



THE REPUBLIC OF UGANDA

**PROCEEDINGS**  
**OF**  
**THE CONSTITUENT ASSEMBLY**

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**OFFICIAL REPORT**

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### Wednesday, 20th July 1994

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

#### PRAYERS

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

*The Assembly was called to order.*

#### STATEMENTS AND PERSONAL EXPLANATIONS.

**MR. WANENDEYA (Budairi East):** Thank you very much hon. Chairman for giving the opportunity to make a statement and a personal explanation. Honourable delegates should be referred to the *New Vision* article headed: 'Is CA out of order?', which appeared on page 4, in Volume 9, No. 164 of Wednesday, July 13th, 1994. I would have replied or made a comment on the article last week, but I lost a nephew who was a Medical Doctor. I am therefore taking the first opportunity given to me. Permit me honourable delegates to refer to hon. delegate Sam Kutesa's comment of the quotation of Prof. John Galbraith, when referring to me as a liar after I had given the information to hon. delegate Umar Migadde Lubulwa No. 141 - that is his number in CA here - of Katikamu South. Hon. Delegate Lubulwa said that Uganda's foreign exchange earnings of over \$600 million dollars last year were the highest ever since independence in 1962. My information as given was that coffee earning alone, after the Brazilian frost, were over \$800 million dollars per annum for the years 1975 to 1979. After giving the information to you hon. delegates, hon. Sam Kutesa was also given an opportunity to give information and he said: '*Hon. Wanendeya reminds me of what Galbraith said of Richard Nixon. He is good when telling the truth, better when telling a lie and at his best when talking utter rubbish*'. The question is, what had the information got to do with Uganda's foreign earnings other than malice and intimidation? Was the statement not intended to psychologically discredit my good name and record by imputing that I was lying to the honourable delegates because I was then languishing in exile in Nairobi with hon. Kutesa. I was driving a Mercedes 280, and therefore the question of languishing did not apply. Hon. Chairman and delegates, I never tell lies like other persons

who are hungry for power. If hon. Kutesa or anybody knows any lie I have uttered, let him publicly state here and now for Ugandans to know because from my childhood I have been exemplary. The Badairi who elected me to this august Assembly did so because they know that I am not a liar unlike other persons. I have never embezzled public or anybody's funds. If anybody knows funds I have embezzled, let him or her categorically state here, now - it is the challenge to hon. Kutesa or to anybody for that matter. I was responsible for the finances of the Coffee Marketing Board and left for Kenya late 1976 and my expired Passport is with me here and anybody can see it. Mr. Chairman and hon. delegates, I have that Passport with me here and it will tell you that. Even if I was in Kenya, I continued to be a good student of finance and in touch with coffee prices even up to now. The reason over here is that, I was born and raised with coffee funds. I also confirm to you that unlike other persons, I have never stood for elections for a public office in more than one electoral area because I am not thirsty for power and never been a prostitute. Unlike other persons, I have never been appointed a Minister and earned Coffee Commissions used for political campaign elections. While I was in Kenya, I was not there for languishing, unless somebody can categorically state the year I went to him or her begging for financial assistance or otherwise. All I can say is that, my children's fees were met, my house rent and groceries were paid for. In addition, I assisted Ugandan nationalists who were fighting to get rid of Amin, even our President knows this and the Mayor of Mbale. Mr. Roger Mukasa also knows this. We joined hands while we were in Kenya to fight and get rid of Amin just as our honourable Chairman here, also participated when people used to pass through his house going to be trained in Tanzania. That is the fact of the matter.

Permit me to elucidate on figures quoted on page 4, of His Excellency's speech to NRC on June 16th 1994 for the Financial Year 1994/95. I have His Excellency's speech with me here and on page 4 it reads: '*We expect to earn \$316 million dollars from exports and \$371 million dollars from private transfers through transfers through forex bureaux*'. The point to note is that, estimated forex earnings from exports of \$316 million dollars would not be the highest ever earned by Uganda compared to the years 1972 - 1980 which are as per attached

document from Bank of Uganda which would show you exactly that. When hon. Migadde was making his point, it was not a point which I knew was factual. It should be noted that expected private transfers of \$371 dollars through forex bureau are not earning in real terms of Uganda's capital formation, but subjected anytime to transfers or repatriation. Last year alone, the earnings from coffee were \$100 million dollars and these statistics are again from Bank of Uganda. We have sold forward, if anybody knows what we mean by selling forward, and therefore any increase on the stock exchange in London, New York, Hamburg, Uganda will not benefit us because we have sold up to January, February next year and anybody can check on this information. Therefore, Uganda will not benefit. Therefore, I shudder to wonder where \$316 million dollars will come from by the end of June 1995.

The funds which are in connection with transfers are mainly for trading and therefore, to siphon Uganda's forex earnings out of our country. No country ever relies on private transfers for capital development and investment. What point was, therefore, being made by hon. Kutesa? Could it have been to cow me from not contributing because of a hidden agenda? Do you not know of delegates who shout for the sake of shouting without being courteous to give others opportunity to talk? Is that the way we honourable delegates should behave as though we are hooligans? We should not behave that way; we should give each other opportunity to talk and if one is contributing rather than shouting. Honourable Delegates, we in Uganda - a former British colony, the tradition for peoples representatives in Parliamentary debates is mutual respect for one another. Unless we adhere to this tradition, it will be a shame to Uganda. Is it, therefore, surprising that one of the former Kingdoms has not been revived? I, therefore, request that we as delegates should not run each other down because it is not in our country's best interests. We should therefore research into issues before talking rather to have diarrhoea of the mouth - when you talk without your facts, you are almost having diarrhoea of the mouth.

The last point, hon. Chairman and delegates, is that some of the members of the Press want the freedom of discrediting other persons as given on the 13th of July, on page 4 of the *New Vision*. They want to discredit them, as a result, they want to influence the deliberations of this august Assembly by discrediting other delegates who are in support of multiparty.

I request them through you that some journalists be democratic if they want the freedom of Press for themselves. The Press should be fair and liberal to other Ugandans by interviewing them and publish contrary views from which they believe in. If any respectable person is honest and does not have bad motives, he should not be a coward to disclose the name of Newspapers, rather than 'by special correspondent'. This is what the *New Vision* story was - it did not have a name, it said 'by special correspondent' which is psychologically wrong if we are to be honest. If some of these reporters call some of the delegates controversial, is it because they do not agree with them? If some of these reporters are not really honest, they should stop the habit forthwith. I thank you hon. Chairman and delegates for listening to me. Thank you.

**THE CHAIRMAN:** This statement was made under Rule 12. The Chairman allowed hon. Wanendeya to make a statement of personal explanation on the basis that his reputation had been adversely been commented upon by an article that appeared in the press that he was a liar and he wanted to show that he is not. Under Rule 12, we are allowed to make two types of statements. One is a matter of public importance, that is not what Hon Wanendeya's was. A member may also make a statement of a personal nature to explain himself. Sub-rule 2 says that any statement other than a personal explanation may be commented upon by other delegates for a limited period not exceeding 30 minutes and this being a personal explanation, therefore, we are not permitted to comment upon it. We proceed with the rest of the agenda.

#### MOTION

THAT THIS ASSEMBLY DISCUSSES THE GENERAL PRINCIPLES OF THE DRAFT CONSTITUTION OF THE REPUBLIC OF UGANDA.

**THE CHAIRMAN:** The debate is continuing on that Motion and according to my list for today, the person who takes the Floor first is hon. John MUYIISA from Bujumba County.

**MR. MUYIISA (Bujumba County):** Thank you, Mr. Chairman. I come from the beautiful Island district of Kalangala and I represent one of the counties called Bujumba county. Mr. Chairman, as

I have already stated, Bujumba county is an Island county that belongs to the new district of Kalangala. For some of the members who do not know where Kalangala is, I will give three routes which lead you to Kalangala. The first one is through Luzira, that is hon. Bidandi Ssali's constituency, where you can get a steamer which is run by the Uganda Railways Corporation and there you go through Kome which is represented by Hon. Mukwaya Janet. The steamer will take you through another constituency called Kyamuswa, it is represented by my fellow delegate Sam Kiwanuka Ssemaala. Then, from there you will be in Bujumba county.

The second route is through Kasenyi. Kasenyi is in Busiro South which is represented by hon. Ssemogerere. There you can get a boat which will take you through Kyamuswa to Bujumba county.

The third route which is the most common one is through Masaka. Before Masaka you branch off at a place called Nyendo and drive for 25 miles to Bukakata where there is a ferry service which can take you across to Bujumba county. Mr. Chairman, Kalangala district to which Bujumba county belongs was created in 1989 after recommendations of the Mamdan Commission which also created districts of Kiboga, Kibale, Kisoro and Pallisa.

The Basese people, Mr. Chairman, are mainly fishermen but they also do some agriculture and Animal husbandry. On behalf of the people of Bujumba county, I offer you, Mr. Chairman and the Deputy, heartfelt congratulations. I further thank you for the exemplary work that you have shown so far in steering this august Assembly in the gigantic business before it. Mr. Chairman, this is a great occasion in the history of our country when the people of Uganda through their delegates have, for the first time, gathered for the sole purpose of determining the manner in which we, Ugandans, should govern ourselves. I say for the first time very much aware of the previous gatherings of some kind at various times and venues but this is the first time for all the people of Uganda, of all colours and shades, beliefs, views, sexes, ages, etcetera, have gathered to debate the form of their governance.

Political and Constitutional instability, Mr. Chairman, has been the principle characteristic of Uganda's post-colonial history to the extent that by 1985, even the very existence of Uganda as a state was threatened. Uganda has not had a consistent or

viable system of governance since independence. We have shifted from a Westminster Parliamentary system into civilian and military dictatorships, coalition arrangements in the form of the UNLF and the present broad based Movement of the NRM have also been and are being tried. National institutions inherited or created after independence have either degenerated or broken down altogether as regimes rose and fell. Mr. Chairman, the country's socio-economic fabric suffered considerable destruction and peoples lives were de-stabilised and devalued; the country lacked coherent direction. The people of Bujumba county, Mr. Chairman, are demanding an end to sudden and violent changes of government and the consequent social, political and economic destabilisation that has caused so much suffering. They castigate the fashion of going to the bush to resolve political and constitutional problems which has resulted into terrible consequences to the ordinary people who get caught up in the conflicts. They demand effective mechanisms to be put in place to ensure orderly and peaceful transfer of power so that peoples lives are not unduly disturbed.

The people of Bujumba county, Mr. Chairman, have noted that one of the principle causes of instability is that past Constitutions have not been honoured that power-hungry politicians faced with constitutional arrangements that did fit or limited their designs or interests, simply suspended or totally abrogated them. The people of my constituency are demanding for safeguards to ensure that those who wield power recognise, respects and uphold the supremacy of the Constitution. Having made these remarks, Mr. Chairman, allow me to present the views of Bujumba county on the Draft Constitution.

The people of Bujumba county are in agreement with Article 1 to 3 of the Draft Constitution and wish to emphasise that as measures to popularise and safeguard the new Constitution, the following should be undertaken. First, a new institution called a National Council for Civic Education should be established. This will be responsible for educating and sensitising the *wamainchi* about their civic and constitutional rights and it will go along way in inculcating the culture of constitutionalism.

Secondly, they emphasise that military training to the majority of the able-bodied Ugandans should also be encouraged.

Chapter 3. National Objectives and Directive principles of state policy Whereas the people of Bujumba

county are of the view that most articles of this Chapter should be deleted from the Constitution. They say that Article 36 which greatly affects them should be included in chapter 17 which deals with the land and the environment. Mr. Chairman, the people of Bujumba county take the environment to be something very important just because these people are surrounded by water; the lake is part of their environment. So, they would like Article 36, subsection 4 which says that the people are entitled to be consulted when any policy and programme which may affect their environment is being drawn up or implemented.

Mr. Chairman, allow me to express my people's grievance and dissent to the present Government policy of licensing of foreign investors. Under this policy people who are eventually affected by the activities of the investors are not consulted. I will give two illustrations concerning the people of Bujumba county and Kalangala district in general. First, there is the issue of the Chinese Fishing Company which was granted a License to fish in the waters of L. Victoria using modern trawlers. Under normal circumstances, these trawlers should be expected to fish in deep waters where the local fisherman with his low technology cannot reach but these trawlers are constantly fishing in the shallow waters where the local fisherman is fishing. In the process, the trawlers are tearing through the fishermen's nets and depleting the fish schools which are the main-stay of the Basese people.

The second example is the much publicised Ssesse Island Development Project which has earmarked the development of the Islands into a free trade zone. This is by a certain American Company called the Pan African Corporation which is owned by some Afro-Americans. The total Project cost is earmarked to be \$750 million dollars, that is a quarter of a billion dollars.

Mr. Chairman, this Project looks juicy on the face of it but people of Bujumba County are concerned about their destiny under the new project. Will they not suffer the same fate as the Red Indians of America, the Aborigines of Australia, or the Bushmen of Namibia? The Basese people demand to be consulted and thoroughly informed of all aspects of this project. I understand this project is steered by some very important people in Government but the people are demanding that they should be thoroughly informed and consulted because their destiny is at stake.

Chapter 5. Fundamental Human Rights and Freedom. Mr. Chairman, the people of Bujumba wish to emphasise that this is one of the mother Chapters of the Draft Constitution. The declaration of protected rights in the Constitution must be accompanied by sufficient and efficient means of protecting them. Sufficient measures of educating and sensitising people on their fundamental must also be instituted. To this effect, the three basic Constitutional organs should be responsible for the enforcement of basic human rights provisions. These are: the judiciary, the Inspector General of Government and the Uganda Human Rights Commission. For these bodies to function properly, they should be adequately funded and empowered to enable them to execute justice without undue delays. The funding of these bodies should not be dependent on the Ministry of Finance but rather Parliament should determine their Budgets and put the funds at their disposal of these enforcement organs to minimise any delays in dispensing justice.

Recognising the fact that most of our people are peasants, the people of Bujumba county recommend the setting up of free Legal Aid Schemes to come to the rescue of the wanainchi who cannot afford services of lawyers. Allow me, Mr. Chairman, to thank the Minister for Women in Development for having taken a step in this direction by setting up a Legal Aid Scheme for women - FIDA. *(Applause)*

Electoral system. The people of Bujumba county prefer proportional representation to the simple majority system or winner takes it all - a system which is recommended in the Draft Constitution. They give reasons for their preference of this system. First they say, Uganda being a heterogenous society, proportional representation will ensure that all shades of opinions, including the minority, will be effectively represented. They give an example of South Africa where even the Inkatha Party managed to be represented in Government despite being a minority Party. Secondly, they say that this system creates some stability during and after elections. Fears and tensions created by a party losing out completely after an election are minimised. The people of Bujumba County recommend the establishment of a permanent and independent electoral Commission whose functions would even include the legislation of political parties.

The legislature. Mr. Chairman, the people of Bujumba county would like to see a strong Parliament to which

Government is accountable for all its actions. The tragedy of our Parliament is that, it has had not been allowed to evolve and grow as a national institution before independence was thrust on us. Even after independence, Parliament in Uganda has always been subordinated to the executive. Mr. Chairman, the people of Bujumba county are of the view that Parliament can only have meaning if it is really representative of the people. This means Members of Parliament should be directly elected by the people.

The people of Bujumba county are in complete agreement with the provisions of Article 135 about members of Parliament who cross the Floor. Indeed, a Member should seek a fresh mandate on switching sides in the House. In seeking for a system which will ensure proper separation of powers, the people of Bujumba county recommend that on being appointed a Cabinet Minister a member should resign his seat in Parliament.

The executive. The people of Bujumba county are in full agreement with the fundamental departure from our old Constitutions where, in the Draft Constitution, the President shall be directly elected. The President should hold office for not more than two terms of five years each. The President should be impeachable. The people of Bujumba county recognise that a lot of powers have been given to the Presidency in the Draft Constitution, especially, as regards appointment. They recommend that all appointments should be vetted by Parliament.

National Council of State. Mr. Chairman. The people of Bujumba county recommend that the provisions on the National Council of State should not be included in the final Constitution and whatever functions that will have to be performed by this body should be performed by Parliament or the Courts of Law.

Political systems. Mr. Chairman, the view of the majority of people of Bujumba county is for the guarantee of pluralism in the new Constitution. However, there is also a strong minority which is for the extension of the present Movement arrangement for another five years. Mr. Chairman, the people of Bujumba county recognise the restoration of political parties soon after the promulgation of the new Constitution and the extension of the Movement arrangement for another five years as the two extreme views for which the honourable delegates should find a compromise during our present delib-

erations. The people of Bujumba county would like to assert that the Movement as provided for in Article 94 of the Draft Constitution is definitely a viable arrangement for a country that is emerging from a period of turmoil, like the one that existed in 1986. They continue to say, however, that with time, especially when the rules as spelt out in this Article are not adhered to, the Movement tends to govern us under a one party state. A system the people of Bujumba county have unanimously rejected. They give examples that for some time now, the people of Bujumba County have been complaining of an increasingly biting poverty which some of them attribute to the economic policies of the present Government. If there was a plural system, there would be a choice between the policies of different political groups and the *wanainchi* would be able to choose accordingly during an election. If the present arrangement continues indefinitely, this will not be possible. However, the people of Bujumba county also appreciate that all the existing political parties should seriously re-examine their past performances in the light of peoples criticisms and be willing and courageous enough to conform to the peoples aspirations. It is essential to give enough time and opportunity to political parties to address the issue of democratising their practices and allowing political and financial accountability to take root. It is therefore, suggested that a political arrangement similar to a Movement system or as defined in Article 94 of the Constitution be put in place for the next five years after the promulgation of this Constitution. During this period of five years, building national institutions should be a priority of Government. By national institutions they mean: political parties, national army, police, prisons, an independent electoral commission, the Press, Trade Unions, Cooperative Unions etcetera.

Mr. Chairman, the people of Bujumba county, completely reject the issue of a referendum.

Form of Government. Mr. Chairman, the people of Bujumba county, are of the view that most of the post-independence Africa Governments including Uganda have been characterised by over centralisation or over concentration of power. This has resulted into inefficiency in politics, economics and others. Secondly, this has resulted into minimal accountability by Government to the people and it has resulted into temptations by Governments to misuse state power. As a move to correct these ills, dispersion and decentralisation of power becomes of

absolute necessity. It is in this regard, Mr. Chairman, that the people of Bujumba county recommend that the new Constitution should provide for a highly decentralised form of Government with a strong and participatory form of Local Government. To adequately and efficiently cater for our cultural diversities, districts which share common or similar cultures and other values should be free, under the new Constitution, to cooperate as political units in their entire area of culture and human development. Due to the importance that the people of Bujumba attach to the issue of balanced development, Mr. Chairman, there should be a Constitutional provision to enable under developed districts to receive catch-up or additional grants to enable them to catch up with other districts. This provision is particularly relevant to the people of the districts like Kalangala which, at the moment, lag far behind in terms of institutions and development of infrastructure.

**Traditional rulers.** The people of Bujumba County cherish the institution of their *Kabaka*. The people of Bujumba County wish to ensure that the institution of monarchs is entrenched in the Constitution for all the areas that subscribe to it. The people of Bujumba wish to have a *Kabaka* who will be non-executive and not involved in the day-to-day administration of Government or in partisan politics but just a titular head of Buganda. They would like to have the subject of traditional rulers as a separate Chapter in the Constitution. They also believe that the *Kabaka* they envisage is not an idle being but a lively and active participator in development activities which he symbolises and superintends over. For all this, he needs funds and facilities to carry out his public functions. Such funds should not be charged on the Central Government but a responsibility of the Local Governments of the communities concerned.

**Land and environment.** Mr. Chairman, the people of Bujumba county recommend a freehold or mailo system of land tenure. Those areas wishing to retain their customary system of ownership should be accommodated. The people of Bujumba County wish to see a provision in the Constitution giving the Local Governments power to control and manage land and environment. It should be emphasised that local communities have the greatest concern for land management for their own welfare.

**Defence and national security.** It is the wish of the people of Bujumba that national institutions like the Army should reflect an ethnic balance in proportion

to the different groups in the country. We believe that this approach is the best way to address national unity and stability.

Mr. Chairman, the people of Bujumba would like the institution of the Presidency detached as much as possible from the Army. The people, Mr. Chairman, would like an end to personal Armies like the ones we have had in the past. You will note that Ugandans have tended to name Armies by the names of the leaders, for example: Obote's Army, Amin's Army, Lutwa's Army, and now some people are saying Museveni's Army. The people of Bujumba County are of the view that this phenomenon should stop and all efforts should be made to build a national Army.

**The judiciary.** The people of Bujumba County emphasise the need for an independent judiciary; a judiciary that is not only independent but seen to be independent. Appointments of the Chief Justice and the High Court Judges should be made by the President acting on the advice of the Parliament and the Judicial Service Commission. The Commission should consist of independent and expert persons, knowledgeable about the necessary qualities of candidates for judicial appointments. The people of Bujumba county are fed up with Chief Justices who change with regimes and emphasise that there should be security of tenure of the office of this vital organ of the state. The judiciary should be adequately funded to enable it to execute justice without undue delays. This will also minimise the incidence of corruption which is still an unfortunate monster in this vital organ of the state.

**National language.** The people of Bujumba county recommend English to remain the official language but are of the view that a national language should be given time to grow and evolve from our local languages.

**Citizenship.** The people of Bujumba county are deeply concerned about the issue of citizenship. Their concern arises from the fact that in the past, non-citizens have assumed powerful positions in the state organs including the Army and intelligence organs and these people have done a lot of havoc to this country. They would like provisions on a national Identity Card system entrenched in the new Constitution.

In conclusion, Mr. Chairman, the people of Bujumba county are looking forward to a new Constitutional order, that should ensure that Constitutional structures are viable and flexible, coherent and integrated to promote a culture of constitutionalism. I hope Mr. Chairman, that I will be given more time during the consideration and re-consideration stage to air the views of people of Bujumba on the different chapters. I say all this, Mr. Chairman, for God and my country.

**THE CHAIRMAN:** Thank you hon. John Muyiisa for opening our general debate this morning.

**LT. COL. SSERWANGA LWANGA (NRA DELEGATE):** I thank you Mr. Chairman. I am Sserwanga Lwanga and for correct record my name has no hyphen. One name is Sserwanga and another one is Lwanga. The Secretariat should note this very clearly and remove 'that' hyphen.

Mr. Chairman, my constituency has been ably explained by hon. Noble Mayombo so I am not going to waste time on that. Allow me to go direct to the Draft Constitution. I will start with the National objectives of the State. Some Members have suggested that this Chapter should be scrapped; that it looks like a Manifesto of a political party; that there will be a lot of litigation Courts; and that some lawyers and the Judges will be perturbed about interpretation. Mr. Chairman and honourable members I beg that let us preserve this Chapter or let us, at least, modify it because I happened to be Member of the Uganda Constitutional Commission and I actually went around and talked to the people as these honourable members. I learnt that the people of Uganda have got a lot of aspirations in the new Constitution and if we do not show anywhere about their aspirations that they are yearning to get, we shall not have done justice to them. Our previous Constitutions have not included national objectives or national goals in the Constitution. Even the current Constitution does not show anything about the national goals. The national goals have been left sometimes to be interpreted by foreign powers; sometimes it is Britain, another time it is USA, another time it is Russia, now it is IMF World Bank and whatever. There is a lot of distortion about national goals. Let us, we Ugandans, who are assembled here come out directly and state our national goals and objectives. *(Applause)* Let us not leave it to the few individuals, a few politicians who will wake up and say that the national goals of Uganda

are this and that. Let us state them now in our new Constitution. Our people know what they want and they have been aspiring to achieve these goals. They want national unity, they want peace, they want stability, they want balanced development in all areas of Uganda including villages not just towns, they want a living wage - a living wage should not only be for members of Parliament or Members of CA, it should also be for the teacher, it should also be for the doctor, it should also be for a worker in a factory, it should be for the farmers, the students etc. Ladies and gentlemen, hon. members, let us work for this. Our people want good water, they want good shelter, they want promotions based on merit, they want education for their children, in fact they told me that they want free education for all the children.

The people would like the new Constitution to deliver. They have been starved of these needs for a long time, hence their aspirations and interests are focused on these ideals. These aspirations and interests of the people should serve as the ideals on which the nation should be built and developed. The national objectives and the directive principles of state policy will provide the direction for the Government and the nation as a whole. They should stand as clear objectives which both the Government and the people should strive to achieve over the years. I am aware that some of the ideals and aspirations cannot easily be enforceable at the present time. Nevertheless, we must make a political commitment that the Government of the Republic and the citizens will work to achieve these objectives. This will give a clear vision of the direction in which the nation must develop. Mr. Chairman, I received criticism advanced by honourable members that we may not need to have this Chapter and that we shift the objectives which concern human rights under the Chapter on human rights. I have no problem with that. I also accept that the objectives which concern culture could also be shifted to the cultural section. I have no problem with that. Even those which concern environment can also be shifted. Those which cannot fall anywhere, I agree we could put them under the Republic, Chapter 2, whereby the Republic Commits itself to achieve these objectives. In fact, this approach which has been suggested by a few members will assist us to even solve the problem of repetition because there has also been a criticism that the Draft Constitution has got a lot of repetitions. By doing that, we shall even have eliminated these repetitions. The power we give to the state organs must be focused and must be used to

achieve national objectives. If we give power to the Army, it must be used to achieve national objectives; if we give power to the President, it must be used to achieve national objectives; if we give power to the legislature, it must be used to achieve national goals.

Mr. Chairman and hon. Members. I must also say, that we shall not be the first or the last in the world to include national objectives in the new Constitution. Other countries like, India, Sri Lanka, Nigeria, Bangladesh, Papua New Guinea, Namibia and Ghana have included these objectives in their Constitutions. Maybe before we scrap these national objectives completely, let us seriously study why these other countries included these national objectives in their Constitutions, the problems they have faced and the advantages they have had.

Mr. Chairman, I go to citizenship...*(Interruption)*

**MR. KWERONDA RUHEMBA:** Point of information. I do not think the Member is right when he says that we have rejected the national objectives.

**THE CHAIRMAN:** I thought you were going to inform him but you are arguing.

**MR. KWERONDA RUHEMBA:** What the Members have said was that, the objectives are good but the Chapter is irrelevant in that it is repeating what is already stated in other Chapters regarding these objectives. So, now what he is saying is that we shift it to the relevant Chapters. I think he is well informed. Thank you very much.

**LT. COL. SSERWANGALWANGA:** Mr. Chairman, I think these are goals. What are our national goals? Should we state them or should we just confuse them somehow? Why do you not come out clearly? *Wanainchi* want things which are clear. *Wanainchi* are like soldiers, they want things which are clear. We are not writing this constitution for the lawyers, we are writing it for the people. Somebody, a *wanainchi* in the village should be able to open a Constitution and say, what are the goals of Uganda? The goals of Uganda are the following. Even in the Primary schools, it should be clear. Mr. Chairman, and hon. Members, let us not write this Constitution for lawyers and the Judges. Let us write it for the people of Uganda who are the peasants.*(Applause)*

**THE CHAIRMAN:** There is a Member who wants to inform you.

**LT. COL. SSERWANGA LWANGA:** Is it on national objectives?

**A HON. DELEGATE:** On the Army.

**LT. COL. SSERWANGALWANGA:** You have nothing to inform me on the Army.

**THE CHAIRMAN:** No, he is not taking it.

**LT. COL. SSERWANGA LWANGA:** Hold on. When I come to the Army, you will...*(Interruption)*

**THE CHAIRMAN:** No, no, go ahead. Go ahead.

**LT. COL. SSERWANGA LWANGA:** On citizenship. Article 42 of the Draft Constitution has been criticized that it gives free citizenship to children born in Uganda. Mr. Chairman, in our society some men are known to make women pregnant and then deny responsibility. The poor women out of frustration may abort or sometimes labour to produce the child but throw it away in the dust bins, toilets, on streets, and sometimes these children are picked by passersby. I would like to be assured by some Members criticising this Article that when we take this child to Kenya or any other country, they will accept him. Under the United Nations Charter International Bureau of Human Rights, Article 24, page 30 states: "That every child has the right to acquire a nationality," So, where shall we put these children whom you men and women have denied parenthood under this international obligation? So, I beg that the Hon. Members who are denying this Article should think again, and then we come to a compromise. Some delegates have suggested that some tribes of Uganda...*(Interruption)*

**MR. NEKYON:** Point of clarification. Mr. Chairman. I would like hon. Sserwanga Lwanga to clarify one thing to the House. How is it possible that a child can be born in this country and grow up to the age of seven without knowing his parents and without being cared for by somebody who must have adopted him? Secondly, we said that up to the age of seven one can be a citizen. What about somebody who is found at the age seven and half or eight, what do we do with him? And if we have got a solution for somebody at the age of eight, nine, ten, who is also a child, why can we not use that same treatment for the child of seven and below? That is what I want to hear.

**LT. COL. SSERWANGA LWANGA:** Hon. Nekyon, did not get me very clearly. I told you that after you have made a woman pregnant you deny responsibility. Then, the pregnant woman gets frustrated and throws away that child on the street or in the dust bin. A passerby picks this child and takes it to the Police, then that child will not know that it is hon. so and so who is my father because it cannot talk. And secondly, that child will grow when it does not know that it is hon. so and so who produced me and threw me in the dust bin. It is very possible.

**THE CHAIRMAN:** Could you desist from using the honourables as your examples please? (*Laughter*)

**MR. KYALIGONZA:** Point of clarification. Thank you hon. Lwanga for allowing me to seek clarification from you. I am imagining that this Constitution is meant for the future and the present. Now, Mr. Chairman, I am imagining Uganda is supposed to advance to a better height than it is now and we might find ourselves in a situation like that of say, the Scandinavian countries, America and so on, where people will be yearning to come and seek citizenship here. I am envisaging a situation where say, for instance, a neighbour may one time wish to have the Uganda citizenship if the conditions here are so good that one would be proud to have this Uganda Citizenship. Supposing a person from Sudan, this is an example or Kenya for that matter wished to have his child adopted and acquire Uganda citizenship and he dropped this child here at that age of seven, what are the precautions you as a delegate, would suggest to us to handle that type of situation?

**LT. COL. SSERWANGA LWANGA:** Mr. Chairman, there will be a law concerning citizenship and it will be detailed; it will look into all these. But the principle is what we are putting, that any child whose father and mother is not known, should be taken - should be presumed, the word is presumed, presumed is not automatic, until further notice, maybe somebody might come and say this is my child or something.

**MR. BWANIKA BALE:** Mr. Chairman, I would like to thank hon. Sserwanga Lwanga for giving the opportunity to explain this situation. When I was contributing, I did explain why there is that provision whereby a child under the age of seven is permitted. According to the UN Rights of the child and according to the OAU Chapter on the Rights and Welfare

of the children, any child found in a country must be given citizenship. It is the right to the child. If the child has been dropped on the street or picked from anywhere, and due enquiry has been done by the professional social workers and the courts and after that nobody has come to claim him, he is presumed a citizen. But before he is given that citizenship, there is a period which is given for social workers to investigate and find out whether this child did not have any parents at all and the courts are involved. So, when the social worker and the court are satisfied, then a child is given citizenship. It is not an automatic thing; it is a long process. So, what I think the provision is that we must give protection and citizenship to a child found without parents. Thank you very much.

**LT. COL. SSERWANGA LWANGA:** Mr. Chairman, I now go to another point. I leave the child.

**THE CHAIRMAN:** I think the situation has been clarified. I think the hon. Member can continue. Please, go ahead.

**LT. COL. SSERWANGA LWANGA:** Mr. Chairman, some delegates in this Assembly have suggested that some tribes of Uganda must change their names, let me hope they will not tell them to stop speaking their language and practicing their culture. The Banyarwanda have been specifically under attack in this in this Assembly. Some delegates have gone ahead and hidden under the cover that those are the views of their people. However to me, I see it as a political persecution by some political elites and some regimes which have ruled this country. This is an old political phenomena. At one time it was the Baganda, then followed by Acholi and Langi, then the Nubi, then the Kakwa, Lugbara and now the Banyarwanda are having their share. These political persecutions of tribes and groups advocated by the political elites of Uganda, actually to me, tantamount to violation of peoples rights and cultures. I do not see why I must change my name because I was born a Muganda or because I was born an Acholi or because I was born - I was not there when my mother was meeting my father. I was not a party to that conversation. So, do not persecute me for what I am. I am not party to my creation; I just found myself like that. This tribalistic persecution of some tribes is strongly entrenched in the political elites of Uganda. The peasants do not have these attitudes towards one another. In fact, when you go to the villages you find them living very

comfortably. But we, the political elites or the politicians, who manage the affairs of the country are the trouble shooters and the trouble causers and I will request through you, Mr. Chairman, that these myopic political elites must stop poisoning the minds of our people. They should stop this talk.

Mr. Chairman, I will go back to the issue of Banyarwanda. The Banyarwanda of Uganda are one of the indigenous tribes of Uganda. They rank number 15 in the numerical strength after the Karimojong. The Karimojong are NO. 14. Their actual Number is 329,662. I agree with hon. Kweronda Ruhemba that these Banyarwanda are here to stay and they will not go anywhere and we shall have to live with them, whether you like it or not. If you did not want them, you better reconcile your mind now and think again. This group of Banyarwanda should not be confused with non-Ugandan Banyarwanda living in Uganda, totalling 247,896...*(Interruption)*

For these ones you do not even need to worry much because they are going back. *(Interruption)*

**MR. KIGAYE-BILLYAWO:** Point of Information. I would like the hon. Delegate to clarify to me the difference between a Ugandan Nyarwanda and a Nyarwanda that he is talking about who is not a Ugandan.

**LT. COL. SSERWANGA:** Mr. Chairman, I will clarify that. I am also aware that there are Bafumbira totaling to 203,030 - the hon. Member of Bafumbira one time gave us that the Bafumbira are about 1,000,000 but I do not know where she was getting her figures. These figures I have are from the 1991 population and Housing Census - Entebbe Government Statistics Department. The point I want to make is that these three groups should not be confused. Each has the right to exist, speak their language, practice their culture without any hinderance from anybody. Mr. Chairman, the new Constitution should ensure that all tribes and groups of Uganda should feel secure that no tribe is politically persecuted. *(Applause)* We should - now I will come to the clarification of the hon. Member who wanted to know. We should not behave like Idi Amin who one day woke up from his dream and sent away over 60,000 Ugandans of Asian origin saying that because they were Asians, so he dreamt to send them away. People should remain what they are, regardless of where they live. Nationality and citizenship should not be confused.

If you read the chapter on citizenship, I request hon. Members that to read the report - nationality and citizenship have been clearly explained. You can be an Indian of Ugandan citizenship. You can be an Indian of Russian citizenship. You can be a Nyarwanda of Ugandan citizenship. So, we should not confuse things. Let us respect each other's tribe and culture. That is how we shall live with each other and build a progressive and prosperous country but without respecting each other or one another's tribe, we shall just bring confusion and continue with that. Mr. Chairman, I request that you give me more time because of these interruptions.

**THE CHAIRMAN:** You still have a bit of time. Go on.

**LT. COL. SSERWANGA:** I come to the representation of the people. There is an impression which is created that whenever there is multiparty politics, democracy is always guaranteed. Also in a one party system, to me, democracy is hardly there. I concur with Article 99 of the Draft Constitution which forbids the introduction of a one party system. The controversy we have now in the Assembly is which system should Uganda adopt. A multiparty or a movement. I am not very worried which system to take on but that system must be democratic. To me, democracy means and implies following:

- a) Respect for human rights as enshrined in the Constitution.
- b) Respect for the rule of Law - the judiciary must be independent and must seem to be independent as hon. Adimola was saying yesterday. Magistrates should not take bribes and once a court has released a suspect, then the police should not arrest him or her at the steps of the court on the pretext that there is something else they want.
- c) There should be a free press to keep informing the citizens on what is happening in their country and abroad. Politicians and the state should not ban or to censor newspapers, radios, TV or any means of communication.
- d) The state must guarantee security for all its citizens and other persons living in that country. Even those they do not agree with politically or who are imprisoned must be protected. Their lives must be secure.
- e) There should be periodical and free and fair regular elections. All political offices, at all levels must contested for in a free and fair election.
- f) There must be establishment and improvement of infrastructure for the people. There should be roads.

electricity, schools, good water, hospital, industries, etc. Government must organize food security for its people. People do not eat politics. They do not eat good speeches or good attended rallies. People want food. Anybody in government must ensure that there is food for the people so that the people do not go hungry. *(Interruption)*

g) Lastly, there must be accountability. Anybody holding a Public office must ensure that at one time he will be called to account to the people.

Once this is entrenched in the society, then we can think of which system should we take. It will be like choosing - which suit should we put on? Do we put on a 'kanzu'? Should we put on a coat? Should we go multiparty? Should we go movement? I support those who have supported movement system as of now to continue for the first five years and thereafter, have a referendum. *(Applause)* I detest those who argue that there should be no referendum. There should be a referendum because a referendum is the best way of deciding political conflicts. There is an argument which is also being pushed which I do not subscribe to - that how can you vote on the right to associate? The right to associate also implies the right not to associate and secondly, it is not an absolute right. It can be regulated. It is not like eating food or going to toilet. No, we can regulate this right. So, if the majority of the people have said that they do not want to associate, we must respect them and the rights of the society must be protected.

Article 95 and 96 of the Draft states how the movement shall be composed and how it shall operate. In the new movement - not necessarily the NRM - all office bearers will have to be elected right from RC.I up to the National Executive Council which in turn will elect the Chairman and the Vice Chairman of the Movement. Some people are worried that we, the historical members have been hanging around. I want to assure you now - that the historical members shall have to leave power to the leadership of the people's elected representative to govern and direct the Movement. *(Applause)* We, the freedom fighters who have been fighting, our role is to transfer power to the people and ensure that the power is not taken away from the people. The people should be the ones to have the power, not we the historical members. We shall leave, do not get worried. *(Applause)* *(Interruption)* No Sir, let me...*(Interruption)*

**MR. OMARA ATUBO:** Point of Clarification. I thought it would be useful for hon. Sserwanga

Lwanga to be clearer on this point. Because yesterday we heard from hon. Tinyefunza about the new movement and hon. Sserwanga Lwanga is talking about the movement in existence. Since, they come from the same constituency, I thought possibly it would be in the interest of this House and the country - whether Sserwanga Lwanga is thinking of the movement as of now or he has also got a concept of a new movement. Thank you.

**LT. COL. SSERWANGA:** Mr. Chairman, I have said that Article 95 and 96 states how the movement shall be there. But this will be a new movement not NRM because the problem or complaint has been that the Chairman of NRM is not elected...*(Interruption)*

**MAJ. GEN. TINYEFUNZA:** Point of Order, Mr. Chairman. Is it in order, Mr. Chairman, for an hon. Member by the names of hon. Dan Omara Atubo to attribute to me ideas I do not subscribe to. I never talked about a new movement and I have not made that assertion anywhere in this Assembly. Is it in order, Mr. Chairman?

**THE CHAIRMAN:** It is possible he was not informed. Now, he has been informed.

**LT. COL. SSERWANGA:** So, Mr. Chairman, I come to the political parties. I do not agree with those Delegates or those Ugandans who have suggested that UPC and DP should be banned. Banning them, will be a political mistake of making them political parties. Yet, they are at the verge of death. *(Applause)* They are eroded with leadership struggles. Some of them are bankrupt that they cannot even pay for their offices. Even the new ones that are being formed do not have any address apart from the press statements which they have been issuing. Since, their formation, they have been organising on intimidating, segregation, tribalism, religious tendencies, etc. - which are completely the wrong concepts on how one would think of organising a political party.

**MR. OKENY:** Point of Order, Mr. Chairman. Is the hon. Member now holding the Floor...*(Interruption)* in order to acquit the political parties who are now in the government of the NRM being now thought of as reaching their deaths? Because the Democratic Party has joined hands with NRM on the understanding that it is a broad based government. Of course, UPC has not accepted this

and now he is classifying the Democrat Party, by the virtue of joining this broad based government, as a dying horse. Secondly, he has mentioned, though he did not mention because always this party Nationalist Liberal Party is a very *-(Laughter)-* feared party. I must insert here that this hon. House should know that is the reason why when the four parties were allocated these two free seats, the Nationalist Liberal Party, though much in existence, was not mentioned and I did not even want the two seats! And that is why here, when I was making my contribution to this House, I did admire the wisdom of the UPC and UPM for taking that offer because that offer was a degradation of the political party. *(Laughter)*

**THE CHAIRMAN:** Well, the hon. Member was expressing his opinion. Please continue.

**LT. COL. SSERWANGA:** Mr. Chairman, if these brothers and sisters - I mean the multi parties...*(Interruption)*

**MR. WANENDEYA:** Point of Order. I would like my Friend Col. Sserwanga Lwanga to state or for you the Chairman to state whether he is in order to state that other political parties are on the verge of death. When President Museveni is a good person and if somebody within the NRM does something wrong - like it happened at Mukura - are we going to classify NRM as being bad because of a few people. Is he, therefore, in order to mislead this House by classifying other political organisations: DP, UPC, UPM, etc. have got bad elements like all human beings - is he therefore, in order, Mr. Chairman?

**THE CHAIRMAN:** Hon. Sserwanga Lwanga was disagreeing with those people who were saying we ban parties and he was giving his reasons. So I think we will just let him continue.

**LT. COL. SSERWANGA:** Mr. chairman, if these sister and brothers of ours...*(Interruption)*

**MR. WACHA:** Point of Clarification. Sir, the life or demise of political parties or any organisation is seen and measured beyond the time of its existence. Mr. Chairman, the clarification I am seeking is this - For the last eight years, political parties have not been allowed to exercise their rights. In view of this, can hon. Sserwanga Lwanga tell us how he has measured the livelihood or the death likeness of these political parties?

**LT. COL. SSERWANGA:** Was that a point of order or clarification?

**THE CHAIRMAN:** No, he sought clarification. He is saying that for the last eight years, political party activity has not been allowed and on the basis of that, how do you come to the conclusion that political parties are dying?

**LT. COL. SSERWANGA:** Mr. Chairman, on that - I think the Members should give me time to finish my argument. That is when they will understand me better. That is why I am saying. That because of your poor organisational skills (you, brothers and sisters who are assembled here) if you are not willing to revisit your organisational skills, the methods of organisation on organising political activities - because you have seen your performance in the past and even now you are still bent on those poor methods of skills. Therefore, you will just perish or be suffocated by the people of Uganda. You should revisit your methods of organisation when you are organising political activities. During the campaigns of 1980, the political parties engaged in intimidation. They engaged in thuggery, they engaged in terrorism, they engaged in even killing their opponents. You remember in 1980 - one of the candidate was killed in Kasese. Mr. Chairman, hon. Members, the people of Uganda are exhausted and tired of such chaos. Mr. Chairman...*(Interruption)*

**DR. OKULLO:** Point of Order, Mr. Chairman. Is the hon. Gentleman holding the Floor in order to allege that political parties campaigned during the last the elections - when the Statute which was used for that elections did not allow political parties to participate in the elections.

**THE CHAIRMAN:** I think here we have got to get clarification from the speaker on the Floor. Are you referring to 1980 or 1994 elections? I think the Member has a point.

**LT. COL. SSERWANGA:** Mr. Chairman, I said that in 1980 these parties terrorized and they even killed a Member - an opponent in Kasese *(Applause)* because of standing or competing for a political office and they intimidated us a lot. Mr. Chairman, The people of Uganda are exhausted and tired of such chaos. *(Interruption)*

**THE CHAIRMAN:** No, I think we should give him time to wind up.

**LT. COL. SSERWANGA:** They are requesting the multipartists to give them a holiday of another five years without chaos. Let the multipartists cool down. *(Interruption)*

**THE CHAIRMAN:** I have ruled that we let the Member finish. Please go ahead.

**LT. COL. SSERWANGA:** Let the multipartists cool down and then plan new strategies of how they can gain the people's support. As of now, I have carefully studied and analysed the views of the people of Uganda and I have found out that the majority of the people are not for the parties. Some of our politicians do not know how to read the political barometer and that is when they will still go on insisting that the parties must start now. I would like also - as I told you Mr. Chairman, that I would not like the political parties to be banned. While the movement is in force, the parties should be allowed to do some activities because internationally and even to a certain extent, internally here, they are recognised as the legitimate institutions that compete in general elections to get political offices peacefully. I must also say that personally, I am not against the parties parse, but the way they have been organised leaves a lot to be desired. The parties should be allowed to organise on some minimum agreed programme. They can register the old ones and the new ones and even write their Constitutions properly, maintain their national security, party offices, issue statements on political issues, publish newspapers and advocate for their aims, talk on radio, TV, etc and even government should give them some money to assist them because actually some of them are bankrupt, yet they did some good work...*(Laughter)* some time ago. *(Applause)* Let us hope that an old dog will learn new tricks. When parties are to operate - if we go to the parties, that is I think when the referendum has decided that parties should come back - I do not agree to the policy of winner takes it all. There should be a government of national unity where all the parties should come and form a government. *(Applause)* Our people do not want to see one group of people in power which has been termed as eating - they do not want to see DP eating alone or UPC eating alone. All should be there on the table.

Traditional rulers. On this point, Mr. Chairman, although it has been rejected by most of the people of Uganda about the restoration, a substantial majority in Buganda supported this issue and I agree with those who have. I agree with the provisions of

Article 279 which says that Traditional rulers should be restored where they are wanted. In fact, those people who even supported the idea of restoration, said that the King should be apolitical. To use their very words - they told us or they told the Commission that *'Twagala Kabaka atali muhyabufuzi'* The Uganda Constitutional Commission, interpreted those words to be - that the King whom the people wanted should not be a leader of a political party or a head of a local government or central government but just a cultural leader. Therefore, to divert from what the people have demanded and we start making the *Kabaka* a Constitutional head of a district or a province, I think is making a political mistake. The mere fact that the *Kabaka* as a Constitutional King heads a political administrative unit and he appoints a *Katikiro* who is supposed to head the federal government - to me, all those activities are not cultural but they are political. *(Applause)* Now, we shall have brought the King in politics. At least, the 1962 situation was even better because the *Katikiro* was elected by the *Lukiiko* but in our case, as hon. Tumukunde said - there are a lot of things which have not been cleared about this Constitutional Head whom they are wanting to supervise over Buganda. Mr. Chairman, hon. Delegates, Ladies and Gentlemen - let us be very careful when we are dealing with this issue. Let us not invite trouble or try to lay traps which will cause problems in future and eventually kill the institution of a traditional leader. If we want the institution, let us protect it from politics of any nature. In the 1966 crisis, to me as a student of History and Political Science, it was not only Obote who was the trouble shooter. Even the Mengo group was spitting fire. *(Applause)* So both of them must share the blame. *(Interruption)*

**MR. NEKYON:** Point of Clarification. Sir, I would like the hon. Sserwanga Lwanga to clarify to us the *(interjection)* issue of the kingship in Buganda which he is raising. We saw on television, last week, a *'Katikiro'* being asked by the *Kabaka* in front of the palace to help him rule Buganda. He said - I give you this mace so that you can help me to rule Buganda. Then, over two years now, the NRM Government has allowed the election of the *Lukiiko* of Buganda which is now fully in operation and we know that in the entire history of Uganda, *Lukiiko* has never been a cultural institution. *Lukiiko* has been the parliament of Buganda. When the British came here, they entered into agreement in 1884 - I think the first agreement which was modified in 1900 was with the *Lukiiko* on whose behalf three people

signed the agreement. Now, therefore, can the hon. Member clarify to this House - how the *Lukiiko* has become a cultural institution from political and how the Office of the *Katikiro* has become cultural since the *Katikiro* has always been a political Prime Minister of Buganda?

**LT. COL. SSERWANGA:** Mr. Chairman, hon. Nekyon is expressing the very fears I have. (*Applause*) So, I am not actually in position to clarify. I think somebody else will have to come to the Floor and clarify.

**MR. MULONDO:** Point of Information. Thank you Mr. Chairman. As you have heard my name is *Ssabalangira* Mulondo, I would like to give the information to the House that the *Lukiiko* performs two roles that is the cultural and administrative role and so, is the *Katikiro*. At the moment, the institution of *Kabakaship* was re-established and the *Lukiiko* that is in place today is performing the cultural role and that is only what it is doing. For your information, the *Lukiiko* is represented by the Heads of Clans and some other prominent Baganda for the performance of cultural roles until otherwise. You will also appreciate that before the abrogation of the 1962 Constitution, the *Lukiiko* had been divided into two. The *Lukiiko* that was an administrative and that one which was cultural attended by heads of clans and other prominent people. Today, because the administrative side of the *Lukiiko* is not there, the present *Lukiiko* is on cultural activities. Thank you very much Mr. Chairman. (*Applause*)

**LT. COL. SSERWANGA:** Mr. Chairman. I completely reject to the creation of a third level of 'eating' at Mengo or anywhere else in Uganda (*Applause*) which has been termed federalism. The cake which has been talked about by many Members in this Assembly and they do not actually talk on how it should be made, should be divided into two. From the centre to the district. That is all; then it should continue down - the crumbs should go down to the sub-counties and whatever. If we cut the cake in three, nothing will reach the district or the RC 1. Therefore, I support the decentralisation of power from the centre to the people directly without going through that third man, the eater on federal. So, (*Applause*) Mr. Chairman, I now turn it would be wrong if I finish my contribution without talking about rebel activities in the north. Mr. Chairman, I request, since I have been interrupted, you give me some five minutes to talk about these rebel activities

in the north because they have been a very big stumbling block to the development of the people of Uganda not only in Gulu, Kitgum and Soroti but to the whole country. Mr. Chairman, the rebel activity in the north started way back in 1986 on 20th August, when the remnants of the forces were defeated - I mean the NRA took power in Kampala on 26th January, 1986 - regrouped in Sudan and tried to stage a come-back to power by attacking Bibia. Since then, the NRA has been engaged in the war of stopping these rebels to come and capture political power to rule Uganda again. These rebels have been led at different times by different people. At one time they were led by the Late Lt. Col. Erick Oduor, then Her Holiness, Alice Lakwena. Then when she ran away, Lt. Col. Odong Latek took over. When he died, then the father of Kony came in as the leader. When NRA arrested him, then his son - His Holiness, Joseph Kony is leading the Lord's Resistance Army which has committed a lot of atrocities against the people of Uganda, particularly against the peasants of Gulu, Kitgum, Moyo and Apac Districts. I will mention a few of these rebel activities which these thugs have committed against the people of Uganda. In 1991, the rebels abducted 46 girls from Sacred Heart Secondary School whom they raped and insulted a lot. These girls were rescued by NRA. In 1991 October, the rebels abducted white men with a team of 12 Ugandans who were renovating the lodges in Murchison Falls National Park. These rebels burnt to ashes all the equipment, the tractors, the graders, etc. and the white man and his team were rescued by NRA. In 1992, September there were 35 people in Lacor Hospital, whom I counted myself, who were mutilated by these rebels. Some of these lost their limbs and up to now they will never see them again. In March, 1994, the rebels burnt 500 houses of peasants in the parish of Minakulu in Apac District. Nine (9) people are reported to have died in that fire. Since February, 1994, the rebels have burnt 12 vehicles belonging to the *Wamainchi* and there are many activities which I cannot continue mentioning. I am glad that hon. Akech Okullu, the Women Representative for Gulu and hon. Akello Grace came out openly to condemn these atrocities committed by Kony against the innocent people of Gulu. (*Applause*) I am glad that at least I have got some allies in that region when I am fighting against these rebels who are harming the peoples of Uganda. Hon. Nobel Mayombo told us yesterday that some criminals in NRA who committed atrocities against peoples of Uganda in other areas like Soroti, like

Gulu, like Moyo were executed on firing squad. I am glad you are informed about that. However, I am surprised to hear some leaders from Gulu and Kitgum advocating that rebels should be given a VIP treatment handled with kid gloves; that the President should withdraw his statement and apologise to the rebels and then resume peace talks. I have failed to grasp this kind of reasoning. Instead of asking government to take drastic measures and wipe out insurgency, they are busy dancing around in shoes as if this is a dancing hall. My view is that these thugs must actually be punished for the crimes they have committed against the people of Gulu, particularly, the peasants of Gulu and Kitgum Districts. There should be no more amnesty against these thugs. The presidential pardon should stop to exist. Those who will survive the front line, should be brought to the courts of law so that justice is seen to be done for the people of Uganda.

I agree with hon. Akech Okullu that the people who have been victims of the rebel activity should be compensated by the state because it is the responsibility of the government to provide security for all its citizens. *(Applause)* If government fails to do that, then it must find money to compensate the victims. I am glad that the other time when we in were Parliament, the Prime Minister told us that his Office has started compensating some of these victims of the rebel activities and I request that the scheme continues. Mr. Chairman, hon. Ladies and Gentlemen, we should all condemn rebellion, thuggery and atrocities committed against humanity anywhere in this world. That is how we shall build a united and progressive Uganda and Africa which is free to live in.

I thank you Mr. Chairman, hon. Members, Ladies and Gentlemen for listening to me. *(Applause)*

**MR. TIBAMANYA:** Point of information. Mr. Chairman, I would also like the efforts of Rubaga Rotary Club to be recognised in as far they have tried very much to invite surgeons to come and repair the lips, the nose and so forth of our sisters and brothers who have been mutilated by these thugs. Thank you. *(Applause)*

**MR. LUBEGA D. (Rubaga Division South):** Thank you very much Mr. Chairman. Mr. Chairman, hon. Delegates, Rubaga Division South lies in the Western sector of Kampala city. It comprises of the parishes of Busega, Natete, Rubaga, Ndeeba,

Mutundwe, Kaboowa and the two parishes of Najjanankumbi. It is one of the two electoral areas for the CA of Rubaga Division which division I represent in NRC. The other parishes which lie in Rubaga North are Namirembe, Bakuli, Nakulabye, Kasubi, Lungujja and Lubyala. Mr. Chairman and hon. delegates, I am honoured to associate myself with an Assembly of 284 honourable Delegates who are participating in making the fundamental law of our motherland, Uganda.

As I make my contribution, Mr. Chairman, I am aware like everyone of us assembled here, that a Constitution is the basic consensus of a people about how such a people want to live. I am aware of the necessity for people of Uganda to bring forward and assemble in one document a set of fundamental norms by which we are to govern our political life. We are opting for a written Constitution through which we are expected to organise, rationalise and stabilize the political process of our country. Our main objective and ultimate aim should be an attainment of a free and democratic life. We are expected to come out with a document that will give raise to the protection of the individual's liberty, through representative democracy, separation and division of powers and an embodiment of inviolable rights. We are here to adopt a set of principles and laws to our country which will spell out the powers and functions of the various organs of government. We are expected to come out with a document that will enable political review by courts and a document that will set limitations upon the amending power. Most of us assembled here are elected Delegates and we have specific messages and proposals from our electorate or constituents. But in discussing the proposals before us in this Assembly, it is important that in arriving at decisions regarding the subject matters of our Constitution. We should all, elected or appointed, always keep in mind the basic principles necessary for the making of an acceptable and lasting Constitution. We should all mould our decisions on basic principles in our document. Let us also define, divide and diffuse power under the guidance power of our motto 'For God and My Country'. Let us be fair to everyone and to each other, so that, at the end of our exercise, no one shall feel, now and in future, that she/he has been left out. With the above introductory remarks in mind, I wish, Mr. Chairman and hon. Members to present to you for your consideration and eventual approval and adoption, views and proposals from Rubaga Division South.

The people of Rubaga Division South greet you, Mr. Chairman, your Deputy and all of you, hon. Delegates. They congratulate you upon your election and appointment and wish all of you successful deliberations in this august Assembly. They are looking forward to receiving an acceptable and lasting Constitution for a peaceful, progressive and prosperous Uganda. The people of Rubaga Division South have critically studied the Draft Constitution and the report of the Odoki Constitutional Commission. They have also re-examined the various proposals they submitted to the Constitutional Commission in 1991. They now request you, hon. Delegates to consider and adopt the following proposals for the new Constitution:

Under Chapter I of the Draft Constitution, the people of Rubaga Division South accept the provisions of Chapter I of the Draft Constitution. More so, the provisions in this chapter recognise the fact that all power belongs to the people who shall exercise their sovereignty through the democratic institutions of the state in accordance with the National Constitution, of course, once made and accepted. The people of Rubaga Division South also take it upon themselves that they have a duty to defend the Constitution and call upon all Ugandans to accept the same duty. Mr. Chairman, hon. Members - I now turn to Chapter II of the Draft Constitution. Under the Chapter, the Odoki Commission proposes that Uganda should be a unitary state. The people of Rubaga Division South reject this proposal. They reject the proposal that Uganda should be a unitary state. They have opted for a federal form of government. They argue that in making our Constitution, we should aim at both nationhood and diversity of ethnic groups and cultures. It is their observation, that federalism is the best instrument of achieving both aims - that is unity and diversity. They point out that Uganda will remain a sovereign state even when it adopts a federal form of government contrary to the fears of some people. They propose that Article 4 (1) of the Draft Constitution should be amended to read: *'Uganda is one federal state'*. They are convinced that federation is the most suitable form of government in a country of several ethnic groups. In fact, studies have revealed that one of the most important causes for federalism in history is that a state comprises of more than one ethnic group. Federalism, it is said and the people of Rubaga also believe that it is an efficient instrument of reducing or regulating centrifugal powers - federalism can also reduce centripetal powers. The people of Rubaga

Division South, see federalism as an answer to the challenge of centralism. They are aware that a federal state, as differentiated from a centralized state, is organised so that the nation includes within it some member states with entrenched provisions relating their powers and functions. They reject provisions such as those contained in the Local Government Statute, 1993 which provisions can be easily withdrawn or modified by Parliament. They prefer a form of government which will best preserve and promote people's culture. They are of the view that federalism should be better seen and organised in terms of institutional inter dependency rather than in terms of functional independence. The people of Rubaga Division South are also aware that federalism fosters competition and leads to faster and greater developments. From Economics we know and the people of Rubaga Division certainly know that competition makes for better results other than forms of producing and allocating goods.

The people of Rubaga South are convinced that federalism:

- 1) Will stimulate healthy competition between different areas of the country encouraging each area to strive for self reliance and development. Otherwise the unitary system will encourage unnecessary jealousy, antagonism and uncalled for dependence of some parts of the country on others.
- 2) Federalism enhances peace, understanding and harmony as it strives to achieve unity in diversity by preserving the traditions and cultures of each area and is flexible enough to allow local choice of suitable system of government while unitary arrangements tend to suppress or ignore the real diversity of the country in the attempt to enforce artificial unity.
- 3) Federalism provides for alternative centres of political powers and alternative political position to local politicians with leadership ambitions who otherwise will be striving for jobs and positions at the centre and so it, thereby, reduces negative competition and consequent tensions.
- 4) Federalism minimises corruption, bureaucracy and inefficiency in government as services are brought nearer to the people who are able to exercise direct control and supervision which they are unable to do usually under a unitary system.

For these and several other reasons, the people of Rubaga Division South call upon you, hon. Delegates, to consider and adopt the federal form of government in our new Constitution. During the period when Odoki Commission was collecting

views and proposals for the new Constitution, the people of Rubaga Division South interacted a great deal with people from various parts of Buganda in particular...*(Interruption)*

**MR. WAGIRA:** The clarification I would wish to seek from hon Lubega is about two points. First, he says that Uganda should not be a Republic as it is referred to in the Draft Constitution but rather as a sovereign state. The clarification I wish to seek is why should a federalist feel ill-at-ease at the word "Republic" when we know that there are even some republics which are as well federal, for example the Federal Republic of Germany. The other clarification I wish to seek is about - when he says that a federal state must be founded on the principle of inter-dependence of the different entities that comprise that federal state. I would like hon. Lubega to clarify to me what viable political, cultural and economic inter-dependencies exist in the other regions of Uganda which could sustain a federal state other than that in Buganda? Thank you.

**MR. LUBEGA D.:** Thank you very much, Mr. Chairman. I thank the hon. Member seeking clarification. Generally I have not talked about "republic". That subject should be republic vis-a-viz monarchy. I think I have not come to that one. So, there is nothing for me to clarify. Secondly, the institutions such as existing in the different areas of Uganda, I think, are mainly based on cultural orientations. I believe that every part of Uganda has cultural norms which are established and even practiced. These and other areas constitute institutions - cultural institutions and other institutions - that can be organised in terms of the federal system and I believe matters will become clearer as I proceed.

So, as I was saying, that during the period when the Odoki Commission was collecting views and proposals for the new Constitution, the people of Rubaga Division South interacted a great deal with people from various parts of Buganda in particular and the rest of Uganda in general. They noted that the people of Buganda have a great desire to see Buganda being administered as one political and administrative unit with substructures below consisting of smaller administrative units. The people's desires for a federal form of government in Buganda are born out clearly by statistics which were collected by the Odoki Commission. The Data, for instance, classified on the district basis under topic 6 of the Commission's

report - that is the index of source on page 375 relating to form of government - indicate that out of the 596 cases considered in Buganda, 538 were for the federal form of government based on Buganda as a unit. When you study the details of the Memoranda that were sent to the Odoki Commission, as far as Uganda is concerned, one can also look at statistics which are contained in the same index of sources on page 354 whereby the RC is giving their views on the form of government - 2,097 favoured federalism vis-a-viz the unitary options which was supported by 1,060. So, the federalists are, as far as the views are concerned, twice the number as far as that table is concerned. Further more, I would even submit that this strong support for a federal government, particularly in Buganda, has been acknowledged elsewhere in the Commission's report. The people of Rubaga Division South have instructed me to inform this august Assembly that they fully associate themselves with all the people of Buganda region in as far as views expressed and proposals made on federalism are concerned. They call upon people from the various parts of Uganda to appreciate the reasons advanced by the federalists and once again call upon you honourable Delegates to adopt the federal form of government for our new Constitution - not only for Buganda but for the rest of Uganda. In particular, they proposed that this Assembly should adopt a three tier kind of federal system of government consisting of a central government, the federal state and the third tier should be the counties or districts as the choices of the federal states maybe. The people of Rubaga Division South are aware that federalism is an aspect of decentralisation. There is usually quite often a confusion when you talk of decentralisation and federalism. Some people are confusing decentralisation with federalism. Federalism is an aspect of decentralisation whereby the local government precedes state administration which precedes in turn the national government. They are also aware that federalism observes the principle that tasks should be administered by small groups prior to the next level responsible for them.

They are further aware that national and state responsibilities are intertwined and that in decentralisation of powers and services, there could be concurrent lists. They have examined the fourth schedule of the Draft Constitution and wish to propose that subjects like Law and Order and Land should be among those considered for concurrent lists in the Constitution. The people of Rubaga South wish to recommend to you for adoption, an arrange-

ment whereby our Constitution will specifically enumerate the powers to be granted to the national government while the rest, not necessarily mentioned or enumerated, will be left to the state for them to carry out further decentralisation and allotment. In their own organisation, the states could leave all the powers, functions and services meant for the districts intact for the lower levels of administrative units, for instance districts or counties, in accordance with the provisions of the Decentralisation Statute as far as this particular arrangement is concerned. In the said Statute, Members may wish to observe that in the Decentralisation Statute of 1993 - the following services, responsibilities and functions were spelt out. They are grouped in four categories. The first one is on education services, the second one is on medical and health services, the third is on water services and fourth is on road services. Under education services, the Decentralisation Statute of 1993 provides that under education services, there should be primary schools, rural secondary schools and technical schools. In the medical and health services, the Statute includes health centres, dispensaries and AIDS posts, maternity and child welfare, school health, control of communicable diseases and rural ambulances. While in water sector, the Statute provides for the provision and maintenance of water supplies outside the jurisdiction of National Water and Sewerage Corporation. And under road services, the Statute provide for feeder roads and maintenance of roads not under the responsibility of Central Government. The state themselves should consider the following list which covers an area neither covered by the Central Government under the fourth Schedule nor the said Statute of 1993. There is quite a big portion where the state government can engage itself ranging from sports, education: O'level and A'Level schools, universities and polytechnic schools maybe founded by the state; health: provincial or state hospitals; internal roads other than feeder roads; agriculture and so forth.

There is quite a big portion which is not covered. Mr. Chairman and hon. Members, by the provisions of the Statute of 1993 and which, when you constitutionalise these arrangements they can easily be catered for by the federal states. Mr. Chairman and hon. Delegates, this is the structure and form of government that the people of Rubaga Division South have sent me to present to you for consideration and adoption for a new Constitution of Uganda. In the event that the people from other parts of

Uganda are not yet convinced about federalism, the people of Rubaga strongly recommend that Baganda, because of their cultural ties and given the overwhelming support for a federal form of government as evidenced in their various memoranda to the Odoki commission, be left to have a federal unit that will unite them. They certainly also wish that the rest of Uganda should appreciate reasons advanced. They are of the view that excessive and forced unity and uniformity is bound to lead to tensions and that this should be avoided at any cost. When considering the proposal for federalism, the hon. Delegates should also look at the Constitutional Commission's recommendation 9.94 (g) that is Chapter 9. If you look at the report of the analysis and recommendations, it reads as follows: *'To adequately and effectively cater for our cultural diversity, districts which share common or similar cultural identity and other values, should be free under the new Constitution to co-operate as political units in the entire area of cultural and human development and to form associations or organisations to that effect'*. The people of Rubaga Division South say that this recommendation enables Baganda and any other region to establish a federal government and to have it entrenched in the Constitution without any further delay.

Under the same chapter of the Draft Constitution, the Commission also proposes that the official language of Uganda should be English. The people of Rubaga Division South accept this proposal and observe that the issue of a national language was left out of the Draft Constitution. The people have noted however, that the Commission recommended somewhere else in their report, that is under 4.27 that major languages in Uganda should be promoted and that in course of time one or more of such languages will emerge as the national language. The people generally accept this proposal. Otherwise, in a number of their memoranda to the Commission, they had recommended Luganda and Luo as national languages that should be developed and that these effectively taught in schools. Their recommendation was based on, they say, their finding that these two languages generally cover most parts, if not the whole of Uganda and they are relatively developed by way of grammar and literature.

Mr. Chairman and hon. Delegates, let me now turn to the issue of Traditional Rulers. The people of Rubaga Division South wish to thank the NRM Government in general and the NRC in particular for

amending the imposed 1967 Constitution by cancelling the rulers and by enacting the constitutional amendment statute of 1993 aimed at guaranteeing the freedom of the person to adhere to his culture and cultural institution and enabling the return to traditional rulers of assets and properties previously confiscated from them. With regard to provisions relating to traditional rulers...*(interruption)*

**MR. MUGYENYI:** Point of Clarification. Thank you, Mr. Chairman. I am seeking clarification from hon. Lubega on two points. One, he says the Baganda should be left to have their Federal State if the other regions do approve of federalism. The clarification I am seeking, Mr. Chairman, is whether he is proposing we could have a mixture, that is, one Federal State among many other decentralised districts. The second clarification, Mr. Chairman, I am seeking is that in my Constituency I have got a very big portion of Baganda and when we grant this Federal to the geographical Buganda (they asked me over the weekend to ask this House) where they would want them to belong. Would they belong to this Federal State or they would still belong to the decentralised Mbarara District. Thank you, Mr. Chairman.

**MR. LUBEGA DAMIANO:** Mr. Chairman, with regard to clarification sought relating to whether a mixture of Federal States and non-federated areas, I can say that this type did exist before in this country and even in the United States of America were adopting the Federal form of Government. I think, there were not more than even 20 States at that time. There were 13 states, I am informed. But as time went on, certain other areas federated and now we know that there are about 50 States in United States. So, the other were swallowed up. Mr Chairman, and hon. Delegates, I think I have clarified.

As far as the Baganda or people of certain areas moving to other areas of the country are concerned we are all Ugandans. These structures we are adopting are mere systems. Any Ugandan or even a non-Ugandan can live in any Federal State. A Ugandan can live anywhere and can belong to any part of Uganda because they are Ugandans. This should be clear.

The people of Rubaga Division South have already thanked the NRM Government and the NRC for Amendments and for to the 1967 constitution and for making a Law for the return of the property to the

traditional rulers. With regard to the provisions related to the traditional rulers, in the Draft Constitution, the people wish to see a specific Chapter devoted to traditional rulers among the first Chapters of the Constitution. They are not happy about such provisions being put in the miscellaneous Chapter. They wish to observe that in the case of Buganda, the spirit of administration of Buganda as one unit is tied together with the *Kabakaship* at the helm. Their preposition is that the *Kabaka* should be a titular head over that Federal State. The people who have studied the 1955 Agreement whose provisions were carried to the 1962 constitution, they will know clearly that the administrative powers of the *Kabaka* were taken away and it was the *Katikiro* through the political *Lukiiko* who became a political administrator. The *Kabaka* superintends as a titular Leader or Ruler, and this should not cause any conflict.

Let me turn to Chapter 7 relating to land and environment. The people of Rubaga Division South propose that the land reform decree should be repealed and that the land tenure system which should be provided for in the new Constitution, should be one which existed before the enactment of the said land reform decree. They therefore propose a free hold or mailo-land system. Public land should be administered by the Area Land Boards and not committees, and the Uganda Land Commission in appropriate cases. It is also proposed that there should be adequate provisions for protecting all people occupying land and without land-titles. They consider the restoration of *Busuulu* and *Nvujo* law as one of the appropriate measures to protect those occupying land without titles.

On Fundamental Human Rights. Mr. Chairman and hon. Members, since Human Rights issues are dynamic and therefore develop, the people of Rubaga Division South propose that apart from maintaining the list of Human Rights and Freedoms as outlined in the Draft Constitution, the New Constitution should also provide that the rights and freedoms contained in the International Conventions or covenants, for instance, the Universal Declaration of Human Rights, etcetera, to which Uganda is a signatory and a party shall be deemed rights and freedoms guaranteed by the Constitution and shall be enforceable in Uganda as if expressed and enacted in the Constitution. When that has been said, the people of Rubaga Division South, also observe that the drafting of Chapter 5 should be improved upon. I will make definite amendments or propose amend-

ments during the consideration stage as far as drafting this Chapter is concerned. Otherwise, one observes that these different rights are just lumped in one section. For instance under Chapter 5, Article 51 (a) comprises of rights to life, liberty, dignity, education, culture, security of person and so many rights just conglomerated in a sub section. This should be drawn out more specifically and I will make proposals at the consideration stage.

On the political system. The people of Rubaga Division South have discussed both the movement and political party systems in historical and current perspectives. They have noted that when NRM Government came to power in 1986, its leadership called upon all Ugandans to join it in the task of among others prescribing and administering remedy for what went wrong in the past. People of various political views and ideology particularly those aged 18 years and above, joined the governance of this country specially through the RC system. It was pointed out that every Ugandan was entitled to participate in the public affairs of Uganda through the Movement and that no Ugandan shall be expelled from the Movement. As the years rode by, the people of Rubaga Division South noted that the Movement was becoming selective. This is confirmed by the fact that during the recent elections including the elections of the CA Delegates, some of the top leadership of the movement came out squarely to favour and even to support those considered to be Movement candidates, campaigning against people who were referred to as non-movement people, no matter even if such people were playing important roles in the affairs of the country. This trend climaxed into statement by the leadership of the Movement that NRM had won elections vis-a-vis parties. Those statements were made despite the fact that people were not allowed by Law to campaign on the political party platforms and that parties were allocated a maximum of only eight seats, by Law, in the Constituent Assembly of 288 Delegates. The utterances in favour and support of the Movement people reminded us of "The animal farm: *all animals are equal but some animals are more equal than others*".

**LT. MAYOMBO:** Point of Clarification. Mr. Chairman, I am seeking clarification from the honourable member holding the Floor on whether he anticipates the Movement - because my understanding of the Movement is that it is supposed to accept and reject. A movement has a programme. It is

supposed to assimilate and if the quantity assimilated is not worth it must be rejected. I would expect the Movement to be a dynamic force. Thank you.

**MR. LUBEGA DAMIANO:** Thank you, Mr. Chairman. I think the arguments have been heard. That is the Movement is seen as a political organisation different from the one which was stated when the NRM took over power of governance of this country. Under the circumstances, while it is provided under Article 94 of the Draft Constitution that every Ugandan is entitled to participate in the Movement governance and that many Ugandans shall be expelled from the Movement system of governance becomes and its practice leads to self expulsion while not directly giving a letter to any person that has been expelled. The people of Rubaga Division South have also considered the Political Party System. They have noted that Parties were formed under the Human Rights Provisions of both the international charters on Human Rights and the Provisions in our various constitutions since Independence. Both the 1962 and 1967 Constitutions provide for the protection of freedom of Assembly and Association in section 27 and section 18 respectively. These Provisions are contained in Chapter 3 of each of the said Constitutions which relate to the protection of Fundamental Rights and Freedoms of the Individual. The Provisions of the said sections are similar and state as follows:

*"Except with his own consent, no person shall be hindered in the enjoyment of freedom of Assembly and Association".* That is say, his rights assemble freely and associate with other persons and in particular to form or belong to trade unions or other associations for the protection of his interests. It is here by further submitted that freedom of association is one of the basic and inalienable rights of man which is universally acknowledged. Multiparty Political Systems recognises that freedom and provides for its enjoyment in political activities. It would be a contradiction to protect the freedom of association under the Constitution as it must be protected while at the same time, these people who seek political leadership are restricted in the exercise of that freedom either by outright ban on political parties or by provisions within the same Constitution for only one political organisation. There cannot be a rational justification to impose such restriction on political associations while other forms of associations are permitted.

The People of Rubaga Division South not with approval the Provisions which was quoted by hon.

Serwanga Lwanga in Article 99 (i) of the Draft Constitution, to the effect that Parliament shall have no power to enact a Law establishing a one Party State. They propose that this Provision should never be clogged by any other Provisions in the Constitution.

On the performance of Political Parties in Uganda in the past it has been argued by some people that political parties were responsible for the ills and turmoil that existed since the Independence of Uganda. But a careful historical study of those years should reveal that the institutions which were greatly to blame and which actually were most responsible for such ills and turmoil were among others, the Institution of the presidency which assumed too powers and resulted into a dictatorship misusing, as it were, the otherwise would be good institutions of the army and political parties. The institution of the Army which accepted to be used by the dictatorship resulted into untold holocaust, destruction of property and misery for the country. It is argued that much as the presidency and the army can be reformed as they are being so reformed under the NRM Government, the political parties as institutions would even be easier to reform and more viable for purposes of organising people and according them the Fundamental Rights that are due to them. It is only when this has been done that the NRM mission of prescribing and administering remedies of what went wrong in the past will be fulfilled. Given the above set of facts and rationale, the people of Rubaga Division South proposed:

- 1) That the Fundamental Rights and Freedoms of individual should not be tampered with under the new Constitution or under any other Law.
- 2) That a Referendum on political parties as provided under Article 98 of the Draft Constitution should not be resorted to. The results of the Referendum should not be used to prevent even the minority from competing for political leadership through their associations. *(Applause)*

**THE CHAIRMAN:** Hon. Lubega, first of all, your time has run out. And there are some people who would like either to intervene but I do not know on what points.

**MR. AMANYA-MUSHEGA:** Point of Clarification, Mr. Chairman. I wanted the Member holding the Floor to clarify some point on his views on Parties. At Independence we had Political Parties and in 1980 we had Political Parties and Political

Parties are supposed to be the prevention of dictatorship to arise and protect Human Rights. Could he help me to explain why in spite of the Presidents of these parties - One - hostile process emerged and submerged them. Two - when dictators came and overthrew a Government belonging to a Political Party, I would have thought that other parties would rise with the point of the political party system. But on the contrary another Party will join and celebrate with the dictator. Would he help to clarify?

**MR. LUBEGA DAMIANO:** Thank you very much, Mr. Chairman. The sort of assistance the hon. Amanya-Mushega is looking for, I think can be articulated in terms of my presentation. Because I have said, that we had several institutions, much as the political parties were supposed to do a good job, so the presidency was and so was the military, and so forth and so on. I am talking of situations where at this time, all the institutions of Governance including political Parties, are being reformed. During the improvement, one institution should not be condemned against the other, let us reform all of them rather than giving only emphasis on some. It will not provide the solution. I am talking of the Institution of Presidency. That is a very important Institution in governance. Our Constitution provides for Human Rights and the institution of Presidency. I am talking about the situation where all the Institutions of governance should be reformed. I think this is my line of argument and trend. The people of Rubaga also propose that after the promulgation of the New Constitution, an interim broad based Government be formed for a period of up to five years to implement the Constitution and that during this period an electoral commission shall be appointed in accordance with the Provision of the Constitution. Secondly, a law requiring the registration of political parties and the regulation of their activities under a Code of Conduct for their democratic principles and good behaviour shall be enacted. Thirdly, political parties shall have a programme for their activities including organising or re-organising their branches and civic education for the populace.

The people of Rubaga Division South further proposed that after the interim period of the Broad based Government, the Parties will automatically be allowed to compete for political leadership of the country. When this happens, the people of Rubaga propose that the winner takes all method should be avoided. They recommend a system of proportional representation. Mr. Chairman, and hon. Members,

the rights to participate in governance in a mode or method of choice which is paramount. Forcing people to belong to one organisation whether by Law or by an Executive arm of Government is contrary to the spirit and provisions of the Human Rights charters and good governance. *(Applause)*

Mr. Chairman, I still have a lot of proposals given to me to table in this Assembly but time is not on my side. I believe that I shall have an opportunity at another occasion. Thank you, Mr. Chairman and hon. Delegates. I have said all these for God and my Country.

**MR. BABU EDWARD FRANCIS (Kampala Central):** Thank you very much, Mr. Chairman. I start by thanking the Distinguished honourable Delegates for having elected you to that Chair and to prove that their choice was correct, up to now you have presided over this Constituent Assembly with respect and integrity.

Mr. Chairman, I would like to thank the hon. Members who have contributed up to now. They have come here with spirit of accommodation, reconciliation, and most of them have shown that truly their people chose well and therefore, we have a good team to produce a good Constitution for this nation.

Mr. Chairman, my thanks go to one hon gentleman who spoke yesterday. I have been listening to submissions here but Hon Andrew Adimola yesterday performed exemplarily well. *(Applause)* I think it would be unfair if we did not thank him for having performed so well at his age with all the wisdom he brought here and demonstrated to us how we should debate. It is from that point that I take the cue. Mr. Chairman, I start off by saying a lot of people have been derailing us. We came here under one statute that defined our job here. Our job, Mr. Chairman, is to scrutinise, debate, redraft and enact the New National Constitution of Uganda. Those who came here to point accusing fingers and enumerate the demerits and merits of Governments, I would like to say that if you ever show me a perfect Government then I will show you an angel. Because there is no perfect Government, Mr. Chairman. And ever since man started organising himself, he has not managed to get a perfect Government which we can talk about. We can use a scale to measure the Governments we have had here and we know what they are. We should not sit here and say that NRM is a good Government because they have also made mistakes.

and if somebody said 'NRM was a perfect Government' then that gentleman may be corrected that NRM has made mistakes. But what I would like to say is that the former governments should also admit that they made mistakes. Instead what I am getting here is that they were all angels and it was other people who committed the mistakes. Mr. Chairman, that approach is not going to help us.

The whiteman came here, and brought a policy which we all study in school. It is a syllabus in school in the history in the lowest possible classes. The policy of divide and rule. The Ugandans and all our brethren in Africa have the affinity to absorb, divide and rule and we cherish it and use it. There is no enemy here; our enemies are not here! Our enemies are sitting somewhere using one of these little things they use for television to change channels - they call them remote controls; and they are dividing us out there and we continue being very pleased here that these gentlemen are doing a good job. There is no difference here in the Assembly. We all want the same thing. We want a Uganda that is united, that allows us to develop and we leave something for posterity. *(Applause)* Then we must accommodate each other. In Kampala we do. I have those who love the *Kabaka* and I respect them. I have the Republicans and I respect them. I have multipartists and I respect them. And those who say that we should not have Multiparty politics are dreaming because Multiparty politics will come whether you like it or not; maybe not as UPC and DP but even as other Parties. There are those who come here and sing Multiparty but they sing that on particular Parties only. Pluralism does not stop at UPC and DP only. Pluralism continues and within NRM itself, Mr. Chairman, we have Pluralism. We have Conservatives, Middle Centre and we also have socialists. So, anybody who sits here and starts talking about pluralism and does not come out clearly to explain to this august body what he means, then he leaves us wanting. Therefore, I will continue, Mr. Chairman, by thanking the different people who have contributed especially hon. Adimola; I thought he brought us back to the normal track. We are here to debate a Constitution and if anybody has got accusations, please write them down and I will take them to the Parliament - and this is a promise - and I will ask the Minister for Internal Affairs or Defence to answer them to the NRC Members. I have asked Ministers on the Northern question and they have answered. Remember our children in the North whose noses and ears were cut off, and there are people who are

continuing to talk as if this never happened. We must blame everybody here as much as we must praise everybody here. This is Uganda. You people are talking as if one of you comes from London or America and you have forgotten that we have gone through a lot of problems. Our people have suffered. One time when one area was suffering another area was celebrating. Today they are suffering in one area and I want to warn you it might move to other areas. So let us not play games. This is a chance we have. It has been given to us, let us use it, and let us unite this nation into one where everybody can play his/her part.

I would like to go straight into this Divide and Rule question. I do not want to gloss over it. There are people here who are agents of the continuation of dividing this country and the people of good and fair nationalism in this country should stop them. They should not allow our country to be divided anymore. We have suffered enough. I have been in foreign countries in exile, and I have seen people begging on streets. Even some of those who are making noise here, I have seen them without shoes. Mr. Chairman, I have been everywhere and nobody wants us. We have nowhere to go anymore. We have been in so many countries that they do not want us anymore. They tell us: "Ugandans, please go back to your country and stay there". And I do not want to go out anymore, I am tired. I am growing old and I have spent the rest of my life running from shadows. I would like to stay at home and I would like to request all members that we should use this august body to create an atmosphere which is conducive for us to stay here. (Applause) And for those brothers of mine who debate because they want jobs in Government. This is called self-preservation and it is the oldest trick in the world. We do not want to preserve ourselves - (Interruption) - Mr. Chairman, I cannot refuse the point of order.

**MR. NDEGE:** Point of Order. Is the hon. Member in order to impute that some Delegates here were elected by people and given specific instructions on what to say on this Floor and have got motives other than what they came for here.

**THE CHAIRMAN:** Let the hon. Member continue.

**MR. BABU:** Mr. Chairman, thank you very much. It is not only for those who are looking for jobs but there those who want to become popular. There are

those who must sit on the fence and if the coin falls on the other side, they must go on that side. No, you must come here and think for yourself. We are not shifting with the wind because my neighbour has said so, I say no. We are here to represent the people and the people in Kampala say, that they want a genuine Constitution that is legitimate, that will stand the test of time. They are tired of talk and they say that if you want to fight, do not use guns, they want to use the ballot-box. (Applause) And not only that, if you feel you want to fight, they say we should make a small ring here and allow the people here in this Chamber, but not outsiders. They do not want to suffer, because they know that when the elephant fights, it is the grass that suffers. Now, who is the enemy, Mr. Chairman? Why have we failed to identify the enemy of this country? We all know who the enemy is but we all pretend not to know him. The enemy is not here, Mr. Chairman. We are brothers and sisters. If we follow the history of this country, the migration of the Africans, you will find that we are interrelated. Even some customs are the same. In fact, Mr. Chairman, I am so pleased that our history is not all that old. The written history here tells us that all the tribes here are interconnected. At the end of the day, Mr. Chairman, the question is, what are we fighting for apart from those I talked about: domination, popularity and jobs? If we are sincere, and we want to give our people the Constitution they will never forget, then we will have to leave our prejudices outside that door as we come in to debate a National Constitution. And I would like to quote, Mr. Chairman, from the Report of the Constituent Assembly. The little bit which I am told Lawyers study in their first year in the University. It says: *'all human beings are born free and equal in dignity and rights. They are endowed with reasoning and conscience and shall act towards one another in a spirit of brotherhood and sisterhood'*. The magic words there, Mr. Chairman, are brotherhood and sisterhood. Are we behaving that way here? Can we, therefore, repent? (Applause) Can we, Mr. Chairman, therefore, quote the second Article - Declaration of Human Rights which reads that, the discrimination against our brothers and sisters on language, religion or any political opinion, national social origin, or other status. Even political opinion. There has been something in this House since I came here, Mr. Chairman. We think this House is divided on Multiparty and non-Multiparty grounds. No. Some people are hiding behind this. We all know that Multiparty or Pluralism is inevitable, eventually. The argument here has been, Mr. Chairman, that the

political parties do not want a Government of Reconciliation. They want to create a situation where they think they have been locked out. They have never been locked out. *(Applause)* Mr. Chairman, they have locked themselves out. They have refused to participate in a Government of National Reconciliation and to create institutions of Government that are going to allow and create an atmosphere of political parties to work in this country. I want us to create a platform and an atmosphere that is conducive to pluralism. But to do that, unlike some of my Friends, it takes a lot of pain to sacrifice, and you must stop being arrogant - you must come down from your mighty horse and join hands and clear that atmosphere. What made us fail in the past when the political parties were in Government has not gone away yet. What made us fail was that arrogance of not being able to sacrifice and to create the institution that we require. When we elected Government using pluralism in 1962, within a couple of months the opposition crossed over leaving the democratic process to die. So, how are we creating the institutions required for Democracy? When somebody says, it is only UPC that has destroyed our country, I feel very disappointed because the DPs have been the culprits of crossing the Floor day in and day out. *(Applause)* These Parties are not bad. It is the people in these Parties who are opportunistic.

The reason why I have not even gone to the Draft Constitution is because I wanted us to set a platform on which we can debate. Some of us came here with war drums and I have been hearing war drums since I came to this House. Our people outside are listening to us and even News Papers are reporting that we are divided. We are not divided. There is no enemy here for goodness' sake. Uganda has to stay. You guys are not indispensable. The people who elected us can change tomorrow and elect the others because NRM has given them their powers back. So, when you misbehave here, I want you to know that when we go back these ladies and gentlemen of this nation might decide that you are not the right person. So, stop counting your chicken before they hatch. Some people are even saying: "Oh, we should not have elections since we are already here". Let us say no to that notion. Some of us are going to oppose you because we promised our people that within four months we are producing a Constitution, we are going to elect the President and we are going to elect another Parliament. I am not going to be a Party to those who want to make themselves preserved in this House. I promised the people in

Kampala that I am coming to debate a Constitution for four months. They will probably accept seven months. If it is more than that they will begin to think that I have extended myself. Mr. Chairman, I am not taking part in that one. Anybody else can take part but not me. I know Kampala has been known for people who walk out. I will not walk out. I will fight you on the Floor.

Mr. Chairman, it is very unfair, that there is one group we do not thank at all. And that is the Constitutional Commission. Nobody has recognised these eminent sons and daughters of Uganda. Some people have even written against them and have insulted them even in News Papers. And yet these 21 ladies and gentlemen must be thanked for having done a job and completed it. To begin with, Mr. Chairman, *(Applause)* - they were given a job, they went around all Uganda, asked questions, listened to the people, wrote a Report and on the 31st of December, 1992, they handed in their Report. But most of us have not read it and have come here with our own agendas. These people, Mr. Chairman, must be thanked and we must recognise hon. Justice Odoki. They did a good job and nobody should tell them otherwise. And we have the good job here - we have the books - they have become our working documents and this Draft Constitution is probably one of the best documents ever written.

I now go to the Draft Constitution. I would like us to talk about the word 'Republic'. People seem to have created an impression on the word 'Republic' that it is very bad. But I think this time we should define the word 'Republic'. Republic is a State in which the supreme power rests in all the citizens entitled to vote, the electorates, and it is exercised directly or indirectly by them and responsible to them. Some people say they do not want the word 'Republic' here. We can remove it. But once you elect the leaders of the Government it is a Republic. Once you have elected government, that is a Republic. We can remove it from the Constitution if it is not good to some people but the Republic is defined basically as a Government of the people.

I would now like to go on the point of unitary Government and Federalism. A lot of people have talked about these two. What we have proposed in here is decentralisation. Immediately you begin to decentralize you no longer have unitary. You are now going towards Federal. Immediately you begin to decentralize power from the centre to the unit you are now going towards the federal system. And Mr.

Chairman, I would like us to stop using these words, 'Federal' and 'unitary', and say we want to develop power from the centre to the units that we have created and the power that we devolve must be known. I am not going to split hairs over words. You can call it Federal or Unitary, decentralization, etc., as far as I am concerned what I want at the district level is power. What I would like to see at the district is finances to be able to offer the services that we want to take to people. And what I would like to see is the Minister at the Centre not have the power of vetoing the districts. So, when I talk about this, Mr. Chairman, we are talking about decentralising of the authority. I was talking to a friend the other day, and we tried to compare systems which are around the world and we looked at the French Unitary System, Federal Republic of Germany, the Federal Government of India and the United States Federal System and the British Unitary System. When we finished doing our analysis, the French Unitary System was more decentralised than the Indian Federal System. So, at the end of the day, I can give you the word 'Federal' and not give you the power. I would like to request the hon. Members that we should ask for power for the district rather than ask for wars.

The people in Kampala Central would like the Kampala City Council to have its autonomy because up to now, when the Kampala City Resistance Council carries out its budget, they have to send the budget to the minister for approval. We were saying, we want autonomy.

**MR. BIDANDISSALI:** Point of Information, Mr. Chairman. I would like to inform the hon. Member, a good Friend of mine, that with effect from 1st January, 1994, when the President ascended the laws, no district or urban authority was sending a budget to the Ministry of Local Government for approval. The final decision lies with the respective Councils. When the Council has agreed on its budget, so be it, and that is what is happening in Kampala City Council today. Thank you.

**THE CHAIRMAN:** I take it that the Member for Nakawa Division is giving that information in the capacity of being a very well educated person, but not in his other capacity. Please proceed.

**MR. BABU:** Thank you very much, Mr. Chairman. I would like to thank the Minister and my Friend, hon. Bidandi Ssali, for having given me that information. That is what we want to see. We want

power at the Districts and we want the finances at the districts so that we can give our people the services they deserve. We are bringing service to the people - that is what you said - and if we are doing so, we will have gone federal. That is the meaning of the word. Mr. Chairman, if that is so, then there is a particular thing in Chapter 2 where it is indicated that Uganda is one Unitary Sovereign State and a Republic. I would like us to review it carefully. Is it still unitary immediately you decentralize? I think these are questions we must ask ourselves as we hammer out these points, in the next phase.

There is one bit that I do not like on the Local Government. We are saying that urban authority - that is cities and municipality - will now be under the districts, this is totally wrong. You cannot have a group of people who live in a community like a city to be taken by the district because they have totally different requirements and different services. This is an area I am going to request that it should be reviewed that the city municipalities are left free and as urban authorities.

**MR. ZZIWA:** Thank you, Mr. Chairman. I would like to inform the hon. Member on the Floor that if powers cannot be recalled for governments the word 'Unitary' does stand in. Thank you.

**MR. BABU:** We do not want the people in the districts to be decided for. We can give them the policy guidelines.

I now go to citizenship. Chapter 4 has got a problem because it is too long and has got the details that should be in the Statute. I am told in Legal terms that citizenship is decided by the rule of the blood and the rule of the soil - and then naturalisation. You could therefore, add in the Constitution who can naturalize and after how many years and after that the rest should be in the Statute which should be controlled by Parliament from time to time and they can review it instead of looking for an amendment on the Constitution.

The other point, Mr. Chairman, I think we should use our Independence of 1962, as the basis for citizenship, that will be able to tell and follow the citizenship question. There has been a point which has been raised here over and over about citizenship. Mr. Chairman, the rules are there; the laws are there; and the regulations are there. The problem has been the weakness in the Government of today, especially in

the immigration department, to control and enforce those rules. It is not that we have never had rules. They have been there. So, when people talk about citizenship here, sometimes, I get worried. Banyarwanda did not come to Uganda during the NRM Government only. They were here before.

I now go to the most interesting bit which is in Chapter 6 - the political systems. First and foremost, Mr. Chairman, let us examine what the proposal of the Movement system is like. They propose here that there should be a difference in electing Members to different posts. The President will be elected directly by universal franchise. In other words directly using a popular vote. I would have liked to add on that he/she should get a simple majority in two thirds of all the districts so that he is fully a representative of all Ugandans. Because what I could do is to take the districts with the majority people and I do not go to the others but we should make him go to at least two thirds of all the districts in Uganda so that he/she gets a simple majority in each one.

The next point, Mr. Chairman, is that the Legislature will be elected directly by popular vote. The district Council will be the same. Mr. Chairman, after we put this down, I now examine the whole system. When you have Presidents vying for an office and are going to be elected directly, I am told by experts that, that is the presidential system of Government. If it is the presidential system of Government, the next question would be: when can the Parties come in? I think that is what most people are trying to find out. I think we can decide here when we want them to come in and the people of Uganda have already told us: "Let us wait for five years, hold the Referendum and they can come in". Or we can decide not to have a Referendum and they come in. That is simple. I do not know why we are making it look so complicated.

I would like to make this point that a Multiparty system is inevitable, it is going to come to this country. Second point, Mr. Chairman, the question is when should we start and why did we put up this little delay. It is very simple. We want to give everybody a chance to find his level and not only to find his level but to allow other people to create other Parties. Another point, Mr. Chairman, was to create a framework in which these Parties can work. To come out with a Code of Conduct. To make them respect Human Rights and Respect democracy in themselves. *(Applause)* And we should stop this hiding behind, when what you are saying is some-

thing different. We should go there genuinely because we love them.

The Referendum. Mr. Chairman, first of all what is very interesting is that a lot of people in this country talk about democracy and human rights and yet you say that, the people of Uganda cannot have a Referendum. You are saying the people of Uganda should not have their right to decide on you. Because, Mr. Chairman, the people of Uganda are the supreme Court. If we want to refer any case of constitutionalism we must go to the people of Uganda and the people of Uganda must decide. *(Applause)* People are saying that we do not want Referendum; but why do you not want a Referendum? You, therefore, do not want democracy. The person who is talking about democracy should be the first to respect a Referendum because the people outside say that if you have failed to debate, bring the thing back to us and we will decide. The people, ladies and gentlemen, have been given back their power and they are ferocious if we break the rules that we have set.

The Executive. I have already said that I would like the president elected directly by universal franchise. We support very strongly the two thirds, a simple majority of the 39 districts and would like also separation of power. People have said that the President should appoint these Ministers from both inside and outside the House. I am saying that if you want to be a Minister, you leave the legislature and you resign. And there is a reason why I am saying this because the Parliament that we want is going to be a committee system. And why we do not want Ministers any more in the Legislature is that because the other Members of Parliament who are not Ministers are always vying and they are sitting on the fence so that they can be seen for the reshuffle. *(Applause)* Therefore, Mr. Chairman, the President should be given a chance to elect his team both from outside and inside the Legislature. But once you are elected from the Legislature you must resign your seat and we have another Member of Parliament from your area who will represent the people. You must choose whether you want to be a Minister or a Member of Parliament. We want total separation of powers. Mr. Chairman, the people of Kampala are very happy with the two terms. They are very happy with the impeachment.

Legislature. First and foremost, Mr. Chairman, a lot of people in Kampala are getting tired with this word 'Parliament'. Parliament is British. Can we not have

an African name that we call our Legislature. This morning I got a few words which mean an Assembly. I got one from Lango - *Otiket - ochiki* or *Luhangono* which is Samia, *Lukitko, Lukurato, Kachoke, Bunge* in swahili. The Indians call theirs '*lokiha sabha*'. Why can we not call our own Legislature a local name. So, we that do not... *(Interruption)*

**THE CHAIRMAN:** You have run out of time.

**MR. BABU:** Mr. Chairman, let me finish by saying that the people of Kampala who love the King - they love their *Kabaka* who is apolitical and would love him outside politics and are telling and warning those who would like to draw him into the political arena that, please, leave our King alone, he is cultural, liked and should not be smeared by politics. Therefore, Mr. Chairman, let us have the King - let us respect him as he is *Kabaka* and others who want him in other areas should have their *Omukama*, their *Omugabe* - and they should respect him that way.

I would like to thank you and I would have wanted to say something that the national Council of State usurps the power of the Legislature and in my opinion as a Parliamentarian and an NRC Member who has been on the Legislature, the National Council of State should be part of the Parliament, if they want, of a Committee of the House. Thank you very much, Mr. Chairman.

**MR. OMEDA HEBRON O'MAX (Serere County):** Mr. Chairman, last week my Colleague hon. Eswau who comes from the neighbouring county, gave details of Serere that it is well known because of the research station. Mr. Chairman, I immediately after winning CA elections of which 9 people contested for one seat in Serere county, the New Vision Newspaper wrote an article about me that *Serere elects UPA ex-rebel*, and in the second paper there was another heading that *Ex-rebels join CA*. I am the ex-rebel referred to in that paper. *(Applause)* However the New Vision did not do proper research to find out a correct number of ex rebels who have joined this Assembly. We have ex-rebels of NRA, URF, UPA and perhaps other fighting groups such as the Holy Spirit movement of Alice Lakwena in this House. *(Laughter)* That is not important, but what is important are the views of the people of Serere that have sent me to this Assembly. Having said that, therefore, Mr. Chairman... *(Interruption)*

**MR. OWOR:** Point of clarification, Mr. Chairman. I would like the speaker currently on the Floor to clarify to me. He has eluded that there might be people of the Holy Spirit rebel movement, could he elucidate on that and possibly point out some of those people so that we know how the government could deal with them.

**THE CHAIRMAN:** The hon. Member did not talk of rebels of the Holy Spirit, he talked of ex-rebels of the various groups. *(Applause)* But it is up to him if he knows ex-rebels to name them. That is what I heard. Hon. Omeda, you can go on.

**MR. OMEDA:** Thank you, for your protection. When I talk of ex-rebels I am not talking of current rebels now fighting. Having said that, Mr. Chairman, therefore, allow me on behalf of the people of Serere county in Soroti District to convey our sincere greetings full of brotherly solidarity to you and all hon. delegates. May I also take this opportunity in joining the rest of the country, in particular my Colleagues, the honourable delegates in congratulating you together with your Deputy up on your successful election to that high office. It was not easy but you made it. Permit me also to express my sincere appreciation to NRM Government for giving the people of Uganda a truly unique opportunity to discuss and decide on the constitution that will guide the affairs of this country.

The people of Serere county have directed me that I should begin by giving you a brief sad historical information about their misery on cattle rustling by Karimojong which has brought the county to abject poverty. The purpose of this information is to acquaint you with the gravity of the matter so that this constituent Assembly may come out with a constitutional and legal solution that will bring cattle rustling into a complete halt and forever. I have also been instructed to bring to the attention of this Assembly matters concerning or involving violation of human rights specifically during insurgency in Teso and Northern Uganda. Thank God, that hon. Lt. Mayorabo in his submission gave a clear testimony of issues where some of the soldiers who committed atrocities were executed by firing squad. Mr. Chairman, cattle rustling by Karimojong has gone beyond their culture because while carrying out raids they rape women. Is that also in their culture?

I would like to begin on matters that are related to violation of human rights more specifically a right to

life and to own property. Mr. Chairman, in 1986 when NRM took over power from Okello the people of Serere gave NRM a rousing welcome similarly in the manner in which the people of Buganda welcomed the military regime of Idi Amin in 1971.

**MRS. M. ZZIWA NANTONGO:** Point of information. Thank you, Mr. Chairman. I wish to inform the hon. Member that it has been stated in this House that it is not only women that are raped but also men by the Karimojong cattle rustlers.

**MR. OMEDA:** Thank you for that information. Mr. Chairman, I was saying, we celebrated, danced and sang all sorts of praise songs for NRM, hopefully that the change was for the better. We demonstrated our loyalty and support to NRM Government by joining the RC system; to our disappointment the jubilant population of Serere saw NRM changed its attitude. The rule of terror took control of the situation. People were suspected of belonging to FOBA, an imaginary rebel organisation which had never existed in Serere and Teso as a whole. But it was used by government authority as a means to justify the atrocities which were intended for punishing the people of Serere. The arbitrary arrests, torture, brutal methods of tying a suspect such as 'three piece or brief case' Kandoya became the order of the day. The people were thrown into prisons without trial, some of those who survived this inhuman treatment are now with us in this CA. Mr. Chairman, the situation deteriorated further when the Karimojong warriors moved in a full force not only to rustle cattle but also to murder and rape our women. An answer was advanced by hon. Zziwa that even men and daughters took away whatever property they could carry and they destroyed whatever remained. There was now anarchy in the county. The Karimojong cattle rustlers were using much improved methods of cattle rustling that is modern weapons and dressing in complete military attire, similar to that of NRM. This modern technology which involved the use of helicopter which distributed ammunition to warriors facilitated the operation to move faster and as such the Karimojong were able to cover neighbouring districts and go further to Pallisa, and Apac district. We witnessed this but wondered where the Karimojong had got this Helicopter because after the raids the Aircraft would no longer be seen anywhere in Karamoja.

I would like to inform you and the hon. delegates of this Constituent Assembly that the people of Serere

and Teso as a whole opted on individual capacity to go to the bush for self-defence in order to defend their constitutional rights and natural right given by God - that is life. The civil strife in Teso as you might have not been well informed was sparked off by cattle rustling and violation of human rights by the local administrators in the county and Teso in general. As it was said by hon. Winifred Adio last week in her speech, it is true that we saw some of our cattle being transported in lorries towards Kampala direction and the destination remains mysterious. I wish to state categorically and let it be put on record that, rebellion in Teso was not politically motivated or initiated by Peter Otai, however, it is admittedly true there was a desperate attempt by Peter Otai to try to get logistics but he failed. While in the bush, the individuals met and decided to form an organization known as UPF/UPA 'Uganda People's Front' and 'Uganda people's Army'. The purposes of the formation of the front was to come as a group so that our voice could be heard by government, especially, in regard to violation of human rights. Mr. Chairman, in the spirit of forgiveness, reconciliation and with no revenge - even in Bible it is stated that love thy neighbour as you love yourself - we the people of Serere have in totality forgiven our brothers and sister in Karamoja for the genocide that they committed in Teso. There is even a conference going on in Makerere between Karimojong and her neighbours. We forgive but shall never forget the calamity which as a result has impoverished us. It remains in the history of the generation yet to come.

Insurgency. This is where gross violation of human rights were committed by both NRM soldiers and rebels. Mr. Chairman, the situation became more aggravated, when cattle rustling by brutal Karimojong coupled with military operation. The NRM troops used modern sophisticated weapons in an effort to combat rebels which should have been used in the defence of our territorial integrity in case of external aggression but not in a mere civil strife. That was contrary to the Geneva Conventions. The heavy artillery which included APCs, tanks, mortars, war planes such as war gun ships and a plane with an ugly shape popularly known in Teso as 'surambaya' meaning bad news. The artillery fire was directed to whom it may concern without caution, the Aircraft bombed indiscriminately. Reconnaissance was placed to patrol air space in search of rebel hideouts but indiscriminate bombing on innocent civilians continued. The civilians were put in concentration camps like those Nazi camps of Hitler

where many people died because of poor health conditions and lack of food. Many people were arrested because of being suspected of being rebels or collaborators and taken as lodgers to different prisons in the country. There was also careless utterances by some soldiers that the people of Teso did not suffer in the previous regimes so it was their turn. However, thank God that the Banyarwanda of Rwanda origin who were in the NRA escaped after doing their war practice in Teso. Mr. Chairman, the situation improved after the departure of noncitizen from NRA. The method of operation in search of rebels changed and they never harassed or molested civilians. The NRA improved further upon their operational techniques by bringing civilian population very close to them. This is now purely done by Ugandans who were in the army, who very much sympathized with the turmoil that Iteso as a tribe had faced. Mr. Chairman, I would like to inform you that the rebels in Teso surrendered as a result of adhered policy by the government of forgiveness, reconciliation, and no revenge. Both rebels and NRA reached a compromise that peace, unity, development, democracy and human rights be established in Uganda without further delay. *(Applause)* The relationship between NRA and the people of Serere has improved beyond expectation. In spite of the turmoil that has incapacitated the people of Serere economically, we are now in partnership with the NRM for peace and development. *(Applause)* However, Mr. Chairman, Serere now enjoys relative peace in terms of war having come out of that prolonged insurgency which took control of the situation for seven years (7). On behalf of the people of Serere, I must wholeheartedly thank all the citizens of Uganda for their prayers which helped the people of Serere to achieve peace. I would like also to register my sincere appreciation and thanks to the people of the following districts: Pallisa, Mbale, Tororo, Iganga, Kamuli, Mukono, Kampala, Apac and Lira for their continued humanitarian understanding, acceptance and tolerance that enabled them to look after the people of Serere who took refuge in their districts during the insurgency in Teso.

It is still fresh in the minds of the people of Serere that cattle rustling by ruthless and unruly primitive warriors of Karamoja and subsequent military operations which rocked, tore and vandalized the county leaving people in a hopelessly destitute state. In early years, Serere was known as one of the richest counties which attracted most of the people within Teso, Uganda and East Africa. It is generally fertile

and most suitable for the production of agricultural crops. Mr. Chairman, the devastating rebellion, cattle rustling and indiscriminate looting has brought the county into abject poverty. There is no guarantee that a similar situation or worse than that may not be repeated if the Karimojong are still allowed to possess guns. Mr. Chairman, it is a great pleasure that His Excellency, the President yesterday in Makerere University when opening a conference now going on between the Karimojong with her neighbours gave a bit of assurance that the government is doing something to arrest the situation. But it is the strong feeling of the people of Serere that this Assembly should come out with a constitutional solution not only to Karimojong but to anybody involved in cattle rustling and in possession of the illegal guns. The matter concerning cattle rustling by Karimojong has defeated many governments right from the colonial era and since we cannot hold a referendum on the matter whether the Karimojong should leave rustling or not, the only solution is to constitutionalise the matter. Cattle rustling by Karimojong has manufactured poverty, disease as our women and men are raped by the Karimojong, education has also dropped far below compared to past years because we have no source of income to earn money for our children to go to school. There is need for us all to promote the establishment of a realistic approach in Ugandan politics a way of political thinking and action that will correspond to new realities. For us to succeed to achieve this, we need to dig deeper into the spirit of forgiveness, no revenge, national reconciliation, a spirit of give and take, and the position of our country on matters related to peace, civil strife and wars have been clear ever since Independence.

The leaders of this country should pay much attention to the sincere efforts of our Independence. Our most important task now is to work in unity and to strengthen the renewed hope for the future and make that hope apply to all major problems facing our society. This hope is already acquiring concrete outlines because the citizens of this country for the first time have been given opportunity which they should not misuse. We should decide without fear or favour on the constitution that will guide the affairs of this country. In transforming this country, priority should be given to justice, social progress, economic efficiency, the development of democracy and total respect of human rights. Human dignity demands that an individual shall have a certain right on the one hand, he or she must have protection of law and order

so that he or she can go about his way unmolested. On the other hand he requires freedom and opportunity to plan his life with reasonable degree of certainty. To make a constitution acceptable, therefore, it must provide individuals guarantees against the disorder of anarchy and the oppression and caprice of tyranny. Generally people are fairly uniform in what they demand of the constitution, security, a higher standard of living and freedom.

Mr. Chairman, being together we can all benefit enormously from one another's perspective and experience. The stage where we are today is something special for it is a turning point at which a cardinal problem of Ugandans' survival is decided. It is important to help the citizens of this country to realize that they have the power within themselves to solve their own problems. That experience they have gone through and the process which they have learned are tools in solving any problems that may confront them. Uganda has been exposed to the whole world of the appalling human suffrage since independence and this is attributed to poor leadership.

Turning to the provisions in the Draft Constitution, the people of Serere have focused their attention on certain provisions which they consider delegates should approach with political honesty, sincerity, faithfulness, with the spirit of give and take and indeed we should have true love for our country, Uganda. Without this, we shall have at the end done injustice to the entire population of this country by producing a constitution which is not accepted by the people. Our names in alphabetical order will form history of this country and therefore, we must act with all sincerity as hon. delegates. But since it would be impossible to achieve complete agreement on all matters, the only solution is for the will of the majority to prevail. The following are the provisions which the people of Serere have focused their attention to: Political system, citizenship, land, defence and security, traditional leaders. Mr. Chairman, the people of Serere say that other provisions are also equally important but since these selected provisions are commonly being debated even in the villages, therefore, they are likely to undermine the unity of this country if not passed with majority's decision. Mr. Chairman, if what the philosopher say is true that, 'history is a good teacher', then we should not find a problem in making a constitution because the history of our country for the last 33 years has given us enough lesson. I hope and pray that the constitu-

tion that we shall produce will not be associated to NRM in future and called Museveni's or Kaguta's constitution.

The people of Serere have confidence in me and therefore, they have directed me that I should not act as a mere delegate instructed by my constituency as to how I should speak and vote in this House. Instead I am a representative who while giving their views still acts on a personal judgement based on argument and counter argument put forward in debates in this House. (*Applause*) I was further instructed to make an appeal to honourable delegates of this Assembly through you, Mr. Chairman, that we should avoid as much as possible confrontations by opening old wounds or reclaim our retrenched positions. There is no harm in resisting history if it is intended for a good purpose, they have also requested me to inform you that their views are not fully recorded in view of the fact that, at the time views were being collected, the county was under control of insurgency. It is therefore, important that I will be consulting in order to keep them well informed of what is happening in the CA.

Defence of the constitution. The people of Serere are in total agreement with this article because in the previous constitutions it was not well provided but it was defined in Penal Code under treason and offenses against the state. It is really very important for the citizens of this country to know their rights and duty in the defence of their constitution. Most of the citizens in this country have been kept ignorant of the constitution as a result when the constitution is overthrown by group of persons for their selfish interests, the people of Uganda jubilate and facilitate its overthrow to go faster by recognizing that government instead of staging strong opposition against such a group. If the people of this country were well informed of their constitution, military rulers of Amin's calibre and Tito would not have surfaced in the leadership of this country. You will recall that when Amin took over power in 1971, the people of Uganda instead of opposing Amin for having used unconstitutional means in changing the government, the people of Buganda celebrated, danced, sang all sorts of praise songs calling Amin "Empologoma" meaning lion. Being ignorant, Mr. Chairman, of the law of your country is dangerous, for you can support something which later turns against you. This is what exactly happened when Amin turned against the people of Buganda who received him, gave him a rousing welcome when he overthrew Obote in 1971.

**MR. MULONDO BESWERI:** Point of information. I want to inform the hon delegate that people did not jubilate in Buganda for the sake of Amin taking over power being the then President of Uganda. It was because people were being oppressed by that regime that regime that had fallen. Not many people knew about Amin at all. So, the jubilation was to recognize that they were happy because the regime that was oppressing them was over but not because Amin was taking power. Thank you very much.

**MR. OMEDA:** Mr. Chairman, I was still continuing. I was coming to that. Maybe, the people of Buganda thought that the change was in their favour, for Obote's government had robbed them of their "Ebyaffe" which they are claiming now. The position of the people of Serere in regard to the defence of the constitution is very clear. That in order to achieve sustainable peace, the people of Serere are very willing and prepared to respect and defend a constitution that this constituent Assembly will produce at the end.

Democracy. Our leaders, right from Independence, have no respect for democracy. Mr. Chairman, let me analyse these given situations right from 1962 and you will see how democracy has been undermined in this country. Our leaders have read and understood the story of the Arab and his camel. This has been practiced very well if I may explain. Obote took over power from our colonial masters in 1962 using a democratic process and he was supposed to hold elections after every five years. He is a leader who ruled this country by state of emergency because his government was 'disturbed'. He called party's delegates conferences to resolve on issues such as the introduction of a one party state. The party resolved that Uganda should have a one party state and a pronouncement was made at Lugogo called the Lugogo Pronouncement. Obote was shot at which was an indication that a one party state pronounced was not a welcome idea in Uganda. By introducing a one party state Obote was happy because opposition had been silenced and he went further directing Ugandan which direction to follow, move to the left strategy. A document was introduced called 'common man's charter' and in either chapter 22 or chapter 21, the King of Buganda was described as being an African by appearance but mentally foreign. In spite of all these hostilities against Obote's Government, he continued to rule by state of emergency. In 1971 another madman grabbed power and proclaimed, "I have today on

*26th January, 1971 over-thrown your dictatorial regime. The people of Uganda are tired of you because you have practiced nepotism, tribalism, corruption, and your government is sectarian.*" He gave 18 full points, he promised: "*mine is a caretaker government because I am a man of few words, and a professional soldier*". Amin continued beyond being a caretaker until he was forced out of the chair by the combined Tanzanian forces and exiles in 1979.

Another educated man in the names of Godfrey Binaisa QC came in he said "*Although it was agreed in Moshi that UNLF will serve as an interim government I have found this Chair sweet and therefore we should operate under UNLF umbrella*". Now NRM in power asked for an extension of five years that was given and NRM comes to say. The past constitutions were not pro-people and therefore, Uganda should make another new constitution. Mr. Chairman, NRM has taken a wise decision in giving ugandans the golden chance.

Mr. Chairman, time has cut me short and, therefore, let me jump to the conclusion. I wish to express my satisfaction for the responsibility and understanding of this present friendly atmosphere for the honourable delegates sharing common views of the most crucial issues. Mr. Chairman, the form the constitution takes depends upon the nature of the country governed. Its history, geographical proposition and social structures. But since the constitution exists to protect the rights of citizens, and to limit the powers of those entrusted with authority, its character is determined by what rights and powers are accepted by the community as being essential. The constitution should satisfy the needs of the citizens as to enlist their loyalty.

Thank you, Mr. Chairman and hon. Delegates. I wish you successful contribution. *(Applause)*

**THE CHAIRMAN:** Thank you hon. Omeda for your contribution. I now give the Floor to hon. Lule Wasswa.

**MR. LULE WASSWA (Rubaga North):** Thank you very much, Mr. Chairman.

In our pursuit of a new Ugandan order, let us not divide ourselves in our deliberations, or in their outcome, across superficial frontiers with cross border incursions give the semblance of a country of warring factions, and accept that we have both good

and bad men on either side of the divides. Our collective however diverse, renders Uganda the colourful rainbow that it is, and we are destined to live side by side in harmony, or the converse, as we see fit.

Only then shall we draft a national charter that incorporates the divergence of opinion in a universally acceptable format that we can take back to our people as an acceptable reposition that does not exclude the heartfelt aspirations and expectations of any sector of our society, and in particular the minorities.

We have the gender flag bearers, the Movement proponents, those who carry the banner of pluralism, alongside the 40 odd nationalities to mention a few in the innumerable matrix of interests, all united under the national symbol.

Despite the hotchpot of divergent views, there has not been a single call for fragmentation, in or outside this chamber, bar the not so unexpected scare campaigns which are the hallmark of political jockeying in the never ending quest towards isolating opposites.

**The Constitution:** A Constitution enumerates the frame work within which the rulers will lead the governed, and then proceeds to enumerate the safeguards that protect the electorate from the potential excesses of the Executive arm of government.

**The Bill of Rights** enumerates some of the safeguards against the excess of the Executive.

Human rights and democracy are fundamental aspects of good governance. For an environment that engenders good governance specific institutional perspectives are required that include transparency, Checks and balances - which are the Supremacy of Parliament, the independence of the judiciary, the subservience of military authority to civil authority, social justice, universal participation, an environment that encourages the expression and dissemination of opinion, and government that cares for the welfare of its people, along with the observance of fundamental human rights.

**Chapter 3:** Chapter 3 which purports to relate to objectives and policy is out of place in the constitution as policy is dynamic and some of the arts like the

right to development clean and safe water, food security and nation are subjective and superfluous and are more likely to serve to attract fire as judicial reference points in a mountain of litigation.

Art 30 which advocates for the state to facilitate the provision of decent and affordable housing for all citizens sounds like it was plucked from the communist manifesto, and could conceivably be utilised to justify the taking of possession of public real estate in a first and final step to achieving this goal, perpetuating the allocation syndrome that gained prominence during the exercise of sovereign authority by the dolt Idi Amin.

A modified Chapter 3 is best transformed to a preamble of intent than to be placed in the body of the constitution.

**Armed Forces:** Military training stipulated in Art 47(2) does not augur well for the parents of the sons and daughters to be affected by this provision who are concerned about having to fight on the front line with the likes of Joseph Kony on radio instructions from a safe haven some distance away by those who chose national defence as a career. National Service is equally frowned upon.

Appointments in the higher echelons of the security forces should be vetted by a parliamentary committee with a specific mandate to **ensure ethnic balancing in the command structures where it counts.**

**Power Separation:** One of the most fundamental guarantees of human rights, and an effective check against the potential excesses of the Executive arm of government, is power separation that ensures that the different pillars of government act as a check against themselves.

When legal pundits talk about power separation they normally refer to the supremacy of parliament and the independence of the judiciary from the Executive arm of government along with the authority to enforce their decisions.

The proposed Presidentially dominated upper house, the National Council of State (NCS), along with the powers arising from the situation Of emergency ensure that power separation is a substantive figment of imagination when it really counts.

That a Head of State can sit as chairman cum adjudicator, and possible accused, is in conflict of

interest Disagreements between the Executive and Parliament being referred to referendums ensures that parliament is not supreme and reduces it to the semblance of paper tiger, rubber stamping Executive legislation as an exorbitant overhead.

The emergence of referendums on the Ugandan political scene is an equally unfortunate scenario that overlooks not only the cost to the nation, but the efficacy of the exercise.

The independence of the judiciary is conveniently dealt a death blow in the qualification in Art 53(7) which suspends habeas corpus, or the right to be produced and accused before a legally constituted tribunal, during unilateral States of Emergency declared by the Presidency in circumstances when the safe guards in the Bill of Rights are specifically lifted (Art 129(8) & 70(1)), which together with the NCS provisions effectively underpins a Constitutional dictatorship.

Art 75 which purports to give the individual redress against abuses in a competent court, including compensation, when the Bill of Rights is specifically and constitutionally lifted is a slight of hand trick that ensures an unquestionable position for the Executive in this de facto constitutional totalitarian scenario. The ubiquitous powers of Executive appointments strewn across the draft charter, dwindle to lilliputian proportions when one considers the full impact of the erosion of power separation.

The Bill of Rights: The requirement for individual rights emanates from the experience of diminutions in these rights and reflections upon the very nature of man in an unabated governance orgy, without restraint of law, social and cultural responsibility, and the coercive attributes of governance that have demonstrated themselves incessantly on the Ugandan scene.

It is with this unpalatable background of the way governance has been adopted and applied in Uganda that specific safeguards are required to ensure the civil liberties of the individual.

The draft constitution, to the contrary, consolidates many of the historical shortcomings in governance in Uganda in a bid to give them constitutional legitimacy. Detention without trial (Art 7 1), unilateral Presidential declarations of States of Emergency (Art 129), the transfer of the burden of proof to accused (Art 58(4 a)), the deferral of production of

the accused in a court of law for 3 days (Art 53(2)), the lifting of habeas corpus for detainees in the contradiction of the right to a fair hearing (Art 53(7)), along with the formalisation of the principle attributes of 'disappearance' which creates circumstances for accommodating the dreaded 'Pandagaali', are all firmly enshrined in the draft constitution.

The most fundamental right is the right to life, followed by liberty rights. Other rights being secondary to the inviolability of these rights. Free conscience and expression are what give substance to life and liberty, and the freedom to associate and organise is what ensures that the multiplicity of divergent views are catered for, and the denial of the same ensures the ubiquity of a single thought process, diluting the enjoyment of free conscience and expression where it is of greatest significance, and the substance of being a part of a greater collective.

Art 52 (1) stipulates that "No law shall be made by Parliament depriving any person of the right to life except in very grave circumstances acceptable in a just and democratic society" a vague and meaningless phrase which in every sense negates the article.

Of greater concern however, is the material transgression of Liberty Rights. Immediate access by relatives to arrested persons or detainees, along with immediate registration, is one of the greatest safeguards against disappearance as a form of governance, because it ensures a degree of institutional accountability. In addition, the most harrowing aspect of 'disappearance', is that period of uncertainty when friends and relatives are uncertain about the fate and condition of loved ones. A concern that can only be alleviated by physical sight of the detainee.

The most abhorrent Article is Art 71 (b) which stipulates that the spouse or next of kin of persons restricted or detained without trial during unilateral States of Emergency, shall be informed of their detention or restriction within an astronomical 72 hours of the commencement of the detention. If that is not bad enough, the Art proceeds to rub salt in a gangrenous wound by asserting that the same relatives shall be permitted access to the person at the earliest practicable opportunity, presumably after the wounds of torture have healed, in effect upholding 'disappearance,' which characterises the regime of the ignoramus Idi Amin, as an acceptable practise

of government. The irreconcilable dichotomy between the constitutional provisions and the historical experience raises a valid question as to how these provisions found themselves in the draft constitution as representing the aspirations of the people of Uganda, adding yet another stat@c to the growing number of irreconcilable dichotomies between the draft constitution and the report that bring the authenticity of the draft into question. Art 58 deals with Due Process which normally guarantees procedural fairness to an accused with such provisions as a fair and speedy trial before an independent and impartial tribunal, the presumption of innocence, the right to be informed timely of the nature of any offence allegedly committed, the right to a defence and legal representation etc. In Art 58 (4) Due process is infringed with the statutory shifting of the burden of proof.

Art 58(4) stipulates that *'Nothing done under the authority of any law shall be held to be inconsistent with; (a) paragraph (a) of clause (3) [the presumption of innocence of this article to the extent that the law in question imposes upon any person charged with a criminal offence the burden of proving particular facts;'*

And (b) paragraph (g) of this Art clause (3) [the onus of the state to provide facilities to examine witnesses] to the extent that the law imposes conditions that must be satisfied if witnesses called to testify on behalf of the accused are to be paid their expenses out of public funds. \* In the worst scenario the state could accuse and detain one, and transfer them to the remotest location from their place of abode (e.g from Kotido to Kinkizi) and conveniently fail to meet the expenses of witnesses, which leaves the accused who is presumed guilty, particularly the needy, in an untenable position.

Members of the disciplined (armed) forces may be subjected to Double Jeopardy under Art 58(10). The men in green are also human beings and should not be subjected to jumping endless legal hurdles, except on appeal.

Uganda is a unique country in that having suffered 30 years of abuse, the principle governance shortcomings of that period are enshrined in the draft constitution, more so in the Bill of Rights, whilst purporting the same to be the pretension of the people.

The preponderance of slight of hand tricks in the draft charter of the nature where the charter in one article purports to guarantee a basic right but the following article demeans it beyond recognition is an outstanding feature. In essence the right is not guaranteed, and the articles that purport to guarantee the right are all but obsequious court to the people.

Culture: Art 35 stipulates that it is the duty of the state and citizens to protect conserve... sites and monuments.. including cultural sites. This Art is viewed suspiciously as an attempt to nationalise cultural sites in extending the omnipresence of government into the cultural sphere which is the preserve of the people of any culture. The Art does not address the issue of descending authority, or protocol. Who is supreme over the other, the state, the citizens at large who constitute the state, or the people who relate to that culture, along with the question as to who is best disposed to maintain these sites in their cultural format without transgressing on peoples cultural affairs.

Would Bulange not revert to the central government; and do the Kasubi Tombs, which are still occupied in management by the state remain in the custody of the state, particularly in relation to financial exploitation, I am often asked as both are within my constituency.

An impoverished nation which since the introduction of English has only managed to teach the official language to a small proportion of the population cannot afford the luxury of the introduction of a National language to be taught to the population of Uganda with all the attendant costs.

The proposal for a national language **also** runs against the grain of cultural revival and unity in diversity.

Monarchy: It was an English monarch who, after being routed in battle, cried, 'a horse, a horse, my kingdom for a horse', to enable him to salvage life, without which his kingdom was not of substance. The people recognise the facets Of a monarchy. A Kingdom or state (Buganda); a monarch (*the Kabaka*); his lieutenants (*Bakungu*), headed by their leader (*Katikiro*); and the advisers (*Lukiiko*); and a 2 pronged administrative and cultural hierarchy in five tiers to the grass roots. In that order, and necessarily in that order. That is the framework of the institution of the Kabaka.

The people of Buganda did not contract with the NRM in the bush for the restoration of a traditional leader, a cultural leader, an Aga Khan, a paramount chief, a traditional chief, or a village chief, and the 1993 Constitutional Amendment Statute is considered to have been merely a dress rehearsal for greater things to come, and the outcome of the amendment was a prelaunch prototype that the electorate have elected to be readdressed. It was faulty in the order of events, and the aspects that were overlooked.

We have never sought for a constitutional cultural head whose existence does not require constitutional recognition.

**Decentralisation:** Decentralisation as proposed only partly addresses the question of distributed economic and political power, and leaves the nation increasingly balkanised as economically side-lined ethnic units strive for distinct recognition to give them visible status in the minimal distribution of economic development.

The inevitable pressure to splinter further insures that real power remains in the centre as the sole administrative entity with the economies of scale to effect meaningful large scale development, and remains the preserve of central bureaucrats who are divorced from the day to day realities in the cacophony of emerging units.

4th schedule powers can only be delegated from the centre and, like financial facilities, can be allocated selectively, or recalled at will, rendering local government units to appear like puppets on a string.

The concentration of economic power in the centre also focuses political activity on the centre as competing groups battle their way to power to ensure that some milk and honey flows to their benefit.

The other major weakness in decentralisation as proposed, apart from diseconomies of scale to accommodate local large scale development, is that it is top down as opposed to bottom up. The powers are also inadequate and not adequately entrenched to render them meaningful and sustained.

The extent of decentralisation of power and the degree of entrenchment is the major variance between a Unitary form of government on the one

extreme, a Confederation or loose alliance of more or less autonomous states on the other extreme, and a Federation somewhere in the middle which guarantees a greater degree of self government in home affairs, whilst continuing to combine for national and general purposes.

The creation of larger units, or regions, ensures that the decentralised units have the capacity to handle the management of distributed large scale planning and development, resulting in the substantive diversification of economic and political power away from the centre, with regional administrative centres generating sustained economic activity.

The resultant economic boost is a first step to addressing the issue of infrastructural imbalances, and the void of regional centres of substantial economic activity only perpetuates the same.

**Symbolically speaking, in a unitary system the milk and honey remains in the centre, and in the ethnic rainbow that Uganda is, is distributed according to the bias of the leadership of the day. In the musical chairs of Uganda's politics, it is not inconceivable that there will be, if they do not already exist, districts which thrive on crumbs for decades as they wait, not so unexpectedly impatiently in line.**

With bottom up regional units, the milk and honey remains in the units as symbolically as liquids do not flow naturally upwards; and the crumbs are passed upstairs. This is also one effective way of dissipating power from the centre, with a view to a greater influence in ones affairs that arises from proximity, sustained development, increased employment opportunities, whilst at the same time fostering political stability as the political focus is shifted largely to the units.

The long term effects of selective stop-go economic injections which have rendered real national development a figment of imagination, are also dealt a death blow. As governments come and go, small sectors of the economy have been given an artificial boost by a multitude of minuscule remittances from the centre by those in Power to relatives at home, to the envy of other areas. A consequentially slightly altered real estate skyline is the myth of development which crumbles as that economic life line is abruptly and unceremoniously severed. The absence of sustained economic activity underpins the inevitable Plummeting of property values, and erodes the

continued ability to maintain them as they are utilised more and more inefficiently. A vicious cycle that calls for a conclusion.

Additional powers which should be devolved and entrenched include law and order which has been partly delegated to Resistance Council's (RC's) taxation, land mines and minerals which go together and planning.

Land provisions embracing selective allocation at public expense contradict the right to own property, and in a country whose national budget is deficit financed, raise the question as to who the prospective beneficiaries really are. There are numerous examples of land and real estate appropriation by the state for no consideration, contrastingly referred to as public theft or the equitable redistribution of resources depending on ones position, including that of one of my constituents who, in an allegory of cannibalistic predators, happens to be the widow of the first Chairman of the Movement. Decentralised land management divorced from the interest of a few in the central authority appears to be an adequate check against public theft, along with the repeal of the 1975 Decree.

**Political System:** In the foray to establish which era exhibited the greater disregard for human values in electoral jockeying, I shall not add my personal experiences to muddy the waters further. Neither shall I delve into my data bank of human rights perversions, because it is not the balance of guilt that will cleanse one era and exonerate the other as if to weigh the performance of the protagonist eras on a butchers scale. What is of greater significance is the choice of analogy of a scale in an abattoir as a reflection on how the principle shortfalls in governance have manifested themselves over the last 30 years to the detriment of the Ugandan populace as successive leaders arrogate to themselves the powers of the people in a variety of formats as they project themselves to be the only seers and sages on the political stage.

The void of a strong and viable opposition however, destroys one of the basic checks against the potential excesses of the executive.

Rights stipulated under Art 59 include free speech and expression, thought conscience and religion, assembly, association, the freedom of movement. **With amazing consistency the rights are negated by**

a singular clause in Art 59(3) which stipulates that *"The enjoyment of these rights under this article shall be subject to any laws made by parliament in the public interest to the extent acceptable in a free and democratic society."*, a phrase which in effect renders the articles empty platitudes, with no parameters as to what a free and democratic society is in a world where arch autocrats often believe and proclaim themselves to be democrats. It is perhaps because of this blurred qualification that Arts 94 to 96 and 98 which go against the grain of the spirit of these inherent rights, as stipulated in Art 12 found themselves in the body of the draft.

The electorate noted that electoral jockeying malpractices of an extreme nature exist in both the Movement and Party managed elections, and that legislation is required to contain the fall out.

It was also noted that the Movement is a party like the UPM of yesteryear. In this respect they recommend civic education for both the electorate and prospective leaders about the virtues of civil campaigns.

In the most conservative areas of my constituency there is a fairly even split between the Movement and party politics. In the most densely populated areas of the constituency, there is an abundance or support for plural politics. However, on reflection that parties have been placed on the back burner for the last 8 or so years, it is recommended that the forthcoming government be formed as a transitional government of national unity with a specific mandate of paving the way to a general election in a plural environment that does not tie the hands of selected political interests as others consolidate their position. The time parameter for the new government to complete this programme was set at 2 years.

The Movement System as stipulated in Art 94(1) has no statutory reference point, a material oversight by the constitutional draughtsmen, and that is why it is difficult to bud a credible argument for or against it. In effect requesting this Assembly to rubber stamp, or delegate, the definition of possible constitutional pillars to an unknown set of individuals without evaluating the impact, in similar fashion to finance managers who sign blank cheques, and at the same time expecting delegates and nominees to retain the respect of their electorate. The monopolistic Position is also at variance with the report which was undoubtedly not authored by the same set Of individuals.

Presidency: Whilst the wording of the draft constitution appears to place the presidency within the ambit of the law, appearing to give parliament the capacity to impeach him for prosecution in the event of material transgressions against the law, close scrutiny reveals the converse.

Art 101(5) asserts that civil or criminal proceedings may be brought against the Presidency for acts of commission or omission in his personal capacity - rendering the presidency above the law, as ought he does in his personal capacity.

Impeachment of the president is tagged to the establishment of a prima facie case by a judicial tribunal (Art 110(6)), a practical impossibility in relation to one who is above the law.

Whilst the image and confidence of the presidency may be considerably dented by this process, the forceable outcome is the possible transformation of the presidency into the mould of wounded lion and, with all the powers bestowed upon this office during a unilateral state of emergency, has the constitutional potential to deal with challengers like a bull in a china shop.

Conclusion: The electorate in Lubaga North prioritised their interests in the following order. (*Interruption*).

**MRS. SEBAGEREKA:** Clarification. I have listened with interest to the submissions of the hon. Member holding the Floor. I guess towards the end of his submission I would like him to clarify whether those are his personal views or the views of his constituency. I thank you.

**MR. WASSWA LULE:** If you want to read the submissions of my constituency, the ones that are in writing, you can read them but I represent Lubaga North and I think I made this quite clear. I am a Delegate for Lubaga North. If there is any particular area which you doubt might not represent the people of Lubaga North please point it out because then I can address that particularly and then go on to further details.

**THE CHAIRMAN:** Well, I think you were about to summarise your presentation. You better proceed.

**MR. WASSWA LULE:** Well, I wanted to give the lady every opportunity because if there is anything I think it is better that it is discussed.

**THE CHAIRMAN:** If she has not presented one in one minute then it is possible she had not prepared herself. So you better proceed.

**MR. WASSWA LULE :** Thank you, Mr. Chairman. In conclusion the electorate in Lubaga North prioritise their interest in the following order: Secure human rights, protect land from encroachment by unspecified individuals and the Monarchy. Failure to secure any one of these issues I am duty bound to consult my electorate. Thank you very much, Mr. Chairman and Thank you very much honourable delegates for listening to me.

**THE CHAIRMAN:** Thank you hon. Wasswa Lule for your contribution to our debate this afternoon. During his presentation the hon. Wasswa Lule did refer to the widow of the first Chairman of the National Resistance Movement. I think some Members who know her will notice that she has been with us for the last two days and I would like to thank her for taking interest in our deliberations. You are welcome Mrs. Lule. I now give the Floor to hon. Robinson Katumba of Kiboga county.

**MR. ROBINSON KATUMBA (Kiboga county):** Thank you, Mr. Chairman. I represent Kiboga county West which borders with Hoima in the west, Kibaale in south west and Mubende in the south. It also borders with Masindi in the north and Luwero in the north East. First of all, Mr. Chairman, I would like to extend my sincere thanks from the bottom of my heart to you and to your Deputy for having so far managed to chair ably the sitting of this august Assembly. Secondly, I would like to thank the honourable Delegates for having so far exhibited a high degree of maturity and tolerance more especially when such sentimental or emotional issues are being discussed. Hopefully, if this culture of tolerance is maintained throughout the exercise then, it is likely that we will finish the same as scheduled.

Mr. Chairman, before I give a brief historical perspective of the politics of Uganda, I would like, through you and your Deputy, to thank the NRM Government, the NRA and NRC for having reinstated the peoples institutions - the monarchies - which had been abolished against some peoples will. The NRM has done exactly what the colonialist did. They did accept to rule Uganda through the local leaders in whom people had confidence. Whatever the colonialists wanted done, they had to go through the local leaders for their word was highly respected

and readily implemented. Through their respective governments, more especially in Buganda, the traditional rulers mobilised their subjects to grow cash as well as food crops from which the peasants realised money which they used to educate their children. For the honourable Delegates who would like to bear me witness please consult Odoki Report, Article 19.61 on page 537. Similarly, the whites got the raw materials which they had wanted for their factories. The traditional rulers did not only mobilize their people to grow crops but they also made sure that people maintained law and order which are a prerequisite for economic development. Mr. Chairman, at that time each one of the regions or districts enjoyed a high degree of peace and stability under one strong protectorate government. For simple reference, honourable Delegates should read Article 19.4 on page 525 of the Odoki Report. Mr. Chairman, surely there was rudimentary economic development that had been achieved in certain areas of Uganda. The measure worked smoothly all over Uganda and I sincerely hope that if small states or districts can achieve unity within themselves, then it will be much easier to build a strong Uganda, to build a strong united political unit under one President. Mr. Chairman, when one reads the Constitutional Commission Report Article 2.40 on page 51 the Commissioners refer to Buganda as a strategic region. That is to say, if one considered this phrase in the context of peace and stability, one might jump to a conclusion that when there is peace and stability in Buganda, the government can have a breathing space.

**MR. GEORGE ZZIWA:** Point of order. Is the hon. Member on the Floor in order to say that when we have stability in Buganda the whole of Uganda is stable despite numerous submissions that we have had instability in the north and we cannot regard ourself as stable or at peace. Would you please rule on that one, Mr. Chairman?

**THE CHAIRMAN:** Yes, I can rule. On that, the hon. Member is entitled to draw his inferences from the statement that are contained in the report.

**MR. KATUMBA:** Thank you very much for your wise ruling. Mr. Chairman, I want to allay fears of the people who think that if political powers are passed down to regions or districts the measure will jeopardize the economic integration of Uganda. That is out. By economic principle of comparative advantage, Mr. Chairman, Mbarara produces more

milk cheaply than any other district in Uganda but Mbarara sells the milk in Kampala which is not part of Mbarara. *(Interjection)* Yes, what I am trying to say is that when powers are passed on *(Interjection)*

**THE CHAIRMAN:** Hon. Member, do not allow yourself to be heckled. You just ignore those interjections and continue with your submission.

**MR. KATUMBA:** Mr. Chairman, Sir, I want to dispel the impression that the federal arrangement that was provided for Buganda in the 1962 Constitution was the one which precipitated the 1966 political crisis. That is wrong, Mr. Chairman. Now if one wants to find out let him read Article 62 in the Odoki Report and he will find out the reason why Mengo was attacked. Mr. Chairman, Sir, in 1966 I read a newspaper called *the People* and it said that the only solution at Mengo was fire.

In connection with land, Mr. Chairman, I would like to inform the honourable Delegates that in areas where land is legally owned, the owners have tried their level best to develop it since some of them have been mortgaging their title deeds in a bid to develop it. As for the Baganda peasants who are said to have lost their land to the Baganda chiefs, those who are serious developers have bought land and others have managed to leave part of the land that belonged to the crown and later reverted it to the Uganda Land Commission. At this juncture I want also inform the hon. Delegates that not only Baganda peasants who leased their land, but also other tribes of Uganda, more especially, Banyankole, Bagisu, and Basoga have leased part of the then crown land. So, Mr. Chairman, land in Buganda is treated like a valuable commodity. Therefore, those who are in need of it should buy it at any cost. People of Kiboga county west would like to appeal to other people where land is communally held to adopt a land tenure system which is legally known and which can assist them to acquire loans from financial institutions. Mr. Chairman, it sounds nice and appropriate that every citizen of Uganda should be assisted to get land on which one can raise crops both for cash and food but my worry, Mr. Chairman, if each citizen gets land this might result into land fragmentation that is with plots which are agriculturally uneconomic. Supposing, Mr. Chairman, the population grew to thirty million people where will the government get extra land for these people. The solution, Mr. Chairman, is to go industrialization so as to cater for the exodus from rural areas. In case the landlords resort to mechanised agriculture these people will have to go and work in industries.

On political parties. When the former President of America, Ronald Reagan was shot at, the whole world criticised the liberal internal policy of America which allows every citizen of sound mind to purchase a gun. Mr. Chairman, With your permission, I would like to quote what he said. He said that *'The gun does not kill, it is the person who kills'*. Similarly, Mr. Chairman, we agree in principle that political parties are not bad since they are one of the ways through which people of different ethnic groups can enjoy their right of association and the right of conscience. However, it is the people who make them dirty. People form and join political parties with preconceived motives more especially to acquire state power and it is a well established fact that power corrupts. Secondly, another reason is that some people tend to think of political parties to be a source of wealth. If a person of a rival party tries to advise the party in power as to how best the finances of the state should be handled, he commits a treasonable offence. So it has been researched beyond reasonable doubt that all developing countries, Uganda inclusive, are characterised by bad governance which is the function of poverty. Not until our people are liberated from the vicious circle of poverty that Ugandans will realise a clean game of politics. So, Mr. Chairman, the people of Kiboga have sent me to say that the political parties should hold on for some time and the Movement should continue for five years. That is what the Kiboga people are saying.

As for the Army, the people of Kiboga county west are grateful to the NRM government for having made some efforts to recruit Ugandans into the Armed forces. The first recruiting team did cover each and every district headquarters, though in certain districts of Buganda region the recruiting teams were negatively received and as to why I do not know. Successive regimes, Mr. Chairman, have been accused of having clung to power for so long and the accusers attribute it to the leaders having personal armies which entrenched them at the expense of the majority. So, the people of Kiboga county West do suggest that in the interest of peace and stability they request the hon. Delegates to buy their proposal of setting up an Armed forces Board which, among other things, should be charged with recruitment, promotions and discipline of the Armed Forces. The composition of the Armed Forces Board should be such that each district council should appoint a soldier at the rank of a captain to form that Board. It should be the responsibility of

each member of the Board to see to it that his or her district recruits the quota to be part of the Armed Forces. Secondly, it will be the duty of each member of the Board to ensure that no district does recruit more than its quota, hopefully, Uganda can realise a national army.

In relation to the National Language, Mr. Chairman, the honourable delegates who have so far delivered their speeches about the general debate have expressed a high degree of unfairness or hypocrisy. In the first instance there is no ethnic group or nationality in Uganda whose national language is Swahili. Swahili is as foreign as English is in Uganda. It is said, Mr. Chairman, that one cannot claim perfection over reality but as far as I know there are national or indigenous languages from which a national Language can be adopted. Mr. Chairman, I did not know that in Bugisu or in the Western Region prayers are conducted in Luganda and I just knew it when I read *the New Vision*. Luganda is in the first place an indigenous language which is rich in vocabulary as well as literature. There are a number of forces which are at play against the adoption of one of these local languages and one of them is hatred. If my head can still serve properly it was during Amin's regime that Swahili was proposed to be a National Language but it did not take off.

Mr. Chairman, in connection with the National Council of State, I will not hold a contrary opinion from what is in the Draft Constitution more especially as it is intended to defuse conflicts that are likely to spark off between the President and the Legislature. My skepticism is that, Mr. Chairman, in most cases it is the President who contravenes the constitutional provisions. How on earth can this august House make that mistake of accepting a culprit to be the judge of himself? Fellow Delegates we should not be oblivious.

In respect to Article 207 of the Draft Constitution people of Kiboga county west do strongly propose that the District Chief Executive should be democratically elected through universal adult suffrage and this would ensure that the District Chief Executive has a mandate supported by popular vote of the people and surely this is when a leader can be accountable to the people of the district. Secondly, it is one of the ways through which corruption can be checked.

Mr. Chairman, as regards to Article 205 sub section 4, the people of Kiboga county west say that the life of the District Councils of three years is too short a period for the councilors at any political level to plan and then implement their programmes. So they propose that the period should be as that of the Parliamentarians in which they can carry out self evaluation. Thank you, Mr. Chairman.

**THE CHAIRMAN:** Thank you hon. Katumba for contributing and concluding our general debate today. We have come to the end of our deliberations this morning and hon. Katumba was right to the point of time that we have allocated ourselves. I therefore adjourn the Constituent Assembly to 8.30 tomorrow morning. Thank you very much.

*The Assembly rose at 1.30 p.m. and adjourned until Thursday, the 21st of July 1994 at 8.30 a.m.*