



THE REPUBLIC OF UGANDA

PROCEEDINGS

OF

THE CONSTITUENT ASSEMBLY

OFFICIAL REPORT

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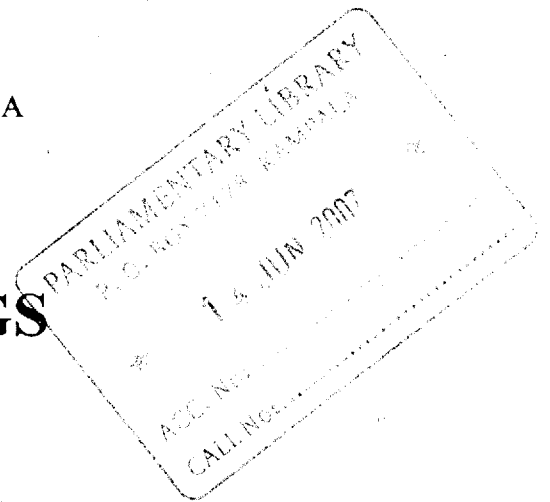
Communication from the Chair

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General Debate on the Draft Constitution of the Republic of Uganda

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Shs.: 2400/-



Thursday 23rd June, 1994.

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

PRAYERS

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

The Assembly was called to order.

COMMUNICATION FROM THE CHAIR

THE CHAIRMAN: Hon. delegates, I do not have many points, I have one only, and this is a third one. I have received a letter from one of the delegates Mr. Jakobo Aniku CA delegate for Madi Okollo Constituency and also we have of course, received information through the media, of the sad death of Bishop of Madi, Arua; he was on his way to Lweza to take part in the election of a new Archbishop. Bishop Caleb Ariaka Mawanguma, died in a car accident. And I would like to ask the House to stand for a minute in silence in honour of the deceased Bishop. Please, stand. May God rest his soul in peace.

GENERAL DEBATE ON THE DRAFT CONSTITUTION OF THE REPUBLIC OF UGANDA.

THE CHAIRMAN: As I indicated yesterday, we should start our debate on the principles and at this juncture, delegates are not expected to go into detailed discussion of the articles; that will be handled during the consideration stage. But meanwhile, you can comment on the import or meaning of the various articles, how you understand them and whether you support or you carry the message you have got from your constituencies. Under normal Parliamentary rules of debate, Parliamentarians are not allowed to tediously read from the notes or read statements - they are only called upon to refer to their notes. But here, we are doing a different job, we are not coming to the Assembly to be orators who are trained to talk in public and so on. Here we are considering a constitution for Uganda, and people have either messages or positions or they have ideas they want to convey as clearly as possible. I have discussed this with my Deputy, and we take the view that a Member who has a written statement carrying his message as to how he understands Uganda should be, is free to

read provided of course, he does not exceed the allocated time. I think that is a fair way of ensuring that there is a free flow of ideas. Some of us who are Parliamentarians of course, can speak freely, and those who have got their ideas well set out can orate, but those who would like to deliver their statements in a written form, we have no objection. The only thing I said is time factor. I have got here 15 names of Members who have registered to speak, and I will straight away call upon the first one hon. Kisamba Mugerwa, Bamunanika County

MR. KISAMBA MUGERWA: Thank you, Mr. Chairman. But in order with the procedure -

A HON. DELEGATE: Point of order. Since during the general debates each delegate will be given up to 30 minutes, I would like to propose that delegates speak from the podium so that we can all see them clearly -

THE CHAIRMAN: We shall waste a lot of time, people walking all the way to the podium. I think we better speak in our places unless it is difficult to have access to a microphone between now and tomorrow. We are hopeful by Monday we should be okay. It will be fascinating to be there but we shall waste time.

A HON. DELEGATE: Point of information. Thank you very much, Mr. Chairman. The suggestion that we go to the front and speak is a good idea, especially for some people who are seated in the front rows, because at times it is going to be difficult for some of us to really give good suggestions especially when we have our backs to your chair. So, maybe having less time wasted, we allow the front Members to do the same, it is in the honour of this House. Thank you.

THE CHAIRMAN: As I indicated, we are trying to supply cables so that hopefully by Monday we have enough microphones in here; it is just a question of rationalising their use so that each row and table will have access to a microphone without you having to do what you have just done. But if someone from the front - now like in your position you would like to speak if you are on this list, I would not mind you coming to the podium because we do not want you to turn your back to the chair. But those who have got microphones should speak through them so that

we do not waste time with people having to walk all the way from the back to this way.

BRIG. MOSES ALI: Mr. Chairman, I think it should be optional for Members whether they want to speak at their table or to go there, because that place is not necessarily for the chairman or any other person. Anybody, I think, can go and speak there if she or he wishes. Otherwise, those who are nearer there will even take a shorter time. I propose, Mr. Chairman, that speaking on the podium should be optional. And we can vote on that if you want.

THE CHAIRMAN: We only talk on matters other than those of using microphones. And the chairman's ruling was not based on the fact that he wants to reserve the podium and the microphone there for himself and herself. It was based on the fact of having to waste time walking a long way through tables to come and speak from here. I did say that those in front who have easy access to a microphone can do so. But surely if a Member has got a microphone in front and says his or her name, we all know who she is and then we proceed. I think let us go on that way.

MR. KISAMBA MUGERWA: Thank you, Mr. Chairman. Subject to your guidance, I do not have the new amended rules of procedure but according to the old draft it was rule number 46. I hope it is necessary to move a motion and then it is seconded that the Assembly debates the draft constitution. If you consider that I am in order, I beg to proceed by moving the motion, which ought to be seconded, and then I will make my contribution.

THE CHAIRMAN: I am obliged for your observation of this particular rule, 46 (1) which says, *as soon as possible after commencement of the proceedings of the Assembly the chairman shall call upon a delegate to move a motion that the Assembly debates the draft constitution after the motion referred to in sub-rule (1) if this has been seconded, the debate on the draft constitution shall commence.*

And then 47 relates to general debate, and *the debate of the draft constitution that is 47 (1) shall commence with the general debate on the merits and principles of the provisions contained in the draft constitution*, this is what I did indicate a few minutes ago.

During the general debate each delegate will be allowed a maximum of 30 minutes but the chairman shall take into account time unduly lost through the

points of order, taken by other delegates; the Clerk will ring a bell to say that you have five minutes to go to finish 30 minutes or so. So, in order that we may properly proceed with a general debate, we need a motion and hon. Kisamba Mugerwa has volunteered to move a motion since we do not have a government side here. We have only delegates and once that motion is seconded, then that will give hon. Kisamba, as a mover of the motion, the right to speak on the motion and then the other Members, in accordance with the schedule I have here, will be given the Floor. So hon. Kisamba Mugerwa yes, you are right, would you like to move your motion?

MR. KISAMBA MUGERWA: Mr. Chairman, I beg to move that the Assembly debates the draft constitution.

MR. KISEMBO MULEJU: Seconded.

THE CHAIRMAN: The motion has been seconded, hon. Kisamba Mugerwa, by hon. Kiseembo Muleju. You can go on now.

MR. KISAMBA MUGERWA: Mr. Chairman, though earlier on, I have made some interjections in the proceedings of the Assembly, I feel this is my maiden Speech and I would like, therefore, with your permission, to start by congratulating you and the Deputy Chairperson for having been elected to the high office of presiding over this August House. Secondly, I would like also to congratulate fellow delegates for having gone through no matter in which way they joined this Constituent Assembly. I would like also to put on record my thanks for the Constituent Assembly Commission which did a very good job of conducting the elections in quite a very brief time, and with minimum errors. Mr. Chairman, we cannot forget, as we are beginning the general debates on the constitution to recall the chairman of the Uganda Constitution Commission and all the commissioners who have enabled us to get here and provide a basis of discussion in form of the reports of the Uganda Constitutional Commission, and the draft constitution. Finally, with those remarks, I want to bring you greetings from the people of Bamunanika in Luwero District who happened to send me here as their delegate.

Mr. Chairman, Uganda is a sovereign State; Uganda has cultural diversity, and I understand it has got 48 ethnic groups, we have poor technology we are among the least developed countries, we have

experienced political turmoil since Independence. With such a scenario, Mr. Chairman, all our weakness since Independence, has been spent on destroying the cultural and the traditional institutions and values of our societies. Instead of evolving on them for the better in form of modernisation. Whichever regime that has come to power has been bent on destroying what it finds. As such, today we are faced with a task, as if we were in 1962, preparing for Independence.

Whatever weaknesses were in the 1962 Constitution, I think with the commitment to constitutionalism, it would have been possible to shape Uganda into a better society than it is now. However, that is to lament just over split milk, I am very grateful to the NRM Government and NRA, who actually ushered in power in 1986 for having created enabling atmosphere to piece together all these problems, to enable us to be here today to determine the destiny of our country for our generation and other generations to come.

Mr. Chairman, before I begin with the substance, I would like to call on fellow delegates to have a calm mind, tolerance, and to be considerate, and listen to each other's views in order to formulate a constitution that will stand the test of time. I am saying so on the grounds that, Uganda has different interests; we want to recognise the interests of different regions, different ethnic groupings, but at the same time, we want to forge a united Uganda. Mr. Chairman, unity does not mean losing identity; I hope we can achieve unity in diversity.

Returning to traditional institutions and values, which were gradually destroyed and which we should examine to evolve into a viable modern, acceptable society, I would like to report that in planning for development, it is always necessary to recognize such institutions and values, and evolve on them by making people participate and in that way, you can attain the level which is generally acceptable. I agree with the report of the Uganda Constitutional Commission on page 13 paragraph 51 where the major achievements are registered in form of innovation and fundamental changes. To quote *"The achievements of the current Constitution making process can be summarised under 4 broad aspects. First, The Draft Constitution of Uganda on the new Constitution has been the consultation of Ugandans on the new constitution and it has been unprecedented. They have come to understand that,*

the democratic constitutions ought to emerge from the people, this belief is the strongest safeguard of a National Constitution which has to evolve from the people themselves. Secondly, it is using these peoples' views as a basis for our recommendations etc up to the end"

Mr. Chairman, it is on those grounds that even in the colonial days, though traditional institutions and values were destroyed, some of the institutions in a way were conscious in their approach on matters of national importance.

In 1953, there was what they called The East African Royal Commission: It was instituted to examine the land tenure in Eastern Africa. It came up with its report in 1958 and it has recommended that governments in this region should pursue individualization of land tenure. Much as in the central region, in Buganda, there was mile land, this could not be spread elsewhere except that when it is approved by the local governments then. I recall many local governments did not accept to evolve, to start free hold or mile-land as one may call it, in their respective areas. But a good example is the government of Kigezi then, which accepted a pilot Scheme in a place called Buyanja sub county, near a village called Kyamakanda. What happened is that, that pilot scheme even when it ended, it spilled over into sporadic surveys and got entitled in that area which is now Rukungiri; then it was Rujumbura. It managed to continue. This is to emphasize that if something is put before the people and they appreciate the value, it goes in per se with their development it is easier to evolve a viable system than to be so radical and you remove everything which is traditional to which our people are used and just insert new values which may be just among the enlightened people when the mass is left behind. If I could finish with land tenure, it is in that regard that I wish to refer to the draft constitution chapter or chapter 17 which is about land and environment. Mr. Chairman, in article 271, I entirely agree with the Constitution Commission that we should introduce a mile free hold in the country. Except that in the report they are talking about uniform land tenure; some people have become to misunderstand the concept of uniform land tenure. When we talk of uniformity, it is essentially that if a policy is allowed, it evolves over time, it may be even 50 years. Because accusations and counter-accusations have been heard in other areas saying "look Buganda was favoured, it had this mile land, they have their titles, they used to

mortgage, and elsewhere it is not there". And when you come to 1975 decree, it made it even worse to scrap but not to recognise the customary tenure which is rampant in the whole country. I think it is necessary to come up with a law which recognises customary tenure. We have misunderstood and put customary tenure to become all the way public land. And here in the constitution draft, they start by saying all land in Uganda belongs to the people and its use shall be regulated by the Uganda Land commission for the benefit of the people. I have no quarrel with that, land is for the people, and should be utilized by the people. But the Uganda Land Commission should have sort of local boards in local government, I will use, in my contribution the word local government because I believe in a strong decentralized local government, no matter which unit you may have in mind, you may have a unit of a district, you may have a unit of *Saza*, you may have a unit of State, but I believe in a strong local government which could manage even its land affairs in that respective area of jurisdiction whichever it may be. When we talk of equitable distribution in land. I am not of the view that where people have equal opportunities, it means all attain them at the same time. It is just you have equal opportunities to breathe the air because it is free but if you happen to build a house and you do not put on a ventilation, the opportunity you will have denied it. Suppose another one built a good house and even with fans, he will have increased his opportunity of having better air-breathing better air. So, having equal opportunity does not mean that they are going to allocate land to each individual to have two acres as it has been misinterpreted in some circles. This is related to Clause 273 of the draft constitution where they say that the functions of the Uganda Land Commission would be to allocate land which is not occupied or owned by any person or authority. This is customary tenure which is public land I agree, as long as it is not occupied in a free hold, it should be - the word allocation is so superfluous that each and every part of Uganda, in one way or another, is actually owned. All what you need is to recognize those who own that land, and they apply through their local land boards to make it to get a free hold and not necessarily a lease. I agree to practice leasehold in towns, but you should appreciate in some areas towns tend to grow as they grow, they take even free holds of other people. Whichever town Authority should compensate or should purchase that land which is in free hold so that it is taken up by that Urban Centre to enable it to practice the lease system. So uniformity does not

mean that in urban areas we can not use a lease system. We can have double but the uniformity means that even other areas which did not have free hold elements can now practice free hold system and depending on the level of the area. I was recently in Moroto, there is a land office which was opened about two years ago, up to now it is closed because there is inactivity. It is not functioning. So, it is free, they have equal opportunities but they have not been utilized in that part of the country. Mr. Chairman, I would like to move further that, since I have said that, my submission is that-(*Interruption*)-

MR. LONGOLI: Point of information. Mr. Chairman, I would like to give information in regard to what hon. Mugerwa has just said to the whole House about the lease and the land office in Moroto district. It is true for quite a long time, Mr. Chairman, we have been denied opportunity to have land titles even in that place because of lack of that office. We have all along been trying to find out how we can get the land officers to come to Moroto even to gazette the areas and also to go into the trading centres and gazette them. It is along that line, Mr. Chairman, that we have been denied opportunities all along and the whole of the land of Karamoja is a game reserve even up to today, and very little land has been given to the people of Karamoja. That is why it is very, very crucial that this House, as we go along with the debate, we shall come out with so many reasons why Karamoja has been left behind, and why Karamoja is not going into agriculture because they have been denied land, and by the time when the whole land was gazetted, the people were not consulted. That is the information I would want to put without any order.

THE CHAIRMAN: Let me correct one thing, I think I will use my other position elsewhere although I have abandoned it. It is not correct to say that the whole of Karamoja is a game reserve; there are two National Parks and a number of game reserves yes, what is Karamoja's main problem is that it is a controlled hunting area, in other words it is still one of the managed areas, that is correct but it is not a game reserve the whole of it. I think let us interrupt each as little as possible.

MR. ETYANG: I wanted just to pick up on that point, Mr. Chairman. Since at this point of our debate we are giving general observations, which are representatives of the constituencies that we represent; I would really plead that you guide us in allowing delegate to give his or her views as clearly

and as much as possible without being interrupted yet. (Applause) Because, Mr. Chairman, if we went on the points of information and yet we have to go chapter by chapter, if we go with the points of information and yet we have limited ourselves to 30 minutes each, I am sorry either the speaker on the Floor will have to claim his extra time or will have to expect a much longer time than 30 minutes. Thank you.

THE CHAIRMAN: Thank you for the observation. I think we should go on debating, the point is this, that a Member rose on a point of information, I asked the Member occupying the Floor whether he wants to take it, he said he will take it, but for your guidance you do not have to take information, in other words, you can refuse to be interrupted. The Chairman's role is to take note of a Member who has put up his hand and seeks to know what the reasons are. Now I give back the Floor to hon. Kisamba Mugerwa.

MR KISAMBA MUGERWA: Mr. Chairman, that takes me to a point which I have already commented on; the local government. Through decentralization, Mr. Chairman, people in rural areas have tasted power to a certain extent and as a person who has some responsibility in rural areas, it is easier now to go to a rural area at say RC 111, level the sub county and they would tell you that it is through our 10 per cent that we have constructed such and such a building. This goes further to prove that if the local units are given more power to decide upon the developments in their area, and facilitated with funds collected from their local areas, and grants from the central government, they could do a better job than a central government which has unitary power to extend to local areas. Here the Odoki report seems to be unclear about this argument. The report states that people need strong local government yet it recommends a decentralized system. If what actually the constitution commission I had in mind is the current decentralisation which the NRC passed, then I feel this is far short of the power required at the local government. We need to do some panel beating to ensure that more power is given to viable units at local level, especially in terms of finance, in terms of land administration, in terms of planning, because here again on schedule 3 of the constitution they talk of planning as number 12 making national plans from provisions of all services including those to be run by local government. I would not submit to this, I would wish to suggest that

we develop capacity building at viable local units to ensure that they can come up with plans commensurate to the environment of their respective areas which

can be enshrined in a national programme rather than the other way round to have a top to bottom approach. I rather go for a bottom -up approach. What is however letting us down is a capacity building which we need to carry out over at times.

Mr. Chairman, this takes me to the beginning of Clause (4) in which the constitution commission says, "Uganda is one Unitary, Sovereign State and a Republic". I thought that was somehow superfluous; I do not like to argue for a form other than the content, but the word "Unitary" and "Republic" has some psychological impact on some of the society. Why can't we say Uganda is a Sovereign State, and it is a one Sovereign State. Secondly, Republic, though I have been educated to understand that in a Republic there are monarchs - you can have traditional rulers; that is not a problem, but the problem is that this word did not merge in the vocabulary of Ugandans until the monarchs were abolished. So, for psychological reasons and for clarity and in future for it not to be hijacked, we can drop even the word republic. Because I hope we shall get support to ensure that the traditional rulers, the monarchs where they are desired are left to their well being to exist. This takes to discuss in detail a bit about traditional rulers in this famous Clause 279, chapter 19, it is among the miscellaneous clauses. I have no quarrel with this article except that part two (a) I think at the right stage this will have to be deleted. The clause reads that the cost of maintaining and up-keeping the traditional leader and his office shall not be a responsibility of the government. Mr. Chairman, since my theme is, that I need a strong local government and it is that strong local government which is empowered on its political traditional rulers, on its land administration, on its finances, then why is the matter of finances and up-keep of traditional rulers not left for each area to decide, and after all it is the people there who contribute to the funds to be used in that local government, why not if it is generally democratically acceptable in that area, for them to put in a vote to facilitate that traditional ruler in the area. I think that it depends on the interpretation of this word 'the responsibility of the government', which is government? Because a government whether it is the central, it has the system up to the local government, they are also part of the local government. So, if you leave it like this, tantamount

to this interpretation that even the local government will not have power to vote any funds for maintaining their traditional ruler. I think at the right time. The Legal Draft Committee will assist to make that clear so that it does not prevent local authorities from deciding on the manner in which to spend their funds. Mr. Chairman, in that respect, I feel that these traditional rulers should be permitted to enjoy the facilities of their subjects. Because these are the values we have in respective areas. They will not be encroaching on other areas' funds but of those subjects of the people within their respective areas.

This takes me to the issue of political systems. The people who sent me here in Bamunanika county, there is diversity of ideas but they detest political parties. Mr. Chairman, they must be excused because here is an area which was strongly *Kabaka Yekka* in 1960s. They experienced cutting down of banana plantations, killing cows and goats, and persecuting those who were in the Democratic party at that material time. Secondly, in 1980s this is an area which had people like Ssebirumbi which is a household name. So we had the Oumas who were persecuting whoever was a member in the Democratic Party at that material time. So they have really not had opportunity to see how political parties can function in an orderly manner. It is on those grounds that they recommend that the Movement continues. It is argued that what is important in a political system is participation and have emphasized it earlier on. The NRM has all these qualities of allowing anyone to participate. Here is Adoko Nekyon, he came in his own right, here is Nabudere, hon. Nabudere he came in his own right of course, Seemogerere is not here but he is a delegate here in his own right. It has allowed every one to participate; this is equal opportunities. Every one managed to participate - whoever had the minimum qualifications. The problem with multi-party system in some cases is where they deny others to participate. I was a successful Member of Parliament in 1980 to 1985 and I think I was brilliant enough, better than some guys who were on the government side, but they could not allow us to exercise even on as board of directors. They could not allow us to exercise even on board of directors. They could not.

THE CHAIRMAN: Hon. Member, I think you better be winding up.

MR. KISAMBA MUGERWA: Mr. Chairman, as I am making my winding up remarks. I want to

clarify on the issue of the movement by saying that you find that in a movement, changing power is a problem. It needs to have a clear machinery where you can change power; to transfer power from one hand so that you do not worship the leadership as it is elsewhere. In other words on party systems which I hope is different from a movement, you find that they even dismiss some people from a party. If you dismiss a politician from a party then you are creating enemies. I think that case there is preference to movement if everyone is a Member as long as he can participate in his own right.

However, I do not agree that to introduce political parties we need a referendum - no. If we all generally accept, as I have in my constituency, that people believe in a movement, let us go in the next term for a movement, but legislate the parties because as of now no where political parties register, when they legislate for the parties those who wish can start. If you start a party and the majority do not like it, they will not come. There is a freedom of worship, how many religions have been started in this country, and how many of us have been converted? There is a need to leave it free as long as it as political parties are legislated. We do not need to have a referendum to decide on parties. Like when we are liberalising marketing of coffee all what you need to do is to know that if one fulfils these conditions then he can export coffee. So even if a political party if one fulfils this and that, then you can start a political party, if you have people to follow you then you go. Because otherwise, if we say that at every end of five years we have to subject it to a referendum it will create underground movements and spoil the movement's programme. Let us seek to a programme without blocking any body outside whoever has interest, to start his own party as long as a particular format where conditions specified is outlined.

Mr. Chairman, I would like to thank you for your indulgence to enable me to make this contribution. There are quite a number of issues in the 21 chapters, I cannot tackle everything, I hope I will have intervention in due course to make my remarks on other issues I have not touched on as a delegate of the people of Bamunanika county. Thank you very much. *(Applause)*

THE CHAIRMAN: I would like to thank hon. Kisamba Mugerwa for his contribution and for having agreed to move the motion to enable us to take off. I thank you.

MR. CHANGO MACHO: Mr. Chairman, I thought that a general debate was just general points, not to discuss articles. Because this is what is going to follow. *(Interjections)* No Mr. Chairman, if we are going to discuss article by article in this general observations, then we are not going to finish these things. We should just make general observations.

THE CHAIRMAN: No, order! let me make a ruling on that point. The observation is made in good faith but it is not valid. The honourable spoke in 35 minutes, we allowed five minutes because of interruptions earlier on. And he was talking about the general principles of the constitutional draft. The Principle of monarchy or traditional rulers, the principles on land, and the principles on local government. I do not think he was proposing amendments to those provisions. he said at the right time he hoped when amendments come Members will support him, that is within the ambit of the general discussion as long as he keeps within his time. *(Applause)*

MR. TIBERIO OKENY ATWOMA: *(Chua County):* Mr. Chairman, thank you, very much and I thank hon. delegates for receiving my address with a clap, thank you very much. Now, Mr. Chairman, I have here before me a 14 page document in which I have tried to reason out the provisions within the draft constitution. And together with the report made by the Commission. But as you see we have very limited time, I cannot go on all of them, but I intend, after having finished talking on certain points, I would like to lay this on the table for the benefit of the hon. delegates to be discussed later on.

THE CHAIRMAN: That is okay.

MR. OKENY TIBERIO ATWOMA: Mr. Chairman, we are indeed very grateful first of all, I might start with the N R M government for having facilitated this country with this proposal of new constitution making. Because this is the first time for this country, Uganda that Ugandans are being called upon on their own on their free will to make a constitution. And this chance should not be lost. While, Mr. Chairman, we are here to receive the destiny of our country by providing - by giving it a workable constitution; and in doing this, what has really pleased me most in the report is what I will try to highlight here, and what I disagree with. The terms of reference, which really have convinced me is that the government is serious when it proposes that we

should make a new constitution. And the two phrases really convinced me a great deal, and I think this will be throughout other than when we were cheated here making the constitution, we shall bear that in mind. The Phrases are: First to establish a free and democratic system of government that will guarantee fundamental human rights and freedom to the people of Uganda. Two to create viable political institutions that will ensure maximum consensus and orderly succession of government. Mr. Chairman, if we really commit ourselves to this in the making of this constitution, I think Uganda will be a very peaceful and prosperous country in future. But, Mr. Chairman, let me say this, that if there is anything at all by oversight which is included in the draft The Draft Constitution which is contrary to this very terms of reference, we should reject it out right, and this is the right of this Assembly. And with that in mind, Mr. Chairman, I am now going to highlight three points that are contained in this document. First of all, our constitution is starting with a preamble because a preamble is appreciation of what the document is to contain. But, Mr. Chairman, when I read it through, I found that the preamble was wanting in many aspects First of all Uganda is a God fearing and adoring country; we have the National Anthem starting with God; "*Oh Uganda may God Up hold thee*" then we have got the Motto; "*For God and country*" and the oaths of office, we always end "*God help me*" then the prayers we just read when started sitting here and in all of the Assemblies in Uganda, we always start with prayers to God. But then how comes that in this Constitution have not acknowledged God, and now we say probably in appropriate time this preamble will be revisited and certain invocation is given to God Almighty for his blessing upon the constitution that the country is to have.

Presently I have a paper circulating between the hon. delegates. The paper is headed 'The danger of a precipice constitution'. Well the sort of remarks that I am trying to make here is that the danger now seems to be very real in the draft constitution. Because by experience what had made Uganda what it is today, with all the turmoil was because of such kind of precipice constitution, and because of this allowing indirect elections for which we fought in the London Conference and we failed but we have to warn the people of the blood shed then and I think that has not been in vain. We have had it and we are under going it up to now. And I am only now trying to say that this proposal of indirect election of 33 in our forth

coming Parliament should this Draft Constitution as it is pass reminds me of what we did in the 1962 when 21 seats in Buganda were optionally given to Buganda through indirect election. I recall no doubt the explosion and we all know the consequences, it was very unpleasant. I would not go on to the repeat of this, Mr. Chairman and in order not to, it is needless to say that we do not want it, is to do something about it that it should not occur again. And this is the very job this August Assembly is going to do. Mr. Chairman, allow me to say bravo to U.P.C. and U.P.M. for rejecting this temptation of indirect election by refusing to nominate two delegates. (Applause). I think this is a very political maturity because you can now witness there is a lot of quarrelling within the parties that have fallen prey to this sort of thing. They are now quarrelling, they are scarring one another because of these seats. Well with the UPM, one may argue that U.P.M. and those who have not taken this offer have declined on the consideration that they are a joint twin with N.R.M. so it is okay with them. As a party I think they have shown the maturity of not promoting the idea of indirect election.

I would like to talk about the instability and stability in the country. Peace and stability are the pillars and a prerequisite for development in the country, without which we labour in vain. Therefore, here and now I am calling out in the loudest voice possible for the return of peace Amen. With the view of reaching a genuine peaceful settlement of the persistent insurgency in the North, particularly in my own district Acholi. The impression that Uganda is peaceful is not true because the whole is sickly if a part is ill or is hurt. Having said this, Mr. Chairman, I would like to take this opportunity to request President Museveni to withdraw his unfortunate statement and I quote "The N.R.M. has surrounded the enemy territory up East and North in the former 1820 Zulu war style" Mr. Chairman, this is a statement coming out from the Head of State and very frightening. This is contained in the *Monitor* April 8th to 12th, and Mr. Chairman, the President has emphasized that according to him it is the Northern Central that is a constituent insurgency area, that is Acholi and Lango who still go with U.P.C. Well Mr. Chairman, this is a very serious statement. I take it of which I am asking the indulgence of this Assembly to take serious views on it because we are making our Constitution not a constitution to go to war, we are making a Constitution of peace. So, therefore, if there are some people

thinking, of a part of Uganda as at war and we should war with them, then this Assembly will not be doing the very job they are called for. Then Mr. Chairman, not only that, this Minister, Dr. Kazibwe, has come out very boldly to predict the death that had occurred in the north by saying that "the youth of the north do not allow yourselves to die with those people who have chosen to die." And these statements, Mr. Chairman are from very powerful positioned people in the government, who have the machinery of the government in their hands, and in our country, Mr. Chairman, we have got to send our voice, the importance of this kind of statement about us and to call upon the international community to take note of this as already I have mentioned it in my previous document which is in circulation, I need not repeat here. And, if I may question, were we the northerners at fault or wrong to have joined in this CA Elections? If this was the case then we may ask pardon from God but if it was right then what might have really provoked or prompted the President to make that statement against us? Just because we have done these elections or just because those who were elected from the areas, specifically he has mentioned Kitgum and Lira, does it mean that the delegates coming from there are so distasteful to him that he will not bear sitting with them or listening to them? This, Mr. Chairman, we demand for an explanation.

Coming to Citizenship, well, intrinsically speaking the concept of citizenship means just what the Odoki Commission terms defective in the Report, paragraph 6.4, page 101 and I quote, "Such people believe that a citizen must be a child of the soil, whose ancestors have lived in Uganda from time immemorial." And I say yes, that is the precise definition of citizenship but let me extend to an alien of good-will out of good-will also by the country so granting but not compulsorily as it is reflected in this Draft. What is the significance of this and what is the hidden agenda of this seemingly sell out of the country in the name of granting citizenship? Mr. Chairman, I submit that in future perhaps when we are considering this we shall probably lay down that when Uganda is granting citizenship to any alien we should give it on the basis of reciprocals that we say a country - that if such a citizen is asking for citizenship here we measure it with what we have in their country in terms of citizens turning there also because otherwise we are not going to be on receiving, receiving and not giving, otherwise this country will burst.

Then the importance of human rights. Mr. Chairman, I appreciate the whole shape of the human rights as presented in this draft but I am only in quarrel with the word somewhere in Article 12.8 where it says "*The Government shall endeavour...*"

I am in quarrel with the word "endeavour" which means that the Government is taking it very flimsy that it is not very important for them to jealously defend the right and freedoms of the citizens and I think when time comes we shall see to it that this is done. And again with Article 131 that is concerned about the elections, you know in the elections is where we are very much disturbed by these divisions of the system of separating people by interest groups and other things, the other time I talked of it, you can see how they have jumped on me. So I am repeating it here for the benefit of the country that let us, first of all define this word "human". What does it mean to us? The word "human" is a word from the Latin word meaning "soil" and human means man coming from the dust of the soil and "woman" means coming from a man. So we are all one body. So what is the purpose of this discrimination in the system of election, women should be separately treated and other things like that. And we have already now witnessed here, Mr. Chairman, that we are in problems. Each time we talk we say alright, gender sensitivity and other things like that we are leered at all the time, just because this thing has been brought about. We should take one another as human beings and stop at that and all the equal rights given, whether to men. It is not stated here that it is only to men, it is human rights. Why should we differentiate here now? I think that is being done purposely just for the time being to gain some certain political positions. So I am appealing also to hon. Delegates of female sex orientated that we are not against them - as I speak now it does not mean that I am against sitting - now I am sitting next to my daughter here, I am very happy. I do not see any quarrel about it but why try to bring a quarrel between me and her by inserting this thing. It means the whole speech is pursuing a divisive means among the citizens. Like I am the father of all the youth and now they say alright, I think, let us represent them and so and so on. So we have got all these frictions of divisions which, here, I trust this honourable body will try to minimise.

The political system, Mr. Chairman, is where really all the quarrels are. This quarrel has arisen because of fear of Political support perhaps in the country. As it was even when my colleague here was talking about Buganda in the

1960s when the bananas were being cut out when Kabaka Yekka was coming up. These were all done because of fear. When we went to the London Conference and we came back with the idea of Buganda going it alone in indirect elections that is what prompted all these things and this is what now is being promoted here. We are going to end in the same way because there are certain groups which think that they are more favoured and they would not like to share with others and when others will say no, let us share together, that will cause problems and that is what caused us that problem because the Kabaka Yekka came with a fixed mind that we are not going to tolerate any political party in the area and that is why you have seen also there are even ventures to send off the Government seat in Buganda, "let them go elsewhere, we do not want them" and it was even uttered here sometime back. "Let those who are against this leave the land." Go where and which land? So you can see, as I talk now, this is of a very serious repercussion and here we are very responsible people we should take care of it.

On the political systems, if we talk of human rights, those who are talking against political systems are automatically talking against human rights and they have no right to claim human rights. What is wrong of me belonging to the Nationalist Liberal Party, and so to belong to D.P. or to UPC? What do we fear there and we say, "not by law, no political party is to operate". I think this is just a natural fear which we should now, please gentlemen and ladies, we should fight really against. It is a very serious situation and it is now being germinated in this new Constitution.

Now coming to the Electoral system, Mr. Chairman, I will not bother to go to all details; as I said, I will present this Paper and Members will read it for themselves but I would like, Mr. Chairman, to touch on one very trying point in the Constitution and that is the National Council of State. When I read of it I was shivering I said well, now we are probably being narrowed. The Parliament will be instituted there but in name. The real power will rest with the National Council of State and this Council of State, so to say, will be almost a one man show. Hon. Delegates, I think when considering this thing, primarily we thought this idea was going to serve as a bicameral sort of system but now it has turned out that it is going to be a walking stick of somebody who happens to be a President.

Coming to Justice, I would rather say that Country without proper administration of justice is a country that will never realise peace and I would say that whether it is intentional or it is just an over sight, that in our Statute Laws today we are still accommodating this Public Safety Act, that is Detention without Trial and we have got this obnoxious amendment in our Penal Code whereby when you are taken, arrested, you are to remain languishing in the prison for about 480 days before really your matter is settled. This we have witnessed it when we went to Luzira the other time. You remember I am one of the 18, then we found people there termed "Lodgers" in Luzira there, they were rotting, they were detained there, they were not coming to court and they were just there to sit there and wait. So, Mr. Chairman, this is one of the aspects that we must address during this sitting of Constitution making.

Well, talking about referendum, Mr. Chairman, I think this is just plain. I go back to the fundamental human rights. This is a freely given thing by God to each one of us. Now, who will say that "Mr. Okeny vote, do you want to die" - I know that One day I will die but should I be asked to vote to die? This is what you say now, should I vote in order to eat? So, Mr. Chairman, this one when we go into it detail by detail, we find really the implications involved by saying that we go to a referendum whether political parties will exist, whether we should have our freedom or whether we should have our rights.

And so Mr. Chairman, coming to the end of my submission here which I think hon. members will go through, I am appealing to my fellow hon. Delegates here to really look into the appeals being made by the press especially I am referring to editorials in the *Monitor* and the *Topic* and the writings therein by the concerned. They are appealing to us to be careful to guard against what is happening today in Rwanda, which is very sad, and they are in fear that should we also make a Constitution which will promote such a kind of thing, then we shall be to blame and, surely, this task in which we are involved, it is so taxing that we are holding the lives of our people in our hands as we sit here and anything we say here in this Hall, should be very responsible, taking care of lives, not because I want it to be this way.

Mr. Chairman, with these remarks, I wish the Assembly, the Holy Spirit, courage and wisdom. Let us face, it come what may. Thank you.

DR. MUSEKURA (Bufumbira North): Mr. Chairman, I would, first of all, like to express my sincere thanks to the NRM Government which has enabled the making of the Draft Constitution as well as enabling free and fair elections so that peoples representatives and representatives of various interest groups debate and enact a new Constitution for our country.

This Constitution must contain the basic and fundamental laws which are essential for the well being and proper governance of Uganda. It is, therefore, necessary to consider the interests and rights of all our communities taking into account our country's history as well as our environment.

Whereas the will of the majority must prevail, the views of the minority must be heard and respected. I am therefore appealing to the hon. Delegates to avoid destructive criticism so that we can arrive at a consensus in this country. Mr. Chairman, this Constitution must ensure that the present and the future generations of Uganda have the following: democracy in the rights of the individual; maintenance of a just, good and effective government, equitable and balanced development throughout the country; peace and social justice as well as unity and Political stability. We must, therefore, join hands in identifying the commonalities that need to be shared but leave the peculiarities to each area so as to enhance unity in diversity, Mr. Chairman, as the supreme law of Uganda the Constitution should have binding force on all authorities and persons throughout Uganda. All the citizens of Uganda should be enabled to defend the Constitution, by undergoing military training. All the powers of government should be vested in state organs with the legislative organ having supremacy over all persons, things and matters in the state so as to emphasize oneness. I strongly believe that since Uganda is a small developing country, she should have the unity of planning, implementing and executing our national as well as our local issues. Mr. Chairman, in Uganda, we need unity of purpose and the central direction of policies to achieve national progress as well as balanced development with a minimum regionalism and divisionism. We should therefore encourage nation building and the consolidation of development in all fields, whether political, economic or social. In short, Mr. Chairman, I support that Uganda should be one Unitary Sovereign State and Republic so that the power is with the people and their elected representatives. My view is that the

words "unitary" and "republic" should be left intact. That is, they should not be interfered with, Mr. Chairman.

The President should report to Parliament at least twice a year instead of once. All steps should be taken to ensure the policy objectives and the principles and the economic development of the country.

Regarding national unity and stability, all people of Uganda should be entitled to their cultural values and practises which do not disturb the unity and cohesion of the state so long as they do not endanger human life or dignity. Mr. Chairman, the state shall endeavour to fulfil the fundamental rights of all Ugandans by providing physical and social infra-structure namely schools, roads and hospitals throughout the country so that ignorance, poverty and disease are fought effectively.

As regards the rights to development, the state shall promote the attainment of decent standards of living for all citizens which shall include adequate food, clothing, shelter and medical care and, Mr. Chairman, civil servants should have a living wage and reasonable pension on retirement so as to minimise abuse of power and corruption.

The state shall take necessary measures to bring about balanced development of the different areas of Uganda and between rural and urban areas by providing road networks and electricity to enable the capability of developing, as educational objective, industries anywhere in Uganda. As regards Educational objectives, the state shall promote compulsory basic education but this should be free in the areas where citizens are living in conditions of abject poverty.

I agree that every person born in Uganda either of whose parents or grand parents is or was a member of any of the indigenous communities existing within the borders of Uganda as at the 1st day of February 1926 and set out in the Second schedule to this Constitution shall be a citizen of Uganda by birth. Unfortunately, Mr. Chairman, some ethnic groups were omitted and these include the Bafumbira. In pursuance of national unity and in order not to marginalise any community, the Bafumbira and any other ethnic groups that have been omitted, should be recognised and included in the Second Schedule as indigenous Communities within the borders of Uganda.

As regards freedom of movement, Mr. Chairman, every Ugandan shall have the right to move through-

out Uganda and to reside and settle in any part of Uganda. This will encourage free movement of labour and capital and will lead to modernisation as well as integration which is desirable in our country.

Regarding the qualifications of a Presidential candidate in terms of education, I feel that he should be a university graduate with at least one degree. No President should be in power for more than two consecutive terms of five years each no matter how good.

As for Parliament, Mr. Chairman, I feel that public officers should be allowed to contest without having to resign first.

The quorum of Parliament should require the presence of half of all the Members and not just one third.

Regarding the Judiciary, I support peoples participation in the administration of justice through the system of trial by the jury and assessors.

On land Mr. Chairman, there should be uniform land tenure system throughout the country and this should be free-hold. However, I agree with the hon. Kisamba Mugerwa that customary land tenure should be recognised and respected by the law so that the poor peasant communities are protected.

As for taxation on land, I strongly feel that citizens of Uganda should be exempted from such a tax and they should not be limited as to the size of land which they can acquire so long as they are able to develop the same.

I support that the system of local government in Uganda shall be based on the districts as a unit and decentralization should go on up to sub-county level to enable these Local government units to plan, initiate and execute policies in respect of all matters affecting the people within their jurisdiction.

Regarding Graduated Tax, Mr. Chairman, double taxation should be eliminated. It should suffice for a Ugandan to pay his tax, anywhere in Uganda and be able to move freely.

Finally, Mr. Chairman, I strongly support the view that the new Constitution should be simplified and translated into all the local languages and also be taught in all our schools. I hope when the right time comes the hon. Members will support me. Thank you very much, Mr. Chairman.

COL. PECOSKUTESA (Kabula County): Thank you, Mr. Chairman and Hon. Delegates for allowing the people of Kabula and myself to express our views on the principles of this Constitution of Uganda. We believe that any organised society must have some norms and laws that govern it so that the individuals of that society can behave in the accepted manner. Those norms and laws enable the individuals of that society to have a sense of belonging. The Constitution being the supreme law, it is the hope of the people of Kabula and my sincere hope that the Constitution which we delegates, elected or nominated by Ugandans, are about to formulate will create that sense of belonging. The aim of my speech is to present the views of the people of Kabula and my own views with a sincere hope that those views will tally with the views of the fellow delegates here in order to come to a genuine consensus.

In my speech I will try to touch on the following issues. The unity of Uganda, the aspiration of the people and the creation of that sense of unity, I will put some recommendation and conclude. I will start with the unity of Uganda.

Strategically when we are discussing the potential power of a nation we always look at its geographic position, its size, population, agriculture which is understood to be food security but first and foremost we look at the peoples' will. The will of the people in that geographical area and that peoples' will is expressed in their Constitution. Hon, Delegates, we should bear in mind that none of us here, neither did the electorates that sent us here at any given time voted to be born in this geographical area called Uganda or its neighbourhood. We are all here and we are proud to be here, we have to come with a law or a way how we should coexist and accept each other. We should come up with guidelines of how do we work together not necessarily out of love but out of necessity. Because here hon. Delegates, I would like to remind you that Uganda has had its share of civil strife but there is one adage that in a civil war there is no victor, there is no vanquished. All you have to be sure of at the end of the day is dead bodies and they are all Ugandans. I do not think since the 60s when we started our wars up to now we can come up with one national hero that oh, this man is a national hero of Uganda he has fought well by doing what - because we have never had occasion to say, confront a neighbouring country and then we come up with someone who performed, it was just between ourselves.

Now, bearing that in mind that we have to co-exist and we have to live together, we should look at the next item which I talked of which is the aspiration of Ugandans. What does a Ugandan as a Ugandan expect? What will create that national will, that pride, that sense of belonging? The people of Kabula and I have a lot of hope in the job that is at hand with us now. We think that at the end of the day whatever constitution we come up with will cover many subjects but there are three main ones; the fundamental human rights; the equal opportunities, the utilisation of resources of this area; then the ability to choose, to elect, to hire or fire a leader. The fundamental rights of a human being, of a Ugandan is really what is at stake. Nobody feels he is a Ugandan. That pride, you are walking on the street and somebody just grabs you, you are under arrest. Mostly what you do is to send a message at home to tell the wife to go and sell the two cows and come and rescue you. You have no right to say why. I think it should be the task of this House to come up with a Constitution which will be taught to every Ugandan and that will infuse that pride that - "what right do you have to search my house." "Why should I sleep on the Quarter Guard." "Why should I be arrested." That is the Only way really a Ugandan will feel that he is a Ugandan and he belongs but otherwise, I do not think what is going on at the moment is right because there should be demystification of the law. Our people really do not know what is going on; you are arrested yes and then the lawyers tell you that ignorance of the law is no defence. Well, I do not know but how should I know it is right or wrong - but every Ugandan should have that pride. When he leaves point "A" he should know that he is going to point "B" bearing in mind accidents which are caused by vehicles but not someone in authority to come and just grab you on the way. That is one of the things we should really try to aspire for here to go and teach Ugandans that "look, you are a Ugandan, these are your rights." Nobody is authorised to come and arrest you on the way, nobody should keep you under arrest for 48 hours without appearing in court. At least let them know. The implementation may be difficult but let every Ugandan have that feeling that that is what the government wants but they have failed to implement.

The next one is equal opportunities on utilisation of resources. That national will is created when someone has something to protect. If every Ugandan had something to protect, I think it should be difficult for any saboteur to come and recruit the unemployed

and use them in anyway he wants because someone with a house finds it difficult to destroy a house but someone who has never had a house, it is not difficult for him to come and burn down such a building because he does not know what it entails. If these Ugandans really had something to protect, I think even these civil strife would go low. There are some countries where we always say ah, they are about to go to war but somehow when people look at the things they are going to leave behind, they say ah, hold it but here it is easy to just sway because here what we are trying to say, the people who sent me are trying to tell the body here that we should have uniform land tenure. By that we do not agitate for the capturing of land laws, no. We are saying the existing land laws should be respected but we should start thinking of people who were not lucky enough to be born in the landed families. They are all Ugandans and even, for example me I am from Buganda, if you remember the land which was dished out, the 8,000 square miles, by then the population of Buganda was not a million. Now the population of Buganda is about four million, I do not think they can still fit in that, they should find a way of how to utilise land and land the system should be uniform in the whole of Uganda. If someone has eight square miles which he cannot utilise let him pay tax on the remaining if he wants it otherwise someone should use the land which he can really profitably utilise. If you have eight square miles, we will say okay start using it. If really you cannot - because the quarrel in my area is people having 18 square miles, eight square miles, ten square miles of just bushes, nothing inside and he is also clinging to it that it is my land. Okay, let us tell you that you pay tax. First utilise one and make money out of it instead of denying it and when you are not doing anything with it.

On the same issue of what we expect this Constitution to talk about is about the ability to elect a leader, the Ugandans - I think Ugandans are fed up of sleeping not knowing whether tomorrow in the morning they will hear on Radio Uganda that "I, Col. Pecos Kutesa, has become president of this country". I think if someone comes up with such a statement in future that man should be taken to Butabika, not even to Luzira, because I think a criminal has his faculties on him before he does it but if the Constitution says that in order to lead us you should first come and tell us what you want and we give our votes and then someone comes up and changes the whole thing, just announces, then that man must be a mad man.

On the question of the leader, I think the leaders in Uganda should be given also a general direction in which to operate. Not one leader to come and start a road from Kapchorwa before he finishes it he is overthrown or changed now another one starts one from down Kasese, the one of Kapchorwa did not finish it, the Kasese one did not finish it, the third one starts another road in Mukono. There should be a general plan of what you are going to do. I mean you have seen it, one comes chases away Indians, another one comes he says come back, the Other one comes he chases them. Where are we going? We should have a general plan that a leader we are going this direction, please drive us on this rate, 80 kph if you go too fast, say please cool down, you go slow we say no, we are in a hurry but you cannot go in a bus going to Mbarara and you take us to Kaberamaido.

Lastly, in my recommendation as I have said, the people who elected me, who sent me here recommend to this august body that first and foremost, the fundamental human rights of Ugandans should be well spelt out and known to everybody; leaders should be given guidelines where to go and where to come from; the land, the resources of Uganda should be equitably utilised and that a sense of belonging is the only way it could be Created. Thank you very much Mr. Chairman and hon. Delegates.

MR. MULASANYI (RUBANDA COUNTY WEST): Thank you Mr. Chairman. I would like to join those who have congratulated you and your Deputy on the assumption of that seat. I would like in the same spirit to appreciate the efforts of the government to constitute an Assembly of this nature to make a Constitution for this country. We note that this is the first time we have got this opportunity to do this and promulgate a Constitution for the people and the government should be applauded for that.

Mr. Chairman, I have two observations to make before I embark on my substantive contribution, I wish to request that the Constitution we are about to promulgate be written in a simple and understandable language so that people can take a share of it. *(Interjection)*. Mr. Chairman, I was about to say that in most cases the Constitution has been written in such a technical and legal language that an average Ugandan has not been able to follow it. This also goes with other legal documents as Statutes and laws. That way, Mr. Chairman, we tend to ambush our people whom we expect to follow the laws and statutes as coached by letter. Secondly, Mr. Chair-

man, the Constitution should be cheap and accessible to everybody who cares to have it and to read it. Of course, it has been stressed in other fora that it should be translated into all languages so that everybody can understand it.

I also wish to observe that we have an uphill task, a task before us is not only to receive and refine the draft Constitution for rubber stamping but to make a Constitution. The draft that I have before me right here is the copy I used during my candidates meetings recently and is full of marks. These marks indicate areas of repetitions, redundancies and even contradictions. Mr. Chairman, I teach history a subject that is sometimes read for pleasure and for this reason, when we write history we do so in such a way as to make it attractive to readers and so we avoid such things as repetitions which are the source of drudgery and boredom. And so we have to remove these repetitions to make the text interesting to read. I wish to submit Mr Chairman, that a badly written constitution may not attract many and therefore, only a few may be aware of its demands and provisions. There seems to be a lot of panel beating to be done, Mr. Chairman.

Now, these are the views that I share with my people of Rubanda West Constituency. Mr. Chairman, I want to touch on the issue of the gender balance. While I appreciate the positive discrimination in favour of women, I at the same time recognise their potentials. Look at the statistics of any country, developed or developing, and it will reveal that the women monopolise the numerical strength over men. What I am saying, Mr. Chairman, is that when tomorrow the women get organised and out compete men, posterity will say that we rigged the Constitution in favour of women. I do not know whether they will reciprocate what we are doing right now but there is that possibility. I must reiterate that I am not opposed to this positive discrimination but since we say we are making a constitution that will stand the test of time, then we should avoid such a time when we shall turn round and say that women have become dis-proportionally powerful to the extent that men feel they are discriminated against. In effect, Mr, Chairman, I am saying that such positive discrimination should not be stretched too far although I appreciate the principle. The right of children should not be prejudiced in so doing. We have been petitioned by children that they need parental care and love and some of these demands on emancipation might interfere with that kind of thing the care for the children.

Mr. Chairman, these are the views of my constituency on the separation of powers. They recognise this is a thorny issue but we have our own views about it. I feel very strongly that these powers should actually be completely separate. To this end we have proposed the following:

1. That when a member of Parliament is picked upon as a Minister, he or she ceases to be a Member of Parliament. Those who are Members of Parliament know better what you feel when you are arguing with a cabinet minister.
2. That the Parliament being the representative of the people reigns supreme;
3. That the Parliament endorses the appointment of the President.
4. That the Attorney General ceases to be the Minister of Justice. The two should be separate;
5. That the Ministers only come to Parliament to answer queries on their Ministries;
6. That the executive may sit in Parliament, deliberate but not vote. I am not talking about the National Council of State, Mr. Chairman, because the people are silent about it but I personally recognise that it has its own unnecessary problems.

I move now to the suspected criminals. I notice that this Constitution provides that a suspect can be kept in prison for 72 hours before trial. I consider this a very long time, Mr. Chairman. I appreciate that there are cases which need investigation but these should be exceptions rather than the rule. It is not fair Mr. Chairman, for one to languish in the cell for three days only to be told later to march home without even compensation. So we are of the view that this period should be reduced to 48 hours, as it was before.

The District Governments, Mr. Chairman, is a bit difficult for me to comment on because I consider that Articles 207 to 209 on Pages 93 and 94 of the Draft Constitution are badly drafted and need to be revisited. Suffice it to say, Mr. Chairman, that the post of the District Chief Executive and the Chairman of the District Council do conflict as they both preside over the same Council. In addition, it does not seem to indicate that there is anyone of those representing the interest of the Central Government. As I say, I can only comment on it sufficiently after the said articles have been put in the form that I think they should be put.

Let me address myself to the death sentence Mr. Chairman. This is another thorny issue but I wish to suggest here that the death sentence should be maintained only for murder cases and aggravated

robbery and even then it should be discretionary. Mr. Chairman, when we say we do away with the death sentence then people will commit crimes with impunity.

The universal and free primary education. Mr. Chairman, the Draft Constitution provides for universal primary education and stops there but as of now it appears that the general thinking is that this universal education should be free. I only wish to endorse and stress this point. We cannot convince anybody, Mr. Chairman, when we say that we do not have the resources to cater for our own population.

Now, on culture for constitutionalism, I have the following to say, Mr. Chairman, that there is need for developing a culture for constitutionalism. Together with the notion of the leadership code. This idea of constitutionalism needs sensitisation and institutions thereof need to be put in place.

It is in this spirit, Mr. Chairman, that I wish to propose the revival of the Community Development Centres in all the sub-counties of the country and adult education to supplement school education in this field. Mr. Chairman, we must also note that the school syllabus is already over stretched and needs supplement.

Then I come to punishment in the process of protecting the Constitution. We have a provision in the Constitution that we all will have to fight tooth and nail to protect our Constitution and Clause 6 of Article One, Chapter One, talks about the absolution of a person punished as a result of his or her attempt to protect the Constitution when the situation returns to normality. I wish to propose, Mr. Chairman, that these liabilities be lifted with compensation. When somebody has been in cells for months or years because of his past in the protection of the Constitution you do not say at the end of it all that we now declare you free from all these liabilities but you have to compensate the individual who has so suffered. I have not touched on a number of issues but I thank you, Mr. Chairman.

THE CHAIRMAN: I thank hon. Mulasanyi for his contribution.

MR. ELYAU (Kalaki County): Thank you, Mr. Chairman. Since this is my maiden speech, I would also extend my congratulation for your election and your deputy and the rest of the delegates to this House. I bring you greetings from Kalaki, and being

a place where a Republic is a very important matter, I would not like somebody to mistake me if I comment on certain things in relation to the Constitution.

I want to start with the fundamental human rights and freedom as causes of all our problems in Uganda. I have lived to see all governments come and go; I have lived to see the source of military governments that can work with the people, that cannot work with the people; because the fundamental human rights were infringed in totality. Mr. Chairman, we should really enjoy the freedom talked about here; could it be on an ordinary person or what kind of person. Because if you are talking of people in Uganda, as far as the Constitution is concerned, we mean every average person born by a woman should be regarded as a citizen. We must be regarded as the owner of this country Uganda. Here we go on getting problems because people regroup and then become of secondary importance over the others' birthrights; that is why there are problems, that is why you can see some of us enjoy being free because we do not want somebody else to be a subject matter. For example, why should I pay tax to maintain another brother because he is born in wealth? These are the matters which make people get problems; you see, we would collectively produce money or wealth, do taxation for development of everybody so that services are delivered. Mr. Chairman, as I talk now, the British people looked at our people properly, although they did not give freedom for a long time; but these people were very careful, they protected human life. If you were attacked, you could be protected by law; in Teso when the British were still ruling, even if you point at me you would be taken to court, and there was respect of law. Immediately after the British went and we Ugandans came up with our evils, we began punishing our Ugandans. Say, for example, why should somebody in power having his subjects in Uganda see other areas being subjected to poverty and they cannot do anything? I am sorry to cite this, because I must say it. We suffered in Soroti and particularly in Kalaki when we had not quarrelled with anybody in power at all! What type of government we have quarrelled with we cannot remember. But we were watched when our brothers and different types of armies robbed us in the country! There was no protection both for life and property; and supposing somebody who is in power now would have taken that good time to save us, I think by now we would not even be talking about famine. Now in this country we are a laughing stock, people are

saying we eat lizards; I have never seen my grandfather eating a lizard! Because due to the fact that we have not been protected in our own lives and in our property, we are not standing viable as we used to be. We are free human beings, we have never begged anywhere in Uganda and we were friends of Buganda, that is why after the exile *Kabaka* Mutesa visited Kaberamaido in 1954 and I was there. We welcomed him, we gave him cows because he was a friend. These are things we used to have here and we were friends before; all that brought problem was political interests which we do force our leaders to take for the sake of wanting it. I am appealing to our brothers and sisters in Uganda that if you know that you are a politician do not force somebody who is not a politician to take a position where he cannot really stand it. That is where we got this problem of infringing on the human rights. Somebody cannot punish you if he has nothing to do with you. So, if you have come here as individuals, Mr. Chairman, this is a very great thing, why I talk it the public, we have all come here not to represent anybody but to represent our people in our individual capacities. I am talking here on behalf of the people of Kalaki, and I am sure everybody who is here is representing a class of people but not a class of big people.

Mr. Chairman, as we are now talking about this Constitution where we do not have even a President of a particular party or of government participating. This is a peoples Constitution forum of which we should be very proud, and it is the first of its type. It is in that connection why I want Ugandans to regard this issue of Constitution making not as a joke, but rather to bring harmony, to respect the small ones, the bigger ones, because, Mr. Chairman, if you note, why did Uganda become a country of many tribes? Some big, some little; what did God think about us? He knew, and we must be very serious in finding why we are finding ourselves with many tribes some big, some small. Why should big tribes tend to swallow the small ones - what is wrong? We should really watch against that. So, to prove that we are good citizens made for good purposes, let us sit together and unite; let us tolerate each other.

In my case as a Republican, I have no problem if there is a cultural leader in Buganda, in Busoga, no quarrel provided it cannot step in Teso and tell me to pay tax. These are all very good because if somebody wants to go to the beer party with a *Kanzu* and a coat, and I need to go with an underwear it is equally good because we shall all drink. What is important is to share!

Mr. Chairman, in Uganda why leaders are to blame, either they are being misled, is that when we are trying to talk about national cake we do not share it equally. We have been talking about roads, schools, now we are discussing about development, we cannot develop in areas where we are stricken by wars and raids because the *wanainchi* have no gains, they have no freedom to express themselves. If anything now, we are picking up but we still need the rehabilitation, that is why if you introduce cost sharing in this country, you annoy us from those areas very much, because we are not ready. We have no cows as we used to have, we cannot drink milk; my child is feeding from small fruits from mango trees. We were milk men but now we are not. Why can this situation be allowed if we are also Ugandans? So, we must be protected in this kind of issue if we are talking about Uganda as a country. Protection number 1, is very important: human life, property, freedom. We should give freedom to people that is when we can enjoy our country. Why do we have the passport called Uganda; it is the truth that it is the entity we belong in.

Another issue which is causing problems is the citizenship. Let us not hide these facts; it is already a long story. In a place where I come from, people say Ugandans have allowed foreigners to dominate us; that a foreigner, when he dominates you he knows that he will run to his country of origin and you have no where to follow him for revenge. But if the Ugandans themselves were the ones ruling us, they would know one time that if they make a mess here he will go to Soroti and you could follow him. But here is a case, somebody coming from some other areas from different territories, becomes a citizen here carelessly, as you are seeing we are very generous, he will demolish us and if he decides to run he will go and have his mansion somewhere with that money of ours; who can get him; how many of our people now stay out? Let us examine citizenship seriously; it is another source of problem. So, when we are talking about citizenship we should not just be joking. For example, Mr. Chairman, if you see page 14 of this draft, and then article 42, where they say: *"a child of not more than seven years of age found in Uganda whose parents are not known shall be presumed to be a citizen of Uganda by birth."* My dear, this is a very serious matter; very, very serious matter! How do you pick people from a road, supposing it is a rubbish! Okay, now that there are wars around us in Africa, it means that people now begin to smuggle small children so that at the end of

the day, as we finish this Constitution, we shall find millions here who are not Ugandans but adopted by us carelessly. Are these people going to have their interest attached to this country? Mr. Chairman, this is a very fundamental matter than everything we are discussing. You must be citizens so you can be ashamed in making mistakes. So, these are the areas I would appeal to this hon. House to ensure that we do it correctly. Once we make this mistake, I tell you, Mr. Chairman, it will be difficult to have this kind of quorum where people come individually to form a big Constituent Assembly like this one. We do not represent giants but we are representing people, ordinary peasants who need peace; they want to trade, they want to go to school. Now, Ugandans in some areas are proper because there is peace, there is development, but in the areas we come from we have not seen electricity since we joined Parliament here. We do not know when Kalaki will be shining; it is as dark as it is, we have children here and you set an examination which is equivalent to those who are in Kampala; those do not even read! Can we allow Uganda to move like that, Mr. Chairman? So, those are the areas Constitutional making should take seriously if we are going to live peacefully. People go for war when I miss. It is obvious, even you and your wife, if one of you misses an enjoyment that he would require you fight. And that is why there was war here, if I miss something I have a right to complain; if you do not we shall struggle. So, to remove struggle let us be amicably sitting in a meeting and come out openly with reality. Some of us, when we come here people look at us as if we are strangers; we are not! We are the people of this country, to be a Muteso is not a mistake; to be a Langi is not a mistake of a Muganda - those are the creation of God. We should not be promoted less thinking as if we are slaves, we are independent, but unfortunately we cannot be independent when we are still not agreeing together.

I hope that by the end of the period we finish this Constitution, Uganda will find itself free to go for elections. I do not urge Government to remain more than that. If Friday is Friday and Saturday morning comes we should accept it is a Saturday. What has problems again is maintaining to stay in power when you know that you have over eaten. People will not allow you to continue they will derail you. So, let us make a Constitution where we shall have every government - whoever is in a days leadership should accept a time table of change of leadership. It is because of that time-table that people will continue

to be peaceful, because I know - let us allow Agyebo now and next morning another one will try - *(Interjection)* - oh, yes, why not? If they say yes, but if they say no, I should accept. It is a time-table which we should need to be around; me I would rather move very much in this Constitution that there must be an independent Electoral Commission not touchable by the President; so that it is the only body which should regulate that Mr. Okello time has come for elections, you must go for elections in January, and nobody should question that. If we have that one in place we are going to be settled. Somebody on the Chair should not judge when he goes for elections, that is wrong; that is why people are saying the government is buying this and that, no; it is the time-table what to - let us make ourselves a fine time-table, Mr. Chairman, so that when time comes for elections we stop.

I want to register my appreciation that we in the NRC, although some people are mistaking us, if we were greedy we would have stayed there to make this law, but we refused and we said let us go to the people and that is why this big lot is here. Yes, there was a provision where we could have stayed in Parliament the NRC members with the Army men to make the law. But we said no let us call all Ugandans so that we start the base of peace, and Mr. Chairman, this basis you can see here, this is a fundamental background of peace, and I am urging members to make sure that we enhance that level. Let us show that there is already history in the country. Europeans should respect us, to be black is not a mistake, it is a real colour; we are Africans, and we are black as our soil; I am very proud to be black, but we must not be black in our hearts, we must not shame God. So, Mr. Chairman, these are very serious matters.

Now, let me go to an area where my people advised me to work on seriously, that is land, Mr. Chairman. May I know whose property is the land? God made the land, God made animals, made water and lastly made man. When a man was so lonely God thought that let me give him a friend, and then a woman was made. These people became many and now as they were many they did some organisation called government; that is why the governments have come. Now, to whom should the land belong, to government or to man? If it is to man then we should be very serious there that a man must be the controller of the land but not government. The government should only help the man to protect the land, to use the land, to settle on the land, but there should be no

interference, because I have lived to see in the history of our country, Iteso have drawn a way of living, along with the Langi, Baganda are - those are the only ways where peace can be attained. You cannot give me to eat what I have not been eating, I will doubt it. That is why the British lived here for six years and they never tampered with *Lapena* in our area. Many times I was in the District Council, these people tried but they could not succeed. Who is now trying to say that there will be a uniform land system here; in which way? it cannot be! If we are not even uniform in our languages, can you make that uniform? So is the land. You see, options in the land must be looked at with a different angle; let us not be in a hurry, let us give some time to land business, let us make a better research. I have seen a lot of recommendations being made in Makerere, USAJD and so on, Bank of Uganda; we should have access to those papers before we can hurriedly come to land. We shall cause a grave mistake; I better miss a cow, I would miss even a woman but I would not miss the land - I would rather die. That is true; I better offer my life for the land purposes. So, as far as land is concerned because land is food, land is capital, land is anything. Without a job and you give me the land, I would be very happy because I can employ myself. In this country of ours where we have very poor arrangements in governments - reducing people from service, where will they go? The land is the only bank; we shall retire to operate it. So, when we are handling the issue of land, Mr. Chairman, this is a very serious matter *-(Interruption)*.

AN HON. DELEGATE: Point of order. Mr. Chairman, I rise on a point of order. Is the hon. Member holding the Floor in order to equate having a woman to having a property in his contribution? When we are all here advocating for human rights and his first point was stressing very well human rights. Is he in order to dehumanise the woman?

MR. ELYAU: My culture says so - Itesot.

AN HON. DELEGATE: Point of order. Mr. Chairman, is it in order for the speaker to say that in Teso women are the equivalent of property when I come from Teso and I know that the Teso culture values women much more than just a mere property.

THE CHAIRMAN: You do not have to make a statement before I rule; I think the hon. Member is not in order if that is what he meant. I think he will withdraw that part of it.

MR. ELYAU: Mr. Chairman, let me continue because I did not annoy anybody, I am surprised to see people rising when I am a big supporter of women

THE CHAIRMAN: Shall we accept that as a formal withdrawal?

MR. ELYAU: No, I was not withdrawing because I do not think I have made any statement attacking a woman. I am sorry if I was making reference to man only.

THE CHAIRMAN: No, you said that in Teso women are equivalent to property.

MR. ELYAU: No, I did not say like that; it is just manufactured, I have never said that. I have been misunderstood, Mr. Chairman.

THE CHAIRMAN: Okay, proceed.

MR. ELYAU: Thank you, Mr. Chairman. It is very important, having mentioned about land now, let me switch to Local Government. The Local Government is one of the most significant governments that a common man can easily see. When I was a young man, when I could see a District Commissioner in my area, I knew had seen government. It took me sometime to see a governor. So, I think this is a situation where we should make the ordinary peasant at home, man and woman let me say, so that the administrator at that line should be established on districts; and it is the district local government which should be financed by central government. But I have a question on the decentralisation process. Recently we passed a Bill giving power down to a Sub-county level, removing the counties. Now, I am saying we told them that they should collect the revenue in a lower level like the sub-parish, a percentage goes to the people themselves and the people go to the District Council. But I am wondering that the taxation from the central government should equally flow down; there are taxation that we get in our balance in a form of indirect taxes; sales tax, income tax - there must be opportunities so that those taxes are determined to flow down also to lubricate poor districts like Soroti. We are yawning, we cannot do anything, we cannot pay our chiefs; we laugh at a Karamojong, but these people should be given opportunity, those are the units. Blood in our body circulates, and I think the taxation problem should be well handled so that equity of distribution

of our wealth should be enjoyed; and there should be a lot of seminars to educate councillors, the administrators to know their role.

Of recent I have seen a new development, when you are appointed by the President you think you are a giant, you hold a responsibility to own and sit on the district activities, that is why some people took long to realise - I am happy that the government recently made this position very clear. So, instead of DAs, they are now Central Government Representatives. It is a bit better now, but if you had put a District Administrator by then; my God, the man was another President. So, those are the things which cannot allow people locally to see the role. You see, the freedom I was talking about here, that if you understand your role you can play it properly. Let us allow ourselves to know the activities we can really play and how we are protected. So, local government should really press on districts so that - I am disappointed to see that there is a limit in districts as the law here says, excuse me let me quote: It says if these laws are enacted they will recognise the existing districts - that is page 91 clause 202 it says that: *"subject to provisions of this Constitution for the purposes of local government, Uganda shall be divided into districts which existed immediately before the coming into force of this constitution..."* Now, how will I get that one? There should be an open provision so that next time I get my district also it must be included. If it remains in such a way it means, Mr. Chairman, that any district which will come will not be recognised. Because some districts are still large. Whereas people are getting districts in other areas, for us we are not getting, I do not know what is the meaning.

Now, I am talking about the Republic. I think there is nothing sounding bad; as I said in my first speech that we are here in our individual capacities; the word "Republic" cannot annoy anybody, we have been enjoying it and it has been so good. Even some other Republics in Europe; they call them Federal Republics and so on - I think the word "Republic" cannot annoy any good Ugandan at heart. Let us remain Republic but we modify within the Republic. Mr. Chairman, I do not see any problem; otherwise, I am grateful to have this occasion of addressing you, we shall come in with more details later on as far as I am concerned. I thank you, Mr. Chairman.

THE CHAIRMAN: I thank hon. Elyau for his contribution; I now give the Floor to our last speaker

for the morning session, hon. Bwambale Walembe, Bukonzo County East.

MR. BWAMBALE-WALEMBA (Bukonzo County East): Thank you very much, Mr. Chairman. Mr. Chairman, it is very important that we should give merit or credit where it is due, and it is in light of that that I will beg to say a few words of appreciation before the hon. delegates present here.

In the first place, Mr. Chairman, I would like to assure the hon. delegates present here that we have so far and at last got this golden chance, the first in the history of Uganda to make a Constitution for Ugandans and by all Ugandans that can - God forbid that this golden chance turn out to be a fortune in the hands of a fool which becomes a great misfortune; God forbid that, but I am otherwise very grateful for this golden chance. I am again grateful, Mr. Chairman, to the NRM government for its ten point programme which mentioned inter alia to put in place a new Constitution for Uganda; the first government of Uganda to do so, and how I wish even the words like NRM appeared in the preamble on page xxii in recognition of this good gesture the NRM government has accorded the people of Uganda. Mr. Chairman, I am also very grateful to the Constitutional Commission for the work well done as contained in its report where it has shown analysis and recommendations which have resulted into the draft constitution we are about to debate.

I am also grateful to the C.A. Commission for conducting free and fair elections and again the first ever in the history of this country. I am again grateful, Mr. Chairman, to the hon. delegates present here for passing reasonable rules of procedure for this August House to follow. For example, they have passed that we shall discuss the Draft Constitution article by article and not in committees. I very much concur with these resolutions; and I am also grateful to this August House for having a balanced business committee, this, I believe, will curb what would be some hidden agendas by some hon. Members of this August House.

Finally, Mr. Chairman, I am grateful for the availability of reading materials; we have the C.A. Statute No. 6 which spells out our role as hon. delegates to scrutinise, to debate, to enact and to promulgate a new Constitution for the Republic of Uganda; the Draft Constitution, Mr. Chairman is already in place and this is our central question, Mr. Chairman.

Secondly, I am most grateful to the report of the Uganda Constitutional Commission, the analysis and recommendation vis-a-vis our people's views. We have in addition got some relevant literature such as the address by His Excellency Yoweri Kaguta Museveni that we should not copy foreign Constitutions, but we should endeavour by all means to make one that is calculated to create unity or consolidate our mother land Uganda vis-a-vis national unity in diversity. We have also Mr. Chairman, got a number of extracts like that of hon. delegate G.W. Kanyeihamba about Constitutional Law and Governments in Uganda, the chapter on general principles of constitutional law; and finally, we have had speeches by distinguished sons and daughters of this country and we have listened to them and all these, Mr. Chairman, are but a guideline to a meaningful deliberation by the present hon. Members.

All the above landmarks, Mr. Chairman, amount to the scientific approach of problem solving so that in our deliberations, a spade is going to be called a spade but not a big spoon, contrary to the traditional approach full of personal sentiments e.g. the recent prayer sentiments, praising for titles and material gains. To me these are immaterial this time of Constitutional making and we should address ourselves to real issues or to the concrete of the conditions that brought us here.

Mr. Chairman, these are my observations; personal.

In the first place I concur with hon. delegate Elly Karuhanga from Nyabushozi County that we should read widely and wisely, and interact freely so that we do not become victims of second ignorance; that is calling a spade a spoon *-(Interruption)*.

MR. KIRENGA: Point of order. Is it in order, Mr. Chairman, for the delegate to read his speech?

THE CHAIRMAN: Yes, you came, I think, maybe, slightly late; but for the benefit of other delegates who may have not been here when we opened, we took the view that given that this is a different matter unlike ordinary Parliamentary debates, we would allow Members to read their speeches so those who are in a position to read can read, those who are able to speak off from their head, they are free to do so. Thank you. Go ahead.

MR. BWAMBALE-WALEMBA: Thank you, Mr. Chairman, for defending me but even if I was not defended that way I would appeal to the hon. Mem-

ber that the end justifies the means. What he should be interested in is the content of my speech, not the way I have represented it whether I am reading it or otherwise. What I was saying, Mr. Chairman, was that we should discard second ignorance vis-a-vis the contention that some people have the psychology of a child, they easily forget the past, even the present and have no vision for the future. This will enable us, Mr. Chairman, that we use the above scientific method mentioned earlier on so that we can come up with a flexible and an accommodative Constitution to last the test of time vis-a-vis our people's governance and well being. Personal interests and ideologies, Mr. Chairman, in all their forms should be done away with for the Constitution we are making is not for the 284 or so hon. delegates in this august House, but for the 17 million Ugandans today and the future generation; hence we should avoid using loose language over very serious matters. For example, recently somebody was commenting that if we do not support Kingship we should leave this country. This is quite incredible and very regrettable, Mr. Chairman.

My people's views Mr. Chairman, regarding the Draft Constitution. I concur with hon. delegate Elyau's contribution, he has made to the citizenship; I am quite in harmony with him, because here in Uganda we are not hungry for people and we do not have a reason why we should just pick anybody anywhere and call him a Ugandan citizen. Now, Mr. Chairman, I for one I will stress the question of ethnicity, because the ethnicity question is quite fundamental to the process of Constitutional making. First of all, we must resolve the question of who is who in Uganda. This one we must give first priority; so that during our deliberations of the Draft Constitution, we know exactly who are the people we deliberating for or we are making the Constitution for; this is in line with - if we could go to the second schedule of the Constitution, page 142, you will find that some ethnic groups that have been in Uganda for time immemorial such as the Basongora in Kasese District have been marginalised and are considered as the minority ethnic group, yet they do exist in Uganda. So, Mr. Chairman, I appeal to this August House that, first of all, we should identify the minority groups that exist in Uganda and then after that then we make sure that in our deliberations, the minority representation is also given due consideration at all its levels.

On the issue of language, Mr. Chairman, I would like

to say that language is the carrier of peoples culture, therefore, the question of having major and minor languages should not arise as it implies that some ethnic groups are major and others are minor. Therefore, Mr. Chairman, the ethnic languages should be given equal opportunities: I for one I say Swahili, a regional or global language with written literature and manpower resources to teach it, be a national language to enhance national unity in diversity. English should remain official language.

Now, Mr. Chairman, on cultural leaders: the Draft Constitution is clear about this sensitive issue; it is talking of cultural leaders and not cultural rulers. Some members are already mistaking a ruler with a leader; there are no people without culture, hence to preserve and promote people's culture, every ethnic group should have a cultural leader without political, economic and administrative powers laid down in the Draft Constitution. Mr. Chairman, that is why I concur with what is in the draft that those who had Kings are free to reinstate them or not; those who may want also to have Kings are free to create them, and those whose cultures may not conform to this idea are also at liberty to do without this. But personally I would advise that they should have one, at least, a cultural leader provided that the creation of cultural leaders does not compromise national unity. If it is the consensus of the people, for example, the people I represent from Kasese District, and they want to reinstate the King Iremangomu of Rwenzururu, they are free and this is their democratic right, nobody should stop them from that. Unfortunately, Mr. Chairman, this provision is being abused, because I have heard of some cultural leaders creating *Katikiros* and even appointing ministers. Because the word *Katikiro* is a vernacular word but in English it means Prime Minister, that is Head of Government Business, and I am wondering which government business that a *Katikiro* is going to lead!

So, in my opinion, Mr. Chairman, I would like to say that there should be a need in the final Constitution text, we should put there strengthened measures to curb such tendencies so that there is peace, unity and development for all of us. Otherwise, I would not even hesitate to say that whoever goes beyond the level of a cultural leader should be liable to treason.

I would like this Constitution to be open handed; on the idea of federalism, Mr. Chairman, I would like to tell this honourable House that the report of the

Constitutional Commission was not properly covered like other articles such as the cultural leaders. However, since the Constitution is for Ugandans and since some of these Ugandans feel that they can best contribute to national unity and development through federalism they should be allowed to do so, but with check points to compromise for national unity. So, if allowed, Mr. Chairman, I would say that federalism be treated like cultural leaders so that those who want federalism such as the Baganda and Basoga should be free to do so, because that is their democratic right; then those who do not want, for example, the people I represent here, the people of Bukonzo County East in Kasese District, they believe that if we embarked on federalism it will open up old wounds contrary to the need for national unity and development. Such people also should be left free, and because they feel that they are comfortable - *(Interruption)*.

MR. MUSUMBA: Point of order. Mr. Chairman, is the speaker on the Floor in order to inform this House that the Basoga want federalism. As far as I am concerned, I come from Busoga and there is no position made by the Basoga officially to say that is what they want. Is he in order, Mr. Chairman?

THE CHAIRMAN: The honourable should restrict himself to the information he has in his -

MR. BWAMBALE-WALEMBA: So, Mr. Chairman, if the Basoga are not in favour of federalism, I withdraw that statement -

THE CHAIRMAN: Fine, proceed.

MR. BWAMBALE-WALEMBA: And I hope you will stand to your word in the future. Mr. Chairman, finally - *(Interruption)*.

AN HON. MEMBER: Point of order. Mr. Chairman, I just want to inform you that, Mr. Musumba represents Buzaaya, he does not represent Busoga; and, therefore, he cannot also speak for Busoga, if he says the Basoga have not met.

THE CHAIRMAN: That was not a point of order, it was a point of clarification and I will call upon the hon. Member holding the Floor to continue.

MR. BWAMBALE-WALEMBA: Thank you very much, Mr. Chairman. Now, Mr. Chairman, regarding the general principles governing the Draft

Constitution, I feel that these ones have been put in place by the Constitutional Commission, as they were submitted, and I explained my view, Mr. Chairman, that scrutinizing and debating the Draft Constitution will not last nine months as being anticipated by some Ugandans, unless some of the hon. delegates of this august House have got deliberate hidden agendas. Secondly, Mr. Chairman, the general principle as laid down in the Draft Constitution has been done so in a scholarly manner by responsible and well trained sons and daughter of this nation. Hence it is my feeling that it is not going to be rubber stamping but to scrutinise and debate by adding and subtracting bits here and there and not overhauling the whole Draft Constitution.

Finally, my personal wishes, Mr. Chairman. I wish that our deliberation bear fruits of independence, freedom, love, unity, peace, stability, respect and justice for all, development and prosperity in our motherland Uganda, and the Lord God blesses these hon. delegates with objectivity, firmness, tolerance, vision, fairness, impartiality, mutual respect understanding, open-minded ability to listen to each other, wisdom, good judgement and abundant life during our deliberation. With these, Mr. Chairman, I hope we shall be able to produce a flexible and accommodative Constitution to last the test of time and to be produced in the scheduled time. Thank you, Mr. Chairman.

THE CHAIRMAN: I Thank the hon. Member for his contribution and for his prayers and best wishes. With that we come to the end of our morning Session; I would like to adjourn and I hereby adjourn for lunch and resume at 2.30

(The Assembly rose and adjourned until 2.30 p.m. same day)

(2.30 p.m. General debate continues.)

THE CHAIRMAN: When we adjourned, hon. Bwambale-Walemba. *(Interruption.)*

MR. CHEBET MAIKUT: Point of order. Thank you very much, Mr. Chairman. From the rough counting it seems we do not constitute a quorum. So, I beg to move that we adjourn for some few minutes to realise a quorum. Secondly, we are not more than 141 - you can count.

THE CHAIRMAN: I will ask the Clerk to ascertain that; rule 9(1) says that our quorum as required by section 16 of the Statute must be one half, which is one half of 283; and rule 9(2) says that if there are fewer than a half, then I am under obligation to suspend and not to adjourn. There's no need to move a Motion, you only have to draw the Chairman's attention. The practice is that if the Chairman's attention is drawn, we can continue to transact business, even though we do not have a quorum, unless you have to vote on a matter which requires that we must have total membership, but if the attention of the Chairman is drawn, I have no choice but to suspend if we have less than a half. The members present were 119 and we require over 140; so, I suspend and that means that we remain here; we are not in session, we suspend for 15 minutes. You can talk among yourselves and then we shall call you back after 15 minutes.

(The Sitting was suspended for 15 minutes)

THE CHAIRMAN: Hon. delegates, we have waited beyond the time required in the rules, and we have yet to realise the required number by a very small margin. What I will do is to bend the rules a little and allow another ten minutes. We have 133 members and we are short by ten.

(The sitting was suspended for ten minutes)

THE CHAIRMAN: We have now got the quorum. As you know the quorum is for the time being 141 and a half delegates, but since no delegate is likely to be brought here by way of half, we have rounded it up to 142; and so we have a quorum now, but let me remind the delegates of the requirement of our quorum. We are required to be constituted, if we are 142 in terms of rule 9(1) and we transact our business even if we went below the quorum unless

one of the delegates draws the Chairman's attention or takes objection. The rule reads: *"any delegate may at any time, during the proceedings take objection that there are fewer delegates at the sitting than those necessary to constitute the quorum required under sub-rule 1, of this rule."* (3) says: *"whenever objection is taken and it is upheld by the Chairman, the Chairman shall suspend the Assembly for 15 minutes during which bells shall be rung."* (4) says: *"while on resumption of the proceeding there is still no quorum, the Chairman shall suspend or adjourn the sitting of the Assembly."* We were going to take one of the two courses in a minute, but luckily, the quorum was constituted, and the rest is not relevant to this situation. I know that the concurrent sitting of this House together with the National Resistance Council may from time to time have impact on our quorum situation. The House knows or should know that we have 102 - plus the Chairman 103 members of NRC who also have a function there. So, this is likely to have an impact on our quorum situation. I expect that that matter will be discussed in the business committee so that we find a solution given the situation that for some-time, actually, because of the Budget the two houses will find themselves sitting concurrently. But that aside, let me appeal to delegates to keep time. This morning we begun slightly late, because we were still trying to ascertain that there were enough members for us to begin at 9.30 a.m. Similarly, this afternoon I had to monitor from my office to ascertain that we had enough number. Essentially let us try to avoid a situation where we have to adjourn or suspend our proceedings because of quorum. We have yet to start our job and I do not think we should start by being absent from the proceedings. So, I would like to urge the Members to be prompt so that we transact our businesses promptly and in accordance with the time span we have given ourselves. Having said that let us now go on to the business of the day.

When we adjourned for lunch, hon. Ivan Bwambale-Walemba had just made a statement. I now give the Floor to hon. Bagená Anthony - Bufumbira County East.

MR. BAGENA (Bufumbira County East): Thank you, Mr. Chairman. Hon. delegates, the 17 million or so Ugandans alive today and many more millions yet unborn have a stake in what we have now embarked on, the making of a Ugandan Constitution, a truly people's own Supreme law of the land. The poor, the rich, the farmer, the worker, the

powerful, the powerless, the elite, the ignorant masses, the privileged and the underdogs, the young and the old, all categories of people living today or yet to be born in ages to come will bless or curse the day and hold us responsible for the fate of this nation and the world community at large depending on what we make of this unique golden opportunity now in our hands to shape Uganda's destiny. This is a great challenge to us individually and collectively.

The people of Bufumbira East who elected me to the C.A. and the people of Kisoro where I am been Vice Chairman of the District Council, would like to inform fellow Ugandans through this august Assembly that Bafumbira and the people of Kisoro have democratically and legitimately chosen to be identified and request to be added to the second schedule under article 41 (a) of the Draft Constitution with a belief in a united, peaceful, development oriented Uganda, a Unitary Republican State where everyone of its citizens has a right to life, not just survival but a good life meant for first class citizens of any country anywhere in the world. Mr. Chairman, the people of Kisoro further wanted this august house to note and be persuaded that in their opinion, the best system of governance is that one which respects fundamental human rights and freedoms in all their entirety and puts necessary institutions in place to ensure whatever action is eventually entertained remains true to and consistent with the declared principles. That system of government was identified, a government of national unity responsible for and responsive to the needs of its many and diverse people.

The kind of Constitution Bafumbira advocate for is one that will emphasise the equality of all Ugandan citizens not only on paper but in action. That means the people of Arua, Apach, Kisoro, Kabale, Hoima, Kasese, Moroto, Mbale, Ntungamo, Rukungiri, Masaka and Kampala, just to mention a few; in fact, people living on every inch of the Ugandan soil shall derive pride from a truly Ugandan Constitution which, by enabling them to be masters of their own destiny, entitles them to have access to the national opportunities and resources available for the advancement and prosperity at all levels.

This Constitution we have started making while giving credit where credit is due, must rid itself of the temporal and circumstantial character in order to remain recognised for all ages as essentially the document of the people of Uganda. In order to

succeed in doing that, any and everything that smacks of marginalisation or stereo-typing of people and ideas advanced will have to be very carefully screened and avoided at all cost.

Having said that, Mr. Chairman, I now turn to a few areas where our people have expressed their views and expectations of this Constitution rather frankly and emphatically. The new Constitution, Bafumbira maintain, should address the following principles and peoples values and aspirations namely:

1. The law must remain supreme and all citizens without distinction must obey the law and have justice equally administered in the courts of law.
2. Unity in diversity, peace and balanced development for all Ugandans form the hallmark of any Ugandan governing body that will now and in the future have a legitimate claim to rule the Ugandan people, and these are not negotiable.
3. Participatory Democracy; the sacrosanctity of life, family and private property must be provided for in the new Constitution.
4. For the wealth of the Ugandan people to receive a boost from a timely Ugandan supreme document, the people of Kisoro prefer free trade and co-operation with all countries of the world, which arrangement is only possible if this Constitution will stress the principle of non-alignment and none interference in the world of international politics. This is in full agreement with articles 20 and 38 of the Draft Constitution. Realising that for many years to come the growth of our economy will mainly depend on the facility and productivity of our agro-fields and agricultural farmers respectively, Bafumbira people thought it imperative that the small farmers be encouraged to value their land holdings which the Constitution must protect by providing security of the customary held pieces of land against possible grabbers of massive stretches of land acquired through the granting of land titles. Whereas today, Mr. Chairman, the poor who cannot afford acquisition of land titles must go to local RC courts to seek redress as opposed to the wealthy who usually have land titles and for land disputes normally refer their cases to the nearly inaccessible High Courts, speaking for the majority of the people of humble origin with meagre resources at their disposal, Bafumbira would like the new Constitution to alleviate small people's plight by recognising their system of land tenure. They propose in matters of land disputes the same courts should dispense to all citizens alike. No preferential treatment should be accorded for the rich.

We have been privileged to be here deliberating the Constitution on behalf of 17 million Ugandans. Because among other things, we went to school. The constitution will succeed in its objectives only if the education of our citizens, formal and formal, receives priority consideration at the constitutional policy and government action programme levels. We are not so poor as a country not to afford educating our citizens.

If the parents are called upon to educate their children and we do not expect them to come up with excuses, they are too poor to do it. A responsible government, should actually have no excuse to provide that need of education to all its citizens.

Finally, Mr. Chairman, while thanking the NRM Government for making possible the processes that led the people of Uganda to exercise their democratic right to elect people of their choice, to charge them with the grave responsibility of charting the country's destiny, I would like to appeal to my fellow hon. Delegates that, in all we do here, let us have in focus, the good of our people, the good of our nation Uganda. We are not here for ourselves, but to represent Ugandans, inside and outside Uganda. None of us should be discriminated against or be taken in isolation. United, we shall build this Uganda into a great nation of which we shall remain proud and responsible citizens as ably summarized in article 39, of the Draft Constitution. I thank you, Mr. Chairman.

THE CHAIRMAN: I thank the hon. Bagenaj for his contribution to the debate. I now give the Floor to Hon. Brig. Kyaligonza of Buhanguzi County.

BRIG. KYALIGONZA:(Buhanguzi County): Mr. Chairman, like many other last speakers, I also wish to thank you, and all other Members now present, for how we have been elected to this august House, which is aimed at making a historic document which is going to serve us, our children and generations to come. Mr. Chairman, you may realise we are about 283 delegates, and naturally it would be out of imagination if all us we were allowed to speak and we spoke different opinions. It will only be different in terms of presentation. Since this document we are discussing is universal, it is only the presentation aspect; area by area, idea by idea, that will cause it to appear as if it is different but as far as I am concerned, the reasons behind the making of the constitution for Uganda is one.

Now, Mr. Chairman, I will also take the opportunity to use my little history that I know about our country Uganda. The historical facts about the mismanagement of society and exploitation of man by man is not a new occurrence in this country of ours. People have lived under different leadership right from our ancestors. If I may talk about the Banyoro; We had various leadership ranging from, Ruttanga, the Batenguzi, the Bachwezi, and the Babito. All these have got some commonalities with the peoples of Uganda. We have only been made to appear as if we are different by some making of some leaders who came in here - the colonialists. They created their own boundaries, they identified us as different people and created some friction within tribes. But when we look at the historical fact about Uganda, many of us do not belong to this country. Some of us do not even know our origin. You will find a historian telling you, I come from Egypt, you come from Abyssinia, you moved down from Mount Elgon, came down to Bukonjo, then down to Rwanda. Then in between, we were leaving people behind, and these people formed themselves into tribes, clans and so on. Now, when it comes to the Bunyoro situation, We have got a history, which history, encompasses many parts of Uganda. If in these parts of Uganda we were living together under one ruler, this ruler of course would have been dictatorial. But we had that common interest. People were ruled in the 16th century when the Babito, who had some Luo domination moved downwards, south of the Nile; they formed part of these places of Bunyoro, Ankole, Karagwe and so on. But when it comes to now, the identification of areas, because of the colonial making - the colonial mentality of divisions, you find we are living as different entities within one country.

I was honoured elected by the people of Buhanguzi to represent them and present their views before this august House, and participate with you in the formation of this important document. Uganda, Mr. Chairman, has had a lot of turmoil. Some of these turmoils are man made, others are consciously made. You find a leader chooses to exterminate a particular tribe, because he feels it is a bad tribe. You find even in the colonial time and even in the pre-colonial time - I am not talking of the present politics - even in our own situation, Bunyoro, we used to have kings who were bad, they were killing people. They would say, this clan is bad, therefore, it is supposed to be sacrificed. That type of clan now if you told them about the kings, it may not be interested. But because of the dynamics of leadership, we

are supposed to live together and tolerate each other. When a new situation comes, and it is useful for that particular time, it should be accepted. But when it is contradicting with the current situation, it may be scientifically rejected. Now, when it comes to our situation Uganda, when the colonialists had not come here, we had various leadership. This leadership of course, was in a form of cooperative leadership. You would find the Babito dynasty had some commonalities with Buganda dynasty; all of them were actually Babito. When it comes to Nkore culture dynasty, still they were descendants of the Babito. Go to the Luo, down to Kabirondo, down to Tanzania, you would find all these people speaking the same language, having same cultures, having same habits. But now, we are living in diverse ideas and opinions.

In the advent of NRM, during the time when they were in the bush, it was realised that there was need for us to have some dynamic changes. Which changes of course are not aimed at antagonizing other groups of people. But as you know, Mr. Chairman, there is what we call ambition. Everybody in life must have an ambition, either for leadership or to live or earn money. Now, when it comes to this one, the ambition of NRM Government was to keep people happy and peaceful. At least the truthful aspect has been attained. And then, the promise of making a new constitution is also in the process. My humble appeal to all delegates, is that, this constitution which we are about to discuss and maybe promulgate, is the people's. The numbers I may not talk about, because tomorrow it may be 18, or 20 or 30 million. But the people to come, of whatever population, are watching, anxiously waiting to see what we produce. We are discussing important issues, we are arguing over nothing, we are talking as if we are not members of one family, we are talking as if we do not belong to one problem of Uganda. We are appearing as if, we have come here with different opinions, aimed at making various constitutions. The constitution we want to make is one, one for all and one for all of us and the children to come.

I want to comment on one serious matter, Mr. Chairman, since it is a general debate, regarding our presence here, Mr. Chairman. The Presence of NRC and CA delegates, NRC in a sense that those who sit in the National Resistance Council, and who happen to be Members of the Constituent Assembly; I only want to appeal to those who may not be NRC

Members, that all us who are now CA Delegates, that the common role which we are all driving at is this constitution. The constitution is not going to cover the person in CA, or the person in NRC, because it is so absurd, when we are discussing and arguing among ourselves it appears as if, we are competing for something hidden I do not understand. And for instance now, we have been missing a quorum. Which quorum, people are now saying, NRC Members are not present. They are ambitious. Why did they come to stand here? When we are talking about human rights, that right of presentation is for everybody, for everyone; irrespective of whether you have been an NRC Member, or whether you have been a teacher, or a business man outside the National Assembly.

So, when we are discussing these matters, I am appealing to Honourable and Distinguished Delegates, to imagine and assume that responsibility of tolerance. This country has had a lot of problems because people and leaders have not been tolerant enough. We were not able to respect the opinions of the minority and the majority, they were always assuming what they say is right. There is no person in life who is perfect. But you can only be respected, be listened to, because you are in the leadership role. Mr. Chairman, I will respect you there, as long as you are a chairman, but then when it comes to ordinary discussion and argument, I may have ideas which are slightly better. But because you happen to hold that office, I will respect you for that one. That is to live harmoniously, and of course to accept that role of leadership, if you are a leader, you must be respected. And naturally, I also want to equate ourselves as leaders. If I am a leader here, CA delegate, I should be able to respect myself, and respect the person who respected me. When it comes to that respect, I am saying, we must respect them. If you have offered yourself to come and participate in this constitution making process, you must belong to this House and do what is expected of you. So, when we miss quorums, and then we start accusing each other, I am seeing a number of those people who are not in NRC, as being a hundred and eighty something, and those are enough to form a quorum. But at the same time, it is again administrative, because when this Bill was being discussed in Parliament, it was highlighted - But what will happen if these two Houses have got to sit simultaneously? The answer was, it is an administrative matter. Now, I am appealing to you Mr. Chairman, to synchronize your offices, the two offices with the Chairman. **May be to consult each other, whether**

you think your time is necessary for us to sit here now or his time is necessary to sit there then. But if we are made to appear as if we are struggling to be here and there, and go to sign and come back, and so on, we shall really not be playing our roles as leaders.

Now, coming to Bahanguzi people, Mr. Chairman, these are my people who sent me from Buhanguzi County Hoima District, and those people are Bahanguzi. So, the Bahanguzi people are longing for the leadership that promotes democracy. Effective safeguards for a new constitution. They are looking for that freedom of association, they are looking for that freedom of information, that freedom of speech. Now here, if I may also highlight more, I would also like to say that the democracy we are talking about should not be imaginary, to assume we are talking about democracy when actually we are not democratic. If you say freedom of speech, and then somebody who is actually helping you to be heard that you are democratic, you start closing him out, shutting him down, then you are already undemocratic. These small papers, have been helping us here, when we came, we did not find any paper on the street reporting positively. But when papers start reporting, sometimes they are strangled with court actions, and so on. If you know you are a corrupt person, or if you know you have done action A, why do you not, if the press has identified you, or somebody has leaked that information to the press, why do you not clarify your position, instead of going to the press, you are even going to court, when you know you are actually going to be defeated. Because many of these fellows have been taking people to courts, and these journalists have been defeating them. Now, what does that mean? That means the culture of our leadership in Uganda is so cantankerous. People are not accepting to see where there is wrong and right, and this is the policy of NRM. Where there is right, it must be identified. If a press man has identified you of having committed a crime, you either negotiate with that man and then live with him harmoniously or if you start going to court, he will shame you and then may be leave you in court. At least there is that justice. I thank the NRM Government because it has, at least - even if people say NRM has done nothing, but you can see, people are able to abuse the president, they are able to abuse who, they are ready to - Which used not to happen then. But if it can be done now, that is already good indicator, that things are not moving to the negative direction, they are actually moving a better hope.

Now, when we start struggling, talking about freedom of press, freedom of association, freedom of worship, freedom of what - some people say, do not do this, do not do the other. The other time, it was said that the president is moving out too much, even now he is away. People are not realising that the president is moving to bring sanity to this country, improve our economy, do what and so on, so that people live happily and may be, be able to respect this constitution, because a poor man can never even respect himself. If you are poor you cannot respect yourself; you will go on corrupting, you will go on doing all evils. As one Member here was saying, that leaders to be should have enough capital to stand before the public that I want to lead you. But if you are a pauper and you want to be a president, really we do not want you, and that is the Bahanguzi. We say, people who want to lead others must be able to look after themselves. If you are a poor man, you can not be called 'Rukirabasajja', if you are a small man, you cannot be called 'A Chief of other Chiefs', you are either equal or you must prove to the people that you have got capacity you will not corrupt - I mean you will not be corrupted.

One press man here, I understand, he has been talking very seriously about corruption, now he has been exposed that he is also corrupt. But I am only waiting to hear another war, that is either this man will expose those who are calling him corrupt, because he has been covering some of them or he will be exposed completely and be thrown to the garbage. I mean he acts no more, when his paper is off the street. But what I am saying is that, this constitution we are making Mr. Chairman, should be for the good of our people and of course, it should have some hope. We should not be questioned tomorrow after here. Kyaligonza has come in here, they are going to say, these people were sycophants of that regime. We are not sycophants, we are just here to fulfil and implement what the people are expecting us to do.

So, Mr. Chairman, the Bahanguzis have sent me to say - because I am not here to say my own things, I have been sent, I am a messenger. I have come to say and deliver to you a message, that when we are writing this constitution, it must be clear even to those who are not able to interpret the intricacies of the languages of law. It must be clear and concise. For example, Mr. Chairman, in chapter One of this Draft Constitution on Clause 7(b), that says "by or on behalf of the legal successors of a person referred to in paragraph (a) of this clause; award him or them reasonable compensation which shall

be charged on the consolidated fund..." Here of course they are talking about a person who will have been arrested, thrown into the box, because he was either challenging that person and so on, about this constitution. Now, Mr. Chairman, this type of drafting, ordinarily, I would have preferred as accountants do; When you are making a balance sheet, it must be interpreted even if he is not an accountant. Similarly here, when we are writing our constitution, it must be clear and concise. We are talking about somebody who has been thrown in the cell, and later on they come to say, or you were unconstitutionally arrested, therefore, you are worthy to be compensated. Now, this is another serious issue. You find courts equate people by their status. If I am a brigadier, I am equivalent to so much. Even if we went in the same prison with a hawker, and yet when you commit some serious crime which is requiring you to be hanged, you will all go through the same gallows. But then when it comes to this business of compensation, you find there are differences. Okay, this is common knowledge that may be the person is worth this, because he has a name which must have been defamed and so on. I think that is useless. We must have a constitution that is safeguarding everybody irrespective of whether he is small and so on. If you are coming to arrest somebody, you must arrest him with a reason, you must arrest him with some clear motives. Not because you want to suffocate his ideas, either political or otherwise, so that he keeps quiet and you think you are alright. So, Mr. Chairman, the Bahanguzis are also, asking for a constitution that respects automatic change of power and not through violence, a constitution that guarantees the safe homage of the disadvantaged group i.e. the ordinary, the disabled, and the street children. A constitution that guarantees security of tenure to its citizens' property. The security of the widows, after the loss of their dear ones. Of course your own property, you have remained; you have been suppressing these women.

A constitution that must safeguard our citizenship, the law must be very clear on this, Mr. Chairman. Citizenship is one issue that people have been meddling about. If they say you come from Zaire, and you are an Alur from Zaire, and you come in Kyankwali you live there, therefore, they say you are not a citizen. But he has got his grand children here and so on for years. Some of these colonial boundaries which were created then, are the matters which this constitution has to discuss seriously. Because none of us knows our origins. If I scrutinized your origins, all of us here, you may find many of us come

from Abyssinia, many of us come from Central Africa, and others are even Ethiopians who moved down. So, therefore, if it is not known, we must talk of the present, if you have been identified as Ugandan, remain that, but with change you may find you are now living in another world. So, we must only have a constitution that is guaranteeing peoples property and that which is guaranteeing peoples tenure to live and to exist with others within that particular area.

Our people are also saying dual citizenship should not be encouraged at the expense of investment. Ideas have been going around and our people have heard it, that we should be very careful when we are discussing it here, that dual citizenship is more or less mortgaging our own country even if it has got one side of advantage of allowing these businessmen to come in here to invest - so called foreign investors. These investors may be here, but when he commits an offence, if it is commercial he will be protected by his mother law. You will find if for instance he was an Indian or an American, the American law, will take precedence, they will say, this is an American we want him extradited, and therefore I have committed all trustees and so on in this country, but because he holds a dual citizenship, then he will refuse to go back. So, while we are discussing that one, Mr. Chairman, I propose, on behalf of my people Bahanguzi, that we should look at it seriously and we view it with the due consideration it deserves.

Mr. Chairman, again I pray to you, Hon. Delegates, that we should not talk about a constitution which we are copying from other countries, we should have our own creation, we should have a constitution good enough for ourselves and the generations to come. Let us be consistent, let us not now have proposals from our people, then tomorrow, we have hand-outs which will change our minds contrary to what people have sent us to talk about here. Already, Mr. Chairman, there are papers and counter documents which have been thrown around our heads, for us to change our minds, but we are discussing a document which has been compiled by the Constitutional Commission, for the last two or four years. And now, we are being induced to change our minds, that means we shall appear as if we are hypocrites to our own electorates. We must stick to what we have been sent here to do. But at the same time we must also be accommodative. If somebody articulates his point properly here, *-(Interruption) -*

A HON. DELEGATE: Point of order. Is the hon. Delegate in order to impute a fear into the delegates here in the Assembly, that they are not to discuss this thing freely but to abide by what is in the Draft Constitution?

THE CHAIRMAN: Could the Delegate on the Floor tell us exactly what he said before i rule.

BRIG. KYALIGONZA: Mr. Chairman, that is exactly what I am talking about. We require people to listen attentively, when one Member is contributing.

THE CHAIRMAN: You were asked to reinstate not to pass judgement.

BRIG. KYALIGONZA: I want to reinstate that we are supposed to discuss a document which is called the Draft Constitution of the Republic of Uganda, which has been compiled by the Constitutional Commission and I was sent here to discuss the same by the Bahanguzi people. I was only appealing to hon. Members that the documents which are being chipped in now will appear as if we are being dishonest to our people because we were commissioned to say what is here and what we have been sent to talk about as given in the Draft Constitution. That is the message I got from my people. But if you were told to discuss other things, it is up to you, my people told me to discuss what they gave me to say in the Draft Constitution. So, the hon. Member there who has indicated fears, it is up to his people if they told him to talk something on his own, we shall call him their representative.

Thank you, Mr. Chairman.

THE CHAIRMAN: No, the point is this that, the hon. Member was under the impression, that you were saying, we should take the draft as it is without discussing it.

BRIG. KYALIGONZA: No, what I have talked about is that we should be accommodative, listen to each other, and that is enough to indicate that when we are listening and accommodating one another, we are discussing the same document amicably.

THE CHAIRMAN: But may be, let me remind the Members so that we do not waste time on this. We have got before us a Motion which was moved this morning that we discuss this Draft Constitution. But in doing this, Members are free to try to convince others by either writing papers and handing them

over to them, or limiting themselves to their remarks here on the Floor. The hand-outs will not be official documents, but Members are free to use whatever method is available to them to communicate their ideas to each other. We should not stop them doing so. But the draft we are discussing, nevertheless is this one. I think that is very clear. I think you should wind up. You have run out of time.

BRIG KYALIGONZA: I do not know whether the interference did not interfere with my time, Mr. Chairman. I could be given three minutes to wind up.

THE CHAIRMAN: Okay, granted.

BRIG. KYALIGONZA: Thank you, Mr. Chairman. The Bahanguzi people are saying, let us not copy other peoples constitution, and let us have the constitution that is of course encouraging unity. And that is encouraging development through innovations of scientific research. So, Mr. Chairman, united we stand, divided we fall. Thank you very much.

THE CHAIRMAN: I thank hon. Brig. Kyaligonza for his contribution to the debate. I now give the Floor to Rev. Fr. Gaitano Batanyende.

REV. FR. BATANYENDE (Presidential Nominee): Thank you, Mr. Chairman. I have entitled my presentation as egoism, and obligatory root causes of Uganda's instability. Egoism and bigotry are the root causes of Uganda's instability. I have come to its conclusion, after having read the materials that you presented to us before we went to the long recess. Now, this is my presentation, Mr. Chairman. It is well over 30 years since we attained our independence. At that time of our independence, the majority of Ugandans did not understand what independence meant for them. Since independence up to 1986, this group has only played the role of a spectator, instead of a participator in the political affairs of this country. The second group of Ugandans, Mr. Chairman, a small minority called the elite, was also dichotomised into two camps namely: those who wanted independence in order to fall into things, this is grabbing and eating. This has completely named our political culture. Then the other group, those who want independence for Ugandans. These were seen or taken as agitators traitors, communists, as they struggled for a stable Uganda.

From this false and third start of managing our own affairs, Mr. Chairman; Uganda has been

wounded very seriously by her own sons and to some extent - me I am being gender sensitive - daughters of the unique class at the expense of the majority of Ugandans who have suffered more than anyone else. Indeed, the saying that, when two elephants fight, it is the grass which suffers, has been proven as true in Uganda. During the years of our independence, our political sin has been that of conflict. The main causes of conflict are the vices of greed and dishonesty among the leadership. These people have grabbed, have looted, plundered; in short they have killed Uganda. Because of the above, the majority of Ugandans have not benefitted from their independence. This is because: (a) they have not been allowed to freely and fairly participate in national matters. This is because these politicians know very well the saying that if you want to rule somebody, keep him poor and ignorant.

(b), all political systems we have had so far were imposed from above and

(c), the economy has stayed stagnant, and poverty, has persisted. Where are we now, allow me, Mr. Chairman, to borrow the words of the Chief Justice, from his speech to hon. Delegates when he was handing over the chair to you. He said: *'thanks must go where it is due, thanks to NRM Government'*. This is a test for all Ugandans, especially ourselves who are gathered here. Here is a time to build our mother Uganda or to kill and bury it forever. This is a time for us to prove to the whole world that we Africans, especially Ugandans, still have some brains, the spirit of patriotism and we can manage our own house in our own way. This can be done if each one of us here is prepared to embrace a mystery of inclination by being ready to kill and bury his or her vice of egoism for the sake of the common good.

It is therefore, very important to begin with a summary analysis of our concluded situation in Uganda as regards politics, economics, culture, human rights and dignity justice and democracy in order to discover the joys, hopes, sorrows and anxieties of Ugandans. What were the joys of Ugandans, and what are the joys of Ugandans today? These joys included, or they should include the achievement of our political independence in 1962, the determination to remove the dictatorships, the ability to survive, for those who did so, all the dangers of death you have under gone. The fact that, despite great suffering, we have remained as a nation and our family ties and solidarity are powerful.

What were our hopes and what are our hopes? The hopes of great benefit from independence which

were frustrated. The hope of rebuilding Uganda and make her shine. The hope that there should be no other dictatorships in Uganda, no more civil wars, no more disrespect of human rights and human dignity. The hope that Uganda is settled and clearly developed as one nation. The hope that this new constitution once well made and justly approved and implemented, can go a long way in solving some of our problems.

How about ourselves? Since we got independence, we had sorrows and we still have sorrows. The sorrows of the many Sons and Daughters of Uganda who have been killed, who have disappeared, forth into exile, dislocated, left as widows or orphans, those physically named and psychologically destroyed. The sorrow of under-development, caused by lack of vision, of integrity and instability. The sorrow of divisions, harmful to our unity of purpose, based on our tribes, regions, religions, political thinking. The sorrow that even at this moment, there is still instability, and loss of lives and property in some parts of Uganda. The sorrow on the continuing corruption and immorality at all levels of our society.

Anxieties. We still have anxiety. We are doubting whether the present relative peace will endure and become consolidated. We are doubting whether the conflict in some parts of Uganda will end. Doubts on the possibility for Uganda to have and develop a culture of constitutionalism. Doubt, on a possibility for Uganda to have and develop good and dedicated political leadership at all levels. Doubt, my God, about the possibility of Uganda, in every way covering the economy and being able to eliminate corruption and discrimination. We are doubting about the commitment, to have real justice at every level of our society.

So, what should be done? What should we? We should have at the back of our minds, the principle of the common good. Peace of necessity entails the principle of accommodation. We shall arise at the above through the method of reflecting on the causes of our problems. Otherwise, we shall find ourselves, in a different circle and the solutions we offer may be beside the real issue.

Therefore, I need to apply the method of asking why, until we reach an acceptable root cause. If for example, as many have suggested - the root cause of our problems in Uganda has been bad political leadership, the question arises, Why did we get such a bad leader? Who brought those bad leaders into

power? Who sustained them in power and why? Why did they remain in power for so long? Why and how did they find supporters, all the way to the village level? Why did many Ugandans co-operate in their sins of violence, of silence? Why did so many Ugandans also cooperate in their dictatorship and corruption? Why did many Ugandans not lift voices against them? Such questions and many others, Mr. Chairman, may indicate that, political leadership may have been the effect rather than the root cause of our problem.

The principle of common good, Mr. Chairman. While defending private ownership, Pope Leo 13, I am sorry, I am a religious person, I have to sometimes go to such authority. Pope Leo the 13th stated very clearly and I quote; *"it is one thing to have a right to be in possession of money and another to have a right to use money as one will"*. Condition of labour of 1891 No.23. Pius the 11th, developed that further, when he explained that, *"in using private property, men must take into account not only their own advantage, but also the common good"*. The constructing special order of 1931 No.19. He also stated *"the public institution of the nation must be such as to make the whole human society conform to the common good"*. That is the standard of social justice. From the principle of common good, Mr. Chairman, we may deduce the following application. When discussing the National Constitution, we should balance what is for the common good and for the good of every individual person or group. We must critically reflect whether what one group wants does not conflict with the common good. This will help us to have two central points of focus. The society as a whole and the individual person and group. Again we should link and relate human rights with citizens' duties, the responsibility of the rulers with the responsibility of the subjects, so that a harmony is created and promoted.

If human rights are fully respected and promoted, and citizens' duties are responsibly carried out, Uganda definitely will experience a real liberation under the new constitution. Unless we discover how to reform our problems connected with corruption, irresponsibility, laziness in work, selfishness, grabbing, indiscipline and we name it, it will be difficult, if not impossible to reform our several aspect of life. Our outlook on Uganda, must be built on common values of Justice, truth, fairness, compassion, responsibility and sharing. Without these, society cannot develop. A good constitution in the hands of

un principled corrupt and immoral political leadership, cannot function or bring about the expected results. Never!

Lastly, as we embark on the final stage of making a new constitution for our nation, we must bear in mind the following; we must create a culture of constitutionalism. Two, political leadership just as leadership in other aspects, is a service to the community. It is accountable to the people. To the people served, who always remain the legitimate source of a country's sovereignty. And no major political decision should be undertaken or made without people's consensus under normal circumstances. Number three, as we make this new constitution, we should never think that the South and the North East and the West in Uganda, the Catholic, the Moslems, and Protestants, all the educated and the illiterate are made to be in constant conflict. This constitution must be a conflict dissolving constitution. It must aim at eliminating, totally any such conflicts. Because these conflicts, have been created by the leadership. Number four, we must re-visit our past, for the purposes of correction and reconciliation and not retribution. Number five, political education should always precede political participation. This is to avoid the lies and manipulation of the people in position of leadership, especially the politicians. Number six, it should be a dream of every Ugandan to have a stable Uganda built on justice, peace, unity and development.

Thank you, Mr. Chairman.

THE CHAIRMAN: I thank hon. Rev. Fr. Batanyende for his contribution. I did not point out when I called the hon. Member that, he is a Presidential Nominee.

MR. MASALU MUSENE (Manjia County, Mbale): Thank you very much, Mr. Chairman. Being my maiden speech, I will start off by congratulating you and your deputy, upon your election to those high offices, and at the same time, extend congratulations from the people of Manjia, to all hon. Delegates here for having made it to this august House.

A constitution consists, or can be said to consist of agreed upon principles which promote the rights of the people and which reflect their wishes on the broad issues of Government. The people of Manjia therefore, have instructed me to co-operate fully with you and your deputy, and the hon. delegates, so as to

reach a compromise or a consensus on most of these principles with a view of coming out with a workable and acceptable constitution by the majority of the people of Uganda, for now and for posterity.

The people of Manjia are proud of this country, and they have instructed me to confirm or to present the proposition that the territorial boundaries of Uganda, should be delineated as set out in article 4 subsection 3 chapter two of the Draft Constitution. They say, that we should make a constitution which recognises and confirms that fact that Uganda remains one people, with one government, with one president, one parliament and as one country. Therefore, on Chapter Two of the Draft Constitution, my instructions are to strictly advocate for a unitary form of government which caters for these principles. However, there should be local councils at district level with some limited powers. This is to take into account the unity and diversity, also that these local councils are given some powers to run their own affairs without interference from the central government. In fact, this is clearly spelt out in the local government statute of 1993, which provides that the overall aim of that statute is to provide for a continuous process of decentralization whereby the functions and services and powers are transferred from the central government to local governments in order to increase the local democratic control and participation in the decision making and to mobilise support for development relevant to the local needs of the population. However, Mr. Chairman, it is important in the new constitution to be made that the powers of the central government should be clearly defined vis-a-viz those of the local government to avoid any possible confusion or misinterpretation. For example, the central government should be clearly charged with the powers to handle such matters as national defence and security, foreign affairs, the judiciary national currency and so forth while other matters can be handled at local level. But in case of a conflict between any actions or powers of central government and local government, then those of central government prevails in the interests of national unity, peace and tranquillity.

The people of Manjia are aware of the fact that, there are some Ugandans who are advocating for federalism and they give examples of the disintegration of the Soviet Union, Yugoslavia, as examples where unitary constitutions were faced and have failed. Even they say that in Britain, smaller communities like Scotland and Wales have to be consulted on how

they are to be governed within the United Kingdom and not England to dictate. However, my instructions are that we should question ourselves about the level of political education and economic development those countries have attained. Those countries like Britain, USA, have clearly defined national interests which are protected at all times by different governments.

In Uganda however, we must recognise the fact that given the present level of development, we have no clearly defined national interests and therefore, it is paramount first of all to define this national interests which have to be consolidated through national unity by having a Unitary Sovereign State known as the Republic of Uganda. So, once we have consolidated that unity, through a unitary constitution, then we shall go ahead to define other national interests and in the process, we may come up with other alternate form of government. Otherwise, as of now, it is only a pity that we have a unitary government.

In the Draft Constitution under chapter three, what is known as national objectives and principles of state policy, Mr. Chairman, it is obvious that the power in any government lies with the people and that any government must govern according to democratic principles, for example by ensuring free and fair elections at all levels and these principles have been in existence in every governments that come and go have been talking about these principles, and only practising them in a different way. What I am saying is that some of these things are so obvious, so that maybe to avoid duplicity and waste of time, it was not necessary; or when time comes, we shall propose that it is not necessary to have included them in the Draft Constitution. For example, article 10(3) states that *"all the people of Uganda are entitled to their cultural values and practices which do not disturb the unity and cohesion of the state."* I am sure, this has been there, I am not aware of any culture which has disturbed the unity and so to put it in the constitution, to me, would mean that unless we are anticipating something but that has been there and it should continue like that other than including it in the constitution. Or for example, this article 10 sub-section 8 which states that *"all Ugandans are free to move, settle and earn a living any where in Uganda."* This is obvious and therefore to avoid duplicity, my instructions are that this should have not or at a future date, we shall propose that such obvious matters should not be put in the constitution. The same applies to article 7 dealing with the

executive. All these provide for the sovereignty of the people, the political objectives and so forth. Even article 12, protection and promotion of fundamental rights and freedoms; can all come under one Chapter, Chapter five which deals with fundamental human rights and freedoms. In fact, Mr. Chairman, if you read Chapter 5, you find that the same things have been repeated which are in Chapter 3, they have been repeated in Chapter 5. All those provisions; even article 13, 14, 15, 16 and 17 namely; State protection of the family, the women the widows the disabled and the aged. All these are fundamental human rights and freedoms which have been conveniently covered under Chapter five and therefore, there is no need to have been put separately. So when the right time comes, we shall propose that all these be scrapped because they have been catered for under separate Chapters. Furthermore, Mr. Chairman, if you analyze the economic objectives which have been also covered from articles 20 onwards, and social objectives article 26 and so on, you find that some of these things may not even be workable other than maybe putting them - and putting them in the constitution may not alter the status quo. For example, if you look at article 27 sub-section 2, it provides that the State shall take appropriate measures to accord every citizen equal opportunity to attain the highest educational standard possible. Now putting such a provision in the constitution and yet we are talking of cost-sharing in Makerere and other Institutions of higher learning, in fact this, to me, is superfluous because even the same applies to article 29 about clean drinking water, article 30 about decent housing; because the problem we are going to face is that when you look at article 168 sub-section 2(b), it provides 168 is questions of interpretation of the constitution. It provides that *"a person who alleges that any act or omission of any person or authority is inconsistent with or in contravention of the provision of this constitution may petition the High Court for declaration to that effect and for redress where appropriate."* I am saying that if we put some of these things in the Constitution and yet we know that these things are not true in the villages, we have people drinking dirty water, people are sleeping in huts, they have no decent accommodation and so forth. Now if you put it in the Constitution that the State will provide, you are going to have millions of Ugandans coming up with cases under this provision to High Court seeking redress.

So, I am saying that really some of these things should not be incorporated in the constitution because they lead to endless litigation. Then we have

article 35 which talks about preservation of Uganda's heritage and article 39 which gives the duties of a citizen. These to me have been covered under Chapter 4 dealing with citizenship and then article 36 on environment and article 37 on environmental awareness should also come under Chapter 17; that is under land and environments. And lastly, article 38 on foreign policy is the duty of the government to promote good neighbourliness and respect for international law and treaty obligations. So, it can also be covered under Chapter 7 which is dealing with the duties of the executive. So my instructions on that point are that to avoid duplicity and emphasizing the obvious and future endless litigation against governments in constitutional courts, the whole of Chapter 3 should be scrapped and I will advocate for that in detail when the appropriate time comes, Mr. Chairman, so that we make a compact constitution which summarises our position other than having lengthy, elaborate obvious provisions some of which are not even possible like clean water for all, good house for everybody, good blankets for everybody and so forth. These are just things which may be for academic purposes.

On citizenship Mr. Chairman, the people of Manjia are of the view that we should guard the citizenship jealously and that we should not allow any person from anywhere to become a citizen because of the many obligations, of the many rights and duties which go by being a citizen. Manjia, Mr. Chairman, is a county bordering Kenya and these people, whenever they go to see their relatives and friends in Kenya, they are from time to time harassed, thrown in prison because they are not citizens there. So now they say that now that they have this chance, they should also not allow other citizens or people from other countries to play about with the citizenship of this country. So under article 42 sub-section 1 which provides Mr. Chairman, that *"a child of not more than seven years of age found in Uganda and whose parents are not known shall be presumed to be a citizen of Uganda"* that provision raised a lot of questions during the campaigns. While Mr. Chairman, under our criminal law a child below seven years is presumed not to know anything so that he is presumed not to know his parents, and government may be under obligations to look after him, but then the issue is why should that provision be incorporated in the constitution? Because such things happen once in a while and unless, as maybe *Muzei Atwoma* was saying that that would impute a hidden agenda somewhere, because the question is as to

where do we expect these children to come from. Secondly, who is to look after these children? Because if you say that it is individuals who pick them, who should look after them, these individuals have their own problems with their own families so we cannot add another constitutional burden on them to look after children they are going to pick. Now if we say that it is government to look after them, it is equally dangerous because some people will now throw their children in the streets knowing that the government is going to look after them. That would encourage a lot of laziness not to forget the other questions that may be since people of Uganda have been looking after their children, unlike in a few instances, where do we expect so many of such children to come from so as to incorporate this provision in our constitution. So, Mr. Chairman, the people of Manjia have instructed me strictly that this provision should be scrapped.

There is Chapter 5 which deals with fundamental human rights and freedoms. We have no quarrel with that provision because every constitution must guarantee its fundamental human rights and freedoms and to the extent that the human rights commission is to be set up to cater for this is not bad. However, the people have a quarrel with article 70 and 71 which provide for state of emergency and detention without trial during such periods. They say that if we are advocating for a constitution which provides for peace, a constitution which promotes rule of Law, a constitution which will put all safeguards to ensure that there is no human rights abuse, then why should we have this state of emergency and these detentions during such times? Because that would contradict the very spirit of promotion of fundamental human rights and that stands to be abused by any particular government depending on a particular prevailing situation. So we should have those other provisions which deal with anybody who violates the law but do away with this idea of state of emergency and detention without trial as it stands to be abused.

On the Presidency which is provided for in the Draft Constitution, the people of Manjia are of the view that the President should be elected by the people of Uganda and that once elected, he should be in office for a term of four years and not five years as provided under the draft. They also endorsed the view that he should be there for not more than two terms so that however good he may be, he rules for eight years and after that he calls it a day and also others come and take over other than sticking to power all the time

which creates a lot of upheavals as seen in the past. They also add that or endorse the view that a President should not be prosecuted for any criminal offence, whatever, when he is in power and they add that in the spirit of reconciliation, even after the President has handed over power, he should be forgiven for whatever misdeeds he may have done. He should be left freely to settle in Uganda as a citizen and be afforded certain opportunities to settle in Uganda other than threatening him with eminent prosecution which leads to a temptation of going into exile. Mr. Chairman, experience has shown that when Presidents go into exile, they either always want to come back as Presidents or wherever they are, they create instability by trying to oppose the government which has replaced them. So to avoid such a situations let whoever has been a President, after handing over, remain in this country, settle quietly and enjoy with his grandchildren and his people so that there is continuity. Once that is put in the Constitution or provided for, then we shall have a situation like in the United States of America, like Britain where past Presidents have freely settled in their countries without any interference and I think this will go a long way in creating a peaceful and stable society other than having some leaders in exile with a hope of coming back to power and thereby causing instability from time to time. On Legislature Mr. Chairman, my instructions are that Parliament should also be elected periodically for a term of four years and on proportional representation in terms of population and the people further endorsed article 136 sub-article 1 which provides for the right of recall; that is any Member of Parliament, once elected to Parliament but in the process he becomes arrogant, proud, not development oriented, he sits in Kampala and rarely visits the people who elected him he does not hold meetings, he does not consult people and for a period of one year, he is seen not to have done anything at all, he should be recalled. This once provided for in the constitution, will make sure that our leaders are vigilant and they are always on their toes, try their level best to do what people elected them for because they know that once they mess up, they can always be recalled. So the rights of recall are, from the experience of the people of Manjia and it was overwhelmingly endorsed that it should be provided for in the constitution.

I shall talk about Chapter 9 - The national Council of state. The composition of the National Council of State is a problem. It is a problem because in the first instance, the National Council of State was seen as

an innovation which will enable the people of Uganda to move towards greater separation of powers other than what was provided for in the previous constitutions. According to the Odoki report in the big volume on page 345, it is provided that the National Council of State is a creation in response to the people's concerns about past conflicts between organs of State which has contributed to the instability and violent turmoil for much of the past 30 years. They further state that they envisage the National Council of State mainly as a bridge between the Legislature and the Executive, intended to maintain communication between them and to resolve their disputes. Another function of the National Council of State is approve specified Acts of the Executive such as appointments and so forth. Mr. Chairman, all such noble objectives would not be bad in themselves. However we are having a situation with article 152 which is membership of the National Council of State. Here we find members of the executive, and the legislature. So we have a situation where members of the executive and the legislature are checking themselves or each other or they are correcting each other. To me, that one is not a proper check. It will not provide a proper checks of balances of power. Therefore my instructions are to advocate for a second chamber in form of a Senate or Upper House. This, Mr. Chairman, should consist of two elderly people, prominent people from every district, people of experience, people of unquestionable integrity from every district who should constitute the Senate or Upper House. These people first of all, each one will be - in terms of appointment, if we have to look at national diversity in appointments, these are the right people to cater for their respective areas; in terms of national interests in case of conflicts between the executive and the legislature. These are people of experience who will try to advise the government on such national matters.

I know some people may say that finances may not be available for a second chamber but considering that the National Council of State in itself first of all will constitute about 60 members and this National Council of State is sitting as a National Council of State and they will also be getting allowances. So it is a question of switching over those allowances to the Senate because these people can get other benefits as the executive and legislature. Secondly, these people will leave work unattended to. For example, given the busy schedule of the President who will be the Chairman of the National Council of State his Vice, then Ministers and M.Ps. Now if we give them

too much work, here there are Ministers and President, here there is the National Council of State, other work will suffer. So for efficiency, it is necessary to have a second chamber. Furthermore, the President is the Chairman of the executive, at the same time, he will be chairing the National Council of State. So he will make a decision this way, then go to the other side to see. I do not know how you expect him to reverse his own decisions. So that is why there is more need for a second chamber in form of Senate or Upper House.

I will try to summarise and it would be unfitting of me to leave this contribution of mine without talking something about the judiciary. Article 157 provides that Parliament is to make laws which should provide for people's participation in the Judiciary or Judicial system. Our quarrel is that if we are saying the judiciary, as an independent arm of government, a separate arm of government is independent, then which people are these again who are to be legislated for so as to participate in the judicial process? Because Mr. Chairman, the previous experience has shown that we have laws which provide for example, RC courts, RCs have been handling cases but if we are going to make a constitution which will provide for clear and distinct roles and which will provide for independence of the judiciary, you will realise that RCs have been playing the role of the executive as people's representatives, at the same time, they have been trying cases and at the same time, they have been prosecuting them. So to avoid this situation of being a prosecutor, the judge and then the implementer, I think such provision which says or provides for peoples' participation should be deleted from our constitution so that we have a truly independent judiciary respected by all the people to handle the cases or to resolve their conflicts. Then when we come to the definition of courts, under that Chapter dealing with Judiciary, Mr. Chairman, you find that the Magistrates Courts are left out and yet the Magistrates Courts handle the bulk of the cases in this country. So too much emphasis has been put on Supreme Court Judges and High Court Judges but no mention almost has been made about magistrates and yet these handle the bulk of the cases of the population. So when appropriate time comes, we shall advocate that a provision be inserted under Article 159 to cater for the magistrates.

Lastly, there is the issue of land and the environment. Chapter 17 is very clear in that it provides that all land belongs to the people of Uganda and that it

should be managed by the Uganda land commission on their behalf. Mr. Chairman, my instructions are that first and foremost the customary land tenure which has been prevailing in most parts of the country should be left intact. In fact it is good the draft constitution caters for that, but then, what has been raising fears among some people is the seemingly mandatory provision of acquisition of land titles because there is that provision which says that if anyone wants to own land, he should acquire a title. So the people were saying, does it mean that if you do not have a title, you are not owning land? So when appropriate time comes, I think something will have to be done about that provision because most of the people in the countryside cannot afford to have titles to their land because of the process, the lengthy and expensive process of processing titles. It is so expensive first and foremost that the majority of the people cannot afford it. But the people are also saying that let customary ownership of land be recognised even by financial institutions so that where you have your two acres with boundary marks of whatever clearly defined and the chiefs, the people and RCs know that that is your land, then you should go to the bank and get a loan other than these banking institutions insisting on leases and so forth which, as I said, are very difficult to get and in any case, in cases like Manjia where there is acute shortage of land, it becomes very difficult to process a title for a very tiny piece of land which the bank may not readily accept. So my instructions are that the customary tenure should not only remain but it should also be recognised under our laws for purposes of loans and other financial benefits. Mr. Chairman, there is a problem with this mailo system of land ownership. I know this is a controversial matter

THE CHAIRMAN: I think you should be winding up hon. Member.

MR. MASALU MUSENE: To wind up Mr. Chairman, I am saying that this provision to do with the milo land ownership should be critically analyzed and examined by the hon. Delegates so that a compromise is reached between the mailo owners and this so called tenant - squatters - and yet these are people who have been there for 30 or 40 years or so, so that we avoid a situation of conflict where for example, a land-lord wishes to sell part of the land and he opts to chase away the so called tenants at will without sometimes appropriate compensation or even if there is compensation, the issue is, where can such a person go after staying there for such a long

time? But I am not making any conclusive submission on that. I am only saying we should analyse it critically. Thank you very much Mr. Chairman.

PROF. GEORGE KANYEIHAMBA (Rubanda County East): I thank you Mr. Chairman for giving me the opportunity to share with my hon. fellow Delegates. Mr. Chairman, the hon. Delegates have already honoured me by I hope reading one of the background materials in which I expressed certain views about some 20 years ago and I hope that at least some of those words which I wrote are shared or at least appreciated by hon. Delegates. In addition I have lent my name and contributed to an article which has been published regarding this very draft constitution and again there, I am sure that hon. Delegates know my views on a number of issues. I very much urge and advise that as many hon. Delegates as possible who can express their views - I have seen Prof. Nabudere publish one, Mr. Okeny has published another and if they can, they should publish these articles and views and distribute them among us so that we can share them. Ultimately, I am sure, that a consensus will emerge. Therefore Mr. Chairman, I am not going to spend as much time on dealing with specific issues in the draft constitution as much as make general observations of what role we are playing here, Sir. In addition to what I have said, there have been a number of seminars and debates which are going on regarding this very draft constitution and I believe that if we have time Mr. Chairman, and we can attend these, they would help to mould our ideas on what ultimately we must enact into this constitution. For example, there is one - to put in a commercial - there is important debate tomorrow at the Sheraton Hotel in which Prof. Nsibambi, hon. Bidandi Sali and myself are going to participate. It is about federalism presumably versus devolution or decentralisation and I think people who are interested in that subject might pick an idea or two and indeed they themselves may contribute a word or two to that very important debate. So I would encourage that, we do share these views, exchange these views through these articles and venues. Even if you do not have very much respect for anybody or you feel that they are not very conversant with that area, so long as they have put down their views, you will be able to gather even one phrase, even the way it is spelt, even if the rest of the article does not interest you. So I encourage us to read more so that really at the end of the day, a consensus can arise.

let me start off by giving you a small story. Some 25 years ago, there was a crisis in the Australian Government. The ruling party, the Liberal and Country Party, had divisions within itself and the party itself in Parliament met and when they met, they were in power and therefore, their leader was a Minister. They were divided half-way. I think eight Cabinet Ministers voted for him and eight voted against him and he was in the Chair. So the question was, what does he do? He cast a vote against himself and therefore resigned. I am giving that story because he could have voted for himself and continued with the crisis but he would have been constitutional and legal. So the point I am making Mr. Chairman, is that as we consider this draft constitution and other ideas which people have given us, we should always remember that not everything which is constitutional is legal or of proper political propriety. Secondly, not everything which is legal is constitutional. The stability of this country and the sustenance of the constitution we are going to enact will not depend on the fine words which we are going to put in the constitution and some of us who are on this draft committee are very good draftsmen and can also write very good English. It will not depend on those words or the fine Chapters that we are going to write. It is going to depend on the political culture that will be nurtured after we have enacted this constitution and we have agreed to live together peacefully. In other words, effective and operational constitution must depend, by necessity, on the political dogma of a nation. This constitution will help to develop our political beliefs and aspirations. But the constitution alone will not underwrite peace or tranquillity.

I would like to say that under the NRM administration, we have had relative peace at least in the bulk of the country, but really that peace has not been based on any written constitution. Admittedly, parts of the 1967 constitution continue in operation. We have had a series of legal notices, Legal Notice No. 1 as amended in 1967, as amended in 1989 and recently. But these are not firm and written constitutions but the Movement has been able to move and to - well, I was going to use the word manipulate but that is an unfortunate word. Let me say, NRM has let those documents move with the times; and therefore, I would state that we have not had a firm and viable constitution since the NRM came into power in 1986. Nevertheless, the peace that we have enjoyed, the tranquillity that some of you have talked

about has come about as a result of the political culture that has been ushered in largely by the behaviour and actions of the NRM leadership. And therefore, those of you who think that any written constitution is going to give us panacea for peace may be disappointed if it does not.

Our previous constitutions have had very little wrong with them although as one can argue, they lacked the political legitimacy. We are going to adopt many of the provisions in this draft constitution which actually are derived from the 1962 Constitution, the 1966 Constitution and the 1967 Constitution and also from the Legal Instruments since the NRM Administration. These are fine provisions. We shall only sharpen them, we are not going to change the substance of these provisions. But what will make a difference between the constitution we are going to make and what has gone on in the past is the political culture that we have began, Mr. Chairman to, nurture. Many people thought that when we came here, we were going to be fighting, that there was going to be storms. Newspapers were waiting for divisions and walk-outs. But we have all, from man and woman, behaved with dignity, we have come here with the authority of our people and the anticipation to make a viable constitution. There has been no difference between Kanyeihamba and Damiano Lubega. I have been talking very amicably to my Sister Cecilia Ogwal and everything has been wonderful and this, to me, was the purpose and essence of why we had these elections, embracing the length and breadth of our country so that we could come here together and drop all these suspicions and hatreds that really had been built up as a result of ignorance about one another, as a result of mis-governance that we had experienced in the past.

In my view, I am not looking at these provisions with a fine comb. I am not even worried that we may eventually write bad law in the constitution. What I am happy about and what pleases me most is the kind of atmosphere, the kind of - I want to call it friendship that seems to be emerging from our meetings here together, the way we are talking to one another, the way we are consulting as men, as women, as brothers and sisters. That is the essence that is going to prevail after this constitution has been enacted. So, Sir I want to encourage that we must continue with this spirit of consensus, with this spirit of giving way to points which are superior to our own. It is very, very important Sir, that we must nurture a culture which admits obligatory consideration of other people. Where you are in doubt about

the motives of any one, please, do give them the benefit of the doubt and accept them as being good rather than bad; only accept badness from anyone when you have proven proof that they are indeed bad.

The labelling of people either because of their origin or because of belonging to different parties or because they come from different ethnic groups must be banished by this august House and it is the culture and the philosophy which we shall adopt in the proceedings that lie ahead of us and which we shall adopt thereafter that will endure with the constitution that we shall make.

Having said that Sir, I am aware that the document before us is voluminous and bulky. Nevertheless, my own limited experience of constitutions of the world is that if you want a constitution to endure and not to cause problems, you need to be as simple as you can, you need to be shorter rather than longer. I want to say that the longer and the more voluminous a constitution is the more rigid it is likely to be in operation. If you provide for every eventuality in society including how people should behave as someone has said, how they should go to bed, then every aspect of life will be constitutional even when you are dreaming and that is very bad for any constitution. So for me as a constitutional student, I am hoping that we are going to reduce this document to the very minimum. Why do I say that? I say that because many of the constitutions I know of which have endured for generations have been very general and short so that not only is it to the advantage of the politicians who implement and enforce constitutional provisions but also for students and schools; because I am hoping that our constitution is going to form part of the civic syllabus in our schools throughout Uganda. If we write a very big voluminous document which contains everything about land, water, food and so on and so forth, many of our students who have got meagre resources will not study it in full and therefore, they will not be able to research it in the examination or indeed when their fathers who are politicians and RCs - if we retain the RCs and I hope we shall - ask them what it is all about. That is point one.

Secondly, Sir, we must at all costs, avoid provisions which are likely to cause controversy in future. Any analysis of any constitution - and let me confess that at one time, I was a collector of constitutions. I had the constitutions of every country in the world except North Korea and the reason - I did not understand

that one, it was in their own language, I forget what it is called - It is that every constitution we analyse, there are three powers of government which we have all enumerated; the Executive, the Legislative and the Legislative. Organs of government and institutions of government, their inter-play with one another and the way you engage a system of checks and balances between them, revolves around these three powers. Throughout the history of constitutional making, there is no other power besides these three. If we try and create another one which was never contemplated by mankind, you fall into trouble and therefore, I have sympathies with those speakers who have pointed out and cautioned that we need to look at those Chapters which deal with the National Council of State because it has tended to bring in an element of power which could be another centre of conflict without actually involving anything.

The failure that we have had in the past and the reasons why we have had bad governments is because governments fail to remain within their spheres of influence as predetermined by the constitutions that we have had in the past. It is not because we lack the fourth organ to resolve the issues. There cannot be any democratic society which says that when there is something to resolve, you must go outside the supreme body elected by the people; in our case, Parliament. And therefore I hope very much that hon. Delegates will look very carefully about the organs of government and maybe we shall find that ultimately, the answer lies in strengthening the committees of Parliament, in strengthening the mechanisms that we set about, resolving differences and conflicts between the three organs of government and in particular, giving teeth to one independent organ of government, namely, the Judiciary. Often the Judiciary in African States has tended to be timid or has been intimidated by those in power. We must ensure that the Judiciary that we establish under our new Constitution, not only is it vigorously independent but is insulated from political and legislative influences of any kind. That way, we shall set up a mechanism that is likely to save us from some of the pitfalls that we have experienced in the past.

What kind of government must we have: There has been a great deal of debate, sometimes heated as to whether we should be federal, unitary; whether the government should be a democracy by the people, for the people and of the people or whether it should be an oligarchy of dedicated political activists. Mr. Chairman, it really matters very little what kind of government you have in society. What matters is

what does it stand for and when it makes decisions, what does it make those decisions for? Because if you analyse the governments of the world, you will find that there is an element of each in all of them. Let us take the most popular type of government which we all want, a democracy. Democracies are fashionable nowadays and they are supposed to have taken root in Europe. Nevertheless, if you look at them, they have elements of autocracy and oligarchy within them. What do I mean? Every democracy is led by perhaps one political party. If you take the United Kingdom, you have the Conservative Party, you have the Labour Party, in Germany you have the Christian Democrats, you have the Social Democratic Party and so on. In America, you have the Republicans, you have the Democratic Party but each of those is led by a few dedicated individuals. The chairman of the party or oligarchy, the secretary, treasurer and so forth are individual leaders. And therefore, they admit to the attributes which we give to a junta, oligarchy or rule by a family when it is feudal or otherwise. But if you analyse that Cabinet or Council of Ministers as they are called, you will find that within that body, there is one important individual who may be called President, the chairman, call him what you may. He may wield such powers within the Cabinet or within the oligarchy that actually he admits to what we can call an autocracy or a dictatorship. So there you have a system which everybody sees as a democracy because we had elections. These elections were free and fair and we all jubilated and came down to forming a government. When we formed it, we elected 21 Members of the Cabinet. Their leader became the President and he started exercising autocratic powers and therefore, you can have a dictatorship operating efficiently within an oligarchy under the guise of a democracy. That is why I said that in every State, we should analyse what the government does for the people rather than its character because it may be that these are guises of a dictatorship. And therefore, in your analysis of what provisions we want to put on government, it is imperative that we do put there devices and methods of ensuring that governments are there so long as they are useful to the community. As long as they act arbitrarily or abuse the powers which are given to them, there must be methods of controlling them or correcting those who have abused their power and ultimately removing them from office. This Mr. Chairman brings me to the next question. Questions have been asked, how do we protect the constitution that we are going to enact? Again there are no magic

words that we can put in the constitution that will guard the constitution. Even if we were to put there that whoever throws the constitution, shall be shot on sight, that will not be a guarantee against the overthrow of the constitution because that very man will make sure that he shoots you first before you shoot him. Secondly, he will be surrounded by equally guilty and treasonable people who have taken the law into their own hands. The constitution can only be guaranteed by the people themselves. There is no government, whether external or internal which can do this job for you. That is where I applauded the NRM when it started this *chakamuchaka* courses. In my own area, we had some conflicts involving the church and the people who had been on a *chakamuchaka* course disarmed a policeman who was misbehaving. He was armed, they were not. That is how you protect the constitution by educating the Population so that they have the means of ensuring that those who abuse the power or violate the liberties of the individual can be arrested and may contain the real situation.

If a government is acting arbitrarily and we have educated the people that they need not pay taxes and then that government within a week will fall because it cannot maintain the public service, that is how you will guarantee this constitution. You will guarantee this constitution by being personally involved and by creating a national ethos, an ethos that goes beyond the tribe, the family and the ethnicism: so that when the people of Acholi are suffering, the people of Buganda should complain and go in the streets and demonstrate against bad government. You should not be content to say it is they who are suffering, we are happy. So what does it matter? Similarly, if the people of Buganda or kabale are suffering, I wish that everybody else, in Mbale, or Karamoja, should take up arms and start throwing out those elements of bad government who are causing the problems that we face. That is the kind of national ethos that I hope we shall build up as we proceed to enact this constitution and go further on this line. I was among those in Parliament who supported the resurrection of traditional monarchs and culture and I was happy to do that. One or two republicans - and I am a republican, laughed at me and said George, how can you succumb to the wishes of the feudalists. I did not but my view was this, that who is so bold as a leader in this country that will deny any little happiness that any of our sections our people can have? If the resurrection of monarchy in Buganda without political power and I oppose them having political

power but to restore their cultural rights and values, if that can make many people in Buganda very happy, why should I not go for that which will make every Ugandan happy? If the stoppage of war and the restoration of cattle in Karamoja can make the people of Karamoja happy, why should I not go for that? So for me, every little bit that we put in the constitution which makes more Ugandans a little happier than they were before, is commendable. We must avoid those which if we put in can cause conflict. If by allowing certain elements in the constitution, for example like federalism in its entirety and that brings about conflict, we must avoid that. That is why for example, I, personally am not in favour of a federal structure of Uganda because you see, for every happy Muganda on federalism, there is an unhappy person somewhere else as in Kabale or in Acholi. So you do not solve a wrong by creating another wrong. But nobody cares if the Baganda enjoy their monarchy, worship their Kabaka and we pass by and say Hello brothers! and then we go on with our business. There is no problem about that but federalism touches on other parts of Uganda. It is like you tying my leg. If you tie my leg, my other parts will be unable to move and therefore it is an important matter. In other words, traditional and cultural matters are local matters but federalism which touches on government and on taxation is a national issue and therefore we should be concerned and we shall have to debate it. Mr. Chairman, I thought I heard the bell. As I said, I have already spoken elsewhere, this is not the last time. I thank Members for giving me their ears for these few words I have said. I thank you Sir. (*Applause*).

THE CHAIRMAN: I thank hon. Prof. Kanyeihamba for his contribution to today's debate and now I give the Floor to Bart Katureebe of Bunyaruguru county. He is not in the chamber. I now call on hon. Wagira Moses of Kibuku county.

MR. WAGIRA MOSES (Kibuku County, Pallisa): Thank you Mr. Chairman, I will not repeat to introduce myself but I will just go ahead and share the feelings of the people of Kibuku with this august House. Mr. Chairman, my people believe that a good constitution must also among other things, have the good will of the people and this good will is actually cultivated through an active participation of the people which creates in them a sense of belonging to that constitution. It is in light of that, that my people are in for a constant consultative exercise, if only to signify that they are not sending me here with

prefixed positions but rather to try and shift positions and seek compromises on issues that may appear not to be harmonious with those presented in the House.

I would like to say something about giving the people power and the sovereignty of the people. Here you will find that this is a very true gesture but it is a word that has been abused. Every government that has come has said it is a government of the people and it is bringing authority to the people. This is the time that we have now to question what people are actually referred to here. Because there are two categories of people. Mao Tse Tung says in the capitalist mode of thinking, the people are those who own property, those who have the right over the rest; maybe even to take their lives. But the true sense of the people are the under-dogs, the victims of political turmoil. It is important that the new constitution actually gives power to these real people in the true context of the people. This is where I would like to differ with one of us although this is not the time to debate but rather it is an issue that should not stick on our minds. Hon Kyaligonza was saying for example, that if we are debating the constitution, among the qualifications of the rulers, we should consider the property acquired and in that sense, disregard poor people. But I would like to say here that we are actually all poor people; even the *Rukirabasajja*, with due respect, had to make a fund-raising to organise his coronation. That is a sign of poverty. We also feel that if the sovereignty of the people is really to be true and sincere, it is imperative that free, fair and regular and predictable elections do take place. To actually show that power belongs to the people, it is important that people in positions of leadership have in them inculcated the sense of being like believers that at the end of their performance, they will be able to account what they have done to their electorate and it is in light of that that my people endorse, in its entirety, the right of recall, if possible buttressed by very, very simple and not rigorous ways of impeachment.

Now, what about the sovereignty of Uganda? Here are two terms which juxtapose with each other Mr. Chairman. There is sovereignty and what Kim IL Sung calls *flunkyelam*. *Flunkyelam* is a situation where a small State decides to take its orders and directives from a bigger State in exchange for some assistance; material or otherwise or even military. If Uganda is going to realise its full sovereignty, its entire sovereignty, it is important that we actually address the economic aspect. You will realise that

one man said that the economics of a country determines its politics and Kim IL Sung advances this issue further by saying that a country that depends on another economically cannot help but depend on it politically as well. It is important that as we discuss this constitution and in particular the issue of sovereignty, we address our economic set up because it is economic independence that will finally give us ultimate and full political independence.

About human rights, my people are in full concert with the third report of the International Covenant on Civil and Political Rights (1988) where they say that only by guaranteeing the rights and freedoms of the individual, can society reveal its full potential, develop economically and even protect the environment. It would be erroneous on our part to think that human rights should wait on development, that benign assumption cannot create a stable political, environment. I would like further to thank Prof. Kanyeihamba for his contribution, which I actually bought, that when it comes to human rights or a situation which affects any part of this country, we should all feel concerned as an eco-system or an organ. I would like here to quote one simple poem by Martin Niemoeller which is entitled "To the Faculty". The man said, "*In Germany they first came for the Communists and I did not speak up because I wasn't a communist. Then they came for Jews, and I did not speak up because I was not a Jew. Then they came for Trade Unionists, and I did not speak up because I was not a Trade Unionist. Then they came for Catholics and I did not speak up because I was a Protestant, then they came for me and that time no one was left to speak up*"

I would like to say that it is very important that we realise and remember the heroic assertion of the Late Philly Bongole Lutaaya that today it is me, tomorrow it is you. It is also important that when you are looking at human rights, we should know that these are things which at one time or another will be useful to all of us. There is always that feeling that people may want to stick to power, but sometimes it is because somebody sees problems ahead of him. If somebody knew that the country respects human rights and his life is in no danger at all, he has not violated any human rights, why should he cling there?

This reminds me of one man who went to Mecca and he was always praying that he should die there, because I understand when you die there, you go straight to *Jannat* or heaven. Then he was visited by

the angel and he was told that rather than struggle to die there, you go back, do all that is required of you, in fact, you will have the same treatment as somebody who has died in Mecca. It is also important that our leaders should have a feeling that rather than trying to cling to power and die in the privileges of Presidency, just perform well, when you die, even if you have died out of Presidency, you will be given that due respect if you have retired peacefully and in good terms with the people. *(Applause)*.

I would like here to get to the rights of the disadvantaged groups and I will straight away begin with the rights of women. To quote from Hume, who was an Indian revolutionary writer, in his book called "Towards India's Freedom and Independence". He says this, "*That a nation whose women are degraded to the position of mere musters to the man's pleasures, mere toys and household drudges goes into the world's struggle, but with only one arm*" I would like to say that if Uganda is to go into the world's struggle with two hands, we should tap the potential that is in women, if we are going to advance. I would like to remind the hon. Delegates here, that we must always remember in our dealings with women that they are God's masterpiece. Every talent and quality in a human being is embedded in a woman and there is no clear evidence to this than in the Book of Genesis. You remember that when God created, he was creating in ascending order, he began with the smallest and ended with the biggest and that was none other but the woman. *(Applause)* Here, Mr. Chairman, as I proceed, there is no reason for somebody here to try and be cynical about female liberation.

MR. BYAKIKA KASAJJA: Point of information. I want to inform hon. Wagira that while he thinks that because woman was made latest and therefore, she is the biggest of all, a woman was made out of one rib from man and therefore she could not have been bigger than the man from whom she was made.

MR. WAGIRA: Thank you Mr. Chairman, but those are among the chauvinist views that have always kept the women in the background, forgetting that it is they, that gave birth to God the Son. *(Applause)*. I would like to say here, as I was saying hon. Chairman, that actually the issue of female liberation should not be looked at as something secular, as a creation of man, but it has something divine. For my Friends who read the Holy Bible of

the Moslems, the Koran for that matter, I merely read it by way of Sharia law. There is a *Hadith* I want to share with this House, that a certain young man got up and made his journey to go and meet Prophet Mohammed and on the way he met so many miracles, which he put to Mohammed the task of explaining. One of the miracles, was that the women, the girls, he left behind while he was going to meet the Prophet, he was shocked to get to the Prophet when these girls had already arrived there; then he asked the Prophet, what that signified. He said that there will come a time and that time is soon when Fatuma will be going to the NRC while Juma is going to the Constituent Assembly, when Carolynne will be going out to Dubai on business trip; while Jackson is also booking a ticket to London. This is the time for ladies and we should give them that opportunity.

Now, about the widows and orphans, it is important that, that view in the Constitution of having some affirmative action and straight patronage for the widows, should be taken very, very, seriously, because you will realise that in the present circumstances, we do not know for how long this visitor called AIDS is going to stay with us, but it seems he is still determined to be with us. Now, we shall realise that in our society the rescue, the shelter of the widow and the orphan has been the heir. Now, inheritance or succession has been made more difficult by this AIDS scourge. Somebody before he inherits a widow, he insists on knowing how long the husband suffered and what he died of. So, it is important that the state comes up with a policy and try and assist these people, if only for the fact that their shelter is now shattered.

About corruption, Mr. Chairman, I feel that the words of one significant writer, are very, very relevant to our situation here. He was called William Penn and this is what he said, "*Yet the public must and will be served and they that do it well, deserve public marks of honour and profit. To do so, [that is to serve the public very well,] men must hurt public minds, as well as salaries or else, [if that does not be so,] they serve their private ends at public cost*".

The issue of corruption here, Mr. Chairman, we should realise that it is of two types. There is a corruption by those without salaries. For a good period of time, no salaries and yet we are expected to eat even Jesus the son of God, was able to stay hungry for only 40 days and he started feeling hungry, but for nine months, no salary, you are not

better than Jesus, corruption comes in that way. It is the feeling that if that eradication of corruption asserted in the Constitution must take off, it should be tackled from the top, those without public minds, even as they have their big salaries, they are the cause of the small corruption. We must address that.

About the Army, Mr. Chairman, I will quote the words of Machiavelli in his Book "The Prince", which are very relevant to us. He says that "You cannot have good laws without good arms, and where there are good arms, good laws inevitably follow". Much as we are debating this Constitution, we should give the element of the arms and the holders of the ammunition due attention. This is why I concur with the children - the Distinguished Delegates of the Children's Mock Debate who told us here that our Army, among other things, must be a national Army. Why so, because the English say, that an alien hand is automatically an iron hand. And Uganda has lived to see this. We one time had an alien Army or at least a cross-section of it, they trained Chiefs, they took Chiefs for training and got these members of the alien Army, to come and keep the *Gombololas*, at least in my part of Bugwere, where I was. These people did havoc which one cannot believe a human being can do to another - sending somebody to go and bring honey at midday, you can imagine that. Those who travel along that great north road, you know a place called Musita. If I mention it, some who have had it rough there can even shudder. I remember at one time we were coming from school with my father and mother and my two sisters, we were all told to be naked, you can imagine that situation, but because it was cultural, may be in their country where they had come from, it is normal for a daughter to be naked before the father. So, this issue of a National Army, we must actually address the issue of the Army very seriously and this is where we have to have a very rigorous criteria of the people we have in our Army and it is also imperative that we try this time to put an end to a diarchy, by diarchy, I mean the marriage of convenience between the politician and an Army man in order for the former to sustain the later one in power and how does a diarchy come up? It is because of too much power, too much influence that we give to the Head of State vis-a-vis the Army, responsible for recruitment, promotion, demotion even firing, you know that kind of situation creates a sense of allegiance to an individual in the case of the Army than an allegiance to the nation. So, we should look into that.

About federalism. Mr. Chairman, I would like to say that the federalists have their cause to put forward which we cannot chase away; because you will get to realise here that, on federalism also, there is something divine; because they say that even if you do not like a Kingdom here on earth, in heaven I understand we are not going into a Republic, but we are going into a Kingdom and that is why when we are praying, we say we call upon God that thy Kingdom come not thy Republic.

MRS. MATEMBE: Point of information. The information I would like to give to the hon. Member holding the Floor is that when Jesus was being tempted, one day, he asked these people, he tossed the coin and the result was: you give God what is due to him - you give Caesar what is due to Caesar. So, on this earth, we give to Caesar, up there, we shall give to God.

MR. WAGIRA: Thank you for that information, hon. Matembe. However, having said that, I would like to say that if a kingdom is cultural, I have no quarrel with it, except that I only wonder how a moslem tries to reconcile his cultural allegiance to the king and then the spiritual allegiance to Allah, because here, you will remember in one of his days, Prophet Mohammed one time called a tree to himself and that tree walked and came to him, then a man who had been converted on that miracle, wanted to prostrate before Mohammed, to demonstrate his conviction, but the Prophet told him that Sajud - that act of prostration is an exclusive reverse to only the Almighty Allah and no human being is entitled to it. Anyway, that was a point of curiosity. Now, when we are going to advocate for a Kingdom, or federalism, I would like to suggest that if we must insist on federalism, my humble suggestion is that, federalism, should be forward looking, and not backward-looking. If we are going to pursue federalism, we should now be from the stage towards East African Federation not again disintegrating Uganda. I say this, because of a number of things. On a more serious note, I am quite hesitant to break Uganda into small states, because you will remember the imperialist has so many facets and faces; this idea which is now in every mouth in any international organisation - this idea of self-determination - Republics are disintegrating, you see what happened in the Soviet Union and the results are there to see. They expected a Common wealth of independent states, but those who reach there are bringing back the reports that instead what is there is a common poverty and

misery of the independent states. I would not envisage such a situation coming down here. If it was not only for that matter alone, you will realise that they are - the imperialists or the people with that kind of feeling, are advocating for smaller political entities in the Developing countries while for them, they are moving towards bulkanisation.

I will give an example of the European Community, it is heading, and at a brisk pace, towards European political union and here we are, they are telling us that even Uganda, with its small size, is too big and it should be broken, what are we up to? We are in a competitive world which Ghandi called "Masyanyaya" - a small fish being swallowed by a big fish and if it is so, we must strive towards that size, where we shall not be easily swallowed. This competition is not existing only on the political arena, even economically; even Musicians. I take very much curiosity in whatever I see in nature; you used to come to a compact or these discs of the record player, you could find this is Franco's Album, beginning to end, this is Tabuley's Album, but what do you see today, Recheleau et Franco a paris, two are now coming together, because they know it is no longer possible to exist individually. In this competitive world, we should work towards bigger, political entities other than smaller entities that will make us be swallowed as easily as possible.

About the President, I will here want to remember and invoke to this House the words of hon. Abu Mayanja, I am sorry he left before I could quote him. He said in the House of Parliament in 1967, the following words about the President. "*THAT the highest huge and enormous powers, the power to appoint all important officers of state, the power to enforce all laws of Uganda which we make here...*" he was referring to Parliament, "*the power to invoke laws and put them into Motion to say, that all these powers shall be put in the hands of one man and that in the exercise of those powers, he shall not be responsible to anybody is really to make a charter and to open a door to the introduction of bad Government in Uganda*". That is the end of the quotation.

I believe we shall have this feeling when we are discussing the executive that it is the humble feeling of the people of Kibuku that there is too much on the hand of the President, that rather we would go by this process of devolution of powers, that decentralisation takes also its analogy in the office of the state.

About dictatorship. Dictatorship is here and we have to look at how we can avoid dictatorship. You cannot talk about dictatorship without eventually alluding to coming to power by unconstitutional means; because if somebody comes to power by unconstitutional means, he does not care to legitimise himself, he will then rule as a dictator because he is answerable to none. Now, this contribution is two-fold. How do we rid ourselves of dictatorship in this country, how do we protect this Constitution that we are spending time here debating? We are spending here hours, beyond normal working hours, trying to work on this Paper. How do we guarantee that just three days after this we will not find it on the dustbin of history? Here, one poet in the names of Bertolt Brecht, gave us something which can be useful, that "the best way to fight a dictatorship is to rid ourselves of fear." In his Book which he called "The anxieties of the Regime", he was referring to Hilter's regime he said, that there was a returnee from the third Republic of Reich, who reached Germany during the era of Hitler and then he asked that who rules here? Then one sharp old lady told him that the man who rules here is called Fear, that Fear is the ruler in this place, and he says what did I have to say about fear, that the only answer to fascism, to dictatorship, is resistance to it, is resistance to that fascism, to that autocracy and authoritarianism and the way to identify it, is that authoritarianism or autocracy works by striking fear in the population in order to scatter organised opposition. Therefore, the first thing to resist, if you are to get rid of a dictatorship, is to resist fear, if need be, even fear of death. We should resist fear even to the point of being ready to sacrifice our lives for the good of the Constitution we are making today. After all, you remember one writer in the name of Ngugi says that death, is the ultimate measure of ones commitment to the liberation of ones people. So, if we want a Constitution and at the same time we fear to defend it, if we need to be with our own lives, we are like what somebody said, people who want crops without planting, people who want rain, but fear the thunder and lightening; and that is too ideal, we are not going to live in a platonic society; we should be willing to defend this Constitution and for this matter, we should not fear *mchaka mchaka* we should be willing to go and train and be able to come up and defend our Constitution whenever need arises, but still having said that, we shall remember that the limits of tyrants are prescribed by endurance of those oppressed. It is only the oppressed to come out and assert that this is too much, this is what we

want and it is therefore in light of that, that we take up the *mchaka mchaka*, we will be able to have the gun demystified before us so that in the future, we are able to defend the Constitution that we are making.

Lastly, i will conclude by an appeal to my fellow delegates and this appeal will be in the words of St. Paul, that now it is required that those who have been trusted like us the delegates here, must live faithfully. This is all that sums up the mission that we have before us. Having finished to deliver my message home, and having the congratulated Chairman and His Deputy, the other day, today I will take this opportunity to congratulate the people who were elected on the Standing Committees yesterday and I am looking forward to a card for a Victory Party, Thank you very much.

THE CHAIRMAN: I thank hon.Wagira for his contribution to our debate.

HON. DELEGATE: Thank you, Mr. Chairman, I wanted to bring to your attention the fact that we no longer collate.

THE CHAIRMAN: No. that is not necessary at this juncture. The hon. Wagira was the last speaker on our list today - he was the last contributor to the Motion and therefore, I was going to proceed in accordance with Rule 10, which empowers the Chairman to adjourn the Assombly. We have heard all the speakers who put their names down for today, except one who was not present, but I presume will show interest to speak some other time, I therefore adjourn the Constituent Assembly to 9.30 a.m. tomorrow morning with a plea to members to be present at that time so that we start on time. Thank you very much.

(The Assembly rose and adjourned until 9.30 a.m.Friday, 24th June 1994).