



THE REPUBLIC OF UGANDA

PROCEEDINGS
OF
THE CONSTITUENT ASSEMBLY

OFFICIAL REPORT

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THURSDAY, 22ND SEPTEMBER 1994

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Thursday, 22nd September, 1994

The Assembly met at 8.30 a.m. in the International conference Centre, Kampala

PRAYERS

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

(The Assembly was called to order)

COMMUNICATION FROM THE CHAIR

THE CHAIRMAN: Hon. Delegates, as you may have heard from the Deputy Chairman yesterday, Mwalimu Julius Nyerere will be joining us in a few minutes, and in accordance with the resolution of yesterday, we shall be addressed by Mwalimu Julius Nyerere. At the close of his address, Mwalimu Julius Nyerere will then retire to the Chairman's visitors area to listen to our debates before he proceeds with other aspects of his programme.

I am grateful that the Assembly did agree to invite Mwalimu Julius Nyerere as one of Africa's leading sons to come and talk to us; given that, he has the experience of having been in power, left power and remained at home, as we are trying to write a constitution for Uganda which we hope, will also provide for such eventualities to take place from now on. So, that is the position.

Another thing is that, there has been some change in the programme which was originally distributed. The Clerk did not indicate, about the fact I think that, article 7(2) was not pronounced to stand part of the Draft Constitution, so we shall start there, and then we go on to other matters. So, a revised programme was distributed, and it takes care of that eventuality. I would like to suggest that, since we expect Mwalimu Julius Nyerere at 10.00 a.m., that we do not start on this business, until we have finished with the address from him. I will be asking hon. Katenta Apuuli to move a vote of thanks to Mwalimu, and then Mwalimu will retire and then we will proceed. I did not think that it would be good if we started now, and then got disrupted later. That is as much as I can say from the Chair. But on the item relating to reports from committees, I can still say something about them.

The meeting of the Business Committee, will be called for tomorrow afternoon, to rationalise Mem-

bership of the five Committees, that have been formed by the Assembly as a result of last week's decision. The committees, have attracted different interests; there is one which has attracted more than 90 members, another one about 80 members, and there is one which has I think about 20 or 30 Members. Some Members have indicated preferences; others have not. So, we will have to sit in Business Committee and see how we rationalise to our agreed figure of 60 as a maximum for each of the Committees. So, the Business Committee will meet tomorrow afternoon, and I think that if it has not already gone out, it will be going out. *(Interruption)* It has already gone out I understand, and the distribution of members as per preference, will also I think be sent out as documents to be used by the Business Committee tomorrow. If there are any reports from committees, maybe we could hear from them now.

PROF. NABUDERE: (Budadiri West): Mr. Chairman, you had indicated that, you would let us know the expanded Legal and Drafting Committee Membership.

THE CHAIRMAN: Have you been to your pigeon hole, hon. Nabudere?

PROF. NABUDERE: I have been there, but I have not looked at the papers. Thank you, Mr. Chairman, for drawing my attention to that

THE CHAIRMAN: Okay. Order! order! I will suspend the Assembly for a little time, while we await the arrival of Mwalimu; but I would not urge Members to leave the chamber. It would appear it is the wish of the Members that I announce the additional Members of the Legal and Drafting Committee - *(Applause)* - the new Members if I may recollect from memory are: hon. Egungyu Fiona, hon. Dan Nabudere, hon. Owiny Dollo, hon. Agard Didi, hon. Tumukunde and hon. Ssekandi. I think that is all, and if I do recollect from memory, I did not have the notice with me.

I would like to make another announcement. We are honoured to have in our midst today, two visitors, one from Niger and one from Ethiopia. They are ministers in charge of Women Affairs in their countries; they have been attending a women's conference, and they are right up there *(Applause)*. They are Madam Sanbo Mariam from Niger and Mrs. Tadele Highley Micheal from Ethiopia, you are welcome to our proceedings *(Applause)*. Thank you.

Hon. Delegates, you will recollect that, yesterday when you received the news that, Mwalimu Julius Nyerere will be joining us, during our deliberation this morning, you did express the wish that, Mwalimu Julius Nyerere should not only come and join us, but should say a word to the Constituent Assembly. I passed this request and I am glad to report that, Mwalimu Julius Nyerere accepted to come and talk to us, hence his presence here as you can see. (*Applause*). I told Mwalimu that, we had ambushed him, because I do not think he expected this request. But given that, this will not be his first address to a body of this magnitude, it does not take him too much time to prepare himself for a situation like ours. And I am sure he has already thought of what to say to us. I do not know it; I also like to know what it is, when the time comes. But before I give the Floor to Mwalimu, let me say that, to Uganda, Mwalimu you are affectionately respected, you not only did a lot for Africa, and Tanzania, but for Uganda we have our special memories; some of us took sanctuary and cover in your country for many years. If I was to tell them to stand here, I think they would be a forest. But I do not think we should go through all that. But during that time, there were sacrifices made, by the Tanzanian people, and in that sacrifice, there developed what now has culminated into this. That the freedom of this country, is now being consolidated by the people of Uganda through the dialogue and contact that is taking place in this chamber. What in fact has happened, Mwalimu, is this that, we have fought many battles in Uganda, we have talked to each other, with each other: not in a very friendly way, in many cases; but through the process put into place by the National Resistance Movement, we now have all that transferred to the confines of this hall. All our battles have become verbal, and that, I think, is the better thing than physical, and we expect to come out of here, with an arrangement which will give Uganda, not only a stable future as we expect, but also a close understanding of the various peoples of this country. So, we are honoured that, you as one of the leading sons of Africa, have come to Uganda to visit it, but also found time to come and join us. Today, we are considering some aspects that, may be if you finish, you will have time to sit, and listen to the way we conduct our affairs. With that, let me hon. Delegates, give the Floor to Mwalimu Julius Nyerere to say a word or two to you, and then we shall proceed from there, as I had indicated to you earlier; and I think Mwalimu has agreed to stay behind a while, to be able to see how we transact our business. Other-

wise you are welcome to join us. Thank you very much. (*Applause*)

ADDRESS OF DR JULIUS NYERERE TO THE CONSTITUENT ASSEMBLY

DR. NYERERE: Mr. Chairman and Hon. Delegates, my first duty is to thank you very much for giving me this opportunity to visit you. The original message I got when I arrived on Monday was that you had given me the privilege of coming and sitting in, to listen to the debate of what your national responsibilities have given to you here, and then yesterday, suddenly as your Chairman has said, I received a message which was very different that when I come, I should not simply listen but pay for the listening by talking to you. So, I thank you very much again for giving me that opportunity.

In spite of what the Chairman is saying, it is not easy to be told so suddenly that I am going to talk to you and then just come and that I know what to say. I have many things to say to African groups like yours, the question is what to say, when and where. So, I thought your duties being what they are, you are thinking of a Constitution which should guide Uganda in the future, and this is a major responsibility of charting out the kind of principles which should guide these young countries in the future.

I thought I should simply share with you my own views of the problems of our countries as I see them now - at least, some of the problems of our countries individually and our countries together, and I think I should simply concentrate on what I see as the basic need of our countries for survival; and the basic need of our countries for survival as I see it, is unity. The Tanzania's motto is "*Uhuru na Umoja*" - "Freedom and Unity". I do not know why we say "Freedom and Unity", "*Uhuru na Umoja*" instead of saying "*Umoja na Uhuru*". Because if one depends upon the other, our maintenance of *Uhuru* depended upon unity. We had to forge unity as an instrument of liberation. It was our biggest instrument of liberation. We had no guns, we had nothing - one of the most backward countries on the continent, taking part in the challenging of the mighty British Empire, and quite frankly, the only thing we had was unity and we did forge unity or the Nationalist Movement which I started. We fought against religious bigotry, and on both those issues, one of tribe and one of religion, we were luckier than you were in Uganda.

I came here in 1943 as a student to Makerere and one of the things that shocked me here was to find that religion here was something that is talked about. You ask a person's religion and when he tells you your religion, his religion or her religion, somehow it is something particularly important. I had attended two schools - a primary school and a secondary school in Tabora and both of them were government schools where people of all religion and people of no religion attended. And then I come here and found catholics were called *Bafaransa* and Protestants were called *Bangereza* or something and then I asked why and I was told "no, there had been war here even of religion". That, we did not have. Also, here you had the big tribes, you know, in Tanzania we had more tribes - in Tanganyika then, we had more tribes than in Kenya and Uganda put together, but they were all small tribes.

So, I think it was easier for us to fight against tribalism and religious factions - bigotry. It was easier for us than it was for you. But nevertheless, we were absolutely deliberate that we must fight the divisions, and we were very successful. I think we were reasonably successful. We were so determined that we should not be referred to as *Muzanaki* my little tribe is called *Bazanaki*. We were so determined that we did not want to look at people through their religion or their tribes, that although when the British were there, in the census, one of the questions was what is your religion or what is your tribe. Those two we cut out. So, in our own census, we do not ask you to say what your religion is. What does it matter? That is important, but religion, what does it - *(Applause)*

So, why do we want to know how many Christians do we have? *(Applause)* We do not build Mosques for Moslems, it is not our duty to build Mosques for Moslems, if it was our duty, of course, we would want to know how many Moslems we have in the country in order to provide sufficient Mosques for them. We do not have that duty. So, why do we want to know how many Moslems we have in the country! What we want to know is how many people we have in the country and of those, how many women, how many men, what are their ages, because that is relevant to the development of the country. What are the ages of the population of Tanzania matters to us. So, we abolished that. And so, on my Cabinet, I never knew the tribes of my ministers at all! Because it never mattered to me, I never knew their religions. I recall once, I was asked because the tendency is you know - because the Americans think as a fact that I

collaborate with catholics. So, I remember once being asked by somebody - I think we should one day try to prove this theory of how many of every president, chooses ministers from his own religion. He asked me, "how many catholics do you have on the Cabinet?" So, I begin to think of the ministers, Minister so and so, Minister so and so, and I discovered, apart from myself, there was only one other catholic - *(Applause)* - and he was a polygamist - *(Laughter)*.

So, I think I should really cut that story short because - but the point was, we had to fight against anything that was dividing us. Why? Because, here was this artificial country, really artificial. Because it is not as if when the Germans came and the British came, there was some country - some nation called Tanganyika and that nation was conquered by the Germans. There was no nation called Tanganyika, which was conquered by the Germans. These fellows sat in Berlin with an empty map of Africa and just cut it, and agreed that that part is going to be called East Africa, and that it is going to be British East Africa and then British East Africa will be here as a protectorate and so forth. But not nations. What the colonialists conquered were tribes of Africa and put them in these colonies or these protectorates. So, this is what we inherited and we could not go back to the tribe, we had to turn this thing into a nation. So, that would have to be the emphasis. Our function now was to turn this into a nation. It was not in the interest of the British to do it. Actually, the British interest was to emphasize these tribes, because it helped the British to you emphasize the tribes. In our case now, we had to duo-emphasize the tribe and emphasize a new thing - a nation and tribes to build a nation called Tanganyika. I will come back to that. I did not like it very much, but in any case, that is what we had to do. And I think we were succeeding.

I think all these African countries are like that. New, artificial, vulnerable, weak and the entity which is understood there, which is natural, which has some root in the tribe, and if you do not emphasize this unity, the tendency is to go back to the tribes, it is a natural thing. It is one which has roots in history and in culture, so we felt it was necessary and I think we were succeeding. Of course it was not enough, after that you can just emphasize tribe, we had to emphasize nation, we had to emphasize what that nation stood for. And so, we had to define our purposes, the purpose of this new nation we were trying to build and I think we succeeded reasonably, and that is Tanzania we were building

I believe we have this duty in all the African countries, I believe we have that duty in Tanzania, you have this duty in Uganda, we have this duty in Kenya, we have this duty everywhere, on the continent. Two, unless you want to break up Uganda - Chairman says, "God Forbid". So, if you do not want to break up Uganda, you have no alternative except to emphasize you are Ugandans. If not, go back to -

That is true in Tanzania, what is the use of emphasizing my little tribe? That is absolutely useless. Thinking in terms of your tribe is absurd - (*Applause*). You have to think, at the very least in terms of these units which we inherited from colonialists. At the very least, you emphasize it. I mean, I come from there and move to my next stage of thinking. And before I say that, look at Europe. You look at Europe. These are old nations. Very old nations, some of them very, very old but they grew slowly, historically, until they became what they are. Basically built. Some are now a thousand years old, some more than a thousand years old - these European nations.

I was amazed for instance, when the Soviet Union was breaking up. They were talking about the Baltic Countries. The Baltic countries became part of the Soviet Union fifty years ago, and there was a talk of - you know these are not part of the Soviet Union, they must go. When does a country become part of another country? When? How many years is it? Is it fifty one, or is it sixty one, or seventy one, how many? Until you call this country one country, how many years? Is it a hundred years, is it hundred and two or a hundred and four; how many until a country is considered as being one? But the Baltic countries were supposed to be - they only became part of the Soviet Union fifty years ago, so they are not part of the Soviet Union. What about Ukraine? Ukraine became part of the Soviet Union or part of Russia, they came together. Those two countries came together through conquest or whatever, I do not know. I think it must have been through conquest in 1654 and yet that is not enough, that is not long enough for a country to be considered one country. So, that had to go. Today I heard - only today, I think only today or yesterday, I heard the leaders of Russia complaining that, it does look that the Western countries do not want Russia to become a big power. I said this is absurd! The Russians - This looks to me like naivety. I mean how can you have a big nation which sounds so naive, that the Western countries should be helping Russia to become a big power, it is absurd.

So, here are these old European countries. The internal unity has been basically achieved hundreds of years back, that internal unity, which to us is very young, it is not there even. This is what you are thinking about now. This is what we are here for to talk about, internal unity in Uganda, you do not have it. In Europe that was achieved ages ago - achieved by who? Achieved by Queens and Kings supported by armies, not political parties, No! (*Applause*). No European Nation was built by a political party, and that is why I do not want you people to be so apologetic to these Northern Countries, it is only African Countries which are being built by political parties, not by kings, not by Queens supported by armies. The African armies have tried and lost - they have failed. In the African countries, armies have tried but they have failed. They cannot build the African nation. The African Nation is going to be built reasonably - democratically. But the European nations were built hundreds of years back, by armies supporting queens and kings or ruling families, and that was accomplished and it is that kind of undemocratic nation which began conquering us. It conquered Africa, it conquered part of Asia, conquered the Americas.

It is that kind of European nation - undemocratic - which conquered our countries. But they were built as nations, strong - already very strong. Now they are strong, powerful, old countries with internal unity, and finding that that unity is not enough in the modern world. The British are very proud. They would really like to return to the empire, but it cannot come back (*Applause*). And the British leaders who now see that, to think in terms of imperialism or imperial grandeur is nonsense. They are now thinking in terms of a united Europe. And when my Friend Mrs. Thatcher - the conservatives actually got rid of Mrs Thatcher because she was being too British (*Laughter*). It was unrealistic - completely unrealistic now to be too British. You have to think in terms of a United Europe. However slow it takes, but that is the trend now, united Europe.

Once I was in Belgium, I was travelling in Europe and I spoke to the Prime Minister of Belgium and he was very enthusiastic about the unity of Europe. I said but, Mr. Prime Minister, you represent a small country, how is it you are so keen on European Unity? You are not afraid of being swallowed up by these giants like Germany and France? He said, this is luxury of national sovereignty, we leave it to the big powers. We lost our sovereignty ages ago. We

do not think in terms of small nations; this is true. But this is also true of the big powers - France, Germany, and I was thinking in that area. What is the point I am trying to make? I am saying, here are these countries - old countries, strong countries, countries which governed us, countries which governed the world, that they have an internal unity; that unity is not enough, they perceive that unity is not enough. They have to create a higher unity. This is Europe. Europe does not believe Britain is strong enough, France is strong enough, Germany is strong enough. Then I am thinking of a united Europe. Why? Because they cannot face the Americans otherwise. They cannot face Asia. How are they going to face China with the billion point two people. How are they going to face these giants? Japan alone is causing them a lot of trouble, then what about China when China takes the position of - reaches the development of Japan? So, these countries are moving towards greater unity - Europe is moving towards a greater unity. We in Africa, 1994, we are still thinking in terms of tribe - (*Applause*) - Six years away from the 21st century? Even a united Uganda has no future in the 21st century, this is my belief. If a united Germany does not feel that it has a future, how can a united Uganda think that it has a future? Now, I think I am going to end there because I think you know what I am talking about (*Laughter*).

A united Germany, very powerful, very strong - with 90 million people! The dominant economic power in that Europe feared by the other Europeans, feared by the Russians with 160 million people and yet they feel they have to be part of a united Europe, and we are still talking in terms of the Batooro and Banyoro! (*Applause*). It is absurd and I believe you our young leaders now, really you have to face that reality now.

The immediate problem of my generation was (a) to get rid of the colonialists we succeeded helped by history. Personally, I had believed myself that we should not then go in and build these Uganda and Tanganyika and Kenya into nations. I never believed that. This is not something new to me. I have always believed it in my life. They would have said, that we of that first generation of African Leaders should spend our lives turning Tanganyika into a nation and turning Uganda into a nation and turning Kenya into a nation. What do you want to do that for? *Napoteza wakati bure ni*. Why do you want to do that? Because when it came to actual unity, that Tanganyika was not really much more united than an East Africa, if you put East Africa together. You know, these

leaders of East Africa are people who had come to Makerere here, we knew one another by name governed by the same British, the same colonial administration, the same system of administration, and the British had began to put some things together. Really, this region was beginning to look like one nation. So, why the first leaders of East Africa, instead of building this bigger unity, you spend your lives building Kenya and Uganda and Tanganyikas? I said in so many words to my colleagues, I said it in Nairobi once, I am telling you this now because really, as far as I am concerned, I am simply crying now. I said to my Colleagues in Kenya - Kenyatta and Obote, and I said, you people have a bigger problem of tribes for instance, than I had in Tanganyika. In Tanzania, we do not have a very big tribal problem, we are fighting it. We do not have the big tribes, and the big tribes were not political entities, for instance, the *Wasukuma* were not a big political entity.

It was a big ethnic entity but not a political entity. And we are successfully fighting the tribal problem. I said you in Uganda, you have a bigger tribal problem, you in Kenya you have a bigger tribal problem. And if you consolidate Kenya and consolidate Uganda, this problem will come up, I said so. You will see it. It will come up. If instead of building Kenya, as a country, Tanganyika as a country, little Zanzibar as a country, and Uganda as a country, instead of that, we build East Africa as a country, the conflicts are going to be different, there is going to be a different kind of conflict. The conflict is no longer going to be raised at a higher level. The conflict is going to be between Uganda and Kenya and Tanganyika and Zanzibar - which of these States is taking the bigger cake in the federation - You know! So, the level of debate is going to be at that State level, not at the tribal level (*Applause*). And the little tribal problems will be there but Baganda, Banyoro and Batooro and Basoga and Banyankole, all of them will call themselves 'we'. They have a different kind of 'we' when they face Tanganyika in the federation. (*Applause*) And the Luo and the Kikuyu will also do the same. They will become 'we' when they face us in the federation, and similarly the Tanganyikas, when they face Kenyans, they will say 'we' the Tanganyika and they will not divide themselves between Wasukuma and Wachaga and so forth.

So, why do we not spend our lives building that bigger country, which is a better future than wasting our time talking about tribes? Well, we did not

succeed, we lost, we failed. But I am saying, do not give up please. (*Applause*) Every generation achieves what it can. So, we achieved what we were able to achieve - getting rid of colonialism and then trying to consolidate. Some succeeded, some did not succeed in consolidating these countries. Your generation, please you can begin to think in terms of the future of our continent. If your leadership does not think in terms of the future of the continent, what are you going to think about? I say Europeans look at North America and say, if we are not united, we have no place. North Americans are doing the same. You see the Americans have taken that position and they look at Europe and especially now after the cold war is over, the Europeans are no longer going to respect the Americans as they did when they were afraid of the Soviet Union. So, the Americans have to think of their future and so they have to try and pull together North America. They are pulling in Canada, they are using their economic power to pull in Canada and they are even pulling in Mexico together. The giants of Asia will come up and nobody is going to stop them and if we have leaders of 1994 who think in terms of tribe, what is the future of Africa? It is already anachronistic for Africans to think in terms of Tanzania - I have fools in Tanzania now who - we have that little Tanzania there which is nothing. What is Tanzania? Weak, vulnerable and some fools in Tanzania now are talking about splitting it up. You know this is incredible. What is wrong with us? Instead of those Tanzanians using their unity to fully cooperate with you people to build a more viable East Africa - those blessed Tanzanians now are thinking in terms of splitting up Tanzania. What is this? This is leadership without a purpose except leadership for the sake of leadership without a base. Leadership without any purpose at all. Now, the big countries can afford but Africa cannot afford unprincipled leaders at all. We are too weak (*Applause*).

So, I am saying, I hope that your generation will think beyond. Our generation did what we did, we lost and sometimes I feel ashamed perhaps we did not do enough. But history is history, you cannot force history. We were able to - you cannot talk but the "ifs" of history are useless. If this had happened, if this had happened. What did not happen did not happen. What can you do about it? But do not give up. So, please you have a function here of forging a united Uganda. Please, I am quite sure you will do it successfully. I am quite sure you will because really, if you do not do it, you are incredible. Yes, if

you do not do it, I would not understand you people at all because this country has suffered. This country was the leading country in East Africa. You know Kenya was leading because of the settlers, that was all but this country was leading because really you were pulling up. You were moving. We came here for education. We did not go to Kenya. You were the leading country. But nevertheless, you did not get the chance. You have lost those early years - lost *kabisa. Miaka ya kupoteza kabisa - bure! bure! bure!* Now, here you are!

Last time when I was here, I joked, I know I do not want to interfere in the entire politics of Uganda but I said, well I think I can dare to interfere and I said, you know now you have a chance. This is what I said last time and I am saying now, you have a chance. But our countries in Africa have a tendency - you have a short period of peace and stability and somehow you become intoxicated with the peace and stability, and you forget that only ten years ago, you were in trouble, you see! (*Applause*) You cannot talk about peace and stability, and not work for it. It cannot come. This morning's rains, you did nothing about to bring them, those rains, they just came and you think peace and stability are also going to come just like that? It never does. For peace and stability, you have to work hard for it. Building a country requires deliberation and intelligence. Breaking up a country does not require intelligence at all. (*Applause*) It is very easy to break. I was in Beijing last September, 1994, and I watched Television - you know in this modern age, you watch things. In Moscow I watched those tanks. The tanks came and lined up, and the order to fire was given and we were watching this on television. I was in Beijing then, and their Bunge called the "white house" was being destroyed and an American commentator said, "This building took twenty years to build, it is going to take twenty minutes to destroy". It is very easy to break a country and especially vulnerable countries like our countries. Our countries are very vulnerable. They are weak, vulnerable and the pressures under which we work are immense. No old country was ever built under the pressures under which we are trying to build these countries. None! And then you have a little stability and our people - I am sorry to say this to you - I am saying this because I feel very strongly about it - then our people, they read the Newspapers, the American News Papers, British News papers, like sponges. Now a sponge does not choose what amount of water to take in. And like sponges, we just take in, we do not think at all. So.

you behave here as if you are in Britain, you are not brothers and sisters. *(Applause)* This country is very vulnerable, so is Tanzania; so is Kenya. So, if you are building this country, you do not behave like those who have already built their country. *(Applause)* You build deliberately knowing the vulnerability of your country, the weaknesses of your country. You know the British can enjoy certain things. You cannot enjoy those because your country is too young. If you were in America, you would enjoy them. But in Tanzania or in Uganda or in Kenya, you cannot. If you tried, it would be irresponsibility. But you know we do not. "*Hatufikiri ata kidogo. Tunasema, lazima na sisi tuha kama waingereza*".

Mr. Chairman, I think I have said enough because basically I came to listen. So, thank you very much. *(Applause)*

MR. KATENTA APUULI: *Mweshimiwa Mwalimu* Julius Nyerere, *Balozi wa Tanzania*, the Chairman, Deputy Chairperson, distinguished Delegates, Ladies and Gentlemen. *Mwesimiwa Mwalimu* Nyerere, on behalf of the Chairman and on behalf of my Colleagues, the Constituent Assembly Delegates. I thank you for honouring us with your presence here and giving us your words of wisdom. *(Applause)*. Your address to us is all the more important because *Mwalimu* you stand as a pillar of democracy in Africa. You have for the greater part of your life, struggled for the emancipation of the people of Africa. Your eloquent voice at international fora in Africa and beyond, advocating for the economic development of our countries, your philosophy of self-reliance has given many emerging African countries the courage and hope that we can always make it whatever the odds. *Mwalimu* Nyerere, you belong to a very special group of African leaders. As a demonstration of your principles and beliefs, you stepped down from the Presidency of Tanzania. This example you set is a great challenge to other leaders in Africa. *(Applause)*. It is in your foot steps that we are seeking to limit the term of office for the future Presidents of Uganda to two terms of five years each. *Mwesimiwa*, we are not only proud to be neighbours with Tanzania, we have been lucky to be your neighbours. It is my belief that maybe we should not be sitting here deliberating on a draft constitution if it was not for your personal courage and gallant sons and daughters of Tanzania who shed their blood for the liberation of Uganda in 1978/79. *(Applause)* *Mwesimiwa*, we shall always be grateful.

Mwalimu, unity has never been our strong point in Uganda. Even as you spoke to us, we are still divided on the basis of tribes and religions. But *Mwalimu*, take comfort, Ugandans have come to realise that we have to live together. Our sitting here to chart out the course of Uganda's future is in itself a demonstration of our resolve to lay the foundation for the building of a united Uganda. *Mwalimu*, you have been the principle architect of the East African Community. You offered to delay the independence of Tanzania in order for the other African countries to become independent at the same time. You are absolutely right to say that even as a united Uganda, we cannot survive in the 21st Century. On behalf of my Colleagues *Mwalimu*, I appeal to you as senior Statesman of our countries to continue the struggle for the unity of the people of East Africa.

Mwalimu Nyerere, your wise words bring us close to tears when we reflect on what we left undone and did what we should never have done. *Mwalimu*, we thank you very much. *(Applause)*.

THE CHAIRMAN: Hon. Delegates, I thank Hon. Katenta Apuuli for having accepted and so ably moved a motion of thanks to our distinguished visitor today, *Mweshimiwa Mwalimu* Julius Nyerere. As I did indicate earlier when we started, *Mwalimu* has still a bit of time to be with us before he undertakes other aspects of his programme in Uganda and for that purpose, until he takes leave of us, my Deputy will escort *Mwalimu* to the visitors' lobby and then we shall start on our other business of the day. Thank you very much.

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

CHAPTER THREE ARTICLE 7:

THE CHAIRMAN: Hon. Delegates, when we adjourned yesterday, we had just taken a decision regarding a motion that had been moved to transfer part of Article 7 as recommended by the Legal and Drafting Committee to another part of the Draft Constitution and that motion had been negatived. But Article 7 (2) had not been decided upon to stand part of the Draft Constitution. Nevertheless, looking at the various documents this morning, I note that there are a number of motions regarding Article 7 of the Draft Constitution.

There is a motion by Hon. Tiberio Okeny Atwoma seeking to delete completely, from the Draft Constitution, Article 7 Clause 2. Clause two reads, "*The President shall report to Parliament and the nation, at least once a year, all steps taken to ensure the realisation of the policy objectives and principles in this chapter and the economic development of the country*". As you know, Chapter Three provides for National Objectives and Directive Principles of State Policy and Article 2 seeks to impose a duty on the President to report to Parliament and the nation objectives and principles in the Chapter and the economic development of the country. Now, Hon. Atwoma Tiberio seeks to move a motion to delete that Clause.

There is also another motion by Hon. Leander Komakec that Article 7 Clause (2) be transferred to Chapter Eight which provides for the legislature and yet another which seeks to amend it against this one by Dr. Kaberuka to amend that very clause and further another one by Hon. Musingo Kezimbira and Hon. Kirenga also. So all together, we have five motions relating to Article 7 Clause (2). But given the nature of our rules, we will proceed with the motion that departs furthest from the proposition as it appears in the Draft Constitution. And the motion that so departs is the one by Hon. Tiberio Atwoma which seeks to delete that Clause. If that motion is carried, then there is no need to indulge in the other motions which provide for either transferring it or amending it. I hope that formulation is correct. Now, I will therefore give the Floor to Hon. Tiberio Okeny Atwoma to move his motion and if it is seconded, then he will give reasons and then we proceed from there.

MR. TIBERIO OKENY: Thank you Mr. Chairman. I now move before this August Assembly to delete Article 7 Clause (2) from the Draft Constitution.

THE CHAIRMAN: Is that seconded? Hon. Atwoma, you do not seem to have a seconder.

MR. ATWOMA OKENY: No, I have got one.

THE CHAIRMAN: Order! Unless you are seconded, I cannot give you the Floor to proceed with the justification of your motion. So that fails. Now I will call upon Hon. Leander Komakec who seeks to move a motion to delete Clause (2) from where it is and transfer it to Chapter Eight providing for the legislature.

MR. LEANDER KOMAKEC (Aruu County): Thank you Mr. Chairman. Mr. Chairman, before I move this amendment, I would like to correct a typing error. It says the transfer is to Chapter Eight, it is actually Chapter Seven. This is the Executive.

THE CHAIRMAN: Hon. Komakec, I think we have a problem. What appears in the papers that were prepared which we are all referring to, your motion was to transfer this to Chapter 8 dealing with Legislature. Now, I have just received a circulated piece of paper again referring to your motion but this time saying that the whole of Article 7 clauses (1) and (2) be transferred to a Schedule to this constitution. Can we sort that out?

MR. LEANDER KOMAKEC: Mr. Chairman, it is true there are actually two amendments? I now prefer the latter one.

THE CHAIRMAN: Which one now?

MR. LEANDER KOMAKEC: That the whole of Article 7 - the whole of that chapter should be transferred to the Schedule of the Constitution.

THE CHAIRMAN: You have a motion reading that the whole of article 7 clauses (1) and (2) to 28 be transferred to a schedule to this constitution. Now, I do not know what you mean by to 28. Or are you seeking to transfer the whole Chapter?

MR. LEANDER KOMAKEC: It is the whole Chapter. It is 39 and not 28. It is 1, 2, it is going on until it is 39 on page 12.

THE CHAIRMAN: Hon. Leander Komakec is saying that he moves a motion to transfer the whole of chapter 3 to be part of the schedule to the constitution and therefore, his motion reads that the whole of Article 7 clauses 1, 2 - I think what he should have said is that the whole of the chapter as proposed be transferred to the schedule. Now, there is a problem there because our rules do not know chapters. Our rules make references to consideration of the Draft Constitution article by article. The only time that one article controlled the whole chapter was when we were considering the National Council of State. Because once we deleted the creation of the National Council of State, the other provisions became irrelevant. Now, in this case, they are not linked. So each one must be seen in its own right as an article. Either you say we transfer it to the schedule and you can create a schedule for that which would be a proper motion and we consider it but when you talk about a chapter, then you are offending our rules of procedure.

PROF. KANYEIHAMBA: I thank you Mr. Chairman. I just wanted to point out to the Assembly Sir, that in accordance with the decision which was taken yesterday, we were to consider the chapter as reflected in the report of the Legal and Drafting Committee at index two and the understanding Sir, was that the amendments which would be considered would be consequential to that report. I wanted to bring this to your attention Mr. Chairman, that there is a list of amendments, including the one now we are considering which have been circulated but which have not been seen at all, by the Legal and Drafting Committee. And some of them obviously are in conflict with recommendations of the Legal and Drafting Committee. So I wanted a clarification first of all how these came to be circulated because we have not seen them. Secondly, whether it is in order, having adopted the report of the Legal and Drafting Committee as a working document, whether we should consider amendments which are in conflict with that report which have not been considered by the Legal and Drafting Committee. I thank you Sir.

THE CHAIRMAN: Thank you. There is no problem there. Hon. Leander Komakec is actually seeking to delete, by his motion which has just come through, seeking to delete appendix two in your report by saying that Articles (7) to (29) be transferred. He was seeking to delete it and transfer it. Now there, I am saying it will be a problem because he will be attempting to transfer a chapter but our

rules relate to article by article. The point you raise regarding whether it is in order for us to proceed with some amendments which may be in conflict with your report, my view is that there is nothing wrong with that because if we had adopted your report and said whatever is there is final and conclusive, yes. But once we said that we adopted it for discussion and now we are going on to consider various articles, should a Member feel, for instance, that what you thought should be deleted should be included, the Members are free to make that proposition and we declare ourselves on it or that one of those that you have left in should be removed. Members again are free to proceed that way. But of course, they should take note of the fact that we spent a lot of time on this matter and therefore your report should be regarded with respect.

MR. LEANDER KOMAKEC: Mr. Chairman, actually I proposed two motions. The first one with respect to 7 (2) was that that clause should be transferred to the Executive. That is one, the other one came up as an explanation from yesterday's proceedings that said that let us consider all the clauses in this chapter and at the end of it, we will then know whether to leave it in the constitution in this chapter or it should go to the preamble or it will go to the schedule. This was the understanding why the second motion came up. It was supposed to come at the end when we consider all the clauses under chapter 7.

So the first part on the order paper actually refers to just transferring that particular requirement to the Executive.

THE CHAIRMAN: Then you are contradicting yourself. If you transfer it to that chapter and then at the same time you come with another motion that we should set up a schedule for the very clauses, then you create a problem. What we shall do is that we shall disregard our second motion and allow you to proceed with the first one.

MRS. MATEMBE: Point of Order! Thank you Mr. Chairman. Yesterday, we spent so many hours discussing that very amendment of transferring that very clause to the Executive. Even we went to a division and voted. Now, is it in order, Mr. Chairman, for the same or similar amendment to come back here moved by Hon. Komakec for discussion? Is it in Order?

THE CHAIRMAN: Hon. Komakec is seeking to transfer it to a different area. Then if it is the same, then the matter is not properly before us because the matter was negatived yesterday. Oh! it was withdrawn in fact. That is what I understand. It was discussed and withdrawn. Then Hon. Komakec, I am sorry you cannot proceed.

MR. FRANCIS BABU: Mr. Chairman, thank you very much. Mr. Chairman, I would like to implore the Hon. Members that I *would* like briefly to go back to the beginning when we started to look at Chapter Three.

THE CHAIRMAN: No, but then you are raising another discussion. That may lead us into unnecessary discussion. I think let us leave it as it is. Hon. Komakec is unable to proceed for the reasons already given and now we go down to the next amendments. There is a proposition which is different by Hon. Kaberuka and Hon. Kabayo and Hon. Med Kaggwa and Hon. Kabirisi Luberenga and their proposition is that Article 7 Clause (2) be deleted and replaced with a new formulation. One would presume that the proposed formulation departs from what we have there. Can we hear you Hon. Kaberuka to move and see if you are seconded?

MR. KABERUKA: Thank you Mr. Chairman. Mr. Chairman, I wish to move a motion which seeks to delete Clause (2) of Article 7 and replace it with the following words: "*The President shall report to Parliament and the nation at least once a year on all steps taken and results achieved towards the realisation of the National Policy Objectives and Principles*". I beg to move Mr. Chairman.

Thank you Mr. Chairman. In bringing this amendment, first of all, we realised that we are setting objectives for ourselves and it is pertinent. Mr. Chairman, that any leader or future leader should be able to report to the nation what steps he is taking in realising these objectives. The second reason is that at the beginning, we said that we should be brief in our constitution. As you will see, the wording we have proposed is quite shorter than what the draft provisions give, and it embraces all the ideas that the original clause embraced. We are also producing new words in the names, results achieved, that he should not only report the steps he is taking but he should be able to account and show the nation what results he has achieved. We are also deleting the words *economic development* because we believe

that this is embraced in the Policy Objectives and Principles. Thank you Mr. Chairman.

THE CHAIRMAN: Thank you. Now we shall proceed this way. There is a motion on the Floor by Hon. Dr. Kaberuka and others which has been seconded. But also there is a motion on the same article by Dr. Musingo Kezimbira seeking also to amend that article. Now if we dispose of Dr. Kaberuka's amendment, it will be a waste of time if we are to proceed. Say for instance, either if we negatived it or carried it, then to go again and begin discussing it by way of amendment from Dr. Musingo Kezimbira - the only thing that can be done under our rules is for Hon. Kezimbira to seek to amend the motion by Hon. Kaberuka so that we dispose of that one first. If he does not want to amend, then his falls by the wayside and we dispose of this one only. Otherwise we will be going around in circles.

DR. MIYINGO KEZIMBIRA: Thank you very much Mr. Chairman. I beg to move and amend the motion as moved by Dr. Kaberuka to insert the word twice instead of once so that the motion now will read that "*The President shall report to Parliament and the nation at least twice a year on all steps taken and results achieved towards the realisation of National Policy Objectives and Principles*".

THE CHAIRMAN: So Dr. Musingo Kezimbira's motion does not proceed beyond that. So now, we come back to Dr. Kaberuka's motion which was presented and seconded which seeks to delete article 2 and replace it with the formulation that is read out.

MR. ERESU ELYANU (Kaberamaido County): Mr. Chairman, I support the amendment. In this amendment, the emphasis that we can clearly see is that of steps taken and the results achieved towards the realisation of National Policy Objectives and principles which are the cardinal point in the chapter. What I mean here Mr. Chairman, is this. These are general principles that must guide the development of the country for the future, the President as Head of government, as Head of State will then be charged with the responsibility to ensure that the people of Uganda all the time are being given or put in the picture to see how these policy objectives are being attained and by what methods they are going to be attained. I also support this amendment for the reason that it will give the nation at large, a clear picture of government policy objectives towards the attainment of these principles and objectives. I hope

other Members will also support this amendment. Thank you very much, Mr. Chairman.

MISS. HOPE MWESIGYE (Kabale Municipality): Thank you Mr. Chairman. Mr. Chairman, I beg to oppose the amendment. Mr. Chairman, this amendment to me is merely playing about with words. It does not introduce a new substance to the article within the draft. Mr. Chairman, the word realisation is pregnant enough, it includes the steps and results. Mr. Chairman therefore, the article as it is in the Daft Constitution is explicit enough and it is broad enough to cover the intention that is being put across and it is clearer than the proposed amendment. I therefore oppose the amendment. Thank you.

MR. ABALIWANO (Bugabula South): I beg Mr. Chairman, also to oppose this motion for the mere reason that if a President is going to give an annual account, it means earlier on, he would have given an annual programme and he will be able to give the nation that out of the annual programme that I gave, the following results have been achieved and the following have not been achieved due to the following reasons. And therefore, apart from playing with words, I do not see much in this motion which has been changed to a level which says it has added any extra substance to the words that have been used in the original text. Results achieved, what does that mean? Definitely, realisation is enough and therefore, as far as I am concerned, I stand to oppose the motion thank you.

MR. OKALEBO (Bukedea): Thank you Mr. Chairman. All I wanted to say has been said but maybe I only add that the President cannot just come up and tell the nation that I have taken steps a, b, c, d, e, full stop. These steps must be explained by the results and the achievements. So, to me, Mr. Chairman, I humbly submit that the intended amendment is misplaced and therefore opposed and on top of that Mr. Chairman, I move a motion that you put the question.

THE CHAIRMAN: Of course our procedure there is that a motion has been moved that the question be put. So we vote on that one.

(Question put and agreed to)

THE CHAIRMAN: Now I put the question on a motion by Hon. Dr. Kaberuka and others that Clause 2 be replaced with the formulation which appears in his motion.

(Question put and agreed to).

THE CHAIRMAN: Hon. Delegates, let us now pronounce ourselves on the position. The question now which I proceed to put is that Clause (2) do stand part of article 7.

(Question put and agreed to)

THE CHAIRMAN: And now, there is another motion seeking to amend clause 7 by inserting a new clause. This is by Hon. Kirenga and Hon. Faith Mwendha.

MR. KIRENGA (Mityana North): I thank you very much Mr. Chairman. The amendment I want to introduce is to put in a new clause in article 7 which should be one of three and it reads as follows: "*The provisions in this chapter shall not be enforceable by any court*".

THE CHAIRMAN: I hope you are following. The Hon. Member is saying that the formulation on page two should read after the word "court" but the principles laid down in the chapter are nevertheless fundamental in the governance of the country. *(Interruption)*

MR. KIRENGA: Mr. Chairman, the purpose of this amendment is to make it clear that these objectives and principles are just mere aspirations and not enforceable in law. For instance, you will find some clauses in this chapter which say the citizen is entitled to clean water, to what. So, a citizen can easily go to court if he has failed to get clean water and sue the government. So we want to avoid this. The purpose of this objective is actually to guide the government in formulating policy but not to tie it down by ensuring that these objectives are achieved.

Mr. Chairman, this kind of amendment is not new. I found it in the Indian Constitution which has got similar objectives that we are trying to introduce here. The first clause in that chapter on objectives and principles is in these terms. So I think it would be good to have it here so that we ensure that we avoid unnecessary litigation. It also helps the government not to fear if it fails to achieve the unachievable. They should not fear to be taken to court. So for these reasons Mr. Chairman, I beg to move.

MR. MED KAGGWA (Kawempe Division South): Thank you, Mr. Chairman. I want to oppose the amendment for the following reasons. One, it is

very clear in article 7 clause (1) which we have already passed that the two words "shall guide", I think are very, very carefully used here and are deliberate. I think those words themselves negate any enforcement in the court of law which this amendment seeks to bring about. Secondly, even if it were supported, I think it has been brought in a wrong place. It would be of general application, possibly at the end but I strongly oppose this amendment. Thank you Mr. Chairman.

MR. ODUR (Dokolo County): Thank you Mr. Chairman. Mr. Chairman, if I can recollect, yesterday we decided that the question of where to put the provisions in clause three will be decided at the end of the debate. Whether we make it as a preamble or take it as a schedule, those things will be decided at the end of discussion. So it is not appropriate at the moment to really discuss the motion brought by Hon. Kirenga. Thank you Mr. Chairman.

MR. BAGUMA ISOKE (Buyanja County): Mr. Chairman, yesterday, Hon. Bageine, Hon. Bageya and myself sent to the clerk an amendment similar to this one putting forward the suggestion that it be placed at the end of this chapter. Really, to say that what is contained in the chapter from article 7 up to the last article 39 shall not be for litigation in courts of law but will only guide governments and really point out the aspirations of the people of Uganda. While I am not apposed to the aims of this amendment, I am only appealing to the movers, Hon. Kirenga, to consider placing it at the end of the chapter after we have considered all the relevant articles on the Objectives of National Policy in this chapter.

THE CHAIRMAN: I take it that that is one way of saying that you support the motion. Well he is saying he supports the motion except for location.

MR. BAGUMA ISOKE: I support the motion but only that this amendment be transferred at the end of the chapter. It should appear as 39 (2).

MR. GEORGE ZZIWA (Kawempe Division North): Thank you very much Mr. Chairman. I oppose the motion Mr. Chairman on the grounds that it more or less waters down what we intend to do in that it makes the Executive or the government in power complacent. And it really departs from the wishes of the people. The people would like to know what sort of standards they have laid down for the

government in power and what has actually been achieved. The question of litigation is not their main concern. The electorate want to know whether to vote somebody in power who has done something for them, who has achieved the programme and that is their main concern and it is not the litigation. This is why I say it should not be put in this chapter to make the government complacent. As Hon. Med Kagga has pointed out, I think the question of litigation is properly covered by article 7 (1) whereby it says that the principles in this chapter shall guide Parliament and the Executive and not precisely for litigation. Thank you very much.

MR. ABBEY MUKWAYA (Busiro East): Thank you very much Mr. Chairman. Mr. Chairman, I am tempted to support this amendment. I think it is important to be very clear on what we intend to achieve and the objectives. If we put the objectives and list them as they are without providing for a clause like this one, I think the population one time may rise to put government to task and it may end up into litigation. My concern is that it is important to put such a provision in the constitution. But I agree that it should be put at the end of the chapter. It is dangerous, in my view, to leave such important provisions unguided and government at one time may find itself in a situation that may lead to litigation as they have said. And when it is not provided for, of course it will be a problem. I want therefore to support this amendment but suggest that it should be put at the end of the chapter. Thank you Mr. Chairman.

MR. BYAKIKA KASAJJA: Thank you Mr. Chairman. I rise to oppose the amendment. Mr. Chairman, the objectives in this Chapter are meant to give hope to the people of Uganda. They are the objectives that any government in power should aim at achieving in order to give services to the people. Now, if the idea of this amendment is to negate the hopes of the people of Uganda, then there is no reason why we should keep Chapter Three in the Constitution. People would like to see how the government in power is going to work to give them the services. For instance, when a Member spoke of clean water, everybody expects government to do whatever they can to provide good clean water to the people. Now if we put this clause which says, if government does not work to provide good water to the people it is not answerable, we are denying people, at an appropriate time, to demand the services they want. The constitution we are making is for many years to come

and these are objectives which eventual governments of Uganda will have to fulfill, not necessarily the immediate government we are going to elect but governments to come. So there should not be any clause that negates the expectations of the people. I therefore stand to object the amendment.

THE CHAIRMAN: Now Hon. Delegates, I think we have had a survey of this. Do you not think so? Let us decide whether we support it or not. The motion is by Hon. Kirenga, Hon. Faith Mwendha that a new Article 3 be added at the end of the present Article 7 to read in the terms which was read out by Hon. Kirenga namely, "*The provisions in this Chapter shall not be enforceable by any court by the principles laid down in the chapter are nevertheless fundamental for the governance of the country*". I think it is a bit late.

(Question put and negated)

THE CHAIRMAN: Now, let me put the question on Article 7. The question is that Article 7 do stand part of the Draft Constitution. (

(Question put and agreed to)

THE CHAIRMAN: So Article 7 becomes part of the Draft Constitution. We have now Article 8 relating to Democratic Principles. It was formerly Article 9. There is an amendment proposed by Hon. Leander Komakec.

MR. TIRUSASIRA KATONGOLE: Point of order! Mr. Chairman, is it in order for the Hon. Delegate to come here when he is dressed indecently when some of us who have one suit can endeavour to put on the same suit everyday?

THE CHAIRMAN: Could you be more specific because otherwise it may be injuring the feelings of many other Members.

MR. TIRUSASIRA KATONGOLE: Mr. Chairman, it is Hon. Amanyia Mushega.

THE CHAIRMAN: The rules say that Members shall be decently dressed and the Chairman shall decide whether any mode of dressing is decent or indecent and I do not find his present dress that indecent. But all the same, he should stay on. Hon. Delegates, there is a motion by Hon. Leander Komakec to amend Article 8 as it stands.

MR. LEANDER KOMAKEC: Thank you Mr. Chairman

DR. NAKYANZI: Point of procedure. Thank you, Mr. Chairman. According to our rules of procedure, the amendment which is the furthest is the one to be moved first. In Appendix 1, we have an amendment which is intending to delete Article 8. I feel that that is the one which should be moved before Hon. Leander's amendment. Thank you.

THE CHAIRMAN: Which one is this one?

DR. NAKYANZI: It is Appendix (1) of the report of the Legal and Drafting Committee. That is page two of the Legal and Drafting Committee's report.

THE CHAIRMAN: There is a misunderstanding there. There is Article 8. Now in Appendix (2) and if you read the side note, it says it was previously Article 9, Article 8 having been transferred to some other chapter. The provisions of 8 were deleted from this chapter and transferred to Chapter one. What we are discussing now is the former 9. So Hon. Leander Komakec is proceeding on what was formerly 9 but what is now 8.

MR. KOMAKEC: Mr. Chairman, this is a small but I think, important amendment in a sense that I am not disputing what has been provided here. I am only adding the word justice. Democracy and justice normally go together in the governance of any modern State. There are things like social justice, justice for individuals national justice. So I decided to just add one word to democracy; that the State of Uganda should be guided by the principles of justice. It is important I think that we have this idea of natural and social justice embedded and also accepted as a principle that would guide the people of Uganda and their governments in future because the principle of justice may not be fully covered. You know, democracy can be a very wide concept taking in all the rights of individuals but they are also of society. There are rights of the minorities. People or groups may be oppressed in the name of democracy but if you add the two together, the chances are that you will come up with something more balanced and that the majority will not be unnecessarily curtailed by the minority and vice-versa. So these are concepts which are really basic and I think it is an important principle to be embedded in our constitution. Thank you Mr. Chairman.

THE CHAIRMAN: Hon. Leander Komakec seeks to amend Article 8, previous 9, by deleting clause (1) and inserting in its stead a very brief statement that "*The State shall be based on and abide by the principles of democracy and justice*". In other words, then all the other words relating to participation of all citizens and all the rest will be dropped. That Motion has been seconded and it is up for debate.

MR. BATEGANYA DICK (Bukholi Central): I wish to oppose this Motion on the grounds that, it is ambiguous. The Draft states it better and for those reasons, I would rather go with what is stated in the Draft than his Amendment.

MR. OKWAKOL (Pallisa County):

Thank you, Mr. Chairman. Mr. Chairman, this Amendment is superfluous for two reasons: The heading indicates political objectives - political objectives, the concept the ideas, the words we normally use are democratic. We are not discussing@y here Sir, the concepts which are legalistic. On that ground, I would like to oppose the Motion. Secondly, it does not purport to introduce anything new and there seems to be no evidence as to why the concept of justice ought to be introduced. I would therefore urge Hon. Colleagues to oppose the Motion as I do. Thank you Sir.

MR. MALIRO GASTON (Mwenge County North): I stand to oppose the Motion. Mr. Chairman, if you look at the article in the former text, it introduces something to do with the participation of all citizens, at all levels in their governance. Mr. Chairman, in the new Amendment, that concept is lost and it is a very important concept whereby we intend or it is necessary that at all levels - village, parish, sub-county, and maybe district, we have active participation by all the people. Mr. Chairman, if we adopt his Amendment, that concept will be lost and for that matter, I am opposing this Amendment. Thank you, Chairman.

MRS. SEMPA VICTORIA ESTHER (Women - Luwero): I also stand to oppose the Amendment because this is just to say the same things in fewer words which are not even enough to bring out the desired message. Like the other Honourable on the Floor - who has just left it. It leaves out the major part of it - of the peoples participation and it is left hanging in the air. So, I stand to oppose the Amendment.

MR. SSEBAANA KIZITO (Makindye East): Mr. Chairman, the reason I am supporting this Amendment is the introduction of the word justice in our Constitution. Justice is a very, very important principle in our politics. Without it, we know we have suffered all these years, because people have been doing things which are not just. Even when we are praying, before we start our deliberations in NRC, we are seeking God to give our Government, just Government of men. Therefore, the word justice is important, I do not think that the meaning will be lost only by saying, that the State shall be based on principles of democracy and justice. You know what we do in Constitutions is to write down the principles, then the expansion will be made by legislation. Therefore, I think that these two words, democracy and justice, spell out all we want to say in this particular Article and therefore, I want to support that apart from the fact that it is short and concise, it says, much, much more than what is being said by the current Clause. Thank you very much, Mr. Chairman.

MR. SEBI DATA (Koboko County): Mr. Chairman, I would like to oppose the Motion for the simple reason that the Hon. Member merely intends to make it as brief as possible and actually losing the meaning of the original Clause in the Article. I feel that the original Clause is much more satisfactory because I find the words like, empowering, all citizens, all levels. I find it much more satisfying. What more justice do you need, Mr. Chairman, than the active participation of all citizens and at all levels! I think that itself is the meaning of justice. Is it not? So, Mr. Chairman, I strongly oppose the Motion on those grounds. Thank you.

THE CHAIRMAN: I think let us vote on this one. We have surveyed the spectrum. Hon. delegates, the proposition is by Hon. Leander Komakec with the full support of Hon. John Sebaana Kizito. Delete 8 (1) and insert the formulation that, "*The state shall be based on and abide by the principles of democracy and justice*". I will put the question.

(Question put and negatived)

THE CHAIRMAN: Now, there is yet another proposed Amendment to the same Article by Hon. Miringo Kezumbira to delete certain words, the words "*all levels*" and insert "*appropriate levels*". Let's hear him first, you never know he may be seconded.

MR. MIYINGO KEZIMBIRA (Bukoto Mid-West): Mr. Chairman, judging by the mood of the House, I intend to withdraw all my Amendments - *(Laughter)* - Thank you very much.

THE CHAIRMAN: The Amendment has been withdrawn democratically by the Hon. Member and now I proceed to - there is another Amendment by Hon. Leander Komakec, seeking to delete Clause (2) of Article 8, former 9. Hon. Kweronda Ruhemba, what is the procedure you want to raise?

MR. KWERONDA RUHEMBA (Kajara): According to the Legal and Drafting Committee report, Article (2) of Clause 8, the Legal and Drafting Committee has already recommended for deletion of that clause. Mr. Chairman. Thank you.

THE CHAIRMAN: This is Appendix (1), is it? Could we hear from any Member of the Legal and Drafting whether this is correct, because there appears to be a bit of conflict there.

PROF. NABUDERE (Budadiri West): Mr. Chairman, what was transferred to Article (1) was the old Clause (2). It was transferred to Chapter 1, Article 1, the old one. What the Legal Committee is proposing is now to make the old (3) to become (2). You see that below there. Hon. Hashaka, is that the same one you wanted to raise? Okay, thank you.

THE CHAIRMAN: The position is that, with the assistance of Hon. Nabudere and Hon. Hashaka, if you look on Appendix (1), they recommend the deletion of the old (2) and what was 9 (3) becomes (2) and now Hon. Leander Komakec is saying that it should be deleted. Well, we cannot tell until he has taken the Floor.

MR. LEANDER KOMAKEC (Aruu County): Mr. Chairman, the Amendment I am proposing is to the new 8, (2) which in the original Draft would have been 9 (3) which actually talks about this access of people.

THE CHAIRMAN: Yes, that one, the Members know. So, your job is now to present it.

MR. KOMAKEC LEANDER: This Clause is unnecessary. We are not going to burden our Constitution by writing every little thing, that if somebody does not - well I move that the Clause be deleted.

THE CHAIRMAN: Do you still want to insist? Well, it has not been seconded so, you cannot present it. Hon. delegates can I now put the question on Article 8, formerly 9? And I put the question that Clause 8, do stand part of the Draft Constitution.

(Question put and agreed to)

MR. HASHAKA JACKSON (Kibale County): Mr. Chairman, we have moved a question on the new Article 8. I did not understand whether it was Article 8, because I can see it continuing the former 9 which is now 8 to sub-clause 6, so I do not understand.

THE CHAIRMAN: I think I was misled here, I received a note from Hon. Nyeko withdrawing his proposition. I thought that was the only one we had, but we also have three more in between by Hon. Leander Komakec. Maybe it would be better if we heard from the Hon. Leander Komakec, whether we should go through all this or he thinks that we should not. That is, 9 and 8 on our sheets, I am sorry we have to re-open it for his sake.

MR. LEANDER KOMAKEC: Mr. Chairman, thank you very much. I think judging from the mood of the House, unless some Member would like to support me in this, I withdraw.

THE CHAIRMAN: Hon. Komakec has withdrawn 9 and 10 and Hon. Nyeko has withdrawn 11, and so what we have is to go back and just confirm our position.

MR. OKULLO-EPAK (Oyam County South): I thank you, Mr. Chairman. I am certainly in a bit of a mess with myself, but I am seeking clarification. I presume Hon. Leander Komakec was seeking to amend what in the Draft Constitution text stands as Clause 4 before some Clauses of it had been transferred elsewhere. If that be the case, Mr. Chairman, then the report of the Legal and Drafting Committee has said something else to that Clause. If you look at page 2 of Appendix (1), It says Article 9, Clause 4 should be retained but decentralisation should be deleted and the Clause should be considered for transfer to Chapter 13 on Local Government. I am making this inquiry and clarification, Mr. Chairman, because I thought you were about to put the question on the current Clause 4. If that was not the case, then I am sorry, but if it was the case, then I would wish that we go and consider this recommendation by the Legal and Drafting Committee as I have just read out. Thank you, Mr. Chairman.

MR. KATUREEBE (Bunyaruguru County): Thank you, Mr. Chairman. If we look at the old 9(4), the words that were used were decentralisation and devolution. In our opinion, decentralisation, has come to mean a particular proposition and particular policy that is going to be a subject of debate in this Constituent Assembly when we come to consider Local Government. We therefore thought it wise to maintain the principle of devolution without mixing it up with decentralisation as a policy objective and then at a later time, when this Assembly considers decentralisation, we can pronounce ourselves on that. That is why decentralisation was removed and we kept the policy objective of devolution of functions and powers.

THE CHAIRMAN: Now, can we get guidance. You are saying that 8 (3), which was previously 9 (4), but should be retained now as 8 (3), less the word decentralisation. But then, the report does not say so. Could you read the report on Appendix (1) on page 2. Page 8 is what we have as 3, but I am saying, I think Hon. Okullo-Epak had a problem with Appendix (1). The reference to 9 (4) should be retained but decentralisation should be deleted and the Clause should be considered for transfer to Chapter 13 the Clause, or the phrase or the word.

MR. KATUREEBE: As I have said, Sir, our intention was that decentralisation, the term, should be transferred for consideration under Local Government. So, maybe there is - (*Interruption*) -

THE CHAIRMAN: It is this word "Clause" here, which caused confusion. It is a typing error therefore -

MR. KATUREEBE: It must be a typing error. I meant the phrase decentralisation.

THE CHAIRMAN: Hon. Okullo-Epak, now you follow. It was that the Clause should be retained, less the word decentralisation which should go to Chapter 13 in order not to confuse the two concepts. But in typing, under Appendix 1, the word Clause was used and that was the one confusing both the Chair and yourself. Hon. Okullo-Epak.

MR. OKULLO-EPAK: Thank you, Mr. Chairman. If that be the case, then do we take it that it is proposed to amend the current Clause by deleting the word, decentralisation?

THE CHAIRMAN: That is what appears on top of page 8, as Clause 3. It is a reproduction of the old 9

(4) less the word decentralisation, but the confusion arose from a typing error. So, that being the case, and Hon. Leander Komakec, having read correctly the mood of the House, did withdraw his proposed Amendment to delete what appears on top of page 8. So, there is no problem.

AN HON. DELEGATE: Are we now going to discuss that Motion, Sir?

THE CHAIRMAN: No, the motion we had with regard to Clause 3, was by Hon. Leander Komakec on a circulated piece of paper shown as 9 on page 2 of the sheet prepared by the Secretariat. Now, Hon. Leander Komakec was seeking to delete the present Clause 3 of Article 8, but he has withdrawn his Motion and therefore, there is no need to proceed with it. The word decentralisation will appear in Chapter 13. What is left here is really reference to devolution as a different concept. So, that is his position.

MR. OKULLO-EPAK: In that case, Mr. Chairman, if it is intended to retain the Clause as worded on page 8 of the report, then I would oppose the deletion of the word decentralisation. This is why I am really hoping that it is going to be debated as a Motion, because I would oppose the deletion of the word decentralisation.

THE CHAIRMAN: The only way you can do it, is for you to say that since we have not re-opened because of Hon. Leander Komakec, you seek leave to amend 3 and re-introduce the word decentralisation, thereby, disagreeing with the recommendation of the Legal and Drafting Committee. Then, if you are seconded, and supported, then 3 appearing on page 8 will be accordingly amended. Do you want to take that liberty because Hon. Leander Komakec has withdrawn and we have said yes and we have thanked him.

MR. LEANDER KOMAKEC: Sorry, Mr. Chairman. I was not here yesterday, so if I am causing a bit of confusion, I beg to be forgiven because, I do not know how we are treating the recommendations of the Legal and Drafting Committee if they are not going to be debated as Motions, then, I beg to move that the word decentralisation should be retained as it was in the original text.

THE CHAIRMAN: The position is that, for the benefit of Hon. Okullo-Epak, although the Chairman, was not here yesterday, but he followed through

various other ways. The Position is that, we are following Appendix (2) - the recommendations. We decided here that a certain number of things should go to the Legal and Drafting Committee and they come back to us with reports. Some of those were for instance, definition of the words public interest they came back with a report, we discussed that, added, reduced and came to a conclusion. Similarly, we said, can you come back with a recommendation as to how we should treat Chapter 3? We came back with that report and in it, they are saying, let us retain the substance of Chapter 3, standing on their own as Appendix (2) shows, then at the end of the day, we shall decide where to put them, whether as a Preamble, Appendix or as a Chapter.

Now, the position is that you as a member, as we are now discussing the retained articles and some of them renumbered like the one we are doing now, in Appendix (2), you are free, although you should have done so. So that we have your Amendment read before we can pronounce ourselves on it or discuss it to either add to what they recommend or even remove from what they have recommended. That is why you find Hon. Leander Komakec saying, I disagree with the recommendation of the Legal and Drafting Committee, let us delete the whole Clause, but reading the mood of the House, he withdrew. You are saying you would have preferred to retain the substance as it was before, therefore, you would like to re-introduce the concept of decentralisation in what is now 8 (3). I said, since you had re-opened it, should you be seconded, the Chair does not object to your raising that matter and let the House decide, but should you not be seconded, of course, we will not give you the Floor. This is not a very complicated Amendment. So, I think Members can make up their minds quite easily. That is the procedure we are now following.

MR. OKULLO-EPAK: Thank you for the clarification, Mr. Chairman. So, that be my Motion that the word decentralisation be retained.

THE CHAIRMAN: Well, let us first of all get clear so that it reads like it is in former 9 (4). That is what he is suggesting that the state shall be guided by the principle of the decentralisation and devolution of Government or functions and powers to the people at appropriate levels where they are best managed and direct their own affairs. This one - so Hon. Okullo-Epak would like to re-introduce the words, after the word principle, the words "*of the decentralisation*"

and then the sentence continues. Now, are you seconded?

MR. OKULLO-EPAK: Yes.

THE CHAIRMAN: By Hon. Malinga and Hon. Maliro, it seems the Hon. Okullo-Epak has had a great influence on his neighbourhood. You are seconded, could you present your case?

MR. OKULLO-EPAK: Mr. Chairman, I think, first of all, I did not understand and nobody explained, really, the reason for removing the word decentralisation and preferring it to be considered and discussed under Local Government. As a matter of fact, my view and knowledge of the fact is that, decentralisation is not typically the same as devolution. Whereas devolution may not contain elements of decentralisation, decentralisation could contain elements of devolution. So, in this context, Mr. Chairman and Hon. delegates, I would like us to think that we are not, in this context, requesting Government to devolve or transfer to Local authorities on the Legislative powers. We are asking Government to, at the same time, decentralise specific functions, duties and responsibilities which are not necessarily legislating power. So, I see that if we have to retain this provision and accomplish our wish properly, we cannot do it simply by concentrating on devolution of powers. I thank you, Mr. Chairman.

PROF. NSIBAMBI (Presidential Nominee): Thank you, Mr. Chairman. I think there is some confusion here and my role here is to first of all clarify. Decentralisation is a broad process entailing two aspects. It entails devolution and de-concentration and I must now also define those two concepts. When you deconcentrate, you merely give functions but not power. For example, when we have Central Government Representative, this is an example of de-concentration because he is appointed by the President and not by the people. This is an example of de-concentration. He may be serving very well, but the President may decide to remove him at the very time when they most need him.

On the other hand, when you speak of devolution, then, you do not only give functions, but you also give power. For example, the RC V is an example of devolution. This person is elected by the people, they can remove him, they have power over him and therefore, when you use the word decentralisation, you are really using two aspects, you are including

devolution and deconcentration. So, you cannot use decentralisation and then have devolution at the same time because decentralisation assumes those two concepts and therefore you can only use - and myself I prefer devolution, because devolution gives power as well - functions and power. You see, it is a more concentrated form. So, you cannot use both. You must use one of the two and I must very reluctantly oppose the Motion by suggesting that we must not have two of these two things, because it would suggest that these concepts have not been internalised.

THE CHAIRMAN: Hon. Maliro, you supported the Motion? Hon. Maliro.

MR. MALIRO GASTON (Mwenge North County): Mr. Chairman, I support the Amendment that the word decentralisation should be retained. I have the reasons. One, Mr. Chairman, the word decentralisation, in its simplest meaning, simply means, moving from the centre - moving from the functions or even resources. Now, the word decentralisation has two things in it. One, it can be decentralisation by delegation, or can be decentralisation by devolution. Now, these two things are supposed to be contained in this decentralisation. There are things which will be decentralised by devolution and there are others which will simply be delegated, and therefore, it is requisite that we maintain the word decentralisation which encompasses the two and also the word devolution so that we do not lose the other aspect of decentralisation by delegation. Moreover, I see no controversy because the word devolution is still contained. So, if we want powers which are devolved, which are completely given to the Local Government, it is still contained, though there is nothing we are losing. Mr. Chairman, there is no need for fighting over words and if we make a Constitution on sentiments, it will be a bad one. Therefore, I support the Motion that this word be retained. Thank you, Chairman.

MR. KWERONDA RUHEMBA (Kajara County): Thank you, Mr. Chairman. Let us not read the word decentralisation without the word "the". Here, in the former Draft Constitution 9 (4) which is now 8 (3), the words which we were intending to retain is decentralisation which has already been defined in Chapter 13. There is a suggested decentralisation in Chapter 13 and this is what we are referring to that the state shall be guided by that decentralisation in Chapter 13. Having been guided

by that, that also it can go and be defined by devolution which devolution we have not heard. We have not yet defined it. So, if we read the word decentralisation with "the" plus the word "devolution", we shall have the complete picture of what this Clause is intending to bring out. It is simply saying that future Governments shall be guided by the principles of decentralisation as defined in Chapter 13, plus devolution of Governmental functions. So, Mr. Nsibambi, are you supporting the Motion?

MR. MUGYENYI PONSANO (Isingiro North): Mr. Chairman, I am not a political scientist, but from the explanation of the expert by names of Prof. Nsibambi, devolution is just an aspect of decentralisation. Taking decentralisation also includes devolution. So, from that explanation, Mr. Chairman, I am convinced that if we take decentralisation, the aspects of devolution are well catered for and therefore, Mr. Chairman, I feel that we should take decentralisation and include it in the Clause which will cater for devolution and deconcentration as the Professor has told us. I therefore support the Motion very strongly and I appeal to Members to take the advice of the Professor and support the Motion. Thank you.

MR. MUSHEMEZA ELIJAH (Sheema South): Mr. Chairman, when we use the term decentralisation, we do not only assume the political aspect, but also the economical aspect - and I want to draw the attention of Hon. delegates that we are now dealing with the political objectives and later, we shall look at the economic objectives. To me, devolution is the most appropriate term here and more specific. I oppose the Motion. Thank you, Mr. Chairman.

DR. WANDIRA KAZIBWE (Kigulu South): Mr. Chairman, I want to support the Amendment which seeks to keep the word decentralisation to be part of this Clause. Mr. Chairman, the fears the people have about the word decentralisation is just a fear which is sometimes brought about by the trend or what is going on. I remember when we were debating the general principles of this constitution, there were Colleagues here who were advocating for people in Uganda who are called Banyarwanda to have their name changed because of what was happening then. Mr. Chairman, it is true that many times when you sit in a classroom and you are given an exam, sometimes if the teacher is given the same exam, the teacher may fail, and the student passes the exam. It has even happened here when teachers were

given P.7 exams and they even failed to make it and the students really clocked very high.

Hon. Prof. Nsibambi just took through a wonderful lecture this morning and he failed the exam himself in that he was very clear in really telling us that decentralisation is all encompassing. It includes devolution. The problem we have been having here is that there has not been devolution. So, I feel, Mr. Chairman, that if we put decentralisation, the word devolution should be included for emphasis. We are writing a history which is talking about what has been happening. We put decentralisation which is equal to devolution and deconcentration, but we insist because this is a directive Chapter, that devolution must still be there so that whoever is in governance must know that when they are talking about this decentralisation, they should not concentrate on deconcentrating power, but we want the devolution part of it to be included there. I support the Motion and I hope that Hon. Colleagues will go along with it to make sure that the *Wanainchi* get what they want because this is what they want to hear. Thank you, Mr. Chairman.

THE CHAIRMAN: Let us put the question on this one. The Motion is by Hon. Okullo-Epak, who seeks to rewrite what is Article 8 (3) so that it reads as it stands in former 9 (4) and I put the question.

(Question put and agreed to)

THE CHAIRMAN: Now, Clause 3 is re-drafted in the terms shown in the Draft Constitution. The position is that, having carried Hon. Okullo-Epak's Amendment, I would like to again move that Article 8 as amended - *(Interruption)*

MRS. JANAT MUKWAYA (Mukono County South): I would be very comfortable, Mr. Chairman, if that Clause had a comma after "objectives" and added the words "in accordance with the law" so that, Mr. Chairman, it reads: "Civil organisations shall retain their autonomy in pursuit of their declared objectives in accordance with the law"

THE CHAIRMAN: Is that seconded? No, it has not passed yet. Let it be presented, then we can proceed from there.

MRS. JANAT MUKWAYA: Mr. Chairman, I feel that if we leave out "in accordance with the law", the Clause is hanging just like that. So, I am

qualifying that the civil organisation shall retain their autonomy in pursuit of their declared objectives in accordance with the law so that we do not leave them to anarchy probably. That is what I wanted to qualify, Mr. Chairman.

MR. ONEGI OBEL: I am admitting, Mr. Chairman, that the speed is probably too fast, because I propose to say something about 5.

THE CHAIRMAN: No, are you seeking clarification on the Motion as moved?

MR. ONEGI OBEL: Can you take me back to 5 after that, Mr. Chairman? The current 9 (5) in the Draft - Okay 8 (5).

THE CHAIRMAN: Let us be orderly! The Hon. Onegi Obel caught my eye on the basis of clarification, but he want us to discuss 5 instead of 6, but we have not disposed of the Article. So, what we do is let us - since this one has been moved, let us do it, and then we shall come back to 5.

MR. BAGEYA GEORGE (Kigulu county North): Point of clarification. I am seeking clarification from Hon. Janat Mukwaya, as to whether the inclusion in Clause 6 makes this law enforceable. If it is not, I do not -

MRS. JANAT MUKWAYA: Mr. Chairman, what I thought was that this objective should be under the Law of the land.

MR. KISAMBA MUGERWA (Bamunakika County): Mr. Chairman, all along in this Chapter, we have been dealing with broad guidelines and it is on that basis even we dismissed the other Clause, where they wanted to make it mandatory and I think even this Clause 7 is also in that line as a broad guideline, that civil organisations shall retain their autonomy in pursuit of their directed objectives. Then if there is any law thereafter to govern them, that will be done in Parliament. But these are just guidelines on broad principles of the state policy.

PROF. NABUDERE (Budadiri West): I think that I oppose this Amendment because Article 6, the new Clause 6 should be read together with Clause 5 which we shall go back to, but that Clause 5 talks about the manner in which these organisations should be organised. They say that "all political and civic associations aspiring to manage and direct public

affairs shall conform to democratic principles in their internal organisations and practice". I think that is sufficient guideline to civic organisations. If you read the Odoki Report - the big report carefully, the Commission was attempting to ensure that there is room left for civic organisation not hindered by state regulation. It is assumed that people organise themselves in a democratic way in pursuit of lawful objectives. That is the consideration behind this Clause and therefore, by putting the word in accordance with law, it seems that we are afraid of being free to do things. I think we should welcome this freedom to do things, taking over responsibility for our own affairs and running them on a democratic basis. That is what this general principle is urging us to do.

MR. SSEMWOGERERE KAWANGA (Busiro County South): Mr. Chairman, I too oppose this Amendment. In addition to what has been said, let us also think of the history of this country. The problem here has been that Governments, people in authority, have many times interfered with civic organisations and I thought that the purpose of this Chapter is to re-direct public policy in favour, in this particular regard, of democracy, of freedom of people to organise themselves, so long as they do that properly. I think if we accept the Amendment, we are giving license to all sorts of laws which will give power which can be misused by the authorities regarding the conduct of civic organisations. I oppose the Amendment.

LT. COL. SSERWANGA LWANGA (NRA Delegate): Mr. Chairman, I support the Amendment. I had also moved a similar Amendment yesterday which was circulated. The message I would like to send to the people who are forming civic organisations is that they must be orderly and they must behave in accordance with the law. This is the message we are sending. Much as we would like them to be free to do whatever they want to do, let them do it according to law. I thank you Mr. Chairman.

MRS. CECILIA OGWAL (Lira Municipality): Thank you, Mr. Chairman. Much as I sympathise with my sister and appreciate her zeal to strangulate civil organisations - *(Interruption)*

MRS. JANAT MUKWAYA: Point of order! Mr. Chairman, is my sister, Cecilia Ogwal in order to impute improper motive that I want to strangle, yet

I am a democrat, because if I did not fight, we would not be sitting here. So, is she in order?

THE CHAIRMAN: Anyway, she has been informed of your performance, so we proceed.

MRS. CECILIA OGWAL: Thank you, Mr. Chairman. Mr. Chairman, we have accepted that this is just a general guideline - a guideline which will give us a vision of our new Uganda. My sister ought to have referred to Article 65, which we passed last week and that, I understand is supposed to guide - to enforce the general principle we are talking about. So, Mr. Chairman, I stand to oppose the Amendment, because I believe that the civil society will definitely operate within the law. Thank you, Mr. Chairman.

MR. KAVUMA STEVEN (Kotido South): Thank you very much, Mr. Chairman. I wish to support the Amendment by Hon. Janat Mukwaya. Mr. Chairman, this is a Chapter where we are laying the Directive Policies. This Chapter is primarily intended for our population. They want to be able to look at a Chapter, read it and understand how they are supposed to conduct themselves and their affairs. Mr. Chairman, in the past, we have had tendencies which could have resulted into chaos by certain civic organisations wooing certain sections of the society into adventures which could be dangerous. We are saying, before somebody picks up the Constitution and waves it, and says, you know my civic organisation is entitled to do this, there is no law against it, we want this notice to be public so that those who can look at it can see that actually, what you are doing must be done in accordance with law and when the people also hear that some authority is saying that what is happening or what is about to happen is in contravention of the law, the population or the public will not be taken for a ride. We want to be clear, even at the expense of having to repeat it in here, because we think it is a dangerous provision that can be misused by irresponsible people. I beg to support strongly and I appeal to the House to support the Amendment by Hon. Janat Mukwaya.

MR. OMARA ATUBO (Otake County): Mr. Chairman, I look at this proposed Amendment from another angle in the sense that, it is not really necessary. Mr. Chairman, when we talk of civic organisation and there are very many of them, there are in place laws already governing most, if not all of these civic organisations. If you are talking of the

NGO's, you cannot operate an NGO in this country unless it is registered, unless you follow a law which has already been passed in Parliament. Mr. Chairman, if you are talking of various other organisations, call it - if you want to call a Public Company a Civic Organisation, if you want to call a Lawyers organisation a civic organisation, if you want to talk of architects, lawyers, doctors; if you want to talk of the media. Now there is a law which is going to be put in place. If you want to talk of any, there are already laws in place governing quite a number of these civic organisations but what I suspect is really bothering us and from the speakers who have spoken, they are possibly thinking of political civic organisations.

Mr. Chairman, I believe that there is a proposition in this Constitution and it is possibly going to be debated or accepted, that political parties may have to be registered. A Law may have to be put in place to regulate the activities of these political parties. Furthermore, if we look at the Constitution of 1967, there is also a Clause in that Constitution which actually had allowed Parliament to pass laws to regulate activities of political parties. Unfortunately, that law was never passed. Mr. Chairman, if we talk of civic organisations to operate in accordance with the law, then you are saying which law? Because if you are talking really legally by saying civic organisations to operate in accordance with the Law. Which

Law? Are you going to have one Law to govern all civic organisations or you have civic organisations, each of them being governed by various laws to be put in place or are already in place? So, when we say we are amending to include "*in accordance with the Law*", surely one is bound to ask - Which Law? Are you going to have these various civic organisations having one umbrella Law governing them or each civic organisation is going to have separate laws governing them as the case may be? So, I do hope, Mr. Chairman, that this Amendment is absolutely not necessary. It is absolutely not necessary and therefore, I oppose it in good faith Mr. Chairman. Thank you.

MRS. KALEMA (Kiboga County East): Thank you Mr. Chairman. I support this Amendment because the reason which Hon. Janat Mukwaya has given is quite pertinent although these are political objectives but if we are to allow civic organisations to carry on their autonomy in pursuit of their declared objectives, everything must be done according to the Law. Hon. Omara Atubo has just been

asking - which law? Should all the organisations have to have different laws? but I say this and this is what Hon. Janat has said, that the law of the land. I will take the example of the demonstrations which are never allowed any where without the police agreeing. Does the police always have to give permission to any civic organisation provided it is public? Mr. Chairman, I will stop there and beg Members here to support this Amendment and ask you Mr. Chairman to put the question.

THE CHAIRMAN: Not yet. I'm Not closing others off. Hon. Owinny Dollo.

MR. OWINY DOLLO (Agago County): Thank you Mr. Chairman. Mr. Chairman, there seems to be some amount of misconception and misapprehension of this Clause. Mr. Chairman, in my understanding, the key word here is "*autonomy*". When we talk of autonomy, we are not saying these civic organisations would operate outside the law. All we are saying Mr. Chairman, while they will be operating outside the law, because in any case, it is either the law creating or the law recognising their existence. Their operations shall not be hindered by the chief abuser of the rights of the people - that is the State.

Autonomy means they do not owe allegiance, if I may say from our experience, to the State. I will give an example, Mr. Chairman. The Cooperative Societies Act as we have of 1970 and 1992, I think. The Commissioner of Cooperatives wields a lot of power on the Cooperative Societies. They do not enjoy the type of autonomy we would like to give them in the new Constitution. That is not to say - there is no Act that governs the operation of Cooperative Societies. We are saying that there will always be some law that governs, either general or specific - governing the operations of these organisations. But these organisations should not be pegged to the State so that they operate as apparatuses of the state. If we are going to set up Women Organisations, they should be autonomous. They should not be state organs. NUSU, NUYO and what have you, should be autonomous organisations but there will always be law. Once you say, their autonomy should be subject to the law as it is being suggested by Hon. Janat Mukwaya, you are saying a different thing. You are actually killing autonomy. Once you subject autonomy to the law, it is the operations but not the autonomy. Thank you.

MR. MULINDWA BIRIMUMASO (Bukoto West County): Thank you Mr. Chairman. I would like to agree with my sister Cecilia Ogwal on this Clause. When you look at the Clause, it is directed at the State not to interfere with civic organisations. It does not mean that these civic organisations will be operating not in accordance to the law because they will be established by law. But we have been having a tendency in our history for the state to interfere in whatever is being done by these organisations. So, I would like Members to oppose the Amendment brought by Janet Mukwaya. *(Applause)*

MR. WAMBEDE (Bunghoko North): Thank you, Mr. Chairman. We are getting confused between the autonomy of civic organisations with the operations. We accept we shall not interfere with the autonomy but then the operations - Mr. Chairman, from the experience that I have seen, I will strongly support Janet Mukwaya's - *(Applause)*-Motion. Take an example, Mr. Chairman, the recently ended exercise of CA. The case of NOSEM, what happened? It is independent but what was it doing? It was rightly campaigning for certain individuals and decampaigning others. Now, should we allow that to continue? We are saying they should follow the law as may be prescribed maybe by a Parliament as empowered by the supreme law. Thank you Mr. Chairman.

MR. MULENGA (Democratic Party): Thank you Mr. Chairman. I would like to draw attention of Hon. Delegates to Article 7, Clause (1). This one gives the indication of purposes of the Clauses we are dealing with. When you say, as in this Clause, that the autonomy of civic organisations should be recognised, you have to read that Clause to remember that this is intended to guide Parliament. When Parliament is making laws about civic organisations, it should take into account the autonomy of civic organisations. Then, you look at the Executive. When the Executive is carrying out administrative actions or enforcing law, it should recall the autonomy of the civic organisations. So, Mr. Chairman, I would end by saying, no body, either organisations or persons is above the law that is in the Constitution. So, there is no need to add to this Clause in accordance with the law. *(Applause)* So, Mr. Chairman, it would divert the emphasis on the autonomy. I oppose the Amendment.

MR. BWAMBALE (Bukonzo County East): I stand to oppose the Motion Mr. Chairman on principle. Reason Number one, I would like to concur

with Hon. Mulenga that the Amendment is already catered for in Article 7 (1) whereby, they are referring to the Constitution as the Supreme Law and any other law during the implementation of their objectives and principles under this Chapter 3.

Reason Number 2, I oppose the Amendment Mr. Chairman, so as to be brief and precise because after all, this is a kind of repetition. The fear of the operation. I would like to inform the Hon. Delegate who had that fears that the word operation is the same as implementation. So, she should not get worried. I, therefore, Mr. Chairman, also refer those who have the fear to Article 65 as put forward by Hon. Cecilia Ogwal where they show us the civic rights and activities and the words "any other law" is also included under that Article 65. Therefore, Mr. Chairman, I stand to oppose the Amendment. I suggest that you put the question. *(Laughter)*

MR. TIBAMANYA (Kashari County): Thank you Mr. Chairman. I support the Amendment. I have noticed that those who are opposed to the Amendment are of the view that it is already catered for that these civic organisations will be in accordance with the law. Those who are for the Amendment are saying it is for purposes of emphasis. So, we are all agreed in the House, let us put the word for emphasis purposes and I thank you Mr. Chairman. *(Applause)*

PROF. SENTENZA KAJUBI (Kyandondo North): Mr. Chairman, I would like to propose that the question be put. *(Applause)*

THE CHAIRMAN: I think let us act on the basis of that. The question is that the question be put.

(Question put and agreed to)

THE CHAIRMAN: So, now I put the question that Clause 6 of Article 8, former 9 be amended by inserting at the end thereof the words "in accordance with the law". That is the Motion by Hon. Janet Mukwaya. I now put the question.

(Question put and agreed to)

THE CHAIRMAN: Hon. Onegi Obel, you had something to say on (5)? Order! Order!

MR. ONEGI OBEL (Jonam County): Thank you Mr. Chairman. I must apologise to my Colleagues for taking you back to Clause 4, the former Clause

5 and I am seeking Clarification from the Drafting experts, if the word "government" in there includes Organs of a State. Mr. Chairman, I happen to know that in most cases all over the world, the word government refers to the cabinet and if I am right, then I would suggest an Amendment which would include government and all its organs.

THE CHAIRMAN: Well, would you repeat that, I was - *(Interruption)*

MR. ONEGI OBEL: I was suggesting that since the word government, Mr. Chairman, usually refers to the cabinet, I would like to suggest that, if I am correct, we put an Amendment which will say the composition of the government and all its organs and then the rest reads, Mr. Chairman -

THE CHAIRMAN: Which one are you talking about?

MR. ONEGI OBEL: It is (4)

THE CHAIRMAN: Okay, because I thought you had requested to talk to (5)

MR. ONEGI OBEL: "The composition of the government and all its organs shall"

THE CHAIRMAN: So, Hon. Onegi Obel is seeking to insert the words "and all its organs" after the word "government" *(Interjections)* But he has not even presented it? I take it that it has been seconded by the sounds I heard. Very many Members. Now, yes Hon. Member.

MR. KAGIMU KIWANUKA (Bukomansimbi): Thank you Mr. Chairman. Maybe to improve upon it, it will be "organs of State" - That "the composition of government and organs of state"

PROF. NABUDEERE (Budadri West): Mr. Chairman, I think the concept "government" is wider than cabinet which Hon. Onegi seems to imply. Government would include all the branches, all organs of the state. It includes the judiciary, the Public Service and things like that but at least the three branches of government.

THE CHAIRMAN: Hon. Onegi Obel, Hon. Nabudeere is suggesting that you would be adding nothing new to the concept as it is here and it is not good to write a Constitution by just going through emphasis. Do you think that that is a wrong

interpretation? He is saying that government includes all its branches and organs.

MR. ONEGI OBEL: Mr. Chairman, I sought a Clarification first but I then also said that in my understanding of the word "government", the reference usually is usually to the cabinet.

THE CHAIRMAN: No, that is not true.

MR. ONEGI OBEL: Okay, I sought a clarification.

THE CHAIRMAN: Cabinet in some cases is just a Parliamentary Committee which runs the country but it has got ministries which have departments and all that. The total of all those form government because Police is not cabinet and so on but all of those come together. Hon. Nabudeere clarified on those lines and in view of that, do we need to proceed with that Amendment?

MR. ONEGI OBEL: No, Mr. Chairman. I am satisfied.

THE CHAIRMAN: I think we should leave it. Thank you. Let us now put the question on 8 as amended. You remember we amended with an Amendment brought by Hon. Member Okullo Epak. We amended 3. So, I will put that Article 8, as amended do stand part of the Constitution.

(Question put and agreed to)

THE CHAIRMAN: Article 8 as recommended by the Legal and Drafting Committee and as amended stands part of the Draft Constitution. Now, Hon. Delegates, we have Article 9 on Page 8. I am trying to see if there are some Amendments. There is Proposed Article (9), there is an Amendment proposed by Hon. Miyingo Kezimbira to delete certain words. Then, there is Hon. Leander Komakee seeking to delete Clause (2) which is former (10) and so on and so forth. Let us start with the Proposed Amendment at (12) by Hon. Miyingo Kezimbira and if it is seconded, then we proceed from there. You have the Floor.

DR. MIYINGO KEZIMBIRA (Bukoto Mid-West): Thank you very much Mr. Chairman. Mr. Chairman, I got threatened by the mood of the House earlier on *(Laughter)* Mr. Chairman, although, you know, it takes time to sit down and move Amend-

ments, not just a question of writing Amendments. But when you are threatened, you tend to - *(Interruption)*

THE CHAIRMAN: You should not be intimidated. I think you should consult. Hon. Wanendeya will lecture you on intimidation. Go ahead.

DR. MIYINGO KEZIMBIRA: Mr. Chairman, I had intended to move an Amendment to add just the word "development" at the end of Clause (1) of Article (1) if it is the wish of the House and they consider the word worthwhile, then I move that this word be added on to this Article, Mr. Chairman, I beg to move.

THE CHAIRMAN: Is that seconded? I can see it is seconded by many Members. Please speak to your Motion if you have not done so.

DR. MIYINGO-KEZIMBIRA: Thank you very much Mr. Chairman. Mr. Chairman, when I read Article (10) Clause (1), I see that all the important achievement that we intend to entrust with the bodies mentioned in Article 7 (1) to pursue in the leading of this nation to progress are contained in this article. That is national unity, peace, stability and then I add on the word "development" and I am so supported, especially this morning, by the speech of Africa's Statesman Hon. Dr. Nyerere, that all that has been mentioned in Article (10), Clause (1) have been greatly emphasised and if we have only national unity, peace and stability and we do not add on development as one of the guidelines that our leaders should focus on, then the others, Mr. Chairman, might be left hanging. This is the very reason, Mr. Chairman, why I intend to move this Amendment so that we include it.

MRS. MASIKO (Women Delegate - Rukungiri): Thank you very much Mr. Chairman for giving me this opportunity. I would like to oppose the Amendment mainly because when you turn to - here what we are talking about is the national unity and stability but if I could draw your attention, fellow Delegates, to Page (8), It talks of the rights of development, the roles of the people in development and the economic objectives. So, the whole - if we could hold on, we shall take the development to those articles rather than drawing it to this and confusing the whole thing. *(Applause)* Thank you very much Mr. Chairman.

MR. KAYIZZI (Kasanda North): Thank you very much Mr. Chairman. I also beg to oppose the Amendment as brought simply because it is not fundamental and relevant. Because where there is peace, stability and unity, of course, development crops in. Therefore, I beg to oppose.

THE CHAIRMAN: We have been informed - Hon. Masiko has drawn our attention to the fact that this area is divided into various parts. Does Hon. Miyingo Kezimbira not wish to transfer when we come to that? In view of the contribution by Hon. Masiko.

DR. MIYINGO KEZIMBIRA: Mr. Chairman, if it is the view of the House that it is catered for elsewhere, then my concern as a nationalist are taken care of. *(Applause)*

THE CHAIRMAN: Thank you, Hon. Member. The Member has withdrawn it. So, we cannot continue to speak on what is not on the Floor. But the Member reserves his right to bring it at the correct point as pointed out by Hon. Masiko. So, that matter ceases there. Order! Order! Yes, Hon. Kabwegyere, you would like to say something?

PROF. KABWEGYERE (Igara West): Thank you Mr. Chairman. Much as the Mover has withdrawn his Amendment, the message was "all organs of the state" whereas, when you come to Page 11 - *(Interruption)*

THE CHAIRMAN: No, but now you are taking us back to debating.

PROF. KABWEGYERE: Mr. Chairman, let me make a point. These are political objectives and we are talking of "all organs of the state shall work towards development" whereas when we are specifically talking about the State in (20) - "The state shall endeavour". In other words, what the State can do.

THE CHAIRMAN: You can amend that one when we come to it. You can advise Hon. Miyingo Kezimbira on the basis of what text he should bring when we come there. But otherwise, there is no Motion for us to debate and you are pulling us back to that one.

PROF. KABWEGYERE: Yes, but Mr. Chairman, in view of that - *(Interjections)* - in view of your

ruling, is it possible that we only debate Amendments which are seconded first?

THE CHAIRMAN: Yes, otherwise, you are not on the Floor. Our rules are very clear on that one. It would appear Hon. Delegates, that there were some other Amendments which were moved on some of these chapters but were not incorporated in the text which we have before us. The Clerk drew my attention to it. What I suggest is that the Clerk and the Technical Committee go and compose these new ones and relate them so that we proceed logically. Instead of having to refer, as they are drawing my attention to a series of documents. Some of which have not been circulated. So, for that reason, I think we shall have to stop here but before we adjourn, I will give the Floor to the Deputy Chairman of the Legal and Drafting Committee to make an announcement.

MR. WACHA: Thank you Mr. Chairman. I want to take this opportunity to invite the enlarged committee of Legal and Drafting to meet at 3.00 O'clock today - Legal and Drafting Committee, here in this hall to decide on how we are going to proceed from here. Thank you Mr. Chairman.

THE CHAIRMAN: Thank you and I would like to remind you that tomorrow we shall have a Business Committee in the afternoon. The Circular, I think has gone out. With that, I adjourn the Constituent Assembly to tomorrow morning at 8.30 a.m. Thank you. We stand adjourned.

*(The Assembly rose and adjourned to Friday,
23rd September, 1994 at 8.30 a.m.)*