



THE REPUBLIC OF UGANDA

PROCEEDINGS
OF
THE CONSTITUENT ASSEMBLY

OFFICIAL REPORT

CONTENTS

MONDAY, 13TH FEBRUARY 1995

MOTION:-

Consideration of the Draft Constitution of the Republic of Uganda [Pg 3045]

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Monday, 13th February, 1995

(The Assembly met at 9.30 a.m. in the International Conference Centre, Kampala)

NATIONAL ANTHEM

PRAYERS

(The Chairman, Hon. James Wapakhabulo, in the Chair)

(The Assembly was called to order)

CONSIDERATION STAGE OF THE DRAFT
CONSTITUTION OF THE REPUBLIC OF
UGANDA.

CHAPTER FOUR - CITIZENSHIP.

THE CHAIRMAN: Hon. Delegates. I am advised that when the House adjourned on Friday you were debating the recommendation from the Committee to the effect that Article 46 be retained in its form as it appears in the Draft Constitution. I was monitoring the debate from my office, there was quite animated discussion and more or less exhaustive discussion. I think the debate was on an amendment by Hon. Dick Odur. If he does not mind repeating his amendment or just reading it so that the Chair is also brought up to date and then we can proceed from there.

DR. ODUR DICK (Dokolo County): Thank you, Mr. Chairman. Mr. Chairman, my amendment was to insert a new clause which will come before Clause 1 of 46. Clause 1 of 46 will now become Clause 2 and the 'Ugandans who are citizens by birth or descent' from the provisions which are outlined in Article 46, Clause 2 to Clause 5 except that the conditions should not apply in case of Clause 5. So the amendment would, in fact, allow Ugandans of - Ugandan citizens who derive their citizenship from birth or descent to hold dual citizenship without renouncing the citizenship of those countries in which they are currently residing. Now, the amendment actually reads as follows: 'This Article 46 other than Clause 5 applies only to a citizen of Uganda who is not a citizen by birth or descent'. I beg to move.

THE CHAIRMAN: Now, that is to be Clause 1, is it?

DR. ODUR: Yes and the present Clause 46 (1) then would be (2) and we move on downwards.

THE CHAIRMAN: So you are saying that the provisions of Article 46 do not apply to - other than Clause 5, do not apply to a person who is a Ugandan by birth or by descent?

DR. ODUR: Exactly, Mr. Chairman, that is what it implies. In other words, the provisions which are outlined from Clause 2 up to Clause 5 were meant to bring into effect the prohibition of dual citizenship to a Ugandan who may be holding citizenship of another country. So all I am saying is that those provisions can remain as they are except that they should not apply to a citizen of Uganda who is a citizen by birth or descent. I remember on Thursday I gave very extensive reasons for this amendment and there were debates also carried on, on Friday.

THE CHAIRMAN: Okay, I am just trying to reconcile them in my mind before we proceed because I am also trying to find defence in the first clause in view of clause 2 before we go into details. Hon. Ben Wacha as a leading member of the Legal and Drafting Committee do you think that 1 and 2 can co-exist?

MR. BEN WACHA (OYAM NORTH): I think, Mr. Chairman, Hon. Dick Odur's amendment would make sense if it is not withstanding the provisions of this Article and the clauses therein, a Ugandan citizen who is a citizen by birth, etc., shall be entitled to hold dual citizenship and then the others I think depend on how the House feels it could be modified accordingly.

THE CHAIRMAN: But if we take his, do we need to have 46 (1) if we were to take Hon. Dick Odur's amendment, if it was carried.

MR. BEN WACHA: Yes, that is the sort of modification I am talking about, that one, I think, would have to go and then there is another provision, that is 45 (a) which I think has already been passed, that one also would have to be dealt with because I guess that was accepted without due reference to this proposed amendment.

DR. KABERUKA WILLIAM (NDORWA WEST): Mr. Chairman, I am a bit uneasy with this amendment and, of course, together with what we did pass in 45 because I can see us creating two types of citizenship. Because on one hand we are saying that someone who registers for citizenship of Uganda

can lose it in a certain way but at the same time I think we are saying that for you to acquire that citizenship you must renounce the former. Now, I do not know, when this person loses his citizenship what he becomes. The other point which I want to find out is on this amendment, I think it is a bit clumsy, we should maybe look for a way of debating the dual citizenship. In which case these other Articles which refer to a citizen by registration and so on, in my view we should actually leave it out rather than having to create double standards because if a citizen by birth can hold dual citizenship why not allow somebody from outside to register or to acquire citizenship here and still maintain his original one? I want to be clarified why we are trying to do things this way. I thank you.

THE CHAIRMAN: We have a Motion by Hon. Dick Odur which seeks to authorise a Ugandan by birth as defined in the Draft Constitution to be capable of holding dual citizenship while those who register as citizens do not have that privilege. Now, from the the Chairman-Drafting and Legal Committee's point of view, there is no problem because that could more or less stand as an Article on its own. Even within 46 itself as it stands there are some internal conflicts because if it says, "*There shall be no situation where a Uganda citizen is a citizen of another country concurrently with being a Ugandan,*" then in (2) you say, "*There can be a Ugandan of one year to 18 who can have dual citizenship,*" actually and he renounces it on attaining the age of 18 so that while he is 17 he can be a Briton and a Ugandan. This I think would be allowing dual situation and then he can renounce the other one on reaching the age of 18 but that can be sorted out at the point of drafting. I think let us simplify the matter by saying we are discussing a principle, the rest would be drafting. What Dr. Dick Odur is saying is that a Ugandan by birth should be enabled to be a citizen of another country or should be given the privilege of being a citizen of another country but that those who register as Ugandans should not do so. That is what we really have, if we carry that the rest should be just drafting and because we discussed this matter extensively I am going to allow very limited debate. Hon. Awori, didn't you debate it the other time?

MR. AWORI AGGREY (SAMIA BUGWE NORTH): Mr. Chairman, I thank you for your magnanimity to allow me to speak on this issue once again.

THE CHAIRMAN: No, no. That is being unfair but I like him for his honesty because actually he has said that he did.

MR. AWORI: I was seeking clarification, Mr. Chairman.

THE CHAIRMAN: Okay, then that is a different issue.

MR. AWORI: Mr. Chairman, I was just seeking clarification from the Hon. Odur that this matter is so important that if we were to leave it as it is, he might risk losing it. I would rather that this Assembly be silent on it and we leave this matter to Parliament. Would he seriously consider modifying the amendment to accommodate Parliament to use its discretionary powers to make rules governing people of that category? Because, as it is now, Mr. Chairman, if we take an amendment especially incorporating Hon. Ben Wacha's wording that notwithstanding as Hon. Dr. Kaberuka put it, we are literary creating two types of citizenship. Those who are allowed to have double and those who are not allowed to have dual citizenship. So in that case I would like to call upon the Hon. Mover of the Motion either to amend it and leave it to Parliament to work out a system where such categories of people can be accommodated or just delete it. But if we are to stick to go to my recommendation of deleting it, Mr. Chairman, I see quite a good number of people losing - the kids losing the inheritance the of their fathers who were in exile at one time or another. Mr. Chairman as I speak now I am sure amongst us we have about twenty Delegates who have children - (*Interruption*).

THE CHAIRMAN: Well, I think, the Hon. Member has made his point, he has been wanting to get clarification. Let him finish - I think you have more or less made the point that you would like to be clarified.

MR. AWORI: I think I have made the point, Mr. Chairman, that I call upon the Hon. Delegate who has moved the Motion to amend it in such a fashion as to permit Parliament to use its discretionary powers to accommodate people of such a category. Otherwise we are risking quite a number of Ugandan citizens losing their birth rights.

THE CHAIRMAN: Now, we shall take those for and those against and since my memory is not here because I was not here on Friday I will take it that

those people who are putting up their hands are actually people who did not speak the other time. But Hon. Odur, did you want to react to the argument?

DR. ODUR: Mr. Chairman, thank you very much. I thought that Article 48 which we have not yet come to actually takes care of what Hon. Awori is worried about because in that Article powers of Parliament relating to citizenship and immigration are defined. All that my amendment really seeks is not to prohibit certain categories of Ugandans from holding dual citizenship, then any other related matters can be operated without any contradictions at all.

THE CHAIRMAN: Okay, those for the Motion first.

PROF. SENTEZA KAJUBI (KYADDONDO NORTH): Mr. Chairman, I would like to support this Motion very much on the following grounds. Firstly, Mr. Chairman, the citizenship of a Ugandan particularly a Ugandan belonging to the group of people in the Second Schedule in our Draft Constitution is a God given human rights. You are either born an Acholi, Alur, Muhima, Muganda, Musoga, Munyole and so on and that birth right no one can take it away from you. The very fact that a Muhima goes and becomes or is forced to become a citizen of Canada does not take away the fact that, that person remains a Muhima or a Muganda and so on. So that is the birth right - *(Interruption)*.

THE CHAIRMAN: Are you making references to the Second Schedule? Because I do not see that category there.

PROF. SENTEZA KAJUBI: I wish it were there. Mr. Chairman, I understand from Committee Four that Muhima will come here to be approved by us to be part of the Schedule so I am just thinking ahead, Mr. Chairman.

THE CHAIRMAN: But that is anticipating debate, I would rather you debated using the Schedule as we have it.

PROF. SENTEZA KAJUBI: Mr. Chairman, let me use the Schedule before me. You are a Muhororo or Mukiga or Mukonjo so that right cannot be taken away and I cannot see how you can be a Muhororo or a Munyole and you are told you are not a Ugandan because if you are born or a descent of this group, you

are by the right a Ugandan. So, Mr. Chairman, during the thirty years of our Independence we have passed through a very difficult time which has meant that many of our citizens including our leaders have been dispersed all over the world. They have had children there who are either going to school and so on and they have been in circumstances which have made it necessary for them to acquire citizenship of other countries. This does not necessarily mean that they are less loyal to Uganda. I shall give the example of Jews who live in the United States. Israel is supported mainly by them. I can give example of the Chinese who are abroad. Economically a great deal of support to China is by Chinese who are citizens of other countries but have never lost the roots binding them to their motherland. So, Mr. Chairman, in the same way Ugandans who live abroad, who may have become citizens of other countries this does not necessarily mean that they have lost contact with the country of their birth. Let us also give another example of Asians who were born here. They lived here, they were good Ugandans until 1972 came and they were forced by circumstances to go to other countries where they had to take up citizenship of other countries, Canada, Australia and so on and India. When peace came back as it has come back some of them have come back here but they are being told that in order to become a Ugandan once again you must go and tell the British and the Canadian that you renounce their citizenship. The citizenship they have acquired abroad has been also useful, not only to them but also to Uganda. They have acquired properties in which they would still want to take an interest. If you have got property in U.K., the United States, Canada, Australia and you are a big investor there, the dual citizenship of that country helps you to keep track of your investment in that country. The same would be true in Uganda. This would be extremely useful for them to continue to hold that citizenship. The other countries like Britain, Australia, Canada, actually do not mind very much. They continue to hold Ugandan citizenship and many a time when they come here and they are forced they tell them okay, we understand the attitude of your mother country, you can give up the citizenship but should they expel you again you can come to us and we will be prepared to look at you sympathetically. I think these are very difficult circumstances in which we put our people abroad. Lastly, Mr. Chairman, the Ugandans living abroad, there are about forty thousand of them in the United States alone and possibly in Europe they are about seventy thousand. These people, the moment this Constitu-

tion is promulgated with a view that they cannot hold dual citizenship, we shall have declared them straight away non-citizens unless they renounce the citizenship of the other countries in which they are. If they did so, that would be of very great disadvantage to them and also to us because these Ugandans no one can deny that they support our economy quite greatly and I think it would be wrong on our part to disown them by the very fact that their children are still going to school in America, they still going to universities and so on and it is useful for them because they will earn cheaper higher education but if they renounce we shall have to meet those expenses from here. Mr. Chairman, with those few words, I beg to support this Motion very strongly indeed.

MR. PINTO EMMANUEL (KAKUUTO COUNTY): Thank you very much, Mr. Chairman. I support this Motion. Mr. Chairman, this is one way for Uganda manifesting itself that we truly belong to the global village and we should not be making laws that are discriminatory and that are going to hinder our development as a country which is among the global village. Mr. Chairman, Sir, our history would be our first lesson that, Mr. Chairman, many Ugandans left this country due to the prevailing circumstances then, they have lived abroad they have worked abroad, they have children studying there and for the other reasons advanced by my previous speaker. Mr. Chairman, we should not deny these Ugandans who may have acquired citizenship in the places where they live now to belong to Uganda which they cherish so much. Mr. Chairman, Sir, we are aware of this famous syndrome which is known as the "brain drain". Many Africans have left Africa, they have trained as experts, they live in these highly sophisticated countries, that is where they find pertinent employment - *(Interjection)* - Mr. Chairman, I am being heckled.

THE CHAIRMAN: Order. Would Hon. Awori desist from heckling his neighbour please?

MR. PINTO: These Ugandans have acquired citizenship in order to work in these countries, in the United States and other places. They cherish Uganda and they would like to enjoy their birthright to remain Ugandan citizens. Mr. Chairman, I do not see any substantial impediment other than being discriminatory in denying people their human rights that will prevent a Ugandan by birth or descent from acquiring another - citizenship of another country and remaining a citizen of Uganda. I think if we accept

this amendment, this will be Uganda manifesting itself as a member of the global village, indeed what we are talking about here is a practice that is available in so many progressive countries. I beg to support.

THE CHAIRMAN: Thank you. I will hear those against.

MRS. NTABGOBA JENINAH (WOMEN DELEGATE - KISORO): Thank you, Mr. Chairman. I stand to oppose the amendment. Mr. Chairman, I would like to say that this amendment is unfair and extremely dangerous. It is unfair to those whom you are prohibiting to be Ugandan citizens when they are foreigners and do away with their nationality citizenship, it is unfair to that group. Secondly, it is dangerous because it is going to exercise our children to running away, going to look for a second citizenship. Mr. Chairman, if you think back to the life we have gone through in Uganda, Uganda has been an easy coming in and going out nation. That did not augur well with our history. We have to remember now that we are forming a united Uganda, we have to keep people who are devoted to developing Uganda as a nation from its poverty, we put our heads together and build the nation. I see a danger, Mr. Chairman, of thinking about one side, those who are already citizens of other nations. I do not see any recipe which will bring them back quickly. This divided loyalty is not going to help our nation at all. I can't be enjoying a good life in America as a citizen or as acquired it and immediately because you have told me I still qualify to be a Ugandan then I will rush back. I do not see it working, Mr. Chairman, and some parents are already being agitated by this proposal. They fear the future. We might have so many of their kids - of their children looking around for other citizenship outside and, in any case, suppose they acquire citizenship in countries which are not friendly to Uganda, these same people are going even to be used to come and fight us. Mr. Chairman, that is why I said this amendment, the proposal, is very dangerous and we have to fight to defeat it. I would like to add on to say that of all countries I have visited it is only Uganda I have seen so easy going, dealing with its citizenship so lightly like this. I think we have to borrow from other nations especially those who have given dual citizenship, most of them are regretting, in fact if there was a way to denounce it they would have done it. So why do we want to start it when others are rejecting it? Mr. Chairman, I strongly oppose this amendment. Thank you very much.

LT. COL. GUMA FRANK (BUKANGA COUNTY): Thank you very much, Mr. Chairman. I am here to support this Amendment.

THE CHAIRMAN: Now you are cheating Hon. Guma, I was looking for those against.

LT. COL. GUMA: But Afande since I have started speaking, let me finish.

THE CHAIRMAN: No, it would be unfair. Let us do it this way, I will give you a chance if we come back to look for more in support but let us, first of all, listen to those against.

MR. OBUA OTOA (ERUTE NORTH): Mr. Chairman, the reasons so far advanced in favour of this Motion are not at all convincing. They seem to centre around the few Ugandans living abroad and the amount of money they can send to their parents. I think that is a very flimsy ground Mr. Chairman, to make a contribution focusing on these few people. Mr. Chairman, we are talking about prohibition of dual citizenship and this Motion tends to nullify what the sub heading is all about. We are prohibiting dual citizenship and I think the reason why dual citizenship has been prohibited ever since we became independent has been valid. Mr. Chairman, there are some sensitive issues in this constitution making process, and citizenship is one of them. I do not know any other issue which raises so much emotion as citizenship and I think for understandable reasons. No one wants a person of dubious citizenship to own land in this country. No one wants a person of dubious loyalty to become the President of this country. No one wants a person of dubious citizenship or double loyalty - *(Interruption)*.

THE CHAIRMAN: Hon. Obuga Otoa give way, there is a point of order.

PROF. SENTEZA KAJUBI: Mr. Chairman, is the Hon. Member in order to interpret the word 'dual' as dubious?

THE CHAIRMAN: Hon. Obuga Otoa, were you taking the word 'dubious' from double or before you say there is information from hon. Kalema, she may have a better understanding of the English Language than, Hon. Senteza Kajubi.

MRS. KALEMA RHODA (KIBOGA EAST): Thank you Mr. Chairman. I agree that perhaps

'dubious' is not the same thing as 'dual' but 'double' would be more appropriate and I would like to inform Hon. Obuga Otoa that he is correct, double face, double loyalty, equally bad.

MR. OBUA OTOA: I would like to thank Hon. Rhoda Kalema for that information, Mr. Chairman. Mr. Chairman, if we are going to award citizenship on the ground - allow dual citizenship on the grounds of economic benefits I think the first people who should qualify would be those in the IMF and the World Bank who support this country very considerably. We must have our minds very clear about what we are doing. Let us separate economic benefit from the emotive and very sensitive issue of citizenship. I do not know whether the people of Dokolo really will be very happy about the Mover of this Motion saying that he will allow some Kenyans *(interruption)*

THE CHAIRMAN: No, could you speak for your own county, I do not think it is fair for you to begin

MR. OBUA OTOA: Mr. Chairman, I was taking advantage of the fact that we are all Langi and I know that no Langi would wish to see a Kenyan or a British or a Munyarwanda or anybody else who is not a Ugandan becoming President. We all remember, Mr. Chairman, an incident which happened in Boroboro not too long ago whereby - *(Interjection)* - not yet, let me finish. Mr. Chairman - whereby some may not be very well informed pupils described our President as a Munyarwanda and we all know how that issue raised so much dust to the extent that my colleague here, Hon. Lagada, had to go to State House in order to sort this matter out.

THE CHAIRMAN: Hon. Lagada on what point do you put up your hand?

MR. OBUA OTOA: Mr. Chairman, that is a measure of how strongly the people of this country feel about the question of citizenship. *(Interruption)*.

MRS. LAGADA BEATRICE (WOMEN DELEGATE - APAC): I would like to inform the hon. Obuga Otoa concerning that one, the incident he is talking about did not happen in Boroboro as he has said. And that secondly, those students who came to State House were not the only people who were misinformed by the people of Lira to call the President a Munyarwanda but all the students of Lira. It was only that Mrs. Lagada happened to have been

responsible enough to take disciplinary action against her students whereas the rest of the students of Lira went unpunished. Thank you.

MR. OBUA OTOA: Mr. Chairman, I am not denying that information at all. All that I am saying, Mr. Chairman, is that this is a sensitive matter, it raises a lot of emotions and I can understand the reason why. We are a young nation, Mr. Chairman. We are a growing nation. To open our doors of citizenship open to all and sundries is a very dangerous proposition. The rationale behind prohibiting dual citizenship is still valid today, maybe it is even more valid today than it was at the time of our independence. We want to make sure that our security is intact. We want to make sure that those who acquire our citizenship are genuinely loyal to this country and have no divided loyalty. If we allow dual citizenship, Mr. Chairman, we are going to allow all sorts of people for different motives, for all sorts of motives, to come flooding into this country and that is not, I submit, in the interest of this country, Mr. Chairman. So I am completely opposed to this Motion. I thank you, Mr. Chairman.

THE CHAIRMAN: Now, we have had two for and two against. If we re-open the debate we are going to go on and on. I will allow one on either side and then we decide. For the Motion I will give the Floor to Hon. Lt. Col. Frank Guma.

LT. COL. GUMA : Thank you very much, Mr. Chairman. I understand the sentiments of the Hon. Delegates about dual citizenship but some of us, and the experience we have seen, I think we should allow dual citizenship for our youth who complete school. I have heard and I have gone to so many offices looking for jobs for some of my friends and some of the boys I have been supporting. When you ring him- and unfortunately even had boys from Lira - so you would say I have two boys he would say write a note. When they go there, they find 'O', 'A' the job is not there or they make them dance around. I was forced at one time to buy a ticket and send them to my friends in Zimbabwe and Namibia now they are working. There is no way, there is no nationalism that can force me to commit suicide, it is not there and then unfortunately - (*Interruption*) - yes, unless I am going to gain something for that nation, I cannot starve, I cannot be like the Royal British Army tell the Irish Army that, the Republic Irish Army they know how to die for their country but they do not know how to liberate it. You cannot say you are

going to sit here, pay school fees for your children, you are qualified, that it is for the love of the nation. I think love is a dual situation. The nation should love me as much as I love it. Then at the same time the old people do not want to retire.

THE CHAIRMAN: Are you taking information?

LT. COL. GUMA: No. I am very sure about what I am talking about. I will not accept clarification neither information. I know the kind of rampant, unemployment in this country, I do not have to go anywhere to ask anybody, I know how boys have been pushed out and when they get a chance and get out of this country, I have seen them putting up houses. These are assets belonging to the nation. I have seen them supporting their small brothers whom they left behind. So let people go, the only thing I am opposed to is a foreigner to have dual citizenship here but a Ugandan can have dual citizenship anywhere. Thank you very much, Mr. Chairman.

DR. MUGYENYI POSIANO (ISINGIRO NORTH): Thank you, Mr. Chairman. Mr. Chairman, I strongly oppose this Motion. Mr. Chairman, it is very difficult to serve two masters at the same time. It is very difficult to be a Ugandan and an obedient Ugandan and at the same time you are a Sudanese and an obedient Sudanese. There is a provision in the same Article which is 46(4) which allows anybody to renounce his citizenship as soon as he is going to acquire the Ugandan citizenship. So these people whom they are telling us that they have the money, that they are going to send us the dollars and so on, any time they want to come here and stay here for some time and see their parents. They can renounce their citizenship where they come from for the time and acquire the Ugandan citizenship and when they go back, they can comfortably become citizens of where they want to be. So, Mr. Chairman, I find it very difficult to be convinced that somebody can comfortably be a Ugandan and an American. If we allow this provision to be in our Constitution people are going to come here with half-hearted allegiance, they will commit crimes here knowing that any time they can cross over to Kenya or Sudan and you stay in a safe haven there. It is important that we put in this Constitution provisions that are going to safeguard this country and ensure complete allegiance to this nation. So I find it very difficult to envisage a situation where somebody - (*interruption*).

THE CHAIRMAN: There is information, are you taking it?

DR. MUGYENYI: From who?

THE CHAIRMAN: Hon. Onegi Obel.

DR. MUGYENYI: I can take from Hon. Rwabita first.

THE CHAIRMAN: No, but the Chairman has picked on Hon. Onegi Obel.

MR. ONEGI OBEL (JONAM): Thank you, Mr. Chairman. I would like to inform the speaker on the Floor with whom I agree a hundred percent and over that only this morning there was a BBC official news that a Minister in Her Majesty's Government resigned yesterday over the issue of citizenship. He said that the influx of people going to Europe will mean that these so called refugees or whatever they are spill over to Britain. Now, we have been told that Britain and America are, perhaps, the two most liberalising countries in the sense of citizenship but here we are that someone has resigned to protect the laxity of getting in people into Germany. He is a nationalist, Mr. Chairman. Thank you.

THE CHAIRMAN: Are you suggesting that a Ugandan Minister in charge of Immigration should also resign should the Constituent Assembly pass this?

MR. RWABITA DEO (IBANDA SOUTH): I want to inform the Hon. Member holding the Floor that as a matter of fact if a Ugandan is abroad and he is a British citizen or American citizen, he does not need to renounce that citizenship when he wants to come to Uganda. What he does, he gets a visa, he comes and see his parents and goes back and when the time comes and he has decided to leave that country into Uganda then he renounces the citizenship of Britain or the United States and comes back as a Ugandan. So it is as simple as that.

DR. MUGYENYI: I think both Members were strengthening my point that you do not need to have the Ugandan citizenship to come and bring here your revenue. You can comfortably stay with your citizenship, you work in America, save the money, bring it here and at a time when you feel that you should retire back home you renounce the other citizenship and come and stay comfortably in Uganda.

So, Mr. Chairman, we should create principles in this Constitution that will make citizens who feel that this is their home and home number one. So that we do not have citizens who think any time they can fly over and go to Britain and stay there and any time I come over to Uganda - in our language we have a creature which is called a "*Kirumira habiri*" meaning a person with double loyalty. It is difficult to define that kind of person. So, Mr. Chairman, I feel that we should oppose this Motion, very strongly - so that we put in this Constitution Articles that are going to ensure complete allegiance to the country of Uganda. Thank you.

THE CHAIRMAN: Hon. Odur, did you want to clarify something before we resolve?

DR. DICK ODUR: Thank you very much, Mr. Chairman. First of all, I want Hon. Delegates to realise that in this Constitution we are going to provide for issuing of National Identity Cards. The qualification for getting a National Identity Card would mean being a citizen of Uganda and the people we are talking about are Ugandans. So we should not really be thinking of passports, visas, these are travel documents, they have nothing to do with citizenship. My main emphasis is that a Ugandan who is currently working abroad should not be deprived of getting a National Identity Card, which identifies him as somebody coming from Buruli, from Dokolo, from where. That he continues to work wherever he is working without renouncing the citizenship of that country because already these European countries allow them to have those citizenship knowing very well that they are even citizens of Uganda. This is practiced in Europe. The emphasis of the amendment is that we should not disqualify our nationals from getting these Identity Cards which confer citizenship on us.

THE CHAIRMAN: No. I did monitor this debate, it was carried on at great length. If we allow any further orders, clarifications and all the rest, in fact, it is just disguised information or intention to speak. Now, we have reached a stage where we decide on the Motion by hon. Dick Odur seeking to provide that: "*The provisions of Article 46 on whatever manner it may be drafted, either notwithstanding or subject to which ever way, the provisions would not apply to a Ugandan by birth in the sense that he would be given the privilege he or she should be given the privilege of belonging or retaining dual citizenship as against Ugandans by registration.*" The Motion is quite clear. I now put the question.

(Question put and negatived.)

THE CHAIRMAN: We now go to 46 as recommended to us. The Motion before us is that Article 46 do stand part of the Constitution. The recommendation from the Committee was to that effect. In the process of debating dual citizenship we have debated more or less the principles of that Article. I am now putting the question on Article 46 in accordance with the recommendation.

(Question put and agree to)

THE CHAIRMAN: Article 46 as it is stand part of the Draft Constitution. I now call upon the Chairman of the Committee.

MR. KATENTA APUULI (CONSERVATIVE PARTY): Mr. Chairman, Sir, Committee Four considered Article 47, Clause 1, and after careful consideration recommend that Article and its clause 1 paragraph (a) to (g) as they are in the Draft Constitution be allowed to stand part of the Constitution. The Committee found that these were paragraphs that were properly formulated and did not call for any amendment to read. *Article 47 Clause (1) It shall be the duty of every citizen of Uganda -*

(a) to honour and promote the prestige and good name of Uganda and respect the national anthem, flag, coat of arms and currency;

(b) to respect the rights, freedoms and legitimate interests of others and generally to refrain from doing acts detrimental to the welfare of other persons;

(c) to protect children and vulnerable persons against any form of abuse, harassment or ill-treatment;

(d) to protect and preserve public property;

(e) to defend Uganda and to render national service when necessary;

(f) to cooperate with lawful agencies in the maintenance of law and order;

(g) to pay taxes; and Mr. Chairman, I beg to move.

THE CHAIRMAN: What about (h)?

MR. KATENTA APUULI: I will come to (h)

because these do not attract amendment and (h) does attract an amendment, therefore, I would like to request the Chair that we consider these first before we go to (h).

THE CHAIRMAN: No, we would take it this way. You are recommending that we adopt the Article subject to an amendment of (h). What he is suggesting is that we go to (a); (b); (c); (d); (e); (f); (g) and if you find no objection then he goes on to (h).

MR. RUZINDANA AUGUSTINE (RUHAMA COUNTY): Thank you, Mr. Chairman. On Article 47 (1) (a) I have a problem with honouring the currency. 47(1) (a) starts with: "... to honour and promote the prestige etc.," but is it really right that we include currency among those things listed there? How do you honour the currency? How do you promote the prestige of this currency? I, therefore, would like to suggest, Mr. Chairman, that we delete that word "currency" and leave the rest.

MR. KITARIKO ROBERT (DEMOCRATIC PARTY): Thank you, Mr. Chairman, I think the hon. Member should know that defacing our currency is an offence.

MRS. SEBAGEREKA VICTORIA (WOMEN DELEGATE - MUKONO): I would like to inform the Hon. Member that currency could be honoured and could be respected. You cannot take a legal tender and just use it anyhow, you cannot use it to clean your windows. Like in Switzerland, if you are found folding their currency in a different manner you are liable to prosecution.

MR. BYARUGABA ALEX (ISINGIRO SOUTH): Thank you very much, Mr. Chairman. My problem is in relation to paragraph (g) and I would like to get a clarification from the Chairman of the Committee as to whether paragraph (g) Mr. Chairman also applies to traditional leaders or cultural leaders or kings, whatever the case may be.

DR. MAGEZI DAUDI (JINJA MUNICIPALITY): Thank you very much, Mr. Chairman, I would like to seek from the Chairman of the Committee that on page 12 of the Draft Constitution we outlined the duties of a citizen, that is Article 39 or whatever the new Article is anyway, and I cite one of them, "...to uphold and defend the Constitution and the law." The second one is, "...to protect and safeguard the environment." I consider these two

particular areas very pertinent and important to the welfare of this country. Is it that these two - Is it debatable that these two particular statements were considered by the committee and found not relevant to include, specifically, under article 47?

MR. KOMAKEC LEANDER (ARUU): Thank you, Mr. Chairman. I happen to be a Member of Committee 4 that is recommending this one, but on second thought I am having a problem with it. You see, if paying taxes becomes obligatory under the Constitution, we may be really splitting hairs here, there may be people who cannot, for good reasons, pay taxes! I would hate to be dragging poor people to court of laws because they broke the constitution. Mr. Chairman *-(Interruption)*.

THE CHAIRMAN: I thought you pay taxes when you have taxable income.

MR. KOMAKEC: Mr. Chairman, you see the reading here - I think all the problem, the provision on this one can really be taken care of under ordinary laws made by Parliament! These are no constitutional matters. For example, this issue of promoting objectives of the nation, cannot be really taken to court. I know these can be taken care of under criminal laws that are passed by Parliament. I am having difficulty and I would recommend that the whole of article 47 should be really dropped.

MR. SSEBAANA-KIZITO (MAKINDYE EAST): Thank you very much, Mr. Chairman. I want to ask the Chairman of the committee to inform me whether if someone is not a citizen of Uganda he should, therefore, not honour and promote the prestige in the good name of Uganda, should not respect the rights, freedoms and legitimate interests, should not protect children, should not protect and preserve public property, should cooperate with lawful agencies, should not pay taxes; because this clause says that it is a duty of every citizen of Uganda. If someone is not a citizen of Uganda and he is staying in this country, is it not his duty to do all these things mentioned in this clause; secondly, Mr. Chairman, I have a feeling that many of the duties enumerated here are scattered all over in the Constitution; for example, when you talk about the duties or the national objectives, I think, many of these things are mentioned there! Therefore, I see no valid reason myself why we should retain the whole of this article.

MR. AWORI: Point of clarification. Mr. Chair-

man, I am seeking clarification from the Chairman of Committee 4, on Article (h) -

THE CHAIRMAN: No, he has not reached there yet.

MR. KAGIMU KIWANUKA (BUKOMANSIMBI COUNTY): Thank you, Mr. Chairman. Mr. Chairman, I am against subsection (e) clause I that to defend Uganda and to render national service when necessary, the words '*national service*'. Mr. Chairman, as you know in our past this word has been abused and it can be exploited to oppress Ugandans. You remember in 1960s when they were introducing *akasanvu* and you know how people came to hate even what was good. Mr. Chairman, when you put *-(Interjection)*- it was in the 1960, and I am being informed that even in 1950s it was there. Mr. Chairman, as Ugandans we have suffered and would not like to leave any loophole in the Constitution which will be subject to manipulation of the innocent Ugandans. Mr. Chairman, this word '*national service*' I can compare it to the word '*public interest*' which also brought us problems sometime ago, but it was left in the Constitution. I beg, Mr. Chairman, that we drop the word '*national service*' and we stop onto '*defend Uganda*,' that will be enough. As for the word '*national service when necessary*,' Mr. Chairman, this is subject to future manipulation. First of all, it has not been defined and it is not defined, and Mr. Chairman, there is a very big danger. I beg to move, Mr. Chairman.

MR. MWESIGWARUKUTANA (RUSHENYI COUNTY): Thank you, Mr. Chairman. I am confused at the procedure we are adopting. Hon. Ssebaana Kizito raised some issues which to me, I think, are important to be discussed; the Hon. Member had raised an issue as to paragraph (g) taxes, and I think there was another issue which was raised. Why do we not first resolve whatever query is raised before we tackle another one, and in that regard I suggest, why do we not go paragraph by paragraph and see that each paragraph is resolved before we can proceed with discussion on the entire article.

THE CHAIRMAN: The Members who were taking the Floor were seeking clarification from the Chairman. I took it that the Chairman was making notes, and it is only until Hon. Kagimu that we had someone moving a Motion. There was an attempt by Hon. Ruzindana to strike off the word '*currency*,'

because he said that you cannot honour currency, but that was because he did not read the provision properly, had he read he would have found that the word 'honour' does not relate to currency: "to honour and promote the prestige and good name of Uganda, and respect the national anthem," and so on until currency. To respect currency rather than honour currency, it is in two parts if you read it properly. So, what I was doing was letting the Members raise the areas where they need to be clarified and on the basis of a clarification, maybe, it may not be necessary to proceed with the proposed changes to the various paragraphs, that is what I thought. But let us first of all hear the Members' desire to be clarified.

PROF. KABWEGYERE TARSIS (IGARA WEST): Thank you, Mr. Chairman. Mr. Chairman, I had not wanted really to raise my hand, I thought Article 47 was so clear that there would be no time wasting regarding it. Mr. Chairman, because of the remarks that had been raised, I think perhaps then one can clarify some of them before the Chairman comes in. Mr. Chairman, you have clarified the issue of respecting currency. Currency must be respected if it is going to be valuable, it must be respected by the people and when currency is not respected then the economy is in trouble. So, Mr. Chairman, although it is a duty of government and others, but it is also a duty of the citizen to respect currency. Secondly, Mr. Chairman, this question of national service. Hon. Kagimu links national service with the move to the left, perhaps, in the past or with what was called national service. But, I think, really national service is a much larger concept than that past experience. Mr. Chairman, we are here doing a national service. In my opinion this is an important national service we are doing. Many of us might have been elsewhere and engaged in other activities, but they are devoting their time sitting here and so on, and I do not think it is for the money or for the name that there is. It is because many people think that the Constitution is an important document and an important set of values in which we must put our efforts. So, I think, Hon. Kagimu is here doing a national service by his contributions. So, I think the idea of national service must not be restricted to the past experience. Mr. Chairman, soldiers risked their lives in the national service. Police will run after an armed thief in order to save society from a criminal, that is a national service. So, there are duties which must be required of a citizen to save the nation. Mr. Chairman, I was not any where in tune with Hon.

Ssebaana Kizito's queries, because we are talking of a citizen of Uganda. There may be other people living here, they have responsibilities, they have duties, but they may not be held by the Constitution. They may be held by laws, but the Constitution, certainly, must require of us certain responsibilities, and I think, if you have a none citizen residing in Uganda who goes contrary to any of these, he will be subjected to the law. Mr. Chairman, I thought this article should have excited least arguments and, therefore, I wish we could move and vote on it. I thank you, Sir.

THE CHAIRMAN: Hon. Kabwegyere has clarified some of the issues which were raised from the Floor, except for very few really, I do not see - okay, let us hear Hon. Sabiiti.

MR. SABIITI JACK (RUKIGA): Thank you very much, Mr. Chairman. I think I would support the argument advanced by Hon. Ssebaana-Kizito that Article 47, actually, should be deleted; because, Mr. Chairman, if you look at Article 47.1(a) this fully catered for in Chapter 2. If you go to (d) it is fully catered for under the human rights and whatever, in that particular chapter. If you go to (c) on children, it is equally covered under the same, and when you go on further on taxation, there is much legislation on this particular area. On (h) it is also covered under another chapter. Now, I find that this is a repetition and when you look at the objectives, I think Article 39, we have also again clearly defined the duties of a citizen so, I find really this is a repetition and there is no need why we should make this be in this particular chapter. I would, therefore, move that this very article be deleted. I beg to move.

THE CHAIRMAN: Hon. Delegates, there is a Motion to delete Article 47 as it appears. The Motion is moved by Hon. Sabiiti, seconded by Hon. Ringwegi and a number of others. Now, there were attempts to move other Amendments but since this departs furthest from the text, because if it is carried it prejudices fully the entire article. I would like to call upon Hon. Sabiiti - I think he gave the reasons before he even moved, because he went through indicating that these matters have been dealt with elsewhere. I do not think it is really necessary to give him the Floor again. Let us hear from the Floor, Hon. Kirenga.

MR. KIRENGA EMMANUEL (MITYANA NORTH): Thank you very much, Mr. Chairman. I support the Motion to delete the clause, because of

implications to the people affected if it were to be enacted. To begin with I support Hon. Ssebaana Kizito when he says that it is wrong to restrict these duties to only citizens. Number two, if we make it a duty of every citizen to do these things, it means that if a citizen fails to do them he will be in breach of the Constitution, and actually, some of these duties are so vague that it will be dangerous to make it a constitutional matter. For instance, let me give the example of the duty to pay taxes- every citizen has a duty to pay taxes, that is what we are going to say. What about if a citizen is not liable to pay taxes? For instance, he might be an infant and yet he is a citizen. He might be a very old person and yet he is a citizen. I will bring another example to (f) to cooperate. How can you make it a duty to cooperate? How can you define cooperation? Cooperation is just a matter of degree, you cannot say it is a duty to cooperate. Then there is a duty to protect children and vulnerable persons. I am thinking of a situation where man is armed and he is harassing people, and then it is a duty of a citizen to protect or to disarm him! How is that possible? I think the whole thing is so vague that it should be left to individual Acts of Parliament, because it is something which cannot be enforced, which is so vague that making breach of it an offence of the Constitution will be unenforceable and it will be not - so, I support the deletion of this article.

MR. RINGWEGI SAM (PADYERE COUNTY): Thank you, Mr. Chairman. Mr. Chairman, I seconded this Motion to delete it because when I went through the provisions in article 47, I was asking myself that what do we intend to achieve by these provisions? We are trying in this Constitution to list the duties of a citizen. Are we going to be exhaustive enough to know what are the duties a citizen? Mr. Chairman, some of the duties covered here in the provision under article 47 are already, as pointed out by previous speakers, covered by other legislation. For instance, if one is disrespectful to his country, this disrespect can take many forms, you can engage in acts which will either subvert the government of the country, that would amount to disrespect, and this is covered by Penal legislation. It would amount to treason or any other crimes. When you talk about the protection of children and vulnerable persons, all these are matters which are already catered for by other Penal legislation. When you talk about preserving public property, we know that if you go destroying public property the Police are there to apprehend you and prosecute you. This is not

a constitutional matter. Are we, therefore, seeking to provide for these situations in a Constitution because we think there is a psychological feeling that these matters are in the Constitution, therefore, they will be carried out better? If that is not the feeling, then this is not the right place to make such provision. I think this House will do itself a better job by confining itself to certain principles and leaving some of these jobs for the Parliament in future to do. Therefore, Mr. Chairman, I find the provisions in Article 47 misplaced and are not fit to be in our Constitution. I, therefore, support the Motion to delete it. I thank you, Mr. Chairman.

MR. WANENDEYA WILLIAM (BUDADIRI EAST): Thank you very much, Mr. Chairman. Mr. Chairman, I fully support the Motion to delete this article, the whole of it, Mr. Chairman. The reason, Mr. Chairman, is that you very well posed a question when you said that how does somebody pay tax when he does not have taxable income. In Budadiri, Mr. Chairman, some of my citizens are poor, but when it becomes to paying graduated tax they sell some of the cattle or some of the goats which a taxpayer may have, and as few as they may be a person is assessed, without a man having earned any income in a year. We are therefore talking of three or five cows which a person has. Now, if a man is to pay graduated tax, what some of these RCs of ours have done, is to sell that man's goat or cow in order to raise taxes for him, and yet at the same time he has not got money to send his children to school! So, the article itself, as very well advocated for some people, is really irrelevant because it is covered somewhere under some provisions in this Constitution which we are trying to put forward. Therefore, Mr. Chairman, when it comes to some of the things like respecting the government as covered by some of the sections under this article, you find that you cannot tell a man to cooperate with lawful agencies, and some of them may be oppressive. Therefore, if it is put under an Act of Parliament and somebody does not cooperate, that is when it will become applicable. Therefore, Mr. Chairman, I strongly support that this article be deleted because it is out of place. I thank you, Mr. Chairman.

MR. KATENTA APUULI: Point of procedure. Mr. Chairman, I only rise on a point of procedure. I wish to draw the attention of Hon. Delegates that when we were considering Chapter 3, Article 21, Clause 2 and 3, we mandated my committee 4 to include two paragraphs (i) and (g) which appear

on the bottom of Page 12 of my report. Now, if that be the case, if we seek to delete the entire article, maybe, we will have to revisit this decision that we made earlier on. I thank you, Mr. Chairman.

THE CHAIRMAN: Well, the House did say that they should add other paragraphs, but of course, it depended on whether they were going to retain this one or not.

MR. BASALIZA HENRY (FORT PORTAL MUNICIPALITY): Thank you very much, Mr. Chairman. Mr. Chairman, I would like to support those who have already spoken that this article should be deleted from this chapter, because most of these clauses are not justifiable. But, Mr. Chairman, I would like to defer that we can delete from here and include some of these clauses in another chapter under objectives. For instance, Mr. Chairman, let me refer to 47(a) this is a very important clause in connection with inculcating nationalism among the people of Uganda. Now, if we delete it completely then our children or ourselves would not know that these national symbols should be respected. So, Mr. Chairman, I would like to suggest that we include some of these clauses under objectives. Thank you very much, Mr. Chairman.

MRS. MATEMBE MIRIA (WOMEN DELEGATE - MBARARA): Thank you, Mr. Chairman. I strongly oppose the deletion of this article. Mr. Chairman, when the commission was going around the country there was one big chapter that was being emphasised, and that is chapter 5, of fundamental human rights and freedoms. The very people who wanted their fundamental rights and freedoms on the other had felt *-(Interjection.)-* Mr. Chairman, these very people were saying that you cannot emphasise rights and freedoms without corresponding duties on the part of an individual, and that gave rights to this article you see here. Because people were concerned about telling the state, do this for us, we want this, we want this, and they were saying in return what do we owe to this state which is protecting our rights and freedom, Mr. Chairman? Therefore, this Clause must be here to tell the Ugandans that while you demand rights and freedoms, you must also discharge certain duties and some of these duties are, actually, your need to be nationalistic, and if you look at the first one which says *-(Interruption)*.

MR. ELYAU: Point of information. Thank you, Mr. Chairman. I would like to inform the Member

holding the Floor that the point she is raising is very important, especially, if you see where we say the children must be respected, dumping children in latrines! This is a very serious matter, people should be responsible *-(Interruption)*.

THE CHAIRMAN: No, no, but you are now beginning to argue, you are not informing here. Please, continue.

MRS. MATEMBE: Thank you very much Hon. Elyau, that was to emphasise my point. So, Mr. Chairman, I want to say here in this House that the very people whom we represent were the very authors of the duties they put for themselves. So that while they demand right and protection from the state, they must also on their own, as responsible citizens that are enjoying rights and freedoms also discharge certain duties. They wanted these duties constitutional, and certainly it would be a shame for us to sit here in this House and list rights and freedoms without putting duties of individuals in this Constitution. Therefore, Mr. Chairman, whereas I do not oppose some Amendments to this article, myself or in the name of the people of Mbarara, in particular, but generally the people whom I talked to during my time as a Commissioner, this article should be here. Therefore, I oppose in the strongest terms its deletion. I thank you, Mr. Chairman.

MR. KAMUROM PETER (KONGASIS COUNTY): Thank you, Mr. Chairman. Like Hon. Matembe has said, this particular article is a product of the Odoki Commission, and the people had very good reasons why they wanted a citizen of Uganda to be very responsible. If you can read what the Commission, actually, put down on page 129, this is exactly where this was derived. Secondly, if you delete the whole clause, we have already mandated the people of defend the Constitution- in clause of the article, if we delete it, it means that the people of Uganda will have to challenge whoever would like to make them undergo military training. So, there is already a contradiction, I think, fellow Delegates have forgotten that they have already mandated the people of Uganda to defend the Constitution, and they cannot defend the Constitution without undergoing military training. Now, thirdly, Mr. Chairman, if this article is deleted, you are going to make Ugandans very passive and as it has been said, the people of Uganda must be able to do (a) (b) (c) up to (g) to make sure that they are responsible and in as far as the Commission is concerned in one of the - if

I can read part of the paragraph in Section Four, that: *'The reconstruction of the nation and promotion of the principles and values on which Uganda is to be built and developed demand the conscious fulfillment of the duties by each and every citizen.'* So, if you delete this article you will make Ugandans very passive, and I do not know what type of nation we are going to produce. Mr. Chairman, I oppose the deletion. Thank you very much.

MR. APUUN LONGOLI (BOKORA COUNTY): Thank you very much, Mr. Chairman. I do equally oppose the deletion of this article for the first reason, when we came here to do this exercise, this noble task, we were all sworn in to defend this country. So, that is a national obligation for all of us, to defend this country. What does it mean by defending this country? Who is supposed to defend this country? Is it only the Police? Is it only the Army or any other organ? To me, I am sure and I am convinced that we are all supposed to defend this Constitution, and to do so we should have this article in the Constitution enshrined *-(Interruption)*.

MR. ERESU ELYANU (KABERAMAIDO COUNTY): Point of information. Hon. Apuun, thank you very much for giving way, and I would like to inform you that whereas you state that the duty to defend this country rest in the hands of the Ugandans, if we include this again in chapter 4 we are being repetitive, because Chapter 1, Article 4 (a) reads that: *'All citizens of Uganda shall have the right and duty at all times- (a) to defend this Constitution, and in particular, to resist any person or group of persons seeking to subvert or overthrow the established constitutional order.'* In other words, what you are saying to justify this article being put in chapter 4 has already been covered! Thank you.

MR. APUUN LONGOLI: Mr. Chairman, I thank Hon. Eresu for giving me the information which is, actually, strengthening my point. Mr. Chairman, we all know in our local areas, that when an alarm is raised by anybody and when enemies approach any corner, a man and a woman always take up something to defend their localities. Mr. Chairman, there is no reason why we should all argue to say we delete this article. We know in our country that we have had so many problems in this country and a few individuals had guns. Practically, when NRM came to power recently, everybody was summoned to go and do something to do with guns. When you look at it, Mr. Chairman, it has come to everybody that one is

supposed to know the violence of the gun so that you are able to defend yourself, you are able to identify the culprit and you will now know how to operate the gun, which is being used to violate the human rights. So, Mr. Chairman, I strongly oppose the deletion of this article.

MR. RUKUTANA: Thank you, Mr. Chairman. Mr. Chairman, I stand to strongly oppose the Motion to delete this article. Mr. Chairman, whenever we are debating this Constitution, we should never lose sight of what the people of Uganda are saying. I always take the occasion to quote from the report to the wishes and aspirations of the people of Uganda which we should debate here. Before I contribute let me quote you from page 129 of the report, and this starts with exactly this topic, it is section 4 and the heading is 'The Duties of Citizens' paragraph 6.111, and I am quoting: *'There was overwhelming support for the inclusion of duties of every citizen in the new Constitution. Such duties create a necessary balance with the citizens' rights. In the past it has been the order of the day to insist on the rights without giving due regard to the corresponding duties. The analysis of Uganda's problems as is contained in chapters two and three of this report has shown how every section of society may have had a share in the problems the country has undergone.'* So, Mr. Chairman, we cannot put the rights of citizens without imposing duties. In this particular chapter we are dealing with citizenship. We need this article for completeness' sake. We have, for example, defined who a citizen is. We have provided for how a person acquires citizenship. We have provided for how a person loses citizenship, and now being a citizen, what next? So, we must provide for the duties of a citizen! It is true these duties may be covered under other provisions, but here we must be specific to impose duties which we know that if they are broken the citizen has committed a constitution wrong. Of course, the law takes its course. Secondly, Mr. Chairman, I have heard people who support the Motion saying that these articles are not justiciable. To me there is nothing in this article that is not justiciable. In any event they are saying that these articles are not justiciable, because today there may not be law covering what they are intended to cover, but since we are making a new Constitution, it is our duty to put in the Constitution whatever we envisage might arise in future. We should put these aspects here and, of course, I will be suggesting some few Amendments here and there in order to empower future Parliaments to make laws

to cover these situations when they arise as they are bound to - *(Interjections)* Mr. Chairman, I was winding up, I was saying that it is very important and crucial to include these duties in the Constitution so that future legislators are enabled to make laws to cater for these situations if they arise in future. We should not forget that we are making a Constitution not for today but for posterity, and if we make it properly, if it is as good as the people of Uganda expect, it should last more than 300 years! So, why do we not cover these aspects as is recommended by the people from the report I read? Mr. Chairman, I have seen Article 39 being more or less a duplication of what we are saying here, duties of a citizen. I should remind all Delegates that under Chapter 3 where these duties are covered by Article 39, these are mere objectives, and when you look at them, it is the provisions of Article 39 that are not, actually, justiciable. Here if you fail to impose duties on citizens which are justiciable, we shall have failed in our duties.

Lastly, Mr. Chairman, Hon. Ssebaana-Kizito raised a point saying that if you say it shall be the duty of every citizen of Uganda to do the following, do we mean that non-citizens are not supposed to do them? Mr. Chairman, there is nothing in this article that prohibits non-citizen from complying with our laws. What the article does is only to impose duties on citizens. This provision is not exclusive to say that non-citizens will not comply. There are other laws that will govern non-citizens. Definitely our law as it is today and the law we are going to pass here will be strict enough to ensure that non-citizens do not break our law and go away with it. To ensure that non-citizen do not fail to pay our taxes, to ensure that everything here is complied with by non-citizens. Well, with those few words, Mr. Chairman, I oppose the Motion to delete this article. Thank you, Mr. Chairman.

THE CHAIRMAN: Hon. Delegates, I think we pronounce ourselves, we have had a very broad coverage of this. This Motion is by Hon. Sabiiti that: "Article 47 as contained in the Draft Constitution should be deleted." It was seconded by a number of Members and many have spoken for and also many have spoken against. I now wish to put the question so that we move on, I put the question.

(Question put and negated.)

THE CHAIRMAN: Now we go back to 47, let us make a quick run because by debating the other Motion we are more or less debating 47 really. There is paragraph (a), I see nothing against that, paragraph (b), (c), (d), (e), (f) and to pay taxes- *(Interjections)*- okay the procedure does not say that only one voice can belittle the rest so the chair had the majority view. Now we go to chairman of the committee on (h).

MR. KATENTA APUULI: Mr. Chairman, Hon. delegates, the committee considered this paragraph (h), and during the course of the debate a Motion was moved to amend the original text in the draft constitution by adding the words 'it' and 'to participate in elections.' However, during the course of the debate when we pronounced ourselves on this matter, a substantial minority did not recommend the addition of the words 'and to participate in elections.' Therefore, I would like to seek your permission, Sir, Chairman, to table both a majority and a minority report. The majority report states that this paragraph should read: 'To register for electoral purposes, and to participate in elections.' The minority report seeks to suggest that (h) should only read: 'To register for electoral purposes.' The rationale behind the majority report is that as we imposed duty to a citizen to participate in elections we should equally -to register for elections should equally request that citizen to participate in elections essentially making it a mandate for somebody to vote. There are a number of countries in the world that do that. However, the minority wanted that although one should register for elections, one should not be compelled to vote because it will be more difficult to police the exercise of making sure that everybody in the country votes. Mr. Chairman, I beg to move.

THE CHAIRMAN: Now the position is this that, the chairman has presented two reports, one minority, one majority. Unfortunately I do not know the Members, those who were in support of the minority view. Because we are to start with minority, should minority view carry the day and become a majority in the plenary then the majority view in the committee becomes a minority position. So. I would like us to begin looking at the proposition, that instead of saying: "Register for electoral purposes and participate in elections," that we only have the provision: "To register for electoral purposes." Now can I see those who were in support of the minority report.

DR. KAKUNGULUSHANNON (PRESIDENTIAL NOMINEE): Thank you, Mr. Chairman. Mr. Chairman, if we look at the principle of democracy, it is a system of government where the majority view takes place. But then, if I quote the example of this House, when we are coming to decisions there is the majority view, there is a minority view and there is sometimes abstinence, some people prefer not to take part to decisions raised by the House. So, similarly why do we not leave it optional for someone not to vote or to vote? Mr. Chairman, withdrawal of one's vote can be a way of voting a system out of power. So, certain aspects of voting will not be pleasing to the electorate and they decide that of all the candidates you have brought none of them fits me, so I have the option of not voting for anyone of them. So, much as we would like an ideal system, there is somewhere where you have to give the people the liberty. For instance, it is a parental obligation to have children, but also it is a parental obligation not to have children in certain aspects. So, Mr. Chairman, I beg to support the minority report. Thank you.

MR. ATWOKI AMBROSE (YOUTH DELEGATE - NORTHERN): Mr. Chairman, I beg to support the minority report on the grounds that when we are making constitutional provisions which is for the well being of Ugandan masses, I believe that we should take into account a social-economic environment in which they live. Mr. Chairman, the effect of legislating that somebody should compulsorily vote does not take into account the level of awareness which exists in our country. Mr. Chairman, I want to inform the House that it is not out of the willingness of the voters that they do not vote. Some are incapacitated by their level of illiteracy and lack of awareness. Mr. Chairman, it would be very unfortunate if such a person is taken as a person who has violated a constitutional provision which provides that everybody must compulsorily vote. So, I am imploring fellow Delegates that whenever we are making constitutional provisions we should take into account the environment in which the masses of which we are legislating live. Mr. Chairman I also want to inform the House that it is completely impossible to enforce a provision like this one which has been recommended by the majority report in committee 4. Mr. Chairman, I want to also observe that, as I was stating, that it is completely impossible to enforce such a constitutional provision in an environment or in a premise which I have prior elaborated. Mr. Chairman, we do not have the

infrastructural provisions which will enable us to police those who will violate such a constitutional provision which is being suggested by the majority report from committee 4. So, I believe that the best we can, maybe, provide for our citizens is to make them recognise their noble obligation to register for electoral purposes. Thank you, Mr. Chairman.

THE CHAIRMAN: We have heard two speakers for the Motion, let me hear Hon. Bantariza.

MR. BANTARIZA FRANCIS (BUHWEJU COUNTY): Thank you, Mr. Chairman. I do support the minority report because it will be really very difficult to enforce this law if you declare voting and people do not want to vote. As the Hon. Kakungulu has stated that it is one way of somebody saying if he does not want he can say NO by not going to vote. So, I strongly support the minority vote. Thank you.

MR. ONEGIOBEL: Thank you, Mr. Chairman. The reasons that have been given so far turn to say one thing that this provision will be difficult to enforce. Mr. Chairman, I therefore, see only one solution to the views already given, and I move that the entire (h) be deleted. I beg to move.

THE CHAIRMAN: Now, let us look at the procedural position with regard to that. We are debating a recommendation - first of all we refused to delete the whole of 47, it was put to the vote and it was defeated. Then we went back to the original Motion, and the original recommendation was that the-I mean of (h) we went on approving the others. But (h) had an Amendment and that Amendment attracted a majority and a minority. I think what I suggest we do is let us first of all decide the fate of the minority report is carried then, of course, there is no problem because the majority here want it. If it is not carried then we shall go to the other recommendation, and it is at that stage that the Motion to delete would be better- would be dealing with the original one because, in fact, what you are doing you are withdrawing the other Motion and our rules do not allow us to withdraw the substance when the amendments are on the Floor. Otherwise people would wait to move Motions when they see they are being amended to withdraw them to embarrass the amendment Motion. So, I rule that we proceed with the minority report first and see how it goes.

MR. KIRENGA: Clarification. Mr. Chairman, before we debate thoroughly the pros and cons of the

minority report, I am seeking clarification as to whether we have in the Constitution a provision for expressing disapproval of a candidate if he is the only one who is standing or all of them if they are the only ones standing. Before we debate this, do we have any provision? Because there is a situation, for instance, in Zaire where Mobutu stands and then there is a provision that those who do not like him vote no, then here in Uganda we might have, maybe, four presidential candidates and I do not like any of them. Do we have any provision for voting against all of them? I would like to be clarified on that one, Mr. Chairman.

THE CHAIRMAN: No, but that will not be relevant to what we are discussing, whether we - the method of voting for or against a candidate is not relevant here. Here what we are discussing is should a citizen of Uganda be under a duty to register? Whether he registers under the Motion now on the Floor - if it is carried he would be under a duty to register, whether he exercises that right and goes to vote would be left to himself or to herself. (*Interjection*) No, no! We are not debating whether the people should vote for - should vote No, should vote Yes, should vote Yes and No. We are not discussing that. What we are discussing is, we are ready to impose a detail on the citizenship of Uganda, to register for electoral purposes. That is what we are discussing. We are not discussing the method of voting. Now, I have had a good number of those in support of the Motion, in support of the minority report. Now, I would like to hear those who are against the Motion. I can see a Member behind there, but I cannot see him properly because of some other Members in front.

MR. OKULA CHARLES (SOROTI COUNTY): Thank you, Mr. Chairman. I support the minority report, Mr. Chairman.

THE CHAIRMAN: I was looking for those against the Minority Report.

MR. KAYONDE ISRAEL (GOMBA COUNTY): Thank you, Mr. Chairman. Mr. Chairman, I oppose the Minority Report. Mr. Chairman, democracy is based on elections. Regular and fair elections. Now, Mr. Chairman, most people have been criticizing various governments for coming to power, when they do not have the support of the people. Now, if this minority report is supported and it goes through, a time will come when in Uganda we shall have a government which has been elected by 10 percent of the population. And in my view, this

is dangerous. Secondly, Mr. Chairman, right now, we are getting very many religious sects which are condemning elections. The Jehovahs Witnesses are known that they are active, and they discourage elections. In my area, I have a substantial number of people who belong to a certain sect and despite all the attempts made, they refused to go for polls. So, Mr. Chairman, suppose these forces constitute a substantial number of our population, what will happen? Sir, I think it is - we must make it a duty of every citizen to register and participate in an election. I thank you.

MR. MUSHEMEZA ELIJAH (SHEEMA SOUTH COUNTY): Thank you, Mr. Chairman. I oppose the Minority Report - (*interruption*) - Mr. Chairman, there is some noise behind me and it is making me uncomfortable. I think I oppose the Minority Report. I have observed peasants at different historical periods before an election, and I have observed some apathy to register and vote. But after some education and to some extent threats, these peasants have come up to register and vote. And this apathy is in contradiction with their desire to have good leadership which can guide them, and even which can help them when they are in trouble. So, if you need good leadership which can guide you and help you when you are in problems, why not vote? Secondly, colleagues who are saying, one should accept to register but not to vote, then why are you registering? What is your purpose to register? So, Mr. Chairman, I believe very strongly that a citizen should have an obligation to register and vote in an election. Thank you, Mr. Chairman.

BRIG. MOSES ALI (EAST MOYO COUNTY): Thank you, Mr. Chairman. Mr. Chairman, I oppose the Minority Report for the following reasons.

THE CHAIRMAN: Hon. Moses Ali, I mean - we know you are fasting, but you can speak a bit louder.

BRIG. MOSES ALI: Thank you, Mr. Chairman. I wanted to spare the ears of my colleagues but, if I can speak loudly, I am saying that, I am opposed to the Minority Report for the following reasons. Mr. Chairman, to allow somebody not to vote contradicts the very policy of peaceful change authority, and therefore, minimizing blood shed. Number two, to allow somebody not to vote also undermines the system that is now going to be put to replace that people should vote. If you make somebody free, he should vote or not, it will undermine this system. It

also misleads many people here on the fence, all the time. Those who take time to decide. If you just see somebody there seated, and you do not know his or her reason, many people will just sit and you ask them, they do not know why they are sitting, this is misleading, and very, very dangerous. But if we allow everybody to go and vote, then there is no chances of leaving these people undecided. Mr. Chairman, right now, there is - we are not allowed to take your own soul. You cannot commit suicide; it is useless, neither can you cut your ears because that is illegal. These are some of the preventive laws deterrent, so that everybody does not behave like say what he wants in society. There must be a limit of freedom. You cannot just be given freedom, which later on will be liability to the entire population, without seeing it. You regret you say or, I wish I knew. No, it is too late. Why do we not speak naked? Here already we have some religions which preach against other sects. Should there be epidemic because of the freedom, are you going to allow this religion to take citizens or being treated or vaccinated against diseases that will kill people. So, I think, Mr. Chairman, it does not harm at all to say who is going to vote. Even if you do not want to go and vote, you go there, then go and put your paper blank. At least you have shown that, you do not want any of the Candidates. But we are there, we do not discourage you from coming. Now, when you talk of implementation, also implementation is not a problem. And after elections, there is need for road block which will move around, until we say that, you see, Should I tell you what happened? Where were you? That is Mr. Chairman, the basis of discipline, and we will have a very good well behaved society and responsible to change the government of whatever level peacefully so that we do not use guns. Mr. Chairman, I beg to oppose the Minority Report.

THE CHAIRMAN: We have heard from a number of - we shall hear from a political scientist.

PROF. NSIBAMBI APOLLO (PRESIDENTIAL NOMINEE): I totally oppose the idea of forcing people to participate in an election. Because it affects the democratic clause. It affects it, because it encourages people to regain the electoral process. Secondly, we shall be despising the capacity of the people to judge what is best for themselves and for this country. Thirdly, it is against the basic human rights. On those grounds, I totally oppose the idea of forcing people to participate in elections. They should only be encouraged to register, but not to vote. I thank you.

THE CHAIRMAN: So, Hon. Members, you have heard one Member in support of the Minority Report. I want one person against it, then we proceed. Yes. Hon. Member, you are against Minority Report?

AN HON. MEMBER: Thank you very much, Mr. Chairman. I oppose the Minority Report. Mr. Chairman, I do not see why somebody should reject an election and then stubbornly stay away. That is a waste of time and a waste of material. So, if you want to register, do go ahead and prepare the same to vote. Mr. Chairman I would like Hon. *-(interruption)-*

THE CHAIRMAN: Are you taking the information?

AN HON. MEMBER: No, Mr. Chairman, I would like Hon. Kakungulu's example, where he said that, if one does not want to vote, he should attend. And he went further to give another example that, for example a couple they would like to have a child but then, they may not have it. That is the best example in that, he is actually supporting us. So, Mr. Chairman, I do not see why somebody should reject us or our national purpose, and then we choose to participate in elections. Mr. Chairman, Thank you.

THE CHAIRMAN: Hon. Members, let us vote on this, then we agree whether we proceed with the original recommendation or we adopt this one. The Motion is by- we are dealing in touch with the minority report, which says that, we should retain (h) as it appears. That is what is in the minority report he is saying. The majority view was that, we could make it to read: "Register for electoral purposes and substantial elections." Now, the minority report if it carries then it replaces the other one, because it becomes a majority view in the plenary. So, I will put the question.

(Question put and agreed to)

THE CHAIRMAN: In other words, what has carried the minority report and therefore paragraph (h) as it is in the draft is what we have adopted. Now, you see, we have just voted, we had two motions before us. There was a majority report that we amend (h), then there were those who said, that we should not accept that, but retain the position as it was. We discussed that, and voted on it. And the majority of the Members in the House are saying that we should retain (h) in the form in which it is.

Because that was the wording of the minority report. Now for us to go on, I am saying we should delete (h). would be contradicting ourselves. So there is no limit for another Motion on the subject matter.

LT.COL.SSERWANGA LWANGA (NRA DELEGATE): Point of clarification: Thank you, Mr. Chairman. Mr. Chairman, I want to be clarified, because I have a problem in this Statute, and especially with (g) and (h). The article says that: *"It shall be the duty of every citizen of Uganda to pay taxes and to register for electoral purposes.* The problem I have is that, when it comes to the children. Are they also not citizens? Because if it was citizens, it should be the duty of every adult citizen, I would have no problem. But now, are you also including the citizenship - I want your clarification on this.

THE CHAIRMAN: I think Hon. Serwanga Lwanga is having a very narrow understanding of taxes. I do not think it is intended that, the people below the age of 10 years should smuggle goods without paying taxes for instance.

LT.COL.SERWANGA LWANGA: They do.

THE CHAIRMAN: And if they do, then they are caught in this one. So, why do you use the word adult when you know that, we should not put - you do not breast your child and make it carry contraband from London through the airport. So, the question of taxes, it is not taxes meaning poll tax, or taxes on Income only. But customs taxes, sales taxes, taxes so on and so forth. So, the area is quite wide. But there are other provisions in this constitution which will provide for those who will be required to register and vote. So, if you are so required, you must register. If you are not required, then you do not have to register. So, there is nothing contradictory there.

MR. KATENTA APUULI: Thank you, Mr. Chairman. Mr. Chairman, as I said before, that when we are considering Chapter 3, article 21, Clause 2 and Clause 3, we are mandated to transfer these decisions from that chapter to this position to read: *"Paragraph (i) to contribute positively to the developments of self, the family, the community and the country. And paragraph (j) to combat corruption and misuse of public property."* Mr. Chairman, I beg to move.

THE CHAIRMAN: Agreed, go on.

MR. KATENTA APUULI: Mr. Chairman, Hon. Delegates, Committee 4 seeks to get your permission to add with objectives, Article 39, the following words: *"It shall be the duty of every citizen of Uganda to acquaint himself or herself, with provisions of this constitution and uphold and defend this constitution under law."* The purpose of this is that, since human mandated Ugandans to defend the constitution, it is necessary for them to acquaint with the provisions of this constitution under law which they are going to defend. Mr. Chairman, I beg to move.

THE CHAIRMAN: If this one is agreed, then we will go to 39.

MR. KATENTA APUULI: Article 47, Clause 2. The Committee recommends that Clause 2 as it is in the Draft Constitution stand part of the constitution and to read: *"It is the duty of all able bodied citizens to undergo military training for defence of this constitution and the protection of the territorial integrity of Uganda, whenever called upon to do so; and the state shall ensure that facilities are available for such training."*

THE CHAIRMAN: Okay, now, I will put the question.

DR. KABAYO JOHN (KASSANDA SOUTH): Point of clarification. Mr. Chairman, thank you. My point of clarification is based on the words *'when called upon to do so.'* If it is a duty of every citizen, why do we need to be called upon?

THE CHAIRMAN: But surely, you must be called upon, otherwise, do you want to take up your own weapons and train?

MR. KAGIMU: Point of clarification. Thank you, Mr. Chairman. Mr. Chairman, I am seeking clarification. Mr. Chairman, military training actually would be good for our country. Because we suffered during the first regimes because of the gun not being demystified, and nowadays because of the demystification of the gun, we are heading for the defence of the constitution. But Mr. Chairman, the problem is that, if it is military training, let it be military training. Because the current so called military training, the Mchakamchaka, and you know mchakamchaka is dominated more by political science than by military training. Much of the course given is not what is stressed mainly, it is not the training itself, but the

politicisation- this one is bad, parties are bad. Now, Mr. Chairman, secondly, what I need to be clarified more is that, if something is forced, sometimes it is dangerous, instead of being good, instead of persuading people, and then they come to hate you. Another point is that, I would like to quote from a *Monitor* Newspaper, which was of January 16th. I read, 'chorous cries at Mukono ChakaMchaka.'

THE CHAIRMAN: But that is not even worth talking about. Because you have said that, *Chakamchaka* is not military training. So, why do you quote about what is not military training?

MR. KAGIMU: Because *Mchaka* is you know, is a kind of freedom. That is why I was seeking clarification from the Chairman to clarify that to me. What we mean if it is military training, let it be military training and not the current system of *Mchaka*. Mr. Chairman, I do not think it was bad to read because, currently *-(interruption)-*

THE CHAIRMAN: No, you said, you will be diverting on. This article is saying every bodied Ugandan should defend Uganda. And to do that, they should be militarily trained, the government should make facilities available. What you are talking about, and you have yourself said, it is not military training. *(laughter)* So I think we leave it here. What I would like to say really is that, from what I notice from the Floor, there was a broad agreement in this particular clause.

MRS. EGUNYU FIONA (WOMEN DELEGATE - KUMI): Point of clarification. Thank you, Mr. Chairman. Mr. Chairman, I have a problem which I would like us to consider it. There may be objectors in matter of conscience and religion. And under Article 59, we have here guaranteed them that freedom of conscience and belief. Now, the problem here is that, there may be those who object, on matter of conscience or religion and do not want to partake in any military activity whatsoever. How, are we going to accommodate that category of people? More so, given that, there may be regimes which pursue an aggressive policy towards neighbours or whatever, and in that case, you would be duty bound, to fight even when they do not see the logic or any justifiable reason for such wars. How are we going to accommodate those who object the matter of conscience or religion? Thank you, Mr. Chairman.

THE CHAIRMAN: Do you know of anyone who would object because you do not want to legislate for high protectals ?

MRS. EGUNYU: No, I would object. Mr. Chairman, I am one of those who would object a matter of conscience, Mr. Chairman.

THE CHAIRMAN: Then it is a matter of religion in which case the matter can be seen from the point of view of what Parliament can provide.

MR. BATEGANYA DICK (BUKOOLI CENTRAL COUNTY): Thank you very much, Mr. Chairman. I have been provoked to object this application on military training, now, the training every Ugandan had - who would defend this country here?

THE CHAIRMAN: Anyway, Hon. Delegates, let us clarify on this one. I put the question, that Clause 2 as it is be agreed to.

(Question put and agreed to)

THE CHAIRMAN: I now put the question that Article 47 as amended do stand part of the Draft Constitution.

(Article 47 as amended, agreed to)

MR. KATENTA APUULI: Thank you very much, Mr. Chairman. Hon. Delegates, committee 4 requests - that we recommend that 48 be deleted. We arrived at this decision because we feel that, the article is superfluous redundant. Its provisions have been either taken care of elsewhere or contradict previous decisions. Paragraph (a), the constitution already provides for the method of acquiring Uganda citizenship. (b) International conventions prohibit creating stateless persons. (c) Where a Ugandan requires a citizenship of another country that other countries will have provided for how previous citizenship is renounced. (c) The Committee, dealing with Chapter 6, should determine this issue under article 84 - the right to vote. (e) Parliament can legislate on any matter in the land as per Article 132 Clause 2. (f) the reason applying immediately above applies to this paragraph as well. Mr. Chairman, I beg to move.

THE CHAIRMAN: Hon. Delegates, I put the Question that 48 be deleted.

(Question put and agreed to)

MR. KATENTA APUULI: Mr. Chairman, Hon. Delegates committee 4 considered Article 49 and found that the Article as formulated in the Draft Constitution is very satisfactorily and recommend that we retain in the Constitution to read: *Article 49 Clause 1 - A reference in this Chapter to the citizenship of the parent of a person at the time of the birth of that person shall, in relation to a person born after the death of the parent, be construed as a reference to the citizenship of the parent at the time of the parent's death.*

Clause 2 - For the purposes of Clause(1) of this article where the death occurred before the coming into force of this Constitution, the citizenship that parent would have had if he or she had died on the coming into force of this Constitution, shall be deemed to be his or her citizenship at the time of his or her death. Mr. Chairman, I beg to move.

THE CHAIRMAN: I now put the question that Clause 49 do stand part of the Draft Constitution.

(Question put and agreed to)

MR. KATENTA APUULI: Mr. Chairman, there was also the matter of Bahima which was differed and we had a debate in the Committee and we somehow recommended that Bahima be included the schedule.

THE CHAIRMAN: What I recollect is that we had a report from the Committee which said that the matter of whether or not Bahima should be in the schedule had not been finalised and that consultations were taking place and we agreed that the Committee has Friday and comes back on Monday afternoon to report to us whether or not what it has taken on the question of the Bahima. But on Monday, the Chairman of the Committee came back and said the matter had yet to be discussed and I made a ruling that let us proceed with what there is before us and if this matter is ever agreed upon after consultation however long it may take, it can come up during our reconsideration stage.

MR. KUTESA: Thank you, Mr. Chairman. I want to know what is behind all these delays. Because when it was raised in Committee 4, we sat down and the majority after our explanation found that it should be included among the other 50 tribes that they have been going on. Now, why is it that they are saying - What is so special about Bahima that is not there with other people?

THE CHAIRMAN: There is nothing special about it. The only thing is that according to our procedures we voted you remember there were so many Amendments and we voted on the schedule that *The Schedule as amended do stand part of the Constitution.* We went through a Legal advice here that schedules are enactments in their own. Now if we were to reopen all these matters we have resolved, then where are we going to end?

MR. KUTESA: Mr. Chairman, then I would rather move it here now and it be defected as the Committee agreed on it and it is resolved because I am in a dilemma I do not know what to explain.

THE CHAIRMAN: Hon. Delegates, tomorrow we will be proceeding with another Chapter and I will be advised and by the time you come you will find the Papers there. The Sub-Committee of the Business Committee has recommended that we take on Chapter on IGG tomorrow.

(The Assembly rose and adjourned until Tuesday, 14th February, 1995 at 2.30 p.m)