



THE REPUBLIC OF UGANDA

PROCEEDINGS
OF
THE CONSTITUENT ASSEMBLY

OFFICIAL REPORT

CONTENTS

TUESDAY, 13TH SEPTEMBER 1994

MOTION:-

Consideration of the Draft Constitution of the Republic of Uganda [Pg 2076]

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Tuesday, 13th September, 1994

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

P R A Y E R S

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

The Assembly was called to order

THE CHAIRMAN: We have no Communication from the Chair. We go to the next item.

Honorable Delegates, when we adjourned yesterday, we had disposed of Amendments to Article 63 and we were due to commence consideration of Article 64. To Article 64, there are a number of proposed Amendments. We are on Page 8 of the Proposed Amendments, at item 23. Item 22 was overtaken by the approval earlier on upon a Motion by Hon. Byanyima and others. So now, we have the first Proposed Amendment *-(Interruption)*

MRS. ZZIWA (Women - Kampala): Though this one is not really on the agenda, Mr. Chairman, I feel it is an issue of national concern. The press is carrying a very big title today which was a result of our proceeding yesterday - mainly *the New Vision* saying 'CA ALLOWS ABORTION'. I feel it is really a misrepresentation of what actually we debated yesterday, Mr. Chairman *-(Interruption)-*

THE CHAIRMAN: No, what you do in such a case, in accordance with our rules, is you give notice in writing that you intend to make a statement either of personal explanation or of major national importance. Then the Chair can allow and allot you time to make that statement, not today but maybe tomorrow or at some subsequent sitting. Otherwise we shall be introducing a new factor in our transactions.

MRS. ZZIWA: Okay, I wanted to beg your indulgence, Mr. Chairman, that maybe you could come out somehow to clarify. But if that is the way you put it, I will go ahead and do that. Thank you, Mr. Chairman.

THE CHAIRMAN: No, you just write out something and then we shall look at it.

MRS. ZZIWA: Thank you.

DR. KIYONGA C: (Bukonzo County West): Thank you very much, Mr. Chairman. You have indicated that we would move to item 23 which would be handling Article 64 but under item 26. Mr. Chairman, we intended to introduce a new article, Article 64. I do not know whether we should begin with that one or deal with article 23 first.

THE CHAIRMAN: Where do you think it fits? Where do you propose to put it?

DR. KIYONGA C: Mr. Chairman, when we went to the Legal and Drafting Committee, after we had a discussion with them, they were of the view that what we want to propose fits best between the current 63 and 64.

THE CHAIRMAN: Could we hear from the Legal and Drafting Committee on this. Hon. Ben Wacha are you acquainted with this proposition?

MR. WACHA: I do not know which particular one Hon. Kiyonga is talking about because he came with a series of different drafts. I would like to know what exactly he is talking about.

THE CHAIRMAN: He is talking about page (9) - not page (9) of the previous circulated material but the new one of September 10th, Page (9) - where there is item 26 which seeks to introduce *-(Interruption)-*

MR. WACHA: Mr. Chairman, thank you. We considered this and Hon. Kiyonga is right. I thought he was talking about some other cultural matters which he brought to us, but the protection of the rights of minorities were considered and we thought it should come in before article 64.

THE CHAIRMAN: But, of course, article 64 is not 64 actually because of earlier introduction. So, it is 64 which the Technical Committee will correctly number.

MR. WACHA: That is right. Our idea was that the rights which come before article 64 in the Draft, talk about rights of individuals. As specified, you will see the rights of the handicapped, rights of children, rights of women, rights of the family, etc. Then, we come down to rights of enjoying certain specific things like culture, etc. So, we thought before we arrive to those, we should continue with the rights of the individuals - specific individuals.

THE CHAIRMAN: Who are sponsoring this as it appears on the Amending Sheet?

MR. WACHA: They should have been Hon. Kiyonga and a host of other Hon. Members but Hon. Kiyonga was supposed to lead them.

THE CHAIRMAN: Okay, if we are all moving together, there is a Proposed Amendment - for purposes of our debate we shall call it 64 but for purposes of renumbering the Draft when it comes out, the Technical Committee will find the correct numbering. But at this juncture, for ease of reference, we shall make reference to the September 10th document which was distributed. I am sure on Page (9), there is a Proposed Amendment and I understand it is being sponsored by Hon. Kiyonga Crispus not Kiyonga Francis and a number of others. *(Interruption)*

MR. OKENY (Chua County): Mr. Chairman, I hope this House will recall that previously I intended to move an Amendment to this effect and it was from the Chair that I should discuss it with the Drafting and Legal Committee. Which I did and incidentally it was also good that my friend, Hon. Dr. Kiyonga and Hon. James Okanya showed also interest that we should be cosponsors of this Amendment and Mr. Chairman I think, as it is shown here, on the paper, the original initiator was really given before this House. All Hon. Members know that I did propose this - *(Interruption)*

THE CHAIRMAN: But you were moving on a Point of Order and I have been waiting.

MR. OKENY: Yes, and that is what I said. I said that the House is being, I think, misinformed by the Deputy Chairman of the Legal and Drafting Committee. Because when we were before them, it was very clear that it was the Amendment which I intended previously.

THE CHAIRMAN: Okay, now let us put it this way. No point of Order arises. It is a mere correction. There is a corrected page - which I think has been distributed - September 10th. And then on the right hand side of the corrected page, it does not bear a number but has got 24, 25, 26 and in 26 it correctly shows that protection of Rights of Minorities 64 (1) and so on up to (4) and it is being moved by the following: Hon. Okeny Atwoma, Hon. Dr. Kiyonga and Hon. James Okanya. I think it is very

clear that the leader of the consortium is Hon. Okeny Atwoma. So, I will proceed to give him the Floor to introduce this Amendment. So, you have the Floor.

MR. OKENY (Chua County): Thank you, Mr. Chairman, because I think that is the rule of fairness. Mr. Chairman, as this House will very well remember that during the debate of the General Principles of the Draft Constitution, I did raise this question that it was probably an oversight or perhaps an intention that this very important aspect of the rights of minorities has been skipped in the Draft of the Odoki Commission. So, Mr. Chairman, I now wish to put before this House this Amendment that - 'The protection of rights of minorities' should read as follows: Clause (1) 'The rights of minorities to representation and participation in decision making shall be recognised'

Clause (2) 'In making national plans and programmes, the views and interests of minorities shall be taken into account to avoid oppression by the majority'

Clause (3) 'The electoral system shall take into account representation of minorities, especially, at the level of local government'

Clause (4) 'The rights of minorities to practice their culture shall be recognised and respected'

Mr. Chairman, I think this House shall recall that is the practice - *(Interruption)*

THE CHAIRMAN: Before you speak to the Motion you have cosponsored, I want to see whether it is seconded. Yes, you are seconded! So, go ahead.

MR. OKENY: So, Mr. Chairman, I would now like to discuss this Motion in the following tone. This Motion is in fact, in conformity with the symbol of this august Assembly which is the scale. Mystically symbolising the seriousness of the task before us to reshape the destiny of this country on the basis of equality by recognising and respecting the human rights of all the minorities within our society. With this burning zeal in us, Mr. Chairman, I move this Motion in full trust that this House will not only willingly endorse it but will eagerly do so.

Mr. Chairman, I did point out as I have already mentioned in my maiden speech when debating the general principles of this Draft, that it was mysteriously unfortunate for the Odoki Commission having eloquently pronounced on the necessity of protecting the rights of minority only to exclude it from the

Draft. This is the cause of alarm and suspicion of whether or not, it was intentional or accidental that it was left out. But why is it so? I thought, in my maiden speech, that this should be provided for by this honourable House. Mr. Chairman, this is the time to do so now, by adopting this Motion.

Mr. Chairman, human beings are hand made of God in his own image and are sacred. Even Christ in his own words emphasised the importance of this when he said, *'whatever you do unto the least for my brothers, you do it unto me'*. Those words are found in the Bible. This is the view in point. If our national motto which talks of God - *For God and My Country* and our national Anthem which we sing every Monday, here in this House that,

*... God uphold thee,
we lay our future in thy hand,
united free for liberty,
together we'll always stand'.*

We sing this. Mr. Chairman, with a very deep heart of commitment to God. And being so, Mr. Chairman, this explains that in our dealing with our neighbours, and in particular in this Motion of the minorities, we should be very mindful of this. In fact, in the context of Uganda population, no tribe is the majority. We are all in minority and exactly this is what this Motion seeks to protect against. The factors that tend to divide than to unite us are found in the complex of "CMT" as prescribed by *Leadership* in its issue of the April 4th, 1994, NO. 344, which says 'C' stands for *Chosen* people who have the impression of exclusiveness. And this was also expounded before this House by Hon. Charles Alai that, there is a syndrome of suffering from this kind of complex - that we are special, we are different and this I think in our country here, reflects in our Parliament. Where you find some members called 'Historical'. Those are the special ones and un-touchable. This has already been mentioned here. 'M' stands for *Miss or gingerly*, claiming always to be different from other human beings. Mr. Chairman, to clear all these is to provide for it here and to protect the minority whose power, whose strength may not march the strength of the majority. Presently, Mr. Chairman, in this country we run this very risk and this is emanating from the very poor type of the educational system we have in the country by aiming always to westernise ourselves and our cultures and our language: making us always to forget ourselves to what we belong exactly.

So, Mr. Chairman, merely I am putting before this House which I think will find very little, if any resistance at all, that we should provide for the rights of minorities and let us all live in harmony and in true unity. When aiming down to that, Mr. Chairman, we shall have moved a step forward from where we are today. So, I think this is a very self explanatory Motion and I think now the heart of everybody is yearning to come out and support it. I beg to move.
(Laughter)

THE CHAIRMAN: Yes, the Motion is in the terms as moved. I give the Floor to Hon. Crispus Kiyonga.

DR. KIYONGA (Bukonzo County, West): Mr. Chairman, I take the Floor to further clarify on the Motion to which Hon. Okeny has already spoken. In my view, Mr. Chairman, in supporting this Motion, we would be merely completing a job we have already started very well. Since we started discussing, right from Article 61 to where we are, we have been recognising that in our society, there are people, there are communities whose rights if not well spelt out, could be in jeopardy and under that we have spoken very well. We have provided for the women, the children and yesterday, the people with the disabilities and under this Motion, Mr. Chairman, we are of the strong view that there are people in our society who can be described as minorities and whose interest, if not protected by this Constitution, could be in danger.

As Hon. Okeny has said, the Constitutional Commission in collecting views of the people did come across communities who can be described correctly as minority. In the case of Kasese, Mr. Chairman, they came across the people we normally call *Basongora* and the *Banyabindi*. These two communities did describe that they required protection. Otherwise, they stood to be marginalised. They have special cultures. They live in special communities and have interest of various forms ranging from culture to economic interest which they feel should be protected. And in our view, we feel that if they have the right to representation when decisions are being made: if they have a right to practice their culture including their language; if they have a right at least at the local level, when the DRC is being formulated, that there is a mechanism which can enable them to reach that level of the DRC, then they would feel protected. It is for this reason, Mr. Chairman, that we strongly feel that to complete the

job we have started, we should provide for these minorities so that they can be present when decisions and programmes are being taken that are likely to affect them, for example development programmes. You have the *Abatwa* in Bundibugyo. These are people that could be easily neglected and we say, 'This is a forest reserve, everybody should be chased' without even consulting them, even without thinking hard whether this is going to inconvenience them or it is going to be positive to their interest. But if they are enabled to be present at places where decisions are taken, then they have a mechanism, a formal mechanism, an open mechanism to voice their interest and their grievances. So, without taking too much of the time of the House, Mr. Chairman, I would also like to urge Hon. Members to support this Motion to complete a job that we have already started very well. Thank you very much, Mr. Chairman.

MR. OKENY: Correction. Mr. Chairman, I just want to make a correction. I mentioned a name which is not rhyming with my intention, Charles Alai instead of Hon. Charles Owor. I would like to be corrected.

MR. LUBULWA (Katikamu South County): I want to support this Motion. The reasons are: The area which I represent, has got a minority community which believes that it has been marginalised because it has been left out in many areas of government participation and representation. These are people called the *Nubi*. They have sent me to say that they should be part and parcel of all Ugandans and should be allowed to participate in the developmental aspects of the country, and in the politics of the country. Therefore, Mr. Chairman, for these reasons, I stand to support this Motion. Thank you.

MR. LIIGA (Buvuma Islands): Mr. Chairman, I stand to support this new provision very, very strongly. We have certain societies within among ourselves who are always downtrodden and each time they stand up to say anything, the bigger groups who swallow them, always make sure that their voices are not heard. Of course, in my case, I have been singled out as championing the cause of the minorities in Mukono District within the Islands and particularly in the Kingdom of Buganda but, Mr. Chairman, the problem is real. Quite a number of these people are capable of doing a service to this nation but simply because they are disadvantaged by being among the minorities, they are always shut out. This provision, is very welcome and it will give these

people their rightful position within the affairs of this nation. Without labouring the point much further, Mr. Chairman, I strongly urge this House to pass this particular provision so that we all move together. Thank you, Mr. Chairman.

DR. MUSEKURA (Bufumbira North County): Thank you, Mr. Chairman. I would like to strongly support the Motion. *(Applause)* Mr. Chairman, the views, interests and rights of all Ugandans including minorities must be recognised, respected and taken into consideration at all times. This will enhance unity in diversity in our country and is in our national interest since no community will be marginalised. Thank you very much, Mr. Chairman.

MR. TIGWEZIRE (Bunyangabu County): Mr. Chairman, I am here to represent the views of the minorities. In my Constituency, I have Bakonzo, I have Bakiga, and Batoro but this serves to show the House that wherever we are, we are all minorities. Now this came about as a result of the creation of the new districts out of the former Toro Kingdom. I have been having problems with Bakonzo who are my brothers. I grew up with them but this is going to allay their fears that they are not going to be marginalised. They have been trying to be represented at local level but because of their population, because of their number, they have never succeeded. Whenever they try to be represented, they can only stop perhaps at RC III and to them that is very dangerous. But now that we are going to put in place a law that will allow them to be considered as a minority in my constituency, I feel very happy about it and they would be very happy to hear that we have passed this law. Considering that all ethnic groupings in Uganda are minorities where they are found, and considering the fact that we can be allowed to settle anywhere on Uganda soil - if I go and settle in Nebbi, I will be a minority there - I feel I should be represented. So, with that reason, Mr. Chairman, I beg to support the Amendment.

MR. APUUN (Bokora County): Thank you very much, Mr. Chairman. I support this Article. As Hon. Dr. Kiyonga ably put it, there are surely people in our society who are a minority and this Article, if passed, it can protect their rights. In my constituency, Bokora County and Karamoja in general, we have minority groups. We have eleven (11) ethnic groups in Karamoja and the major ones being Bokora, Pian, and Matheniko, the rest are the minority. We have the *Tewiso* Group in the far north of

Kabongo . We have the *Tepeth* from Moroto District. We have the *Meningi* also who are in Kabongo and we have the *Kadam* and then we have the *Pokot* of Moroto among others. These groups have been absorbed in the major ethnic groups and their languages have been absorbed in the major groups of the Karimojong and they find difficulties in, even, contributing in the local councils and public meetings using their languages; thus there are normally translations in about five languages. This makes the council or the transaction of the council business very poor. So, in this respect, Mr. Chairman, I do support that Article very strongly so that those groups can be protected. Thank you very much, Mr. Chairman.

MISS. KIRAAHWA (Woman - Masindi): Thank you very much, Mr. Chairman. I stand to support the Motion. I support this Motion just because, like in Masindi, the District which I represent, we have got more than 56 ethnic groups. These minorities are not recognised. They have their different cultures. We want these people to be recognised in this Constitution. This is the Article which is protecting the human rights of the family, women, children and the disabled but you find some of these groups, like the youth will say that they have not been protected and they want to have their own Article. So, when we defend the minorities, we find that we have protected each and everybody. So that nobody has been left out. So, I stand to support this Motion. Thank you very much, Mr. Chairman.

MR. KIYONGA F. (Upe County): Thank you, Mr. Chairman. I fully support the Amendment, Mr. Chairman, just for the simple reason that it really aims at assisting these minority tribes in Uganda who have been actually marginalised in real sense and in various ways. For example like, if I can cite in the issue of language, Uganda has for a long time refused to recognise these minority tribes as far as language is concerned. For example, in Karamoja, we are given air time radio broadcast in only one language and yet other tribes like the Pokot, the Labwor do not understand that language. So, you can see how these people are denied information. The situation even becomes worse where these tribes are put in one administrative unit and are fighting or are having tribal conflicts, yet without government intervention. For example, the *Tepeth* in Mt. Moroto and those ones in Mt. Kadam have been confined to the mountains and have been denied the services which were meant for them in the Plains and you find these people do not come for services like schools, health

services. So, really I think, let us support this Amendment.

MRS. SEKITOLEKO (Butembe County): Thank you very much, Mr. Chairman. Mr. Chairman, I stand to oppose the Motion. *(Applause)* Mr. Chairman, when we were coming here, one thing that was checked on was our qualifications. This Motion is saying '*In making national plans and programmes, the views and interests of minorities shall be taken into account*'. It is not saying minority tribes. So, I do not know why everybody who has been contributing has dwelt on tribes. If what these people want is ethnicity and tribes, let them say so but let this House not be derailed and hoodwinked into agreeing to things which we shall regret later. *(Applause)* Mr. Chairman, when you say the minorities, the other meaning of the word minorities is actually inconsequential, insignificant if you are talking statistically or if you are talking about numbers - it means the smaller numbers. If we are talking about democracy, how do you say the minorities shall rule over the majority - *(Applause)* - when you are democratic.

Secondly, Mr. Chairman, if you are looking at Uganda, it is true we have got minority tribes and I have got them in my Constituency but so do we have minority religions. My neighbour here comes from a Constituency where the wonderful '*Owobushobozi*' is. Are we going to invite all the *Wobushobozis* and whatever because we are going to make a decision. What if it is a decision to assist the people get treatment because he does not allow treatment, will he agree?

Mr. Chairman, if we are talking about democracy, either the Movers of this Motion amend it to indicate that they are only talking about tribes and maybe they are only talking about NO. 4 which says, '*The rights of minorities to practice their culture shall be recognised*' and so on and so forth. But as for NO. 1, definitely, I oppose it. And for those who have been supporting NO. 2, this is indirectly smuggling in proportional representation. That is what they want. *(Applause)* This is so, so that by the time we get to the system of governance, you have already passed this; therefore, you cannot turn around and say you do not support what my elder brother Hon. Paul Ssemogerere has been selling for a long time that we should have proportional representation.

Lastly, Mr. Chairman, on this electoral system again, even at local levels, democracy should rule. There is a district here - they will excuse me but this

is a fact - Kabarole. Most of the people representing Kabarole now, were not originally born there but the people who are there are the majority have elected the people who they want to represent them! (Applause) So, how do you start telling us that we should ignore those who are supported by the majority and go and instead make decisions with the minorities? Thank you, Mr. Chairman. (Applause)

MR. BWAMBALE-WALEMBA (Bukonzo County East): Thank you very much, Mr. Chairman. I very much and strongly support the Motion, Mr. Chairman. (Applause) The Bakonzo have a proverb in Lukonzo that, "Omuteke oyukalala ndeke syalimanya ati mughala akalalanabi" meaning that, a married man who sleeps well does not know that his son is sleeping badly - of course, without a woman. So, Mr. Chairman, this question of marginalisation is what brought about the Rwenzuru question which lasted for 20 years from 1962 to 1982 and brought a lot of havoc in Kasese, Bundibugyo and Kabarole Districts. So, Mr. Chairman, I very much agree that we must cater for the cultural interests of the minority ethnic groups in Uganda. The area I represent, I have got Bakonzo, Basongora and Banyabindi and they sent me here to come and make sure that the Basongora and the Banyabindi are included in the Constitution and I will make an Amendment when we come to that second Schedule. And to this effect, we must make sure that their cultural interests are very well catered for.

There are no people without culture, Mr. Chairman, and we must make sure that people's culture is preserved and promoted and there is no any other way we can do this other than supporting the Amendment. I beg to support.

MR. OKANYA (Butebo County): Thank you very much, Mr. Chairman. I, as one of the sponsors of the Amendment, would like to strongly support it. But before I get to it, I would like to remind this House that we are making a Constitution for Uganda, for all Ugandans regardless of whether they are the majority or the minority. We should, therefore, take it seriously and accept that even minorities have a right in this country. From what everybody has said or most of those Speakers who have already spoken, it is evident that in every district or in every part of this country, there are minorities. Now, we are not simply going to suppress or the majorities are not going to suppress the minorities just because that is

the form of democracy we are familiar with. I believe that ignoring the role minorities can play in national development is denying this country a variable chunk of manpower and goodwill which we badly need for the development of this country. We have heard of minorities in parts of this country; where those minorities have tried to struggle and in fact, brought suffering and chaos in some parts of this country as the Member of Bukonzo has just said. It is, therefore, essential that we cater for these minorities and ensure that all Ugandans are united in development so that no part of this country, no minority or no group of persons is left behind as we move forward. So, I beg to ask all Members in this House to support this Amendment very strongly. Thank you very much Mr. Chairman.

MR. BAGEYA (Kigulu North County): Thank you very much, Mr. Chairman. I remember on the 9th of this Month, we passed a Law on affirmative action in favour of groups marginalised on the basis of gender, age, disability or any other reason. I do not see any good reason why we create yet another one. (Applause) We should be careful. We should not be repeating. If the Movers of this Motion had told us clearly that they are worried about minority tribes, that would be a different issue but even then, it has been covered here properly in the article which was covered on the affirmative action. So, I really wish to oppose the Motion vehemently because we are trying to cut the Constitution to be as short as possible. There is no good reason why we should keep on repeating articles which we have already passed and I think this is in favour of the same thing. (Interjection) If you have forgotten - NO. 16 on Page 6 - reads:

(1) *The State shall take affirmative action in favour of groups marginalised on the basis of gender, age, disability or any other reason created by history, tradition and custom - (Applause) - for the purpose of redressing imbalances which exist against them;*

(2) *Parliament shall make relevant laws including the establishment of Equal Opportunities Commission for the purpose of giving full effect to clause 1 of this Article.*

Now, Mr. Chairman, why should we revisit the scene again on flimsy issues? Thank you very much. (Applause)

MR. KAYONDEI (Gomba County): Mr. Chairman, the question of minorities throughout the world

is a very important matter and as you know there are wars which are taking place on the Continent and throughout the world because of this real problem. The question of minority should not be underestimated. *(Applause)* Coming back home here, there are areas which have had to fight, to agitate, because they have been marginalised. Somebody has mentioned the Rwenzururu question, the question of Bugisu and Sebei - you know it. We should not underestimate the problem of minorities.

Mr. Chairman, we should also identify what these areas of minorities are? They are ethnic minorities. They are religious minorities. The question of moslems in this country has been an issue and there are even political minorities when you come to representation. For instance, there are groups which are dispersed throughout Uganda but they constitute a big group but when they come to representation, they are never considered. So, Mr. Chairman, I support this Amendment very strongly. *(Interruption)* Mr. Chairman, we are making a Constitution for Uganda and we have a stake in all matters. Now, I want to refer the Members to the Second Schedule. There are 48 ethnic groups in Uganda but in terms of resource allocation, in terms of opportunities - these are never even mentioned. Nobody, even knows that they even exist. Look at that list. So, really I think we should consider this Amendment in the context that there are groups which are disadvantaged and we are drawing the attention of the State and other organs that, while policies are being made and political representation, these groups should be considered. I, therefore, strongly support this Amendment.

BRIG. MUHWEZI (NRA Delegate): Thank you very much Mr. Chairman. I oppose the Motion. - *(Applause)*- First of all, Mr. Chairman, Article 64 is providing for the right to culture and the Amendment intends to cover representation which is irrelevant to this Article. So, apart from Part IV - *(Interruption)*-

THE CHAIRMAN: No, the Motion is to introduce a new Article to stand on its own to be called article 64 because then 64 shall become something else. We shall come to article 64 after we complete this one.

BRIG. MUHWEZI: Yes, but Mr. Chairman, I think representation is covered elsewhere in the Constitution and I wanted to say that Part IV of the Amendment is the only one relevant to this part of the Constitution!

Secondly, Mr. Chairman, I also subscribe to the views of Hon. Sekitoleko that the protection of the minorities in representation and otherwise, provided here is in conflict with democracy. So, if we intend to have democracy as is known, then we must object to the provision of the minorities so that they are not oppressed. Because democracy presupposes the dictatorship of the majority. So, I do not see - *(Interjections)* Yes, Mr. Chairman, I do not agree that - unless we are changing the system and saying that we need proportional representation where the views of every small group must be protected, then I do not see how we can protect every right of every small group and yet have democracy as we have already observed, Mr. Chairman. Thank you.

MR. RWABIITA (Ibanda South): Mr. Chairman, although I sympathise a lot with the minorities, this Article has got a problem. Mr. Chairman, taking lessons from our history, and even our neighbouring countries, there are areas where we get a minority and by the fact that they have got the power of the gun, can destabilize even the majority. Therefore accepting it wholesomely, can result into a big problem. The minorities should not use this provision in order to hijack or frustrate the rights of the majority. Mr. Chairman, if this Motion has to be carried, I would beg to propose an Amendment on Clause 4 where they say, *'The rights of the minorities to practice their culture shall be recognised and respected'* but I would add, *'as long as these rights of the minority do not impinge on the rights of the majority'*. This is very important, Mr. Chairman, because the minority can overpower the majority. We have had around us, during the time of Amin, a small clique of a tribe which ruled Uganda. Why? Because they had the guns. So, Mr. Chairman, Ladies and Gentlemen we have to be careful, so that we are sure that both the majority and the minority are protected. I beg to move, Mr. Chairman.

MR. WAGIRA (Kibuku County): Thank you, Mr. Chairman. In view of this Motion, I would like to cite one Kigwere proverb which says that, *'Mbiriri kali katono, kamalireku ekyalo'*. That something starts as small but that small thing is capable of transforming itself into something very vast, something very large, something very extensive. Mr. Chairman, Delegates have already echoed here that there can be a catastrophe in ignoring the rights of the minority. We can read this just from our neighbouring - *(Applause)*- country in Rwanda. In Rwanda, people looked at the Tutsi question as insignificant

because it was propounded by a minority and the Hutu thought, being the majority, they had every capacity. Now, you can see! So, very many catastrophes can come as a result of people neglecting the rights of the minorities because at that point, the minorities begin to strive to realise their intention and finally transforming itself into a majority. You remember here, Mr. Chairman, we were saying we must at least respect the rights of the minority.

Now, the problem I have is: How do we reconcile this Amendment with the cardinal principle of democracy which says that democracy means the will of the majority? How do we reconcile this? Mr. Chairman, I personally feel that this Constitution has gone far enough into realising the rights of the minority because when we are talking about the rights of the minority, we are actually reflecting on those rights that are basic to all humanity; rights which are not going to infringe on any individual and these are the rights if you read in the Amendment, Mr. Chairman. I would buy the idea of the rights of the minorities to practice their culture and to have their culture recognised and respected. I would also buy the idea of the rights of the minority to representation and participation in decision making; recognition of minority rights in making national plans and programmes to make sure that the interests of the minority are not trampled on. However, I find it very difficult to reconcile the democratic principle of majority view with the Amendment which is intended to be effected in (1) and (3). For example, if we say the rights of the minorities to representation and participation must be recognised. If, for example, in the CA here, we are here representing majority view, only two of us were elected unopposed that means there is a minority - how do we now guard against such, how do we consider such a situation if this is implemented.

If you look at (3) that, 'the electoral system shall take into account representation of minorities, especially, at local government level' - it does not rule out even national government level. How shall we? Suppose the man who was in the minority is saying, 'I must come in and my programme must go on, the world must continue'. It is in view, of this that I wish to beg the Movers of this Motion that (1) and (4) would go far enough to augment the rights of the minorities that have, after all, been respected in this Constitution. However clause (1) and (3) make the cardinal principle of democracy very difficult to uphold and it would be a very difficult Constitutional matter to

implement if we went by it. Thank you, Mr. Chairman. *(Applause)*

MRS. ZZIWA (Women - Kampala): Thank you very much, Mr. Chairman. Mr. Chairman, I had earlier on wanted to seek clarification from the Movers, but may be I have been overtaken by events. I would like, Mr. Chairman, due to that situation, to oppose the Motion. I am opposing the Motion, Mr. Chairman, on the grounds as laid out already by Hon. Ssekitoleko, Hon. Rwabiita and others. Mr. Chairman, there are several provisions which we have already passed in line of the minorities. We appreciate that in every society there exists a minority. I want to draw from this and say that this element of minority is relative. You may, imagine that today in this House, the women are minority. But when you move out in the populous, the women are not the minority. We are the majority, if you consider the population and statistics and numbers. Mr. Chairman, bearing in mind this frame work, it is very difficult for us to say that because of the minority element let us go ahead and legislate for that level of minority. Article 50 of this Constitution especially part three, clause 4, 'No person shall be discriminated against on grounds of sex, race, colour, ethnic origin, tribe... we inserted, 'birth, creed...' and so on and so forth, Mr. Chairman, opens up opportunities for everybody to any democratic process. *-(Applause)-* We should realise that the moment you come forward in the society in which you are, and the society decides that you are not the person fit to represent them, then why should you not sit aside especially for the harmony and reconciliation within society and let the programmes of the majority prevail?

The issue of democracy is also very important, Mr. Chairman. We are going to have a very big problem in reconciling democracy with the views of the minority. So, that view, Mr. Chairman, I wish to oppose the Motion and we say, let us go ahead with the provision of the affirmative action as already approved and then also we consider the aspect of ethnicity minority in the element of culture in Article 64 to come. Mr. Chairman, I beg to oppose.

MR. WILLIAM WANENDEYA: Thank you very much, Mr. Chairman. I agree to clauses (2) and (4) of the Mover's sections or sub-clauses to be included. The reason, Mr. Chairman, is this. We have as an example, the minorities on Mount Elgon called, 'Sibolo' which are in Budadiri, Bulambuli

County and also in Kapchorwa District. Now, when it came to decision to get these people out of their areas - and they are on top of Mount Elgon and they have been there from time immemorial - the decision was taken by the majority without consulting them.

The second point, Mr. Chairman, is this Mbale District has been cultivating the best Arabica coffee in Uganda and since we became independent in 1962, we contributed to the coffers of the Government of Uganda more than a billion dollars. But if you go to Budadiri and the whole of Bugisu - Mbale District, there has never been anything meaningful done for us and yet as a single area, we contributed over a billion dollars. Are we just going to stand to be oppressed by a few in Government without taking our views into account to develop our area. Mr Chairman, it is for those reasons that the minority must be considered in national planning and hence the support for (2) and (4) subsections as a way of good governance. I thank you, Mr. Chairman.

MR. BIDANDI SSALI: Mr. Chairman, as usual I would like some clarification. It could be a technical one or not. When we passed the Amendment under Article 61, which has been read by Hon. Bageya and particularly part two which was to the effect that Parliament shall make relevant Laws including the establishment of Equal Opportunities Commission to effect this, I was voting exactly for what the supporters of this Amendment are trying to tell this House.

Now, before I say I oppose or support can I request that this particular Amendment be referred to the Drafting Committee to establish whether there is a difference between what is being argued for, for this particular Amendment and the one we have passed before. I think there is need for us to synchronise. We should not go by just sentiments. On the other hand, every Constitution definitely has a provision for the protection of the minorities. That is a fact. As I said, the earlier Amendment which was passed, I thought had taken care of that. Now, could we refer this to the technical Committee to tell us whether there is a difference.

Secondly, if you bring the other earlier Amendment, where we say, Parliament will do that, 'State will take care', Now the same House is taking over the responsibility of the State - where we say the State should do it and now we say when making plans this and that and yet ahead we are going to talk about

representation. So, Mr. Chairman, in short I am saying that I would propose that we refer it a bit to the Technical Committee to establish whether there is any difference and then synchronise the two so that we take proper care of the interest of the minorities. Thank you, Mr. Chairman.

THE CHAIRMAN: There are two propositions - we use the usual method or that in view of article 61, we ask the Legal and Drafting Committee to advise whether there is a difference. If that is not acceptable of course, we can then proceed.

MR. MATEKE: Mr. Chairman, I strongly support this Amendment because any meaningful Constitution must protect and promote the interests of the disadvantaged and marginalised. In order to promote national harmony and cohesion, I feel the Constitution must provide that minority groups in this country must have due share or must have the share of the national cake. I feel that when the state is formulating its development programmes, let us develop the areas where the minorities live and must be catered for. Because, Mr. Chairman, minorities are like the women we have been catering for in this constitution, the disabled, the children, and so and so forth. And all these have been marginalised by our *-(interruption)-*

AN HON. DELEGATE: Information.

THE CHAIRMAN: No, he is not taking it.

MR. MATEKE: I am taking it, Mr. Chairman.

THE CHAIRMAN: Then you will have problems with your time.

AN HON. DELEGATE: Mr. Chairman, I think this information is very important, not only to Hon. Mateke but the House. Mr. Chairman, I want to draw to the attention of the House the UN resolution on the rights of minorities. Mr. Chairman, this is contained in the General Assembly Resolution Number 47 of 135 adopted on the 18th of December 1992. And it is entitled the Declaration on Rights of Persons belonging to National or Ethnic, Religious, or Linguistic minorities and Uganda was a party to this. Mr. Chairman, article 1, of that resolution reads: *'State shall protect the existence and the national, ethnic, cultural, religious, linguistic identity of minorities within their respective territories, and shall encourage conditions for the promotion*

of that identity. Furthermore, state shall adopt appropriate legislative and other measures to achieve those ends.

Mr. Chairman, article 2, is more detailed in this respect. And with your permission, Mr. Chairman, for the information of the house, allow me to read: *Persons belonging to national, ethnic religious, linguistic minorities, hereafter referred to as persons belonging to minorities. Have the right to enjoy their own culture, to profess and practice their own religion and to use their own language in private and in public freely and without interference or any form of discrimination. Persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life.* And I think another important article is that one reading that: *Persons belonging to minorities may exercise their rights including those rights set forth individually as well as in community with other members of their group without any discrimination.*

So, Mr. Chairman, let us not bring these questions of political parties; that minorities should not enjoy their rights; majorities have a right to dictate over minorities. This is not true. Mr. Chairman. The minorities have a right. So, I call upon the Members through this information, to revisit and those who are against to accept this, Mr. Chairman. Thank you.

MR. MATEKE: Thank you very much for that useful information, and most of the constitutions where minority tribes and minority groups exist, the constitution clearly protects these minorities. For instance, in India's constitution article 46 says: *The state shall promote, with special care, the education and economic entrance of the weaker sections of the people, and in particular of the scheduled castes and the scheduled tribes, and shall protect them from social injustice, and all forms of exploitation.*

So, Mr. Chairman, in order to have social justice, and a society where there is no exploitation, I feel the minorities must be catered for by the constitution. We would not like a situation where the minorities eat crumbs from the master's table. I support the amendment, Mr. Chairman.

MR. LUBEGA-WAGWA: (Butambala, Mpigi District): Thank you, Mr. Chairman. I stand to support this Motion, very strongly, on two grounds.

One, the past governments clearly neglected the minorities in the national programmes and plans. Usually the minorities are not considered and at the end some of us who represent them in our areas have problems. Two, the culture of the minorities is not recognized at all, unless or until the president or other leaders visit those areas. When they come these minorities are mobilised to the 'big people'. And that is when we go and look for smaller groups to come and dance. The 'big people' enjoy the cultural dances of those minorities, but when it comes to recognition, they are not recognized and that is the end of it. So, now for the good of these people they should be recognized here, constitutionally.

Secondly, Mr. Chairman, any constitution should protect the nationals; all the people regardless of their number. Here we have been considering the people with disabilities, the children, etc., so, these people should also be considered in this constitution. Thank you, Mr. Chairman.

PROF. KABWEGYERE: (Igara West): Thank you very much, Mr. Chairman. Before I oppose the amendment, I want to clearly define the concept 'minority'. Because, those who have spoken, Mr. Chairman, have only used the word minority in numerical terms. You are talking of numbers and invariably, you have opened a "Pandora box". In Uganda, as Hon. Atwoma has said, there is no majority group. Therefore, you have a situation of minorities. Now, how do you tell that, a particular minority is oppressing another one. This is the question. If it is happening at a local level, is it happening at the national level. What is the situation? Now, there are two ideas about minority. You can have a social majority which is numerically small. That is you may have a small group of people who polarize power, and they dominate society and they are few. Like for example, in United States, where democrats are the minority, yet they control power. In South Africa, the situation that is now disintegrating, you find the whites dominating a huge majority, and they had monopoly of social power. So, that is a social majority which is numerically small. Now, in our context, if you are talking of small groups, are you defining them in terms of their ethnic identity? If it is ethnic identity per se, our Schedule Two can lift the more people who have not been mentioned. We can have them, all guaranteed and protected under this constitution although it is not necessary to have a special clause or article for that purpose because they will all be mentioned.

On the other hand, the point for example mentioned by Hon. Kayonde, that he may have a group of people who are numerically many but you are dispersed all over the place and therefore, they are not getting a share as a group. You open that, you have opened a "Pandora Box". Because it would mean like in Iganga, where you have all these different groups they should now move to homogenous territorial areas where they can get a share that is equivalent to their size. And you will have disorganized this whole country totally, as far as I am concerned as a Sociologist and as a Political Analyst.

Now, the next point, Mr. Chairman, minority is basically in reference to discrimination. If there is institutional discrimination, the majority must be protected. Now, here, we are talking of ordinary backwardness which is dangerous in our society. You will say that, the bakonzo are not as equally provided for as say, people from Masaka. And you even find in Masaka, people who are supposed to be in Mpigi who dance, as if even dancing could not be a recognized and a respected occupation. Now, Mr. Chairman, if there is no institutionalised discrimination and you talk only purely in terms of numbers, you are creating a problem because the small clans, will also come out for recognition. There will be small villages, there will be even people with short noses, who also claim, they are a minority. I thank you.

MR. OGWELLOOTE (Moroto Municipality): I thank you, Mr. Chairman. I want to ask this question. If we are nationalists and if we love the people of Uganda, and we want each part of Uganda, every inch to develop. How do you as a nationalist, eliminate entirely backwardness in our society - poverty and ignorance - if you do not respect and try to uplift the minority? I say this because, for many years, some of these marginalised groups have been ignored. For example if you went to the place where I come from, it was a closed district and a closed region, where people were called animals, and yet governments had left it behind other areas.

So, I appeal to all delegates to recognise the minority groups internationally. Honourable delegates, talking in terms of development, equitable development to these minority we are not talking in terms of ethnic grouping, tribal or others but we are looking at the areas of development, security, and peace for each of these minority in respect to opportunity to education, opportunity to employment, and opportunity to rep-

resentation. These are the areas we are talking about not the way some of the delegates have understood. Honourable Delegates, the minorities must be respected and must be given development equitably with the rest of the majority in this country. Thank you, Mr. Chairman.

MISS. NANKABIRWA (Women - Kiboga): Thank you, very much, Mr. Chairman. I would first like to apologise for my voice - I have a virus. *(Laughter)*

THE CHAIRMAN: Order, order.

MISS NANKABIRWA: Hon. Delegates *-(interruption)*

THE CHAIRMAN: Order. The honourable Member is very honest. Order, order.

MISS. NANKABIRWA: Mr. Chairman, I am not representing the minority, but I strongly support them. Being a minority does not mean that you are incapable of doing anything. Mr. Chairman, we are here, we want to implement the decentralisation policy whereby we would like power to go to the grassroots. Mr. Chairman, I feel very strongly that if we now tap this, I may call it manpower or resource, we are going to be able to develop together with unity. But if we start marginalising and ignoring some people, I think we are just going to waste or to lose this manpower. Mr. Chairman, I am calling upon honourable Delegates to strongly think about the inclusion of this chapter.

I was confused when I was looking at Hon. Byanyima's amendment on article 61, and I was seeking a clarification except that, Mr. Chairman, you did not recognize my hand. But Hon. Bidandi Ssali helped me and put it up. So, if may be these two amendments are not the same, I strongly support that, the current amendment on the Floor be included in the constitution so that it is a re-enforcement of what is already taking place. Thank you very much.

MR. TIRUSASIRA KATONGOLE (Bugabula North): Thank you, Mr. Chairman. Mr. Chairman, it is very true that Uganda is a state comprised of various societies in form of tribes and clans living at different levels of development. And that is why, Mr. Chairman, we cannot look at Uganda as a country comprised of a homogenous society. Uganda is comprised of a society which is highly heterogeneous.

Now, the constitution we are making, Mr. Chairman, is for the elite and non-elite. We are making a constitution for the rich and the poor. We are making a constitution for the old and the young. We are making a constitution for the males and the females. We are making a constitution for the small and the big ones. And in Uganda, we have so many groups which are small. I get intrigued, Mr. Chairman, when some honourable Delegates here who are expected really, to know why we are making a constitution, are saying that democracy discriminates the minority. In my view, democracy does not discriminate the minority. If we try to neglect the views of the minority, we are likely to have the problems which have been going on in Rwanda. The crisis which has been going on between the Tutsi and Hutu is because, back in Rwanda, the views of the minority were not respected in government and that is why, Rwanda has had such problems. Therefore, Mr. Chairman, I strongly support the idea of minority representation. Thank you very much, Mr. Chairman.

MR. BASOGA NSADHU (Busiki): Thank you, very much, Mr. Chairman. Before I take a position on the present amendment, I wanted to make a few observations. Mr. Chairman, you know English is sometimes a problem to me although I am a student of English, and I consulted the *Collins Paperback Thesaurus* and looked on the definition for 'marginalised', and I also looked at the definition of 'minority'. When I scanned through, they used almost the same words. They are the same used the words, 'subordinate, on border line, insignificant, low, minimal, minor, negligible, slight, small, trivial' in both cases, marginalised and minority, on different pages of the *Collins's Paperback Thesaurus*. So, I immediately, got into a problem. Are we confronted by a problem of semantics in English or are we talking about the same thing? Mr. Chairman, it is true that, Uganda has got, right now, in the Odoki Commission Page 48, as the ethnic composition of Uganda. Are we having a quarrel that certain ethnic groupings were left out and they must be included? Now, if that is the quarrel, where were these ethnic composition put, Mr. Chairman, or were put in the Second Schedule. So, if that is the quarrel, then let us go to the Second Schedule, and insert them there. The problem will have been solved.

Now, Mr. Chairman, as we still have a problem of differentiating between 'marginalised' and 'minorities', I am aware that, even among the minorities,

within the ethnicity, there are below them other small ethnic groups known as clans. So that, when this amendment proposes representation and participation at decision level, even when we have categorised tribes and ethnicity like that one of the Basiki in Busoga, the local community will look at the kind of Musiki who has been taken at the decision level and he will say, he belongs to a particular clan. And in Busiki, there are 52 other small clans. So, even if you categorise the Basiki as a minority, then because he comes from a particular clan or *Kikka*, then there will be other 51 clans that will not be represented. So, what are we talking about when we say in the amendment one, that the rights of minorities to representation and participation in decision making must be recognised. Are we saying that, all parliamentary representation must now be based on the clans, so that everybody is represented there? Are we talking in terms of tribe or call it ethnicity - what do we exactly want to mean? Unless this is clear in our minds, Mr. Chairman, it is going to cause us problems.

Mr. Chairman, finally and lastly, I have known for instance that in Busiki, we have the people known as Baruli but the Baruli are also in Soroti, they are also in Pallisa, they are in Luwero, they are in Bunya, they are in Kigulu and Gulu. Now, whenever they will be located, they may constitute what we call a minority, and if we say, they must be represented at the decision making process, then the Baruli must have representation in Busiki, in Pallisa, in Gulu, in Luwero, and wherever they are located. And this representation must also go at the parliamentary level. So, Mr. Chairman, in view of the fact that, we have given an affirmative action and given parliament powers to make relevant laws, to effect the affirmative action in relationship to the marginalised or minorities, if we are not really making a repetition, that is sufficient cover and it covers everybody. If the debate is to remove the word marginalised from the amendment that we passed or we must insert another word which says groups marginalised or minorities etcetera, we should, Mr. Chairman, not make a repetition of what we have already passed as legislation. On those, grounds, Mr. Chairman, I have a temptation to say, I oppose this Motion. *(Applause)*

MISS. BYANYIMA (Mbarara, Municipality): Thank you, Mr. Chairman, for giving me the Floor. Mr. Chairman, I feel very sympathetic to this amendment. I would even like to support it. But I would like to ask the Movers to consider these amendments

that I would like to make to it. Mr. Chairman, it seems, the fears of many people who have opposed the Motion are that, the word minorities could be constitute to mean very many things. I think by minorities we mean ethnic minorities, cultural minorities, religious minorities, and we could even add to that list of minorities. But certainly, it could never be political minorities because a political minority share a political view. And those who share that view should use the democratic process to canvass us and get all these minorities and the majority to accept their view but they should not consider themselves a political minority which needs special rights. They should look at themselves as a competing view and compete. However, I feel the case for minorities is very real. And those who have a minority political view, should not destroy the case for ethnic, cultural, and religious minorities by attaching themselves to this amendment.

So, we should deal with the political question and political representation during the debate on the Chapter on Representation. I would like to separate the political question from the question of these minorities that are recognised internationally, and that are in many conventions which take care of their rights. And indeed, like it has been said, all self respecting constitutions do recognize the rights of these minorities. The general provision that has been made and that has been quoted here and this was moved by myself as new article 61, is general. And indeed, it includes the rights of these minorities. But like we did for the women, for the children, for the disabled, we have been going into specifics about these particular marginalised groups, after passing the general provision. So, in the case of minorities too, we should not single them out, and refer them to the general provision, they too deserve their own article to protect their rights.

I would like to suggest that we should leave clause (3) on the Electoral System out. I suggest this to the movers. And that, when we come to the question of political representation, we could then debate how minorities will be represented, but not put it here. Because, when we say in clause (1), that the rights of minorities to representation and participation in decision making shall be recognised, we already have dealt it. We do not have to repeat it in clause (3). So, I would ask the Movers to consider that, we should take clause (3) out, and take the debate on it to another chapter. And in clause (2) we remove 'to avoid oppression by the majority' because it is

unnecessary. So, I would like the Movers to consider those two amendments. We keep clause (1); clause (2) 'avoid oppression by the majority'; and clause (4) and remove clause (3). We could even refer it to the Legal and Drafting Committee to consider where we can debate it at another time.

Lastly, I would also like to make a comment on what Hon. Kabwegyere said. I am surprised that, he has fear of some people with certain types of noses. He has let a cat out of the bag. Thank you, Mr. Chairman.

THE CHAIRMAN: I do not know about that. Now, are you making an amendment, a formal motion or are you just making a suggestion?

MISS. BYANYIMA: Mr. Chairman, I have asked the movers to consider that amendment if they can accept it and we debate it.

THE CHAIRMAN: Let us ask Hon. Kiyonga.

MR. KIYONGA (Bukonzo, West): Thank you very much, Mr. Kiyonga. I would accept the proposal or amendment by Hon. Byanyima (*Applause*).

THE Chairman: The proposal by Hon. Byanyima is that the Motion as moved be amended by deleting the words in (2) after the word 'account' till the end of that proposed clause. That this be struck out and that (3) also be struck out. Now, this proposed amendment was acceptable to one of them, and I will take it that, on behalf of the rest of the movers. I can see Hon. Tiberio Atwoma the leader of the group. Do you want to say something different? Okay.

MR. TIBERIO: Mr. Chairman, while I respect part of the amendment, I will not real come to deletion of number (3). If you deny them political right *-(interruption)-*

THE CHAIRMAN: Okay, then now the position is this: Hon. Atwoma and Hon. Kiyonga are not at per on these matters. Which means that, really the movers *-(interruption)-*

MR. ATWOMA: The first one I said is alright, Mr. Chairman.

THE CHAIRMAN: No, no! I know that you have accepted the deletion of some words, but you do not

accept the deletion of (3). Hon. Kiyonga was prepared to accept the deletion of (3) plus those words. Which means that, you have not got a position from the movers. It, therefore, becomes necessary that we decide the matter ourselves upon the Motion. No, just wait. There is no procedure here yet. Hon. Byanyima was seeking the concurrence of the movers to see if we can move faster. But it would appear that, that is not the position. Now, I do not know whether she would like to express her proposition in a Motion so that we proceed with it. If it is carried then it is amended, if it is not carried, we go back to the original motion.

MISS. BYANYIMA: Thank you, Mr. Chairman. I notice that one of the movers is in agreement with my proposal. So, I would like to ask him and myself to move that *-(Interruption)-*

THE CHAIRMAN: You do not have to ask another person to move with you.

MISS. BYANYIMA: I move, therefore, Mr. Chairman, that in the proposed article 63, we should delete clause (3) and in the case of clause (2) delete, 'to avoid oppression by the majority'. Thank you, Mr. Chairman.

THE CHAIRMAN: Now, her motion does not include (1). Her motion is that the words after the word, 'account' in (2) be deleted and in addition (3) be deleted. Is that seconded?

Now, the motion is seconded. We debate the proposed amendment first. You are seeking clarification. No, let us hear this request to be clarified by the mover.

LT COL. KIIZA BESIGYE (NRA Delegate): Point of clarification. I am seeking clarification whether clause (1) means the right to vote. Because the rights of minority is to representation and participation in decision making, I consider here that it is refusal of the right to vote unless this means some other right which is not clear to me. I would consider that, that is already taken care of, in which case the mover may wish to add it to (3).

THE CHAIRMAN: Well, you are seeking clarification. The motion that is on the Floor and which has been seconded - just a moment. The rules are very clear when the Chairman is speaking.

The motion on the Floor is that, as moved by Hon. Byanyima and has been seconded by Hon. Chebet Maikut and others. Hon. Besigye was only seeking clarification as to number (1) but that mounted to some kind of contribution suggesting additional amendment. That is a different matter, it was not moved. What we have now available for debate is proposed amendment to the amendment. We dispose of that one first, and then we proceed depending on the result. But of course, the amendment to the amendment can also be amended. Then we have to deal with the other one first and come down in the order. Now, who is seeking guidance?

MAJ. TUMUKUNDE: Thank you very much, Mr. Chairman. I thought you would come in to guide us on this long debate. In the first place, Mr. Chairman, there are a number of articles in this constitution which should have catered for this amendment much better. We have got article 65 which talks about a right to participate in affairs of government and everything. We have got articles 84 to 100 which talk about the same subject. I am therefore, requesting, Mr. Chairman, that we seek your guidance on this matter and we leave only these four which talk about the right to culture under article 64, then we take (1), (2), and (3) to where they belong. I think that would save our time, Mr. Chairman. Thank you, Mr. Chairman.

THE CHAIRMAN: No, no. Let us not seek to make contributions when we have reached at a certain level. We have made a lot of discussions on these matters but now we are reaching a stage where we must begin making decisions. We have a proposed amendment to the amendment on the Floor. It has been seconded. We should debate it, pronounce ourselves on it and then go ahead.

PROF. KANYEIHAMBA (Ibanda East): Even though I come from a minority, I want very strongly to oppose this amendment for a number of reasons. *(Applause)*.

THE CHAIRMAN: Which amendment are you opposing?

PROF. KANYEIHAMBA: The whole of it.

THE CHAIRMAN: No, then you are debating a different motion.

PROF. KANYEIHAMBA: Okay, let me address myself-

THE CHAIRMAN: We are now discussing Hon. Byanyima's amendment.

PROF. KANYEIHAMBA: Yes, Mr. Chairman.

THE CHAIRMAN: And that will determine how we proceed. But not to discuss the whole amendment now when in fact we have narrowed ourselves.

PROF. KANYEIHAMBA: Mr. Chairman, addressing myself specifically to the amendment within the amendment, my view is that, it does not really cure the defect of the major amendment. If I may look at clause (1), it says that, 'minorities shall have the right to representation and participation in decision making'. That itself relates their political rights to participate in a decision making process. Therefore, if we were to amend and delete section 3, then therefore, you must also amend section 1, perhaps, to meet the rights of minorities in decision making. So, I think that even that amendment were to be reflected also in (1), so that (1) reads: "The rights of minorities in decision making shall be recognised". That will be better than the way it is presently worded because (1) and (3) are similar.

Secondly, I think the amendment which came from the Chair in number 2 that we should delete the last words, that is to avoid expression by the minority, is also be acceptable to me. But it seems that the movers have not accepted that. The problem that we have, Mr. Chairman, is a definition of minorities. I believe that the movers have ethnic minorities at the back - if they have ethnic or indeed religious minorities, one has no problem. But the way this amendment is worded, is an answer for everyone who perceives herself as a minority, and that is where the danger lies. Because then, whoever is a minority will be protected by this. I was discussing this with one of the movers and I said that, if you are to move this, for example, we have certain areas where they have rejected certain cultures and certain institutions. If we are to accept this amendment as proposed by Hon. Byanyima then obviously those people would have to accept that, minorities within their known societies, for example, who want to establish monarchy or who want to establish different things, would be entitled under this amendment to recognition. And there is no way they can do to stop that.

I want people to fully understand what they are debating here. Because, Mr. Chairman, as I have

said, the attraction of this amendment is that, it seems to embrace everybody. After all, somebody has said that in Uganda, we are all minorities. Therefore, we should actually oppose this. Let it be mentioned that to the unity of Uganda, it has very dangerous and unknown consequences. So, for these reasons, Mr. Chairman, I oppose the amendment proposed by Hon. Miss Byanyima because, it does not cure the defect which is in the whole amendment. And if she agrees with me, we also amend number 1 and number 2. I thank you, Sir.

THE CHAIRMAN: Now, Hon. Kaberuka.

DR. KABERUKA (Ndorwa West): Thank you, Mr. Chairman. Mr. Chairman, I had seen this problem earlier on and I had categorised these points in two categories. Category one constitutes clause (1) and clause (3). Those two clauses belong to representation and I was of the view that those should go to the section of representation where we can discuss them exhaustively, taking into consideration other issues relating to representation. And in that case, Mr. Chairman, I was only left with (2) and (4). Now (2) and (4) - first of all, (4) is already catered for in the present article 64 under the right to culture. And the only part that we should be dealing with here is (2), which actually recognises the rights of the minority in formulating national plans and programmes.

So, Mr. Chairman, I would like to beg the mover of the Motion that, if she agrees with me that we delete (1) and (3), and for emphasis maybe, we can repeat ourselves and maintain clause (4). But otherwise, we should be left with only clause (2), as constituting article 64. Therefore, Mr. Chairman, if the mover is ready to go with me, I am ready to support that amendment. Thank you very much.

THE CHAIRMAN: You are now saying that Hon. Byanyima should agree to amendment to her motion, so that you delete (1) and (3) - she has already moved.

MISS. BYANYIMA: Thank you very much, Mr. Chairman. Mr. Chairman, in response to the contribution of Hon. Kanyeihamba, I would like that, "the rights of minorities in decision making shall be recognised". I would like to know what Hon. Kiyonga would say about this because he was a mover and he agreed to my amendment. Otherwise, I have no objection to it myself. Thank you.

THE CHAIRMAN: I think let us have a comprehensive amendment, if there is going to be one, we debate it and complete. Because some Members are saying, we should delete (1), others are saying, we should recast one, others are saying, we should leave only (4) for emphasis, and so on and so forth. Now, there is an amendment -

MISS. BYANYIMA: Mr. Chairman, I have agreed to the amendment of Hon. Kanyehamba.

THE CHAIRMAN: Let us proceed with this one. There is an amendment by Hon. Byanyima, which you know - delete (3), and take off a portion of (2). If a Member wishes to amend that, they should move an amendment, so that we proceed logically. But otherwise, we are now having general discussions.

MR. AMAMA MBABAZI (Kinkizi West): Thank you, Mr. Chairman. I would like to move an amendment to this effect that, clause (1) of the proposed amendment be deleted. Clause (2) be retained up to the word account as proposed by Hon. Byanyima, (3) be deleted and (4) be moved to the article 64 which is to be discussed next, because it appears to appropriately fall under that one. I beg to move.

THE CHAIRMAN: Now, is that, seconded? Now, the motion will be this. The question before us is an amendment to Hon. Byanyima's motion, so that in addition to the proposals she made, there is added an amendment to delete (1) and (4). In addition to what she proposes. I think, she had proposed deletion of (3) and modification of (2), and removing the words, "to avoid operation by majority", and in addition to that, it is proposed that in (1) and (4) be deleted. Yes. Now, what you do with (4) does not have to be in this motion, but we can add that, (4) be transferred with the present article 64 in the text. In the event of the Hon. Byanyima's Motion carrying, there is no need to go back to the others. We agree on that. The sequence of events is this: Hon. Tiberio Atwoma and Hon. Kiyonga Moved the Motion you have before you. Hon. Byanyima came up with an amendment to say, that (1) should be retained, (2), should be modified by deleting the words after the word, "account" until the end of (2); (3), should be removed, and (4) should be retained. That was Hon. Byanyima's amendment of Hon. Tiberio Atwoma's amendment.

Now, there is a further amendment of that, because

we became undisciplined, we are now discussing generally. So, now we said okay let people move formally. Hon. Mbabazi has proposed an amendment to the amendment by Hon. Byanyima in the following terms. That in addition to her proposition, (2) be modified to remove the word "account", and (3) be deleted. He further amends to say that (1) should also be deleted and (4) should be deleted. So, that what would be left then in event of that carrying would be (2) less the words "to avoid oppression by the majority". But Hon. Mbabazi went to suggest in his amendment that instead of merely deleting (4), it should be transferred to be considered together with the present article 64 in the text. Now, we now debate Hon. Mbabazi's amendment and pronounce ourselves on it.

MR. LEANDER KOMAKEC: Thank you very much, Mr. Chairman.-

LT. COL. KIIZA BESIGYE: Point of order. I thank you, Mr. Chairman for allowing me to raise on a point of order. I suspect, Mr. Chairman, that the reason we are having difficulties is because of not following the rules we set ourselves which state that if you wish to move an amendment without notice, you should put the amendment in writing and submit it to the Clerk. I did submit my amendment to Hon. Byanyima's amendment to the Clerk and before it was considered, I heard another amendment being moved. I do not know whether the amendment that has been moved was submitted to the Clerk. I would implore the consideration of your Chair to consider the amendment that I moved, Mr. Chairman.

THE CHAIRMAN: The position is that, the original amendment must be in writing and given at least three days before. That is the caution we have been using here and that was done by Hon. Tiberio Atwoma and others. But we agreed among ourselves and we have been using this practice that having got the original Motion, subsequent Motions can be moved without notice, but while they are being discussed they be reduced in writing and submitted to the Clerk. It does not mean that you should just quietly send it to the Clerk and then assume that, notice has been given for the Chair. We are saying that you give it to the Clerk for our record. But using the practice we have been using, a motion was moved by a Member, it has been summarised by the Chair (and I presume a written version of it will come); further amendment was made and it was summarised. These are the Motions that we have on the

Floor right now. If there are others, then also they can be moved, provided, of course, they did not add to whatever there is even in similar terms. But I think the point being raised will just take us backwards.

MR. LEANDER KOMAKEC: Thank you, Mr. Chairman. The problem we are dealing with here, Mr. Chairman, actually rises from the problem of democracy as such. I think we realise that people who subscribe to this philosophy are the majority. That the majority shall rule recognizes also the problem that always where you have choice and in the human society, you are likely and you are always bound to have what we call minorities. Some minorities are political minorities as has been pointed out, others arise because of social compositions such as things like nationalities, things like religion, etc. But the fact is that, the question of minorities as such is the problem that should be recognized, and it should be taken care of. I think that while we are making that the minorities are going to be a disabled lot in any democracy. So, I think while we are making our constitution, we should recognize this fact that, minorities shall be protected in one way or another. That I think has been agreed, the question here is that, people think that perhaps it is recognized but it will be catered for in the question of representation or at least their interests being recognized and hence, the amendment here trying to delete clause (1). Mr. Chairman, I think (1) is more articulate.

We should in a constitution make a position clear that, what is it that we are trying to do? We are trying to recognize that minorities shall be protected. So in this respect the mere fact that, the new Amendment, right now, does not make this declaration. I am afraid I cannot support it. I think Members should vote against this one so that it is reinstated because I intend to move a Motion that will actually correct this. We should first establish the position of minorities and recognize it and then we say that: it is in both political matters as well as in culture. I think that these minorities should be protected from these two disabilities that is political disabilities and cultural disabilities. And for this matter, I think that our amendment should recognize these two facts. That is why I intend to move further amendment on this one that will retain (1) by saying that, *"the rights of minorities in decision making and culture shall be recognized"*. That is a declaration. If we do that, I will then support the amendment, Mr. Chairman. In which case, I will ask Hon. Mbabazi to accept further amendment on this amendment that will declare that, the rights of minority in decision making

and in culture shall be recognized. That one I think is not in dispute, so that we come up with something which is more acceptable to everybody.

And the rest of the number (2) and (3) can for that matter retain what is in the original in the draft, article 64. I do not see why we should go into (3) and (4) because it is too wide. I think with these amendments, if they allow it I will support it, if they do not, then I will have to move an amendment to that effect. Can the Mover of the Motion think about including No. (1) but reducing it to this effect that the rights of minorities in decision making and culture shall be recognized.

THE CHAIRMAN: Are you saying that if that is acceptable then you support the retention of modified (2), removal of (3) and (4) and then (1) talks of the right to decision making and also culture.

MR. KOMAKEC: No, I will then accept No. 2 as amendment, and No. 4 which will become No. 3.

THE CHAIRMAN: But if you are going to amend, let us get this clear first. Hon. Komakec, if you are going to amend (1), to say that, *"the right of minorities in decision making and culture shall be recognized"*, do you need (4)? That would take care of (4).

MR. KOMAKEC: Yes.

THE CHAIRMAN: Which means that you would agree that (4) should go, (3) should go, the part of (2) should remain, but (1) should be modified to include the recognition plus the cultural part of it.

MR. KOMAKEC: That is correct, Mr. Chairman.

MR. AMAMA MBABAZI: It sounds alright because it removes the problem that we are struggling to get rid of. If you modify (1) to read as: *"The rights of minorities in decision making and culture shall be recognized"*, I have no problem with it. (Applause) But (4) goes, of course.

THE CHAIRMAN: No, no. Hon. Leander Komakec has agreed that if you modify (1) the way you have agreed, then (4) falls but you retain the portion of (2).

MR. KASAJJA PATRICK: Mr. Chairman, in the view of the fact that we have taken almost 4 hours without making any progress, and also taking into

account the fact that, it is no longer the original amendment that we are dealing with, we shall not move at this rate because every time we move, another person brings an amendment. I wish, Mr. Chairman, to retaliate the position brought by Hon. Bidandi Ssali that we better refer this matter to the Technical Committee to handle this case properly. Because at this rate, Mr. Chairman, we are not going to move. So, I wish to move that we refer this matter to the Technical Committee who will come back with something useful to us.

THE CHAIRMAN: Hon. Delegates we have gone round in circles because it is an important matter. When I surveyed the field at the beginning, there was a lot of support for this. Also there were reservations, it is not a simple matter. But we have now reached a stage where we could make a decision. Hon. Leander Komakec has modified the Motion by Hon. Mbabazi which would retain the following: that, article 64 (1) as proposed would remain the following form that, "The rights of the minorities to decision making and culture shall be recognized". He accepted that. He also said and Hon. Leander Komakec agreed that if that is acceptable, then (2) less the words after the word, "account" should remain. And that (3) and (4) should go. That is where we have reached. And what I was going to suggest is that we pronounce ourselves on this. I do not think that we should refer it -

MISS. BYANYIMA: Mr. Chairman, thank you. In view of the amendment that has been made by Hon. Amama Mbabazi and Hon. Leander Komakec, I would like to agree with them and withdraw my Motion to support theirs. Thank you, Mr. Chairman.

THE CHAIRMAN: You do not have to withdraw your Motion. In terms of procedure where we have reached now, if the Motion by Hon. Mbabazi and as amended by Hon. Komakec, is carried we dispose of everything. We don't have to come back because all the others will have fallen by the way side, others will have a few words left. Others are modified, so we vote only on (1). So I will now put the question.

(Question put and agreed to.)

THE CHAIRMAN: Now we have a new article 64 which reads as follows, - order! - for the benefit of our records. There will be article 64 with two parts to it. Clause (1) reads: "The rights of minorities to

decision making and culture shall be recognized". And Clause (2) "In making national plans and programmes the views and interests of minorities shall be taken into account". That is our new article 64.

MR. RWABIITA: Mr. Chairman, on (1), I still insist to put an amendment which will include that, "The rights of the majority..."

THE CHAIRMAN: I think you will come back at the reconsideration stage. We have finished there is nothing to amend. Hon. Rwabiita, you cannot take us back. But there is a reconsideration stage where you can come back and we shall take those into account.

MR. MALINGA: Mr. Chairman, I think we have reached a stage in our proceedings where we have to try to proceed so that we are all together. Where we have inserted (1), I think for purpose of being together, we should call that clause by a number following the one it is to follow. If we are putting an article which will be article 64 for the time being, we should call it article 63(a) so that we retain the numbering of the other parts for the purposes of our deliberations.

Secondly, Mr. Chairman, I think we have now reached the point (because our rules say that you cannot pass something contrary to what has already been passed) when we should avail ourselves what definitely we have pronounced ourselves on. We are seeing that the minutes of our proceedings are not coming in time and it is difficult for us to keep track of what we have passed and what now forms part of the constitution as per our present decisions. I think time has come when we should start producing those parts which we have passed and be availed to the Members so that the Members can have them available to use and to refer to. It will also help us to know that the draft that will finally come out agrees with us because it is availed to us in time. Mr. Chairman, I hope this will be taken into account. Thank you.

THE CHAIRMAN: Yes, for purposes of numbering it will be very confusing to Members if we begin changing the numbers from the text. We have the Technical Committee who are taking note. So, there will be no confusion as to numbering. What you are suggesting is that we produce a record of what we have finished, we have two types of records. There is the minutes which are just scanty. A Motion was

seconded, debated, question put and carried. That will not take us very far because it does not produce the text - the text will be in the Hansard. But what is happening at this juncture is that as we finish every chapter, the Technical Committee produces it. But we have not circulated them because of money. As soon as we finish this chapter, we shall also have the text ready and we shall give it to the Members so that they can use it - those who are considering some reconsideration stage proposals. So, this is going to be taken care of. Thank you.

Now, we are at page 8 again. Although we should call it article 65 but for ease of reference let us call it article 64 in the text. We had article 64 which came, not from the text but article 64 in the text which is talking about right to culture. There is a proposed amendment by a number of Members led by Hon. Onyok-Etuku, Hon. Wasswa Lule, Hon. Kirenga, Hon. Mayombo, Hon. Miria Matembe, Hon. Bidandi Ssali, Hon. Baguma Isoke and Hon. T. Ssentongo.

LT. NOBLE MAYOMBO: Mr. Chairman, when we were in the Legal and Drafting Committee we were approached by the movers of this Motion, and I was asked whether or not this Motion can be sustained in the Assembly. I gave my views that: This House has already passed a resolution that there should be one derogation clause. I, therefore, argue that it will be in the interests of good draftsmanship to have the derogation clause removed and forms one article at the end of the chapter. That was my first point, Mr. Chairman.

The second point, Mr. Chairman, is the spirit of the amendment. I made mention, then and now, that the unity of Uganda, and I beg to be corrected, would only be destabilized by political institutions and cultural institutions. I, therefore, told the Movers to go ahead and move that amendment within those confines. But, Mr. Chairman, I am not a Mover of that amendment. I made that clarification very clear. Thank you, Mr. Chairman.

THE CHAIRMAN: That is a long way of saying you are not behind the sponsorship of this.

LT. NOBLE MAYOMBO: No, no. I am saying that the capacity which I hold in the Legal and Drafting Committee must not be taken advantage of by Members to say, I support or oppose a particular Motion. Thank you, Mr. Chairman.

THE CHAIRMAN: Now, let us not begin debating the Motion before we come to it.

MRS. MIRIA MATEMBE: I would like to say that I am not one of the endorsers. As the Members of the Legal and Drafting Committee, when people say, 'can we move' and we say, 'move', is that to be taken that we have endorsed the amendment?

THE CHAIRMAN: Anyway, this is a matter which you should discuss in the Legal and Drafting Committee. The fact that you have disclaimed that is enough. So, you can smoothen your work methods there. For us here we take on face value what comes from there.

Hon. Etuku, you are leading this consortium, would you like to move the amendment to article 64 (1), please.

MR. ETUKU-ONYOK: Thank you very much, Mr. Chairman. Mr. Chairman, permit me to have correction. First, by deleting Hon. Lt. N. Mayombo, Hon. Miria Matembe from the list. Mr. Chairman, I beg to move, through you, to this honourable House that article 64 (1), be deleted and replaced with the following words. *"Every person shall have the right to enjoy practice, profess, maintain and promote any culture, cultural institution, language, tradition and religion in community with others"*. I beg to move.

THE CHAIRMAN: Seconded by Hon. Nankabirwa and Prof. Nsibambi.

MR. ETUKU-ONYOK: Mr. Chairman, this in other words means the amendment is proposed to delete the last three lines of 64 (1) in the Draft Constitution subject to provision etc. Two, insert 'cultural institutions' between 'culture' and 'language', and then at the end of 'religion' to insert 'in community with others'. The reasons for the amendment, Mr. Chairman, as a principle is that, there is already a move to establish one limitation clause at the end of the Bill of Rights, chapter (5), to embrace all the drawback or limitation clauses in this chapter.

Hon. Members can observe or see on page 29, general limitation of fundamental human rights and freedoms. The inclusion, therefore, of the section which reads, 'subject to provision of the constitution' etc., would go against the principle already agreed and that is the more reason why I submit that we delete, 'subject to the provision...' and so on.

Secondly, Mr. Chairman, this amendment is in line with an International Covenant on civil and political rights of human rights international standards, article 27 which reads, with your permission: *'In those states in which ethnic, religious, or linguistic minorities exist, persons belonging to such minorities shall not be denied the right in community, with the other members of their group, to enjoy their own culture; to profess and practice their own religion; or to use their own language'* Mr. Chairman, Uganda is one typical example of such states where ethnic differences and linguistic minorities exist including cultures and cultural institutions. This Assembly has of recent passed Hon. Awori's amendment on free religious practices which is part of the rights to be practiced by minorities: the rights to culture and cultural institutions is very important.

Thirdly, Mr. Chairman, before I may call the attention of Hon. Members to article 10 Clause (2) of the Draft Constitution on National objectives, Clause (2) reads; *'Every effort shall be made to integrate all peoples of Uganda while at the same time recognizing the existence of the ethnic, religious and cultural diversity of the people'*. The fear is, Mr. Chairman, in other words I am saying that this justifies, to a large extent, that cultural diversity is not antagonistic to national integration. On the contrary it may enhance national unity instead of disrupting as required in article 10 Clause (3) which emphasizes that all people of Uganda are entitled to their cultural values and practices which do not disturb the unity and cohesion of the state. This amendment, Mr. Chairman, seeks to promote a culture of corporation among the communities and those who practice their culture the culture of understanding and appreciation of other peoples' cultures. A culture of tolerance and respect for other peoples' customs, traditions and beliefs. I believe the Legal and Drafting Committee are thinking about incorporating or transferring some of these Clauses to chapter 64 where it rightly belongs.

Mr. Chairman, further I would like to stress that these provisions and amendments will strengthen the traditional customs and institutions which have already been resurrected to those people whose cultural rights were denied. It is important, Mr. Chairman, that cultural institutions should be entrenched to avoid leaving it to the mercy of the incoming governments to either abolish or reactivate. Let us give provision to these institutions which are in practice now. Culture is not static, it moves, it

develops, it evolves. We are seeking to have freedom for all minorities, those who would like to practice, their culture to be given the permission to do it. Mr. Chairman, I beg to move.

MR. MAYANJA ABU: Thank you very much, Mr. Chairman. Mr. Chairman, I wish to support the amendment. *-(Interjections)-* There are two points which I want to make clear. When we were debating article 51, an amendment was proposed by Hon. Kirenga which would have included, in the enumeration of rights and freedoms protected by this constitution, the enjoyment or the right to belong one's culture or cultural institutions. Mr. Chairman, during the course of debate it was decided under your able guidance, that, that amendment would best be dealt with in article 64. I am not 100 per cent comfortable with the language which has been used; it is good but I think it does not go far enough and I would like to seek corporation of the Movers if they would go with me to insert two words - I am not taking anything out but I would rather like to insert two words and then everything will be right. Mr. Chairman, the two words which I want to insert would be that, *'Every person shall have the right to belong...'*, to enjoy. *'...the right to belong to enjoy practice profess...'* So that the Clause will read: *'Every person shall have the right to belong to, enjoy, practice, profess, maintain and promote any culture, cultural institutions, language, tradition, creed or religion.'* *'...in community with others'* probably that one also presupposes by himself as he put it that it is understood. I would not quarrel a great deal about that one but the words *'belong to'* are important because there are some cultural things to which you belong and I want my right to belong to a cultural institution to be recognized and protected by this constitution.

Mr. Chairman, I hope that this clause will also perceive the threat to the religious community to which I belong, that is the Muslim religion in this country, to which some of these threats have been voiced in this august House, and others have been voiced outside but by important persons in this country. And I speak with your permission, that it is important that these fears and anxiety (ies) should be mentioned. Mr. Chairman, since times of legal memory in this contrary, that is to say for non Lawyers, it has been the practice for beasts slaughtered for public consumption and purchase in public markets to be slaughtered by members who profess the muslim religion. This practice, Mr. Chairman,

which has now become a convention in my submission, was established about 60 or 70 years ago by one of the Late Kabaka, Sir Daudi Chwa. At that time, there used to be two stalls in public markets in Buganda. One market was of meats slaughtered by Muslims, and they would say, "*Omuddala gwa Basilamu*". The other stalls sold meat slaughtered by non-Muslims, it was called "*Omuddala gwa Abatali Basilamu*". Mr. Chairman, when the Kabaka on his one of his inspection tours found this, he inquired and he was informed that whereas it was permissible from the religious point of view for non-Muslim to eat meat slaughtered by Muslims, it was not permissible for Muslims to eat meat slaughtered by non-Muslims. Therefore, the Kabaka ordered that from that time, there would be only meat slaughtered by Muslims for sale in public markets in his Kingdom. And so it was and so it has been and the practice was extended by the protectorate government beyond the Kingdom of Buganda and as I say, it has now become a convention.

Mr. Chairman, it should be therefore become the disturbing to hear people begrudge the Muslims for this right. It so happens that according to what we believe, God said in the Holy Koran that Moslems should not eat meat except that one on which the name of Allah has been pronounced. And the name of Allah is pronounced when it is slaughtered by Moslems. So, I am saying that, in protection or in recognition of the right of the Moslems to belong and profess their religion, this right should not be questioned. It has gone on for many years and it has now become a right recognized by custom, and my Friend hon. Muruli Mukasa and the Honourable Central Government Representative for Mukono should not now question this right. If need be, it should specifically be recognised in this constitution. Mr. Chairman, with those additions, I wish to support the amendment proposed in this article.

MR. MUSHEMEZA: Thank you, Mr. Chairman. This Motion on the Floor by Hon. Etuku-Onyok is a very important Motion and should be very critically examined. Mr. Chairman, I reject the views of those who might think that, there should be no limitations on the right of culture. (*Applause*) Why should we have limitations on the right to culture? Mr. Chairman, the amendment as it stands may breed defiant behaviour and activity, repugnant to the normal socially acceptable way of living. Mr. Chairman, an individual or a group of people do not live outside a given community. They shape the community and conversely the community shapes

them for the common good. An individual's hobby, Mr. Chairman, for example, smoking, may be a menace to the public; hence for the common good moral sense compels him or her to take into account the common good.

Mr. Chairman, society has its own code of conduct, and perception of life, principles and values that must be adhered to notwithstanding one's own individual or minority interests. As an individual operates in society, Mr. Chairman, his or her way of life must conform with the democratically acceptable way of life. Should an individual, Mr. Chairman, or minority conduct conflict with the general conduct then I propose, Mr. Chairman, that the latter must prevail over the individual. Honourable delegates, suppose an individual wants to enjoy and practice a culture of night dancing or homosexuality, should the society in which he lives simply allow him? Suppose an individual wants to promote and impose a cultural institution which is injurious unacceptable, oppressive, exploitative to others - should this be acceptable? On the other hand, suppose there is a small group of republicans in a community that deeply cherish a King, and they decide to engage in acts that undermine the institution of the King, should that small group of republicans be accepted? Now, suppose there is a clique of people who claim that God has sent them to start a religion which requires killing the first born or circumcising all women, should such people be allowed to do such a thing in society? Mr. Chairman, in the same spirit we passed the phrase 'in public interest', this amendment is very dangerous and hence my prayer to honourable delegates is that, it should be strongly opposed. Thank you, Mr. Chairman. (*Applause*)

MR. ETUKU-ONYOK: Mr. Chairman, you will note that, the right to belong may not cover all the areas. Although the right to belong to a culture, the right to belong to an institution would be together with this proposal. I do not have any objection.

THE CHAIRMAN: No let us first of all hear how it reads. If we agreed that there should be interpose, we do not have to go through so many stages. If it is agreeable to the Movers that we shall have the right to belong to, enjoy practice, and so on then we just debate it as it is - as modified.

Hon. Bidandi Ssali you are one of the promoters, do you want to be clarified by Hon. Mayanja Abu or by the Mover?

MR. BIDANDI SSALI (Nakawa Division): In addition to that clarification, as one of the Movers of this Amendment, I would like to clarify that personally, I would have no problem with 'belong to' although I feel that you cannot enjoy what you do not belong to. But there is another point also. As far as I am concerned, as a Member of this group which moved, there is a very important proviso that is not there which I would like to be added so that we do not waste a lot of time in arguing for this or against and that very important provision was at the end, 'subject to the provision of this constitution'. (Applause) If that one was there, then the arguments by the Hon. Member who has just spoken would not have arisen. Why I am saying so, is because in article 51 Clause (2), it is very clearly stated, 'In the enjoyment of the rights and freedoms prescribed in this chapter no person shall prejudice the rights and freedoms of others, or the public interest'. So, that is why I am saying, Sir, that I am a Mover of this amendment but with that proviso. (Applause)

THE CHAIRMAN: Let us get the text agreed on first. Hon. Baguma Isoke, you are one of the sponsors, what do you say to the observation by Hon. Bidandi Ssali. It would appear that the words which Hon. Abu Mayanja seeks to introduce do not seem to have a problem with regard to the Movers and the House generally. The only thing that we are having is the new introduction which said, 'subject to the provisions of this constitution'.

MR. BAGUMA ISOKE (Buyanja, Kibale): Mr. Chairman, a lot of surgery was done to this amendment. When I first talked with my Colleague, Hon. T. Ssentongo representing the workers, our intention was to include the enjoyment and the practice of all these listed rights in community with others; and leaving limitation as now put forward by Hon. Bidandi Ssali, in fact consistent with the text as it appears in article 64. I was surprised that my name was lumped along side with others who brought in another amendment providing for the cultural institution when we have culture being protected under this same article. I remember also, Mr. Chairman, discussing with the Hon. Ssentongo, (because I did not attend the Legal and Drafting Committee meeting) that 'creed and religion' would have their own place and we only retain cultural practices as indicated in the text. Having said that, Mr. Chairman,

THE CHAIRMAN: Are you disclaiming sponsorship in other words?

MR. BAGUMA ISOKE: I am only saying that the text as it is, I am not party to it. (Applause)

THE CHAIRMAN: Do you want to make a contribution?

MR. BAGUMA: For the reasons I have given. And as it is now, my contribution is that we remove 'creed or religion' and keep what Hon. Bidandi Ssali has already proposed.

THE CHAIRMAN: But Hon. Bidandi Ssali was not quarreling about those words you have just suggested to be removed.

MR. LULE WASSWA: Thank you very much, Mr. Chairman. I take note of Hon. Bidandi Ssali's proposal, but if we go back, you will note that we agreed that we shall have one general omnibus drawback clause for all the clauses in chapter (5) relating to human rights. Therefore, all clauses in chapter (5) will be subject to that general omnibus clause. There is no particular reason why we should incorporate the limitation here, when we have agreed that for all clauses we should leave it in that particular respect. So, I do not think it actually adds very much. As to Hon. Mayanja Abu's proposed amendment, I accept it wholly.

THE CHAIRMAN: I think this is a correct position really so that we do not waste much time on it. If you look at the sheets that have been distributed, there is a proposition under 29, on page 10 which would be a general derogation on all and limitation on all the rights be they cultural or otherwise that are being given including the attempt to define public interest. So that once this one is passed, then all these peculiar derogations which appear in various articles will in fact fall by the way side so that we have one single derogation. That will help us also reduce the size of the document we have prepared.

MR. WASSWA LULE: Mr. Chairman-

MR. MWESIGWA RUKUTANA: Point of information. Mr. Chairman, when we are making this constitution we should bear in mind that unlike a political party manifesto, this constitution is law. It will have to be subjected to the scrutiny of the law, to interpretation, and to a lot of litigation, Mr. Chairman. Whereas I agree that we can have an omnibus limitation clause, I do not agree that on important policy like this one we should trust this.

Technically speaking as a Lawyer, I know where there is a specific provision and there is another general provision on the same matter, the specific provision takes precedence. So in order to protect these important clauses - if we are to put them at all, though I am opposed any way - we must also make sure we put these saving or limiting provisions.

In that regard, I would wish to inform the House that though that general limitation is there, there is a problem in interpretation. When later a matter arises in court, somebody will say, "This provision is specific it protects my rights to culture, so I do not want to go to look at another provision. I want to restrict myself to this one". So, if we are to pass this amendment we must put that limitation. Thank you, Mr. Chairman.

THE CHAIRMAN: In fact really what the Hon. Member is trying to do would strain any Lawyer's imagination in interpretation. Because if we say, in what we are calling a general derogation, and we specify that we are making references as it does attempt to do, - I am not inviting debate on it - that the enjoyment of rights and freedoms prescribed in this chapter: "...no person shall prejudice the rights and freedom of others or the public interest." It would be difficult to read this chapter to be excluding the reference to article 64 for purposes of interpretation. I think that will be straining legal interpretation too far. In fact it would create a problem of maintaining the derogation under one particular clause because people would ask themselves why was this put there. And they will find all sorts of reasons to say that it was put there for some very peculiar reason, and may be even create more problems in the law rather than helping it. But that is only an observation from the Chair. We have enough lawyers on the field to exchange views on this one so that we agree whether we should add the words proposed by Hon. Bidandi Ssali, or we should say that, like all the other provisions which will eventually be subject to the general derogation clause, we proceed without them.

MR. STEPHEN KAVUMA: Thank you very much, Mr. Chairman. I concur in totality with the light you have thrown on this provision. The omnibus derogation clause is applicable to the entire chapter. You cannot therefore, turn around and say that it does not apply to any of the provisions in that chapter. And I think we do not have to repeat ourselves, the thing is clear. If anybody has any

suspicions I think they should accept the professional guidance given by the Chair. This provision is adequate enough to take into account fears of anybody who may want to over enjoy or to over exercise their rights as long as they are going to be contrary to the freedom and rights of others or the public interest. And I do not think this is an area where we should really pick a war on because I see no fear about it at all. Having said that, Mr. Chairman, I hope you will let me at an opportune moment contribute on the substance of the article. Thank you very much, Sir.

MR. BIDANDISSALI: Mr. Chairman, in light of your technical advice I would like to drop it because of the Clause you are explaining as if it will be discussed later but was actually passed by this House, if I remember rightly, even by division under 51 (2). So on that ground, since it is already subjected to that, I would like to drop this additional subject *-(Applause)-*.

MR. WASSWA LULE: Thank you very much, Mr. Chairman. The amendment as proposed if you look at the wording that was there previously in article 64, it talks about National interests and Unity which were derogations that were even subjective to the limitation Clause as it was; and that is one of the reasons why we decided to remove them and leave it to the general limitation clause. As it stands, even the proposed amendment which, Mr. Chairman, you pointed out is still fairly broad in that, it does not restrict public interests or take into account quite a lot of things. The amendment takes into account the interests of minority communities, communities whose existence needs to be protected. Reference to a community is necessary as it will be difficult to promote and develop culture. The article as amended, also brings it into line with international standards. Article 27 Clause (1) of the Universal Declaration specifically stipulates that everyone has a right to freely participate in the cultural life of the community; article 18 and article 27 of the International Covenant on Civil and Political Rights, which my colleague pointed out; article 17 Clause (3) and Article

22 Clause (1) of the African Charter which goes further to enjoin the State in the promotion of traditional values recognised by the community in addition to the right to cultural development. Article 1 of the International Covenant on Economic and Social and Cultural Rights, Article 1 and Article 3 Clause (1) of the Declaration on the Rights of

persons belonging to national or ethnic, religious and linguistic minorities, the amendment as proposed gives some substance to the institutions that were ostensibly restored.

In the amendment to the 1967 Constitution, institutions which could cease to exist as the 1967 Constitution ceases to have effect on the promulgation of this constitution if they are not enshrined in the new Charter. This amendment serves as a declaration of intent to retain these institutions. Mr. Chairman, I strongly support this amendment.

PROF. NSIBAMBI (Presidential Nominee): Thank you, Mr. Chairman. I support this amendment wholeheartedly. It has introduced a number of important issues and one of them is cultural institutions. Institutions are concerned with recurrent and treasured patterns of behaviour which have acquired value. When these recurrent and treasured patterns acquire value, they are important because they act as a map to guide society. Africa has suffered from cultural ruthlessness and yet, Africa has a lot to contribute globally through its diverse and rich culture.

Institutions are also important because they are supposed to refine culture. Institutions are also important because they mediate when there is conflict and therefore fragmentation may be avoided and you have unity at different levels. Hence the introduction of cultural institutions is vital here and I support it.

I finally also want to add that Africa has had many secondary wars because some people have been trying to standardise unduly and therefore we have had several secondary wars. Now, globally we are learning that we have lost a lot and I very much hope that we shall institutionalise and internalize the culture of tolerance. I support the amendment.

MR. HASHAKA (Kibale County): Thank you very much, Mr. Chairman. I oppose this Motion on the following grounds. That Motion merely has an infest from factors of group. If you read from the previous speaker he only supports because cultural institutions have been mentioned on this amended article though first and foremost the former Article states that, *“Every person shall have the right to enjoy, practice, profess, maintain and promote culture, language and tradition - (Interruption) - without adding on cultural institutions still has the right to maintain - (Interruption)”*

THE CHAIRMAN: Sorry, you know we agreed that we should not over interrupt each other.

MR. HASHAKA: Mr. Chairman, creed, religion or whatever has been mentioned in this Article, is referred to in Article 51 (a) and (b) very clearly. Whatever is being clamoured for on cultural institutions is already catered for in Article 279 in this Constitution. Therefore, I do not see the reason why we should not maintain the Article as it is worded here and from that I oppose this amendment completely and also.

MR. KWERONDA RUHEMBA (Kajara county): Thank you very much, Mr. Chairman. I support this Motion but with a proviso and therefore I wish to make an amendment to the Motion to effect that it should include at the end, *“provided that such rights and freedoms do not impinge upon the rights and freedoms of others”*. It may sound like it is in the original form of article 64 and it is for this reason that I want that to be there because time and again - *(Interruption)*.

MR. ABUMAYANJA: Point of order, Mr. Chairman. Is it in order for the Hon. Kweronda Ruhemba to bring a purported amendment, the effect of it has just been canvassed and ruled upon?

THE CHAIRMAN: There was a proposition by Hon. Bidandi Ssali that we should put as a tail end where to the very effect that Hon. Kweronda Ruhemba is seeking to introduce. But through democratic process and having pointed out at paragraph 29 on the circulated amendments and after exposition with the assistance of Hon. Member for Mpigi South, we came to the conclusion that it was not worth pursuing that wording because of the proposed general derogation clause and so the Hon. Member for Busujju is right to say that we have just more or less disposed of through democratic processes. I would rather you do not really revive that matter because it is taking us back.

MR. KWERONDA RUHEMBA: Thank you very much, Mr. Chairman. I stand to be advised because I thought the derogation clause was only in respect of subjecting this Article to the Constitution. Now that I have been advised, Mr. Chairman, I wish to withdraw that amendment and I support the Motion.

MR. KIWANUKA-MUSISI (Buikwe South): Mr. Chairman, I support the Motion. In the first place, Uganda is a country of diversity and it is very important for us to appreciate this diversity as a source of our strength rather than a source of our weakness. We should, therefore, in this Constitution provide a strong foundation for unity in diversity. It is therefore, necessary to make sure that we plug all the possible loopholes that may tempt bad governments to coerce people into homogeneity. Uganda, being that it is a heterogeneous community it has to be developed that way and any attempt to force homogeneity is counter productive - Counter productive culturally; counter productive socially; and eventually disastrous politically. Much of the political unrest and turmoil that has plagued Uganda in the last quarter century has been caused by State machinery trying to suppress culture and cultural institutions of various groups.

Secondly, Mr. Chairman, the African personality as Prof. Nsibambi has pointed out, has to be allowed to reemerge and to grow unabated. Colonial masters endeavoured to indoctrinate us with a bias against our own cultural values and norms. As Africans and particularly Ugandans, we are in the process of re-awakening and rediscovering the African personality and therefore we are rediscovering that as Africans with our cultures, our norms were not necessarily as backward as we were meant to believe. Our cultures are not all that backward; they are not all that divisive; they are not all that primitive; they are not all that destructive to society. And, therefore, we must provide for their development and use them in the process of developing our society. I therefore support a provision that does not allow for specific shaving of the enjoyment of these rights as it appears in the original Article 64 sub clause (1). Mr. Chairman, I support the amendment.

MR. MWAKA (Nwoya County): Thank you, Mr. Chairman. When we talk about culture we are talking about all those activities we are engaged in as human beings. Whenever we talk about culture many people think only in terms of our traditional dances, music and those few things. You will find that even highly placed people in government do not know much about culture yet our day to day activities are based on our cultural heritage. For instance the languages we speak, the food we eat, the social etiquette we practice in our homes, our customs, our beliefs, certain tools we use in our homes and all that we practice as our customs and many others are what

we refer to as our culture.

Mr. Chairman, in its wider sense, culture may be defined as the whole complex of the spiritual, material, intellectual and emotional features that characterize a society or a social group. It includes not only the arts and matter but also modes of life; the fundamental rights of the human being; various systems; and traditional beliefs. We can say too that it is culture that gives man the ability to reflect upon himself. It is culture that makes us specifically human, rational beings endowed with a critical judgment and a sense of moral commitment. It is through culture that we define values and make choices. It is also through culture that man expresses himself, becomes aware of himself, recognises his incompleteness, push in his own achievements; seeks untiringly for new meanings and create work through which he transcends his imitation. We all belong to the human race, Mr. Chairman, and there is no inferior race. Similarly, there is no inferior culture. We must all be free to enjoy our cultural heritage without any hindrance but let me point out that there are some cultural practices which are bad and retrogressive and these must be discarded. A number of examples were given here on a number of occasions like, the circumcision of women or the practices of denying the women the right to eat chicken or goat meat. Such practices must be discarded because they are retrogressive.

Culture, Mr. Chairman, is not static but dynamic. We must accept changes that can enrich our culture. For instance, in the past we wore *Ohubugo* or animal skins or leaves, these are now museum pieces. To show that culture develops we now dress the way we do and we consider those costumes of the past not suitable for today. Mr. Chairman, I strongly support this amendment.

MR. SSENDAWULA (Bukoto South): Thank you very much, Mr. Chairman. I support the amendment very strongly. Mr. Chairman, as I rise to make my contribution in support, I would also like to clear one position that as far as I am concerned and the way I understand this document, the Draft Constitution, I see that the amendment is in the right position because there are others who are saying that anything to do with culture and cultural institutions should be under 279 in the Miscellaneous Article. This particular Article that is where we have our rights and when we talk of our culture as a right there is no where else even if there is any mention of

cultural institutions in other Chapters the best place should be here where we have the right to culture and I would specifically move that I strongly support the amendment to this or the improvement as made by Hon. Abubaker Mayanja 'to belong,' that I am permitted to belong and to identify myself so that there is no doubt about me - so that somebody does not feel that I do not know my origin, that he accepts that I know where I belong and he allows me the right to parade and openly state that I belong to this culture and I do not feel shy at all about it. Then to enjoy that culture, if there is anything to be done, I have no quarrel with the parading of the people from Mbale when they are having the 'Embalu' and they are dancing all over the street. I will just give them way because that is their right and they have accepted to uphold that right; and to promote the culture. To ensure that, that culture is promoted and that it moves with the times, we permit that those who practice that culture are permitted to promote that culture openly and when we move to cultural institutions I think it is important that it is also accommodated that if there is any institution to preserve that culture, to demonstrate that culture, that institution should exist and it should be there and accepted by all who belong to that culture.

There is no doubt that I also require my rights to profess my religion of my choice.

So, all in all I strongly support this proposed amendment and I hope all Delegates, in good faith, should support this amendment. Do not mix it up, For Heaven's sake, do not mix it up with any other feelings that you may have that there is any other hidden agenda in this proposed amendment. We are all very clear and open that we only want to support culture. Thank you very much, Mr. Chairman.

MR. MWESIGWA RUKUTANA (Rushenya County): Thank you very much, Mr. Chairman. I oppose the amendment. The ground is that culture is such an amorphous thing that if we are to include it in this Constitution in the manner proposed we would be sowing seeds of discord and disunity. Mr. Chairman, I would not be encouraged by clause (1) on page 10 of the paper we have been given but find that there are some important ingredients contained in Article 64 which are mentioned in this Clause.

Article 64 caters, first and foremost, for the unity of the nation it demeans culture to a situation where the unity of the nation is not undermined. That one is not

contained in the proposed amendment. This one was not touched. The second reason is that Article 64 subjects the enjoyment of these cultural rights to other provisions of the Constitution. In the proposed amendment there is no such subjection, in which case it will be far right. Hon. Delegates have pointed out how amorphous culture can be, if I am a cattle rustler I would feel and actually prove that, that is my culture -(Interjections) -. Can I be protected, Mr. Chairman?

THE CHAIRMAN: Hon. Rukutana continue.

MR. MWESIGWA RUKUTANA: Much obliged. Mr. Chairman, on the question of national unity which is, actually, protected in article 64 in the Draft Constitution, there are cultural institutions which may or are likely to undermine the unity of the nation. I will give an example of the Kingship in Ankole, we have stated it here several times that if it was reinstated it would undermine the unity of the Banyankole and, therefore, the unity of the nation. So, Mr. Chairman, much as I cherish culture, I would not take the Amendment if the saving clauses or the provisos are not included as included in the amended Constitution.

Mr. Chairman, as I have stated before culture is so amorphous. The psychological definition is that it is merely a way of life. In the dictionary they attribute a lot of things to culture - practices that are regarded as culture by those people who profess them are all embedded in the definition. So, we have seen quite a number of negative cultures. If we were to allow this without hinderance and to allow people to profess them the way they want without these provisions, it will be so dangerous. I would, therefore, oppose the Amendment and move that you take the article as it is. Thank you, Mr. Chairman.

LT. COL. SSERWANGA-LWANGA (NRA Delegate): Thank you, Mr. Chairman. Mr. Chairman, in this one now, I support the Amendment (Applause). Mr. Chairman, I support the Amendment for the clear reason that we are talking about culture. The past institutions were political institutions and cultural, they were mixing both. This time we want to put things clearly so that we stop this confusion which has been going around. For that reason I support the Amendment moved that people should be free to enjoy their culture. The Amendment which was made by Parliament of restoration of the traditional rulers had problems because it was

talking of traditional rulers, not even leaders but rulers. So, that is why I support this Amendment to say that we talk of cultural institutions alone. I support the Amendment, Mr. Chairman.

CAPT. BABU (Kampala Central): Mr. Chairman, thank you very much. I support the Amendment, and I support the Amendment on a very simple reason that until we started writing Constitutions, the Constitutions that ruled us were cultural. And two, Mr. Chairman, the mortar and bricks of a society is culture. Culture unites us. The most civilised institutions were centralised and these were centralised around culture. It is, therefore, very important, Mr. Chairman, that as we talk today and look around the world, countries like Spain have gone back to culture. Countries like United States where they have people who left their nations to go there in bondage and as people who were running away from their countries are going back to their roots. People without a culture, Mr. Chairman, move around and they are taken by the wind. It is, therefore, very important here that we must support and we must emphasise culture as the centre pin of this society. We might have diversity in our culture, Mr. Chairman, but our culture is rich and not only rich - it has been suppressed because it was rich and powerful. It is our duty, Mr. Chairman, to make sure that we unite our people using this culture and have a stronger nation; and as people who have come here, Mr. Chairman, to accommodate each other, it is a pity when I hear people talking about trying to disintegrate culture. We must use this culture as the foundation and, therefore, the stepping stone of the future nation that we are intending to build. And if we are talking about democratic process, Mr. Chairman, the rights of the people start from culture. The educated and the uneducated profess culture.

It is, therefore, on this basis, Mr. Chairman, that I support very strongly this Amendment. And not only that, Mr. Chairman, I want also to give information that today the most powerful Constitution which is unwritten in Britain is basically based on culture, and if that is so then we must use this culture to make a very strong nation and Constitution. Thank you very much, Mr. Chairman.

LT. GUMISIRIZA (Ibanda North): Thank you, Mr. Chairman. First of all, nobody has no culture, all of us have culture. But some of us do not understand certain development, perhaps we would like to be educated more. When someone says the

right to culture, that he supports culture, in the present developments in Uganda, I do not see, for example, if I may be very practical in my quotations, what is cultural about the present Buganda Parliament. Because as far as I can recollect the whole thing started as culture, but I would like to be educated. Really I do not have any information on what is culture about the present Buganda Lukiiko which is a parliamentary institution because here they say cultural institutions and the present Buganda Lukiiko is a cultural institution. The problem with politicians in this country, has always been opportunism. So, they are asking where is it written, it is not written anywhere but it is regarded as a cultural institution, but the performances, the duties, the tendencies are nothing but political. So, in my own local situation, I would like to be on record really, we are not against culture as such, but we would like to have the situation absolutely cleared that culture should be distinct, and that as far as I am concerned the present discussion is hinging on a chapter that we had earmarked as being one of the chapters we shall discuss in later stages of our deliberation. For example, where I come from we have clearly rejected those cultural institutions, so if we just pass this Article as it stands now, we are just not representing people but just accepting and passing things that people have not subscribed to.

So, Mr. Chairman and honourable delegates, culture is fine but my failure is how to distinctly separate it from a possible manipulation in future to bring in some other elements. What Prof. Nsibambi said that what is treasured and cherished, acquired over a period of time, also have a value element. I agree but what if those value elements, the majority of a section of a community reject them. I think, that it is the basic tenet of democracy that we should go by the majority. In 1966 when Obote abolished the Kingdoms, the cultural institutions, to me what he removed was an element, an aspect which was political. He did not stop any cultural behaviours of Banyankole, Baganda or Bagisu, which Hon. Gerald Ssendawula was referring to. He did not - not even Idd Amin. All these cultural aspects, cultural behaviours, mannerisms, eating, methods of dress - no President as far as I remember has ever stopped them - he only stopped aspects of those very institutions. So, the situation is worrying some of us because we would not like to be part and parcel of a development that people have clearly stipulated that they do not want. Thank you, Mr. Chairman

MR. KYEMBA (Jinja Municipality West): Thank you, Mr. Chairman. I want to strongly support the Amendment. Mr. Chairman, the pride of the people of Uganda is basically its cultural basis. Whenever a Ugandan moves around the only thing that we are proud about is what makes us different from others elsewhere; and I feel rather saddened that we are not even over-emphasising the importance of our cultural background. I would, therefore, like to appeal, Mr. Chairman, to the Members of this august Assembly that the strength of our Constitution which we are trying to put together will be based on the diversity of the people of this country. I would, therefore, Mr. Chairman, like to strongly support the Amendment that is before us that we should emphatically provide for the strengthening and recognition of our cultures.

Mr. Chairman, I got some reservations on the proposal by the Member from Busujju who he says that people should be permitted. Mr. Chairman, I think we should try and get a way and recognise that certain things are with us as of right. This business of saying we are permitting these people to practice, say the cultural practices connected with *Embalu* and the rest of it, I feel we are moving backwards in some way. I would like, Mr. Chairman, while I accept the general consensus on matters of this kind, we should do whatever we can to support and promote our cultural heritage. Thank you very much.

MISS. KABIRISI LUBERENGA (Women - Bushenyi): Thank you, Mr. Chairman. I strongly oppose the proposed Amendment because in my understanding we have to be very open with each other. If we remove the conditions, to me which the original article 64 was all about, we are actually changing the context of the whole clause. If two lawyers can sit in this august Assembly and disagree as to the use of derogation clause, how can we leave something as crucial as this to the interpretation of lawyers of the future. That is why I am saying when I look at article 64 as amended the rights being advocated for are already covered in article 51. So, if they are bringing them forward, apart from the word cultural institution, that means that there is something we are not, actually, seeing

Secondly, I would like to echo the words of Hon. Guma Gumisiriza, some cultural institutions are being used to fight some ulterior motives. I would like the Members of House to forgive my interpretation when I question, for example, the meaning of a

Minister of Education in the Lukiiko or the Minister of Foreign Affairs for that matter. So, I am getting rather concerned when we say that we open these institutions and just give them blanket cover to operate without a specific derogation clause, I am quite alarmed. My understanding of article 64 is that, actually, it is stressing the derogation clause. If we are saying we do not want to be repetitive, either we throw out the whole proposed Amendment and we retain what we are given in article 51 with adding, maybe, cultural institutions, which will be defined or we stick to the current article 64 which specifically spells out that we should not leave these rights and freedoms without clauses.

We are saying that we are going to base our derogation to something that is coming in (29). As you put it, Mr. Chairman, with your learned knowledge, I might be tempted to accept your interpretation, but then as the *Mzungu* says 'a bird in hand is not worth two in the bush'. How can we make a decision based on a derogation clause which we are anticipating to pass when we have not passed it yet? In my view let us go with article 64 as it is at the moment and throw out this Amendment, and when we come to the derogation clause, if we decide that we are being repetitive then we can amend accordingly. But according to the people I represent we are strongly opposed to some of these cultural institutions which are being brought in under funny clauses, because the idea here is we should respect each other but the views of the majority should be allowed to prevail. That is why I strongly oppose this amendment. Let us go with article 64 as it is, let us limit the rights, because otherwise we are taking the chance of the unity of this nation; we are taking chances with the interest of this nation which must be paramount to what we do in this House. Thank you, Mr. Chairman.

MR. KAGGWA (Kawempe Division South): Thank you, Mr. Chairman. Mr. Chairman, I want to support the Motion on the following grounds. It will be recalled by this House that when Hon. Kirenga brought his Motion in article 51, I was among those people who said that it should be deferred until we get to article 64, and the reason I put forward then and as I do now was that this Article was considering among other things culture. Mr. Chairman, I would also want to be on record that at an appropriate time, just as I said at that other time, I would seek to remove Article 279 from where it is and either create a Chapter for it or bring it soon after we finish this chapter.

The reasons for my supporting this Motion are as here below: I recall very well that during the general debate most of the Members were in favour of promoting and preserving culture among other things, that gave me the impression that we all cherish our culture.

Secondly, I take culture to be one of the fundamental rights. Many people have cited UN conventions, I do not need to repeat those, but I would also add that this Amendment is in line with the internationally recognised right to enjoy culture and international cultural development and corporation. The people I represent, the majority of them, asked me to come here and support the cultural institution to which they belong. It's their desire and enthusiasm to see the promotion and preservation of their culture. I am also aware that the NRC passed Statutes No. 12 and 13 of 1993 and I find that this Amendment is not inconsistent with those two Statutes. Mr. Chairman, I take it that the sum total of the various cultural heritages in this country will give Uganda its unity in diversity.

And lastly I want to allay the fears of those worried about the derogation clause that it will cover this provision once passed, and I pray that we do pass it for the good of our nation. Thank you, Mr. Chairman.

MR. KAJARA (Mwenge County South): Thank you, Mr. Chairman. Mr. Chairman, I stand to support the Amendment. *(Applause)* Mr. Chairman, we are aware that Uganda has diverse cultures, and we are also desirous as a nation to build a strong Uganda. Mr. Chairman, why I support culture is that we should harness every possible effort that is not antagonistic to the process of national building. Mr. Chairman, those who are opposed to upholding of culture should learn to take up the spirit of tolerance. We should be able to accommodate each other. If we are able to live in Buganda all of us, from all over Uganda and say that we in Toro do not eat fish, we in Ankole do not do this or that and you will be respected. So, Mr. Chairman, I support a spirit of tolerance among Ugandans which should be exhibited and appreciated to the highest levels.

Mr. Chairman, I am aware that culture is dynamic and that it grows from stage to stage, but what we are opposed to, Mr. Chairman, is getting our culture completely extinct. The residual cultures that can sustain Ugandan communities should be identified and promoted. However, Mr. Chairman, to support

culture is not to support the negative cultural aspects. We know, Mr. Chairman, that there are good cultural aspects which are in consonance with civilisation. There are some cultural aspects that are bad and we would advise that those are well catered for in the derogation clause. Mr. Chairman, also there is an impression that some people are hiding in the ambit of culture to promote politics. My humble prayer is culture is culture *-(microphone off)*. Mr. Chairman, we in Toro *-(Interruption)*.

THE CHAIRMAN: I think you have made a lengthy contribution, could you wind up please?

MR. KAJARA: Okay, Mr. Chairman, I was about to say that all cultural practices that are anti-development, that are anti-morality and anti-people's dignity and anti-unity should be discarded. Thank you, Mr. Chairman.

MR. ATWOKI (Youth Representative - Northern Region): Thank you very much, Mr. Chairman. Mr. Chairman, I am persuaded to support this Motion on three grounds, but I want to make one clarification first. It is a general impression of some of the Hon. delegates that when we are talking about culture, we are talking about *-(Interjections)-* Mr. Chairman, I was saying that the impression in the House is that whenever we are discussing culture the impression I get is that people think we are talking about Buganda monarchy or Ankole monarchy. I want to make it very clear that culture as an institution in a community is composed of a value system, norms which are developed over time and it is normally acceptable to the members of the society or the members of that community. So, it is not wrong to say that circumcision is acceptable in Kapchorwa. It is a system which developed over time and it is acceptable to them.

Secondly, the cultural norms and folklore in our society have been overridden by foreign cultures and westernisation. Mr. Chairman, the moral respect which our cultures used to have has completely been arrogated. The other day I was discussing with Hon. Birimumaso and he was telling me it is only the old men in Buganda who prostrate in front of the Kabaka, but not the young men. So, you can see that as a result of foreign cultures influencing the youth in our country, you will find that there is a duty to entrench the importance of our cultural institutions in the Constitution. Thank you, Sir.

PROF. SENTEZA KAJUBI (Kyadondo North): Thank you, Mr. Chairman. First of all I would like to thank you, Mr. Chairman, for the clarification you gave to this House concerning the derogation clause to cover this particular aspect of article 64 we are discussing. I would like to associate myself with all those Hon. Members who have stressed the importance of culture in nation building. A nation without a culture is like a tree without a tap root. Uganda is trying not only to engage itself in nation building but also to create and nurture a national culture from the various ethnic cultures which we do have. The only way we can do this is by allowing each local culture to contribute its best to the national culture. This is why I support this Amendment which allows the various parts of Uganda to engage and profess and create their own cultures and to be able to contribute to the national culture.

Now, Mr. Chairman, the proviso which appears in article 64 as it is now, would be a great temptation for those bad rulers who feel that culture is divisive in order to suppress cultures. This was what happened in 1966/67, people who abolished traditional rulers in the guise of creating national unity. In the Lord's prayer, Mr. Chairman, there is a line which says 'lead us not into temptation but deliver us from evil'. These words if left there on condition that the rights protected by this provision do not impinge upon the rights and freedoms of others and in the interest of, especially, national unity, this should be a temptation to people like those who abolished traditional institutions in 1967 to use them to say in order to promote national interest we are abolishing certain cultures.

Lastly, Mr. Chairman, somebody has asked a question, "what is cultural about the Buganda Lukiiko?" Let me say this, that a culture is not only a way of performing a dance or of paying dowry, but culture encompasses the ways of living of the people, including the way of electing a Prime Minister. For example, in Britain as Hon. Babu has said, the British Constitution is written but it is based upon culture. The institution of Kabakaship, the institution of various councils at various levels from *Mutongole* up to the *Lukiiko* has been there for many generations in Buganda and has become part and parcel of the culture of the people of Buganda. Culture is dynamic. We do not have the Lukiiko today as it was in the times of King Kintu. As times change, also cultures do change. So, I would like the honourable Members who think that the Lukiiko cannot be part

of culture to understand that culture encompasses many things other than mere customs and dances and so on. So the Lukiiko is part and parcel of culture as indeed is the *-(Interjections)-* yes it is.

Lastly, Mr. Chairman, let me say this, that if we are going to build a national culture it behoves each one of us to understand their own cultures so as to select what is best in their own cultures rather than to concentrate on criticising the cultures of others. If we do that we shall not be able to build a national culture. Mr. Chairman, I beg to support the Motion.

MR. BASALIZA (Fort Portal Municipality): Thank you very much, Mr. Chairman. I strongly support this Amendment from the historical perspective. Mr. Chairman, we know very well that when the colonialists came they tried to destroy our cultures, and that is why we have been, in most cases backward. Now, Mr. Chairman, by practicing our own culture we actualise ourselves, we become human beings; in the past we had been dehumanised. I would like to quote a certain writer called Frantz Fanon in the *Wretched of the Earth*, who said that the Africans became misfits because they were not allowed to practice their cultures. And in the case of Uganda, if we practice our culture, if our culture is promoted then we shall be able to become united, because nobody will be discriminated against. Therefore, Mr. Chairman, for this reason I strongly support this Amendment. Thank you very much, Mr. Chairman.

MAJ. ONDOGA (NRA - Delegate): Thank you, Mr. Chairman. I really have no basic quarrel with this Amendment. So, I am only seeking for assurances from those who moved it and from the House at large. Mr. Chairman, I have no basic quarrel with this Amendment, because like some other Members have already noted, the right to culture is really synonymous with a right to life. But as other Members have also mentioned, culture is dynamic. That means culture will always continue growing and changing, and the implication there, Mr. Chairman, is that at one time or another in history there will be people who will realise or think wrongly or otherwise that time has come for a certain cultural practice to change and usually such people are referred to as dubious in society. Now, Mr. Chairman, this is very important because if you look at the last four words of this amendment, it says, 'in community with others'. Now the implication there is that the community may have a right to impose its

will on individuals and here, we are talking about, basically if you look at the whole of this chapter, Mr. Chairman, the rights of the individual. Now my question is, Mr. Chairman. Suppose I am a Mugisu, I realise that circumcision has got both spiritual and material aspect. I realise that the spiritual aspect is no longer relevant; but the material one is, that is, I may go to hospital without going through all those other rituals and have myself circumcised and still be a Mugisu. But the community may disagree with me and therefore, I suffer. Am I protected? Do I have assurances of protection under this amendment?

Secondly, Mr. Chairman, I would like to make reference to the controversy that was raised during the earlier phase of our discussion, that is the general debate by Mr. Chango Machyo when he made the suggestion that reference to God should be removed from our Constitution because of whatever reasons he gave. Now, Mr. Chairman, those of you who follow or who have been following the Media, will remember that some two or three years back, there was a proposal in the Press by some one with regard to the late Prof. Okot p'Bitek who is a little paragon in the philosophy of our country. Now, that person suggested in the Press that owing to what he had done to our country, late Okot p'Bitek should be named a national hero. He should be declared a national hero. Immediately after that, another person wrote in the papers that our country's motto is *For God and my Country*. In our national Anthem, we say, "*Oh Uganda, may God uphold...*" and so on and so on. Therefore, I say, Uganda being a God-fearing country, how can it recognise a pagan like Okot p'Bitek? The implication here Mr. Chairman is, if a man like Chango Machyo who may be an atheist tries to stand for Presidency next year, he could be denied by making reference to our constitution. But since he is a pagan and since our constitution recognises God, he may not stand and his national right will be denied. Mr. Chairman, I seek assurance from the House.

DR. MUYINGO KEZIMBIRA (Bukoto Mid-West): Thank you very much, Mr. Chairman. First of all, Mr. Chairman, I want to express a little disappointment because I was a cosponsor to this amendment and sponsors on list will be aware that we laboured together to try to bring the amendment together but somehow, I was forgotten.

THE CHAIRMAN: Anyway you have been remembered, could you make your contribution.

DR. MUYINGO-KEZIMBIRA: Mr. Chairman Sir, when we handled article 51 of the draft constitution, I did mention then that the word cultural institution was fitting like Hon. Kirenga also mentioned and then we were referred to article 64 as a point where we could put cultural institution in order to fully embrace the culture of our communities and the institutions that belong to these cultures. Mr. Chairman, Sir, I fully support this motion that at this point when we are discussing fundamental human rights, we should also refer to culture and refer to cultural institutions as fundamental rights so that nobody at all in future really should have a quarrel with culture and with cultural institutions and fundamental rights of peoples of this country. The mistake has always been to think that culture must and has to go with politics or partisan politics. But we want to embed culture into fundamental human rights so that we do not have people misunderstanding culture and interpreting it as political ambitions. I want to assure the people who have fears that maybe culture is going to impinge on their rights. I think this has really been taken care of. There is nobody who intends to impinge and force another to belong to a culture he does not want to profess or promote. So honourable Delegates, I would like to appeal to you that we support this amendment so that culture and cultural institutions and other rights are promoted. Thank you very much, Mr. Chairman.

MR. MUKASA-MURULI (Nakasongola County): Thank you very much, Mr. Chairman. Mr. Chairman, I wish to strongly support this amendment. (*Applause*). Culture is indeed a very, very important thing. I think it is a bedrock of society. Therefore, if it is given protection in our constitution, I think our society will be properly founded and it will be moving in the right direction. Mr. Chairman, there is a fear about the phrase, cultural institution. I think this fear is unfounded particularly if we take it into account that cultural institution does not only refer to the monarchy. There are many, many cultural institutions, monarchy just being one of them. Therefore, if we reject this amendment on that ground, then we might be losing some other very useful cultural institutions.

We are aware, Mr. Chairman, that culture changes and culture is likely to change. So again, the fact that there are a few things we see now in cultural institutions, for instance the Lukiiko and so on and people who are going to work on certain things like education for instance and so on in a situation like

Buganda's should not again worry anybody because education is also part of culture; economics is part of culture. Now if we have a body working towards the promotion of education and so on in a cultural way, what is wrong with it? Article 279 is clear, saying those who do not want to pay allegiance to the institution of traditional leaders will not be forced to do so. So this should be guarantee enough for those who have fears and should also be guarantee enough for those who want this cultural institution. Mr. Chairman, I strong support the amendment and I would wish honourable Members to strongly support this amendment. Thank you, Mr. Chairman.

MR. MUSOBYA LUBEGA (Kagoma County): Thank you, Mr. Chairman. I want to strongly support the amendment because of the two aspects which are embodied in that amendment, that is morality and unity. Morality has been eroded from the spirits of Ugandans since 1967 just because the institutions which were promoting morality were removed by the Constitution of 1966. You cannot imagine someone referring us to the dictionary to tell us that the dictionary says that culture is amorphous. That is another way of saying that the people of Uganda who cherish the culture are amorphous. Now, I want to challenge the honourable Member who referred us to the dictionary that, how does he describe a mother who is showing his sons or the society three quarters of her thighs just because she has succumbed to modernity by putting on a mini-skirt. We have been discussing rape, but those are the effects of immorality in society which can be promoted by lack of culture:

Secondly, when we talk of unity, you cannot make a united village out of divided families. Unity can be achieved in Uganda, a nation which has diversity of ethnicity, when we promote culture. It is only through cultural institutions that we can have united ethnic groups like Basoga, Baganda and when we come together at the national scale, then we can achieve unity in diversity. If for example, we honourable Members came here when we are totally divided, we could not have cultivated this consensus we are having here. Like the Basoga, if we cherish the *Kyabazinga* institution, that is the only way we can come together, unite and even at least expose ourselves in a clean way at the national map.

I want to support this motion notwithstanding my age because there is an honourable Member who said that culture is only cherished by old people.

Now, I want to join my fellow youth from Northern region who has supported this amendment because the youth have been misguided since 1967 and have lost a base. Recently, the Basoga had a way of educating their sons and daughters at the fireplace, but now it thing is lacking. The only way we can unite ourselves now is through this cause. So, I want to support this motion for posterity. Thank you, Mr. Chairman.

MR. BESWERI MULONDO (Mityana County South): Thank you very, Mr. Chairman. I strongly support this amendment, Mr. Chairman. Mr. Chairman, it appears that quite a number of people have spoken in support of this amendment and therefore, I have very, very little to add. I want to thank and support Hon. Mwaka who is the former Commissioner of Culture who, I think, really deserved this position when he was still there.

Mr. Chairman, culture is a source of identification, a source of unity and discipline and I am glad that almost everybody who has spoken about it has supported the motion. I would like to allay the fears of Hon. Lt. Guma Gumisiriza and Hon. Luberenga Kabirisi. These fears have no ground. Nobody is going to impose a culture or even a leader of a culture to a particular people. The decision is theirs. Therefore the fears that have been put forward do not have grounds.

I would also like to clear one other aspect by Hon. Luberenga Kabirisi on the present Lukiko in Mengo. I would like to inform the Assembly, Mr. Chairman, that there are no Ministers as such in Mengo as today. But there are people who are holding a few positions for the good of the people of Buganda in the enhancement of their culture. These include something to do with education but this is not particularly a department of education. But what would be wrong in educating our people their culture? As you can see this has been missing for quite a long time when our culture was disturbed since 1966.

For those who fear that some of the culture is bad, I want to say that culture grows and develops. By now in Buganda, for instance, there are very good cultures which some of you should know about. If one loses a relative, our culture here is that you go and console him and be around, help and contribute in the affairs; and even leave your house and go and you comfort these people. What is wrong with that

culture? And bad cultures disappear, for instance, women in Buganda were not eating chicken; they were not eating pork - the Moslems will forgive me -; they were not eating some of the fish like *kasulu* - I do not know what you call it in English. All these have over a period disappeared because they were not good cultures but the good ones are maintained and these are the ones which this amendment is trying to protect. So, I would like to beg the House to support this amendment and, Mr. Chairman, I do strongly support it.

THE CHAIRMAN: Now it is 2.00 o'clock and I can see more and more hands coming up. I would like to put the question. The question is that article 64 (1) be amended as read out plus the addition of the words proposed by Hon. Abu Mayanja, "...the right to belong to, enjoy..." and so on and so forth, otherwise the text remains the same.

(Question put and agreed to).

THE CHAIRMAN: Under our rules, we need fifty plus one, (50 + 1), for us to go on a division.

Honourable Delegates, there is yet another amendment we should dispose of so that we do article 64 and finish it. There is an amendment by Hon. Wagidoso and a number of others on article 64 (2). Could Hon. Wagidoso move the motion please.

MR. WAGIDOSO MADIBO (Bulambuli County): Thank you, Mr. Chairman. I would like to move an amendment to article 64 clause (2) that clause (2) be deleted from the draft constitution.

Mr. Chairman, I move this amendment in the light of the various conflicting interpretations that have been attached to the word, 'injurious' and to the word, 'dignity'. Mr. Chairman, I want to make reference to article 64 clause (1) which provides for the right to practice, to enjoy, to profess and to promote culture. Mr. Chairman, this clause (2) is intended to be a derogatory clause which provides for a general protection against purportedly injurious and undignifying customary practices especially when applicable to women. I realise, Mr. Chairman, that article 61 clause (4) which provides that, "*Laws, cultures and customs or traditions which are against the dignity, welfare or interest of women or which undermine their status are prohibited by this constitution*". Mr. Chairman, it is my interpretation that article 61 clause (4) is similar in intent to article 64 sub-clause (2).

Mr. Chairman, our intention in formulating a law relating to culture is to facilitate the practice, enjoyment and promotion of good culture as accepted and cherished by the communities that practice it. Our intention here is not to derogate, negate, suppress and otherwise kill the practice, enjoyment and promotion of even good customary practices. In Mbale, Mr. Chairman, where I come from, we have a customary practice of male circumcision as indeed other communities here do. It is popularly called *embalu*. Mr. Chairman, article 64 sub-clause (2), in its present form adversely affects our customary practice of *embalu*. We cherish the right to practice, enjoy and promote the practice as a cohesive and distinct community.

Mr. Chairman, in the context of this provision, the act of circumcision itself and depending on who is perceiving it, can be interpreted to be injurious. Equally, Mr. Chairman, because we celebrate and circumcise in public, the practice can be interpreted as undignifying to the extent that one's manhood is publicly exposed. Mr. Chairman, I contend that the injuriousness or indignity of a customary practice, like beauty, is in the eyes and minds of the beholder. The communities that practice a particular custom find it dignifying while beholders may find it repugnant. In Uganda here, we had and still do have communities that put tatoos on their faces maybe for identity and belonging. We also have others who pierce their ear lobes while others put a big hole in their lower lip. Others remove two front teeth and I am reliably told that it is for medical reasons so that when one is seriously sick and unconscious and has clenched his or her teeth, fluids can be fed to him or her through the gap between the front teeth. But with the medical development of the drip, for purposes of getting fluids into the patient, this practice is dying out. Mr. Chairman, all these practices I have mentioned can, depending on circumstances and the perceiver, be interpreted to be injurious and undignifying. My contention here is that some of these practices are dying out not because of any express legislation but because of the advent of technology and modernity.

Mr. Chairman, in formulating law, we must have a basis. I have travelled the length and breadth of Uganda and I have not come across a customary practice which is undignifying and injurious and yet is practiced by the people. Mr. Chairman, in modernity and passage of time, we have a natural sieve for customary practices. The sieve is time and

the size of the holes are the degree of modernity. It is my contention that customary practices will go through the sieve and bad ones will be left behind. Mr. Chairman, even in Kapchorwa which is the centre of attention because of the practice of circumcising women, at the present moment as I speak even in the absence of express legislation prohibiting female circumcision, the practice is optional and I can assure you, it is dying out fast. This is so because of modernity, enlightenment and education but not because of express legislation.

Mr. Chairman, we are living in the 1990s, the age of modernity and enlightenment. We must not formulate laws that would have been relevant in the first half of this century, in the days of our fore parents. In my view, the customary practices that existed in the first half of this century are not the ones that are fully embraced as at now. They have evolved over a time. Some have died out with modernity, some have changed completely in form. Mr. Chairman, it is my contention that legislation intended to kill the right to cohesive community practice of a customary practice is bad legislation. I would like to assure and plead with the delegates here that in Mbale, *embalu* is our dignity and our source of pride, our identity and oneness. It is an initiation into manhood that is performed on all males who are about to attain majority age of 18 and it distinguishes a real man from a boy. Mr. Chairman, besides, all doctors all over the world attest to the medical necessity of circumcision. It would be absurd, Mr. Chairman for us to pass an ambiguous law that sounds a death nail to the cohesive practice of *embalu* among communities that practice it when the practice itself bears a strong medical recommendation.

I would like to make one qualification here. Mr. Chairman, because in Mbale, we are vouching for this practice and we are convinced that article 64 sub-clause (2) is inconsistent with our custom and adversely affects it to the extent of its interpretation. Consequently, we find clause (2) of this article unwarranted, in light of 61 sub clause (4). We also find it frivolous and superfluous, and invite you fellow delegates to support its deletion. Mr. Chairman, I beg to move.

THE CHAIRMAN: Honourable Delegates, the Motion was seconded and it is on the Floor. I do not think we should vote before we talk. Should we? The rules are that, you move that, the question be put. But if you have not moved, the Chairman is in the position to conduct a debate on the matter.

MR. MUSUMBA (Buzaaya County): Thank you, Mr. Chairman. Mr. Chairman, we have listened to the mover of this Motion and Mr. Chairman, it is my conviction that, statements he made are in order, they are in conformity with the spirit of this assembly and of the earlier amendment that was passed in article 64(1). Mr. Chairman, given that we have exhausted all our resources this afternoon, I beg that you put the question.

AN HON. DELEGATE: The motion is that, the question be put.

THE CHAIRMAN: No, if there is a motion that the question be put, what our rules say is that, we decide on that question first. And if we negative it, then we go back and debate. No, the rules do not allow that. The rules say, once the Motion that, the question be put has been moved and seconded, the Chairman is under obligation to put that question first. So, I put the question.

The rules do not allow debate on that the question be put. Once the question and the question to be put has been moved - I hope the Members have read the rules - and that question is seconded, the Chairman has no choice, he is not allowed to allow debate say of putting the question. So, I put the question. Having done that, we vote on the other one now.

(Question put and agreed to)

THE CHAIRMAN: Order! order! Hon. Delegates, we now have article 64 as amended. You remember we passed an amendment which was moved earlier to article 64 clause (1), that was carried and the terms were read out. What we have just done is deleted clause (2). So, now we vote on article 64 to stand part of the draft constitution. Now, I put the question.

(Question on the amendment agreed to)

THE CHAIRMAN: Hon. Delegates, we have disposed of article 64, but of course, it can be revisited during the reconsideration stage, and given our time frame, we are beyond our limit. I would like to therefore suggest that we end here for today.

There was a proposition about a meeting, can I hear from the Deputy Chairman of the Legal and Drafting Committee, please.

MR. WACHA: Thank you, Mr. Chairman. Mr. Chairman, there are actually two meetings. First, the Legal and Drafting Committee will meet as a group at 4.00 o'clock in the lobby. And please, Members concerned should take note. Secondly, all those Members who have amendments from article 72 up to the end of the chapter, should meet the Legal and Drafting Committee here in this hall at 5.00 o'clock this evening. Thank you Sir.

THE CHAIRMAN: With that honourable Delegates, the Assembly stands adjourned until tomorrow morning at 8.30 a.m. Thank you.

(The Assembly rose at 5.30 p.m. and adjourned until 14th september, 1994 at 8.30.a.m.)