



THE REPUBLIC OF UGANDA

PROCEEDINGS
OF
THE CONSTITUENT ASSEMBLY

OFFICIAL REPORT

CONTENTS

FRIDAY, 23RD SEPTEMBER 1994

MOTION:-
Consideration of the Draft Constitution of the Republic of Uganda [Pg 2302]

Price Shs. 5,540

Friday, 23rd September, 1994

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

P R A Y E R S

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

The Assembly was called to order

REPORTS FROM COMMITTEES

THE CHAIRMAN: Do we have any Report from Committees that may have met yesterday or otherwise? It would appear none. Let us go on.

CONSIDERATION STAGE OF THE DRAFT
CONSTITUTION OF THE REPUBLIC OF
UGANDA

CHAPTER 3 - NATIONAL OBJECTIVES AND
DIRECTIVE PRINCIPLES OF STATE POLICY.
ARTICLE 9 - NATIONAL UNITY AND STABILITY

THE CHAIRMAN: Honourable Delegates, when we adjourned yesterday, we had just concluded Item 12 on the list of Amendments. Hon. Musingo Kezimbira had decided to defer consideration of - or withdrawn it to reintroduce it at a later stage. I did say that we should let the Technical Committee put together a number of Amendments which have been proposed on article 9 and onwards by different Members. Unfortunately due to technical hitches this has taken longer than we thought and explains our delay to start this morning. They have just or if they have not, they are now distributing the sheet on which you see No. 22, 23 and 24. Now those are talking about Articles 11, 12, 14 and 15. Yesterday, we were at article 9, but I was going to suggest while they are synchronising the Amendments and producing them on articles 9 and 10. I would suggest that we proceed considering the Amendments suggested on page 5 and then when those are with us, we shall come back. Otherwise we would have taken longer to start.

We are working on the basis of appendix 2 and I am suggesting that we skip articles 9 and 10 and then come to what has just been distributed which relates to a proposal to insert a new Article immediately after Article 11. Articles 9, 10, 11 are the ones being

synchronised to put together some other Amendments which had come from Hon. Sserwanga-Lwanga and the consortium of Members together with the sheet that was published yesterday, which contained proposed Amendments. Now that is being printed but the Technical Committee had already put together some Amendments which had come in and these are the ones which are starting to appear on page 5 and soon there will be page 6. Now, the proposal is that we do not take articles 9, 10, and 11 on Appendix 2 at the moment. We leave them until we have received from Technical Committee the printed matter.

Otherwise we begin considering the ideas appearing on page 5 which have just been distributed suggesting insertion of a new Clause 12. If you go by Appendix 2 it will come immediately below what we recommended as Article 11. So, we would have it as Article 12. The rest will be a question of renumbering in the Drafting Office. That is the proposal to insert a new Article by Hons. Dr. Mugenyi, Aggrey Awori, Winnie Byanyima, Mazima Eliphaz, Monica Kiraahwa, Akecho Okullo, Katherine Mavunjina, Karusoke, Kavuma Stephen, Byarugaba Alex, Tumwine Polly and Zziwa Margaret.

DR. PONSIANO MUGYENYI: Thank you, Mr. Chairman. Mr. Chairman, I beg to move an Amendment in form of a new Article which is to read as follows: *'The state shall ensure gender balance and fair representation of marginalised groups on all Constitutional and other bodies controlled by the State'*. Mr. Chairman, I beg to move.

THE CHAIRMAN: Is that seconded? Go ahead and present your Paper.

DR. MUGYENYI: Mr. Chairman, the Article is new. It is to be Article 12 on the Report, according to the numbering of the Appendix 2 and the intention is to protect marginalised groups.

Mr. Chairman, the marginalised groups I have in mind in this particular Article are the women who are already covered in the gender balance in that statement, the youths and the disabled. From our history, it is very clear that on most of these constitutional bodies the interests of these groups have not been catered for and that sometimes has caused problems as regards the interests and the rights of these groups. An example, Mr. Chairman, is in the past CA elections where there were no facilities put in place

to enable the disabled with various disabilities like the deaf, the blind to follow the candidates meetings in which case to vote candidates of their own choice. So, it is the feeling of the Members who sponsored this Amendment of this new Article that if there was somebody representing the disabled on the commission, for instance, there would have been facilities to enable these people participate and enjoy their right.

So, Mr. Chairman, I beg the indulgence of the House to bear with us who moved this Amendment in an attempt to address the imbalances which have been in our country. Mr. Chairman, we are intentionally putting it in the national objectives because we know it may not be enforceable but it should be there so that any Government in power has got to be reminded by these directive principles that among the issues it should address are these marginalised groups. So, Mr. Chairman, I beg the indulgence of this House to support us in this Motion so that on these constitutional bodies in future, whoever is making appointments, these balances should be born in mind especially the women and these marginalised groups I have talked about. Mr. Chairman, I beg to move.

THE CHAIRMAN: The Motion is that the Draft Constitution particularly the proposals submitted as Appendix 2 be amended by inserting immediately after Article 11 an Article that shall read '*Protection of marginalised groups*' - namely as follows: '*The State shall ensure gender balance and fair representation of marginalised groups on all constitutional and other bodies controlled by State*'.

MR. AMANDRUA PAUL: Thank you, Mr. Chairman. Mr. Chairman, I have heard the Mover mentioning the number of people who are in this category, that is youths, the disabled and women. He has also in this marginalised workers. I thought workers are in this group and they are always marginalised and he has again marginalised them. So, I think this should be made clear. These are the special groups which should actually not be forgotten or marginalised.

THE CHAIRMAN: But if you agree that workers are marginalised, then you repeat within the wording.

MR. AMANDRUA: Mr. Chairman, what I was trying to say is mentioning of workers as one of the people who are marginalised and of course a peasant is a worker; we have already made clearly it to you in this meeting.

THE CHAIRMAN: But then you see, if we follow what you are suggesting, it means we have to specifically say who are marginalised. You see gender balance and fair representation of marginalised groups - gender balance speaks for itself. But if we are to take your views, then we shall have to mention all the marginalised groups. In this case we shall have to go to the Drafting Committee.

MR. AMANDRUA: Mr. Chairman, if this is the case, I do agree with you.

DR. KABERUKA: Thank you, Mr. Chairman. Mr. Chairman, when I look at this proposed Amendment, I am a bit confused. We already passed Article 50 Clause (4); we also passed Article 61, Clause (3); and then article 54 talked about, '*No discrimination on those grounds of sex*'. I want to know how that Amendment differs from those two Articles, Mr. Chairman. Thank you.

THE CHAIRMAN: I think that is a substantive answer for the Movers. But let us also hear -

DR. NYEKO: Mr. Chairman, I was seeking clarification from Hon. Amandrua.

THE CHAIRMAN: Anyway he may choose to answer, otherwise we are satisfied with the formulation.

MR. AMANDRUA: Thank you very much, Mr. Chairman. Everybody is satisfied except him.

MR. AGGREY AWORI: I just wanted to answer the honourable Delegate who wanted be clarified. In support of the Motion, Mr. Chairman, I wanted to elaborate on what the honourable Delegate has said, that there are certain groups in our society who have been totally marginalised in our decision making systems especially, for the purpose of emphasis, the question of the disabled.

I would like to focus my remarks towards the Electoral Commission as an organ which determines the representation in various national legislative organs. In this particular organ of the state no disabled person has a position or a way of representing his views on this question of electoral process as already elaborated or mentioned by the Hon. Dr. Mugenyi. Mr. Chairman, we were very lucky that we were able to get at least an Hon. Delegate to represent NUDIPU in this august Assembly. The

process which he went through I cannot say because I was not in his electorate. But Mr. Chairman, it is very important that over 10 per cent of the population could be ignored totally in civic education. As already mentioned by Dr. Mugenyi, that in civic education we did not have a deaf language translator, interpreter; we did not even have a system to assist the blind on how to cast their votes. We do not have suitable furniture for the physically disabled to cast their votes properly. Mr. Chairman, these are the issues which determine how one can exercise one's right on representation.

Mr. Chairman, coming back to this question of representation of various state organs, we have a very important institution in this country called 'the Army - Ministry of Defence'. Mr. Chairman, in term of gender bias, there couldn't be a more biased organisation or organ of the state than the Ministry of Defence. I stand to be corrected; I do not know of any lady who is higher than a captain in our NRM - *(interruption)*-

THE CHAIRMAN: The Member said he stands to be corrected. We cannot correct him in a chorus. Can we wait?

MR. AWORI: I have not been corrected officially, but there is definitely evidence to show that when the NRA Delegates were being elected to this august Assembly, I do not know to what level the women did feature. Do we have any Woman Delegate from NRA in this place? I recall, Mr. Chairman, one paper tried to give us a break-down of the voting system on how the NRA Delegates scored. But I do not recall any lady Delegate or Candidate featuring among the 20 top contestants for positions in the CA. That by itself shows that even at the highest level - the high command, the representation of ladies is probably either a token or non-existence. Again I stand to be correct by way of information. Thank you.

LT. COL. SERWANGA-LWANGA: I thank you, Mr. Chairman. Mr. Chairman, the information I want to give to Hon. Aggrey is that with fighting or with soldiering, this is the profession, you are not just going to appoint people because they are women to lead troops in fighting. So, you must have the capacity and the capability to do that very job but not just because of your sex. The sex will be preserved for something else.

On the issue of women not becoming senior officers in the Army, that is also wrong information. There

are some women who have proved themselves in the job of soldiering. I can mention very few: Major Nalweyiso, and others. Thank you, Mr. Chairman.

MR. MUSOBYA: I thank you, Mr. Chairman. I want to clarify the point Hon. Sserwanga-Lwanga that women cannot lead troops to fight. Lakwena led her troops to fight and she is a woman.

MR. AGGREY-AWORI: Mr. Chairman, I thank Hon. Sserwanga-Lwanga for his information but it is a bit inadequate. Mr. Chairman, even with my limited experience in security, he cannot tell me that there are certain agencies or aspects of military operations which need physical capacity. I know for one, that in information gathering, nobody beats a woman - nobody can beat a woman. Their capacity to gather information is very, very efficient. So, Mr. Chairman, *-(interruption)*-

MAJ. ARONDA: Thank you, Mr. Chairman. I would like to take this opportunity to inform Hon. Aggrey Awori that the military is a profession of arms whereby promotion has a criteria that is followed, that is discipline, experience at work, and training. They do not pick any one and give her or him a rank. Now, when it comes to leading the troops in the field, the same criteria also follows. Thank you, Mr. Chairman.

MR. AGGREY-AWORI: Mr. Chairman, my problem here is that those doors are still closed and if they have been opened at all, it is about only 2 inches wide. We do not have enough women being encouraged or being trained in order to be promoted. All I am saying is open the doors wide open.

AN HON. MEMBER: Thank you, Mr. Chairman. I would like to inform the Hon. Member, Major Aronda and the House at large, that even if promotion depends on aptitude and capability, if one is not given the opportunity to lead a battalion nobody will know that you are capable of doing it. For instance, Mr. Chairman, if the NRM had not come and set up a secretariat for Women, I would still be in theatre helping the Bagisu to do what they have failed to - the work the *Embalu* will have failed to do. I would not be here, I would be cutting Hemias and nobody would know that I can speak in this Assembly or be a good leader. So, even in the Army, we are saying give leadership opportunity to these women. They can be very good at combat. There is no way you can say that you will not promote women just because they are incapable. Thank you Mr. Chairman.

BRIG. KYALIGONZA: Thank you, Mr. Chairman. I would like to give further information to Hon. Aggrey-Awori, in relation to gender sensitivity in as far as appointments in the Army are concerned. It is true that women were not a non issuer then in as far as politics and appointments were concerned. But it is the NRM that has brought to light the gender issue. Ever since, this is the beginning of the recognition of the gender issues. It is also important to note that during the first regimes we did not even have a woman corporal in the Army. Now we have a Major in the Army. So, that is an achievement.

Secondly, in the political system, - I am also getting worried because if we only looking at the Army - there are other discriminations even in the political parties because they have not even appointed any woman representative while knowing that the population of women in Uganda is much more than men and so the discrimination continues. So, we should not look at the gender representation as an issue, but we should only look at the capabilities. Thank you, Mr. Chairman.

MR. AGGREY-AWORI: Mr. Chairman, just to make a small correction from Hon. Brig. Kyaligonza. Political Parties are not state organs. Political Parties are free associations; they are voluntary organisations of the people who come together. They are not State Organs. Mr. Chairman, that is a diversion.

Mr. Chairman, I am not just talking about the Army per se. There are certain other organs also. I have mentioned the Electoral Commission I do not know of any woman - *(interruption)* - When the operation for Electoral Commission comes I do not know how effective the factor of gender has been looked into.

THE CHAIRMAN: I think that even the Chair can correct you. We have three Commissioners - We have a Commissioner, and two deputies. One deputy technical and another one, finance and administration. The Commissioner is a man, one deputy - technical is a man and another deputy - finance and administration is a woman, that is Mrs. Nduru.

MR. AGGREY-AWORI: Mr. Chairman, I even wonder how many women technicians are behind this to assist us. But Mr. Chairman, the main input on this question of gender parity and marginalised groups is that in policy making organs of the state, this has been under what I call below basement level. We are grateful - to summarise my point or my

position - we are indeed grateful that NRM opened the door. But opening the door should not be strictly tokenism. It should go beyond tokenism. We need to see more women in policy making bodies. We need to see more disabled people talk about their problems at a panel or in bodies which make decisions on their behalf. I have not known any policy making organ in this state which has the deaf as members and yet we make very important decisions on their behalf.

Mr. Chairman, not long ago we talked about the role of the language in our country. I did not hear of the language of the deaf being instituted in this country so that if the deaf came to this august House, he could follow the deliberations of what we are talking about. So, decision making organs and systems must be open to all people regardless of gender. Thank you, Mr. Chairman.

MR. KABUGO: I wish to inform the honourable Member holding the Floor that the deaf's sign language is just developing. It was only recently that Danish Government came out with money to support the school for the sign language under construction at Kyambogo. I hope within two years time we shall have sign interpreters and the deaf will also be able to participate in our national forum. Otherwise, I have graduates who have gone through my hands of the Chairman of Uganda Society for the Deaf and I have students who are still in America, and when they come back, I am sure that the problem will be solved. I am very grateful for the Danish and Uganda Governments, and UNESCO who have established a unit at ITEK where deaf teachers are being trained now. Thank you, Mr. Chairman.

MRS. SSEKITOLEKO: Thank you, Mr. Chairman. Mr. Chairman, I have no problem in supporting this Amendment, but my problem is with vagueness. You see the Amendment says that, '*The State shall ensure gender balance and fair representation of marginalised groups...*'. To me this word '*marginalised groups*' is hiding and encompassing a lot of groups. If the interest of the Movers is actually women as very well laboured by my Hon. Brother, Mr. Awori and disabled and the youth. I suggest we say So.

I wish to move therefore, Mr. Chairman, that may the Amendment read that, '*The State shall ensure gender balance and fair representation of the Youth and the people with disabilities on all consti-*

tutional and other bodies controlled by the State. Why am I saying this Mr. Chairman? -(interruption)-

THE CHAIRMAN: Have you been seconded in that? Because you are going to justify what has not been seconded. You see it has to be expressed as an Amendment to the Motion as it stands, you get a seconder then we discuss. Thus, you are trying to change a few words.

MRS. SSEKITOLEKO: Mr. Chairman, my Amendment is that, *'The State shall ensure gender balance and fair representation of the youth and the people with disabilities on all Constitutional and other bodies controlled by the State'*.

THE CHAIRMAN: Seconded?

HON. DELEGATES: Yes.

MRS. SSEKITOLEKO: Mr. Chairman, the reason I want this Amendment to be amended to read like that is because the word, *'marginalised groups'* covers a lot of groups. One of the supporters used the word language. Considering how many languages are spoken we are going to find out how many marginalised groups belong to languages which are marginalised in order to make sure that they are taken care of in all constitutional and other bodies controlled by the State. And if we are to start talking about (since I sit next to the priest), religion, by the time we take care of all marginalised religions; and if we are going to talk politics, by the time we take care of all political parties which are marginalised, I do not know where we shall be other than chaos.

So, Chairman, in order not to be made to support vague things and end up not knowing exactly what I supported I thought I would like to warn my fellow women that quite often a few things will come up as if it is to assist us the women whereas, they are for other people. So, since gender takes care of women and the youth are taken care of and the disabled, I would like to change those words so that we are specific and avoid any vagueness. I beg to move Mr. Chairman.

DR. SSENTONGO: Thank you very much, Mr. Chairman. I would very much support the new Amendment by Hon. Ssekitolesko. But my only worry is that she has left out the workers. We should bear in mind that any country to develop you need

workers, labourers. You cannot leave them out. Let the workers be included on the list and be specified. Thank you very much, Mr. Chairman.

MR. BAGUMA: I strongly oppose the Amendment as it has been amended by Hon. Ssekitolesko. Because when we start insisting on naming groups in particular we are imagining that society is static. Today it may be the women who are marginalised tomorrow it may be men. Today it may be workers, tomorrow it may be peasants. And I am surprised for instance that nobody has talked about peasants. So, I would say, we say *generally marginalised groups*. Thank you very much, Mr. Chairman.

DR. KABAYO: Thank you very much, Mr. Chairman. Mr. Chairman, I have a problem with both Amendment Movers. In fact I seek clarification from the original Movers if the proposed Amendment was conceived to be part of our political objectives.

THE CHAIRMAN: But we are now debating the one proposed by Hon. Ssekitolesko.

DR. KABAYO: Mr. Chairman, I am coming to that - whether they were conceived in the context of the protection of the individual Human Rights. Mr. Chairman, I do not consider the Amendment by Hon. Ssekitolesko as significantly different from the others. They are all the same.

THE CHAIRMAN: We have got a Motion on the Floor by Hon. Mugenyi, using the words, *'marginalised groups'* without reference to any particular groups. Hon. Ssekitolesko is saying that, that is not good enough. She is proposing that it be specific and speak of the Youth and the disabled in place of *marginalised groups*, but leave gender as it is. That is the one we are deciding on now. Once we finish that depending which way we go then we go back to the original one.

MR. NABURRI LORIKA: Mr. Chairman, I strongly oppose the proposed Amendment by Hon. Ssekitolesko. I am very much comfortable with the original Amendment that does not mention groups. If Hon. Ssekitolesko wants to win my support, then she should include Karamoja as a group that is marginalised. Mr. Chairman, we shall all be covered if the original Amendment is carried. Thank you very much.

MR. OGOLA: Mr. Chairman, I was asking for guidance. I wanted the Chair to guide me because I thought I had a text - the type that Hon. Lt. Col. Guma had in mind. But at what point can I propose, Sir, the one which will give the over all cover for all marginalised groups without mentioning any name?

THE CHAIRMAN: You see, there is no end to Amendments. You can amend Hon. Ssekitolesko's Amendment of the Amendment by setting out even more. If we pick yours then Hon. Ssekitolesko's falls by the way side and then we go back to the original.

MR. OGOLA: Mr. Chairman, I wish to propose the following text as the Amendment of Hon. Ssekitolesko. It should read as follows: *'The State shall ensure fair and balanced representation of marginalised groups on all constitutional and other bodies controlled by the State'*. I beg to move, Sir.

THE CHAIRMAN: You are saying that the words, *'gender balance'* should disappear and you say, *'The State shall ensure fair representation of all marginalised...'*

MR. OGOLA: Yes, I am proposing that the gender which is marginalised is covered by that word, *marginalised*. Every group that is marginalised is therefore, included in this word marginalised.

LT. GUMA: Seconded.

MR. OGOLA: Thank you, Mr. Chairman. Mr. Chairman, my reason for proposing this Amendment is that there are so many groups which are marginalised in this country. We know some and others are yet to come. If we were to enumerate all of them, the list would be very long and probably inexhaustible. It is for that reason, Sir, that I feel that an omnibus rewording will take into account all those who are marginalised now and those who are oppressed; those who are a whole county perhaps as the Hon. Naburri said, e.g. Karamoja; and all the districts, all of those would be included in this word, *marginalised*. I am asking that the word, *fair and balanced* would be the words to cover the interests of all those. Those are my reasons Sir, and I hope they will satisfy the House. Thank you very much.

MRS. MARGARET ZZIWA: Thank you very much, Mr. Chairman. Mr. Chairman, I wish to draw the attention of the House that we are moving this Amendment specifically under the protection of

Women, the family, the disabled and the aged. Particularly the marginalised group we are now talking about falls under this category. We are trying now to cater for this group of people who are really falling under section, 13 to 17, Mr. Chairman. In fact I beg that let the House not draw in other forms of marginalisation especially in the line of politics, because the intention for which this Amendment is meant will be lost. So, Mr. Chairman, I want to draw the attention that specifically we are now referring to women, the family, the disabled and the aged. Thank you, Mr. Chairman.

MR. KAHEEBWA: The information I would like to give the House through you, Mr. Chairman, is that even among the marginalised groups, the women are still marginalised. So, they are marginalised plus, plus. For that reason I would like to strongly object to Hon. Ogola's Amendment. Thank you Mr. Chairman.

AN HON. DELEGATE: Mr. Chairman, I just wish to support the Amendment as proposed by Hon. Mugenyi and his group -

THE CHAIRMAN: But we are not debating that one yet. We are debating the one of Hon. Ogola.

MR. KAHEEBWA: For that matter, I oppose it. It is too restricting.

MR. OGOLA: Mr. Chairman, I will not withdraw the Motion. I thought I would prefer to clarify on one more point, Sir. The question is about gender. There is an impression being created in this House, that when you talk about gender you are talking only about women. Gender refers to both men and women. Therefore, when we talk about *all marginalised groups*, we talk about them because these are human beings, they may be males or females. Therefore there is no attempt at all in my Amendment to drop gender by implication - thinking that I am dropping the interests of women. This is an all inclusive Amendment. It takes interest of all men and women, Mr. Chairman. I thank you.

THE CHAIRMAN: The Motion is very clear. It is making reference as it was before. But now we are not debating that. We are debating the Motion as suggested to remove the words, *'gender balance'* and then the Motion would read, *'fair representation of all marginalised groups'*.

MR. APUUN: Thank you very much, Mr. Chairman. I strongly oppose the Amendments put by Hon. Ogola for one reason. First of all, this is only a national objective which we are putting up and the original text of Hon. Dr. Mugenyi is what I am supporting. Because we have already passed the Articles 61 (3) and also 50 subsection 4, which in my view will give guidance to the Parliament to determine who are the marginalised groups. So, I oppose strongly the Amendments put by Hon. Ogola.

MR. LUKUMU: Thank you, Mr. Chairman. Mr. Chairman, I strongly oppose the Amendment as proposed by Hon. Ogola on the ground that 'marginalized groups' is too open a gate. So many groups will claim to be marginalized to the extent that it will lose meaning. We have people who claim to be marginalized as myself on the grounds of ethnicity as a minority. I will also may be claim that I should be represented on all these organs - I mean the Bagungu, for example. Therefore, I propose that we retain the amendment as proposed by Hon. Ssekitoleko because at least, it makes sense as it limits those people concerned.

MR. ATAMVAKU ZUBAIRI: Mr. Chairman, I just support the Motion of amendment as moved by Hon. Ogola. Mr. Chairman, I believe that here we are making a statement of principles, objectives and policy. Therefore, we need not boast ourselves by certain specifics like the gender and so on and so forth. In that way we shall be limiting ourselves. Mr. Chairman, in matters of principle objection policy, I believe we should use a language in formulation capable of extensive interpretation so as to include so many other groups which may be marginalized. Now we are emphasizing the term or the concept of gender balance by a way of extracting itself away from other marginalized groups. In that we shall be defeating the purpose of this Motion; the purpose of this amendment, for there are several marginalized groups. Now when you are extract one from it, it follows that you are discriminating within a discriminated body, in fact you are making the situation worse than it were. Therefore, Mr. chairman, I think that Members should reconsider this position and readdress themselves so that in matters of policy really we remain general. And, then in subsequent articles of the constitution, we can go in the specifics, after all we have been somehow always specific in matters of gender balance. Therefore, why repeat that specific in a general article. Mr. Chairman, I beg to support. Thank you.

MR. RINGWEGI (Padyere County): Thank you, Mr. Chairman. Mr. Chairman, I would like to oppose the intended amendment for a very simple reason. I would like to invite all honourable delegates to look seriously at how these provisions can be implemented. When we are talking about fair representation on all constitutional organs of the state, let us look at a constitutional organ already established, the Human Rights Commission. Under this constitution, the Human Rights Commission which honourable delegates here passed is supposed to be composed of four Members. Now you are saying there should be gender balance and marginalized groups be represented on a commission of only four Members. You should think of deaf man, a woman, a blind man, and before you go far, the commission is finished, and you have not had a fair representation. So what are we trying to do? We are trying to be driven by certain prejudices, and also an attempt to really justify that we are giving things for our electorates. That is not the best way to make a constitution.

I think the provision of article 50 Clause (4) which talks of all persons who will not be discriminate against in appointments on grounds of sex, creed, colour and what have you, is an enforceable provision, and it talks of all person, the deaf, the blind, marginalized groups, the peasant and what have you. That is an enforceable provision, and it is a tangible right. Here we are only trying to fight for a principle which even any government can ignore. Fellow delegates let us be serious and get down to business, I think this intended amendment is only bogging us down for nothing, I therefore oppose it. Thank you, Mr. Chairman.

THE CHAIRMAN: Now, I think let us decide on this one, that is the one of Hon. Ogola first. Hon. Ogola's amendment would amend that of Hon. Ssekitoleko who was using the words, '*youth and persons with disability*'. Hon. Ogola's amendment would have the following effect. The Motion would then change to read, '*The state shall ensure fair representation of all marginalized groups on all constitutional and other bodies controlled by the state.*' That is the effect of Hon. Ogola's amendment if carried. It would have the effect of amending the original Motion and if it is carried Hon. Ssekitoleko's amendment would fall by the way side because the wording would have been replaced. And then we will go on to pronounce ourselves on whether or not Hon. Mugenyi's amendment is acceptable as

amended. Let me put the question on Hon. Ogola's amendment.

(Question put and agreed to.)

THE CHAIRMAN: So we go back to Hon. Ssekitolesko's amendment which would have the effect of reading, if it is carried: *'The state shall ensure gender balance and fair representation of the youth and persons with disability on all constitutional and other bodies controlled by the state.'*

MR: KITAKA GAWERA: Thank you very much indeed, Mr. Chairman. You are a very, very fair Chairman - *(Laughter)* Mr. Chairman, although Hon. Ssekitolesko is a good Minister and has visited Baale on many accessions, and advised people of Baale on how to go their way of growing food, I am prompted to oppose the Motion which she has moved on the ground that if we are to enumerate particular disadvantaged groups it would entail even putting therein the people of Baale who are disadvantaged and sometimes they are referred to as Karimojong of Buganda. So, Mr. Chairman, the best way would be to leave the original amendment. I therefore, vehemently oppose Hon. Ssekitolesko's amendment. Thank you very much indeed, Mr. Chairman.

THE CHAIRMAN: Now let us put the question on that one. The question is that the Motion as moved by Hon. Mugenyi be amended by deleting the words, *'marginalized groups'*, and inserting in there instead the words, *'the youth and persons with disability (ies)...*', so that it would read: *'The state shall ensure gender balance and fair representation of the youth and persons with disability on all constitutional and other bodies controlled by the state.'* If this Motion carries, it does not automatically it does not negate original Motion but just to replace some words. So we still have to go back and move the Motion of Dr. Mugenyi as amended that is if Hon. Ssekitolesko's Motion carries. Let me put the question.

(Question put and agreed to.)

THE CHAIRMAN: There was an attempt to rig here but now what we have now is the Motion of Hon. Mugenyi in its original form. Hon. Mugenyi moved a Motion that, *'The state shall ensure gender balance and fair representation of marginalized groups on all constitutional and other bodies controlled by the state'*. That is the Motion.

MISS BYANYIMA: Thank you, Mr. Chairman. Mr. Chairman, I am one of the movers of this Motion, and I would like to take the opportunity to answer some of the questions that have been raised on the Floor. There was a question that was raised that when you say gender, and if you are implying women, they are included in the marginalized groups. True, they are but we specifically put gender balance because amongst all the marginalized groups as my sister Hon. Abu Winotiya has said, the gender question still arises and the question of women's oppression arises. We also put it there because in fact in Chapter 3 we are writing down the goals that we want for our country, the National objectives. And in that we are saying, that among the things we want to do as a country, we want to achieve the empowerment of all people and, especially, also the women who constitute half of our population. In fact we have discovered as we continue debating here that this House is very, very gender sensitive. In fact even after the other mishap we had some time back, we discovered to our own surprise that the Hon. Ogola is extremely gender sensitive, and we are very proud of that and happy about it.

I have a feeling that this House has come to grips with the problem of gender as a specific problem and the problem of other marginalized groups. This is a very fundamental question that we need to put gender balance there, we are not even talking about women, we are just talking about having a reflection of what our society is in all the bodies that decide on behalf of that society. We are saying, if we are going to be democratic we are going to have structures that as much as possible reflect the composition of that society even in terms of gender. I really appeal to the House, and I am sure that the good sense of the House will prevail and that this amendment will sail through. I thank you, Mr. Chairman.

THE CHAIRMAN: I think we have discussed this long enough. Let us decide. The Motion I just read and for your benefit I can repeat it is, *'That the State shall ensure gender balance and fair representation of marginalized groups on all constitutional and other bodies which are controlled by the state'*. I now put the question.

(Question put and agreed to.)

THE CHAIRMAN: Is Hon. Malinga standing up in a way to show his happiness or he is standing up to protest?

MR. MALINGA: Mr. Chairman, I was standing up to protest.

THE CHAIRMAN: Okay, now that introduces honourable delegates a new clause after Clause (11). Before I did indicate that there were some amendments which had come in that were reconciled, I have to get the appropriate piece of paper - page 7 and page 8 I think they were distributed. There is an error on those pages because Clause (8) was disposed of yesterday and adopted. We are looking at appendix (ii) Clause (9) and on that one there is a proposed amendment by Hon. Serwanga-Lwanga and others to delete Clause (2) of article 9. Article 9(2) reads, *“Every effort shall be made to integrate all the peoples of Uganda while at the same time recognising the existence of the ethnic, religious, ideological, political and cultural diversity of the people.”* The proposed amendment to that article is that, it should be deleted and the Motion is to be presented by Hon. Serwanga-Lwanga. I draw your attention to page 7 of the distributed sheets this morning. Hon. Sserwanga-Lwanga will present the Motion on behalf of the consortium.

LT. COL. SERWANGA-LWANGA: I thank you, Mr. Chairman. Mr. Chairman, after some thorough consultations with delegates, our fears were put to rest, and we do not tend to move the amendment.

THE CHAIRMAN: So the amendment is not presented. There is also an amendment which had come in from Hon. Nyeko on the same article. There was one by Hon. Sebaana Kizito to delete the word, *“culture”* but that is in clause (3). So we proceed with the proposal by Hon. Nyeko to re-write Clause (2) of article 9.

MR. NYEKO: Thank you, Mr. Chairman. The proposed amendment is on page 3 of the amendment which has been circulated. Yesterday, Mr. Chairman, we -

THE CHAIRMAN: Yesterday's working sheets on page 3 No. 14.

MR. NYEKO: Mr. Chairman, I have got a query on that one, Can you clarify something, Mr. Chairman on page 3.

THE CHAIRMAN: You want to clarification on No. 14?

MR. NYEKO: No. 13.

THE CHAIRMAN: We had a proposition on this one and yours was in the same terms as Hon. Sserwanga-Lwanga's, and was withdrawn, and the House cheered. Do you still want to go through it?

MR. NYEKO: No, Mr. Chairman, they were actually two amendments that came independently which were not synchronized. All we wanted was, I wanted a reason that was given for the withdrawal because on our paper there is supposed to be a Motion. They were two Motions by different people. Now I just want to get a clarification - I mean the reason that made Hon. Col. Sserwanga-Lwanga withdraw the Motion may be I could be convinced also.

THE CHAIRMAN: Well, he said that there was an error in the technical office and he should have been indicated as one of the movers on Clause (2) so that you would have consulted Hon. Serwanga-Lwanga but you have two things to choose from. Either we insist and proceed, or you take that Hon. Sserwanga-Lwanga has consulted and his consultations were adequate and in good faith which would be unfair to you because you do not know what the reasons were.

MR. NYEKO: Mr. Chairman, I would have asked the Legal and Drafting Committee to advise on the word *integration*. That was the reason why I thought that it does not make sense reading that article one (1) is talking about unity and all that. I thought that, that was already taken care of and the reason for my moving the Motion is that, it was redundant. So if it is not redundant, then it could stay. Because I thought integration as spelt out here - I am not sure about it, I know that in the previous article, it is very clear and I thought the idea was taken care of there where we talk about National Unity - the Government and everybody will work towards unity but integration I do not know what it is.

MR. MBABAZI: Mr. Chairman, we do not seem to have a Motion on the Floor, and yet the honourable Member holding the Floor seems to have presented some argument. Can he either formally move a Motion so that we debate his amendment or withdraw it and we move.

THE CHAIRMAN: Anyway the Chair was allowing the Member to, and being persuaded whether he

should continue. Because you could move and also have a seconder and then we proceed.

MR. NYEKO: Mr. Chairman, I asked whether the Legal and Drafting Committee could clarify on that one. Because, otherwise I would actually move because I have a seconder. And this was circulated in yesterday's paper.

THE CHAIRMAN: No, there is no problem there. What you are seeking is deletion.

MR. NYEKO: Yes, I am seeking the deletion of the Clause.

THE CHAIRMAN: Okay, move that one, then we proceed.

MR. NYEKO: I propose that Article 9 which was formally Article (10), should be deleted.

THE CHAIRMAN: You are referring to Clause (2) of article 9.

MR. NYEKO: Yes, Clause (2)

THE CHAIRMAN: Seconded by Hon. Atwoma and Hon. Obua Otoa who has changed seats. But I was saying that I could see Hon. Obua otoa seconding from a different seat. Now-

MR. LEANDER KOMAKEC: Mr. Chairman, as I had already intimated, I am moving this Motion seeking to delete this Clause (2) where he says that every effort shall be made to integrate all the peoples of Uganda in light of what actually preceded what has been provided and passed in article 10(1) which says, "*All organs of state shall work towards promoting National Unity...*" I fear, Mr. Chairman, that this is an unnecessary spirit which will make our constitution bulky for no reason. Because the concept or the principle upon which Uganda is going to work together has already been enshrined and passed in the previous one. So there is no basis on how you can now integrate it. How can you for example, a pastoralist with an agriculturalist recognize the work they do. All you want to know is that a pastoralist and an agriculturalist should work towards the same goal - that is unity in diversity in Uganda, but integrating is like a biological or a chemical thing. You cannot integrate entities. So, we want to develop as one country but recognizing our diversity. Thank you very much, Mr. Chairman. I beg to move.

THE CHAIRMAN: The Motion has been moved. I will ask Hon. Kisamba Mugerwa to speak to it.

MR. KISAMBA MUGERWA: Thank you, Mr. Chairman. I was getting moved to support the Motion but when the mover gave the example of pastoralists and agriculturalists, I think he is diverted from the theme of ethnic, religious and cultural diversity. Pastoralism is not a culture as such, but an economic activity and as other economic activities pick up, and education and awareness increases among the pastoralists as long as there are other economic opportunities, it is easier to integrate pastoralism and agriculture depending on the level of technology.

So the example to me is misplaced. However, regarding culture, and religion, I think religion is a very good example especially, regarding christianity that there is a joint christian council and how they can integrate. We cannot stop this as long as there is a smooth move towards integration in this line. Ethnic and culture, I think that is also through intermarriage and mobility. Culture is not static; societies are not static. There are always new and evolving and culture changes. People who were of different cultures can develop a new culture, and whatever is developed at a certain stage, becomes indigenous at that very level.

So we should not take culture as something primitive but something traditional and indigenous at any one time. On that basis, I oppose the amendment.

MR. OBUA OTOA: Thank you, Mr. Chairman. Mr. Chairman, I support the amendment. Sir, I have a problem with this word *integration*. When it comes to people, how do you integrate people, even if you integrate an Acholi with a Madi, what do you get? (*Laughter*) I think, Mr. Chairman, whereas I agree that we recognize our separate identities - (*Interjections*)-

THE CHAIRMAN: Maybe you could ask Hon. Nekyon to tell you what you would get if you integrate a Mugisu with a Mulango. (*Laughter*)

MR. OBUA OTOA: Mr. Chairman, it has been suggested that if you integrate an Acholi with a Madi you get an *Aru* or something like that. I find that one unacceptable. I therefore, think that when we recognize the separate identities of our people even by including them in a schedule of our constitution I do

not know what is being meant by integrating them when we are recognizing them as separate entities in the constitution in Schedule 2. So I really think this particular provision is superfluous and unnecessary and therefore, I strongly support the amendment. Thank you.

MR. NDEGE: Thank you, Mr. Chairman. I oppose the amendment. First of all the Mover was not very sure of what he wanted. He only wanted clarification because he did not have any good reason why he was opposing. All he wanted to know is whether you can integrate people and other aspects. I think Hon. Kisamba Mugerwa put it very well, you can integrate anything vertically or horizontally or anything. So, in my opinion I think that we move on to the next item. We just make a make a vote because he himself supports the chapter any way, and we move on to another chapter. I beg to move, Mr. Chairman.

THE CHAIRMAN: Unless Hon. Kagimu Kiwanuka seems to have some ideas from Masaka

MR. KAGIMU KIWANUKA: Thank you, Mr. Chairman. Mr. Chairman. I beg to oppose the Motion on the grounds that when they are putting these Clauses they are not meaning that you should stretch it where it is not possible, but you put it where it can help. For example, I remember when Hon. Nekyon was giving his paper, he was telling us for example, how the secretariats were being shared out and you remember how he was giving the example of NRM and how it was sectarian; the DP Sectarian; UPC etc. So this one applies very well in such organs. I think where it is possible, it will apply, where it is not possible for example when you are talking about culture, and then some one will not bring in for example religion. When, for example in Buganda when they are sharing out posts then you will not bring out ethnicity, it does not work. But in Buganda it can work for example, when they are sharing out the positions. They can consider the cultural; they can consider religious and ideological. So I think that is what it means - not to stretch it where it is not possible.

MR. LUBULWA MIGADDE (Katikamu South): Thank you, Mr. Chairman. I also want to oppose the Motion because here when we talk about integration we do not really mean that we want people to look alike like one shirt, white or black. What we mean here is that the state should make effort to see that all the people of Uganda really work together in all

spheres of life be it religious, or whatever of course, recognizing that we are different both in tribe, in religion, and or political ideologies and the like. But efforts should be made to see that when I meet a Langi here, we should be able to laugh and talk and forge unity in a way of development. For those reasons, Mr. Chairman, I want to oppose the deletion. Thank you.

MR. ATWOMA: Thank you, Mr. Chairman. I very strongly support the Motion for the deletion of this Clause (2). Mr. Chairman, the reason is very simple. in Clause (1), it is stated that the state shall work toward the promotion of National Unity. When working what do we expect the state to be doing? Is it not integrating for the promotion of National Unity. So by the partition here I do not see any meaning to it, it is just playing and making our constitution bulky for nothing. Integration is concluded in the work towards the promotion of National Unity. Mr. Chairman, I do not see the need for this Clause. I therefore, very strongly support its deletion.

THE CHAIRMAN: I think let us pronounce ourselves on that one. The Motion is that Clause (2) of article 9 on page 8 be deleted. This is by Hon. Leander Komakec. I put the question.

(Question put and agreed to.)

THE CHAIRMAN: Now there is a proposed amendment by Hon. Nyeko to re-write the same Clause. Mr. Nyeko.

MR. NYEKO: Thank you, Mr. Chairman. I would also like to thank honourable delegates for saying no to Hon. Komakec's Motion because I would not have been able to move this Motion. As honourable delegates may see in the proposed amendment is a simple one. All I want to put forward is that the last words *of the people*, should be deleted such that the article should read *'Every effort shall made to integrate all the peoples of Uganda while at the same time recognizing the existence of the ethnic, religious, ideological political and cultural diversity'*. Thank you hon. delegates.

THE CHAIRMAN: Now there are two proposed amendments to the amendment. But he has not presented his case first, how do you amend it. Please go ahead and justify your position, if you need to do so.

MR. NYEKO: Considering that we heard a lot of aye, I do not think I have much to say in defence of this amendment. Because I think this is just a small linguistic presentation and I beg that Members should continue saying aye. Thank you.

THE CHAIRMAN: I do not think that really we need to waste more time on this one. Let us decide on it. I now put the question.

(Question put and agreed to.)

THE CHAIRMAN: It is amended in accordance with a proposition by Hon. Nyeko. There is also a proposition by Hon. Ssebaana Kizito to delete the word *culture* from Clause (3).

MR. SSEBAANA KIZITO: Thank you, Mr. Chairman. My amendment is very small, it is only to make this article or Clause clearer than it is. Because now it is using the word *culture* to promote a culture of corporation. To begin with the reasons are simple. We are using the word *culture* here but I want to preserve the use of the word *culture* for a more serious thing. *Culture* has been used in this constitution, Mr. Chairman, to describe behaviour of the people and when you use the word *culture* of, you are using the word very lightly. What you want to say, Mr. Chairman, is that, you want the whole of Uganda to incorporate, to understand, to appreciate, and tolerate and respect each other's customs, tradition and belief. Therefore, the use of the word *culture* is superfluous and I want to delete it - I move to delete it from this sub-clause. Mr. Chairman, I beg to move.

MR. KAIJUKA: Thank you, Mr. Chairman. I wish to oppose Hon. Kizito's amendment, because I think he needs to read the Clause attentively for him to appreciate why it was structured this way. It is a question of English Language if I may say so. You are saying everything shall be done to promote a culture. In other words, it should just happen that a society cooperates; that a society has some understanding amongst the people; that they appreciate this kind of behaviour, of tolerance, respect for each other. It becomes as a matter of course, you do not even impose, it just happens. Just like if I may give an example of the Far Eastern countries, you can almost say that they have a culture of being polite so that as you appear in society, you see ladies kneeling before you, see everybody - I am just giving a culture of a society. And so we would like to entrench this in our constitution - *(Interruption)*

MR. AGARD DIDI: Mr. Chairman, whereas I agree with Hon. Kaijuka that it is a matter of English, if he meant spirit, then he could have addressed Hon. Ssebaana's request adequately. Because *culture* is based on practice, but *spirit* also bases on hope or ideal.

THE CHAIRMAN: Are you trying to make an amendment?

MR. AGARD DIDI: Yes. So I would like to make an amendment to Hon. Ssebaana's amendment so that instead of removing the word *culture* he substitutes it with the word *spirit*. Thank you.

HON. DELEGATES: No, that is religious.

MR. KAIJUKA: Thank you, Mr. Chairman. Much as I welcome your information, I think you should have been patient and listened to my reasons why I think you should go for *cultures* opposed to *spirit*. *Spirit* can have different interpretations as well, and it can even be more confusing as opposed to the use of *culture*. I really want to appeal to delegates, Mr. chairman, that in the interest of the serious work, we could debate this Clause and even restructure and rewrite it several times and each one of us can present different presentation. But without wasting time, I would like to request my friend Hon. Kizito that, he drops his Motion and we move because this is good English, it is understandable and we shall move forward. Thank you.

MR. MUSOBYA: Thank you, Mr. Chairman. I want to oppose the Motion, just like Hon. Kaijuka has put it, this Clause calls for all Ugandans to have sort of a habit or a nature to be tolerant, to be cooperative, to admire unity and respect for each other. It has no bearing on the cultural values like Kyabazinga or whatever. Because according to the Mover, he has said that he is reserving that but *culture* is something bigger than that. It is something bigger than having a tendency of being cooperative or to respect each other and also to solve whatever is mentioned in this Clause. So I oppose the Motion.

MR. ASOKA ODOY: Thank you, Mr. Chairman. I would like to oppose the Motion. Because the original statement indicates that we Ugandans need to establish a new culture; a culture of Nationalism, a culture of Ugandanism. So this is a culture that we need to develop amongst ourselves, and if we could refer to the words of the wise, His Excellency

Nyerere, that spirit of internalizing the unity, internalizing stability. This one establishes a culture of nationalism which actually every Uganda should advocate for. So I oppose the Motion. Thank you, Mr. Chairman.

MR. KWERONDA RUHEMBA: Thank you very much, Mr. Chairman, for giving this opportunity. I wish to oppose my Colleague Hon. Kizito Ssebaana in that we are saying Ugandans should establish a new outlook. That we should transcend cultural boundaries and look for something bigger, and that bigger thing you are talking about is corporation; understanding of other cultures; appreciation of other cultures and tolerating and respecting those customs. But when Hon. Kizito diverts from this kind of line, and he promises to use this word *culture* on another big thing, I get suspicious. Therefore, Mr. Chairman, I wish to oppose the amendment by Hon. Kizito, and to propose that you put the question. Thank you very much.

MR. RUKUTANA MWESIGWA: Thank you very much, Mr. Chairman. Mr. Chairman, I am sorry to take you back but I am at a loss. I had excused myself and I came when you were discussing sub-article (4), but there is sub-article (3). I read from the report that it was recommended to be deleted, and I raise the reasons. But I was prepared to argue why it should remain. I understand it has not been deliberated upon Mr. Chairman.

THE CHAIRMAN: Which one are you talking about?

MR. MWESIGWA RUKUTANA: What I am saying is that sub-article 3, to me ought to stay, and I wanted to give my reasons. So I do not know how

THE CHAIRMAN: Three (3) of what?

MR. MWESIGWA RUKUTANA: No. (3). We are now discussing 10 (4), and my query is, how did we jump 10 (3)?

THE CHAIRMAN: No, we are on 9 (3)

MR. RUKUTANA MWESIGWA: Okay, now article 9 but former article 10 (3).

THE CHAIRMAN: But that is (1)

MR. RUKUTANA MWESIGWA: Mr. Chairman, I am talking of 10 (3) of the draft constitution and not of the report.

THE CHAIRMAN: We are following appendix (ii) and if you look on page 8 -

MR. MWESIGWA RUKUTANA: That means appendix (ii) jumps 10(3) - Okay, jumps 9 (3) of the report. I understand the reason from what I read was that, it is covered under article 64, and I want to state that it is not.

THE CHAIRMAN: Any way if you want to reinstate that Clause you can put an amendment. Now we are discussing appendix (ii), and we are at page 8 and the Motion relates to Clause (3) on page 8.

MR. RUKUTANA MWESIGWA: That is so, Mr. Chairman. But I do not think this House has pronounced itself on Article 10 (3) of the draft. There was a recommendation that it be deleted. I imagine that, that recommendation was subject to debate here, and I wanted to show reasons why it should not be deleted. Because the ground that was used, was that it was covered under article 64.

THE CHAIRMAN: Okay, let us go ahead and vote on the matters on page 8. The Motion which we have been debating, the question of relating which one was to be where can come by a way of Motion we clarified yesterday that if a Member thinks that something that should have been allowed was not allowed by the Legal and Drafting Committee, he can move an amendment. Or that something was allowed which should not have been allowed can move an amendment like the amendment of Hon. Ssebaana Kizito that we keep article 9 (3) as it is now but delete the words, '*a culture of*'. And that is the Motion we should pronounce ourselves on then the others can follow later. I will put the question.

(Question put and agreed to.)

THE CHAIRMAN: There is also an amendment proposed on article 9 (4), to be re-written by Hon. Leander Komakec. We are now at 16 on page 3 that (4) should be rewritten in terms he proposes.

MR. LEANDER KOMAKEC: Mr. Chairman, this amendment has got two elements to it. It is for brevity with the inclusion of culture of reducing

conflict by peaceful means. - So I move this Motion for two reasons, that the Clause should be re-written briefly and incorporates the idea that the state shall encourage the resolution of conflicts through non-violent means.

THE CHAIRMAN: Are you seconded. So that falls by the way side. Now Hon. delegates let me now put the question No. 9 as amended. Hon. delegates the question is that Clause (9) as proposed in the report of the Legal and Drafting Committee do stand part of the draft constitution.

(Question put and agreed to.)

THE CHAIRMAN: We are now at article 10 on page 9 and on it there is a proposed amendment - that is at 17 by Hon. Leander Komakec to delete the whole of Clause (1).

MR. LEANDER KOMAKEC: Mr. Chairman, this one is an easy one. The Motion is seeking to delete this, because it is understandable that all political leaders of a country would normally want to be accessible to the people. So you do not have to tell a politician that he should be available to all citizens of the country. But I was advised that it does no harm to keep it in here. Although it is a normal practice that any leader must make himself available. so I withdraw this one and -

THE CHAIRMAN: No. 17 is withdrawn and there is a proposal on No. 18 by Hon. Muyingo Kezimbira to amend Clause (3).

DR. MUYINGO KEZIMBIRA: Thank you very much, Mr. Chairman. Mr. Chairman, I beg to move a Motion -

MR. KAGIMU: Point of order. I am surprised, Mr. Chairman, that Hon. Sserwanga-Lwanga and Hon. Mayombo are quiet. Is it in order, Mr. Chairman, to go to Clause (3) when No. 30 is proposing to amend Clause (1) of article 10.

THE CHAIRMAN: It came in on these other sheets which were distributed this morning, you are right.

LT. COL. SSERWANGA-LWANGA: Thank you, Mr. Chairman. Mr. Chairman, I thank Hon. Leander Komakec for giving way because if he had deleted, I would not have moved. Mr. Chairman, on this one

I just want to commit the state and the citizens of Uganda shall at all times defend the independence, sovereignty and territorial integrity of Uganda. Mr. Chairman, I beg to move.

THE CHAIRMAN: Are you seconded? Yes, I can see seconders, in fact Hon. Byanyima and Hon. Leander Komakec.

LT. COL. SSERWANGA-LWANGA: Mr. Chairman, in the defence of Uganda and especially when it comes to territorial integrity, it must be the duty of everybody not just of leaders only. The citizens must also come in this defence of the territorial integrity and sovereignty of Uganda. Sometimes it may not be in the best interest of the people of Uganda or the people of that area because if actually there is fighting, supposing country 'X' has annexed Moyo, of course, some property will be destroyed and it will not be destroyed in the best interest of those people who own those property and things here and there will be tampered with and it will not be in the best interest of the people of that area. So that is why I am leaving out those words, "*in the best interest of Uganda and the people*". I thank you, Mr. Chairman.

MR. KAGGWA (KAWEMPE DIVISION SOUTH): Thank you, Mr. Chairman. Mr. Chairman, I want to support the Motion on the following grounds that the text we are seeking to amend is too wide in as far as the use of the words "*leaders of Uganda*" are concerned. I note that we put in a new element of citizens which I think is very relevant in as far as Uganda is concerned.

I also want to support the Motion because when I look at the Clauses which we are seeking to amend, the use of the word "*strengthen*" is not strong enough to me.

The use of the word "*at all times acting in the best interest*", who will be the judge of this? And lastly, I feel that the way they have framed it I think is neater, precise and more compelling. For those reasons I support the Motion.

PROF. KABWEGYERE (Igara West): Mr. Chairman, I think there is no controversy over this so I move that the question be put.

THE CHAIRMAN: I can see there is an amendment by Hon. Mwebesa.

MR. MWEBESA (Presidential Nominee): Mr. Chairman, I support the amendment but I want to say, "*the citizens of Uganda*" and delete the word, "*State*".

THE CHAIRMAN: That does not meet his approval. Hon. Kweronda Ruhemba you had an amendment.

MR. KWERONDA RUHEMBA (Kajara County): Thank you very much, Mr. Chairman. I would like to move a slight amendment to the Motion which I support, just after the word "*times*" we insert the words, "*promote and defend*". Those are the two words I want to insert. (*Interruption*).

THE CHAIRMAN: Hon. Kulany, before you come in, there is a Motion by Hon. Kweronda Ruhemba seconded by Dr. Nyeko that it should then read, "*The State and Citizens of Uganda shall at all times promote and defend...*" How does that read within the context of the - (*Interruption*). Who would like to clarify that?

PROF. KABWEGYERE: Clarification. Mr. Chairman, the inserted words create a little bit of linguistic confusion. You can promote independence. You can promote sovereignty but I would like the Mover to tell me how you can promote territorial integrity.

THE CHAIRMAN: No, that creates problems. I think that, that Motion should be abandoned. Let Mrs. Kulany have the Floor.

MR. KWERONDA RUHEMBA: Clarification, Mr. Chairman.

THE CHAIRMAN: No, when we get feelings on the Floor we should not be wasting time to go through the process unless you want me to put it to vote. Hon. Kweronda Ruhemba is insisting that we vote on whether or not to accept his Motion. Don't you see that they are saying that I should put the question so that they vote against it? I think the Member has withdrawn. Hon. Kulany please.

MRS. KULANY (Kapchorwa Women): Thank you, Mr. Chairman. I support the Motion but I would want to move an amendment on the same to read as follows: "*The State and all able bodied citizens of Uganda* - (*Interruption*) - I have reasons, Mr. Chairman.

THE CHAIRMAN: Order, order. Please give her the chance but before you proceed. Hon. Mazima would like to inform you.

MR. MAZIMA (NUDIPU): Thank you, Mr. Chairman. I wanted to inform the Mover that I have all the capabilities of defending the nation. (*laughter*).

THE CHAIRMAN: Hon. Kulany, do you still want to insist?

MRS. KULANY: Yes, I insist on the amendment.

THE CHAIRMAN: But you see, from the reaction on the Floor, although we have not fully heard you, I do not think you are going to move us very far.

MRS. KULANY: I have seconders, Mr. Chairman.

THE CHAIRMAN: Can you read it out so that we can see -

MRS. KULANY (Women Kapchorwa): The Motion reads as follows, "*The State and all able bodied Citizens of Uganda shall at all times defend the Independence, sovereignty and territorial integrity of Uganda*".

THE CHAIRMAN: But Hon. Kulany, Hon. Mazima has told you that he is capable of defending Uganda.

MRS. KULANY: But is he able bodied? You see when it comes to running - (*Laughter*).

THE CHAIRMAN: No, Hon. Kulany. The argument is that the defence of Uganda should not be left to able bodied Ugandans. The defence of Uganda should be available to all Ugandans whether able bodied or not because I can contribute in whatever ways I am capable of. That is the argument against you so you can proceed.

MR. MULINDWA BIRIMUMASO (Bukoto West): Mr. Chairman, I want to clarify to Members that the inclusion of citizens is well catered for under Article 39. This particular issue is directed towards the State and in Article 39 the duties of citizens are outlined. So much as the Motion moved by Lt. Col. Sserwanga-Lwanga seems to be picking support, it is misplaced and I want Members to look at it. Mr. Chairman, in article 39 the duties of a citizen are well

outlined from (a) to (h) and I think we are going to be duplicating them. I want the Movers to read article 39 and see whether the inclusion of "citizen" under this proposed amendment- (*interruption*)

THE CHAIRMAN: I think the two are slightly different.

MR. AGARD DIDI (Moyo West County): Mr. Chairman, it seems the honourable Speaker is not aware that there is a plan to transfer Article 39 to Chapter IV so that the present amendment can stand as a national objective. The idea to transfer article 39 is that those enforceable provisions are made clearer. So he should not think that there was an oversight. I think this amendment is consistent.

THE CHAIRMAN: Thank you.

MRS. LUBEGA MUTAGAMBA (Rakai): Thank you Mr. Chairman. I also wanted to concur with Hon. Mulindwa Birimumaso on the point that here we are talking about the objectives and the way it is stated in the amendment by the Legal and Drafting Committee it comes out as an objective but the way the Hon. Sserwanga-Lwanga puts it, it is more of a duty. So I would prefer to retain the original amendment by the Legal and Drafting Committee because it stipulates the objective of the nation to safeguard the sovereignty, independence and territorial integrity. But when you bring it out as Hon. Sserwanga Lwanga is proposing you are actually making it a duty. so I oppose the amendment, Mr. Chairman.

THE CHAIRMAN: Okay Let us put the question. The question is that Clause 10(1) be amended by deleting the present wording and inserting in its stead the words as formulated by Hon. Sserwanga-Lwanga and others.

(Question put and agreed to)

THE CHAIRMAN: Now: that one is replaced by the wording appearing in the amendment (b). a proposed amendment by Hon. Sserwanga-Lwanga to delete from Clause 2 a number of words.

LT. COL. SSERWANGA LWANGA: Thank you, Mr. Chairman. In Clause (2) I just wanted to be thorough and I want to move that instead of using the word "Everything" we should use "The State

and the citizens of Uganda shall endeavour to build national strength in political, economic and social spheres to avoid undue dependence on other countries and institutions". Mr. Chairman, why I am saying so is that we should be committal not to just throw our hands in the air that everything should be done. By who? Let us be very committal. (*Interruption*).

THE CHAIRMAN: But have you been seconded?

LT. COL. SSERWANGA-LWANGA: I heard, "Ayes".

THE CHAIRMAN: But the Chair has not given you the Floor yet. Okay you have now been seconded and I think you have already given the reasons. The question is that the words in clause (2), that is "Everything shall be done to build up..." be removed and we instead insert the words, "The State and the Citizens of Uganda shall endeavour to build....". Those are the words. I put the question.

(Question put and agreed to.)

THE CHAIRMAN: The amendment is effected. Now, there is also an amendment proposed on Article 10(3) by Hon. Muyingo Kezimbira. We have come to you now please present yours.

DR. MUYINGO KEZIMBIRA (Bukoto mid-West): Thank you very much, Mr. Chairman. Mr. Chairman, Sir, I want to move an amendment on Clause 3 by inserting the words "self-sustaining" so that the Clause now will read, "The State shall endeavour to mobilise, organise, empower the Ugandan people to build independent and indigenous self-sustaining foundations for the development of Uganda". I beg to move, Mr. Chairman.

THE CHAIRMAN: The amendment has been seconded by Hon. Mukvaya and Hon. Mulindwa and a number of others. The Motion by Hon. Muyingo Kezimbira is that immediately after the word "indigenous" appearing in line 3 of Clause 3 of article 10 on page 9 you insert the words "Self sustaining". That is the Motion. Let him justify his proposition.

DR. MUYINGO KEZIMBIRA: Mr. Chairman, Sir, the reason why I have moved to insert the words "self-sustaining" is to impart some responsibility on the leaders who often start projects, economic

projects. Some of the projects which are started off fail because they are initially sponsored and are not able to continue with time so that if we have to set up industries, for example, as the foundation of our economic growth then we should decide on areas which are going to keep themselves running with time. For example, Mr. Chairman, if we wanted to set up a pineapple or a passion fruit industry we should set it up in an area where we are certain that the local population will be able to grow the pineapples and also grow the passion fruits to keep the factory running. That is one aspect of it, Mr. Chairman.

At the same time I would also like to emphasize that in "self-sustenance", we are also safeguarding our independence because if we are going to depend on, for example, foreign donations throughout most of our projects then we will find ourselves unable to determine and dictate our own terms of growth and line of development. Further on, Mr. Chairman, socially now we have something that is also coming up which has been nicknamed "Entandikwa" or a starting point for our peasants. We want the implementors of this project now that the money is available to put the money in the correct areas where it is not going to be a disaster that the initial amount put into the population will be lost and the project will not be able to continue. For example if you had to start by financing people to raise cattle depending on the area, if it is not zero grazing, if you made a mistake of giving the exotic cattle to an area or to a group of people who are not yet up to that standard then you would lose out the money and that project would not be continued.

At the same time, Mr. Chairman, the independence of the nation especially when related to some organisations, call them religious or not, we would like it to be in such that when these are also planning their own activities they should put in an element of building their own organisations in a way that they will support themselves rather than again depend on being supported from elsewhere. Mr. Chairman, I could go on and on but I do not want to kill much time. I beg to move.

THE CHAIRMAN: Hon. Delegates, the Motion is to insert the words "Self-sustenance" as indicated by the Mover.

MR. ONEGI OBEL (Jonam County): Thank you, Mr. Chairman. Sir, I take these words with a

lot of self esteem simply because it reminds me of a Canadian who confessed that he became a communist only for very high sounding words like, "dialectical materialism; historical materialism; dictatorship or proletariat". Those sounding so nice that he had to become a communist without knowing exactly what communism was. And, Mr. Chairman, this word "Self-sustaining" actually is a borrowed system in the socialist economics of which I read quite a bit and which we now know. Mr. Chairman, there is no such a thing as self-sustaining any more particularly if it is a wide economy which is getting integrated. And since our economy relies so much on borrowing that is why we are talking of that version and, Mr. Chairman, let us not get carried away by nice sounding words which mean nothing in reality. I oppose this amendment and hope my Colleagues will just accept what I have said and oppose it equally. Thank you, Mr. Chairman.

MR. KABERUKA (Ntorwa County West): Thank you very much, Mr. Chairman. I want to support the amendment but only to suggest to the Mover that we delete the word "indigenous" so that his Motion if he were to agree with me say, "people to build independent and self-sustaining foundations for the development of Uganda". We delete the word "indigenous" and if given time, Mr. Chairman, I will explain why I would want the word "indigenous" to go out.

THE CHAIRMAN: Well, we shall take that as a comment because it has not been picked up by the Mover. Hon. Kaberuka is suggesting that we drop the word "indigenous" and then the sentence will read without that word but the rest will be the same. That was only suggestive. In any way it was not a Motion so we continue debating the Motion as it is.

MR. MUKWAYA (Busiro County East): Thank you very much, Mr. Chairman. I stand to support the Motion but I would like, since I was one of the co-sponsors of this Motion, I want to move that after "independent" we put "sustainable" so that the new Clause reads that "The State shall endeavour to mobilise, organise and empower the Ugandan people to build independent, sustainable and indigenous foundations for the development of Uganda." I beg to move, Mr. Chairman.

THE CHAIRMAN: Now, let us see how it reads. Under the arrangements now as we heard them there was a Motion that the words "self-sustaining" be

inserted between the words '*indigenous and foundations*'. Now which words are you removing Hon. Mukwaya? Are you suggesting that we should insert what you propose and the rest remain as they are? If that be the case then we are running into a language problem.

MR. MUKWAYA: Mr. Chairman, I am moving that we drop the amendment of Hon. Musingo Kezimira of '*self sustaining*' and instead carry mine which puts '*sustainable*' after '*independent*' so that it reads as I have already suggested that '*The State shall endeavour to mobilise, organise and empower the Ugandan people to build independent, sustainable and indigenous foundations for the development of Uganda*'.

DR. MUYINGO KEZIMBIRA: Mr. Chairman, Sir, that says the same thing in a rather different way. If it is sustainable it means it is able to carry itself on. And self-sustaining is the same thing as carrying itself on.

THE CHAIRMAN: Okay, I think let us proceed this way. Let us treat Hon. Mukwaya's proposition as a Motion amending the one of Hon. Musingo Kezimira. If it is seconded then we pronounce ourselves on it. Is it seconded? Okay, I can see Hon. Tumwine and many others but you have not even presented it, Hon. Mukwaya.

MR. MUKWAYA: Mr. Chairman, I thank the Members who have supported my amendment. The purpose of bringing in '*sustainable*' instead of '*self-sustaining*' is to almost carry the same meaning but in a more orderly way which will also not only prove that we are doing things for ourselves but also allows even other people who may need to come and work with us to do so. Because if you say '*self sustaining*' and '*indigenous*' you are actually saying that it should be only for Ugandans to promote foundations. But we are saying that if you allow to build institutions which are independent but sustainable in the sense that even other people can come and co-operate and we work together the foundations. So, Mr. Chairman, I suggest that the question be put because my amendment is as clear and simple as Members have seen. Thank you.

MR. BASALIZA (Fort-Portal Municipality): Thank you, Mr. Chairman. Mr. Chairman, when I read through this Clause I would like to be clarified on one point. What are the foundations, for example,

independent and indigenous foundations? Independent and indigenous refers to foundations so the important thing is foundations here so why do you put here "and"? Why not say '*independent and sustainable indigenous foundations*' instead of '*and*'? So I would like to be clarified on that issue. What is most important is *independent and indigenous*. So I would like to amend and move to delete "and" from that Clause.

THE CHAIRMAN: Let us hear again how Hon. Mukwaya's text reads. Hon. Mukwaya, could you again read your text please?

MR. MUKWAYA: Mr. Chairman, I have no objection to that amendment so long as it carries the same meaning and improves on the draft.

THE CHAIRMAN: Yes, but could you read it?

MR. MUKWAYA: Then it would read that '*The State shall endeavour to mobilise, organise and empower the Ugandan people to build independent sustainable indigenous foundations for the development of Uganda*'.

THE CHAIRMAN: Is it that all foundations must be indigenous?

MR. BWAMBALE WALEMBA (Bukonzo County East): Thank you very much, Mr. Chairman. I beg to support the Motion and to support the amendment brought in by Hon. Basaliza of Fort Portal Municipality because the three words '*independent, indigenous and sustainable*' are adjectives confining the word '*foundations*' so there is no need of putting there the word "and" so that the Clause reads: '*The State shall endeavour to mobilise, organise and empower the Ugandan people to build independent sustainable indigenous foundations for the development of Uganda*.' Thank you, Mr. Chairman.

MR. KAIJUKA (Sheema North): Thank you very much, Mr. Chairman. I would like to support the amendment moved by Hon. Mukwaya essentially because if you are talking about empowering Ugandan people to embark on that great cause of development of the country you are going to endeavour to be independent. In the process you are going to try to put in sustainable developments and I wanted, with the permission of the Mover so that we do not confuse the sentence, I was going to propose a further amendment removing the word '*indigenous*'. Why

am I saying so? In the process of development you correctly can use indigenous foundations alright but with the acquisition of technology from different places, for example, and so on it cannot purely be dependent on indigenous foundation. In other words, the process of development is broader than that. Therefore, the sentence ends up reading that *“The state shall endeavour to mobilise, organise and empower the Ugandan people to build independent and sustainable foundations for the development of Uganda”*. I beg to move.

MR. MUKWAYA: I concede, Mr. Chairman.

THE CHAIRMAN: Is there any objection to the Member accepting the rephrasing so that we do not have to go through voting? So we shall ask Hon. Kaijuka to read it out again. Hon. Mukwaya has conceded and if that is carried it negates Hon. Musingo Kezimbira's and that becomes the final resolution if we carry it. Hon. Kaijuka could you read it out again please?

MR. KAIJUKA: The Clause should read: *“The State shall endeavour to mobilise, organise and empower the Ugandan people to build independent and sustainable foundations for the development of Uganda”*.

THE CHAIRMAN: I will put the question.-(*Interjection*). Is something so grossly wrong? Would you state it then we see. Because we are really taking too much time, we are taking too long on this one.

MR. MULENGA (Democratic Party): Mr. Chairman, my concern is this that if we remove the word *“indigenous”* we are getting away from the whole concept about Article 10. Let us look at Clause 2 which is talking about avoiding undue dependence on other countries and institutions. So the message is that we should encourage people to build indigenous foundations for development. That is the message. If you take it away then it completely reverses the whole idea of encouraging, as an objective of the nation, indigenous - we can have support from other economies and so forth - but let us have indigenous foundations, that is the message I understood. So by deleting this indigenous you are killing the whole concept.

MR. ADYEBO (Kwania County): Mr. Chairman, I thought that after Hon. Kaijuka had clarified the situation you were now going to put the question.

However, what Hon. Mulenga has just said really should not be a worry and I would like Delegates not to spend time on objectives, this and that, describing this foundation. If I could say something I would only say that if you stick too much on the word *“indigenous”* then you are appearing to make all these foundations look like Ugandan foundations per se but we are here dealing with the development of Uganda. And at the moment, who are participating in the development of Uganda? We have the Ugandans, we have the NGOs and some of the NGOs are Ugandans, other NGOs are foreign. We have Ugandan capital, we have foreign capital which are making the foundations of this development. But if we just say for the sake of Uganda we make the foundations purely indigenous I think we are missing the point.

I am in agreement Mr. Chairman with the amendment made by Hon. Richard Kaijuka which was consented also to by the Mover of the Motion. In fact it is more appropriate for the State to endeavour to mobilise, organise, and empower the Ugandan people to build the independent, - the independence is already guaranteed for these foundations. These foundations must be independent and sustainable. We must build them but we must be in a position to maintain them from time to time so that they survive and live, therefore, they must be sustainable foundations. So I am supporting the amendment as put forward by Hon. Richard Kaijuka and I think it is clear enough, Mr. Chairman.

THE CHAIRMAN: Hon. Delegates, we have taken a long time on this one. Let us vote on this formulation. If you do not accept it we can go back to the original one. Now the question is in the terms as proposed by Hon. Kaijuka that *“The State shall endeavour to mobilise, organise and empower the Ugandan people to build independent and sustainable foundations for the development of Uganda”*, by deleting the words *“and indigenous”* but inserting the words *“Sustainable”*. That is what it is, that is what we should vote on first.

(Question put and agreed to).

MR. ATWOMA OKENY (Chua County): Mr. Chairman, having carried the amendment by Hon. Kaijuka, I would also like to make the State more responsible by deleting these words *“endeavour to”* and simply to say *“The State shall only try to mobilise...”* because that will be more dutiful than

to say "*The State shall only try to mobilise the people...*". I think that is what the State is there for.

THE CHAIRMAN: Hon. Okeny, the problem we have here is that these are general principles. We are not really stating in the same way that we shall when we come to the other provisions. So I would rather it remained as it is.

MR. ATWOMA OKENY: Okay I accept your ruling.

THE CHAIRMAN: Thank you. Now we have amended Clause 3 and we have also re-written Clause 1. I now want to put the question on article 10 that article 10, as amended, do stand part of the Draft Constitution.

(Question put and agreed to)

MR. CHAIRMAN: Now, we have article 11 which does not have many Clauses, it is only one Article but it has attracted an amendment from Hon. Ssebaana Kizito. Hon. Ssebaana Kizito is seeking to re-write it. So if he does, the proposed amendment by Hon. Sserwanga-Lwanga falls by the way side. So I would like to ask Hon. Ssebaana Kizito to move his amendment.

MR. SSEBAANA KIZITO (Makindye Division East): Mr. Chairman, thank you very much. The amendment as you rightly pointed out is merely to re-write and make the meaning clearer as No. 19 on the sheet which were distributed yesterday states. I only propose to add two or three words "*the existence of*" and "*for*" so that the Clause would not read that "*The State shall guarantee the existence of and respect for institutions ...*" and so on. That is all I want to do, Mr. Chairman.

THE CHAIRMAN: Let us, first of all get the wording correct. The present one says that "*The State shall guarantee and respect institutions which are charged with responsibility for protecting and promoting human rights by providing them with adequate resources to function effectively.*" The proposed amendment is that "*The state shall guarantee the existence of and respect for institutions which are charged with responsibility for protecting and promoting human rights by providing them with adequate resources to function effectively.*" But here there is some difference. The State shall guarantee the existence so the word "*existence of*"

are added "*and respect*", for institutions. Respect for institutions meaning that the State respecting them. The State should make sure that Ugandans and other people respect the institutions. Is that what was meant in your original formulation? May be if Hon. Ssebaana Kizito is seconded then he can present his Motion and we debate it. Okay, he is seconded by Hon. Mulenga and Hon. Byanyima.

MR. SSEBAANA KIZITO (Makindye Division East): Thank you, Mr. Chairman. I want the State to guarantee the existence because if we just say "institutions" it is not very clear but we want these institutions to exist and the State to guarantee that they exist so that nobody plays around with them; and also that when they do exist they should be respected. People in the country as well as the State itself should respect these institutions and the rest is clear and it has not been amended. Mr. Chairman, I beg to move.

DR. KIYONGA (Bukonzo County West): Thank you very much, Mr. Chairman. I have a problem because here we are talking of institutions in general. We can have a situation where an NGO is formed by the people whose intentions also promote human rights. Now as formulated here it would imply that such an institution would also have to be financed by the State. If that is the meaning then I would propose that the Mover accepts to introduce the word "*State Institutions*".

THE CHAIRMAN: Well, I do not know but may be hon. Ssebaana Kizito can respond - before he does, let us hear from Hon. Rhoda Kalema.

MRS. RHODA KALEMA (Kiboga East): Mr. Chairman, thank you very much. Mr. Chairman, my problem is perhaps the same as that of Hon. Dr. Kiyonga. Even the original Clause is not really clear to me. Before we come to the amendment, I cannot understand how the State shall be required to guarantee and respect institutions which are not mentioned because it says "*which are charged with the responsibility of protecting and promoting human rights*". Mr. Chairman, who is going to identify these institutions? Are they going to register as NGOs? Are they going to be political? Are they going to be State institutions? It is not clear to me, Mr. Chairman, and as the Clause ends I cannot well understand why the Government should give adequate resources to help them to function effectively. I would like some clarification, Mr. Chairman.

THE CHAIRMAN: I think the problem we are having here is an attempt to say that Constitutional Institutions that have been established for protection of human rights should not be starved of resources by the State. They should be in fact facilitated by the State. But the writing is not good. I would suggest that we send them to the Legal and Drafting Committee so that they come back with a proper formulation and that the Mover and others can go and present views because as it is it needs quite a bit of redrafting to avoid grey areas. Are they saying that the State should finance even non Governmental bodies that are connected with human rights or should the government finance only those institutions only established by this Constitution for Human Rights? If it is so agreeable we proceed that way. Agreed. This matter will be referred to the Legal and Drafting Committee for surgery and proper writing.

MR. OMARA ATUBO (Otuke County): Mr. Chairman, since this Article is going to the Legal and Drafting Committee I would also propose if you agree, Mr. Chairman, that we also charge the Legal and Drafting Committee to consider the following proposal. Mr. Chairman, I note that in the original Article 12 it started by stating a very important principle that fundamental rights and freedoms of individuals are inherent and not granted by the State and this was correctly transferred to Article 50 Clause (1). But, Mr. Chairman, since Chapter three is dealing with National Objectives and Directive Principles of State Policy, I am a little bit concerned and surprised that there is no clause in this Policy which imposes upon the State or the organs of the State to respect and uphold fundamental human rights and freedoms. In fact by deleting Clause (2) and moving straight to Clause 3, we leave a very big gap and now we are talking about the State guaranteeing and respecting institutions and then providing resources but there is nothing in the policy statement on the responsibility of the State itself to respect human rights.

Mr. Chairman, as in Appendix 1 there is an attempt by the Legal and Drafting Committee to say that, that responsibility is covered in Article 50 Clause 1. I do not think that it is really clearing 51 Clause 1 but there is also something in Article 255 imposing this responsibility on the Army, the Police and so on to observe human rights. Mr. Chairman, I would like a situation in the policy statement in Chapter Three where this responsibility is very clearly stated that the State and its organs shall observe respect and

uphold issues of human rights and so on. And if it is accepted we can sit together with the Legal and Drafting Committee and come out with something to that effect and then we can now move to what is being stated here about, "*The State shall guarantee and respect...*" and so on. Mr. Chairman, that is my statement on this matter. Thank you.

MR. RUZINDANA (Ruhama County): Thank you very much, Mr. Chairman. Mr. Chairman, I entirely agree with Hon. Omara Atubo about the two sub-articles (1) and (2) of the original text which seem to be entirely missed out in the report of the Legal and Drafting Committee. I think we should consider reinstating them. It is important that we acknowledge that fundamental human rights and freedoms are inherent and not granted by the State and we should not miss this out of the Constitution. And, similarly, the sub Article that follows is also important in that it imposes recognition on the government and its institutions that among their primary responsibilities is defence and promotion of human rights and freedoms. I entirely agree that the Legal and Drafting Committee should review these two sub articles and bring up a formulation that should be included in the Constitution. Thank you, Mr. Chairman.

THE CHAIRMAN: I would like to suggest as follows: One is that No.11 as formulated and the formulation by Hon. Ssebaana Kizito be referred to the Legal and Drafting Committee to see how they can come up with a Draft that reflects appropriately what is intended to be said. And in addition that Hon. Sserwanga-Lwanga and his team who also sought to amend Article 11 as per 32 on page 8 should also be encouraged to go to the Legal and Drafting Committee and present their arguments there. So that when we get a formulation we have, in addition to the input by Hon. Sserwanga-Lwanga which may wipe out the need to go to article 32.

Similarly the views expressed regarding the omission of the old Clause 2, - actually it was transferred to the main body - Hon. Mulenga I can see you are very anxious.

MR. MULENGA (Democratic Party): Mr. Chairman, I am wondering when they were transferred because when we passed Article 50 they had not been transferred. Is it a recommendation to transfer them or they were actually transferred.

THE CHAIRMAN: During the time when we were discussing Human Rights Chapter, from time to time we did pinch some provisions from Chapter Three and, in fact, we did say that if we are not careful there may be nothing left of it but luckily the Legal and Drafting Committee came back quickly. So without being very specific I know that some wording was removed and transferred to some other Articles within the main body of the Draft Constitution. Hon. Omara Atubo can, may be, indicate exactly what happened. I suspect he is the one who suggested it if not another Member known to him.

MR. OMARA ATUBO: Mr. Chairman, I recall it was one of my amendments and considered in a package when we were working on this Chapter Three but I am more concerned that at least a statement reflecting Clause 1 and Clause 2 somehow should still come out in the directive policies and principles.

THE CHAIRMAN: Clause 1 and Clause 2 of No. 12 is it?

MR. OMARA ATUBO: Yes, of No. 12. It should not be completely wiped out from the new Chapter Three. And I think that a way can be found out to see how it can be reformulated because the important thing is to impose some responsibility on the State rather than on private institutions and so on to uphold human rights.

THE CHAIRMAN: You see, the procedure we had adopted was this that it was not necessary that we go back to the Legal and Drafting Committee to come back with a Member's objection to reintroduce what he thought was fundamental and has been left out. Do you think this matter should be the subject of the Legal and Drafting Committee or you want to formulate a proposal so that when it comes back from the Legal and Drafting Committee you have your own proposition. But may be to avoid having to argue backwards and forward honourable Delegates had agreed that we refer the old article 12(1) and (2) together with the reference you have made under article 11 to be reconsidered by the Legal and Drafting Committee with the assistance of honourables Omara Atubo, Sserwanga Lwanga, Ssebaana Kizito and Hon. Leander Komakec wants to go there.

MR. KOMAKEC: Yes, there is a proposal here where you said I was recommending omission,

actually I meant transfer. So I would like the Committee to look at No. 12 of this one. It is better under Human Rights than here, when you are talking about agents in the original 17.

THE CHAIRMAN: No, no. We are now concerned with the original 12 mainly which is reflected as article 11 plus what was left out of the original article 12. And taking into account the matters raised by Hon. Omara Atubo; Hon. Ruzindana; Hon. Ssebaana Kizito and Hon. Sserwanga-Lwanga, I would suggest that these Members together with the Legal and Drafting Committee come up with an agreed principle that since this is a transfer let its new formulation which takes into account the wording of article 11 as it is in Appendix 2 plus the original Clauses 1 and 2 of Article 12. Is that agreed, or have I confused Members?

HON. MEMBERS: Agreed.

THE CHAIRMAN: Okay, that is fine, thank you. I do not see the Chairman and Vice Chairman of the Legal and Drafting Committee, but I can see a number of Members here Hon. Matembe, Hon. Med Kaggwa and others. Now Hon. Kweronda Ruhemba.

MR. KWERONDA RUHEMBA (Kajara County): Thank you, Mr. Chairman. I want your clarification, Mr. Chairman, in respect of former article 12(5). While they suggested that other articles be transferred here and there, in (5) they had suggested that we consider for incorporation into proposed article on constitutional and civic education after sub-article 5 or part of it, the decision made in 18.1. So, when they were writing Schedule 2, they did not reflect on that sub-article 5 or clause 5 rather. So, may I know what is now going to be clause 5, now that we seem to be winding up on article 11?

THE CHAIRMAN: No, it is not for the Chairman to answer, unless Hon. Matembe is in a position to comment on it. Otherwise, I would have preferred that the matter be discussed and commented on. But Hon. Matembe, maybe, has the answer.

MRS. MATEMBE (Women - Mbarara): Thank you, Mr. Chairman. I just wanted to inform the House that, that provision is pending our consideration. If the House may remember Hon. Rwabita raised an issue on civic education and we are yet to consider that together with Hon. Kalema's Amend-

ment on widowhood and then the other on information. We are yet to work on these and present them to the House for consideration. Thank you.

THE CHAIRMAN: Okay, so that will be taken care of along the way. Which means that today we have come up to article 11 which has been referred, and then on Monday we start at 12. We would have continued this afternoon, but we have the Business Committee. The point being that we would like the Business Committee to finalise the membership of the five committees we set up, so that on Monday morning - possibly Monday morning, the Members will know on which committees they are serving. And then they can meet on Monday afternoon to select their Chairmen and Deputy Chairmen so that on Tuesday hopefully we shall have finished this chapter and on Monday, the committees can start work and then we proceed from there. So, I thought we should take this afternoon to finalise the question of committees. I do not know whether there is any announcement from the Chairman of other committees so that - yes, Hon. Ssebaana Kizito.

MR. SSEBAANA KIZITO (Makindye Division East): Mr. Chairman, I want to seek information from the Legal and Drafting Committee as to when they propose to meet so that we look at our proposed Amendments. I just wonder if there is someone who can tell us when and where.

MRS. MATEMBE: Thank you, Mr. Chairman. Mr. Chairman, when we sat yesterday we agreed that on Chapter 3 we should now continue with all this that is before us, and then for the next business which we are going to handle we agreed that once the Business Committee has finished to meet and has allocated seats on the Select Committees, then the Business Committee will tell us which committees are going to start meeting and on which subjects. And then we shall invite Members or those who want to raise Amendments on those Chapters which shall be considered in Select Committees to bring them and meet us. We were hoping that for the whole of next week we shall be considering Chapter 3 and at the same time we shall have known which committees we belong to and which subjects we are going to handle, and we imagine that Members will again start writing their Motions and then we shall be meeting to entertain those Motion.

THE CHAIRMAN: But I think the point raised by Hon. Ssebaana Kizito is different. We have just

made a reference on article 11 and also the old article 12(1) and (2) and what Hon. Ssebaana Kizito is seeking to know is when the Legal and Drafting Committee will be in a position to handle this reference.

MR. DIDI (Moyo West County): Thank you, Mr. Chairman. My information is that for speed, the Committee's report is considered as the main Amendment. So, all these Amendments on Chapter 3, should be considered as Amendments to an Amendment so that we can dispose of them on the Floor. At least, that was the position of the Legal and Drafting Committee -

THE CHAIRMAN: No, no, you see you are raising a non-issue, that is how we are proceeding. The only thing is that today we started on a clause which was not in our view, properly written and there were attempts by Hon. Ssebaana Kizito to improve on it. So, it was decided that we should go back to the Legal and Drafting Committee to find a proper wording. That was the specific reference today, and that does not question the procedure we have adopted which we are using right now on appendix 2.

MR. ODUR: Mr. Chairman, when we met yesterday we did not agree on any specific date for our next meeting, but the Hon. Member who requested to know the date and where we would meet, we will notify everybody in due time so that when we meet they can appear before us. We do not have a specific date as of now.

THE CHAIRMAN: I think let us leave it at that. The Chairman and the Deputy are not here and it is difficult for Members of the Committee to begin determining dates for meeting of committees in absence of their Chairmen. I think it is not only discourteous but also confusing. So, what we shall say is that the message has been sent - there are Members of Legal and Drafting Committee here - that there is a specific reference which if not handled may delay us. So, maybe, they could find a short time, sometime early next week to handle this matter as a special case and then we proceed with the rest in a normal manner.

MR. AWORI (Samia Bugwe Northern): Mr. Chairman, I beg the indulgence of this House and your Chair on a matter of clarity pertaining to the integrity of this House. The day before yesterday, Mr. Chairman, we had a matter which was slightly

controversial on referendum. Mr. Chairman, the following day, there were headlines in the media implying that this House bent the rules to accommodate a particular situation. When we came the following day, Mr. Chairman, which was yesterday, we did not have the opportunity of clarifying the matter either to the gallery, to the public or the media. We went straight into business and for that matter we had a guest, so we had to exercise the best quorum. Mr. Chairman, I think it is very important that this matter is clarified to the public that we did not bend the rules in order to pass Article 7.2. If it is clear on record, it is not yet clear to the general public. Mr. Chairman, I beg your indulgence that this matter is cleared so that we do not look like people who are bending rules in order to pass a Constitution in a hurry.

THE CHAIRMAN: Hon. Awori is raising a matter which I think we are familiar with. Yesterday, I read in the Press that the House had bent its rules not only to pass Article 7(2) but to refuse to go to recess because a matter had reached a deadlock. That is what I remember. Now, there were comments by some Members who said, yes, it was okay in public interest and another is quoted as having said that we had to bend our rules because they embarrassed us or something like that. We were caught up by our own rules. Legal interpretations differ on some of these matters, but I was not here - I was only listening anyway. The question is really one of whether there was anything improperly done in relation to that decision not to go into recess because there had been a deadlock on the matter.

My understanding is that if a matter obtains or a question is put and you obtain below 51 per cent, the proposition is lost. That one we know, according to our rules and the Statute. But it becomes contentious if you obtain every 51 per cent but did not obtain two-thirds majority of the Members present and voting, that matter becomes contentious. If it obtains over two-thirds then the proposition has been approved by the House. But let us assume a matter is contentious by virtue of the results of a vote, like it was done that day, then what happens? According to the Act or the Rules, you go back and look at the matter. If the matter was one of procedure but not touching on the Constitution then that matter if it does not obtain more than 51 per cent it does not become contentious, if it is purely procedural. This was by virtue of an Amendment introduced before this House began meeting. Because it was realised

that the Act as it was written before, any matter which was contentious was potentially capable of going to a referendum and so the law was amended to say let us separate those which are purely procedural like deciding on our procedures here - even if we disagree, we cannot go and ask the people of Uganda how we should agree on our procedures here. So, that was removed.

Then the Statute says, that if the matter relates or touches on the Constitution - I do not remember the proper formulation, then if the matter is contentious then you allow a recess - that is if the matter relates to the Constitution. I do not have my Statute file, I am speaking off the cuff. What does it say? They talk of matters other than the provisions of the Draft Constitution, if they do not achieve those majorities then the matter is lost. But where the matters are touching on the Constitution or they call them *decisions on provisions of the Draft Constitution* are set aside separately from the others. So, if a matter relates to the provisions of the Constitution, it is differentiated from a matter which relates to, say, procedures of the House. And if a matter, therefore, relates to the provisions of the Constitution then you conduct that division because you have tried the voices and you cannot get a consensus. You go and divide, i.e. vote and get counted and if as a result of that counting, the matter is contentious as defined and as just described, then you allow Members to have a week's recess and during the recess the delegates will consult each other and with their voters or their respective appointing institutions. That is when the matter is one relating to the Constitution. So, you have those two positions.

Now, when you have a situation like we had the other day, where we had a Motion before us saying that provisions of article 7 clause 2 should be transferred from where they were to another part of the Constitution - article 104 - that was the Motion on the Floor which became contentious. Of course, it is not a matter of procedure, it is a matter relating to the structure of the book called *The Constitution*. So, the question would arise, is this a matter on which the House would like to recess so that they go and consult the people? The formulation would be like this: that on such and such a day - you are now with your people in Samia North - that you people of Samia North, the 284 of us met in Kampala to consider a Constitution for Uganda, we found a proposition from Justice Odoki's Commission which says that every once or so a year the President of

Uganda should report to the Parliament and the people of Uganda - now the objectives which are contained in another Chapter have been fulfilled and that is generally agreed among us so there is no much conflict on that - we agreed that the President must report. And that is written in a chapter now called Chapter 3, but there is also another one somewhere which says every year, and it is called article 110, the Parliament should give itself a work plan called a session, and at the beginning of that session the President will come and read out the work plan for the coming year. That is coming to open the session and report to the nation what is going to be done and that appears at article 104. Now, you people of Samia North some of us there have said and we are now few, that this thing of reporting about the objectives should also appear together with one reporting about the work plan. So, it should shift from Chapter 3 to article 104, but there are others also very, very many who are saying no it should stay there. So now we cannot agree on this one and we are really very, very disturbed. So, you people of Samia North can you tell us (*Laughter*) Yes, that is how it is, so that I go back and agree with my friends. Should this one really be at the beginning of the book called *Constitution* or should it be somewhere near the middle? That is how it would be formulated, otherwise what else is it?

Compare that with another one, where you would say, for example the case of decentralisation. You say Odoki says that there should be decentralisation at the districts, and local governments - and RCs should have power. There are others who are saying no let us have a strong central government with all the power and the money. We have voted on this matter and we have disagreed. I have now come to discuss with you and to tell me whether you people of Samia North would like to have all the power in Kampala or some of the power decentralised including money. We are very disturbed and I am seeking your guidance. So, the people of Samia North will say for us we want the power with us.

On the other one, the first one, I think they will ask you what would be wrong if it is at the beginning or in the middle, what would be the harm to us as people of Samia North? So, now the formulation would be whether this thing about the President reporting is not a procedural matter in my view, but it is not a matter really touching on the substance of the Constitution like the question of decentralisation. I think you agree with me. So, to me that would be a grey area.

Our rules say where there is no provision made in these rules that should include even the grey area, the Chairman shall determine - I think it is in one of our rules. Now, the Chairman can determine in a number of ways, in that way if I was to be asked I would say, okay, you Members - the interpretation of the law also presumes some of what I am trying to say, that is why I was creating a situation which would look ridiculous. In interpreting laws, many of our lawyers here know, that first you start by finding the intention of the Parliament, and that is the important thing you are trying to do, and you look at what did Parliament intend when they made this provision, you take it from the direct wording of the provision. If the direct wording of the provision leads to ridiculous results then you drop that and you say what would be the most practicable way of giving effect to this provision. I am summarizing a whole series of things, how lawyers do it.

So, in this case really the matter would have been this; To apply the rule that we should go to recess merely because we have disagreed on where the provision should be located would be an unreasonable result. And look at it also from this side, assuming we recessed every time we had a dispute of 315 articles, how many weeks shall we need to be able to complete this Constitution? So, looking at it from that angle one would say that this is a matter which was a gray area, it comes back to the Chairman to decide. And I think on a situation like this one what we shall do if we come to other grey areas is to allow the Members a break of say one hour to go back and consult among themselves, they come back and either we try the voices again or we count ourselves. Because really it is a matter which is covered that way - (*Applause*). That is how I look at it. So, the decision not to recess in my view was reasonable, given the background I have just given in relation to those provisions.

MR. MALINGA (Usuk County): Mr. Chairman, we came to this problem, because, Mr. Chairman, you were not in your Chair - (*Interruption*).

THE CHAIRMAN: Hon. Malinga, it is not fair to raise that subject, unless there serious disagreements with the proposition I have just made. I think let us just leave it at that and I remind you that we have a Business Committee today at 3.00 p.m. and we shall adjourn and resume on Monday at 8.30 in the morning. We stand adjourned. Thank you very much.

(The Assembly rose and adjourned until Monday,