



EAST AFRICAN COMMUNITY

IN THE EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)

The Official Report of the Proceedings of the East African Legislative Assembly

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Thursday, 3 December 2015

The East African Legislative Assembly met at 2:30 p.m. in the Chamber of Deputies, Parliament of Rwanda in Kigali, Rwanda.

PRAYER

(The Speaker, Mr. Daniel .F. Kidega, in the Chair.)

(The Assembly was called to order)

PAPERS

(I)

The Chairperson, Committee on General Purpose (Dr Odette Nyiramilimo): Mr Speaker, I beg to lay on the table the report of the Committee on General Purpose on petition to the East African Legislative Assembly regarding work and residence permits in East African Community for the citizens of the Partner States. I beg to lay.

(II)

The Chairperson, Committee on General Purpose (Dr Odette Nyiramilimo): Thank you, Mr Speaker. I beg to lay on the table the report of the Committee on General Purpose

on the petition to advocate for key issues concerning the youth. I beg to lay.

(III)

Mr Straton Ndikuryayo (Rwanda): Mr Speaker, I beg to lay on table the report of the EALA delegation to the 133rd IPU conference held in Geneva, Switzerland from 17-22 October 2015. Mr Speaker, I beg to lay.

MOTION FOR A RESOLUTION OF THE ASSEMBLY URGING THE EAC PARTNER STATES TO RATIFY AND DEPOSIT INSTRUMENTS OF RATIFICATION TO THE PROTOCOL ON THE CONSTITUTIVE ACT OF THE AFRICAN UNION RELATING TO THE PAN AFRICAN PARLIAMENT

The Speaker: Honourable Members, you will remember that in our meeting in Nairobi, this motion was duly moved and debate had ensued. However, one of the Members moved and the debate was adjourned with specific requests. I would like to invite the mover, hon. Mike Sebalu, who has written to me in accordance with our Rules of Procedure requesting hon. Chris Opoka to represent him.

Therefore, I kindly request the hon. Chris Opoka to give a brief account of the progress of this motion, and then we will proceed with the debate.

Mr Chris Opoka-Okumu (Uganda): Thank you, Mr Speaker. As you have stated, this matter was adjourned in Nairobi for further information and new information came in which necessitated the amendment of the resolution. What was lacking at that time was that there was no Constitutive Act, nor the Protocol for the Constitutive Act of the African Union relating to the Pan African Parliament.

I have been advised that the constitutive act has now been circulated to members. Because of that, I would like to lay on the table the amended resolution because of the availability of the protocol on the Constitutive Act of the African Union. Thank you.

The Speaker: Honourable member, proceed and lay on the table. Honourable members, the mover of the motion represented by hon. Chris Opoka has laid on table the amended version of the resolutions as per the undertaking that has been done on the motion. Debate is now open on the motion.

Honourable members, if there is no person rising to debate, I would interpret it to mean that members are in agreement with the prayers as laid on the floor and presented the other time. I will therefore go ahead to call

the mover to say a few things and put the question. Hon. Chris, the House seems to be in agreement with you. Can you make a few comments on behalf of the mover and I put the question to the motion?

Mr Opoka-Okumu: Thank you, Mr Speaker. The resolution is simply urging the East African Partner States to ratify this protocol and deposit the instruments. It is very important that the Partner States do so because when you look at the Protocol for the Constitutive Act of the African Union relating to the Pan African Parliament, they would like to have the Pan African Parliament to be a legislative Organ of the AU. I think it would be very important that we as a regional Assembly, who would interact with the Pan African Parliament which would be the legislative organ of the AU trying to unite the African continent as a whole.

Therefore, it would be very important for us to support this motion to urge our Member States of the East African Community who have not yet ratified the protocol for the Constitutive Act of the African Union to urgently do so and deposit the instruments so that the African continent can move forward.

You have seen how we members here have continually urged the heads of state to sign Bills that we pass here. It is with the same breath that we should support this motion, which is very important for the resolution of the Assembly urging the EAC Partner States to ratify and deposit instruments of ratification to the protocol of the Constitutive Act of the African Union relating to the Pan African Parliament.

Therefore Mr Speaker and honourable members, I urge you to support this motion. Thank you.

The Speaker: Thank you so much, hon. Chris. Honourable members, the motion before this Assembly is that this Assembly do resolve to urge the EAC Partner States to ratify and deposit instruments of ratification to the protocol to the Constitutive Act of the African Union relating to the Pan African Parliament. I put the question.

(Question put and agreed to.)

The Speaker: Congratulations for your motion. - *(Applause)*.

BILLS

SECOND READING

The East African Community Disaster Risk Reduction and Management Bill, 2013

(Debate interrupted on 29 August 2013, resumed.)

The Speaker: Honourable members, you remember on the 22 August 2013, the Chair, Council of Ministers moved, according to our Rules of Procedure and requested for postponement of debate on this report of the committee. The motion of the minister carried the day and debate was postponed. The reasons, which were contained in the motion of the minister, were explained and it is on the *Hansard* of this House.

As a way of refreshing the memory of this House, I would like to invite the Chairperson of the Committee on Agriculture, Natural Resources and Tourism to take us briefly, through what has happened since then to now before we resume the debate normally. Hon. Isabelle is standing in for the Chair of the Committee, Agriculture, Natural Resources and Tourism. Please take the floor.

Ms Isabelle Ndahayo (Burundi): Thank you, Mr Speaker. Mr Speaker and honourable members, as you are aware, hon. Patricia Hajabakiga initiated an EAC Disaster Risk

Reduction and Management Bill, 2013 that intended to provide a regional legal framework to manage and coordinate interventions in disaster.

The Bill went through public hearings in the EAC Partner States and the committee produced a report with a schedule of proposed amendments. The report was tabled and the debate adjourned by the motion moved by the Chair, Council on August 29, 2013.

When I moved a motion for the second reading, the chairperson of the Council moved a motion of adjournment giving the reason that they wanted to include in the Bill the content of Article 15 of the Protocol on Peace and Security.

On 25 March 2015, in Bujumbura, the House reintroduced the Bill and the Chair, Council again requested for further adjournment and promised to bring it back after six months, which means the October session in Nairobi, but it did not come back to us.

Mr Speaker, from that time, the committee has not heard about any status on the Bill from the Council. The committee has decided now, today, to continue the process of enactment as the Council of Ministers has not given any feedback to date. I would like to inform the House that EAC citizens are impatiently waiting for this Bill. I beg to move. Thank you.

The Speaker: Thank you, hon. Isabelle standing in for the chairperson of the committee. I would like to invite the mover of the Bill if he has some comments in relation to the account that the chairperson has given before I open debate. Hon. Patricia, the mover of the Bill.

Ms Patricia Hajabakiga (Rwanda): Thank you, Mr Speaker. I do not have much to add to what the chairperson has presented. The only thing, which I would like to add, is to

request the members and the Council to support the enactment of this Bill into law. Thank you very much, Mr Speaker.

The Speaker: Thank you, hon. Patricia, and the mover of the private members' Bill. Honourable members, the motion before the Assembly is that the East African Community Disaster Risk Reduction and Management Bill, 2013 be read for the second time. I was doing this to refresh your minds. Debate is open on the report presented by the committee.

This is 2015 and this report was circulated in 2013. I hope the Office of the Clerk has circulated the report of the committee to the members because debate is ensuing on the report of the committee.

As you may recall, we had not debated the report of the committee, we debated the motion of the minister. At the point when I had moved that debate is open, the minister rose and requested for postponement of debate. So that is where we are. I would like to ascertain if the report has been circulated to members. No? This is serious. The Office of the Sergeant and the Office of the Clerk, this matter was on the Order Paper and members could not just be holding on to a report presented to them in 2013. I expect that the report is circulated. Can the report be circulated immediately? This is the second time, which is not good for the way the House proceeds.

Clarification from hon. Mathuki.

Mr Mathuki: Thank you very much, Mr Speaker. On the Order Paper, is a very important motion from the Committee of Agriculture, Tourism and Natural resources meaning that it is important that members should have been prepared to have this information? Would there be sabotage on the part of the Office of the Clerk so that we do not debate this because this is serious? We

cannot continue working that way. How can we be seated here with a motion on the Order Paper and members are not given information? What are we supposed to be doing?

I am told that actually the Secretariat was given a reminder last week and even this morning. Mr Speaker, I think this is clarification that we need to make because going forward, East Africans are watching what we are doing and whoever is not doing their part must up their game.

The Speaker: Thank you so much, hon. Mathuki. I first would like to apologise to the members and the assembly and I take note of your concern. My office will reprimand because it is clear that materials necessary for the item must back a matter on the Order Paper circulated to the members. I am also being briefed that there could have been logistical difficulties but this matter has been known and there is no excuse to that effect.

In the interest of – Hon. Dora had risen on procedure but let me consult with the Clerk briefly.

Honourable members, I have serious logistical problems with the photocopier that is broken down. They are doing some work on it. I beg this House to allow me to use my prerogative to adjust the Order Paper and stand on the item on order four which we had started on and move to the next order while we sort ourselves logistically. I apologise to you again.

MOTION FOR A RESOLUTION TO CONGRATULATE THE FIFTH PRESIDENT OF THE UNITED REPUBLIC OF TANZANIA, HIS EXCELLENCY JOHN POMBE JOSEPH MAGUFULI ON HIS ELECTION VICTORY, AND TO COMMEND THE PEOPLE OF THE UNITED REPUBLIC OF TANZANIA FOR THEIR COMMITMENT TO PEACE AND DEMOCRACY DURING THE GENERAL ELECTIONS

(Debate interrupted on 2 December 2015, resumed.)

The Speaker: Honourable Members, you remember very well that hon. Jeremie Ngendakumana moved this motion and it was duly supported. Debate had started but a member moved that debate be adjourned to allow a few adjustments on the motion. I would like to take the opportunity to invite hon. Jeremie to give us an account of the adjustment before I open debate. Hon. Jeremie.

Mr Jeremie Ngendakumana (Burundi): I thank you, Mr Speaker. Yesterday during the debate on the motion, some members raised some concerns and those concerns were about the freedom and fairness that normally sustain the credibility of elections. Those issues were challenged and I have been advised by members to focus only on congratulating His Excellency the President of the United Republic of Tanzania, His Excellency John Pombe Joseph Magufuli and the people of Tanzania for their commitment to peace and democracy.

Taking into account those concerns, I made some amendments to the motion and I think now it can accommodate everyone and I think that we can debate it as it is now. Mr Speaker – *(Interruption)* –

The Speaker: Hon. Jeremie, before you leave the floor, maybe you can now read the prayers specifically in your motion now. Is it circulated? Then it is okay if it is circulated. Thank you, hon. Jeremie.

Honourable members, the motion before the House is that this Assembly do resolve to congratulate the fifth President of the United Republic of Tanzania, His Excellency John Pombe Joseph Magufuli on his election victory and commending the people of the United Republic of Tanzania on their

commitment to peace and democracy during the general elections. Debate is open.

Ms Agnes Mumbi Ng'aru (Kenya): Thank you, Mr Speaker. I stand to support this motion for the Assembly to congratulate the fifth President of the United Republic of Tanzania, His Excellency John Pombe Joseph Magufuli on the election victory and commending the people of the United Republic of Tanzania on their commitment to peace and democracy during the general elections of 2015.

Mr Speaker, I have just probably three reasons why I support this motion. I am sure most of you have read that my party leader in Kenya is a great friend of His Excellency John Magufuli. When he was the Minister for Roads, I happened to be working with the former Prime Minister and so I worked and I know the current President of the United Republic of Tanzania so I am congratulating a friend of a friend.

Most of all, I want to congratulate him for selecting and nominating and having been elected together with a woman vice president, Her Excellency- I was helped to get the name – Her Excellency Samia Hassan Suluhu. I was helped to get that name right by hon. Kimbisa, my colleague.

It is very good for the women of East Africa that the United Republic of Tanzania has now one of our gender as the vice president of the Republic of Tanzania. That for me is a statement in itself and a reason to congratulate His Excellency John Magufuli.

My other good reason for supporting this motion is the mature politics that were exhibited by the people of the Republic of Tanzania. When I talk about mature politics, some of us come from some very hostile backgrounds where campaigns are about insults and it goes on. Here, the campaigns were policy based and party based, talking

about what they want to do for the country. That for me was profound. I call it mature politics, politics that are devoid of tribal insinuations and hatred and things that divide the country.

Mr Speaker, that was very important to me as a person because I have gone through that process where there is violence and bad politics and insults and there is no agenda at all.

The other reason why I really feel that this House needs to celebrate His Excellency John Magufuli and the people of Tanzania is that they have also shown us that being a political party does not make you an enemy – That the Opposition is an enemy that needs to be crushed until they are dust. I enjoyed the campaigns where the Opposition was given good airtime and probably from where I come from, it was as if they were also overwhelmed by the presence of large support without realising that people who come for the campaign rallies- Half of them are not registered voters.

However, even though, I also want to really thank and appreciate the Opposition in Tanzania because a word of inciting the public would have been enough to take the country the way Kenya did in 2008 so both congratulations go to the CCM and to the Opposition. They have made us proud. As East Africans, they have really set the ground for us to emulate.

Another congratulation I would like to add is also that the retired President, hon. Jakaya Kikwete also led peaceful campaigns because for Tanzania to hand over peacefully would have also been a part of his legacy. Therefore, to the people of Tanzania and the *Chama Cha Mapinduzi, hongera. Mmetuonyesha njia – (Applause)*.

To the people of Tanzania and the ruling party, I am telling them well-done – *(interruption) -*

The Speaker: Hon. Mumbi, you are allowed to make some statements in other languages other than English but you must in a way try to help the records to capture it by interpreting.

Ms Mumbi: Mr Speaker, you came in as I was translating it. What I meant is well done, the people of Tanzania. Well done to the ruling party CCM and well done to the Opposition in Tanzania. You have made us proud. I beg to support this motion. Thank you very much.

The Speaker: Thank you, hon. Mumbi.

Mr. Twaha Taslima (Tanzania): Thank you, Mr Speaker. I am not opposing the motion. The only thing is that I would like to air my views about it and suggest maybe an amendment to the motion.

Mr Speaker, first I would like to remind this august House the way the United Republic of Tanzania is set in its government. The United Republic of Tanzania necessarily entails the government and people of Zanzibar. The general elections held on 25 October 2015 in both mainland Tanzania and Zanzibar has been able to produce the President of the United Republic of Tanzania but not yet the President of Zanzibar nor the members of representative council in Zanzibar.

Again the reason for this is that the Zanzibar Electoral Commission (ZEC) has reportedly declared a nullity the election held in Zanzibar. It is now said that the government is contemplating on having the elections in Zanzibar repeated but so far, no date has been fixed for that exercise.

On the part of the international community, particularly the United Nations, EU, United

States, UK, Germany and many others, they have called upon President Magufuli to endeavour to end the stalemate in Zanzibar because as it is in Zanzibar, they do not have a newly elected president, or vice president or the representative council.

Therefore, according to how the position is right now, I see that, after congratulating him, we have to add that he should endeavour to expeditiously end the stalemate that is ensuing in Zanzibar and I have told my friend hon. Jeremie to see to it that he agrees on my proposal of an addition to the resolutions; resolution four which could read, "To call upon His Excellency John Pombe Magufuli to endeavour to have the stalemate concerning the Zanzibar administration come to a peaceful end."

Having said so, Mr Speaker – (*Interruption*)
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The Speaker: Hon. Taslima, I hope you have circulated your amendment to the mover and to the table. Please do after you have-

Mr Taslima: Thank you. I will do that, Mr Speaker. My other point was about number one. The 'whereas' in number one which tells about these countries on having the treaty signed and all this- I think it can be pulled out without any problem and the rest will flow very well. Thank you, Mr Speaker.

Mr. Abubakar Ogle (Kenya): Mr Speaker, before I discuss the details of the motion, I am reminded that this House appears to have established some kind of a trend to congratulate members of the Summit whenever they win elections or whenever there are elections in their countries but I just wanted to seek some immediate clarification before I go further into the debate of the motion as to whether it was an oversight on the part of the Assembly or why any member did not even remember to extend similar congratulations to His Excellency Pierre

Nkurunziza. That should have been done, I thought, in the sitting in Nairobi. Having said that – (*Interruption*) -

The Speaker: Hon. Ogle, you are at liberty – When we were meeting in Nairobi, you should have introduced that motion if you really wanted to. Maybe it is still on the way but let us confine ourselves to this motion. Proceed.

Mr Ogle: Thank you. Bwana Speaker, I was instructively a member of the East African Community observer mission to Tanzania. Instructively I say because that was the first time that hon. Ogle, a very important member of this Assembly, was going for a non-committee work in the Assembly for the three years I have been here so it is very instructive that I was part of that and I want to thank the office of the Speaker and yourself, sir for choosing me to be part of that team. At least Ogle was not ... anymore.

Mr Speaker, when I went to Tanzania, there was one particular aspect that His Excellency John Pombe Magufuli was synonymous with. At all his campaign meetings, he would perform some press-ups and it had some other connotations. I wanted to get into the background to that thing but it was sending some message to the Opposition- whatever that was, I am not interested at this stage but at that point, Tanzanians were suggesting that President Magufuli, by virtue of his press-ups, has added a new word to the Swahili language. To do press-ups henceforth was going to become '*tumagufulika*'.

Later it turned out that *tumagufulika* was even a different thing altogether. Given the way that he is reacting to many things, and given his energy and presence in virtually every other government office, I think President Magufuli is the kind of person this region wanted. Therefore, it is just beyond congratulations. I hope he can continue the energy and stamina to ensure that this

Magufuli ...is taken on board in the entire region.

Bwana Speaker, I was in Zanzibar where a member said there was an inconclusive electoral process. What I realised in Zanzibar was that the process went on so well. In fact, it was so civil and traditional that they would just spread a mat, count the votes and there was an agreement. There was a sense of camaraderie and friendship obtaining during the elections and we never, as Africans, ever get wrong in conducting an electoral process.

The problem somehow happened to be that the results – Our problem has always been just telling the results as it were but there has been no problem in the process.

I also appreciate done thing about Tanzania. It is always pleasurable to be in Tanzania. The people are beyond this ethnic divide. There is no division and thanks to *Mwalimu* Julius Nyerere, the founder of that nation for having created that kind of cohesive society. Mr Speaker, I wish to support this motion.

The Speaker: Honourable members, I want to give slight guidance on this matter. You know this motion was presented yesterday and some members debated. My hands are a bit tied by our Rules of Procedure because this is the same motion of yesterday and our Rules of Procedure cannot allow a member to debate twice on a given subject on an Order Paper. But, you can be smart enough to know how to package your issues which you may not have exhausted by way of information, clarification and otherwise because those are allowed. The Rules of Procedure are before you. Use the Rules of Procedure. Thank you so much. Debate is still open.

Mr Martin Ngoga (Rwanda): Thank you very much, Mr Speaker. I may sound repetitive and for that reason, I will try to be brief. I just want to add my voice to congratulate the mover of the motion which

support for a very good reason that one of our own; one of the Partner States has emerged out of a hotly contested election as intact as ever and stronger than it has ever been because clearly the growth of democracy in that country is self-evident.

Mr Speaker, I was born in Tanzania. What we see in Tanzania today is a result of efforts that were put in place, and that have gradually grown strong by the founding father of that country. President Nyerere may his soul rest in peace. What I was only 14 years, I was sent to a boarding school very far away from my home and it was costly because we were facilitated to travel to schools away from our homes but that was a deliberate policy.

It was a deliberate policy to ensure that from a very early age, the youth in that country interact with others who are not from their tribes and homes. It was a strategy to get people of that country to interact from a very early age and build a sense of nationhood. That would continue through the process. Those who graduated at the university would be deployed in regions away from their own home regions.

I believe that such a policy and many others that were put in place at that time is what has made that country what it is today.

When that was happening in Tanzania, other neighbours were busy dividing their people and trying to create divisions even where they did not exist. Therefore, these are achievements that we cannot simply take for granted. Therefore, we have to congratulate first and foremost the founding father of that nation and the successive leaders who continued to uphold that important legacy because our democracies are fragile. It would be very easy to destroy them if we are unfortunate to have leaders in place who are not willing to uphold the legacy they found when they assumed the leadership so we have also to congratulate retired presidents of the

United Republic of Tanzania who did not fail the people of that country and have continued to build on what they found in place.

Mr Speaker, in conclusion, I want to congratulate President Magufuli for a very good start. He is a kind of a leader who can walk the talk so the *'hapa kazi tuu'* slogan is likely to grow stronger throughout his presidency, and we wish him success. We wish Tanzanians success; we wish them to continue to inspire the neighbours and the continent. We wish them well. Congratulations, Tanzania, congratulations to the people of Tanzania. Thank you.

The Speaker: Thank you so much, hon. Martin. Before I pick the next set of speakers, I would like to recognise the presence of the Deputy Secretary General, Finance and Administration and his team who are in the gallery. We recognise your presence, sir.

Ms Maryam Ussi Yahya (Tanzania): I thank you very much, Mr Speaker. First of all I would like to congratulate the honourable for his motion.

Mr Speaker, I would like to declare that I am also part of Zanzibar and I would like to make quick and brief comments about the situation in my own capacity.

Mr Speaker, I respect the amendment by hon. Taslima and I agree with it, but I just want to say that the Zanzibar Electoral Commission (ZEC) annulled the elections of Zanzibar and the ZEC commissioner had all the authority under the law of the revolutionary government of Zanzibar and we still have peace in Zanzibar. No one has been killed or persecuted because of the elections. I would... **(Inaudible)**... not confirming that the election was free and fair because our process in Zanzibar has not been finished yet – *(Interruption)* –

Mr Taslima: Thank you, Mr Speaker. I did not expect to have any counter arguments about what I had said earlier but I would like to inform my colleague that we have a number of threats from the internal community particularly the USA which have withheld a big chunk of money which was to come for our development in Tanzania and they said, “If you do not end that impasse as soon as possible, we are not going to give you this money.”

This money is for the people of Zanzibar, we cherish every other person who has put in his voice, and we are saying this so that it does not go to the extent of all of the development partners to have to withhold their assistance. Thank you, Mr Speaker.

Mr Ngoga: Thank you, Mr Speaker. Possibly I should have said this. I know that there are some unresolved issues in the United Republic of Tanzania but I believe that there are sufficient institutional frameworks in that country: political, legal that are self-sufficient in terms of how that can be resolved peacefully. Thank you.

The Speaker: Hon. Maryam, proceed.

Ms Ussi: Thank you very much, Mr Speaker. I would like to thank very much, hon. Ngoga. By his statement, surely, the process has not been finished but the country has not just stopped the whole process. There is a lot of talk going on and that is why I said that this process has not been finished yet so there is no way of debating over it deeply concerning that part of Tanzania.

However, I also want to finish my statement by saying that the legal time for the re-election, if Zanzibaris agree it is 90 days and it has not passed yet. I thank you, Mr Speaker.

The Speaker: Thank you so much, hon. Maryam.

Mr Peter Mathuki (Kenya): Thank you very much, Mr Speaker. I have to start by thanking you and the Assembly because I humbly offered team leadership in the observer mission on the part of EALA in the elections of the United Republic of Tanzania and obviously I have to thank you for the trust and confidence and also for the cooperation that we received from the members of the team of EALA.

In fact Mr Speaker, it is experience that the Secretariat of EAC were able to accept that automatically the team leader of EALA then deputises the overall observer mission team which I think is something commendable going forward.

Members of EALA were allowed to become the team leaders of respective deployment missions and therefore whenever they were going to different parts, they were the ones team leading and each member of that mission therefore was a sub team leader in respective places. I think that adds value in terms of our visibility but also in terms of leading in matters of good governance.

Mr Speaker, as I add my voice in congratulating President Magufuli and the people of Tanzania for demonstrating that indeed peace is very important because it was peaceful throughout. For some of us who were on the ground, we were able to see this and I want to support colleagues who were saying, we move very fast because it is work in progress as far as Zanzibar is concerned.

It would be in our interest as an Assembly to see that the issue of Zanzibar is concluded amicably and I am confident that the fifth President of the United Republic of Tanzania and the entire team have the capacity to ensure that this is sorted out.

Mr Speaker, the fifth President of the United Republic of Tanzania is proving one thing; that there is a positive correlation between

eradication of poverty and eradication of corruption because going by what he is doing, by fighting corruption, it is a clear demonstration that very soon possibly, Tanzania may join the first world countries and I remember that is how it started in Asia in the case of China when they decided that they have to fight corruption. That worked positively for sustainable development and to ensure that poverty is fought in that republic.

In a similar situation, possibly Tanzania may follow and I think this would be good for us in East Africa. So as we congratulate him for winning and victory, we want to encourage him to continue what he is doing in ensuring that corruption is fought and poverty is fought and that will again create employment in the United Republic of Tanzania to our advantage and benefit in the region.

So as he takes in the leadership and the challenge, we also call upon the rest in the country and in the region to support him in this new role because as we said yesterday, indeed it is godly and holy to fight corruption because that is what is taking Africa behind, when you look at the natural resources that we have in Africa, and yet we are still referred to as the third world, we do not understand. We seem to be seeing the bottom line problem as corruption and that is what President Magufuli seems to be doing.

I think as we congratulate him on his election, we also congratulate him and wish him well as he undertakes the war against corruption. I thank you, Mr Speaker.

The Speaker: Thank you so much.

Mr Adam Kimbisa (Tanzania): Thank you, Mr Speaker for giving me the floor. I also would like to congratulate the mover of the motion for bringing it on the floor because I think we did a very good and noble job.

Mr Speaker, we have all the reasons to congratulate President Magufuli for acquiring that highest office in the land. Some of us were there and we witnessed the style of his campaign. The style of the campaign can make people very happy, can draw sympathy and therefore can draw votes. If you have a very aggressive campaign, it is easy to annoy people and therefore you can have negative reactions.

In this particular case for hon. Magufuli, his campaign was very civil and in a respectful manner devoid of insult and name-calling. He was not attacking the Opposition, he was just laying what he was going to say and do and this impressed a lot of people because he was not aggressive or contradictory but he was consistent and in a peaceful manner himself.

Therefore, to me, he got his votes because he was a gentle campaigner and that is why many people voted for him.

I would also like to congratulate the people of Tanzania who maintained peace and tranquillity. You know during elections, people are hyperactive. A small spark can lead to a very big fire but in this particular case, that did not happen because the people of Tanzania observed that nobody was talking about tribalism, religious affiliation, nor where one comes from. People were talking about one nation, one country, and that is why we say we have to congratulate the people of Tanzania.

That is also why many observers if not all- The EAC said it was free and fair, SADC said it was free and fair, the Commonwealth did the same, the European Union did the same, and hon. Mathuki said the same. He was there as the team leader, and I think the job was well done, so to speak.

Most of us knowing hon. Mathuki, if there was something wrong, he would not have failed to say it so I think that to a reasonable

extent, the elections were free and fair. Indeed, there is no election, which has 100 per cent – I have never seen it. Even in America, we saw something in some years. Therefore, no election is 100 per cent perfect. The imperfections can be corrected as time goes by. As people say, we can also finish the issue of Zanzibar peacefully. As we are talking, there are so many people working on it so when the time comes, assuming that there is a re-election, I do not see the reason why some observers cannot go and observe. There is no problem with that.

Therefore, Mr Speaker, I say thank you very much. What is remaining now is to pray for the Tanzanians and the country to make sure that we are on the right path and pray for hon. Magufuli to keep on making reasonable changes. Thank you so much.

The Speaker: Thank you so much, hon. Kimbisa.

Ms Dora Byamukama (Uganda): Thank you very much, Mr Speaker for giving me this opportunity to contribute to this very important motion. I would like to add my voice to those who have spoken before me in thanking hon. Jeremie Ngendakumana for this very timely motion.

Mr Speaker, when I saw this motion yesterday, I was not ready but when we were given some time, I took off some time using our own resources to find out about the man; His Excellency President Magufuli.

I am reliably informed that he studied in a seminary for his ‘O’ level studies. I am also informed that he did a Bachelor of Science specialising in Chemistry at the University of Dar es Salaam. He did his Masters and PhD in Science at the University of Dar es Salaam. He was a former secondary school teacher in Sengerema teaching Chemistry. He later worked with Nyanza Cooperative Union before he joined politics in 1995. He was a

deputy minister and then a full minister of Works during the tenure of His Excellency Mkapa, and during the tenure of His Excellency Kikwete, he held three different dockets including lands, fisheries and works.

Mr Speaker, I think it is very important for us to appreciate and understand the kind of person who is now President of the United Republic of Tanzania. It also gives confidence to some of you here who may have gone to seminaries that you will also at one time maybe assume the presidency. I know Mr Speaker and hon. Frederic Ngenzebuhoro are some of those who went to the seminary.

Mr Speaker, having known the man and his background, it is of no surprise that His Excellency President Magufuli Pombe is actually doing what he is doing. Number one, he hit the ground running. This is very impressive and now he is known for the term '*Hapa kazi tuu.*' My rudimentary Swahili tells me it means that he is saying it is only work here now.

Mr Speaker, my wish is that this particular term spreads to the whole of East Africa especially to the East African Community and therefore, I look forward to seeing a change in the way we do business in the East African Community and since he is part of the Summit, I believe that it will be *hapa kazi tuu* in the Summit and beyond.

Mr Speaker, I was privileged to be part of the Regional Affairs Committee which did work in the United Republic of Tanzania soon after the elections. This could have been considered actually as an observation team in the aftermath, and what we found was peace. Work was going on as usual, but there was a certain expectancy in the air, especially when people learnt that they had to be at their desks rather than leaving their jackets on their seats.

Leadership in just about one week had transformed how the people think, how they act and the way that work is done this is very critical especially as we seek to move East Africa to a middle-income economy.

Mr Speaker, we were all keenly watching what was happening in Tanzania and I would like to commend the young people of Tanzania. A lot was going on, on social media, there was a lot of enthusiasm but the most important thing that I learnt was that it was clear to all the youth and all Tanzanians that Tanzania is bigger than an individual is. We have a lot to learn and I believe that the example that Tanzania has set will continue to urge all of us in the East African Community to do likewise and to be able to live up to the standards set in the African Union Protocol on Democracy and Good Governance.

I would like to conclude by supporting what has been brought up by hon. Taslima. It is very important that we are earnest and honest to ourselves because we know that the United Republic of Tanzania is made up of Tanganyika and Zanzibar and therefore this is like a body. If one part of the body is not all right, even if it is just a cut on the finger or on the toe, the rest of the body does not really function very well. Therefore, Mr Speaker, I hope that this amendment will be taken in the spirit that it has been proposed.

I would like to conclude by asking for prayers when it comes to our turn in the Republic of Uganda because we are going into elections and we hope that we will also be able to sail through the elections peacefully just as the United Republic of Tanzania did.

Finally, I want to thank your office, Mr Speaker, for reigniting the leadership that we had on the issue of election observation. I know and it was my sincere hope that maybe even before- Maybe at some opportune time, we would have the report on the election

observation mission so that together with what we have said today, we would continue to show that we are with the people of East Africa and that we promote democracy and good governance.

With these few comments, allow me to congratulate my sisters and brothers of the United Republic of Tanzania and to wish you well under the new leadership. I thank you.

The Speaker: Thank you so much, hon. Dora.

Ms Sarah Bonaya (Kenya): Thank you, Mr Speaker for giving me this chance to contribute to this important motion. I would like to start by thanking the Republic of Rwanda for the hospitality that they have granted to the members of EALA. In particular, I want to thank the Rwanda chapter for the great support they have given us during our stay to make it very pleasant.

Mr Speaker, Members have said a lot in contribution to this motion, and I do not want to repeat the many things that have been said. However, I would like to congratulate the mover of this motion for doing it in a timely manner because it is important.

I would want to congratulate President Magufuli and the people of Tanzania for the peaceful election that they have held and that is a great sense of leadership because of the peaceful manner in which it was conducted. From the prior contributions, I think that there is a lot that we can learn from the Republic of Tanzania from their history, from their current undertakings and they will be a great asset to us in future. There are quite a few lessons that we can learn from Tanzania.

President Magufuli in particular came in at an important time in our history as East Africans because the catchword "*hapa kazi tu*" will put all of us to task, and it will actually challenge all of us to focus on work and

nothing else. The other sideshows that have derailed us in the different Partner States and at the regional level - I think that word should now apply to all of us and it will be a big asset to us.

I am looking forward to him -as a member of the Summit- doing the same kind of things he is doing in the Republic of Tanzania where we are seeing great efforts in eradicating corruption; where we are seeing great efforts in cost-cutting measures to assist the resource poor country, and making people centred decisions in leadership. Actually, in Africa there is a point we have been missing in thinking about people centeredness in terms of leadership. We always think of big projects and contracts while the people on the ground are suffering with simple issues of health care, education, social services, security and other things.

Within a month, President Magufuli has demonstrated that given the right prioritisation, we can now work as leaders for the very people who elected us and show results to the same people because we are actually supposed to be accountable to the people who have elected us and put us into those leadership positions.

Regarding the issue of Zanzibar, I think I also need to add my voice to it. We have learnt quite a bit of lessons through the Tanzanian elections. I think President Magufuli, with all the good that we have observed in his leadership so far, there is one major challenge we all have as a region; we tend to take Opposition politics to be a source of enmity. Maybe that can be demonstrated through the good office of hon. President Magufuli that he can give us one more plus and show us the best way in which we can work between government and Opposition for one country with one destiny and towards one common goal. Thank you, Mr Speaker. I support the motion.

The Speaker: Thank you so much, hon. Sarah. Let me give the honourable Chair of Council, hon. Shem Bageine to say something on the motion.

The Minister of State for East African Community Affairs, Uganda (Mr Shem Bageine) (Ex-Officio): Thank you very much, Mr Speaker. I wish, on behalf of the Council, to extend our congratulations to His Excellency John Joseph Pombe Magufuli on his election as the fifth President of the United Republic of Tanzania.

Mr Speaker, the Council of Ministers has previously had an occasion to interact with the then Minister of Works Magufuli and he is very much aware of the vital importance of the sector he headed in the development of our Community which is the infrastructure.

The Council of Ministers looks forward to positive contributions from His Excellency Magufuli in ensuring that the outstanding Bills that need assent are assented to and more particularly, we look forward to his support in the Political Federation under which the Council is looking at the process of drafting the Constitution for the East African Political Federation.

I am aware of his zeal in this area and as I said, we are all eagerly waiting to interact with him, discuss and move forward on this very critical area of the EAC integration.

Mr Speaker, as some members have observed, I also took a keen interest in listening in on the reports during the campaigns and the elections and I want to say that I was pleased with the manner in which the politicians in the United Republic of Tanzania debated and eventually elected their leaders.

Mr Speaker, I want to concur with hon. Taslima who observed that there were certain external forces trying to take advantage of the

failure of elections in Zanzibar. It is our prayer as Council that the issue of elections in Zanzibar is expedited in order to avoid creating a sore in the body politic in the United Republic of Tanzania.

Once again, Mr Speaker, we as a Council congratulate His Excellency John Joseph Pombe Magufuli on his election as President of the United Republic of Tanzania and we support the motion. I thank you.

The Speaker: Thank you very much, honourable Chair, Council of Ministers. I now invite hon. Jeremie to respond and we conclude.

Mr Ngendakumana: Thank you, Rt hon. Speaker. I do not have much to add on the contributions of the members just to say that the people of the United Republic of Tanzania have the President that they deserved to have. Just a few comments on the contribution of hon. Taslima who proposed that the first paragraph of this motion be remove.

I would like to say that I infer on this provision of the Treaty just to have leeway to move this motion because we congratulate His Excellency John Pombe Joseph Magufuli as a President of one Partner State of this Community. That is why I would like to have this provision to remain as it is.

He also proposed that we come up with another resolution addressing the issue of Zanzibar. I think that it is a concern for all of us so I think that I take this resolution as a fourth one.

Let me now thank the members who contributed to this motion beginning with hon. Odette who contributed yesterday, hon. Patricia, hon. Mumbi, hon. Kessy, hon. Taslima, hon. Ogle, hon. Ngoga, hon. Maryam, hon. Mathuki, hon. Kimbisa, hon.

Dora, hon. Sarah and finally, hon. Chair, Council – *(Interruption)* -

The Speaker: You may wish to add hon. Shy-Rose on the list.

Mr Ngendakumana: Yes, excuse me. Hon. Shy-Rose also.

I move that this motion be adopted. I thank you once again. *(Applause)*

The Speaker: Thank you, hon. Jeremie Ngendakumana. Honourable members, this is a very important motion and of course you know most leaders always take the first 100 days in their office as a landmark period to set the tone of their leadership and I think President Magufuli has done that. Therefore, this House is in order to express itself the way it has done so.

The motion before this House is that this Assembly do resolve to congratulate the fifth President of the United Republic of Tanzania, His Excellency John Pombe Joseph Magufuli on his election victory and commending the people of the United Republic of Tanzania – *(Interruption)*

No, the rules do not allow anything at this point. The people of the United Republic of Tanzania on their commitment to peace, democracy during the general elections, 3025. I now put the question.

(Question put and agreed to.)

The Speaker: The ‘ayes’ have it. Congratulations, mover.

MOTION FOR HON. MARGARET NANTONGO ZZIWA TO SEEK SPECIAL LEAVE TO GIVE EVIDENCE IN THE EAST AFRICAN COURT OF JUSTICE IN RESPECT OF THE CONTENTS OF THE PROCEEDINGS AND DOCUMENTS OF THE ASSEMBLY

The Speaker: Honourable members, before I call the mover of this motion, I would like to encourage you that the report of the Committee on the Disaster Risk Reduction and Management Bill is being circulated. As debate proceeds, please acquaint yourself with it because after this agenda item, that is the next business that we are going to deal with.

Hon. Margaret Zziwa to move the motion.

Ms Margaret Zziwa (Uganda): Mr Speaker, I beg to move that this Assembly do resolve to grant hon. Margaret Nantongo Zziwa special leave to give evidence in the EACJ in respect of the contents of the proceedings and documents of the Assembly.

The Speaker: Secunder? Hon. Mumbi. Hon. Margaret Zziwa, you can proceed and move your motion.

Ms Zziwa: Mr Speaker, in accordance with Rule 26 of the EALA Rules of Procedure, I beg to move that this august House grants me and the under listed members of this Assembly, permission to give evidence and use some of the contents, the documents of the Assembly, in the EACJ case number 17/2014 Rt. hon. Margaret Zziwa versus the Secretary General of the EAC.

This motion is moved in respect of section 20 of the *EALA Powers and Immunities Act 2003*, which states that,

“Notwithstanding the provisions of any other law, no member or officer of the Assembly and no person employed to take minutes or record of evidence before the House or any committee shall, except as provided in this Act, give evidence where in respect to the contents of such minutes or evidence or of the contents of any documents laid before the Assembly or such committee as the

case may be in respect of any proceedings or examination held before the Assembly or such committee as the case may be without special leave of the Assembly first had and obtained in writing.”

Section 22 states, “*The Special leave referred to in sub section 1 may be given during recess or adjournment by the Speaker or in his or her absence or incapacity or during any resolution of the Assembly by the Clerk.*”

Mr Speaker, the parliamentary practice world over and basing on the principles of good governance, any Member of Parliament or Assembly can go to court to seek redress when aggrieved by the decisions or the actions of the Speaker or those in the rooms of Parliament. The aforementioned case is a result of the actions that took place during the Nairobi plenary on November 2014 and the events that followed of censuring the Speaker from the office that followed.

Contents of the documents, such as the *Hansard*, motions, commission or committee reports and resolutions may be some of the documents that may be used to give evidence in this matter. This case is already before the EACJ and is a requirement of the law.

Mr Speaker, I can mention that when the Assembly was in recess, I presented this request to you and the listed members, and you advised us to come before this Assembly. Therefore, I beg to move that the Assembly do grant the following members and me: hon. Mumbi Ng’aru, hon. Nakawuki Susan, hon. Shy-Rose Bhanji, hon. Makongoro Nyerere special leave to give evidence in the EACJ using some of the contents in the documents of the proceedings of this Assembly as the case may be.

Mr Speaker, I beg to move.

The Speaker: Thank you, hon. Margaret. If you wish to add some justification to your motion, this is the point before I invite the seconder – (*Interjection*). Procedure?

Mr Ogle: Mr Speaker, the mover of this motion is referring to section 20 of the East African Legislative Powers and Privileges Act. If my understanding and reading of that Act clearly serves me right, it is limited to a member seeking that special leave. As far as this motion goes, the mover is seeking not only her own special leave but leave for other members. So in view of that, I consider this application nugatory and defective so it is therefore inadmissible and I request that the Speaker therefore throws it out immediately. Thank you.

The Speaker: The honourable member rose on a point of procedure of how we are proceeding and quoted section 20 of the Act. I think the best thing you can do to a motion, which is moved, seconded and in this House – You cannot stop debate on it, you can only improve it by way of amendment and introduction of amendments and debate ensues on it until we logically conclude the motion.

On that note, I think the honourable member has presented her motion, as we shall treat it as presented.

Mr Chris Opoka-Okumu (Uganda): Thank you, Mr Speaker. As you have said, the honourable member has served us with a motion and it has been seconded. However, on the point raised by hon. Ogle, I think I had sought to amend this motion because one, section 20, as ably stated by hon. Ogle says, ‘any person’. No member or officer of the Assembly can give evidence in respect of proceedings or in respect of documents or contents of documents without special leave of the Assembly – (*Interruption*)

Ms Nakawuki: Mr Speaker, I am seeking clarification on where the words ‘any member’ is mentioned in this section 20 of the East African Legislative Assembly Powers and Privileges Act of 2003 because I do not seem to find it. It is not there.

The Speaker: Hon. Chris, the clarification is to you who is holding the floor.

Mr Opoka-Okumu: It was a slip of the tongue and I amended it immediately when I read. It is written, ‘No member’ not ‘No members’. It is, ‘No member can give evidence without seeking leave’ and this leave that has been sought in this motion is omnibus leave being sought on behalf of others. Even those others have not signed that they are part of this leave sought.

Therefore, it is actually defective but I hasten to add that it can be saved by striking out the names of other members since those members have the ability to seek leave on their own. That is one.

Two, if you look at the motion on the Order Paper, it is very clear – (*Interruption*) –

Ms Nakawuki: Mr Speaker, I am perturbed. I am just wondering whether we have started debate before the mover has even given justification. You had already guided and I thought the member would first give the justification and then we go into substantive debate because it appears that my colleague is debating the motion before we start the debate.

The Speaker: Thank you for the clarification. Hon. Chris has risen on a similar matter. I am giving him time to finish his clarification. After you have finished-Hon. Chris, first resume your seat. After you have finished the issue you are raising which is not yet debate, I will revert to the mover of the motion who will justify her motion and when debate is open, you will move by way

of debate to deal with the change you want on the motion. I think that is the only way we can procedurally proceed. Therefore, I guide that you summarise so that I have over back to the mover of the motion.

Mr Opoka-Okumu: Thank you for your guidance, Mr Speaker. as I was saying, this matter can be saved by striking out but it definitely appears very contradictory because the Order Paper reads very clearly that the mover and she has moved on the floor of the House that she is moving for leave that hon. Zziwa be given leave and not the other members.

It is only in the substance of the motion itself where other members have been named so it is contradictory. Thank you.

The Speaker: Thank you so much, hon. Chris Opoka. I have taken note of your concern and as I guided earlier, this can come when we are now dealing with the debate on the motion.

Honourable members, as you may know, matters of procedure can come at any time of the proceedings of the House and it will take precedence because maybe we are moving in error. That is why I will always give you priority on procedural matters. Hon. Margaret Zziwa, proceed with the justification.

Ms Zziwa: Mr Speaker, thank you very much. First and foremost, I want to mention that I am the petitioner in this matter and the case number is 17 of 2014. So the members listed are part of this matter so it is not a different matter.

The giving of evidence elsewhere is in line of this case so that is why the following members are part and parcel of this motion.

Mr Speaker, that notwithstanding, I want also to mention that this seeking leave is a duty on

our part as an Assembly as envisaged in Article 61 of the Treaty and also as reinforced in the EALA Powers and Privileges Act of 2013.

Mr Speaker, I want to thank you for being courteous and accepting this motion on the floor of the House and I beg that members support it because as it were, today it is me, tomorrow it somebody else. This very House will have to do what is envisaged of it under this Article.

Mr Speaker, I beg that members support.

The Speaker: I will start with hon. Mumbi who is the seconder before I come to you, hon. Chris.

Ms Agnes Mumbi Ng'aru (Kenya): Thank you, Mr Speaker. I stand to second this motion and I want to thank you because it takes courage and wisdom knowing the undercurrent...

On 19 December 2014, after you were elected by this House to be the Speaker, I was not present but I want to quote you. You said, "Under your leadership, majority will have their way and the minority will have their say."

Mr Speaker, even if hon. Zziwa were not my friend, if it happened to any one of us in this House and I had a reason that I convinced myself that the tyranny of numbers is against a member, I would still stand by that member.

Therefore, I want to thank you for allowing this motion – *(Interruption)* –

Mr Ogle: Mr Speaker, is the member in order to insinuate that we are using tyranny of numbers as though we are dictators to pass our motions and whatever we – *(Interruption)* –

The Speaker: Thank you so much, hon. Ogle. You know the scholars of democracy

and people who have studied a lot about politics and issues of numbers have always criticised the behaviour of the majority using that phraseology of tyranny of numbers but I hope the member is not insinuating that there is any tyranny of numbers in this House. Therefore, I hope that she is proceeding that way. Thank you.

Ms Mumbi: Thank you for your guidance, Mr Speaker and if the member cared to listen, I did talk about majority in your own quote. I am a political animal also so I have to speak politically and I am sorry that probably the member thought I was insinuating something else. I was just hammering the point and thanking you for allowing the minority to have their say in this Assembly.

As I said, it is very important to be truthful even if you have to stand-alone and to make sure that the rights of every one of us is protected.

It is important to feel for each other, and to know that we are our brother's keeper, that we are our sister's keeper. I thank the rules of this House because it is important that the rules be interpreted in a way that all of us feel comfortable as we use them and as they are interpreted to help us get comfortable in doing business of this House.

Mr Speaker, there is nothing to fear and a friend of a friend is a friend. A friend is a person who tells the other the truth. Therefore, as I spoke to my colleague and sister, the Rt. hon. Zziwa, I mentioned it to her, and I am going to put it here for record purposes that I wish her luck. However, even if she does not get the leave, she should walk out of the House very proud because she will present to the court a negative answer from the floor of the House to confirm that a minority have no say in the Assembly. So she is prepared to get a yes or a no. That is the work of a friend.

I also mentioned to her as a friend and as a sister that even if she won that case, my sister, I wished her luck because if she came back, it would take 24 hours to remove her from that seat. Therefore, I am standing to support the motion knowing very well that it can be a no or it can be a yes but either way, it is the right thing to do.

I ask this House to support her motion. Thank you.

The Speaker: Thank you so much, hon. Mumbi. Honourable members, before I open debate to the rest of the members, I think it is important for me as the Speaker of this Assembly to give you some chronology of events that happened that culminated into this motion to help you have a good and rich debate and take a very informed decision.

I did receive a letter from hon. Margaret Zziwa while in Arusha when the House was not sitting requesting me as the Speaker, as per the provisions of the EALA Powers and Privileges Act to give her permission or grant her the special leave.

Before that, I also did receive written requests from two members who are listed on this motion that is hon. Mumbi and hon. Susan Nakawuki requesting the same. I did not get any communication, verbal or in writing, from hon. Shy-Rose Bhanji and hon. Makongoro Nyerere.

When I received these letters, fully aware of how weighty this matter is, further aware that this was going to set a very prominent precedent in this House, and furthermore aware that the law says 'I may', meaning that there is leeway to refer the matter to the main House, in my wisdom as the Speaker, I advised the members who wrote to me that they should do so by way of motion into this House.

I therefore would like to congratulate hon. Margaret Zziwa for following my advice of seeking special leave by way of motion in this House. I now open debate. I thought this background is very important.

Mr Chris Opoka-Okumu (Uganda): Thank you, Mr Speaker. I would like to contribute to this motion. As I said before, the seeking of leave as anticipated by the provisions of section 20 is by an individual member and not one putting a motion and including the others because it says, "*No member or officer of the Assembly shall give evidence except provided in this Act give evidence elsewhere in respect of the contents of minutes or evidence of the contents of any document laid before the Assembly as the case may be without first seeking special leave of the Assembly first had and obtained in writing.*"

When you look at that provision, any person who wants to use documents of the Assembly should seek that leave and secondly, hon. Margaret Zziwa has done the correct thing. She is the only person who has signed to seek this leave. She is the only person who in the motion on the Order Paper, is seeking leave. The others are – So – (*Interruption*)-

Ms Mumbi: I hope the member on the floor has a copy that I have signed as a seconder. Thank you.

The Speaker: Hon. Chris, maybe I can help you on that. Secondment of a motion, hon. Mumbi can be done by any member not even mentioned in the motion. Your role as a seconder of the motion is as such and therefore I think you are a seconder of a motion as a person who supports the motion. Thank you.

Mr Opoka-Okumu: Thank you, Mr Speaker. That is precisely what I was going to tell my sister. That she signed there and she should look at the motion that she signed as a

seconded and not as a person seeking leave. Those are two different things.

Now that she has raised this, I would like to refer to what she was saying that – *(Interruption)*-

Ms Nakawuki: Mr Speaker, hon. Chris Opoka keeps referring to a procedure. I appreciate the fact that he is a learned friend and that he knows how learned friends submit. You submit with evidence. I want him to direct me to where I can find the procedure that he is constantly referring to because I do not seem to find it. Please clarify to me where I can find the procedure that you are referring to because when I read the provision of this Act, it is not providing the procedure under which I am supposed to do this.

The Speaker: You are seeking clarification from the person holding the floor debating the motion.

Mr Opoka-Okumu: Thank you, Mr Speaker. The section that has been referred to in seeking the leave; section 20 of the East African Legislative Assembly Powers and Privileges Act states about ‘no member’ and not ‘no members’. Therefore, it means that every member who is- That is my interpretation. You can have your interpretation and you have the right to stand up and say what your interpretation is. Every one of us here may have their own interpretation.

Therefore, my interpretation is that every member who is going to seek leave must do so. Hon. Nakawuki has not even signed if she is thinking that she is seeking leave. She has not even signed in this motion at all. Any person could have just typed her name but if you look at the motion, which is on the Order Paper, which was read by hon. Zziwa, that this Assembly do resolve to grant hon. Margaret Nantongo Zziwa – There is no hon.

Susan Nakawuki there. So that part, which was read on the record, is contradictory to what is in the body of the motion because in the body it is saying, we seek leave on behalf of the undersigned and her name was under listed. Hon. Nakawuki’s name was listed there and she has not even signed.

Therefore, Mr Speaker, my submission is that the individuals named can seek leave on their own but further to that, this special leave – When you get the chronology and hon. Zziwa gave the chronology also in the body of her document that she first wrote to you and you advised, when you look at section 20; the special leave of the Assembly, sub section 2 says, “The special leave referred to in (1)” That is leave of the Assembly and leave in the House is done by way of motion so the letters that were written were not really seeking leave.

Before I had asked that this motion of hon. Zziwa could be saved, in light of what my brother hon. Ogle had raised, by just striking off the names of those other people and for her to seek leave on her own. I have already made an amendment in writing to strike off the names of these other members: hon. Mumbi, hon. Nakawuki, hon. Makongoro and hon. Shy-Rose. This is my motion.

I would like to reserve to make comments on the main motion itself. Thank you.

The Speaker: Hon. Chris Opoka in his debate has moved an amendment to hon. Margaret Zziwa’s motion that the amendment is to exclude the other members other than hon. Margaret Zziwa who is seeking leave. For us to make any comments on this amendment motion, it needs to be seconded. Hon. Ogle, hon. Pareno, hon. Kessy, hon. Frederic and all the members standing.

Now honourable members, for us to proceed in a manner that will help us conclusively

come to the end of this matter, let us first dispose of every matter that arises on the main motion and then we proceed with the debate. Can we first dispose of the amendment that hon. Opoka is introducing? In doing so, I will give the mover of the motion an opportunity to also debate that motion that is moved by hon. Opoka.

Let me first give the seconder of the motion and then hon. Zziwa. Hon. Kiangoi.

Mr Joseph Kiangoi (Kenya): Thank you, Mr Speaker. I stand to second the amendment moved by hon. Opoka – *(Interruption)* -

The Speaker: Hon. Kiangoi, before you proceed, I would like to guide this House. The motion moved by hon. Opoka, is a procedural motion to cure what he called being a bit infectious to the motion, to allow it move very well. In his own words, he is saying ‘saving the motion to proceed’. You can proceed now.

Mr Kiangoi: Mr Speaker, I actually would have thought that the mover of the motion, hon. Zziwa, would have been very grateful to hon. Opoka because hon. Opoka has stood to save her motion – *(Interruption)* -

The Speaker: Let me hear a procedural matter from hon. Susan.

Ms Nakawuki: Mr Speaker, I am seeking your guidance. The way I see you handling issues of motions usually is when there is a proposed amendment, you usually give the mover of that motion a chance either to accept the amendment or not to accept it. I do not know whether this is a substantially different kind of motion that is separated differently or otherwise. I really need you to guide me on this.

The Speaker: Hon. Susan, as you remember, before hon. Kiangoi stood up to speak, I hastened to distinguish that this motion is a procedural motion on the main motion. It is

not a matter of adding a prayer or something like that and in my earlier communication, I guided you that any matter that will arise on this motion; I would like to dispose it off first for us to conclusively come with a clear resolution on this motion.

This matter is weighty. This matter is a matter of precedence to this Assembly and I therefore would like to give due attention to any member who would like to raise any issue on this motion. In case of any matter that requires legal interpretation, a member of this House who is the CTC. We shall seek his legal guidance. Honourable, proceed.

Mr Kiangoi: Mr Speaker, as I was saying, I would have thought that the hon. Margaret Zziwa would have been grateful because her motion has been saved.

The title of her motion is very clear. The body of her motion is not in tandem with the title of the motion. It is therefore a motion, which would have actually been rejected or would not have been taken on board. However, hon. Chris Opoka says that he wants to move an amendment so that we debate what is in the motion as per the Order Paper – *(Interruption)* -

Ms Nakawuki: Thank you, Mr Speaker. I would like to seek clarification from the mover. He is saying that the title is very clear and I am seeing that the title is very clear. I want to find out from him what he feels is wrong with this title because – Maybe we have different motions because mine says, “Motion to seek special leave to give evidence in the EACJ in respect of the contents of the proceedings and documents of the Assembly.” Could I be having a different one from the one of the current speaker on the floor?

Mr Kiangoi: Mr Speaker, I am reading the words under the motion, they state specifically, and I read, “*That this Assembly*

do resolve to grant hon. Margaret Nantongo Zziwa special leave to give evidence in the EACJ in respect of the contents of the proceedings and the documents of the Assembly.”

That is the motion before this Assembly. It is not hon. Margaret Nantongo Zziwa, hon. Susan Nakawuki, hon. Mumbi and the rest who are named – *(Interruption)* –

The Speaker: Hon. Susan, what you do is you rise up. That is our Rules of Procedure. The rules are before you, members. Let us stick to them.

Ms Nakawuki: Much obliged. Guidance, Mr Speaker. Mr Speaker, I am seeking your guidance because we have two different motions. There is the motion, which was moved by the mover, Rt. hon. Margaret Nantongo Zziwa, the one I have just read, and then there is the one, which was written by the Clerk on the Order Paper. It appears that hon. Kiangoi is reading the one, which was written by the Clerk on the Order Paper, but we have the substantive motion moved by hon. Zziwa on the floor. Therefore, I want you to guide me on which one is which.

The Speaker: Just before you give the information, hon. Susan, the motion that is on the Order Paper is the motion by hon. Zziwa. There is no other member other than hon. Margaret Zziwa who has presented a motion to the Speaker’s office to seek special leave of the House in accordance with the EALA Powers and Privileges Act.

As I guided earlier, the only communication that came to my office was by you, hon. Susan and hon. Mumbi in writing, seeking leave from me as the Speaker because then the Assembly was not sitting and I had advised. Since then, you did not revert to me. The only person who reverted to me is hon. Margaret Zziwa who heeded to my advice and has now brought a motion seeking

special leave of this House in accordance with the law. Thank you.

Mr Kiangoi: Mr Speaker, even when hon. Margaret Zziwa was introducing her motion, she read exactly what is in the motion and what I have read to this Assembly. Therefore, there can be no other motion that seeks any other prayers other than the motion that – *(interruption)* –

The Speaker: Hon. Kiangoi, on. Margaret has risen. Maybe she wants to give you information or something.

Ms Zziwa: Mr Speaker, I beg that I am again on record. As I started my motion, I said ‘in accordance with Rule 26 of EALA Rules of Procedure, I beg to move that this august House grants me and the under listed members of this Assembly permission to give evidence and use some of the contents of the documents of the Assembly in the EACJ case number 17 of 2014.’”

So I wanted that to be in context because it looks like when this motion was given, neither in the title do I say ‘Margaret Zziwa’. In the content, I have actually expressed that it is the members and me and that is why I am moving in that direction. Therefore, I thought that I should give that clarification so that the members would appreciate and to mention that this case is EACJ case number 17 and that is where all these members would be in position to appear. I thank you.

Mr Kiangoi: Mr Speaker, I want to conclude by saying that if it was intended to include the others, they would have been named in the title of the motion and I do not see that their names are in the title of the motion.

Therefore, I support the amendment by hon. Chris Opoka that their names be struck out and we deal with the motion of hon. Margaret Nantongo Zziwa.

The Speaker: Thank you, hon. Kiangoi. Honourable members, this is a motion, which has been presented by hon. Kiangoi as stated. I would like to give hon. Margaret the right to debate this provision as given there and express her opinion on the motion.

Ms Zziwa: Mr Speaker, thank you. I just want to stress that Margaret Nantongo Zziwa writes this motion along with the members listed. I am happy they are all in the House except hon. Makongoro who has a sick nephew and has not been in position to be in the august House but the rest of the members are here.

On the part of the writing of the motion on the Order Paper, this is the duty of the Clerk. My motion as was submitted to the Clerk and to you, Rt. hon. Speaker, reads as I had just read. It says that this august House grants me and the under listed members of this Assembly permission to give evidence and use some of the contents of the documents of the Assembly in the EACJ case number 17 of 2014.

In fact, as I was concluding, I said that “*I beg to move that the Assembly do grant me and the following members...*” and they were listed by name: hon. Mumbi Ng’aru, hon. Susan Nakawuki, hon. Shy-Rose Bhanji and hon. Makongoro Nyerere special leave to give evidence in the EACJ using some of the documents and contents in the documents of the proceedings of this Assembly as the case may be.

Therefore, Mr Speaker, I think the motion is very clear and explicit. It is – (*Interruption*) –

Dr Nyiramilimo: Thank you, Mr Speaker and thank you, hon. Margaret for giving me way. I would like to ask for clarification about this case number 17 of 2014 because it is mentioned in this motion and if hon. Margaret Zziwa does not clarify what it is

about, it will be very difficult for me to debate the motion. Thank you.

The Speaker: Thank you, hon. Dr Odette. We are dealing with a sensitive matter, which is before the EACJ, and reference can be made but deep indulgence into the subject matter may not be attainable due to our own Rules of Procedure. Hon. Zziwa, proceed. The purpose for which hon. Margaret is seeking special leave of this House is because there is a court case which has been mentioned in the motion that she has gone to court seeking redress against the Secretary General of this Community and she would like to use records of this Assembly in that case which is before court.

She would also like to have some members in her motion to go as witnesses in court. The Act is very clear that such a thing can only happen when there is special leave granted by the Assembly to the member who wants to utilise those materials and that is purpose – the depth of the reference, which she has mentioned- I guide that we do not go into that direction. Thank you. Hon. Margaret, proceed.

Ms Zziwa: Mr Speaker, I want to appreciate and thank you because you have been very clear and very straight to the point. Because of that, want to appreciate that this is a matter, which is in the purview or in the knowledge of many members. We have been in court and many members have been there attending and participating in some way so it is not a secret.

As I said when I was moving this motion and justifying, it is a duty on this House – (*Interruption*)-

Mr Opoka-Okumu: Mr Speaker, are we debating the amendment motion that I moved or are we debating the main motion? Thank you.

The Speaker: The clarification I would like to give to you, hon. Chris is that we are debating the procedural motion which you moved on this major motion and hon. Margaret is replying to your motion. That is what is obtaining and any other motion is free to debate it. Hon. Margaret, proceed.

Ms Zziwa: Thank you very much, Mr Speaker and you have been very good again because the clarification, which was sought by hon. Dr Odette, is what I was trying to substantiate in relation to what you clarified.

I would like to say that I do not accept the motion by hon. Okumu because fundamentally if the Clerk did not paraphrase the motion properly to have it on the Order Paper in the manner, as it should be, I think that fault should not be on me. I think the fault maybe can be on the Clerk to make sure that he is able to amend as it appears on the Order Paper but I think the first paragraph of the motion is very explicit and the prayer is very explicit. That is what I am praying this House to grant to me, Mr Speaker.

The Speaker: Thank you so much, hon. Margaret.

Ms Susan Nakawuki (Uganda): Thank you very much, Mr Speaker. I would also like to contribute on the motion by hon. Opoka. I would like to appreciate the fact that he has volunteered an amendment. The good thing is that the majority of us are present in this Assembly and you have not negated the fact that we would like to rely on the records of this Assembly as witnesses in that court matter.

Mr Speaker, when you look at the citation of this case, it is Rt. hon. Dr Margaret Nantongo Zziwa versus the Secretary General of the EAC, EACJ case number 17 of 2014 and I personally believe that whichever way the leave is sought, it is at the discretion of those

who want to seek leave because the law does not expressly provide for the procedure.

Mr Speaker that is why I would request that we concentrate on the form other than the substance because we would all want to proceed in a given way. Maybe one day we will all want to seek remedy from the East African Court of Justice and we will proceed the way you want to proceed because there is no express provision detailing the format that you should use.

I have perused and looked at this entire Act, have looked at the Rules of Procedure of this Assembly and I have looked at the Treaty and I have not seen any procedure so I do not want my honourable colleague to stand here and misguide the House, talking of a procedure that is non-existent.

If Rt. hon. Dr Margaret Zziwa brings an omnibus application with my name included and I have not shunned it or shied away from it and I am available to talk for myself, then I do not see why it should be an issue for someone to force an amendment on a motion that he did not bring to this Assembly.

Mr Speaker, when you read verbatim- I do not even want to go into the reading verbatim because of the time constraints but it is very clear. What we want is the leave, and it is what we are here for. Dr Margaret has sought the leave on our behalf; we are here to talk on our own behalf so I think we should be given a chance to also express ourselves on the real motion.

Mr Speaker, there is no need of striking off my name. If I come and do something and deep down in my heart my conscience is clear that I – *(Interruption)* –

The Speaker: Hon. Susan, are you insinuating that you prefer a situation where the members who are listed on the motion express their opinion on the motion? I hope

you are aware that you also wrote to my office seeking leave but I advised and you did not return to me. Do I take it that you have opted for this approach? How am I going to handle the question of hon. Makongoro who is not in this House? All these are issues of consideration but proceed with your debate.

Ms Nakawuki: Thank you, Mr Speaker. First of all, I would like to affirm that I have opted for this format.

Secondly, when I write to you individually and you responded to me that I should bring that motion before the Assembly, I sat down as a lawyer and realised that the matter was *sub judice* because it was awaiting ruling from the East African Court of Justice so I took a back seat. Of course, we went back to court, a ruling was delivered, and other appearances in court happened so we opted to come for this.

Mr Speaker, my issue apparently is, let us concentrate on the substance, which is the leave that we have come for from this Assembly. I know the Assembly has the discretion whether to grant the leave or not because it has happened in other countries before and that is what we should contrite on because just striking off people's names who are willing to go and testify and refer to the documents of court which are not classified documents but public documents does not make too much sense to me. I thank you.

Mr. Twaha Taslima (Tanzania): Thank you, Mr Speaker. I can see that we are going into the legal interpretation and for whoever has some knowledge about the legal interpretation, they should now contribute and I would suggest that the CTC should be preparing himself, looking at things.

My contribution is this. The law, which is EALA Powers and Immunities Act 2003, has made it very easy for a person to seek and get leave to go to the EACJ and give evidence,

particularly for those two people; the member and the officer of the Assembly who takes minutes or record of evidence.

It also says that this thing can be done by either the Speaker himself or even the Clerk, not even involving the whole of this august House. Now that we are here debating on it and putting into consideration what hon. Opoka has said, my views are as follows: the gist of section 20 is to give guidance on how a member or officer of the Assembly who is taking minutes in respect of the contents of such minutes can get this leave.

The word, which is a catchword as to the contention brought up by hon. Opoka, is where it is written 'no member'. He suggests that it should have been 'no members' to make it possible for hon. Zziwa to get in some other people and not herself alone – (*Interruption*) -

The Speaker: Hon. Susan, our rules are clear. You rise up and then you catch the eye of the Speaker. Please proceed.

Ms Nakawuki: My apologies, Mr Speaker. I just wanted to give my colleague information that saying 'no members' is grammatically wrong. I thank you.

Mr Taslima: Mr Speaker, the information is about the knowledge that I have and actually, this is what I was leading to. I am saying the phrase 'no member' could not have sounded otherwise. According to the rules of legal drafting, when the section is a prohibition like this one is saying 'no member shall do this', a member is prohibited. When it is a prohibition, it normally provides beginning with a single person being prohibited, which necessarily entails every person without exception.

Therefore, when they say 'no member' or 'no person', it means every person. Therefore, if someone thinks that it should have said 'no

persons' or 'no members' he or she is going out of context. It would be different for example if it were written like 'a member'. At least that could be debateable or arguable but here where we have 'no member', 'no officer' should do this, it means every member and every officer should not do this.

Once we have that one and a common understanding, what follows is that the worry is now the procedure of going by the provisions that have been given in this law. We find, as ably said by other members, that there is no procedure provided. It does not go on to say, if a member asks for leave, they should do this and that. These are not in the statute.

Therefore, whoever has chosen a route, as hon. Zziwa has chosen this route, firstly as you informed us Mr Speaker, that she came to you with a letter but you ably directed her to do this, this is a product of the conversation that took place – *(Interruption)* -

The Speaker: Honourable member, you may also wish to know that other members also did so, except hon. Shy-Rose and hon. Makongoro and I responded to their letter in the same manner.

Mr Taslima: I am much obliged, Mr Speaker. The way they had chosen to take has been reversed into this way. We are not attacking the way they have chosen to use but the objection is about the 'no member', that it should necessarily mean one person. According to the rules of legal drafting, when it says 'no member', it means everybody. So we should not belabour this because we know that they can go through other ways and reach the same thing.

For example, each of them can write like this and then it will be the same thing. So if we can shorten all that, let us go on and do that. Thank you, Mr Speaker.

Mr Peter Mathuki (Kenya): Thank you very much, Mr Speaker. I too stand to support the motion by hon. Opoka on amendment.

Mr Speaker, this House has one committee called the Legal, Rules and Privileges Committee, and this is the committee charged with the responsibility of guarding and protecting the rights and privileges of all the members, including hon. Nakawuki who, according to our Rule 55, has a direct interest in the matter we are talking about. She has not declared - *(Interruption)* -

Ms Nakawuki: Mr Speaker, I want to get clarification from hon. Peter Mathuki. He seems to know me more than me. I want to know which personal interest I have in this matter in a Community issue or in issues that affect East Africans. I beg to understand.

Mr Mathuki: Thank you very much, Mr Speaker. Not even going into details about this, for the simple reason she has mentioned and her name is in this, this is a clear case that she has an interest and therefore by me saying that she has an interest in this, I do not think it is adverse in any way.

When we come to the actual motion by hon. Zziwa then I think that it will be – *(Interruption)*-

The Speaker: Hon. Peter, first resume your seat and hon. Susan. I deliberately communicated to this House that hon. Susan Nakawuki expressed interest for leave from the Speaker and I advised her to come in a way of motion to this House to seek the special leave. I sought clarification from her in this very sitting here as to whether her non response to my advice meant that she opted for this that has been presented by way of motion including her name and in the affirmative, she said yes, she opted for that meaning that she has declared her interest in this matter. Thank you, you can proceed.

Mr Mathuki: Thank you very much, Mr Speaker and that is what I meant. Again Mr Speaker, it is fair and you rightly put it that in this motion, and save for those of us who expressed interest, for those others who have not done so expressly, it is right to protect their right in this case.

We are talking of hon. Makongoro who is not in this House. We must protect the integrity of that particular member. We are debating a motion where hon. Makongoro is mentioned. He has not expressed himself directly and he is not seated in this House. We must protect the dignity of that honourable member.

Therefore it is – (*Interruption*)

The Speaker: Hon. Peter, would you like to get information from hon. Susan?

Mr Mathuki: Mr Speaker, I have enough information. I have done a lot of research and I am a researcher by profession. I have a lot of information and I am not willing but I thank her for her generosity.

Therefore, it is fair that we protect the interests of that honourable member because when we are debating a motion and in that particular motion is a member who is not seated here, that member has not even expressly written to the Office of the Clerk or the Speaker to say that he is interested in this, it is not right, therefore, to debate the motion as it is and therefore, it is fair to amend it to ensure that the interests of the members who have not done so, do so.

I am saying that for hon. Makongoro because he is not in the House and so are other members. Hon. Shy-Rose may not have expressly said this so I think it is fair that we protect and guard the interests of this and therefore Mr Speaker, I feel it is not right to continue with the motion as it was in the beginning. That is why I was actually supporting the amendment.

Mr Speaker, finally as I support hon. Opoka's motion, when you look at rule 27 of our Rules of Procedure, if hon. Nakawuki felt that we should deal with the actual matter in this particular case and if in your opinion, an amendment is caused by hon. Opoka, it is not in any way changing the principle subject then I do not understand why she is having a problem with accepting the amendment. Therefore, I support the amendment. It is important that we separate this for good order and record. I thank you, Mr Speaker.

The Speaker: Thank you. I will give hon. Ole Nkanae but before that, honourable members, you may want to know that we are not in the business of interpretation of the Acts of the Community in this House. We are just dealing with the motion according to our Rules of Procedure and so far, we are operating well. Proceed, hon. Ole Nkanae.

Mr Ole Nkanae (Kenya): Thank you, Mr Speaker. I stand to support the motion to the hilt but it appears that we are going to play ping-pong in this particular thing. I suggest and I ask my friend to withdraw the motion then we deal with it the way it is and expose it. Thank you.

The Speaker: Honourable Members, I have given ample time for you to debate the amendment moved by hon. Chris Opoka. Hon. Opoka has presented his motion, it was seconded, and debate has ensued. He should have had a right of reply to members who have debated but I do not think it is necessary in the interest of time.

I am going to dispose of hon. Opoka's motion and we concentrate on the main motion. So I put the question that those in favour of hon. Chris Opoka's motion say 'aye' and those against say 'nay'.

Honourable members, this matter is a sensitive matter. Sergeant-at-Arms, count for me. Those in favour of hon. Opoka's motion

put up your hands. Those against the amendment motion by hon. Opoka. Sergeant, please report to the table. Those in favour are 18 and those against are seven. So those for take the day.

(Question put and agreed to.)

The Speaker: Thank you so much. Honourable members, the debate is on the motion as amended. Hon. Kiangoi.

Mr Joseph Kiangoi (Kenya): I thank you, Mr Speaker again. I stand now to contribute on the motion.

Mr Speaker, section 20 of the Powers and Privileges Act and specifically section 21 arises out of somewhere. The whole of that legislation in fact arises out of the Treaty, Article 61. Article 61(2) gives EALA the powers to enact a legislation to clarify and to stress on what is provided for in section 61(1).

Article 61(1) of the Treaty for the Establishment of the East African Community says, *“The members of the Assembly shall be immune from legal action for any acts of omission or commission in the discharge of their functions under this Treaty.”*

Mr Speaker, this particular provision is not only peculiar to the East African Legislative Assembly. In fact, section 43 also gives immunity to members of the court that in the discharge of their functions, whatever they do, they shall not be subject to any legal action. Article 43 provides for that.

Mr Speaker, this is in line with the principle of separation of powers so that the organs of the Community and in particular those two organs, because of the nature of their work and because of the nature of decision making by the courts, because of the nature of legislation by the Assembly, that they shall

not be subject to the direction of any person so that they do their work independently.

Hence Mr Speaker, the East African Legislative Assembly enacted an Act of the Community which is now the East African Legislative Assembly Powers and Privileges Act of 2003.

If you look at sections (3), (4), (5) of the said Act, it is stressing on the fact that the members’ actions and decisions shall not be subject to any legal action.

Section 20 (1) further stresses that even the proceedings of the Assembly shall not be used elsewhere and elsewhere includes the court. Elsewhere without special leave of the Assembly.

Mr Speaker, I raise one issue. If section 61 absolves members from legal liability, can the Assembly be subject to legal liability? In the same way, if Article 43 absolves members of the Judiciary from legal liability individually, can you sue the East African Court of Justice?

Mr Speaker, in my answer, I answer in the negative. This provision as meant to protect whatever we – *(Interruption)* I do not need information, Mr Speaker.

Mr Speaker, this provision was meant to protect whatever proceedings we undertake here and they shall not be subject to scrutiny by any other person. This is important because this is an independent organ.

The provision therefore covers whom, one may ask. The provisions, in my own interpretation, covers people who may wish to use proceedings of the Assembly not in courts because courts have been excluded and legal action has been excluded. Legal action against members and against the Assembly itself has been excluded. Therefore, it may be used elsewhere.

In that situation therefore, a member or an officer of this Assembly can now use the proceedings of the Assembly with special leave of the Assembly. Mr Speaker, this is important because of the principle of separation of powers. The moment we allow proceedings of the Assembly to be scrutinised, to be subject to question by another organ then we shall have lost our way as an Assembly.

Mr Speaker, in the motion, the mover says that it is the practice everywhere in the world that if a member is offended by the ruling of the Speaker then a member is allowed to sue the Speaker. I do not know where it applies elsewhere in the world. It does not. If we take the countries of East Africa, it does not apply in Kenya, in Uganda or in Tanzania. I do not know where it applies elsewhere in the world.

Therefore, Mr Speaker, this Treaty is very important. This Treaty is what guides this Assembly, and before each one of us became a member, we took an oath of office. That oath, which is provided for in the Powers and Privileges Act, provides that we shall have allegiance to the Community and defend the Treaty.

We cannot defend the Treaty by allowing a member to sue the Assembly or use our proceedings to sue the Assembly or the Community or question the proceedings of the Assembly, which is against what is given in Article 61 of the Treaty.

One may ask; what about Article 30? Article 30 was not meant for members of the Assembly. My reading of it is that it is not meant for members of the Assembly. It is meant for other people outside; any resident of East Africa. Mr Speaker, I will read it so that we are clear on that one. It says, "*Subject to Article 27, any person who is a resident in a Partner State may refer, for determination by the court, the legality of any act, regulation, directive, decision or action of a*

Partner State or institution of the Community."

Mr Speaker, in this Act, members are specifically defined so any person resident in a Partner State of the Community does not refer to members or officers of the Assembly. To strengthen that, we will go to Article 31, which specifically provides for employees of the Assembly to take legal action. They are allowed to take legal action against any institution of the Community.

If Article 30 was meant to cover members then the framers of this Treaty would have specifically provided for it as it provided for employees or if 'any member resident in a Partner State' was meant to cover everybody then there was no need to provide for employees in Article 31.

Therefore, Mr Speaker, this is a matter of great importance to this Assembly because it touches on the independence of this Assembly. The only sensible thing we can do is to protect and defend the Treaty.

Mr Speaker, having said that, I will not belabour to add on Article 20(2) where the Speaker is supposed to give that leave in the absence of the sitting of the Assembly. The only way is to apply to the Assembly and it is only after you apply to the Assembly individually that now the Speaker may say, there is an application here and therefore now that the Assembly is not sitting, I will now give leave in accordance with section 20(2).

The first thing is to apply to the Assembly and the only way to do so is by way of motion. Mr Speaker, I, therefore, because of the reasons that I have given, urge this Assembly to protect and defend the Treaty and decline to give this special leave that is being sought. I thank you, Mr Speaker.

The Speaker: Thank you so much.

Dr Martin Ngoga (Rwanda): I thank you so much, Mr Speaker for giving me this opportunity to contribute to this debate.

Before I go there, I wish to beg your permission to use my notes here in order to save some time. It will be easier for me to go faster – *(Interruption)* -

The Speaker: You can constantly refer to your notes but in a way that will save time.

Dr Ngoga: Thank you very much, Mr Speaker. Permit me also, Mr Speaker, to take this opportunity, before I contribute substantially to that motion, to express my satisfaction regarding the way we are taken care of here in Rwanda.

First and foremost, I want to add my voice to others who have spoken before me to thank the people of Rwanda and the government of the Republic of Rwanda and the exceptional leadership of His Excellency Paul Kagame, the President of the Republic of Rwanda.

In a special way, I wish to thank our colleagues of the Rwandan chapter who are doing their best to ensure that each of us feels well day and night in this beautiful capital of Kigali and this nice country.

Indeed, I concur with hon. Isabelle in thanking the Chair chapter, hon. Patricia Hajabakiga for how she managed to take care of us. However, she is not alone in doing so and I want to express by thanks to Dr Odette. In fact, hon. Odette, apart from being a medical doctor, is also a farmer like – *(Interruption)* - and me

The Speaker: Honourable, with that very good appreciation, can you now go to the subject matter?

Dr Ngoga: I am much obliged Mr Speaker but I had not yet finished the sentence of thanking. In a special way also, Mr Speaker, this plenary is very special for each of us but

when it comes to Burundians, I wish to say that this plenary has been of particular importance.

Simply said, it has been historical. So, as this plenary is coming to an end, as Burundians, and especially as a vice chair of the chapter, I could not miss this opportunity to thank you, Mr Speaker, and through you, this august House, for your attention, for your commitment, for your interventions and for your support and prayers that you have been addressing to Burundi and Burundians since this country went into crisis.

Mr Speaker and honourable members, as you know, in some circumstances, it is challenging to find fitting words with your feelings. It happened to me and I thought that this very brief anecdote would help me to summarise what I feel. This anecdote is about a senior pastor in my church who in his 60s, was nominated to be a chaplain in the army. He joined the army for his first time and according to the rules, he would start his functions at the rank of a commander.

Unfortunately, the army coaching services delayed to teach him some elementary rules including the military salutations so he had to use what he knew before joining the army and in fact he knew very little and wrongly. He knew that the manner of greeting would depend on the ranks of people. He therefore decided to salute his fellow colleague commanders with one hand, the majors who are above with two hands, the colonels with two hands and raising one foot and the generals with two hands and jumping up to salute them.

Of course, the colleagues saw that he was lost and quickly taught him how to do it. Now Mr Speaker, considering what we have been doing since Burundi went into trouble and even when I remembered a statement – *(Interruption)* -

The Speaker: Hon. Dr Martin, I would like to guide you that there is a substantive motion on the floor. Your prelude to the debate on the motion should not be very long.

Dr Ngoga: Thank you, I am most obliged. My contribution stands on three feet; on my concept of leadership, on my wish of EALA moving forward and my appeal to everybody to an exercise of transcendence.

My concept of leadership, Mr Speaker is related to what is called the servant leadership. It begins with the natural feeling that one wants to serve first. A servant leader focuses primarily on the growth and wellbeing of people and communities to which they belong. In other words, servant leaders place interests and needs of the collaborators ahead of their own self-interests and needs.

It is in that leadership, I think, and I feel and I am sure that we are now. I wish to maintain and sustain this momentum of being and improving our leadership skills towards the servant and transformational leadership. We should leave far behind the bad and traditional leadership that focuses mainly on personal interests instead of focusing on members and Community interests.

Therefore, personally, I do not support this motion because in my opinion, this motion is based on personal interests rather than common and Community interests and for that, I think I am right in referring to Article 3 of the EALA Powers and Privileges Act, 2003 which provides that, *“There shall be freedom of speech and debate in the Assembly and its committees and such freedom of speech shall not be questioned in any court of law or place outside the Assembly.”*

The second foot of my contribution is related to the necessity of moving forward. Mr Speaker, my feelings once again seem to be

related to a very sad history in our Third EALA life. We have spent at least one year and a half in under delivering our duties simply because – *(Interruption)*

Ms Nakawuki: Mr Speaker, rule 37 sub rule 6 says, *“A member shall not read his or her speech but may read short extracts from written or printed papers in support of his or her arguments and may refresh his or her memory by reference to the notes.”*

Mr Speaker, basing on this rule, is it in order for a member to start reading a prepared text word for word and taking it as a debate.

The Speaker: I think you rose on a procedural matter and not a point of order. Procedurally, if a member would like to read a speech, he has to seek leave of the Speaker, the honourable member indicated that, and I referred to him that you can constantly refer to your text. So hon. Martin, can you please proceed?

Dr Ngoga: Thank you, Mr Speaker. I was saying that this motion seems to me, to be related to a sad story of our Third ELA life. We have spent too much time and simply because we lost that time by struggling, insulting, divisions between ourselves. We have been what is called in French *‘la lisse d’tout le monde’*, which means the laughing stock of everyone. Thanks to God that we finally managed to overcome the crisis and since then, we are performing very well.

Most importantly, we are ready to catch up on the time lost and we can expect that we will succeed and maintain the momentum.

I am again against the motion because I feel that it leads us 1000 steps backwards towards paralysis.

Finally, Mr Speaker, the third foot of my contribution is to appear for each of us to try an exercise related to transcendence. By experience, I know very well how one feels

when he or she gets a very high position like speakership or presidency of a country or vice presidency of a country. When you get there, of course, you feel honoured, you feel proud and somehow you have power.

I also have experience of the feelings that one can have when he or she leaves such positions unexpectedly. You feel bad, even dishonoured and some go into depression. However, Mr Speaker, although it is sad to leave such positions, I can assure you by experience that when you manage well, that sadness can quickly be replaced by happiness.

After losing a position, when you rely on good and wise people, especially positive colleagues and when you add to that, the concept of reconciliation, forgiveness and so on, you can get even a higher position. The third EALA is ending in one year and a half but it is not the end of life. For those who are believers, God has planned god things. It only takes our own decision either running behind what we have lost or moving forward for a better wellbeing.

Otherwise, it is the right of each of us to ask members to give them a tool that they could use to bring trouble. On that note and again, I beg that this august House does not support this motion. I thank you so very much.

Ms Judith Pareno (Kenya): Thank you, Mr Speaker for this opportunity. I rise to oppose this motion by hon. Margaret Zziwa vigorously. I ask this House to do so similarly, and for all of us to put this matter to rest today by opposing this motion.

Mr Speaker, this motion is based on a provision of the EALA Powers and Privileges Act of 2003, which states as follows... You will forgive me because I will try to be very fast.

Section 20(1) says,

“Notwithstanding the provisions of any other law” – I want us to note “notwithstanding any other law”, no member or officer of the Assembly and no person employed to take minutes or record evidence before the Assembly or any committee shall not, except as provided in this Act, give evidence elsewhere in respect of the contents of such minutes or evidence, or of the contents of any documents laid before the Assembly or committee as the case may be, or in respect of any proceedings or examination held before the Assembly or such committee as the case may be’.

I now underline *“without the special leave of the Assembly”* which should be even in writing. That means that the provision under which this motion is brought does not even allow any other law of this Community to allow any body to use our proceedings.

It goes on to say ‘without special leave of the Assembly’. Who is the Assembly? The Assembly is the House. It has to pronounce itself and I am glad that today we shall pronounce ourselves.

Mr Speaker, somebody may say that there is no procedure under which the applicant can evoke this section but I wish to say that it says ‘without the special leave of the Assembly’. How does an Assembly operate? Don’t we have procedures of this Assembly? This Assembly only operates through motions, petitions, Bills and questions. There is no provision for letters. The only other way you can talk to this Assembly is by way of motion and that is why I am glad, Mr Speaker that you directed that the petitioner address the Assembly through a motion and I am happy that the motion is here.

Mr Speaker, what was the intention of the law? Why did we have such a provision? Why didn’t we just allow people to come, take our proceedings, and use them? The intention of the law is to protect the integrity

of this House. The intention of the law is to protect the members when they are in debate, when they are making their speech. I do not want to be turning back to say, “Oh, can hon. Margaret Zziwa sue me when I say this?”

This Assembly is protected so that whatever you pronounce here, you do not turn back and be afraid to pronounce yourself and that is the effect of this provision. That is why we cannot allow and this law does not allow anybody to sue the proceedings of this Assembly elsewhere without special leave.

Mr Speaker, we are talking about the East African Legislative Assembly Powers and Privileges Act but this Act flows from our own Constitution, which is the Treaty, and what does the Treaty say? It is a parent law that cannot just be wished away. Article 61, Powers, privileges and immunities of the Assembly and its members. 61(1) says, “*The members of the Assembly shall be immune from legal action, from any acts of omission or commission in the discharge of their functions under this Treaty.*” We have immunity, nobody can question me and whatever I say in this Assembly is within this Assembly, it must be within the rules of this Assembly. I am immune from any legal action so I am immune from the legal action that the honourable member has instituted.

In fact, to me, it is wrong for that suit to be entertained before that court as long as it touches on the proceedings of this Assembly. However, of course a member has a right to go before the court on any other matter that does not touch on the proceedings of this Assembly. So to me it is against the principles that are set in this law, the principles that are set in the Act; the principles of practice in Parliament for a sitting Member of the House to ask this House to give leave to the Member...In fact it is against natural justice for you to come and tell me – Probably I will give an example.

Hon. Judy Pareno, you have a spear and a sword like the Maasai that I am, please give me so that I use it against you.

Even natural justice cannot allow that. You cannot be the House that gives out the same proceedings to be used against you. Mr Speaker, why do I say this? We are immune to legal action. What did we do as an Assembly and what did this case number 17 talk about? It says, in two sentences because we have been in court, we have heard and it is in our knowledge. It says that one prayer is that we annul everything that this Assembly has done from that day that we removed the Speaker. When we annul, it means that we shall not have the Speaker we wished and will as a House. What will that mean for this Community? That all that we have done in the last one year is going to be wasted.

The second prayer that this case talks about is that in case you do not return me to sit as a Speaker then pay me damages and punish this Assembly to pay damages for having done its work. Mr Speaker – (*Interruption*) -

The Speaker: Hon. Pareno, avoid going into the substance of the matter before EACJ.

Ms Pareno: Yes, Mr Speaker. I am aware and I am well guided. That is why I say that this matter should not even be entertained in the first place in the courts of law when it touches on the proceedings of this House.

So Mr Speaker, we acted in our discharge of duty and removed a Speaker. We are the ones who elected this Speaker. We decided to remove so I am protected from being harassed or discharging my duties by none other than the Treaty itself and somebody is telling you “Strip yourself of these powers that you have been given by the Treaty. Strip yourself of these privileges that you have been given by the Treaty. Strip yourself and allow me to be the only beneficiary against yourselves.”

I urge this House not to make a mistake to allow something that has no precedent in other parliaments, to allow this Assembly to be stripped of the powers and privileges that have been given by the Treaty, which is Article 61, and to mock your own Act as an Assembly. You said that everybody has a right of speech in the Act. You said everybody has a right to debate. You said nobody is going to be sued and somebody has dared ...

That is a mockery of the proceedings of this Assembly.

Mr Speaker, if you look at the heading – I will avoid to go into the details of the case that we have before the court. It is an honourable member, hon. Margaret Nantongo Zziwa against the Secretary General. The Secretary General is a member sworn as a member of this Assembly and the Secretary General has not been sued in his capacity as an individual, he has been sued for and on behalf of this Assembly. This Secretary General must be protected; this Assembly must be protected because we only need to pronounce the provisions of the law that protect all of us.

Mr Speaker, it is like what the hon. Martin has said that the motion we have before this House is a very selfish motion; a motion that seeks to uphold an individual's interest to the detriment of the entire Assembly; an individual's interest against the powers and privileges of each and every member of this Assembly; an individual's interest to be upheld against the interests of the entire Community, which has five Partner States. This is a motion that must be defeated in such a way that it will be heard that we have stated so as an Assembly.

Mr Speaker, I wish to say that in fact if you look at the Treaty, it says even where we go wrong, which is what is called an omission, even where we omit by mistake, we are even excused from omissions by this Treaty. Even

where we commit like where we did a commission by removing her, and we do it wrongly by our own way of procedures, we are exempted because we are protected as an Assembly.

Therefore, the Treaty talks about omissions and commissions. You cannot be sued so who is this member coming to sue me for a duty that I was sent for in this Assembly even when I have protection of the law? I say that we must defeat this motion and protect the integrity of this House.

Mr Speaker, initially I even felt that in fact at one point while the member was seated in the same place that you are seated today, when the motion for removal was brought before this House, the rule of *sub judice* was waived and we said, “*Sub judice*, you cannot mention anything because the matter is before court.” How comes today she does not recognise that this matter is *sub judice* and that it is before the court and it is not concluded? Is it still the same selfish interest that when it is I then it must be this way?

This matter is pending before court. It is sad that we are discussing a matter that is pending before court because we must look at an individual's interests. That is rule 42 of our rules.

Mr Speaker, I want to be brief. The section under which this motion is brought; section 20 of the EALA Powers and Privileges Act talks of special leave. Where you must give leave, it must be special leave. Has the mover of this motion displayed anything special, even a small thing that shows that there is special need for me to get this leave? All we have is a motion quoting that section.

Even when she moved this motion, there was nothing to show that there is anything that calls for special attention by this House. It is just a case like any other case, brought by an individual and it can be handled by the court

but within the rules and the laws that have been set by this Community - *(Interruption)*-

Mr Ngenzebuhoro: Thank you, Mr Speaker and thank you, hon. Judith for giving me way. It is unfortunate that special leave is not defined in the Act but personally, I have done some research and found that a special leave is granted when there is an extra ordinary situation where legal issues require its immediate attention or where a question of law on a general public importance arises. I do not see in this motion where there is general public importance. Thank you.

Ms Pareno: Thank you for that information. Therefore, I submit that there is nothing special that warrants the attention of this House. In fact, we are wasting time. Instead of doing important things for this Community, we are being dragged back every single day and wasting time that we should have been discussing the DRR Bill, passing it but we are back where we are referring to things that we did a year ago.

Finally, Mr Speaker, I want to look at section 4 of the Powers and Privileges Act and that sums it all. It say, *“No civil or criminal proceedings may be instituted against any member for words spoken before or written in a report to the Assembly or a committee or by reason of any matter or anything brought by petition, Bill, motion or otherwise.”* Not even criminal proceedings can catch you so we are protected from any criminal proceedings as long as you are in this House, within the precincts. When you are performing the business of this House, you are protected from any civil proceedings and you are protected from any issues that arise out of a motion that has been handled by this House. That motion is the removal of the Speaker. We discharged out duty and nobody can bring a civil or criminal case against us for that motion as specified by this law.

I rest my case by appealing to all the members to unanimously pronounce themselves in such a way that this matter shall never come back to this House again.

The Speaker: Thank you, hon. Pareno. Honourable members, time is not on our side. I will give you very brief moments like three minutes each such that we can proceed.

Mr Peter Mathuki (Kenya): Mr Speaker, I want to start where hon. Martin ended by saying that those of us who met the pope, who are firm believers of meeting the Pope and who normally, invite the Pope whenever he visits, as I was one of them in Kenya, that indeed there is hope in every situation.

Therefore, it is very important for the record to notice that today we should term it as one of the darkest days of this Assembly because it is today that a serious temptation is being put into demeaning this House.

Mr Speaker, when you talk of parliamentary immunity, we are talking of a system where members are granted immunity from prosecution and if you are to prosecute an Assembly or members, it is the same Assembly to lift that immunity. Are we saying therefore that we are lifting an immunity that we are enjoying as members? Are we lifting an immunity that this House enjoys?

It is unfortunate that we are seated here today to discuss and debate a matter that many of us in the Community, including the many organs and even the Summit at some point congratulating this House for coming to an end of a crisis that we were in. therefore now, having pronounced themselves sin that way, we are talking of a situation where now we want to involve other organs as we are an organ of the Community to demean ourselves.

Therefore, I think it is unfair, it is unfortunate and if possible, we could have provisions where those members that attempt to provoke or to demean this House can be taken because it is very unfortunate. Why should we allow ourselves, for whatever reason – We are setting a precedent and the precedent we are setting here will be used in the next one million years in so many other situations and courts and the moment we allow this to happen – *(Interruption)* –

Ms Hajabakiga: Thank you, Mr Speaker. I declare that I am not a lawyer but following what my brother, hon. Mathuki is saying, I tried my best to go through the international journals and practices where speakers have been impeached and I have never seen anywhere where they have gone to court on a matter similar to this one. Therefore, as my brother says, if we do that, we will create a precedent, which has never been heard of in the world. Thank you.

Mr Mathuki: Thank you very much. I think that is very important information. In fact, the first attempt was done in 1062 and that situation never succeeded. Therefore, it is repeating itself in 2015, after so many years in this Assembly of East Africa. We must not allow that, Mr Speaker. We must pronounce ourselves to protect the integrity of this House and us so that no one who may think of going in that direction in future may succeed because it is important to protect the integrity of this House.

Giving the unassuming and respecting the independence of the organs of the Community, look at it this way. This is an independent organ of the Community. Look at our Rules of Procedure. Rule 3 gives us, as members of the Assembly, exercising our mandate independently as a House are not bound by any instructions or orders from any person or authority regarding the exercise of our own mandate.

So are we saying that we purge our own rules and Acts that we make every time we sit because one of our key objectives is to legislate? We legislate and the law we are using is one of our own laws and now should we go against it? What is it that we shall be doing?

Mr Speaker, I stand to object this motion and say that it is important that we protect the integrity of the House and the honour and dignity of members of this House. I submit and I thank you.

The Speaker: I had given the order of speech ...but hon. Chris, you have over participated on this motion as you moved an amendment. Hon. Susan.

Ms Susan Nakawuki (Uganda): Thank you very much, Mr Speaker. I rise to support the motion as moved by Rt hon. Margaret Nantongo Zziwa. I will start my submission with Article 6 of the Treaty for the establishment of the East African Community. Thereunder, I will draw your reference to Article 6(d). This is an Article, which talks of the fundamental principles of the Community. (d) In particular reads as follows, *“The fundamental principles that shall govern the achievement of the objectives of the Community by the Partner States shall include good governance – (Interruption) -*

Mr Ogle: Mr Speaker, to the best of my recollection, the honourable member contributing is also a member of the law firm that is representing hon. Margaret Nantongo Zziwa in that case before the court so I just want to understand and get some clarification. In what capacity is she doing that? Is it from the perspective of a lawyer or a member of that law firm or could she perhaps have declared some interests – *(Interruption)* –

The Speaker: Honourable members, I know we have passed a code of conduct that has issues to do with interests of members and matters before the House and it is a very tricky situation that we find ourselves in. The member may have to declare an interest and proceed knowing that the House knows where her interests are. This is according to our rules and code of conduct. Hon. Susan, proceed.

Ms Nakawuki: Mr Speaker, it is true that I work with Kampala Associated Advocates. This is a firm of over 30 lawyers and I am not among those who were given instructions to represent Rt. hon. Margaret Zziwa. I stand here in my capacity as a member of the East African Legislative Assembly and one of the members who sought leave to use the record of this Assembly in the East African Court of Justice. Therefore, I am here in my own right and that is how I stand and present before this august House - *(Interruption)* -

Mr Mathuki: Mr Speaker, thank you very much and thank you, hon. Nakawuki for giving way. If you look at rule 55 of the Rules of Procedure, it says that if somebody must declare his or her interests of herself or the firm that may be participating in a contract or services of the Community. The firm she is working for is participating in that case and it goes further to say, in the event that it is determined and she has confirmed that and given that information, then that person is supposed to be referred to the Committee of Legal Rules and Privileges for discipline.

Therefore, Mr Speaker, as the Chair of that committee, I plead that you refer this honourable member to my committee so that we can deal with that situation and give further information. Thank you very much.

The Speaker: Thank you so much, hon. Peter. Hon. Susan Nakawuki has actually declared her interests even earlier on by saying she wanted to be enjoined in the

motion before we amended it. Further, she has declared her interests that she belongs to the firm that is representing hon. Margaret Zziwa. She further went to give clarification that she is not part of the team in court but the rule says if you have not declared, we refer you to the Committee of Legal Rules and Privileges because you would have acted in a manner of being dishonest to these rules and the Assembly.

Therefore, she has declared her interests so we treat her as such, with that bias. Hon. Susan, proceed.

Ms Nakawuki: Thank you, Mr Speaker. I will start by saying that rule 55 refers to declaration of personal interests in Community's contracts and the Community is defined in the Treaty. I would request my honourable Chair of Legal- I appreciate that you are not a learned friend. I would request that you go and read these words verbatim. They will help you a lot.

I know that was intended to be diversionary but I will go back to the gist - *(Interruption)*

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The Speaker: Honourable, the Speaker has ruled on this matter. Proceed on your debate.

Ms Nakawuki: Thank you, Mr Speaker. Mr Speaker, I was reading Article 6(d) of the Treaty for the establishment of the East African Community and it reads as follows: *"The fundamental principles that shall govern the achievement of the objectives of the Community by the Partner States shall include (d) good governance including adherence to the principles of democracy, the rule of law, accountability, transparency, social justice, equal opportunities, gender equality as well as the recognition, promotion and protection of human and peoples' rights in accordance with the provisions of the African Charter on Human and Peoples' rights."*

Mr Speaker, among the rights that are provided for in the African Charter on Human and Peoples' Rights that is being referred to by this Treaty is the right to have one's cause to be heard. That is one of them and that is provided for under Article 7 of the Charter. The other right is the right to information, which is enshrined under Article – *(Interruption)* -

The Speaker: Hon. Susan, there is information from hon. Chris Opoka. Will you take it?

Ms Nakawuki: I do not need it, Mr Speaker. I am reliably informed.

The Speaker: Hon. Chris, the member has declined.

Ms Nakawuki: I am very informed on what I am submitting. Hon. Opoka, you can give it to me at the end.

The Speaker: Hon. Susan, stick to this. When a member has risen – Hon. Chris, first sit down. We must understand how we proceed in this House. If a member rises on a point of information, if the holder of the floor has declined, that is clear. Do not proceed beyond that.

Hon. Susan has declined to take your information. Hon. Susan, proceed with your debate.

Ms Nakawuki: Thank you, Mr Speaker. Under Article 9 of the African Charter on Human and Peoples' Rights, it also provides for the right to information.

Mr Speaker, when I begin with this Article of the Treaty and then I also draw reference from the words of hon. Judith Pareno when she said that even when we do things our way, we cannot be challenged or when she said we are basically wasting time when a member comes to seek special leave, I think that is something we should be worried about

because if we are going to treat issues of human and peoples' rights in that flimsy manner then it is worrying.

Mr Speaker, I will also draw your attention to Article 30 of the Treaty for the establishment of the East African Community. I will read it verbatim because there are some few issues that I would want to emphasise.

Article 30 (1) *“Subject to the provisions of Article 27 of this Treaty, any person who is resident in the Partner State may refer for determination by the court the legality of any act, regulation, directive, decision or action of a Partner State or any institution of the Community on the grounds that such acts, regulation, directive, decision or action is unlawful or is an infringement to the provisions of the Treaty.”*

Mr Speaker, I think every person who feels aggrieved has a right to seek judicial remedy and it is the duty of court to pronounce itself on whether the person deserves the remedy or not.

I would also draw your reference to Article 61, which was quoted by my colleague, hon. Kiangoi. Mr Speaker, I know hon. Kiangoi –

The Speaker: Hon. Susan, I just beg your indulgence that you keep cognisant of rule 11 of our time of conclusion of our business here, it is getting late so I request that within the acceptable time of our proceedings, please hurry up. Please proceed and move as fast as you can.

Ms Nakawuki: Thank you, Mr Speaker. I would like to draw your reference to Article 61 that hon. Kiangoi referred to. This is one of the issues, which has been entertained by the East African Court of Justice when it came as one of the preliminary objections which was being raised by Counsel to the Community and court pronounced itself on this matter. It made a ruling and it became

very clear that Rt. hon. Margaret Nantongo Zziwa had a right to seek judicial remedy. Therefore, I do not think that this should be an issue of discussion here.

When we go to section 20, I really appreciate the drafters of this law but allow me also to say that the records that we are talking about which include the Hansards contain the records of proceedings of this Assembly which records of proceedings are not private records. They are public documents to which anyone can have access. People are free to goggle them and use them in whichever way.

In fact, even the law leaves it open that people can even refer to them. The public can refer to them in whichever manner and the law does not restrict them.

What I am saying is that the Assembly will not lose any dignity as hon. Pareno all edged when hon. Dr Margaret Nantongo Zziwa uses these records of tis Assembly to put up her case, which is before the court after all, the Assembly is sure that the Assembly appointed her and they have a right to remove her. Let us leave that to court for determination.

Mr Speaker, also allow me to say – *(Interruption)* -

The Speaker: Honourable, because of time I request that you summarise in one minute and we deal with this matter before 6.30. Please proceed.

Ms Nakawuki: Mr Speaker, allow me to say that this Article should not be misused or abused by this Assembly with impunity yet there is no right of appeal where a member is denied this leave sought. So why should we stand here and pretend to be from another planet when we know very well that the member is entitled – *(Interruption)* -

The Speaker: Sorry hon. Susan. Sergeant-at-Arms, can you please ring the bell and make sure that all the members who are outside come back in the House? Proceed and conclude.

Ms Nakawuki: Mr Speaker, as I conclude, it is my personal opinion that this provision of the East African Legislative Assembly Powers and Privileges Act is bad law, which will not stand the test of time. In fact, if we take matters into our hands, I will personally – *(Interruption)* –

The Speaker: Order from hon. Dr Odette.

Dr Nyiramilimo: Thank you, Mr Speaker. Is the member in order to say that we are using a bad law? A law that has been passed by an honourable House in 2003 and that is still in use today and now we are sitting here using bad laws? Is she in order?

The Speaker: Did the member say the law is bad? Honourable member, this law was duly introduced in this House, passed by this Assembly, assented to by the heads of state and it is a law enforced so it is a regular law in force. There is nothing wrong with this law. Please do not proceed that way.

Ms Nakawuki: Thank you, Mr Speaker for your guidance. That was a personal opinion and I think I am entitled to a personal opinion but I will take your guidance – *(Interruption)*

Ms Mumbi: Thank you, Mr Speaker. I am not a lawyer, thank God, I am not one but my simple understanding of Article 20 and I have seen it was done in 2003. I seek clarification because in my simplicity, I find that though the House has been given this immunity, the drafters thought that the House could have errors. The House is made up of individuals and in case of those errors, this is why this special leave must be sought from the House and the House should be gracious enough to grant this. I seek clarification.

The Speaker: Honourable members, on a simple note and in the interest of time, there is nobody saying that what is ongoing is illegal for you to seek the leave or something. We are actually doing the right thing. Hon. Margaret Zziwa wrote to me and I advised her. She has heeded to my advice, the motion is before the House, and that is what we are dealing with.

Hon. Susan, conclude in less than a minute.

Ms Nakawuki: As I conclude, I would like to say that as I had earlier mentioned, we had decided to come in this direction with this kind of omnibus application because we intended to save time for the East Africans for other better issues that we have to discuss as an Assembly and when this very House insisted they want individual applications.

Putting that aside, I will give you one example as I conclude. In criminal law, there is what they call subsequent conduct of an accused person. Usually court uses it to determine the *mens rea* of an accused person. Therefore, as we stand today, my plea is if we did what we did and what we did is right, let us give Rt. hon. Margaret Nantongo Zziwa the chance to go and seek judicial remedy. Let court exonerate us and then we move forward. Thank you.

The Speaker: Thank you so much, hon. Susan for your debate. Honourable members, we have less than five minutes to the end. Hon. Chris, are you rising on clarification or a substantive – *(Interruption)* –

Mr Opoka-Okumu: Mr Speaker, you had named some people to speak – *(Interruption)* –

The Speaker: Okay, two minutes hon. Chris before 6.30 strikes. I do not want to be caught on the wrong side of the Rules of Procedure.

Mr Chris Opoka-Okumu (Uganda): Thank you, Mr Speaker. Let me start straight away running that I believe in this House, I believe in its will, I believe that it can express its will by the majority of the members and I believe that the majority of the members expressed their will at some point, which is now the subject of this application.

Mr Speaker, I rise to oppose the motion because the honourable member was afforded the opportunity to appear before this House. The honourable member was afforded the opportunity to appear before the committee of the House – *(interruption)* –

The Speaker: Hon. Chris, just a second. Please resume your seat. I would like to seek some permission from the House.

Honourable members, you know the provision of rule 11(1). I would like to seek your permission if you feel that this matter is very important, that we extend our sitting to conclude this matter beyond 6.30.

Ms Dora Byamukama (Uganda): Mr Speaker, cognisant of rule 11(1), I beg to move a motion that we extend the sitting of this House until we have concluded on this matter. I beg to move.

The Speaker: Seconded by hon. Frederic, hon. Yves, hon. Kessy, hon. Pareno and hon. Mumbi. Thank you.

Honourable members, this does not need a debate. I put the question on the motion as moved by hon. Dora to extend the sitting beyond our time of conclusion of 6.30 until we conclude the business we are handling now.

(Question put and agreed to.)

The Speaker: Hon. Chris, proceed.

Mr Opoka-Okumu: Thank you, Mr Speaker. I was saying that the member was

afforded an opportunity and I think all members will recall what this member said in the press, how she described the committee as a kangaroo committee; a committee of this House and how she will never appear before it.

Today, she is appearing before the House to ask for leave. It is against nature to do things to enable persons who would like to hurt you to proceed to hurt you. What is the purpose of this leave? The purpose of this leave is to take these Assembly proceedings to court so that the proceedings of this Assembly are inquired into and damages, as hon. Pareno put it clearly are awarded.

One time a similar situation arose in Uganda where the Prime Minister was accused of training some forces in the forests of Mt Elgon to come and overthrow the Constitution. One member said, it is against nature to train your enemies to come and overthrow you. Therefore, it is against nature to give leave to enable somebody who denigrated this House and the committee of this House to go and further his or her goals.

I urge honourable members that since the last Speaker was censured...you would have noticed that heads of state were no longer addressing this Assembly. After the Assembly got another Speaker, we have at least had an address from His Excellency Uhuru Kenyatta. The proceedings of this House have gone on smoothly. Why are we trying to keep this House in the eye of the storm? I urge honourable members to reject this motion and end this matter. Thank you.

The Speaker: Thank you very much. I will give hon. Ogle and then hon. Margaret to respond as the mover.

Mr Abubakar Ogle (Kenya): In the interest of time, Mr Speaker, I will be very brief. There are two aspects to this motion: a technical part, which was very well

articulated by my colleagues here - hon. Kiangoi, hon. Judy and all the others who contributed, and a political aspect. I want to deal with just two instances of the political aspect of this motion and not bore the House with the technical aspect, which was very well canvassed before you, sir.

As far as I am concerned and this is purely my opinion, this motion was intended to test the waters in a sense as to see whether this House could just admit this application in view of the fact that she knew in her mind very clearly that she faced a hard wind. The fact that it was accepted and prioritised on the Order Paper, we will have to settle all imaginations she had that this is a House of rules and procedures unlike what we were subjected to during her time, I must say.

Many a time I remember hon. Mathuki and I standing up on a point of procedure or order. We could not be heard. That is the background to this but thank God, we are where we are now. This is a House of rules and procedures and thank God, we have moved on.

Secondly, Mr Speaker, this motion is perhaps intended to bolster her case for canvassing some financial compensation from the Community. As a litigant, she has a right to do that. I do not object to any litigant going to court to seek for financial compensation, but let it be made clear and let us state the facts. Damages because she felt aggrieved but who is more aggrieved? This Assembly – (*Interruption*). I am not taking it, Mr Speaker.

Mr Speaker, this House should be more aggrieved. In fact, we should have been the ones going to court. Our integrity, our reputation was assaulted and raided. Many a time, hon. Margaret Nantongo Zziwa went ballistic. She conducted a very vicious media campaign against the integrity and reputation of this House. She called us names. Now that is the Assembly.

At the individual level, Mr Speaker, some of us suffered painfully. We were called terrorists. We were accused of conducting a holy war. That is the damage. I have not gone to court, along with hon. Zein, hon. Mwinyi and those she assumed were conducting a holy war. We did not. We were magnanimous enough to forget it and move on. We should have been the ones going to court, we should have been the ones seeking or damages against her but we are not doing that.

Mr Speaker, one of the finest chief justices to have come through Kenya, the late Justice Chulilal Madan once said on a ruling on an application on a matter between Stanley Munga Girunguri and the Kenyan Government, which was trying to accuse him retrospectively for offenses committed 20 years before said, "This is a limping pedantic application." The matter before us is a limping pedantic application, and I urge the House not only to object to it but also to say emphatically no, we must move on – *(Interruption)* -

Mr Nkanae: Thank you, hon. Ogle for giving me way. We also had, and I quote Stanley Munga Githunguri. "When you leave this court, raise your hands unto the heavens and thank God that the law protects you."

Mr Ogle: Thank you very much. I remember that case. As a young reporter I covered it, and what Justice Madan then said was, "You should thank God because your fundamental rights have been protected under the laws of Kenya."

Now, *Mheshimiwa* Margaret Nantongo Zziwa, without any malice aforethought and without any bias, I have a lot of respect for you. I think you had better drop this matter. Better move on, better seek intercession from the Pope and just leave us alone in peace for God's sake to finish these one and a half years. Thank you.

The Speaker: Thank you so much, ho. Ogle. Hon. Dora, you moved to extend the time. It will be very unfair for me not to give you a chance.

Ms Dora Byamukama (Uganda): Mr Speaker, thank you for this opportunity. I will not say very much because most has been captured but I just wanted to put it on record that we are open to what section 20 of the EALA Powers and Privileges Act, 2003, which we are debating about states. I would like to say very clearly, as has been said before, that when you look at the wording of this section, the words "notwithstanding the provisions of any other law". The words 'no member or officer' and the words "shall except as provided under this Act" are very strong in the legal sense. It means that you have to use a higher level of scrutiny to get to what is called a special leave. It is not an ordinary leave.

Mr Speaker, I have been searching my heart, mind, and conscience and I am very open to granting this special leave. My problem is simple: is it justified? Do we have enough reasons to justify special leave? As we say in the prayer, which we say every day, we need to be very clear. We need to act very fairly so that if anybody comes before us, they are treated with the kind of fairness that they deserve.

Therefore, I want to go to what hon. Frederic said, that normally special leave is granted when there is an extra ordinary situation where legal issues require its immediate attention or where a question of law on general public importance arises. Mr Speaker, let me just confess one thing. I would like to recognise that my sister hon. Nantongo Zziwa has been participating in the work of EALA. Just as of yesterday, she moved a motion on a very important matter so does she still need this special leave.

I was talking to some of my colleagues and I was saying that if you were going, for example, for divorce and along the way they find out that you have resumed conjugal rights, the divorce could not go on. The work of this Assembly – (*Inaudible*) –

I want to thank the Pope, our father in God, for visiting us and I would like to say that I was privileged, in 2005 when I was in Parliament of Uganda, to meet Pope Benedict VII and I shook hands with him. Since then, things have never been the same. I actually carried a rosary in my bag.

I want to say this: when you look at Ecclesiastes Chapter 9 verse 11, King Solomon - the wisest man who ever lived - said, *“I have seen something else under the Sun. the race is not to the swift or the battle to the strong, nor does good come to the wise or wealth to the brilliant or favour to the learned, but time and chance happen to them all.”*

We all know the history of what transpired, I do not want to go into that history so I would like to beg and crave the indulgence of my sister to allow time and chance to happen so that we can move on and that God’s will is done. That is my humble prayer.

Therefore, in view of this, I find it difficult. I have not been persuaded that really she needs special leave. Actually, as far as I am concerned, the healing process is on and that is what I would like to urge. For this reason, I will reserve the granting of special leave. I thank you.

The Speaker: Thank you, hon. Dora. I invite hon. Margaret Zziwa to conclude her motion before we put it to vote.

Ms Zziwa: Thank you very much, Mr Speaker and I want to take the opportunity to thank all the honourable members for their contributions. I want to thank them for their

views and for their opinions. However, Mr Speaker, like you said in your letter to me, and as an honourable Member has said, these are such exceptional circumstances that they warrant special treatment and special leave.

Mr Speaker, I want to thank all the members. In fact, I will just briefly react to two or three and then for the rest, I think we shall be able to see how to seek the answers.

Hon. Kiangoi dwelt a lot on matters of the law and I am happy that almost all the issues he raised were gracefully answered in the ruling of the East African Court of Justice, which was delivered on sixth. So all the issues of the immunity of this House, all the issues about who goes to court amongst others were adequately answered and I will not really delve in that.

The only thing I may remind him of, because he said he has never seen anywhere where Parliament has ever been taken to court - Just to mention to him, in Uganda, for instance, the famous Zachary Olum and others went against the Attorney General of Uganda to challenge the process of passing the referendum. It went to the High Court and the Constitutional Court and it was decided.

I also want to quote our own hon. Mwatela Caliste among others when they went to court challenging the Council of Ministers when they wanted to withdraw a motion already tabled before this House.

I can go on and on so I think hon. Kiangoi should take off time- The East African Court of Justice, hon. Mwatela Caliste among others were before the East African Court of Justice. Therefore, I want to say that these situations have arisen and they are not per se unique. That is why the court, under that ruling on sixth, said nobody is above the law, not even myself or anyone else.

Perhaps I want to just mention that as an Assembly and as Parliament and as people in leadership, we should always have an opportunity of airing out in case we have grievances otherwise we shall start seeing ... or throwing chairs and tables. This approach is the one envisaged in Article 6 and I am happy that I am following that route. I think to be more precise, this is not just to Margaret Nantongo Zziwa. It is to preserve the sanctity of the seat of the Speaker. It would not be right or fair if any Speaker were treated in the way Margaret Nantongo Zziwa was treated. If you seek my humble opinion, that is exactly what I am saying. That seat is so important that it should be treated with respect, with dignity and most importantly, following the law.

I just want to mention that hon. Judith Pareno was very elaborate but I want to say that the only reason why we should always come before this House or why I come before this House is that you have the power. I know for sure that you also have the power to withhold your decision but you must appreciate that now this issue is not *sub judice*. It was decided that since I am a member and others are members, I do not know about other honourable members but since one is a member, he or she should come before this august House. Therefore, that matter is not *sub judice* and it was decided.

I also want to react very briefly to hon. Martin Nduwimana. I appreciate your sentiments but I also want to say that even in the general governance, if people had the opportunity of going to court, we would not have situations that we are witnessing now and it would be very good for us to be heard. I want to encourage that situations like this should always be addressed to the court.

Mr Speaker, I would like to add that here we are not persecuting or prosecuting individual members of Parliament. The case is against

the Secretary General but that was answered in the ruling that was given on sixth.

Hon. Chris Opoka, I would just say that regarding my appearance before the committee, if you had looked at the previous rule 9(5), I think I was acting within the very rules of the House because it is very clear that the Speaker is entitled to appear in person and be assisted or represented by a lawyer or any other person when the committee is investigating his or her removal. Therefore, I think I acted within the precincts of the law and I think that settles this issue of my appearance before the committee. I can say that I did indeed appear.

Regarding the issue of excellences addressing this House, I am proud to say that I have hosted all the heads of state during my tenure as the Speaker- all of them - *(Interruption)* -

The Speaker: Hon. Peter Mathuki, there is no dialogue here. You are the custodian of our rules as the Chair of the Legal Rules and Privileges Committee so please. Hon. Margaret, you can wind up.

Ms Zziwa: Thank you, sir. I am responding to this because hon. Chris Opoka referred to it and I just wanted to remind him that that is not entirely true. I have hosted all the heads of state during the time I was Speaker. I had the honour and opportunity to host all of them.

Lastly, I appreciate my brother hon. Ogle and I want to say that relying on the press is very good but in most cases and even in this august House, journals like newspapers are not admissible. That is why I want to say that even in the annals of our *Hansard*, we have accusations when the sitting Speaker was called a genocide denier. We have had accusations when people or members use words like 'gladiators'. We have had words when the Speaker is referred to as a rogue but

because we know for sure that we may have an opportunity of saying what where in a very impartial manner, that is why we reserve this and say for the sake of peace –

Mr Speaker, I just want to emphasise that this peace is because one of us, one of the sides, which was aggrieved, has decided to play civility. Perhaps if it were not that, maybe the situation would be different. Even what my sister hon. Dora is referring to is exactly that. That is why I am here, first as a member elected from the Republic of Uganda, I represent the interests of the people of Uganda, and I am duty bound, first to the people of Uganda, to exercise that responsibility.

On top of that, you had the grace to give me the chance to give me the chance to serve you as your Speaker. You decided to withdraw it. That will not hamper me from exercising, whether judiciously or injudiciously, but that will not deny me the opportunity to serve the people of Uganda.

Therefore, with regard to me participating in this august House, I am participating because I am a member. When the opportunity of right of recall is instituted in the Treaty, the people of Uganda may recall me, as they may recall any one of you as if it is instituted in the Treaty. They can recall me but as of now, I am a member in my right as each one of you is a member.

Finally, I want to thank you, Mr Speaker for keeping to your word. I can appreciate the difficulty you have had but we are here to do a job and most importantly, the rule specifically requires me and I am here to say that my colleagues listed and I are seeking special leave from this august House because the case we are talking about is not an ordinary case. That is why it is a special leave that I seek.

Mr Speaker, I beg that the honourable members grant us this leave. I thank you.

The Speaker: Thank you so much, hon. Margaret Zziwa. Honourable members, we have a contract with the people of East Africa to promote the integration of this region. As an Assembly, our duties are clearly spelt out in the Treaty for the establishment of this Community and this is what we are discharging. We have a difficult history. I plead with this House that anything that seems to awaken the old wounds that deter this Assembly from the cause of what we are doing should be avoided.

Let us stick our eyes on the mission and the contract that we have with the people of East Africa and no amount of force or any detraction should deter us from doing that. I thank you so much.

Now I am going to put the question to this motion and because of the uniqueness and sensitivity of this motion, I am not going to put the question through the ‘ayes’ and the ‘nays’. I am going to ask for voting by show of hands.

I now put the question on the motion moved by hon. Margaret Zziwa and as amended by hon. Chris Opoka. May those in favour of the motion as it is on the floor to grant leave, put up their hands. Sergeant-at-arms.

Okay, let me listen to the procedural matter of the honourable Member.

Mr Mathuki: Mr Speaker, I think this is important. You declared that indeed this is a House of rules and again you said and ruled that hon. Nakawuki- And she declared that she has an interest in this. Therefore, rule 55 says, if you have an interest in this, you cannot even vote. How do we proceed to allow somebody to vote who has an interest in this case? Please give guidance on this.

The Speaker: Honourable members, give me a few minutes while I consult the rule.

Honourable members, I am going to seek the opinion of the Counsel to the Community on this matter and that is the reason for which we have the Counsel to the Community in this House.

The Counsel to the Community (Dr Anthony Kafumbe) (Ex-Officio): Thank you, Mr Speaker. First, I admit that the prerogative to grant this special leave or not to grant it vests in the Assembly but I have been looking at rule 55. Rule 55 presupposes contracts to the Community, which in my opinion, does not apply, to the situation of hon. Nakawuki. So in the circumstances, she can vote because this is not a contract to the Community. If anything, they are representing hon. Margaret Nantongo Zziwa in her personal capacity. I submit.

The Speaker: Honourable members, I stand guided by the opinion of the Counsel to the Community. May those in favour of the motion put up their hands?

(Honourable Members in favour of the Motion put up their hands and the Sergeant-At-Arms ascertained the number)

The Speaker: Those against put up your hands.

(Honourable Members against the Motion put up their hands and the Sergeant-At-Arms ascertained the number)

The Speaker: Those abstaining put up your hands.

(No honourable Member abstaining from voting on the motion put up their hand)

The Speaker: Honourable Members, there must be a vote by every member of this House. You either vote for, against, or you

abstain. Those abstaining put up your hands. Sergeant, you can report to the table.

(No honourable Member abstaining from voting on the motion put up their hand)

The Speaker: Honourable Members, I will declare the outcome of the vote but I want to express myself on record that there are some members who have been irresponsible in terms of discharging their mandate here. They have not voted for or against or even abstained. I will consider them to have abstained or that they did not completely vote.

Honourable Members, I want us to be clear about this, as clear as possible and I want to appeal to you that you are seated in these Chambers on behalf of East Africans, and the East Africans expect you to do work on their behalf.

I will now repeat the voting. Those for the motion put up your hands.

(Honourable Members in favour of the Motion put up their hands and the Sergeant-At-Arms ascertained the number)

The Speaker: Those against the motion put up your hands.

(Honourable Members against the Motion put up their hands and the Sergeant-At-Arms ascertained the number)

The Speaker: Those abstaining put up your hands.

(Honourable Member abstaining from voting on the motion put up their hands and the Sergeant-At-Arms ascertained the number)

The Speaker: Honourable members, the votes are as follows: three abstained from voting. Those saying 'yes' are five. Those saying 'no' are 23. The motion is therefore lost.

Honourable members, I would like to thank you for persevering beyond your working hours to deal with the issues before the Assembly. On your behalf, I would like to extend my gratitude to His Excellency President Paul Kagame, the President of this great republic, the Republic of Rwanda, for the great work we have witnessed in this city of Kigali and this republic as we travel upcountry. This country is moving well, we congratulate him upon the good work he is doing.

I would like to express on your behalf still, special gratitude to the Speaker President of the Senate, His Excellency Bernard Makuza for his warm welcome to this Assembly.

We would like to express in a special way, our gratitude to the Speaker of the Chamber of Deputies, Rt. hon. Donatille Mukabalisa for the great assistance she has offered to this Assembly; granting us these chambers and all the facilities that have allowed us to do what we have so far done in this meeting in Kigali.

In a special way, we would like to extend our appreciation to the Clerk of this Parliament and the staff of the Legislature of Rwanda. They have been so helpful in supporting our staff to make sure our stay is very comfortable.

We express our appreciation to the general population of Rwanda for being hospital to us.

Honourable members, I have a few announcements to make before I adjourn this House. The parliamentary games commence tomorrow Friday 4 December 2015. I request all the players and participants to stay behind after I adjourn to receive their jerseys or the uniform or kits for the games. As you know, all members of the Assembly are remaining behind to be part of these games and you are entitled to look like a sportsperson. The

Office of the Clerk and my office have procured tracksuits for all the members.

The pre-conference of the games will take place tomorrow in these Chambers and it starts at 9.00 in the morning. You are therefore requested to make sure you are all here by that time. Other guests will be join us; members of Parliament from the Partner States who are participating in the inter Parliamentary Games will all be present. I plead with you to keep time and be here so that we participate in the pre-conference that shall be addressed by the Speakers of the Partner States' Parliaments and myself.

Honourable members, it is now my honour and pleasure to adjourn this House *sine die*. House stands adjourned.

(The House rose at 7:03 p.m. and adjourned sine die.)