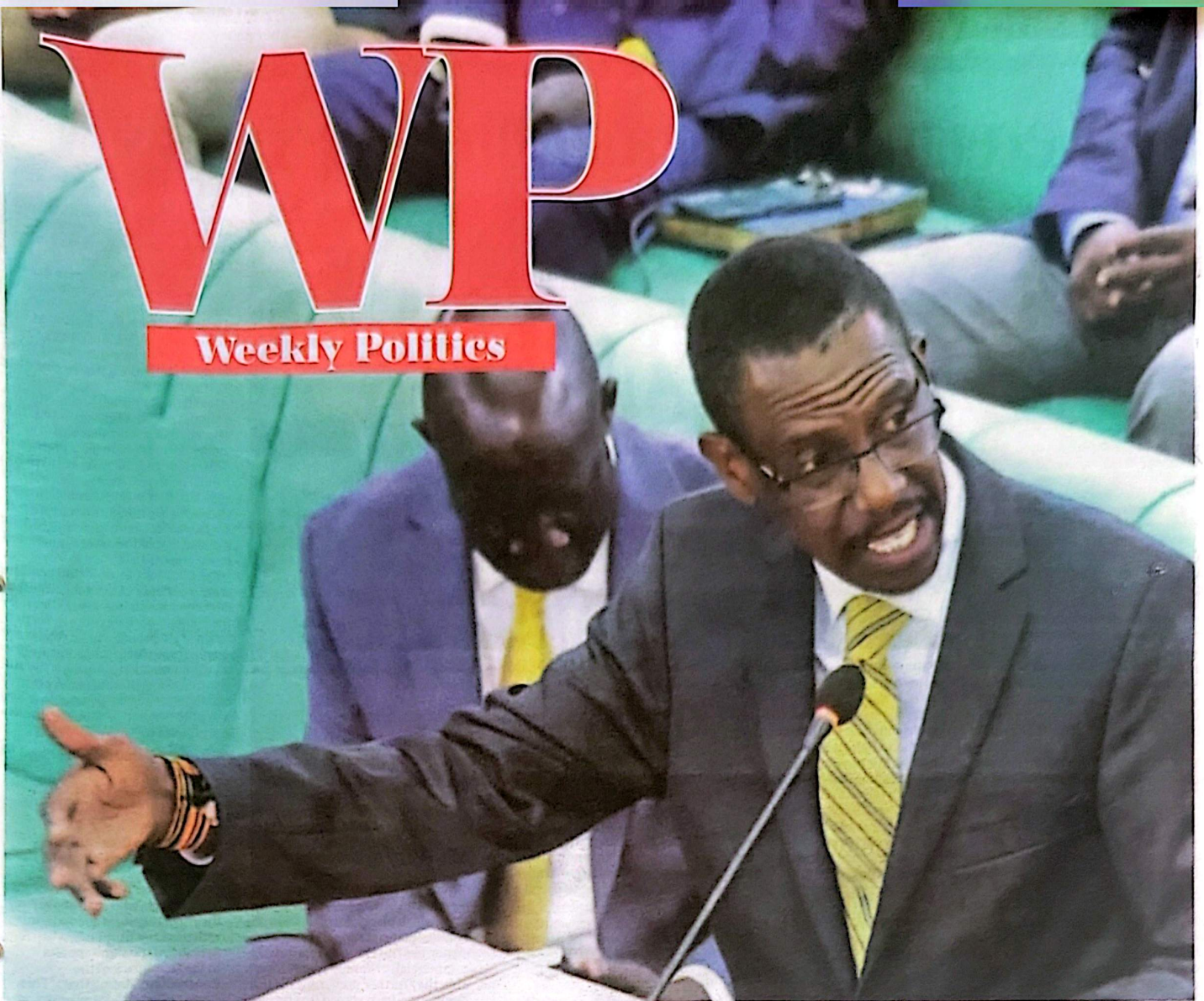


WFP

Weekly Politics



Attorney General Kiryowa Kiwanuka speaks on the floor of Parliament recently. He told the House committees on Thursday that the proposed law will not affect Foreign Direct Investment. PHOTO/ FILE

A sovereign mess or a sovereign remedy?

Queried. Opposition MPs on Thursday queried why the Bill, saying using the broadest of strokes, not only throws around a “derogatory” foreign agent label but also risks “criminalising transactions” that surpass the Shs400m mark inside 12 months.

BY MONITOR REPORTER

The public debate and discussion among Ugandans on the digital town square that is X has, in recent times, been revelatory. This, if anything, is because there is an almost palpable sense of fear. The outcome of a proposed law that the House is yet to consider has lodged in the minds of many as the sum of all fears. Owing to this, sections of Ugandans were this week plunged into new depths of anxiety following the recurring appearances of the Protection of Sovereignty Bill on Parliament's Order Paper. Ms Patricia Munabi, as unimpeachable a voice of calm in Uganda's civic space as there is, could not help but wonder as to what the true

index of the heart of the Bill's proponents is.

“How can the Sovereignty Bill be on the Order Paper when we've been invited to present our memorandum tomorrow? What [sic] games are being played? Pse [sic] explain?” the Ugandan lawyer and human rights activist fired off an X post on Thursday.

The response from the House was swift and clear: “Dear Patricia, it is procedural to list all the pending business on the Order Paper so that it does not lapse with the prorogation of the 11th Parliament in accordance with Rule 243 of the Rules of Procedure.”

It added: “Please be assured that your opportunity to present your views remains as scheduled.”

But what contrived to ensure that the Bill got such a bad rap? Deservedly so, Mr Phillip Karu-

gaba, one of the sharpest critics of the Bill, has told all and sundry on X. In an April 15 X post, he wrote of the Bill: “The name is reassuring. The content should not be.”

Overbroad

The House committees on Legal and Parliamentary Affairs, as well as Defence and Internal Affairs, have been poring over the aforesaid content in an attempt to establish if there are any pain points. A key sticking point during Thursday's interface with Mr Kiryowa Kiwanuka, the Attorney General, and Gen David Muhoozi, the junior interior minister, was Clause 22 of the Bill. Mr Medard Lubega Ssegona, a committee member, queried why the

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A sovereign mess or a sovereign remedy?

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Bill, using the broadest of strokes, not only throws around a "derogatory" foreign agent label but also risks "criminalising transactions" that surpass the Shs400 million mark inside 12 months.

"It does not relate to my grandmother in the village who has no dealings with a foreigner," Mr Kiwanuka told the House committee, speaking to what is putatively seen as a red flag.

Critics say the considered view of the government's chief lawyer understates the enormous, if sinister, scale of the legal undertaking.

"The wide discretion to designate a Ugandan citizen as a foreigner/agent of a foreigner, the broad range of prohibited activities, and the wide discretionary ministerial powers to designate entities and individuals as such are open to abuse and lack any prior judicial oversight or due process," Mr Nicholas Opiyo, a Ugandan lawyer, told *Weekend Monitor*.

The possibility, however vanishingly small as government minders insist, of designating a Ugandan citizen as a foreigner would be a stunning break with convention, not least because, per Mr Karugaba, the Bill "is taking away our sovereignty". This runs counter to Article 1 of the Constitution, which states thus: "All power belongs to the people who shall exercise their sovereignty in accordance with this Constitution." The toll of such a counterposition, said the Uganda Law Society (ULS) in a cautionary statement, is severe.

"[The Bill] makes massive changes to the foundation of our Constitution without ever asking the people," ULS's Radical New Bar Governing Council noted, adding, rather ominously, "It wipes out the words 'all power belongs to the people' and replaces them with 'all power belongs to [the] government.'"

A question of money

So what the heck is going on? In one of his social media engagements, Mr Karugaba asked, perhaps not rhetorically, "What is it that the State is fearing?"

Sources say an August 2, 2024, confidential intelligence report provides some clarity. The document, authored by the deputy director of military intelligence in the Defence ministry, Brig Gen Abdul Rugumayo, spotlighted what was broadly described as "coordinated efforts to overthrow the Government of Uganda." It goes to extraordinary lengths to show how so-called foreign agents became the punching bag for State actors that yearned for both answers and retribution.

"Our intelligence operations have uncovered a coordinated and multifaceted plot to overthrow the Government of Uganda, orchestrated by elements within the Opposition parties, select government officials, foreign governments, and LGBTQ groups in Europe," the intelligence report discloses, pointing to "a critical meeting" that allegedly saw Mr Robert Kyagulanyi, Dr Kizza Besigye, and Gen Mugisha Muntu compare notes on February 5, 2024.

It adds: "These leaders reached a consensus on the need to work together to destabilise the current government. Their strategy revolves around inciting chaos and unrest, primarily through orchestrated protests against alleged corruption. The ultimate goal of this alliance is to force a regime change in Uganda."



The 11th Parliament in session recently. Parliament says the public will have the opportunity to present its views on the proposed Bill. PHOTO/FILE

While appearing before the joint House committees on Thursday, minister Muhoozi framed in the most apocalyptic terms the failure of Uganda to "insulate itself against external interference." The Protection of Sovereignty Bill is needed, he rationalised, to "fill gaps in the existing legislative framework." He particularly offered pointed comments about "unregulated external funding". The latter, he proceeded to note, "directly impacts national security, economic

and social stability." But he hastened to add that "any acts intended to impose foreign, moral, ideological agendas will be resisted".

The August 2, 2024, intelligence report fingered the National Unity Platform (NUP), Uganda's leading Opposition party, for receiving north of \$5 million (Shs18b) from non-State actors, with the intention of "support[ing] activities aimed at toppling the government, including financing protests and other

subversive activities."

More questions

Unsurprisingly, money has proven to be an explosive subject in the grand scheme of things. While Mr Kiwanuka told the House committees on Thursday that the proposed law "will not affect Foreign Direct Investment, but we shall not allow in money that will corrupt our morals", doubts abound.

In an April 22 position paper, Ms Sarah Bireete and others opine that Clause 22(1), which places restrictions on obtaining financial support from a foreigner, has "no carve-out for private, commercial, or family remittances". This, they further proffer, means that remittances from abroad that totalled \$2.6 billion last year could be imperilled.

"The Attorney General's contentions are attractive in the abstract. The difficulty is that the Bill, as gazetted, does not say what the Attorney General says it says," the position paper notes, adding, "The Attorney General's reassurance depends entirely on his own implied purposive reading that a court may or may not adopt, and that a zealous DPP [Director of Public Prosecutions] need not accept."

Already, the Uganda Bankers' Association (UBA) has made clear how foreign lines of credit from lenders like the International Finance Corporation and African Development Bank could be constricted. Cognisant of the concerns broached by the UBA insofar as "potentially disrupting lending and capital flows is concerned", Ahmed Hadji and other researchers observe that "while the Bill may be intended to promote economic sovereignty, its impact will depend on how it balances regulatory control with investor confidence." This is vitally important because the Bill's potential impacts on receipts from coffee and gold exports have added to a deepening sense of anxiety.

Critics say the Bill devises a series of punishments that, in their cruelty, reflect a sinister motive. In their position paper, Ms Bireete and others contend that the Bill's "definitions are hmad and

open-ended, its tools are not tailored, and it draws no operative distinction between helpful engagement and overt interference."

As local lenders grapple with the question of how they will finance capitalisation, there are also fears that the proposed law risks affecting the borrowing. With the government known to be the largest borrower of financial institutions, it risks deepening itself in the foot.

It won't be alone in tending to wound. The Bill affects all categories of persons and individuals who bring money from abroad to their parents to treat cancer and other ailments. It could be argued, the government has abdicated its role. Elsewhere, all professions such as auditors, doctors, engineers, teachers, journalists, and publicists themselves could be adversely affected by the proposed law.

The Bill seeks to re-introduce the criminal offence of the publication of false news, which was struck down by the highest appellate court in its prohibition of publishing articles which are deemed to be part of a misinformation and disinformation campaign. The Bill also introduces the draconian offence of economic sabotage, which takes away the freedom of thought, media and expression.

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DESECRATION OF THE CONSTITUTION?

Article 1 of the Constitution speaks to the Sovereignty of the people.

It states thus: "All power belongs to the people who shall exercise their sovereignty in accordance with this Constitution."

Article 2 of the same speaks to the supremacy of the Constitution, stating that: "This Constitution is the supreme law of Uganda and shall have binding force on all authorities and persons throughout Uganda."

Adding: "If any other law or any custom is inconsistent with any of the provisions of this Constitution, the Constitution shall prevail, and that other law or custom shall, to the extent of the inconsistency, be void."

In addressing itself to the issue of sovereignty, the proposed law also speaks to the issue of citizenship. Articles 9, 10, 11, 12, 13, and 14 of the Constitution define the different categories of citizens. The Bill takes away that definition and labels those abroad as foreigners. Constitutional law experts say this makes it null and void on the basis of Article 2 of the Constitution.

The Bill infringes on several Bill of Rights Articles. This includes Article 21 on discrimination; Article 29 on protection of freedom of conscience, expression, movement, religion, assembly and association; Article 30 on the right to education; Article 38 on civic rights and activities; as well as Article 41 on the right to access to information.