adequate technical knowledge of scrutiny of Bills, because;

*“Law making is a technical process and yet members have poor reading culture. They do not adequately scrutinize issues of law and some members are not able to analyses and give a critical look to a bill.”<sup>108</sup> “Sometimes bills are so technical and at the same times MPs have very busy schedules to handle bills exhaustively”.<sup>109</sup>*

To solve the problem of technical bills, some jurisdictions for example the UK and France have created the Parliamentary office of Science and Technology, and in some jurisdictions, committees may call on their own staff to improve the quality of bills that they are examining.

---

<sup>107</sup> Rule 113 RPPU

<sup>108</sup> Hon. Kasiano Wadri, Opposition Whip of the 8<sup>th</sup> Parliament and currently Chairman of Public Accounts Committee (PAC), 23/08/12

<sup>109</sup> Anonymous, MP, from the Committee of Trade and Industry, 18/07/12

In Uganda, each committee must have number of technical staff attached to it, including; clerks, legal, budget, and research officers, but the problem is that the number of staff are thin on the ground, especially in the legal section so committees sometimes operate without the necessary technocrats. There is however, a committee of Science and Technology which scrutinizes bills in relation to science and technology but still MPs on this committee lack the technical expertise.<sup>110</sup> The effect of this is that it leads to delay of the scrutiny process and also compromises on the outcome of legislation.

#### **3.4.1.7 Political influence;**

The sessional committees are composed of 20 members, a majority of whom are members of ruling party (NRM), usually 16 from the ruling party and not more than four from both the<sup>111</sup> opposition and independents. Sessional committees are chaired and deputized by members of the ruling party.

Since more than 94% of the bills introduced to Parliament are Government bills, MPs take it as a duty of loyalty to make sure that their party's legislative proposals pass through with a minimum objection at plenary. During scrutiny of bills at committee it is usually common practice that MPs consult with the party leadership to agree on positions to be adopted especially for bills which are considered controversial.<sup>112</sup>

The majority of MPs interviewed were of the opinion that party caucuses affect the bill negatively. This usually happens because committee chairpersons who present the Bills in Parliament are elected by the party and owe allegiance to the party and most bills scrutinized by the committee are Government Bills. Respondents also noted that bills are normally discussed at caucus level before reports are presented at plenary, especially provisions which are controversial.<sup>113</sup> Caucuses is also known for reversing position of bills which are reached at by the committee<sup>114</sup> and yet members at the caucus meeting usually lack the information as to why the committee reached certain decisions. Caucus always generates positions of certain clauses of the bill and usually takes them as the gospel truth which is not likely to be changed in the House.<sup>115</sup>

---

<sup>110</sup> Mps faced a lot of difficulties when scrutinizing the Electronic Signatures bill 2008, and Computer Misuse bill 2008.

<sup>111</sup> Authors observation

<sup>112</sup> The Traditional leaders Bill, 2010 (now Act of 2011), Public Order Management Bill, 2011

<sup>113</sup> Hon Felix Okot Ogong, ( n104 )

<sup>114</sup> Hon Wadri (n108)

<sup>115</sup> Hon. Bintu Jalia, MP 17/08/12

#### **3.4.1.8 Limited Flow of Information;**

Committees often lack sufficient information on the sector under consideration to enable proper scrutiny. This usually leads to members making decisions from uninformed point of view and a lot of time is wasted in conducting unnecessary arguments.<sup>116</sup>

The problem is even escalated because the bills in Uganda are published without explanatory notes which would have otherwise guided members during the scrutiny process on the content of amendments, reasons for amendments etc. Instead Uganda has explanatory memoranda or simple memoranda which are in most cases so brief and the committees do not benefit much from it.

## **PART B**

### **3.5 Bills at Plenary**

After the committee has scrutinized the bill, the Chairperson or a member assigned that duty by the Committee to which the Bill was referred, presents the report to the House. This is followed by a full debate on the merits and principles of the Bill on the basis of the 'Explanatory Memorandum' published with the Bill and the report from the Committee. After the second reading the bill is sent to the committee of the Whole House where it is debated clause by clause.<sup>117</sup>

### **3.6 Amendments at Plenary;**

Most writers have observed that amendments at plenary has many drawbacks<sup>118</sup>; the debate at plenary is often time consuming and especially when amendments are debated without having been examined in committee, very technical. In those circumstances, it is hardly surprising that only a limited number of members specialized in the subject matter at hand attend the debate.<sup>119</sup> A random sampling of debates of bills at plenary indicates that very few members attend plenary debates, which shows lack of interest of members in the scrutiny process (Refer to Appendix A, column 9).

During scrutiny at plenary, members propose numerous amendments which are not well thought out and if not properly debated and sieved by the House it can eventually affect the

---

<sup>116</sup> Legal counsel, from DLLS, 16/08/12

<sup>117</sup> R 117 RPPU

<sup>118</sup> Muylle (n90) 182

<sup>119</sup> *ibid* 177

whole content of a Bill.<sup>120</sup> Several Parliaments have encouraged members to table amendments earlier in the procedure.<sup>121</sup> Members are therefore advised to table amendments to a draft Bill as soon as it has been referred to the committee.<sup>122</sup>

### **3.7 Factors influencing efficiency and effectiveness at plenary**

#### **3.7.1 Lack of Technical Expertise;**

The process of debate and consideration of amendments tends to focus on policy features rather than technical aspects of laws. In order to engage fully, members of the Legislature need to be reasonably conversant with the context of the proposed legislative scheme, its objectives and approach and the way that law is likely to be applied. This is exceedingly difficult where there is no policy in place. The legislative instrument itself will provide little by way of background information and may need relatively expert analysis to understand how it is likely to work. This can constitute a handicap for many members who will have relatively little expertise about the subject matter and how to analyze a law.<sup>123</sup>

This always affects the efficiency of legislation by affecting the period of debate at plenary. If members are not conversant with policy, and more so, with the technical aspects of the bill, they usually tend to engage in prolonged debates<sup>124</sup> and propose unnecessary and inconsistent amendments which greatly affect the final product of legislation.<sup>125</sup> Below is a random sampling of bills, showing that some bills took a long time in plenary. This was caused by either prolonged plenary debates, or pushing of the bills back and forth among; the House, committee and the executive, allegedly to harmonize positions.

---

<sup>120</sup> Trafficking in Persons Bill, 2009 (now Act) amendments on the penal provisions were not consistently done.

<sup>121</sup> Muylle (n90) 182

<sup>122</sup> *ibid* 182

<sup>123</sup> Professor Keith Patchett, Preparation, Drafting and Management of Legislative Projects, (Workshop on the Development of Legislative Drafting for Arab Parliaments 3-6 February 2003, Beirut) 24

<sup>124</sup> The Penal Code (Amendment) Act, 2007 which spent 14 days at Plenary

<sup>125</sup> The Kampala Capital City Authority Act, 2010 which was heavily amended at plenary and its provisions are facing a lot of administrative challenges.



*Table 4: Duration of plenary debates in Parliament*

<b>Bill</b>	<b>Days at Plenary</b>
The Penal Code (Amendment) Bill 2006	14
Uganda Tourism Bill 2007	13
Value Added Tax (Amendment) Bill 2009	4
The Uganda Road Fund Bill	2
Equal Opportunities Commission Bill	5
Emoluments and Benefits of the President	106
Political Parties and Organizations (Amendment) Bill 2008	237
Education Bill 2007	26
Whistle Blowers Protection Bill	7
Computer Misuse Bill 2008	5

### **3.7.2 Size of Parliament;**

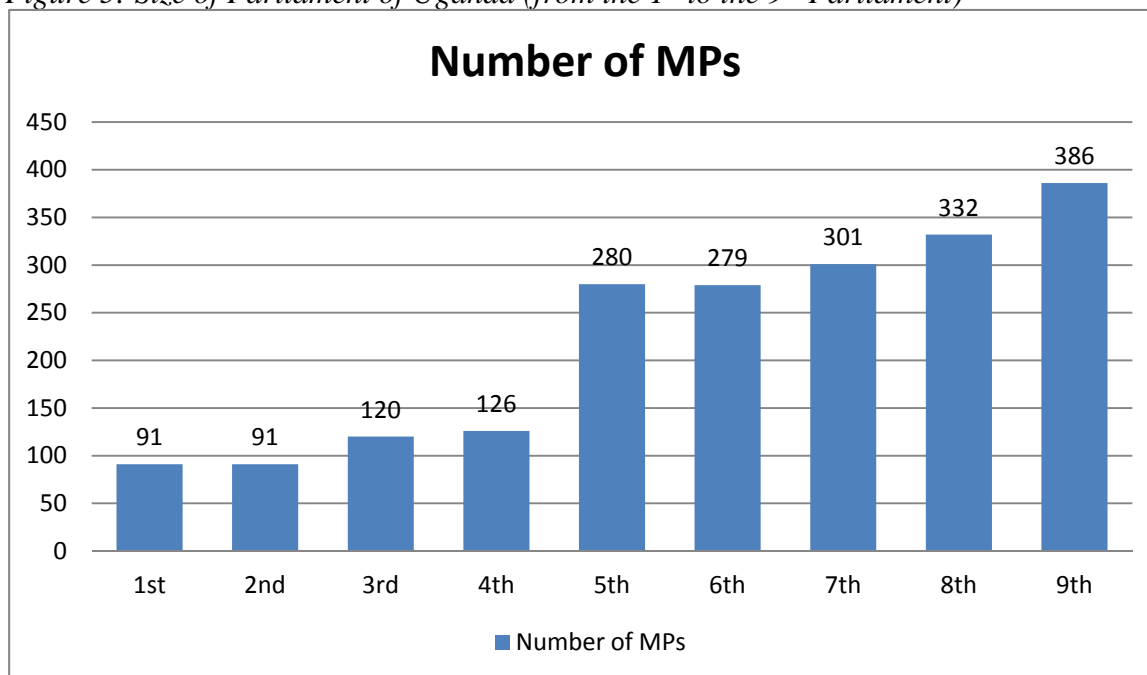
The size of Ugandan Parliament has been steadily growing since its inception in 1962. The 8<sup>th</sup> Parliament was composed of 332 MPs and the current parliament has 386 MPs (refer to figure 5 below). The number of MPs has over grown the capacity of Parliament and MPs do not fit in the colonially designed and build chamber. The large size of Parliament influences the quality of debate because MPs are usually restricted to two minutes and switched off to allow their colleagues participate. Secondly, most members do not usually attend plenary for fear that they might not get seats, especially members of the ruling party who are the majority in the House.<sup>126</sup> The possible solutions would be; building a bigger chamber to accommodate the MPs, or reducing on their numbers.

The table below indicates the rate at which the Ugandan Parliament has been consistently expanding since its inception.

---

<sup>126</sup> Hon Wadri Kasiano (n108)

Figure 5: Size of Parliament of Uganda (from the 1<sup>st</sup> to the 9<sup>th</sup> Parliament)<sup>127</sup>



### 3.7.2.1 Dominance of the Executive;

The ruling party had an overwhelming majority of MPs in the 8<sup>th</sup> Parliament. The Executive dominates the law making process in Uganda, and 94.6% of the bills presented in the 8<sup>th</sup> Parliament were Government bills. As already mentioned, bills were subjected to party caucuses, when it came to plenary; a majority of bills were passed with minimal scrutiny because of adherence to the party position. In the 8<sup>th</sup> Parliament, it was common practice that members would come to the plenary with preconceived minds to debate on bills, consensus being arrived at, at caucus. At most times, members would seat and fold their hands, waiting for voting time, either to say a “ye” or “nay”.<sup>128</sup>

### 3.7.2.2 Non independent Speaker;

In Uganda, the Speaker of Parliament is elected from among the MPs<sup>129</sup> and is usually from the ruling party because of its overwhelming majority. A point to note is that after the election as Speaker, he or she retains his or her seat as an MP. This has grave effects when debating controversial bills because the Speaker owes allegiance to his or her party. In the 8<sup>th</sup> Parliament the Speaker being a member of the ruling party was accused of bias.<sup>130</sup> For

<sup>127</sup> [www.126-ipu.ug/docs/about\\_parliament\\_of\\_Uganda.pdf](http://www.126-ipu.ug/docs/about_parliament_of_Uganda.pdf)

<sup>128</sup> The Traditional Leaders Bill, 2011, during debate at plenary most members of the ruling party were eagerly waiting for the Speaker to put the question on clauses of the bill.

<sup>129</sup> Article 82(2) of the Constitution of the Republic of Uganda, 1995

<sup>130</sup> Odonga Otto, *Theory and Practice of Parliamentary Democracy, A Parliamentarian’s Perspective* (Dot Innovative Printers, 2010) 49-50,

[http://www.observer.ug/index.php?option=com\\_content&task=view&id=12929&Itemid=59](http://www.observer.ug/index.php?option=com_content&task=view&id=12929&Itemid=59) accessed 8/30/2012 9:13 AM

example during the debate of the Land (Amendment) Bill 2007, the Speaker almost opened the committee stage where he recommended that Members of the committee and Government should go and consult further. Because of this cat and mouse game, proceedings at the plenary are always delayed. This same situation is beginning to manifest itself in the 9<sup>th</sup> Parliament, where the Deputy Speaker is being accused of impartiality.<sup>131</sup>

### **3.8 PMBs**

Article 94 (4) (b) of the Constitution and rule 105 of RPPU affords a MP a right to move a PMB. The Constitution and the RPPU have conflicting provisions on who should afford a member technical assistance in drafting the bill. The Constitution mandates the office of the Attorney General. The RPPU mandates DLLS to afford a member moving a PMB technical assistance in the in the drafting of the bill.<sup>132</sup> This provision has always been a source of delay when MPs intend to introduce a PMB because members are confused as to which office should afford them technical assistance. This matter is aggravated by the painful fact that the Ugandan Parliament lacks guidelines in relation to the process of producing PMBs, hence most MPs get discouraged from introducing any, no wonder in the 8<sup>th</sup> Parliament, only six PMBs were introduced and only three were passed. (Refer to figure 6)

The lack of guidelines also affects the quality of drafting instructions which MPs issue to drafters, which in turn affects the quality of the PMB. Poor quality Bills in turn lengthens the period taken to scrutinize them.

Another main challenge of introducing PMBs in Uganda is Article 93 of the Constitution, read together with rule 108, which acts as a noose around the necks of legislators. This article prevents a private member from moving any motion for a bill that imposes a charge on consolidation fund or other public fund of Uganda or the alteration of any such charge otherwise than by reduction. Invoking this article prevents bills from being presented. Most times Government uses it either as a tool to take over PMBs or ‘kill’ it altogether.

In the 8<sup>th</sup> Parliament, PMBs were always introduced by members of the ruling party (refer to Appendix C); on multiple occasions, when members of the opposition would try to introduce PMBs, a CIF were not always forthcoming or were delayed.<sup>133</sup> The figure below shows the

---

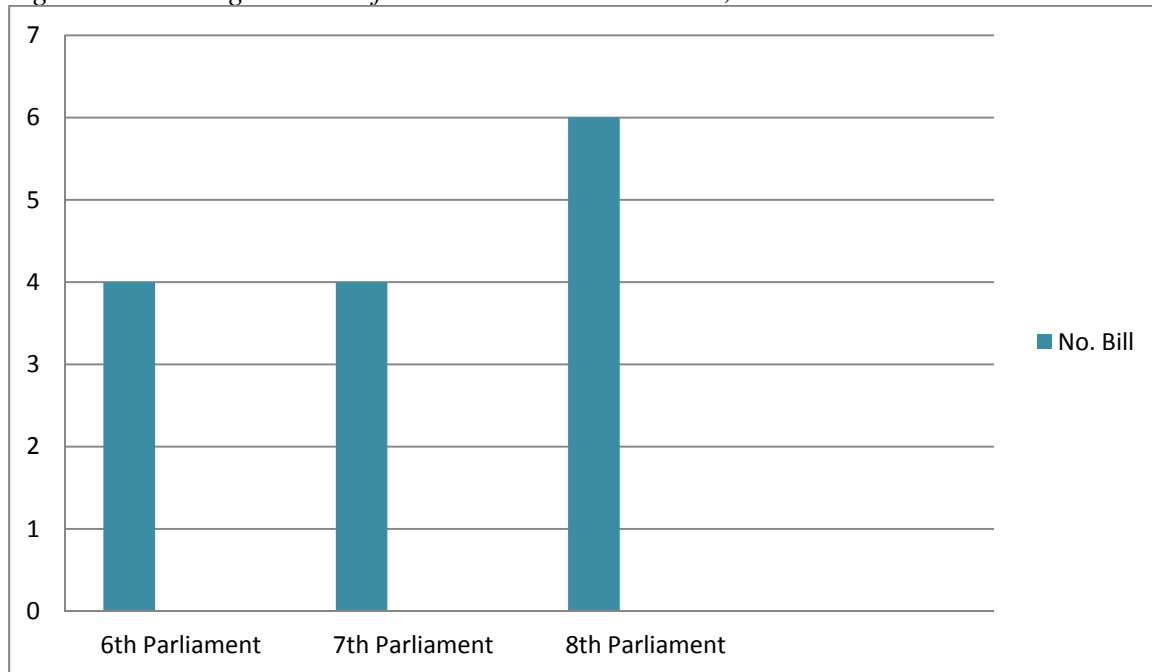
<sup>131</sup> One of the leading news papers, the New Vision, Thursday September 13 2012 reports that “there is a new trend of MPs dodging the plenary session! Whenever the Deputy Speaker of parliament, Jacob Olanya, is in charge, the chambers are almost empty. While some MPs have attributed this to his tough stance, some say it’s a deliberate move by some MPs to show him that he is biased.”

<sup>132</sup> R 105 (3) RPPU

<sup>133</sup> Hon. Kasiano Wadri (n108)

number of PMBs which has been introduced in the last three Parliaments. Figure 7 actually shows that there are always very few PMBs introduced to parliament, probably due to the reasons advanced above.

*Figure 6: Showing number of PMB introduced in the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Parliament*



*For detailed information about the PMBs, refer to Appendix C.*

*Table 5: General information gathered from the MPs*

Question	yes	No
Do you have adequate time to scrutinize legislation?	5	8
Does Government allocate enough resources for scrutiny of legislation in Parliament?	5	7
Do you think MPs should propose new amendments on the floor of Parliament?	12	1
Is the current Parliament efficient /effective in its role as a law making body?	11	3
In your opinion would a smaller Parliament be more efficient?	7	4

### 3.9 Presidential Assent

After the Third Reading and passing of the Bill, the Clerk forwards the Act to the President for Presidential Assent. The President has 30 days within which to assent to a bill.<sup>134</sup> Once the President has assented to the Act, the Assent copies are sent to the Government printer for publication in the Gazette.

The information in Appendix E indicates that the President abides by the 30 day rule, apart from exceptional circumstances. The table however indicates that there is a delay during preparation for assent by DLS, which is probably caused by the acute shortage of staff in the department.

### 3.10 Execution and Application

Drewry stated that an Act of Parliament or a statement of policy is not worth the paper it is written on if it does not work. This makes interpreters and implementers of the law an important part of the law making process. He states that post legislative scrutiny is important because it forms feedback into the inspirational and formative stages of the law making process.<sup>135</sup> In Britain, for example, the department responsible for implementing the legislation has to submit a memorandum to the relevant select committee three to five years after Royal Assent; setting out how the Act has worked in practice and whether its objectives have been achieved.<sup>136</sup> The advantage of post legislative scrutiny is that it improves the preparation of bills, by focusing attention on likely implementation difficulties.

Uganda does not practice post legislative scrutiny, and this explains why most laws end up ‘rotting’ in the statute books without being implemented.<sup>137</sup>

As stated above, Courts play an important role in the law making process. When Court nullifies a section in a law, the section ceases to have legal effect but that particular section cannot be removed physically from the statute books until an Act of Parliament to repeal the sections is enacted. The problem is that, Parliament takes a long time to amend sections of the law that have been nullified by Courts of law and this acts as a source of confusion to the users of the law. The law reform should quickly come up with regular reports on the provisions of law that need reform or revision, so that the responsible sectors can act on them,

---

<sup>134</sup> 91 (3) Constitution of Uganda

<sup>135</sup> Drewry (n86) 109

<sup>136</sup> Cabinet Office, *Guide to Making Legislation* ( UK 2012) [40.5]

<sup>137</sup> Attempts by the 9<sup>th</sup> Parliament to amend the rules of procedure and include a provision on post legislation scrutiny was futile.

and the statute books are cleaned up. Below is a table showing sections of the law that have been nullified by Courts of law but still exist in the statute books:

*Table 6: showing provisions nullified by different court cases*

<b>Case</b>	<b>Provisions nullified</b>
Foundation for Human Rights Initiative V A.G Constitutional Petition no 20 of 2006	S. 16 Trial on Indictment Act S. 76 Magistrates Court Act s. 219, 231, 248 UPDF Act
Law and Advocacy for Women in Uganda V A.G Constitutional Petition no. 13 of 2005	s.2 (n)(i) & (ii), 14,15, 26, 27, 43,44 of the Succession Act, R 1,7,8&9 of its 2 <sup>nd</sup> schedule.
Uganda Association Of Women Lawyers & Others V A.G Constitutional Petition No. 2 Of 2002	4(1) & (2), 5, 21, 22, 23, 24 and 26 of the Divorce Act

### **3.11 Uganda Law Reform Commission (ULRC);**

The Law Reform Commission Act, Cap. 2 establishes the ULRC, whose function among others is to review Acts and other laws of Uganda.

The commission acts as a form of feed back in the legislative process. Its function is to study and constantly review Acts and others laws of Uganda. It makes recommendations to the Ministries through reports aimed at improving, developing modernizing and reforming laws.<sup>138</sup>

The respondents from the Ministries indicated that they rarely receive reports from ULRC and therefore don't usually apply recommendations from the ULRC to help improve on the content and form of legislation.<sup>139</sup> The inability of the ULRC to provide reports on the status of legislation, limits the ability of ministry to react to the need for change of law, and denies the Ministries vital information needed in the law making process.

### **3.12 Consolidation of Acts;**

Consolidation is the restatement or re-enactment of statutory law, the form, not the substance, in a single recognized form, bringing all the scattered relevant statutory law in one statute, in

<sup>138</sup> Uganda Law Reform commissions Act Cap. 25 s. 10

<sup>139</sup> Questions 2 & 3 on Table 1

order to consolidate and reproduce the law as it stood before the passing of the Act.<sup>140</sup> The principle purpose of consolidation is to facilitate the user.

ULRC has only consolidated laws once, in 2002. Legislation is scattered in the statute books, making it difficult to use, and it also creates inconsistencies.

---

<sup>140</sup> Gilbert v Gilbert (1928) P 1,7 CA. Quoted by Alec Samuel, Consolidation: A Plea, (statute law review 2005)

## CHAPTER FOUR

### 4 Introduction

In this chapter, recommendations will be made on the best practices that Uganda can adopt to make the law making process more efficient and effective. It will contain recommendations for policy process, drafters and the legislature.

### 4.1 Recommendations

#### 4.1.1 Policy Process

##### 4.1.1.1 Recruitment of more staff;

Taking into consideration that most Ministries visited said they lacked adequate resources; Government should allocate enough resources in terms of money and personnel in order to speed up the process of policy development.

##### 4.1.1.2 Publishing a coordinated version of legislation being amended;

Uganda should adopt the system in Belgium where Bills amending existing Acts are published with coordinated versions of the texts it amends to show how the amended legislation would look like of proposals being considered are enacted.<sup>141</sup> This practice would make the proposal easier to understand because legislators would be able to scrutinize legislation in context. The only problem with this system is that it's very costly.

##### 4.1.1.3 Use of alternatives to legislation;

In the policy guidelines, Uganda has a list of alternatives to regulation which are rarely used. Government needs to inject enough resources to enable Ministries to apply alternatives to regulations. This will encourage Ministries to propose legislative policy only where necessary. This will reduce the amount of legislation proposed which will free up drafters and Parliament, speeding up the legislative process. It will also help reduce the amount of money spent on legislation which might not even be implemented. Money saved can then be spent on other priority areas, e.g. health, education, etc.

##### 4.1.1.4 Calculation of the financial effects of Bills;

For both Governments and private member Bills, each draft Bill should contain evaluation and data about the necessity, benefits of the measures, the estimated cost and the effects to be expected, at least within the 3 years after its introduction, and how the costs will be met from

---

<sup>141</sup> Muylle, K. J.. 'Improving the effectiveness of Parliamentary Legislative Procedure' (2003) Statute Law Review , 24(3), 169, 176



the budget. This will ensure that only adequately prepared and planned laws will be made by Parliament, which will eventually decongest the overburdened work schedule of Parliament.

#### **4.1.1.5 Legal and financial clearance;**

Bills require legal and financial clearance before they can be introduced before Parliament. The problem is that these clearances take too long to get. MFED and the Ministry of Justice need to streamline the process of getting these clearances in order to speed up the legislative process. There is a need to provide for a limitation period within which certificates of financial and legal implication can be issued in the applicable laws<sup>142</sup>.

#### **4.1.1.6 Guidelines;**

Uganda needs a guideline that will be used to help Ministries work with the OPC. This guideline should spell out the services which OPC offers, duties of the different parties, procedure for drafting instructions. The guideline would help Ministries know how best to work with OPC during the drafting process and help set a standard for drafting instructions.

#### **4.1.1.7 Better legislative program;**

Cabinet needs to design a detailed and workable legislative program, along with necessary budgetary allocation to ensure that policies are properly initiated and formulated. It should make a timetable ahead of the forthcoming session of the Parliament to allow sufficient time for the draft law to be completed and to help Parliament prepare accordingly.<sup>143</sup>

Cabinet needs to adopt the UK system by establishing a legislative programs committee that will be responsible for preparing legislative programs for approval by the Cabinet. It will also need to make Regulations or guidelines prescribing the procedure to be followed by Ministries in submitting claims for inclusion of projects in the program and by the programming body for determining priorities between those claims.

### **4.1.2 Drafters**

#### **4.1.2.1 Resources;**

The drafters in the OPC are understaffed and, the Ministry needs to hire more drafters and support staff. A dramatic increase in staff will reduce pressure on the current drafters and will help speed up the drafting process. The OPC also needs more resource materials,

---

<sup>142</sup> S. 10 of the Budget Act, 2001, and section Q-b of the Government standing Orders

<sup>143</sup> Professor Keith Patchett, Preparation, Drafting and Management of Legislative Projects, (Workshop on the Development of Legislative Drafting For Arab Parliaments 3-6 February 2003, Beirut) 23

especially in terms of functioning computers, internet, compendium of laws, dictionaries and other forms of information.

### **4.1.3 Parliament**

#### **4.1.3.1 Time of Bills at committee;**

The 45 day rule is unrealistic, since a vast majority of bills spend a much longer period at committee. The Committee on Rules should review this provision and propose an appropriate amendment for Parliament to consider. The RPPU should be modified to ensure that the status of Bills is followed up and this can be achievable using a Bill Tracking System which will act as a time alert to MPs and will put pressure on specific committees handling bills, and their technical staff. Uganda should also consider adopting the UK system, where Bills lapse with a session, to help speed up the scrutiny process.

Committees that are over burdened with bills can be sub-divided into sub-committees that would be able to handle bills concurrently to avoid bills spending long time at committees or even worse, lapsing with Parliament.

#### **4.1.3.2 Scrutiny;**

Uganda needs to introduce pre and post legislative scrutiny of bills introduced in Parliament and Acts of Parliament respectively. Pre-legislative scrutiny will enable Bills to be published in draft form to get prior input from MPs. This would help reduce the time bills spent at parliament because most areas will have already been harmonized. Post legislative scrutiny is important because, it ensures that bills passed by Parliament do not just remain in statute books, unimplemented.

#### **4.1.3.3 Doing less in Plenary and more in committee;**

To reduce on the time of debate at plenary, MPs who are not committee members should be encouraged to table their amendments during committee scrutiny. Debate at plenary should be programmed where speaking time is allocated ahead of plenary debate, listing not only the members to speak but also the issues they intend to raise. The effect of this programming is to force members to research and prepare their amendments ahead of time, thus eliminating haphazard amendments at plenary.<sup>144</sup>

---

<sup>144</sup> Muylle (n141) 176

#### **4.1.3.4 Training of staff and legislators;**

Members and staff need to be given training in the area of legislative scrutiny. This training is especially important to new MPs of Parliament who are not conversant with the scrutiny process.

#### **4.1.3.5 More staff;**

The Parliament of Uganda needs to hire more staff in order to make it work more efficiently and effectively. There is need for each committee of Parliament to have a legal/legislative counsel attached to it to offer technical support, unlike in the current system where each legal/legislative counsel serves not less than two committees

#### **4.1.3.6 Bill tracking system;**

Uganda's Bill tracking system has been on paper for the last 10 years. It's vision is limited in scope and concentrates on information of the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> reading, which is a small part of what Bill tracking can do. Parliament should speed up the process of establishing the Bill tracking system and make it more effective to include amendments at plenary, point in time legislation, document tracking system; Create a Bill tracking system which will enable persons interested in a Bill to track it right from the Ministry integrating a Cabinet legislative program. The system should enable a person not only to follow the history of the Bill, increasingly, states are developing electronic databases of legislation for the purpose of maintaining a collection of instruments currently in force, as well as an archive of those that have been replaced. Such databases can be brought up to date with considerable speed, as well as offering sophisticated indexing and search tools and hyper linking between documents.<sup>145</sup>

#### **4.2 Conclusion:**

The study concludes that in all the four stages of the law making process, there are glaring problems that need to be addressed in order to improve on the efficiency and effectiveness of the law making process of Uganda. There are however generic problems including; lack of a legislative program, poor policy formulation and limited resources, which have cross cutting effects that need to be urgently addressed.

---

<sup>145</sup> Pattchet (n143) 29

## APPENDIX A

The table below shows bills introduced in the 8<sup>th</sup> Parliament and were passed by Parliament; dates of 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> reading, committees to which the bills were distributed, number of MPs present at plenary when the some of the bills were being passed-

No.	Bill	committee	1 <sup>st</sup> Reading	2 <sup>nd</sup> Reading	Passed	Assent Date	Duration	
1.	The Parliamentary Pensions Bill 2006 *	legal	<i>See * Note on pg 5</i>			20/07/07		
2.	The Local Government (Amendment) (No.2) Bill, 2006	Public service	03/08/06	03/08/06	03/08/06	24/08/06	1day	
3.	The Value Added Tax (Amendment) Bill, 2006	Finance	22/08/06	14/09/06	14/09/06	02/12/06	23 days	
4.	The Income Tax (Amendment) Bill, 2006	Finance	22/08/06	19/09/06	19/09/06	02/12/06	28 days	
5.	The Supplementary Appropriations Bill, 2006	Finance	6/09/06	19/09/06	19/09/06	25/09/06	13 days	96
6.	The Finance Bill, 2006	Finance	22/08/06	19/09/06	19/09/06	02/12/06	28 days	
7.	The Appropriations Bill, 2006	Finance	07/09/06	19/09/06	19/09/06	25/09/06	12 days	
8.	The Equal Opportunities Commission Bill, 2006		21/09/06	07/12/06	12/12/06	04/04/07	72 days	
9.	The Excise Tariff (Amendment) Bill, 2006	Finance	22/08/06	14/09/06	14/09/06	01/05/07	23 days	

10.	The Uganda Revenue Authority (Amendment) Bill, 2006	Finance	22/08/06	13/02/07	14/02/07	12/05/07	23 days	
11.	The Penal Code (Amendment) Bill, 2006	Legal	05/12/06	04/04/07	18/04/07	20/07/07	80 days	
12.	The Judicature (Amendment) Bill, 2006	Legal	05/12/06	19/04/07	19/04/07	01/05/11	135 days	
13.	The Magistrates' Court (Amendment) Bill, 2006	Legal	05/12/06	15/05/07	15/05/07	20/07/2007	160 days	
14.	The International Criminal Court Bill, 2006	Legal	05/12/06	10/03/10	10/03/10	25/05/10	1190 days	102
15.	The Trial on Indictment Bill, 2007	Legal	05/12/06	12/02/08	12/02/08	06/10/08	441 days	
16.	The Law Revisions (Fines & other amounts in criminal matters) Bill, 2007	Legal	05/12/06	27/02/08	27/02/08	25/05/10	407 days	
17.	The Uganda National Health Research Organization Bill, 2006	Social Services	04/04/07	08/04/09	08/04/09	31/08/09	734 days	59
18.	The Mortgage Bill, 2007	Physical Infrastructure	05/04/07	17/03/09	25/03/09	29/09/09	704 days	49
19.	The Hire Purchase Bill, 2007	Legal	22/05/07	21/10/08	22/10/08	08/05/09	370 days	59
20.	The Trade Secrets Protection Bill, 2007	Legal	22/05/07	28/10/08	28/10/08	25/04/09	521 days	108
21.	The Uganda Road Fund Bill, 2007	Physical Infrastructure	28/09/07	18/06/08	19/06/08	31/08/08	261 days	

22.	The Prevention of Trafficking in Persons (Amendment) Bill, 2007	Defense and internal affairs	17/12/07	01/04/09	02/04/09	01/11/07	835 days	122
23.	The Finance Bill, 2007	Finance	24/07/07	11/09/07	11/09/07	30/11/07	47 days	
24.	The Excise Tariff (Amendment) Bill, 2007	Finance	24/07/07	12/09/07	12/09/07	17/06/08	48 days	
25.	The Income Tax (Amendment) 2007	Finance	24/07/07	12/09/07	12/09/07	17/06/08	48 days	
26.	The Value Added Tax (Amendment) Bill, 2007	Finance	24/07/07	12/09/07	12/09/07	25/10/07	48 days	
27.	The Appropriations Bill, 2007	Finance	12/09/07	13/09/07	13/09/07	25/09/07	25 days	
28.	The Supplementary Appropriations Bill, 2007	Finance	4/9/07	26/09/07	26/09/07	25/10/07	22 days	
29.	The Public Service (Negotiating, Consultative and Dispute Settlement Machinery) Bill, 2006	Public Service		26/09/07	27/09/07	20/05/08		
30.	The Public Service Commission Bill, 2007	Public Service	28/08/07	05/12/07	05/12/07	20/05/08	827 days	
31.	The Local Government (Amendment) (No.2) Bill, 2007	Public Service	04/12/07	20/02/08	20/02/08	24/06/08		
32.	The Public Service Bill, 2007	Public Service	29/05/07	20/02/08	20/02/08	20/05/08	261 days	
33.	The Arbitration and Conciliation (Amendment) Bill, 2007	Public Service	18/09/07	15/05/08	15/05/08	11/06/08	177 days	

34.	The Audit (Amendment) Bill, 2007	Finance	28/08/07	16/04/08	16/04/08	18/06/08	228 days	
35.	The Local Government (Amendment) Bill, 2007	Public Service	28/08/07	17/04/08	17/04/08	24/04/08	229 days	
36.	The Anti-corruption Bill, 2008	Presidential Affairs	06/03/08	12/05/09	13/05/09	25/07/09	463 days	127
37.	The Political Parties & Organizations (Amendment) Bill, 2008		02/04/08	16/04/09	22/12/09	17/03/10	625 days	
38.	The Securities Central Depositories Bill, 2008	Legal	08/05/08	28/10/08	28/10/08	28/01/09	170 days	108
39.	The Atomic Energy Bill, 2007	Natural Resource	05/02/08	15/05/08	15/05/08	05/11/08	100 days	
40.	The BTVET Bill, 2008	Social Services	06/02/08	9/04/08	10/04/08	09/07/08	63 days	
41.	The Uganda Tourist Bill, 2007	Trade		06/02/08	19/02/08	28/04/08		
42.	The Education Bill, 2007	Social Services	08/05/07	18/04/08	14/05/08	26/08/08		
43.	The Partnership Bill, 2008	Legal	17/06/08	06/05/09	06/05/09	27/01/10	319 days	40
44.	The Finance Bill, 2008	Finance	07/08/08	11/09/08	11/09/08	18/10/08	34 days	103
45.	The Excise Tariff (amendment) Bill, 2008	Finance	07/08/08	11/09/08	11/09/08	18/10/08	34 days	103
46.	The Value Added Tax (Amendment) Bill, 2008	Finance	07/08/08	11/09/08	11/09/08	18/10/08	34 days	103

47.	The Income Tax (Amendment) Bill, 2008	Finance	07/08/08	11/09/08	11/09/08	18/10/08	34 days	103
48.	The Stamps (Amendment) Bill, 2008	Finance	07/08/08	11/09/08	11/09/08	18/10/08	34 days	103
49.	The Appropriations Bill, 2008	Finance	10/09/08	23/09/08	23/09/08	04/10/08	13 days	111
50.	The Supplementary Appropriations Bill, 2008	Finance	10/09/08	24/09/08	24/09/08	04/10/08	14 days	124
51.	The National Information Technology Authority Bill, 2008	ICT	12/08/08	26/03/09	26/03/09	15/07/09	54 days	41
52.	The Uganda Citizenship & Immigration Control (Amendment) Bill, 2008	Public Service	18/08/08	14/05/09	14/05/09	15/07/09	266 days	55
53.	The Contracts Bill, 2008	Legal	17/06/08	30/09/09	13/10/09	22/04/10	481 days	40
54.	The Physical Planning Bill, 2008	Physical Infrastructure	12/08/08	04/02/10	04/02/10	28/04/10	519 days	
55.	The Trademarks Bill, 2008	Legal	02/09/08	08/04/10	08/04/10	09/08/10	571 days	22
56.	The Regulation of Interception of Communication Bill, 2007	ICT	10/04/08	22/06/10	14/07/10	05/08/10	824 days	107
57.	The Land (Amendment) Bill, 2007	Legal	05/02/08	26/11/09	26/11/09	06/01/10	656 days	70
58.	The Whistleblowers Protection Bill, 2008	Legal	03/03/09	25/02/10	02/03/10	22/4/10	364 days	
59.	The Emoluments & Benefits of the President, Vice President and Prime Minister	Presidential	05/03/09	09/03/10	23/06/10	05/08/10	473 days	



	Bill, 2009	Affairs							
60.	The Computer Misuse Bill, 2008	ICT	18/03/09	29/06/10	04/08/10	01/11/10	501 days		
61.	The Electronic Signatures Bill, 2008	ICT	18/03/09		07/10/10	17/02/11	534 days		
62.	The Stamps (Amendment) Bill, 2009	Finance	08/07/09	17/09/09	17/09/09	29/10/09	69 days	46	
63.	The Excise Tariff (Amendment) Bill, 2009	Finance	08/07/09	17/09/09	17/09/09	29/10/09	69 days	46	
64.	The Income Tax (amendment) Bill, 2009	Finance	08/07/09	17/09/09	17/09/09	03/12/09	69 days	46	
65.	The Value Added Tax (Amendment) Bill, 2009	Finance	08/07/09	17/09/09	21/09/09	03/12/09	73 days	23	
66.	The Finance Bill, 2009	Finance	08/07/09	21/09/09	21/09/09	03/12/09	73 days	23	
67.	The Supplementary Appropriations Bill, 2009	Finance	10/09/09	22/09/09	22/09/09	03/11/09			
68.	The Appropriations Bill, 2009	Finance	16/09/09	23/09/09	23/09/09	30/9/09	7 days	37	
69.	The Domestic Violence Bill, 2009	Legal	16/06/09	11/11/09	11/11/09	17/03/10	85 days	116	
70.	The Prevention of Female Genital Mutilation Bill, 2009	Defense and Internal Affairs	16/09/09	10/12/09	10/12/09	17/03/10	84 days	124	
71.	The Political Parties & Organizations (Amendment) Bill, 2009	Legal	15/12/09	13/04/10	13/04/10	Not Available	118 days		

72.	The Electoral Commission (Amendment) Bill, 2009	Legal	15/12/09		15/04/10	05/06/10	120 days	
73.	The Local Government (Amendment) Bill, 2009		22/12/09	22/06/10	23/06/10	05/08/10	181 days	
74.	The Electronic Transactions Bill, 2008	ICT	18/03/09	5/10/10	07/10/10	17/02/11	201 days	
75.	The Kampala Capital City Bill, 2008	Public Service	24/06/09		03/11/10	28/12/10	494 days	
76.	The Value Added Tax (Amendment) Bill, 2010	Finance	16/08/10	28/09/10	28/09/10	19/10/10	42 days	40
77.	The Income Tax (Amendment) Bill, 2010	Finance	16/08/10	5/10/10	28/09/10	19/10/10	42 days	40
78.	The Stamps (Amendment) Bill 2010	Finance	16/08/10	28/09/10	28/09/10	19/10/10	42 days	40
79.	The Finance Bill, 2010	Finance	16/08/10	28/09/10	28/09/10	19/10/10	42 days	40
80.	The Parliamentary Pensions (Amendment) Bill, 2010	Legal	19/05/10		13/10/10	28/12/10	144 days	38
81.	The Parliamentary Pensions (Amendment) Bill, 2010	Legal	13/05/10		28/10/10	28/12/10	165 days	113
82.	The Fish (Amendment) Bill, 2010	Agriculture	24/06/10	02/12/10	3/12/10	17/02/11	159 days	
83.	The Appropriation Bill, 2010	Finance	21/09/10	29/09/10	5/10/10	19/10/10	14 days	
84.	The Supplementary Appropriation Bill, 2010	Finance	21/09/10	05/10/10	5/10/10	19/10/10	14 days	

85.	The Institution of Traditional or Cultural Leaders Bill, 2010	Legal	17/12/10	01/02/11	01/02/11	26/02/11	44 days	167	
86.	The Insurance (Amendment) Bill, 2010	Finance	18/08/10	23/03/11	23/03/11	<b>Not Assented</b>	205 Days	78	
87.	Capital Markets Authority (Amendment) Bill, 2010	Finance	28/09/10	29/03/11	29/03/11	<b>Not Assented</b>			
88.	The Insolvency Bill, 2009	Legal	18/08/09		21/04/11				
89.	The Uganda Retirement Benefits Authority Bill, 2009	Legal	04/05/09	26/04/11	26/04/11				
90.	Presidential Elections (Amendment) Bill, 2010		15/12/09			05/06/10			
91.	Parliamentary Elections (Amendment) Bill, 2010		15/12/09			05/06/10			
92.	The National Youth Council (Amendment) Bill, 2008					05/06/10			
93.	The National Women's Council (Amendment) Bill, 2008					05/06/10			
94.	The Pharmacy Profession & Pharmacy Practice Bill, 2006	Social Services	04/04/07	On 05/11/09 Minister withdrew motion for 2 <sup>nd</sup> reading after Chair presented report of Comt. on Soc. Services. (He asked to return after					

				further consultations)	
--	--	--	--	------------------------	--

Bill number 87 was introduced to parliament and referred to the Committee of Social Services but the committee reported to the House that the Ministry of Health didn't carry out adequate consultations, and so the Minister was asked to withdraw the bill in order to carry out more stake holder consultations. The bill was then withdrawn.

*This information was compiled by the author with the help of the officers in the department of Clerks.*

## APENDIX B

Bills that lapsed in the 8<sup>th</sup> parliament;

	<b>Title of Bills</b>	<b>Date of 1<sup>st</sup> reading</b>
1.	The Transfer of Convicted Offenders Bill, 2007	18/09/07
2. *	The Narcotics & Psychotropic Substances (Control) Bill, 2007	04/12/07
3.	The Geographical Indications Bill, 2008	17/06/08
4.	The Implementation of Government Assurances Bill, 2008	12/05/09
5.	The Industrial Property Bill, 2009	09/07/09
6.	The Insolvency Bill, 2009	18/08/09
7.	The Anti-Homosexuality Bill, 2009	14/10/09
8.	The Chattels Securities Bill, 2009	20/10/09
9.	The Anti-Money Laundering Bill, 2009	
10.	The Company Bill, 2009	18/11/09
11.	The Marriage and Divorce Bill, 2009	22/12/09
12.	The Public Procurement & Disposal of Public Assets Authority Bill, 2010	17/08/10
13. *	The Regional Governments Bill, 2009	08/02/09
14.	The Uganda Retirement Benefits Authority Bill, 2009	04/05/09
15.	The Plant Variety Protection Bill, 2010	24/03/10
16.	The Uganda National Meteorological Authority Bill, 2010	03/08/10
17.	The HIV/AIDS Prevention & Control Bill, 2010	19/05/10
18.	The Uganda National Bureau of Standards (Amendment) Bill, 2010	13/09/10

19.	National Council for Older Persons Bill, 2010	28/09/10
20.	Capital Markets Authority (Amendment) Bill, 2010	28/09/10
21.	The Prohibition and Prevention of Torture Bill, 2010	19/10/10
22. *	The Uganda Forestry Association Bill, 2010	19/11/10
23.	The Plant Protection and Health Bill, 2010	22/04/10
24.	The National Council for Disability (Amendment) Bill, 2010	28/09/10
25.	The Anti-Counterfeiting Goods Bill, 2011	22/03/11

\*This indicates bills that were saved from the 8<sup>th</sup> but not yet reintroduced in the 9<sup>th</sup> Parliament. The rest were reintroduced.

*This information was compiled by the Author.*

## APPENDIX C

Private Member Bills in the 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Parliament of Uganda;

Bills	Area	MP		Party	parliament
Budget bill 1999	finance	Mr. Musumba Isaac	passed	*	6 <sup>th</sup>
Constitutional Amendment Bill 1999	constitution	Mr. Onapito Ekomoloit		*	6 <sup>th</sup>
Administration of Parliament bill	Administration of parliament	Dan Wandera Ogalo	passed	*	6 <sup>th</sup>
Occupational safety & working Environment Bill	labour	Dr. Sam Lyomoki	passed	*	6 <sup>th</sup>
Parliamentary Pensions Bill 2003	Admin of parliament	Ben Wacha		*	7 <sup>th</sup>
Access to Information Act 2000		Mr. Abdu Kituntu	passed	*	7 <sup>th</sup>
Copyright & Enabling Rights Bill 2004	Intellectual property	Jacob Olanya		*	7 <sup>th</sup>
Persons with Disabilities Bill	Equal Oppotunities	MRS Byamukama	passed	*	7 <sup>th</sup>
Prevention of Trafficking in Persons (Amendment)Bill	Penal	Winfred Masiko	passed	NRM	8 <sup>th</sup>
Prevention of Female Genital Mutilation Bill 2009	Gender	Chris Baryomusi	passed	NRM	8 <sup>th</sup>
Anti Homosexuality Bill 2009	penal	David Bahati	Lapsed	NRM	8 <sup>th</sup>
The HIV / Aids Prevention and Control Bill 2010	Penal	Beatrice Rwakimari	Lapsed	NRM	8 <sup>th</sup>
Parliamentary Pensions (Amendment) Bill,2006	Administration of Parliament				8 <sup>th</sup>
The Prohibition and Prevention of Torture Bill, 2010		Wilfred Nuwagaba	Lapsed	NRM	8 <sup>th</sup>

\*This part of the table indicates the period when Uganda was still under the single Party (Movement) System of governance.

*This information was compiled by the Author.*

## APPENDIX D

### *Duration of Bills at First Parliamentary Counsel (F.P.C);*

<b>No.</b>	<b>Bill</b>	<b>Approx. Duration at FPC (in Months)</b>
1	The Appropriation Bill, 2009	1
2	The Domestic Violence Bill,2009	3
3	The Prevention of Female Genital Mutilation Bill, 2009	6
4	The Political Parties & Organizations (Amendment) Bill,2009	8
5	The Local Governments (Amendment) Bill,2009	1
6	The Kampala Capital City council Bill,2008	2
7	The Parliamentary Pensions Amendment Bill, 2010	2
8	The Fish (Amendment Bill,2010	10
9	The Insurance (Amendment) Bill, 2010	11
10	The Marriage and Divorce Bill 2009	1
11	The Public Procurement and Disposal of Public Assets Authority Bill/2010	14
12	The Uganda Retirement Benefits Authority Bill,2009	3
13	The Plant Variety Protection Bill,2010	10
14	The Uganda National Metrological Authority Bill,2009	8
15	The HIV Prevention and Control Bill,2010	5
16	The National Council for Older Persons Bill,2010	7
17	Capital Markets Authority (Amendment) Bill, 2010	1
18	The Prohibition & Prevention of Torture Bill,2010	10
19	The National Council for Disability (Amendment) Bill,2010	7
20	The Anti-counterfeiting Goods Bill 2011	24

*(Information in this appendix was extracted by the Author from the registrar of the office of FPC: only information in relation to a few bills was available)*



## APPENDIX E:

The period within which the President assents to bills.

Nos.	Bill	Third reading	Date sent for Assent		Date of Assent by the President.	No. of days
1.	The Tourism Act, 2008	19/02/08	31/03/08	42	28 <sup>th</sup> April 2008	28
2.	The Trade Secrets Protection Bill, 2007	28/10/08	26 <sup>th</sup> March 2009	142	25 <sup>th</sup> April 2009	30
3.	The Uganda National Health Research Organization Bill, 2006	8 <sup>th</sup> April 09	26 <sup>th</sup> August 2009.	140	31 <sup>st</sup> August 2009.	6
4.	The Prevention of Trafficking in Persons Bill, 2007	2 <sup>nd</sup> April 09	7 <sup>th</sup> Sept 2009.	158	1 <sup>st</sup> October 2009.	23
5.	The Anti Corruption Bill, 2008	13 <sup>th</sup> May 09	17 <sup>th</sup> July 2009.	65	25 <sup>th</sup> July 2009.	6
6.	The Securities Central Depositories Bill, 2008	28/10/08	14 <sup>th</sup> Jan. 2009	79	28 <sup>th</sup> Jan. 2009.	14
10.	The Stamps (Amendment) Bill, 2008	11/09/08	14 <sup>th</sup> /11/08	64	18/10/08	
11.	The Uganda Citizenship and Immigration Control (Amendment) Bill, 2008	14 <sup>th</sup> May 2009	23 <sup>rd</sup> June 2009.	40	15 <sup>th</sup> July 2009	
12	The National Information Technology Authority Uganda Bill, 2008.	26 <sup>th</sup> /03/09	30 <sup>th</sup> June 2009.	89	15 <sup>th</sup> July 2009.	15
13.	The Penal Code (Amendment) Act 2006	5/12/06	20/7/2007	190	20/07/07	
14.	The Education (pre-primary and post primary) Act, 2007	14/05/08	26/8/2008	104	26/08/08	

*The information was compiled by the Author with the help of officers in the Clerks department.*

## APPENDIX F

Questionnaires used in the study

### QUESTIONNAIRE

#### Efficiency and effectiveness of the law making process in Uganda

---

Dear Respondent

This questionnaire is intended to analyze the efficiency and effectiveness of the law making process in Uganda and your response and experiences will provide vital details of the day to day occurrence. The research is being undertaken as part of the requirement for the award of a Masters Degree in Advanced Legislative Studies, from the School of Advanced Studies (SAS), University of London. You are kindly requested to spare sometime and indicate your opinion on each of the questions. This information will only be used for academic purposes and will therefore be treated as confidential and you will only be quoted with your express permission.

Yours sincerely

Florence Aceng

LLM Student

*School of Advance Study (SAS),*

*Institute of Advanced Legal Studies, University of London.*

#### Section A: About Self

---

Name

.....

Sex.....

....

Institution:

.....

Designation.....

.....

How would you like to be quoted in the research:-

- a. By name
- b. Anonymous

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Ministry**

---

1. What is your major consideration/drive for initiating a legislative proposal?

.....  
 .....  
 .....  
 .....

2. What is the nature of research carried out by the ministry for legislative proposals? (e.g Desk, field etc)

.....  
 .....  
 .....

3. Do related ministries consult regularly to make a proposal for related piece of legislation? (tick appropriate answer)

YES       NO

4. What documents do you always accompany with the proposals of bills to be presented before cabinet?

.....  
 .....  
 .....

5. Does the ministry usually seek legal advice when making a legislative proposal? Yes or No) If so from where? (circle the appropriate answer)

- a. Lawyers in the Ministry
- b. Legislative Drafters
- c. Lawyers in private practice
- d. Consultants
- e. Others (specify) \_\_\_\_\_

6. What is the main challenge which you face as a ministry when proposing legislation?

.....  
 .....  
 .....  
 .....

7. How are drafting instructions issued to FPC?

.....  
 .....  
 .....  
 .....

8. In your opinion what is the main change that need to be made to the legislative process in order to make it better?

.....  
 .....  
 .....  
 .....

9. Do you feel that there are other alternatives for solving a social problem instead of legislation? Please prescribe if any.

.....  
 .....  
 .....  
 .....

10. If so, how often are these alternatives applied?

.....  
 .....  
 .....  
 .....

- When answering the questions below use the scale 0=never, 1=rarely, 2=sometimes, 3=usually and 4=always. (Circle appropriate answer)

Does the ministry adequately carry out stakeholder consultation for a legislative proposal?	0	1	2	3	4
How often does the ministry carry out stakeholder consultation before introducing a Legislative proposal?	0	1	2	3	4
How often does the ministry receive proposals from Uganda Law reform commission?	0	1	2	3	4
How often does the ministry apply proposals received from the Uganda Law reform commission?	0	1	2	3	4

Do proposed legislation always have formal government policies in place?	0	1	2	3	4
Does the Ministry carry out Regulatory Impact Assessment (RIA)?	0	1	2	3	4
How often does the ministry communicate to the office of First Parliamentary Counsel during the drafting process?	0	1	2	3	4
Does government allocate adequate funding for handling of legislative proposals?	0	1	2	3	4

11. If the ministry carries out consultations, which criterion is used to determine who is to be consulted?

.....  
.....  
.....  
.....  
.....

16. Does the ministry have standard guidelines for issuing drafting instructions to FPC?

.....  
.....  
.....  
.....

17. What is your source (s) of funding when making legislative proposals? Tick where appropriate

- Government
- Donors
- NGOs
- None of the above
- All of the above

18. Any additional information

.....  
.....  
.....  
.....  
.....

I THANK YOU

**Cabinet**

---

1. What documents does cabinet usually receive along with legislative proposals from the ministry?

.....  
.....  
.....  
.....

2. What is the average time that cabinet takes to approve proposals for legislation?

.....  
.....  
.....  
.....

3. How does cabinet issue its drafting instructions to FPC and what are the accompanying documents?

.....  
.....  
.....  
.....  
.....

4. Does cabinet have standard policy/legislative guidelines?

.....  
.....  
.....  
.....  
.....

5. What is the main challenge that you face in the policy/legislative process generally?

.....  
.....  
.....  
.....  
.....

8. In your opinion what is the main change that need to be made to improve the quality of legislation?

.....  
.....  
.....  
.....

6. When answering the questions below use the scale 0=never, 1=rarely, 2=sometimes, 3=usually and 4=always (circle the appropriate answer)

Do you consider the information presented by the ministry	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
---	----------	----------	----------	----------	----------

adequate in terms of guidance?					
Does the proposed draft have explanatory notes which adequately guide the members of cabinet?	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
How often does cabinet invite necessary technocrats when reviewing proposals?	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
How frequently does cabinet involve persons from drafting sections when examining proposals for Legislation?	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
How often do you feel cabinet exhaustively review legislative proposals?	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
In your view, does cabinet adequately review legislative proposals from ministries?	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>

*Thank you*

**Drafter (FPC)**

1. Briefly describe how drafting instructions are issued to your office?

.....  
.....  
.....  
.....  
.....

2. How should drafting instructions be issued to you?

- (a) Draft Bills
- (b) Legislative principles
- (c) Any other  
(Specify).....

3. Do you consider information issued to you adequate to guide you effectively in drafting legislation?

YES     NO

4. What documents does the Ministry usually accompany with the drafting instructions you receive?

.....  
.....  
.....  
.....  
.....

5. In your opinion, how would consolidating laws speed up the production of legislation?

.....  
.....  
.....  
.....  
.....

6. Does your office have a standard guideline/manual for drafting legislation?

YES     NO

7. On average, how much time do you spend drafting a piece of legislation?

.....  
.....  
.....  
.....  
.....



8. Do you feel that drafters should be involved in the development of legislation right from the ministry stage?

YES       NO (give reason for answer)

.....  
.....  
.....  
.....  
.....

9. Do parliamentarians seek your advice when they intend to move amendments to bills?

YES       NO

10. How efficient in your opinion is the drafting process in your office? (circle appropriate answer)

- Very inefficient (1)
- Inefficient (2)
- Efficient (3)
- Fairly efficient (4)
- Very efficient (5)

11. What is the main challenge that you face when drafting legislation?

.....  
.....  
.....  
.....

12. How does this challenge affect the number\quality of laws you produce?

.....  
.....  
.....  
.....  
.....

13. Which possible measure would you suggest to improve the quality of legislation in Uganda?

.....  
.....  
.....  
.....  
.....

14. When answering the questions below use the scale 0=never, 1=rarely, 2=sometimes, 3=usually and 4=always (circle appropriate answer)

How often do you receive instructions in form of draft bills?	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
---	----------	----------	----------	----------	----------

Are formal government policies always in place for every bill you draft?	0	1	2	3	4
Do you consider the documents provided to you by the Ministry adequate in terms of guidance?	0	1	2	3	4
Are drafters involved during the earlier proposals of legislation right from ministry through cabinet?	0	1	2	3	4
How often do you receive instructions you consider inadequate?	0	1	2	3	4
How often do you communicate with the line ministry during the drafting process?	0	1	2	3	4
How often do you have to redraft a bill because of parliamentary amendments?	0	1	2	3	4
How often do clients refuse to agree to changes you feel are necessary?	0	1	2	3	4
Are political interests a common factor during the drafting process?	0	1	2	3	4
Does Government facilitate you enough when handling legislation?	0	1	2	3	4

## Clerks/Legislative Counsels to Committees

---

1. How many Committees do you serve?

.....

2. What is the average time a bill takes in your committee?

Number of Bills	period
	Less than 45 days
	Exactly 45 days
	More than 45 days

3. On average, how often are stakeholders consultations held for a Bill?

.....  
.....  
.....  
.....  
.....

4. What mode of communication do you use to invite the public for committee meetings?

.....  
.....  
.....  
.....  
.....

5. On the basis of which criteria are bills considered at committee in case they are more than one?

.....  
.....  
.....  
.....

6. How would you describe the scrutiny of legislation in parliament at committee level? (circle the appropriate answer)

- Very inefficient (1)
- Inefficient (2)
- Efficient (3)
- Fairly efficient (4)
- Very efficient (5)

7. What is the main challenge which your committee faces during the scrutiny process?

.....  
 .....  
 .....  
 .....

8. What is the main recommendation that you would suggest to make the process of passing of bills in parliament more efficient?

.....  
 .....  
 .....  
 .....

9. When answering the questions below use the scale 0=never, 1=rarely, 2=sometimes, 3=usually and 4=always (circle appropriate answer)

How often do you receive training on the bill you are scrutinizing?	0	1	2	3	4
In your opinion how often are proposals for amendments to a bill made based on emotions instead of sound principles?	0	1	2	3	4
How often does the committee make substantial changes to a bill?	0	1	2	3	4
How often do committees of parliament seek recommendations of legislative counsel/drafters before substantial changes are made to a bill?	0	1	2	3	4
Do you think you are fully engaged during the bill scrutiny process?	0	1	2	3	4
Are stakeholders' consultation adequately carried out for all bills?	0	1	2	3	4

10. Any other additional information.

.....  
 .....  
 .....

I THANK YOU.

## Members of Parliament

---

1. In your opinion, what is the main effect that party caucuses have on bills in parliament?

.....  
.....  
.....  
.....  
.....

2. What is the main challenge that you usually face when scrutinizing legislation in parliament?

.....  
.....  
.....  
.....  
.....

3. Do you have adequate time to scrutinize legislation?

YES       NO

.....  
.....  
.....  
.....  
.....

4. In your opinion, does government allocate enough resources for scrutiny of legislation in Parliament?

.....  
.....  
.....  
.....

5. Do you think it is proper for MPs to propose new amendments to a bill during second reading?

YES       NO      Give reasons for your response.

.....  
.....  
.....  
.....

6. Is the current Parliament efficient/effective in its role as a law making body?

YES       NO      Give reasons for your response.

.....  
 .....  
 .....

7. In your opinion would a smaller parliament be more efficient?

YES       NO

Give reasons to the above response.

.....  
 .....  
 .....

8. What is your major challenge when introducing a Private Member's bill?

.....  
 .....

9. When answering the questions below use the scale 0=never, 1=rarely, 2=sometimes, 3=usually 4=always. (circle the appropriate)

Do you think stake-holder consultations are adequately carried out when a bill is in parliament?	0	1	2	3	4
How frequently are positions in relations to proposed bills discussed at caucuses?	0	1	2	3	4
In your opinion, do members of parliament actively participate when scrutinizing legislation?	0	1	2	3	4

## **APPENDIX G**

### **Policy formulation in Uganda, a mini case study of the National Oil and Gas policy.**

The national oil and gas policy is a result of an intensive consultative process which started in 2006 with the review of the oil and gas policies from 20 countries.

4 consultative meetings and workshops were held with technical staff of various Government institutions where many views were received and incorporated into the draft policy. After which a working document of the draft policy was formulated. The draft policy was then forwarded to representatives of local and urban authorities, cultural institutions, civil society's organization and academic institutions for their review.

It then was presented and discussed at the permanent secretaries where a recommendation was made for developing an effective communication strategy as one of the ways to mitigate against emerging challenges in this industry.

Additional consultative meetings were held in 20 districts and these meetings were attended by are MPs, officials of the district Executive committees (DEC) and counsel members of the districts.

Furthermore H.E reviewed the draft policy with related Ministries and offered guidance and finally a consultative workshop was held for Cabinet in which the draft policy was presented for consideration before formal submission for approval. The policy was then approved by Cabinet on 30<sup>th</sup> January 2008, 2 months after it had received the proposal, but 2 years after the process of policy formulation was started.

## BIBIOGRAPHY

### Books

Alec Samuel, *Consolidation: A Plea*, (statute law review 2005)

Cabinet Office, *Guide to Legislative Procedure*, (2004) [www.Cabinetoffice.gov.uk](http://www.Cabinetoffice.gov.uk)

Cabinet Office, *Guide to Making Legislation* (UK 2012)

Cabinet Secretariat, Office of the President, *A Guide to Policy Development and Management in Uganda* (2009).

Cabinet Secretariat, Office of the President, *Cabinet Handbook* (2009)

Constantin Stefanou, *Drafters, Drafting and the Policy Process*, in Constantin Stefanou, Helen Xanthaki *Drafting Legislation: A Modern Approach* (Ashgate Publishing 2008)

EA Drieger, *The Composition of Legislation*, (2<sup>nd</sup> ed. Ottawa, Department of Justice 1957)

Edward C. Page, *Their Word is Law: Parliamentary Counsel and Creative Policy analysis* (, Public Law2009)

Ian Mcleod, *Principles of legislative and Regulatory Drafting*. (Hart Publishing 2009 )

Robin Cook, *The Point of Departure*, (Simon and Schuster, 2003)

Thornton, G. C. *Legislative Drafting* (4<sup>th</sup> edn Butterworth, London 1996 )

Tobias A. Dorsey, *Legislative Drafter's Deskbook: A Practical Guide*, (The CapitolNet 2006)

V.C.R.A.C. Crabbe, *Legislative Drafting*, (Cavendish Publishing Limited 1993)



Odonga Otto, *Theory and Practice of Parliamentary Democracy, A Parliamentarian's Perspective* (Dot Innovative Printers, 2010)

William Jenkins in *Policy Analysis: A Political and Organizational Perspective* (1978)

## **Papers**

Constitution Committee, *Parliament and the Legislative Process*, 29 October 2004, HL 173 2003-04, Memorandum submitted by Sir Geoffrey Bowman KCB, [8-9]

Drewny, G. 'Law Making systems: How to compare' (2008). *Statute Law Review* , 29(2),

Pius Perry Biribonwoha, 'Efficiency of the Legislative Process in Uganda' (2005) 7 *Eur. J.L. Reform* 135, 145

Gunjeet Kaur, Sanjib Bordoloi and Raj Rajesh, An Empirical Investigation of the Inter-Sectoral Linkages in India (2009) *Reserve Bank of India Occasional Papers* (30) 1,

Schaffer, H.. 'Evaluation and Assessment of Legal Effects Procedures: Towards a More Rational and Responsible Lawmaking Process' (2001) *Statute Law Review* , 22(2), 132-153.

Luzus Mader, 'Evaluating the Effects; A Contribution to the Quality of Legislation' (2001) *Statute Law Review* , 22(2), 119-131.

Muyllle, K. J.. 'Improving the effectiveness of Parliamentary Legislative Procedure' (2003)*Statute Law Review* , 24(3), 169-186.

OECD brief, engaging citizens online for better policy making (2003)

Select Committee on Modernization of the House of Commons, *The legislative process*, 23 July 1997, HC 190 1997-98,

V.C.R.A.C. Crabbe, The Role of Parliamentary Counsel in Legislative Drafting, United Nations Institute for Training and Research sub-Regional Workshop on Legislative Drafting for African Lawyers Document No 11 Kampala, Uganda 20 to 31 March 2000)

World Bank Document 'Administrative Capacity in the EU 8: Slovakia Country Report' Background Paper, World Bank Poverty Reduction and Economic Management Unit Europe and Central Asia, September 2006, at 2–3.

Professor Keith Patchett, Preparation, Drafting and Management of Legislative Projects, (Workshop on the Development of Legislative Drafting For Arab Parliaments 3-6 February 2003, Beirut) 2

### **Newspaper Article**

Isaac Imaak, 'MPs failing on Parliamentary role – research' *Daily Monitor*, ( Uganda 24 September 2012) national,

### **Websites**

[www.126-ipu.ug/docs/about\\_parliament\\_of\\_Uganda.pdf](http://www.126-ipu.ug/docs/about_parliament_of_Uganda.pdf)

<http://rdoc.rbi.org.in/rdocs/Content/PDFs/2GKA010210.pdf>

<http://tna.europarchive.org/20061103000234/http://www.Cabinetoffice.gov.uk/regulation/ria/overview/index.asp#whatisria>

[http://www.ipu.org/parline-e/reports/arc/2329\\_06.htm](http://www.ipu.org/parline-e/reports/arc/2329_06.htm)

<http://www.justice.go.ug/index.php/departments/fpc>

[http://www.observer.ug/index.php?option=com\\_content&task=view&id=12929&Itemid=59](http://www.observer.ug/index.php?option=com_content&task=view&id=12929&Itemid=59)