



THE REPUBLIC OF UGANDA

PROCEEDINGS
OF
THE CONSTITUENT ASSEMBLY

OFFICIAL REPORT

CONTENTS

WEDNESDAY, 29TH JUNE 1994

MOTION:-

General Debate on the Draft Constitution of the Republic of Uganda [Pg 424]

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Wednesday, 29th June, 1994.

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

PRAYERS

(The Deputy Chairman, Prof. Mwaka, in the Chair)

The Assembly was called to order

COMMUNICATION FROM THE CHAIR.

THE DEPUTY CHAIRMAN: Hon. Delegates, I do not have any Communication From The Chair except to start off with the business.

MOTION

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

(Debate continuing.)

THE DEPUTY CHAIRMAN: We continue with the general debate that the Assembly discusses the general principles of the Draft Constitution of the Republic of Uganda, which Motion was moved by hon. Kisamba Mugerwa and seconded by hon. Kisembo. So, we start with Hon. Beatrice Byenkya.

MRS. BYENKYA B. (Women C.A. Delegate, Hoima) The first topic that I will talk about is that of citizenship. The people of Hoima are of the view that citizenship is something that should be addressed in honesty and it should be clearly defined. Hoima District has areas which are cosmopolitan in nature such as Kyangwali and Kabwoye Sub counties in Buhagizi County and Buseruka and Kigolobya sub county in Bugahya County. The mentioned areas are in close proximity to Lake Albert; and trade, across the lake to Zaire and vice versa is a common activity. The common commodity of trade is fish and it is believed that the portion of Lake Albert in Uganda has more fish and of numerous varieties. The difference in fish compels fishermen from Zaire to cross over to the Ugandan side and sometimes even settling in Uganda. That is how people from Zaire get into Hoima District or even got into Hoima District. The mentioned sub counties of Kabwoye,

Buseruka and Kigolobya, therefore, have Zaireans, Alur from Zaire and Northern Uganda and the indigenous Banyoro. Of late, the Bakiga have resettled in Kabwoye Sub county. The Sub county of Kyangwali has the four mentioned tribes. Banyarwanda are inhabiting a resettlement site which was marked way back in the 1960s. Some of the immigrants especially the Alur have been in Hoima for a number of years and even contributing to the district's income through the taxes that they pay. Some of them have been born there and have conducted themselves as Banyoro, or even, as Ugandans; and the reality that they were not, dawned upon them during the recent registration exercise for the C.A. elections. There was confusion in these areas as to who was who; and as to who legitimately qualified for registration. It was from then, that the Banyoro vehemently started to echo, and they do continue to echo, the issue of citizenship which they believe should be thoroughly looked into.

The people of Hoima wish to extend their gratitude to the NRM government which has worked tirelessly to uplift the women in society. The women of Hoima in particular, convey their thanks to the NRC Members who maturely and correctly so, passed the membership of women to the C.A - that is women standing on their independent ticket and increased the number from 8 people to 39 so as to enable district representation. My people believe that this time women issues will be tackled properly in this Constitution which will ultimately enhance the Amendment of quite a number of laws with regard to women.

My people are of the view that the law of divorce as it stands now is quite unfair to the woman. The law of succession should be clearly spelt out, and attention should be paid to the fact that -*(Interruption)*- a new Ugandan Society. I just want to apologise to our hon. gentlemen around that in our society, our men are monogamous in principle and polygamous in practice and that is what it is. We find that in most of the villages, a man can have about three wives. Each woman has an independent home and she is known by all the in-laws and vice versa; but when it comes to the death, most of the property is taken by the children and the women are not considered; yet they have been with that particular man for a number of years and they are known by the man's name. These women are of the opinion that this issue should be looked into. When it comes to

succession it should not only be the children to be catered for.

The children also should be properly protected from all sorts of cruelty even that from their parents in the name of discipline.

The people of Hoima strongly advocate for the Movement system during the next five years although they did not tell me what they would want after the five years. They have not yet made up their minds but they are of the opinion that the Movement system should continue for the next five years; which I also strongly support. Civic education, they cried, should be carried out so that the population is educated about the merits and demerits of political parties.

Land is also another issue of controversy as far as the people of Hoima are concerned. They are very happy with the freehold system but they have expressed concern as far as the resettlement of people from particular areas is concerned, especially, in Kibale District which is part of Bunyoro-Kitara. They believe that, since people have been resettled into Kibale District, they might eventually be resettled into Hoima so that their land is 'eaten up' and thus leaving the indigenous Banyoro without enough land; otherwise, they are happy with the freehold system. They believe that once their land is 'eaten up', they will have little for agricultural expansion.

Chapter (1) of the Draft Constitution points out the need for Ugandans to defend the Constitution. The defence of the Constitution is very vital since we, as a country, have experienced the consequences of the abrogation of the 1962 Constitution. Unless, we consolidate and defend the new Constitution, which we will eventually pass, we are likely to go back to where we began. But how can we achieve this? We have to sensitise the population through civic education, constitutionalism and other means. The people of Hoima are of the view that the *mchaka mchaka* should be re-introduced because that is one of the ways through which the population's eyes can be opened to some of the facts. So that they know whether some of us who stood were telling lies or not. Our people should be enlightened on the virtues of unity, flexibility and also being accommodative. This, however, must begin with us in our noble cause. That is all I have to say from Hoima. Thank you. (Applause)

THE DEPUTY CHAIRMAN: Thank you very much for your brief presentation. Can we have hon. Dr. Byaruhanga Fabius, Kitagwenda County.

DR. BYARUHANGA F. (Kitagwenda County) I wish all of us to realise that this is a very special moment. It is a culmination of an effort that has involved most mature Ugandans at one stage to reach an agreement on the reformation of this nation and the defining of our national aspirations and ethos. We have not propelled ourselves to this Assembly hall. Rivers of blood have flowed and continue to flow and this indicates that we have not been happy with the past arrangements and are determined to have a fresh start. Therefore, I call upon my Colleagues, the hon. Delegates to be open and frank in defining the problems of this country. I beg that we accept to be accommodative of each other's views and willing to compromise for the common good; for Uganda belongs to all of us.

It has been said that a good Constitution alone cannot guarantee peace, stability or good governance. Yes, I agree but I wish all of us to realise that in our country it is the leadership which has usually caused us problems. We, the leaders, say something here in Kampala, and say something totally different at home and inject the poison of hatred into our people who have nothing against one another. (Applause) Governments proclaim policies or programmes and in practice, behave differently. We are the leaders of today and I am sure we shall see many of you in the next cabinet and parliament. If we vow here and now, to lead constitutionally and to lead fairly, and live by our goals by the time this mantle is passed over to the next generation, the culture of constitutionalism and good governance will be sliding, then, with a better informed society and any attempt at disrupting a good system would be resisted. We are not starting from the ashes. In the recent past there have been some attempts at redressing past errors, although new errors have been made. What we should do is adapt what is good in the present system, discard what is bad and bring in what we see as still lacking to ensure free democracy in our land. I am only a delegate and I must tell the Assembly what the people of Kitagwenda wish to see in the new Constitution.

We, in Kitagwenda, demand the return of our sovereignty. We are not being idealistic in telling the people of Uganda that we cannot talk of human rights and democracy without guaranteeing the

peoples sovereignty. We demand that all leaders be elected by direct elections and leaders be at all times accountable to the electorate. All levels of leaders must be recallable on the events of their abuse of office or lack of effectiveness. We recommend that the people be given a chance to participate in the governance directly at the local levels. To ensure effective participation, the people must be involved and therefore, the Constitution should force future government to adapt programmes that will banish illiteracy amongst the young and old as quickly as possible. You must aim at functional literacy which will involve the knowing of the ABC of government and the Constitution.

We support the inclusion of the Chapter on fundamental human rights and support the formation of a permanent and independent Human Rights Commission to assist in the guaranteeing of the said rights.

We are, however, concerned about the treatment of the subject which is so fundamental to us by the Draft Constitution. I am talking about land. As long as Uganda remains mainly a peasant society one is an incomplete human being as long as he does not own any land or as long as he has no access to land. Yet, access to this land in Kitagwenda was disturbed at the advent of our double colonialism. Mailo land were given out to those traitors who had assisted the British against the Kingdoms of Kitagwenda, Buhwezu and Buzimba. Some other mailo lands were also given out to the conquering princes of Toro.

Kitagwenda, before the advent of colonialism, had been an independent Kingdom paying some allegiance to the Omukama of Bunyoro-Kitara. When this mailo land was given out, it had already been occupied by the indigenous people. The children and grandchildren of these people have continued to live there but without a claim to the ownership of this land. Therefore, we are of the view that the land should go back to its tiller. We are opposed to the continued existence of mailo land and leasehold land tenure systems and recommend the recognition of the freehold and customary tenure systems only. (Applause) We have a proverb which translates that equality of individuals is only to be found at beer parties - *Ntwingana etaaha aha marwa*.

The government must be charged by the Constitution to always pursue policies aimed at banishing

poverty from every corner of this country. We must have special programmes for depressed areas and disadvantaged groups. By disadvantaged groups, I mean our womenfolk, the disabled, widows and orphans. We support decentralisation and devolution of power because it will assist in spreading the national cake.

We support the inclusion, in the new Constitution, of an Article that outlaws discrimination of any group. The litmus test for discrimination is not the absence of discriminatory laws but is whether any of these groups which make up the country i.e. by sex, religion, tribe, etc. are well represented in the arms of government. Because if you have a sack of beans mixed with peas and when you take out a handful, you only find beans - there must be something wrong. This is why I always wonder where those people who profess the catholic faith and are the majority religion in this country and have some of the best schools in this country disappear to. I do not see them in the high echelons of government.

The people of Kitagwenda agree with the Draft Constitution that Uganda should remain one unitary republic. We are not convinced by the federalists because Uganda is a small country trying to galvanise itself into a nation. If we encourage centripetal forces - our brittle nation, Uganda, will disintegrate. After all, even what it is today, was a creation of the British and did not come about by natural expansion and it may not be as cohesive and homogeneous as some people wish to think. I wish to state that in the final analysis, the permanent solution to tribalism in this country will lie in the unification of Uganda with other states of Africa to form an African nation.

We support decentralisation and recognise the present districts. However, we wish also that the criteria of forming new districts be clearly spelt out in the new Constitution; because in the past, this has been left hanging. In the past, governments have not handled it properly. We have in mind the criteria that would include size, cultural background of inhabitants and the economic activities of the people. For example, Kitagwenda, whose economic activities include the production of coffee, cotton, beans, maize, *matooke*, fishing and the mining of gold has not been assisted by being part of Kabarole District. Kabarole, according to the national planners, has been planned as 'a tea and dairy' area and all national projects that go to Kabarole district go to these two industries and yet these two industries are not practised in our area.

Our clamour for district status has been totally ignored - though some people have got districts without, even, asking for them.

The question of citizenship which is very basic must be clearly defined and an organ set up for the implementation of the laws concerning citizenship and emigration. We do not want Uganda to become a dumping ground. And we do not agree with the psychotic sentiments expressed outside this Assembly by some people against the Banyarwanda as a tribe. I am very much aware that the Rwandese, the proper nationals of Rwanda, who are refugees here are not interested at all in taking up Ugandan citizenship. Africa is one chunk of land and we all came to where we are today through emigration. For example, according to History, my tribe got to Kitagwenda in the 17th Century from Bunyoro-Kitara and we have been joined, since, by the other clans from all other parts of Uganda. Did these natural migrations stop at the signing of the Berlin Conference Agreement? Did they stop in the magical 1926? Or did they stop in 1962? When we define Ugandans by birth according to tribes, do members of the tribes living outside this country laid down on Schedule 2 become Ugandans? I am talking of the Kakwa, the Madi, the Teso the Gisu, the Nyarwanda, the Bakonjo - all these tribes who have quite a big number of their members being nationals of other states. When you define Ugandans according to tribes, what happens to us whose tribes are not mentioned in the 2nd Schedule? (*Applause*) Because we were a bit unfortunate - we fought the British and also fought the Batoro at the advent of colonialism and we were sort of identified as rebels who had to be exterminated. So, by the time this census - I do not know whether the census was carried out - nobody wished to recognise us as a tribe. Fortunately, we have not disappeared. Now, does this 2nd Schedule not really take away my citizenship? So, we suggest and this has been after a very long debate that the Ugandan citizen be defined as that black or brown African resident in Uganda who is not a refugee, diplomat or claiming to be a national of another country on the day this Constitution is enacted. (*Applause*) those so identified should be given identification documents whose copies should be kept in the National Registry. Thereafter, every birth must be registered and entered into the National Registry so that you will claim your citizenship right from your birth certificate. We have no quarrel with the Clauses concerning registration for citizenship except that one accepting the naturalisation of refugees. We feel that it will be

wrong to naturalise refugees unless we are requested by some International body to do so.

We support the continuation of the movement system for the next 20 years and automatic introduction of parties thereafter. Why did we come to the 20 years? We came to the 20 years because we think that having a multiparty system now or having a multiparty system in the near future will stop the positive discrimination that this movement system is using to uplift the down-trodden groups in this country. So, we would wish for these 20 years and in these 20 years to have a transitional Clause within the Constitution that will force government to prepare everybody - that is including all these disadvantaged groups for multiparty democracy. So that, by the time we open up for multiparties, we are able to engage in fully blown democracy. (*Applause*) We also wish that within the constitution, we have articles that will guide the parties, so that in future, they are national and democratic.

We have no quarrel with articles on organs of government but we wish to have a strong presidency. We believe that an impotent President who cannot do anything before he asks a certain committee or council, will be a disaster for this country. (*Applause*) As Mzee Nyerere said: 'we must run while they walk'. Now, if you are to take a decision as a head of state of this country and you have got to seek the guidance of various committees - you will never move. So, we wish to have a strong presidency and a strong Parliament that can check the president when that is required.

We do not support the introduction of a National Council of State. We believe that the supreme court would be in position to handle misunderstandings between the Executive and Legislature when their quarrels are constitutional or have got a constitutional bearing. Now, if those quarrels do not have a constitutional bearing, then, they should be solved through the holding of fresh general elections.

We suggest that the Clauses concerning impeachment and recall be softened so that we make it easy for the people to get rid of bad leadership. We also support the enactment of a stiff Leadership Code enforceable by the I.G.G..

We, in Kitagwenda, are convinced that federalism and democracy are antagonistic and we yearn for democracy. Therefore, we are opposed to having a

king reigning over us. However, we have no problem with those who wish to have kings under the present constitutional arrangement. We quarrelled about this before the Constitution was amended but later we realised that it was not of much harm and if we have to live together, we must be willing to compromise. We are, however, opposed to any attempts aimed at giving these kings any political power because that will be a negation of democracy.

The million-dollar question on people's minds is how do we avoid the return to our chaotic past? We believe that the process of safeguarding the Constitution has already begun. The involvement of a large number of Ugandans in the writing of this - our own Constitution is a very good step. This should be followed by getting every Ugandan to know what is in the Constitution; getting the people to understand the importance of good leadership and what is expected of leaders so that they use their voting rights wisely and rightly.

Training the army by ensuring that it is a national army which is well politicised on human rights and constitutionalism; and setting up of a large reserve army which will act as a deterrent on anyone who wishes to take over the government unconstitutionally is very important. Uganda belongs to all of us. It is our prayer and hope that we shall, finally, leave this hall having agreed on a Constitution that will ensure the continued existence of the Ugandan nation in peace and prosperity. I thank you. *(Applause)*.

MR. KIRENGA (Mityana County North): I have carefully listened to the contributions made by the hon. Delegates who have so far spoken on the Draft Constitution before us and I thank them for the words of wisdom they have given us. Although, I do not agree with some of the proposals made, on the whole, I think that it is possible in the end for this august Assembly to reach a consensus on the provisions which should be in the Constitution in terms of Section (17) of the Constituent Assembly Statute. In order to reach a consensus, I would urge my fellow Delegates to try, in so far as they can, to forget their points of difference and to remember their points of agreement.

We have been cautioned by the hon. Delegate for Rubanda, Prof. George Kanyeihamba not to expect too much from the Constitution we are about to make. I want to take this opportunity to say that I also agree with him. A good Constitution cannot solve

the problems it is supposed to solve, unless the government in power respects it. This is demonstrated by the fact that all the atrocities committed by the regimes preceding the NRM administration were not committed in furtherance but rather in breach of the then prevailing Constitutions. You cannot, for instance, find in the Constitutions of 1962, 1966 or 1967 any provisions authorising extra judicial killings as were witnessed in Luwero, Nakulabye and Mukono in 1966; in the State Research Bureau, Public Safety Unit; Makindye Military Barracks; etc. under the Amin regime and in the 1980s, in the Nile Mansions; Kireka Barracks; Katikamu and elsewhere in the Obote regime. All these killings were murders, even, according to the laws prevailing under those regimes. So, what we need now, is not only a good Constitution, but also the will on the part of the government to respect it.

I would like, at the outset, to agree with the hon. Delegate Kanyeihamba and Musene that the Draft Constitution is too bulky and needs to be shortened so that only the important provisions are left in it. On Article (4), I agree with one Delegate - I do not remember his name who suggested that the word *unitary* and *Republic* should be conveniently left out in the new constitution. I think it was hon. Kisamba Mugerwa. Some people are not happy with these words, especially, people from my constituency - Mityana North. They think that since we have had the monarchy, why should we use the word Republic and since there is going to be decentralisation on a bigger scale, why should we have the word unitary? I think without using them we can have a government which is agreed upon without using any of those words.

On the National Objectives and Directive Principles of State Policy which are set out in Chapter III. Some of them are actually unnecessary; they should not be there. We are going to raise people's hopes for nothing. You tell them that they are entitled to this or that when you cannot give it to them - what is the use of telling them their entitlements which they cannot get? So, I think these objectives and principles should be part of the manifestos of some politicians or of some political parties at the time when they are campaigning for elections. They should not be part of the Constitution.

On the question of citizenship, I agree, fully, with the preceding speaker, Dr. Fabius Byaruhanga, that in order to solve the problems we are facing now, it will

be convenient to declare that people who are in Uganda now who consider themselves citizens and who are happily living here, should be regarded as citizens immediately and be granted citizenship cards. This could avoid a lot of problems and misunderstandings because we are not too many people in Uganda and many of us are dying actually at a very fast rate. I think the present population could cater for the needs of Uganda without really going into problems. Anyway, in case some delegates are opposed to this and case this proposal is impossible, I would suggest that we look at Section (41) as follows: I would agree that the citizens, the tribes which are regarded as indigenous tribes which existed in Uganda in 1926 be regarded as the criteria for determining citizenship as proposed in the present Draft Constitution. But some hon. Delegates who have spoken before me, have expressed some doubts at the propriety of the inclusion of the tribe of Banyarwanda among the Uganda's indigenous communities.

MR. WANENDEYA: Point Information, Madam Chairperson. May inform the hon. Member on the Floor that shortly after independence, all those people who were residing in Uganda were given an opportunity to be Ugandan citizens. The majority of them as far as I am aware, unless I am given information to the contrary, did not even opt to do that. So, if we are to reconsider the question of citizenship, our people in Bufumbira of Kisoro District are definitely Ugandan citizens as the above right. But for anybody who did not opt for that, I think the RC System or whatever system must go into details as to find how somebody could be a citizen. In some countries you find that some spies are in the country and they stay longer and are known at that. So, if we just give citizenship to whoever has been staying here for a long time, we may be creating problems. I thank you.

MR. CHANGO MACHYO: Point of Order, Madam Chairman. I was trying to challenge the speaker. Was he giving information or opposing the idea?

THE DEPUTY CHAIRMAN: I think he was giving information. Information can be negative or positive

MR. KIRENGA: I thank hon. Wanendeya for the Information he gave but I think he does not know why we are here. We are here to solve a problem and I

think there is already a problem regarding this issue. We cannot say that the problem was solved by U.P.C., it was not; because I know that U.P.C. was regarding those who are opposed to it as aliens. The criterion was: does he agree with us? If he did not, then they say, that is a Nyarwanda. That is what we want to solve this problem once and for all. It is one of the reasons why we were elected to this Assembly. *(Interruption)*

A HON. DELEGATE: I am just asking the hon. delegate to raise his voice. It is a matter of volume because most of us cannot hear well on this side; and he should also use the microphone. There has been a tendency for Members not to use the microphone and in the end they seem to speak to themselves. Thank you.

MR. KIRENGA: Thank you very much for that information. I think I will improve on the method of delivery. I want to agree with the hon. Dr. Higiro Semajege who spoke yesterday on the issue of Banyarwanda because this one is a problem which concerns me also since I am one of those who have been victimised by the Obote regimes because I did not agree with it. I would like to repeat history which is well known by historians and others who have bothered to get the necessary information, that the present boundaries which were drawn up by the British and other Europeans, separated tribes into two or three nationalities and Banyarwanda who were part of Rwanda became Ugandans in 1905, others remained in Rwanda, others remained in Zaire and others in Tanzania. Now those ones who remained in Uganda are to be found in Bufumbira County, which is now called Kisoro District. They are found in Ntungamo; Kabale district - especially Kamwezi; and others are found in Rukungiri and some of them are no longer in those areas. They have migrated to other areas like Buganda and my parent was one of those. He migrated from one part of Uganda to another. I submit that those Banyarwanda are true Ugandans and nobody should question their nationality. But of course, there are those Banyarwanda who come from Kisoro who think that they should be given a different name because they are being discriminated against by the successive regimes. I do not think that, that is a proper solution. I think the solution should be to do away with discrimination rather than change one's identity but if that is the wish, I think we should not quarrel with a person who has been a Munyarwanda from 1926 up to now and wishes to change his identity to that of a Mufumbira. He is free to do it. We should not quarrel with that... *(Interruption)*

DR. MATEKE: I would like to inform the hon. Delegate that the Bafumbira have always been there and we are Bafumbira and that is what we have always been known except if someone else wants to impose a foreign culture on us. Thank you very much. *(Applause)*

MR. KIRENGA: Thank you for that information. In fact I did not say that the Bafumbira have not always been Bafumbira. What I am saying is that in 1926 when Uganda's tribes were being classified, the Bafumbira were regarded as Banyarwanda. There are documents to prove that. The language spoken there is Kinyarwanda until recently when it was renamed Rufumbira. Their County chief was called the Mutware of Bufumbira and so was the King of Rwanda's chief until recently, when he became a county chief. Anyway, I have no quarrel with that, but I want to say that even in Bufumbira there people who would like to retain the word Banyarwanda. Some would like to be called Bafumbira. That is quite acceptable. Anybody is free to choose whatever name he wants to be called. It will be against one's fundamental human rights to deprive him of what he wants to be called. The Banyarwanda of Bufumbira be called Bafumbira, that is okay, so long as those who come from other areas like Ntungamo, or Kabale retain their identity. So, if no one is annoyed with that, if no one is aggrieved by that, I think that is okay. *(Interruption)*

DR. NAKYANZI: I would like to inform the Speaker that when Uganda was being restructured, there are many parts which were added on. We know there are some people who at first belonged to Kenya and they are not called Kenyans of Uganda, they are called Samia; just as we have some people who were opted from Rwanda - those people who stay there in that part which came from Rwanda are now called Bafumbira. Now, the issue of calling them Banyarwanda should really be avoided because we have people who are Rwandese by origin *(Applause)* - It is a bit crucial for me. It becomes difficult to decide for example, to differentiate those Banyarwanda who were here who have now gone back from the likes of the speaker who claims to be a Ugandan. So, that name of Banyarwanda should be definitely put off so that we know those who are Ugandans. We are not stopping those to register as Ugandans but we should have a differentiation. Thank you.

MR. KIRENGA: I am grateful for that kind of ignorance... *(Interruption)*

THE DEPUTY CHAIRMAN: Please do not use derogatory language. You can continue.

MR. KIRENGA: I think I better continue otherwise, I will not be able to finish my speech.

THE DEPUTY CHAIRMAN: I cannot refuse order. Point of Order, only, and nothing more.

MR. ERESU ELYANU: Point of Order. Is it in order for an hon. Delegate to call a fellow Delegate ignorant?

THE DEPUTY CHAIRMAN: I think hon. Member on the Floor you have to withdraw that statement.

MR. KIRENGA: Alright I withdraw it but I want to inform her that there is something she does not know. For instance, I would like to inform her... *(Interruption)*

THE DEPUTY CHAIRMAN: Excuse me, I think we should disturb the Speaker as little as possible. He is running out of time. This is a general debate. I will only entertain Points of Order.

MR. KWERONDA R: Point of Information, Madam Chairman. I come from Kajara, Ntungamo District and in this district, I would like to inform the House that we have got people who were demarcated into Uganda, not because they wanted but because the Mzungu wanted them to be this side and they are called Banyarwanda and they speak Runyarwanda and they are not in Bufumbira. Where do you put them? *(Applause)* In the same manner, we have got people called Alur. Alur are found in Zaire in large numbers and in Nebbi in large numbers. They have never changed their names on either side and there is no quarrel and they are not called Zaireans. We have got Madi, some of them are in Uganda and some are in the Sudan and they have maintained their names. We have got Acholis - 30 miles into Sudan there are Acholis - and in Uganda we have got Acholis. The Uganda Acholis are not called Sudanese. So, this point should be clarified.

THE DEPUTY CHAIRMAN: Thank you very much hon. Delegates. Let us not open up a debate at this juncture. We shall be discussing this one when we come to the substance. So, I call upon hon. Kirenga to continue.

MR. KIRENGA: The Banyarwanda who are Ugandans, should not be called by another name unless they so wish and Banyarwanda who wish to be called Bafumbira should also be called Bafumbira if they so wish. There is somebody who said that we should use the word Batutsi - I think it was it was hon. Hashaka. I do not think we should import that problem into Uganda. We have heard enough of this problem elsewhere. There is no tribe called Tutsi, there is no tribe called Hutu or Twa. That problem should not be imported to Uganda.

I would like to comment on traditional leaders. The people of Mityana North would like to welcome the restoration of Traditional rulers and they welcome the restoration of the *Kabaka*. I am one of those who pay loyalty to the *Kabaka*, I welcome his restoration - but I would like him to be a *Kabaka* of Buganda. Because you cannot become a *Kabaka* of nothing. Let him be a *Kabaka* of a unit called Buganda and of the people of Buganda not only the Baganda but the people of Buganda including those who are not Baganda - they all pay their loyalty to him. *(Interjections)* Since the *Kabaka* is playing a big role in Buganda - in bringing stability, security, and progress - I propose that he should be given an allowance by the Central government for his upkeep and for the upkeep of his Office *-(Interjections)-* These are the views of my constituency. For those who do not like the Institution, it cannot be imposed on them, but those who like it, should have it because we are here to agree. We are not here to impose our views on others. We are here to agree on the views of each area of Uganda. I am telling you that my area wants the *Kabaka*.

We also welcome decentralisation but it should be in a better defined way. Powers should be better defined.

We do not like the Council of State. We would rather have a second chamber or Parliament should be strengthened.

The people of Mityana North would welcome the continuation of the present system which is called movement system - except that I do not understand what is meant by a movement system - It is not defined, it is just understood by everybody but it is not defined anywhere. It is regarded as a system prevailing before the commencement of this Constitution but we should try to define it. We cannot assume that everybody knows what it is

because in Article, (98) they say that the system prevailing before the commencement of this Constitution but we should actually define what it is and it is not...

MR. SABIITI: Point of Order, Madam Chairman. Is it in order for the hon. Delegate to use words that may misdirect the arguments we are on now? Because the hon. Member says he supports the movement but he does not understand what the movement is all about. *(Laughter)*

THE DEPUTY CHAIRMAN: Let me clarify that one first. I think in his own way, he is right because you can understand something but you may be unable to precisely define it. The two are different. Understanding and definition are two different things. Thank you.

MR. KIRENGA: I am speaking also in my capacity as a lawyer. I think things should be understood by everybody. They should not be left vague. We are here to solve problems, not to create them. The people of Mityana North would like the movement system to continue for five years but during that period, political parties can be allowed to establish themselves, start campaigning, so that when the time comes, they take part in the elections but we cannot say that parties will come so many years later without giving them an opportunity to establish themselves. I think there should be a compromise whereby parties should start organising themselves but operating under the movement system.

On security forces, the people of Mityana North... I think what has brought problems in the past is ignorance of the Law. People were being arrested and detained for nothing or sometimes killed for having committed - what the security officer believed was an offence but which was, in fact, no offence at all. I will give an example of myself. In 1983, I was arrested because somebody was telling me that the rebels had blown up a Land Rover and a lorry at Kawanda and then I smiled. Then they took me to Nile Mansions and the offence was that I had smiled when this news was given to me. It was very difficult to get out of Nile Mansions once I was there.

I will comment briefly on land. The Motto I would like this House to adopt is "Those who have should not be deprived of what they have. Those who do not have should be given what they do not have". And this applies to the land system. Those who have

mailo-land should retain it; those who do not have it should have it, but as free hold. Because if you try to deprive people of their land which they have already, you are going to be in problems. But we should try to reform. For instance, with regard to those who have got leases outside Buganda - leases which can be extended to full term should be given freehold interests instead of extending the leases to full terms. And then regarding the tenants at will or *Bibanja* holders. Those should be recognised by making them pay some kind of rent and have some kind of agreement to protect their rights and those interests should be recognised in Law by financial institutions so that they can be mortgaged. Somebody with the *Kibanja* should be able to mortgage it and get a loan. And this will not interfere with the interest of the mailo owner because he will still be the owner of that mailo; and in case of the fault, if the *Kibanja* was sold, the Land owner would still remain the land owner but only the *Kibanja* would go. This is the view of the majority of *Bibanja* holders not only in Mityana North but I think, also, elsewhere. We should avoid the system of saying we want a uniform system. This will come in time. We cannot have it once. It will devolve as time passes then, may be, eventually, we can have something agreeable to everybody.

I would invite my fellow Delegates, when we come to debate particular provisions of the Draft Constitution to accommodate each other. Let not each side think that it must have what it wants. Well, let that side bring what it wants and let the other side listen but in the end let us reach a compromise. There is no one who should come with predetermined views - "Nfira ku kino" - without this I cannot discuss. So, we should have flexible minds, although, we are instructed by our constituencies to adopt particular views on certain issues. In the end we should reach a compromise. We should reach a consensus. Thank you very much.

DR. MUGYENYI PONSILANO (Isingiro County North): The history of Uganda is important for this Constitution making exercise. The problems of Uganda have emanated from the Ugandans themselves whom I have divided into two categories - the elites and the peasants. In my view I would exonerate the peasants because they have been taking what the elites offer. In this case all the sufferings Ugandans have passed through have all emanated from politicians or the elite group because of the extensive greed, dishonesty, intolerance, lack

of respect for fellow citizens, etcetera. This has led to various wars which we, politicians, begin and fight them in the name of liberating the country. Sometimes we win them, when we lose them, we go to the bush and the citizens continue suffering and being killed. So, I am under strict instructions by the peasants from my Constituency that we must make a Constitution that cuts across the borders of this country. What I mean here is to make a Constitution that will identify problems and solutions for peasants across the country, for the youth across the country and for the women. That is, they want to see a Constitution that has got horizontal solutions - not vertical solutions - where you find solutions for people, say, living in Ankole. In Ankole there are so many people and the problems of the Minister from Isingiro are different from the problems of the peasant in Isingiro and different from the problems of Isingiro. So, we want a Constitution that will cut across all the peasants, Youth, Women, and the disabled irrespective of locality. The peasants of Isingiro are not different from the peasants of Tereko County, and not different from the peasants of Bukooli County. They are suffering from the same problems.

I am also under instructions from my Constituency that we make a Constitution that will ensure the culture of Constitutionalism whereby leaders will have the spirit of honesty, patience, tolerance and respect for all Ugandans irrespective of tribe, religion, sex, education, etc.,

I would also like to see a Constitution that will enable public officers including politicians to retire in time. The people in my Constituency get perturbed when they see somebody about to collapse still holding a senior public office. It is very important that we make Laws, we policy-makers, for public servants to retire at the age of 65; but yet, those of us who make the Laws are not willing to retire from public offices. *(Applause)*

On the memorandum from the children. Quite often we have had communication from the Chairman that we shall not discuss this Memorandum. The reason that has gone across the country is that we have rejected the views in the Children's Memorandum. And the interpretation is that the views were very nice to the country but they were 'touching to us' - those of us who are seated in this House. Therefore, I was of the view that we should not discard this Memorandum from the Children because, these

children who presented this Memorandum will be in these chairs some 20 or 30 years later and they will implement their Resolutions. (Applause) Therefore, it may not make a lot sense to just say that those who do not want this should just leave this country. Because if you say it today and you are grey-haired you are going to die tomorrow; these children will come and implement their resolutions. So, it would not make sense to put in place Laws that are going to be brought down 20 years from now.

About the national unity and nation building. As the President said while he was opening this important august House, 'we do not yet have a Nation'. So, before we talk about other issues we should talk about how we can build this nation. I therefore, feel that we should still have a sense of building the nation and we should not talk about breaking the nation which is not there. I therefore, support and my people support the republican system of Government with powers decentralised to the districts and even down to the sub counties. My people have instructed me to propose to this House that any attempt to grab these powers which have already been given to them, in the name of federalism, should be strongly protested by democratic forces of this country.

My people propose that we should have a national language that should enable somebody from Ankole to go to Arua and communicate to somebody who does not know English very well. In this respect people of Isingiro North are suggesting that we adopt Swahili as a National Language. The advantage of Swahili is that it is a language that can cross the P.T.A borders; it is a language that can easily be spoken by people mainly from the Northern and Eastern parts of the country. Being a Bantu language, it can easily be learnt by people from the Southern and Central Regions of Uganda; and it is not a language that is indigenous to any tribe. Therefore it will not be used by any tribe to express its superiority.

MR. MULONGO SIMON: Point of Clarification, Madam Chairperson. I just want to seek clarification from the Speaker. He said that Uganda is not a Nation. So, how can he again say, Swahili be a national language.

DR. MUGYENYI: If I can be allowed to clarify. I am saying, we are here to build the nation and things like national language, national army are elements of building a nation.

Decentralisation versus federalism...

DR. NYEKO: Point of Order, Madam Chairman. Is it in order for the hon. Delegate to make too much noise which is shouting, in other words. Shouting is one of the environmental and health problems which can be very dangerous to the ears.

THE DEPUTY CHAIRMAN: The hon. Member is a medical doctor, so he would know what would damage the eardrum or not. But according to him, the voice is on the higher side. So, can you lower your voice, please.

DR. MUGYENYI: Thank you. About decentralisation versus federalism. The people from Isingiro North are of the view that we should push the powers to the districts. We reduce the congestion at the centre and this will be a solution to our power struggles we have had in the past in Uganda. So, I support decentralisation of power to the district level in preference to federalism.

The people of Isingiro North are proposing that those who want the kings can have them. But these kings should not have political powers. They actually told me that when the kings, particularly the one of Buganda was being enthroned - he started in a humble manner then he kept on expanding, giving ministries, Lukiiko and so on. So, they are very sceptical, that if we allow these kings to have political powers, there will be a problem in future. so, they are suggesting that those who want the kings can have them. But they should not have political powers. They should not be paid from Government coffers because these are taxes from all over the country. They should only be allowed to operate on a cultural level. The people of Isingiro North belong to the larger former Ankole Kingdom and they say, as far as they are concerned, they do not want anybody called a King. They want a Referendum to be held in areas where the issue of monarchism is contentious - not just to have this Law which was passed in the Parliament where they say people should have their King 'if they so wish'. Even if there are two people they will be so wishing and therefore, they may qualify to have a Mugabe or a King. So, they say a Referendum should be held in areas where this issue is very contentious.

The people of Isingiro North believe that all Ugandans who are citizens should be given identity cards - national identity cards. The people of Isingiro North

support Article 42 which says that children who are below the age of seven years found loitering in Uganda should be given citizenship. These children are a result of the so many wars we have had, the AIDS epidemic we have had, and therefore, they believe that there is no country which is willing to have children to spare, airlift and bring them to Uganda. So, the children we find here are Ugandan children and we should look after them, and give them citizenship. In other countries children are very valuable. Nobody is willing to give children free of charge to Uganda. What would be so special with Uganda? So, the children found in Uganda are Ugandan children. Those opposed to that Article have always had the scepticism of giving citizenship to the Banyarwanda. The Banyarwanda have all gone back home and what is remaining here are Ugandan children. The people of Isingiro North are of the view that professionals and other important personalities should be given citizenship on application. But they suggest that these people should be given probational citizenship for about ten years while we monitor them. Otherwise, we shall end up giving citizenship to con-men and people of that sort. So, to avoid that, people who are applying to become citizens should be given a probational period of ten years in which we monitor them. If they are very useful, we grant them full citizenship. The people of Isingiro North have agreed to the fact that if you are married to a Ugandan woman/man, you should be allowed to apply and become a Ugandan citizen.

The people of Isingiro North support the movement system of Government wholly. The People of Isingiro North are advising us not to be complacent to say that movement system does not allow freedom of association; regular change of Government; etc. We Ugandans are not robots to just copy what a dead Mzungu wrote some 200 years ago. We must adopt what is suitable to our environment. In this case they are asking Ugandans who are opposed to the movement and who claim that they are not able to associate now, why and how did you come here? Didn't you come here freely? (*Applause*) Secondly, people who oppose the movement claim that there is no regular change of Government. We have recently had elections, everybody stood and he was free to be defeated or not. We are about to have presidential elections. Anybody who is willing to stand can go and stand as long as he is good he will be voted for. That is regular change of Government. So, there is no reason in hiding behind these Bazungu

fundamental human rights eg. 'freedom of association'. We must take what is suitable for our environment. However, they are warning Ugandans that this movement must be purified. This Movement should be purified - it should be liberalised to belong to all Ugandans not to a small clique of people who claim that they own the Movement. The Movement must be liberalised; it must not only be liberalised in words but in actions. It must belong to Ugandans in action. The people of Isingiro North, say that the policy making body of the Movement which is the N.R.M. Secretariat must be liberalised. And people from all sectors in Uganda should be recruited to participate in this policy making body. It should not belong to a few people who say 'we fought and the Movement belongs to us'.

The people of Isingiro North are saying this because there was a nasty scenario during the elections where some people were labelled 'less N.R.M. than others'. I was one of the victims of that scenario. It was very nasty and it actually erodes the good image, the Movement had as a non-discriminatory Movement or Organisation and when you bring in this business of 'more N.R.M. than others'. Then you are actually spoiling the Movement. So, the people of Isingiro North are saying we should maintain the Movement, purify it and liberalise it to belong to all the people of Uganda. They are saying, that merely participating in *mchaka mchaka* and RCs is not enough to create a sense of belonging to all Ugandans in this Movement. They are saying that some people are actually opposing it, because they are not participating in its policy-making process.

About the distribution of the national cake. The people of Isingiro North are very bitter about all the Governments that have ever been in Uganda including NRM, although they support it. The people of Isingiro North say, they have never seen a Minister nor a Permanent Secretary nor a Managing Director; they actually do not know how these people look like, they hear of them on Radios. So, they are saying that, what is wrong with Isingiro? Uganda belongs to all of us and there should be equitable distribution of positions in this country for all counties in Uganda and actually all areas. The people in power say: 'Ah, the jobs are not there and there is nothing, there isn't enough national cake'. The people of Isingiro are saying that if the national cake is not enough and it is merely sacrificing, then, let them appointed to participate in the suffering.

Since time is running out, I can briefly talk about the executive. The people of Isingiro North support the five-year term of office and on the maximum two terms. A man of unrefutable reputation and integrity should go to that Chair of the Presidency. The President should be economically well-off and he should have a minimum education of a University degree. However, they do not agree with that Article which says that the President should not be prosecuted. They say that the President should be prosecuted while in office, even after he has left office; so that he fears to get involve in arbitrary acts. They gave an example, that suppose the President, as we have had some Presidents in the past, is interested in women, and he grabs my wife, what do I do in such circumstances?

CAPT. BABU: Point of information, Madam chairperson. I just want to inform the Speaker on the Floor that in this Draft Constitution and in many parts of the world, the President is never prosecuted, he is impeached; and in this particular Draft Constitution, there is a provision for impeaching the President. Thank you.

DR. MUGYENYI: I thank hon. Babu for that information. As long as the President is answerable for his acts, I have no quarrel.

I would want to talk briefly on the separation of powers. The people of Isingiro North are of the view that Parliament should be, completely and also, separated from the Executive. People in power argue that there are few people who can be Ministers. The people of Isingiro North believe that Ugandans have got a very huge capacity from which we can get people who can be Ministers, Members of Parliament, etcetera. How many of you knew that a man called Mugenyi exists in Isingiro North? If you abandoned this House today, and asked the electorate to bring another set of people, they would be equally good and capable citizens. Uganda has a very huge capacity and therefore, we should widen the power base, widen the decision-making, and actually widen the resource allocation; because as you have these positions, you have resource allocation. So, we should have the Parliament separate from the Cabinet.

It is paramount that we talk about human rights, but I will concentrate on the rights of those who have been marginalised in this country, and that is the women. I have always been a supporter of women's rights, because women are looked at in four aspects:

as citizens; as mothers who produce children; as friends of husbands; and those who produce the wealth and therefore, they should not be brushed off. Women in my Constituency have told me to come and advocate for their education, for their participation in economic activities and their ability to inherit property from their fathers and the widows' rights to inherit the estates of their late husbands. In association with the Women's Rights, people have told me that I beg this House to outlaw female circumcision. Female circumcision is not only an issue of culture; it just goes beyond that. Female circumcision removes the sensitive part of the female genitalia and leaves the woman as somebody who is 'eating food without any taste buds'. Therefore, the people of Isingiro North heard the voice of Prof. Kanyeihamba, who said that when one part of the country is sick, even the other parts should take to the street and demonstrate.

So, the people of Isingiro North, especially the women, say, that as long as long as we do not outlaw female circumcision and we leave it to the Kapchorwa people, they will take to the streets, walk to Kapchorwa and get these knives so that the sebei women are not mutilated any more. *(Applause)*.

The People of Isingiro North - *(Interruption)*

DR. CHEBROT: Point of information, Madam Chairman. Although I do not support the circumcision of females, I would like to inform the hon. Member that I think it is not in order for him to say the women who are circumcised in Kapchorwa do not enjoy sex. On the contrary, the centre is not exactly where the hon. Member is pointing; it is actually in the head. *(Laughter)* Secondly, the issue of female circumcision, to those who practice it, I think, should be left to them to decide on their own; and if they go to a referendum, it should be held by the people of Kapchorwa themselves. Thank you very much.

DR. MUGYENYI: If I could answer to that information. I am very much aware that sex is controlled in the brain. But the receptors are in the clitoris where you actually mutilate. So, I am informing this House that the stimulation will not be received, unless you have the receptors. *(Laughter)*. The people of Isingiro North - *(Interruption)*

MRS. MATEMBE: Point of information, Madam Chairperson. I wanted to inform this Hon. House that the hon. delegate gentleman who is not a woman cannot competently tell us where a woman feels well

and sexually happy, therefore, he has no capacity to say that (*Laughter*) - and what hon. Delegate Mugenyi is saying, is the right one.

MR. WANENDEYA: Point of order, Madam Chairman. Is it in order for the hon. Member holding the Floor not to allow a lady from Kapchorwa who knows the customs of the people to give information. If we just want to impose the way we do things on other people, we may not make a good Constitution. So, is it in order for the hon. Member holding the Floor not to allow hon. Kulany to give information?

MRS. KULANY: Point of information, Madam Chairman. Thank you. I want to inform the presenter that much as he is much concerned about this practice, it is a culture which did not start yesterday, even me personally I do not know when it started and as we educate the people of Kapchorwa on the harmful part of this female circumcision, the people of Kapchorwa are responding and it is only a question of time, that this practice may end.

DR. MUGYENYI: I thank the lady for her supplement and I am happy that she also sees it; because she may have passed through the same experience. So, she also sees the need for it to cease.

The people of Isingiro North also believe that the Government should shoulder the cost of maintaining the disabled people.

A HON. DELEGATE: Point of order, Madam Chairperson. Is it in order for the Speaker to speculate about another hon. Member? Thank you.

THE DEPUTY CHAIRMAN: Who was speculating?

A HON. DELEGATE: My point of order is that, is it in order for the Speaker to speculate whether another hon. member is circumcised or not?

DR. MUGYENYI: I was giving the information that the people of Isingiro North suggest that the Government should shoulder the costs of maintaining the disabled, since these people are part of Uganda and they are disabled not by their own liking, but by circumstances. Therefore, we should add on Article 28 a Clause, where it gives the Government the duty to rehabilitate or to meet the cost of rehabilitating the disabled people.

THE DEPUTY CHAIRMAN: Can you wind up.

DR. MUGYENYI: I am winding up with land. The people of Isingiro North are suggesting a freehold type of land system and they say that the Title should be given to every citizen who wants it. The issuing of these titles should be decentralised to the districts. Titles are useful when one is securing a loan from the bank.

The last point, is how to safeguard this Constitution. The people of Isingiro North are proposing that we should embody civil disobedience in the political education we give to the wanainchi. So that when somebody overthrows or abuses a Constitution, these people rise up in arms, they refuse to pay graduated tax, they refuse to send their Matooke to Kampala and then eventually, the offender will come to his knees. Lastly, the people of Isingiro North are suggesting compulsory military training for the young and the middle aged, able-bodied Ugandans. They are proposing massive political education to the peasants and for the Army. I thank you.

THE DEPUTY CHAIRMAN: Thank you very much.

MR. AWORI: I am seeking your direction on the conduct of the language on the Floor, Madam Chairman. I would like particularly to ask with your permission and indulgence, the Chairman of the Privileges Committee, to give us directions at what level can we limit our vocabulary in describing whatever we want to say on the Floor? Because apparently, we are beginning to deteriorate to a level below the Assembly decorum.

THE DEPUTY CHAIRMAN: Thank you very much for that interjection, but we also note that the Business Committee has not started meeting and I do not think the Chairman of the Privileges Committee will be able to respond to that. He will put it on the agenda when they meet. I think that is a better solution.

A HON. DELEGATE: Point of clarification, Madam Chairman. I wish to comment on hon. Agrey Awori's statement that the more we tend to hide the real facts in what we describe, the more vague the meanings that will be enshrined in the Constitution. Let us be specific. Thank you.

THE DEPUTY CHAIRMAN: Thank you very much. The Privileges Committee may look at that also.

MR. LUKUMU (Buliisa County): This county was originally known as Bugungu. It borders with Gulu district in the North, what used to be known as Acholi, and to the North there is Murchison Falls National Park, to the West, it borders with Zaire and Nebbi district and to the South, it borders with Hoima district.

I congratulate you upon your election as deputy Chairperson of this august House. I also congratulate my fellow delegates for their success in being elected as Members of this historical institution, the Constituent Assembly. I convey the greetings of the people of Buliisa county to this august House.

This county is inhabited not only by the Bagungu, but also by other peoples like the Alur, both from West Nile and Zaire; we have got other peoples like the Kebu, Lendus and many others. So it is a county of heterogenous, ethnic groups. This Assembly is composed of dignified sons and daughters of Uganda with heterogenous social, ideological and religious backgrounds, but all, I believe, with a common goal: to formulate a legal framework that will allow all Ugandans to live in harmony. I am optimistic, therefore, that we shall finally achieve this goal. We are charged with a very challenging responsibility. The destiny of our electorates rests greatly on us. Our deliberations should, therefore, be geared towards the aspirations of our people. Our individual or group interests should, therefore, not tempt us into betraying the people of Uganda. We should be result-oriented. Our success or failure will be determined by the results that the Constitution we formulate will produce. My conviction and the desire of the people is that, this document generates unity, peace, freedom and comfortable living. We shall have failed our population if we fall short of this.

We have had enough liberation wars. The price of these wars has been too high and we must agree that no side has emerged victorious. It is our obligation to make a Constitution suitable to our circumstances. Our Constitution should, therefore, be geared towards solving the problems that have bedeviled our country for the last three decades. Our Constitution should, therefore, not be based on foreign models if we are to avoid the turmoil that has characterised our post-independence political history.

We should endeavour to inculcate the spirit of constitutionalism in our population. There should be no compromise over the rule of law. However, every effort must be made to ensure that no unjust laws are enacted in our nation. Our noble task is to formulate a Constitution that will stand the test of time. My appeal, therefore, to my fellow hon. delegates is that, we should be flexible and ready to compromise. The diverse interests of the peoples of Uganda must be taken care of in this present Draft Constitution.

A lot has been said in connection with the shortcomings of the 'Odoki Draft Constitution'. There have been expressions of suspicion over the motives behind the manner in which the Odoki Commission went about their business. A number of people, including hon. Delegates in this august House, have charged that this exercise had a hidden agenda. My position is that, hon. delegates should endeavour to add their input to the framework laid down by the Commission. Odoki's submissions are only proposals. We should improve upon them where necessary. On my part, I highly commend the Odoki Commission for the efforts they made to come up with this Draft. It is therefore, our duty to use these guidelines to formulate a Constitution that will have the interest of the various peoples we represent.

I commend the NRM Government for dropping the original plan of using the NRC and the Army Council to formulate the new Constitution. The decision to democratically institute a new body, the Constituent Assembly, to formulate and promulgate a new Constitution is an opportunity we should not abuse. We should only make the best use of this chance; failure to do so, for whatever reason, will be a disservice to the people of Uganda. It is our obligation, therefore, to justify the high cost of this exercise by producing a document that will address the problems and aspirations of all the peoples of Uganda.

Previous administrations in this country have not seriously addressed the issue of citizenship. This Assembly must, therefore, handle this subject very cautiously. Associating it with narrow, sectional interests should be avoided. The people of Buliisa county do object to dual citizenship. They submit that indigenous Ugandans are of course citizens of Uganda. There is a disturbing issue of aliens who have been living in Uganda for quite a long time; there are those who have been born here and do not even have ties with their countries of origin. Some of these people originally came as job seekers,

immigrants or refugees. I happen to come from an area, Buliisa county, which has this category of people. Some Zaireans have been living in Buliisa county for a very long time. In fact, many do not even know their areas of origin. A number of these people already enjoy the status of being citizens. It is only fair to allow such people to become citizens without any complications if they so wish. Most of these people have assumed that they are already integrated permanently in the Ugandan society. These people, have for a long time, been serving in institutions, otherwise, reserved exclusively for citizens. e.g. the Army, the Police, or even in secret service organisations during all past post independence administrations. They have even been involved in Ugandan politics. This Assembly should, therefore, regularise the citizen status of these people. I believe that these people will feel secure enough to engage in developmental activities in this country as they will be assured that this is their permanent home. The United States of America is a very great nation today. We all know the majority of the citizens of U.S.A have their origin outside the American continent. Many of these peoples' ancestors came from Europe, Africa and even Asia. I fail, therefore, to understand the reason for the great objections from some hon. delegates when the proposal to integrate the people we have been living with for so long is raised. I believe this is merely out of suspicion and my belief is that we should reconcile this point as in this country, even the existing indigenous ethnic groups are so diverse. It will, therefore, probably strengthen us by realising that no single, ethnic group in this country dominates the others. It is the attempt to dominate others in Uganda that has been greatly responsible for the suffering we have been subjected to. We should, therefore, only ensure that whoever becomes a Ugandan citizen should take this country as his permanent home and therefore, not as an area simply for greener pastures.

This Constitution should ensure that nobody in Uganda, man or woman, is denied his or her fundamental rights and freedom. Freedom of association and expression should be enshrined in the new Constitution. We should not allow Ugandans to suffer as has been in the past from torture and similar unfortunate practices. We should endeavour to ensure that customs cultures which are against the dignity, welfare or interest of women should be abolished. In this regard, I wish to support the submissions of hon. Delegate Mugenyi, expressing concern over the present female circumcision in

Sebei. I am, however, gratified to learn from the hon. Member from that area that this practice is being phased out. It is only unfortunate that the subject has provoked sentiments to the extent of almost reducing the matter to mere fun. Otherwise, it is, indeed, a serious matter and we should accord it all the seriousness it deserves.

Ugandans should be governed democratically. This should really not be compromised; there should never be any departure from this principle. The people should therefore, have a right to periodically choose their leaders through free and fair elections; and this should not be applicable to the grass roots alone. In future, therefore, whenever there is to be elections, it should extend right from the bottom to the top. In other words, if we do not subject the top leadership to the test of democracy, we shall not really have emerged out of the problem to which we have been subjected to under the previous dictatorships.

We still are under a system - a Movement system and as a delegate from Buliisa county, I must speak the minds of the people of Buliisa; they have no problem with the Movement system continuing to operate for the next five years. They are of the view that, the immediate return to multi-party politics, would be disastrous. The recent past political history is still fresh in their minds. Allow me at this juncture, to observe that as much as pluralism - party politics - is desirable and has been successful in many parts of the world, our Ugandan experience demonstrates that this system should not just be taken without the culture of the system being entrenched deeply in the minds of our people. Our people should understand the principles that govern pluralism. Our people should not just be used as tools. Our past experiences bear me witness, that the majority of participants in the political scene of Uganda manipulated our population to the extent that a system that should have been seen as really palatable; has been detested, simply because, it was mishandled. This was possible because of the unawareness of the people. In some countries of the world, political parties have operated very successfully. However, in Uganda, and many other third World countries, political Party politics has caused untold misery to the people.

This Assembly, should work out a legal framework that will govern political party operations to ensure that when they resume their activities, past mistakes are not repeated. In this connection, I wish to advise that the present *mchaka mchaka* - political education

should include in its syllabus facts about pluralism. They should not only mention the demerits but should openly point out the advantages of pluralism and where they have failed. This should be objectively treated. We should not deceive our people that this system never works anywhere in the world when we are all aware it has been working and it continues to work in the great nations of this world. We must tell our people why it has been failing here and we must, therefore, prepare our people for pluralism before we begin the practice of pluralism. There is too much gap between the political actors and the spectators. We should educate them; they should not remain so ignorant and this is a responsibility of this august body. We should ensure that political education should be broadly understood. We do not want only to campaign for one system. We should ensure that our people are open to all the knowledge regarding political systems that operate all over the world. We should also refer to the recent experiences in the Eastern Bloc. I believe the majority of our population are not aware of this and, indeed, we should not deny this knowledge as it would help them develop their ability to effectively participate in the political scene of this country.

On the executive, and I will begin with the Presidency. The President should be directly elected. He or she should not be below 40 years of age and I believe 40 years is not too much. I am already 42 and I still consider myself young. At the age of 40 you still have got the useful vigour necessary for a leader, and I believe you would not be too young to be a good driver for the nation. Regarding the upper limits, I think this should not be a matter of a legal instrument and I believe this should be judged by the people themselves. After all the people will be the ones to elect. People perform differently at different ages. Some people are still mentally premature at 50. Others are still sharp and vigorous even at the age of 80. So, I think it is not fair to determine the upper limit by law.

MR. OMARA ATUBO: Point of clarification, Madam Chairperson. Thank you. Since the life expectancy in Uganda is 47 years and if you put the lower limits of the President at the age of 40 years, would it not be true that, that person is to serve for only one term rather than two. Thank you.

THE DEPUTY CHAIRMAN: Yes, with due respect to your interjection, the Ugandan age that you have quoted is not the optimal internationally,

so, Uganda is moving towards the better. We should increase it to 60 years and, if you are saying that this is a long lasting constitution, then we should be optimistic rather than pessimistic. Any way the speaker can continue.

MR. OBEL ONEGI: Point of information, Madam Chairperson. I would like to inform this hon. House about the disadvantage of this suggestion of putting in upper limits - How old is Nelson Mandela? Are we suggesting that without mentioning Mandela, the South Africans would be what they are today. This is the man who has done a wonderful job at his age. *(Applause)* This ties up with the suggestion that it is not only age that should limit, particularly, politically. That is enough information Chairperson.

MR. LUKUMU: Thank you for all that information. I believe it all serves to support my argument. I will continue with the Presidency. I support the view that, and this indeed is the position of the people of Buliisa county: no President should serve for more than two - five year terms. If the President does not live to qualify for the next term, it is not their problem, their only fear is his wish to continue for life, as has been the case in some African countries and even here, I think, we had this experience. But to the best of my knowledge, those who have proclaimed themselves life Presidents, none has been President for life. We have the examples in many African countries like Malawi and else where.

THE DEPUTY CHAIRMAN: Can you please wind up.

MR. LUKUMU: The Cabinet Ministers should not be part of the National Legislature. I believe in the Supremacy of the National Legislature, therefore, I do not support the proposed institution to be known as the National Council of State. Because it would undermine the supremacy of the legislature as an institution that is supposed to check power excesses; as an institution that has the people's mandate expressed and empowered through elections. On local government, I strongly support decentralisation - a highly decentralised system based on district units.

As regards federalism, the people of Buliisa feel that it would not be viable in Uganda today because of the circumstances existing now. As for traditional leaders, the people of Buliisa have no problem with these institutions of cultural leaders, only if, they do

not engage in political activities and, as long as, their maintenance is not shouldered by their subjects. However, it is not fair to subject these people to ridicule when their ancestors contributed a lot in the formation and consolidation of the present day Uganda. Their properties should, therefore, not be confiscated by the State.

I happen to be from an area, an ethnic group of the minority - the Bagungu. The minority communities in Uganda have, for along time, not been recognised; this can be demonstrated by second schedule not including tribes like Bagungu, Baruli, Bachope in Masindi, only to mention a few. So, surely, every ethnic groups in Uganda should be taken care of. In this connection, when we come to the point of national language, we should realise that to talk of a local language would...

THE DEPUTY CHAIRMAN: Can you wind up please.

MR. LUKUMU: As I am time barred, I wish to conclude by emphasising the point on the Leadership Code which must be included in our constitution. As for the popular proposal 'recall of elected Members', I strongly object to it. This would cause unnecessary disturbances since you will always have people being manipulated and those elected will not be given enough time to settle and fulfil their programmes. It would end up making people always campaigning instead of doing the work for which they were elected. If you are subjected to the recall it means you would go back to campaign. I think this is unnecessary as the periodic elections should be enough to check on those who do not perform to their electorates' expectations. Thank you.

MR MAZIMA: Point of order, Madam Chairman. Article 9 of the Constituency Assembly 1993, says that the chair and a vice shall be called Chairman, and Deputy Chairman, and yet the delegates are referring to you as Chairperson. I know people are gender sensitive, but should we work contrary to the law.

THE DEPUTY CHAIRMAN: We note your interjection. Thank you. Can I call upon hon. Mwendha Faith to take the Floor.

MRS. MWONDHA FAITH (Women Jinja): I am Mwendha Faith, district woman delegate Jinja, representing all the people in Jinja district because

the mandate I have is through elections of the RC 3 Council and women councils at sub county levels. So, I represent all people: women, men, the youth, the disabled and the children of Jinja. Thank you.

I have instructions from the people of Jinja to commend you and the chairman of this constituent Assembly, for the able guidance of this august Assembly since our inauguration. Well done!

The constitution making process which we, the people of Uganda, are under going now is the first type of its kind in our history. This is a fact which is obvious and I do not need to explain in detail. Since this process is the first one of its kind in our history, we should restrain ourselves not to consider it as an academic exercise nor turn it into a theoretical show of brain power. Our personal ambitions, emotions and selfishness should be shelved in the name of posterity.

The people of Jinja salute the NRA, to begin with, and the NRM for the fine work so far done. They express their salute in no lesser words than those spoken by Lincoln Abraham who was a United States statesman and a Republican President between 1861 and 1865. He spoke these words at the dedication of the National Cemetery on the site of the battle of Gettysburg, I quote: *"In a larger sense we cannot dedicate, we cannot consecrate, we cannot hallow on this ground. The brave men living and, and the dead who struggled here have consecrated it far above our power to add or detract. The word will little note nor longer remember what we say here but it cannot forget what they did here. It is for us the living, rather to be dedicated here to the unfinished which they who fought for here have so far so nobly advanced. It is rather for us here to be dedicated to the great task remaining before us that we here highly resolve that the dead shall not have died in vain. That this nation, under God, shall have a new birth of freedom, and government of the people, by the people, for the people shall not perish from the Earth"*.

Like wise, the people of Jinja would like to salute the gallant young and old, men and women who fought for the freedom and peace we enjoy now. (Applause) We have no way to pay for their dear lives, except to finish or finalise and or accomplish the task started - that is of creating a united progressive country, the beginning of which is to establish a sensible method of running the affairs of this country and nation

building. The people of this country know what they want, and the constitutional commission conveniently known as the "Odoki commission" has distilled it for us. Our mandate is to debate, scrutinise, enact and promulgate a new constitution which is the fundamental Law of the land made by Ugandans, for Ugandans, and of Ugandans. The question of constitutionalism is inherent within this constitution because we have been given the opportunity to give in ideas of what we want to be embodied in the constitution.

We always have to remember that we are delegates not representatives. We have also to bear in mind that, when making a constitution, we must address ourselves to the general principles of unity, peace, equality, democracy, freedom, social justice and progress. We must also know that a constitution is supposed to guide society in the above general principles. It is a condition, a pre-requisite, therefore, that those who intend to make a constitution fully understand and internalize the dynamics of our society if the constitution is to be meaningful at all to provide stability for real growth and development. With the courtesy of distinguished scholars in constitutional law, I have the honour to cite Dr. George Kanyeihamba's book entitled 'Constitutional Law and government in Uganda' page 112. He said and I quote *"If a constitution is to work satisfactorily, it must fulfil certain conditions, it must sufficiently be flexible, so as to allow for changing political, social and economic circumstances of the country as a whole. The flexibility should not be such as to encourage people to hold a constitution in contempt or regard it as a sham. Those who formulate constitutions must create constitutions able to move with the times without seeming to be destroyed by the times"*. The people of Jinja are looking forward and they are optimistic that we, here, will not allow a bad constitution to emerge. They want a constitution which will stand the test of time. You may agree with me or not, but in order to do a good job, we must bear the history of our country in mind, analyze it objectively, identify what went wrong and, rather realistically, identify what the problems were with the three constitutions so far held. This will facilitate finding a lasting solution to enable us forge ahead with the enormous task of nation building.

It is the opinion of the people of Jinja that we should be aware of the various reasons why these constitutions failed and hence accept the need for the new constitution. Those Constitutions had never been

made by the people - since the people consulted were too few to make any sustainable constitution. The Independence constitution, important as it was, because it ushered in independence, was meant to solve a particular problem to answer certain group interests at the time. Secondly, the fundamental human rights and social justice, were inadequately provided for.

The constitution, especially the Republican constitution was highly flexible in nature, and also it was highly discriminatory in that it was silent about discrimination based on sex. Consequently, this culminated in having substantive laws enacted by Parliament and either discriminatory against men; discriminatory against women and discriminatory against the youth. For instance, let us take the offence of rape, defilement, impregnating of a girl under 18 years. If we take the law of succession, especially intestate succession, the law of divorce, and the like, and that is the reason why the people of Jinja hailed the Odoki Commission for the well set out provision of Chapter three (3) Article 10 Clause 5 which provides for elimination and discouragement of all laws, policies and practices which promote and encourage discrimination and prejudice on the grounds of: place of origin; or circumstance of birth; race; sex; etc.

The people of Jinja fully endorse the provisions of article 61, 62, and 63. As far as 63 is concerned, that is concerning the disabled and their rights. The people of Jinja feel that, that provision should not be a sleeping document, and it should provide for Parliament making laws for make the disabled, whom I prefer to call differently 'abled' - because they are not completely disabled, they are differently 'abled' as they are able to do certain things. So, there should be structures and facilities should be put in place to make sure that these people can be self reliant because we have a population of over a million people and we cannot afford to have them dependants all through their life-time.

I have been given instructions to emphasize Clause (3) of article 61, which concerns the right to affirmative action to remove the imbalance created by history and traditional customs, and Clause 2 of Article 61, which provides for women having the right to equal treatment with men which includes equal opportunities in political, economic and social activities. The people of Jinja commend the commission for the inclusion of the provisions of

Article 60, Clause (1) which in substance entitles a married woman to have equal rights in marriage, during the marriage; and at its dissolution. With this provision, in place we do not say that society will change its attitude towards women overnight, but this is a big step towards social justice and social change. With those provisions, a woman can fight for her rights and can go as far as the Courts of law for redress if her rights are infringed.

The people of Jinja commend the N.R.M. for the deliberate positive policy towards women and how we can pave the way to civilisation and positive advancement of our dear country. It has been said that if civilization is to advance at all, it must be through the help of women, freed of all our political shackles; women with full power to work their will in society. It is unfortunate to note that the women in this country whom society feels that they have been 'freed of their political shackles' instead of working their will in society, by lifting up fellow women who have been regarded as 'servant-class' It is high time we woke up to lift up the grass root women. So that we do not only appear to be lifting them up, but be seen to be doing so.

The Republican Constitution of 1967, was highly flexible since the amendment provisions did not have sufficient safeguards and this again boosted the powers of the President which resulted into the violation of human rights coupled with the fact that the President had legislative powers under Article 64 of that constitution, as long as Cabinet advised him, he could make legislations. This means that he could make laws even dissolving Parliament and no wonder we had Idd Amin who ruled us by decrees for 8 years. At our inauguration, His Excellency, the President of this country in his address clearly and correctly said that: "a constitution making process, in our case, means more than finding or putting in place systems for running society. He said it had two important components namely: Nation building and Nation running. The people of Jinja note with concern that we have not done very well in any of these two fields in our recent history. Our history has been characterised by disunity, punctuated by selfish leaders who divided the country on tribal, ethnic, religious lines and the like.

On divisions and political lines, the people of Jinja are of a well considered opinion that the political system that prevailed in the past history fuelled disunity for the political parties and had no

constructive difference except the individuals scrambling for leadership. It is only the last seven or eight years, the only years, in which Ugandans, after Independence, have come together with the different political ideologies to take on the big task of nation building under a broad based government. This is the unity in diversity the people of Jinja are proud of, and it is in this spirit, that democracy must be looked at when enshrining it in our constitution.

The people of Jinja commend the 'Odoki commission' for article 9 in the draft constitution which provides for the democratic principles. They wish to assert that they have had the longest spell of peace under the NRM administration; they wish to assert that they have seen that democracy can be there without necessarily having parties; they wish to assert that they have participated in the affairs affecting their lives during these years more than ever before; and they have learnt that elections can take place without people killing each other, without losers being killed or imprisoned or fleeing to exile. (*Applause*) They wish also to assert that there is clear testimony of the proverb that 'the ballot is stronger than the bullet'; and they have tasted the sweetness of participatory democracy. Considering the above, you may believe me or not, it is a fact that there are some Members of our society who do not believe what they see now, there are even some who do not believe what they are for obvious reasons. But these are all fruits of good leadership, a leadership that is determined and committed to put the past to rest and get on with issues of national building. Where do you find such leadership in Africa? (*Applause*) Consequent to the above, the people of Jinja are saying that they want the movement system of government to continue and on the fifth year a referendum be called. They do not attribute to the school of thought that after the five years we go straight into political parties for the reason that, we have to satisfy ourselves beyond any shadow of doubt, whether we really need these parties or not, we should not take it for granted. (*Applause*) They charged this House not to take chances and not to make experiments because we have had enough. A political system can only evolve from the needs of society. Again as His Excellency, the President of this country, put it at the inauguration, he said that the development of parties in Western Europe, was as a result of different economic and class interests. In our case, as Uganda, the situation is highly varied because parties, in the opinion of the people of Jinja, are formed as a style of running of government; and no wonder most people do not even

understand what they are all about, save the parties' leaders alone who see them as a means of ruling not even leading the country. Ninety four (94) per cent of our population is engaged in peasantry farming and their interests are the same. Parties are formulated and, as indeed, were formulated, on grounds of tribe, religious and the like.

That brings me to the principle of checks and balances on the powers of the President and the National Council of State. There is a fear that the President is being given too much power; and another fear that the National Council of State will be duplicating the work of Parliament. But, how can one want to have a President without powers, especially when he has been directly elected by the people, and 'he could be impeached and his impeachment investigated and he is removed from office if the people so decide' as provided for in the draft constitution article 110. The people of Jinja are of the view that the idea of summarily scrapping off the provision providing for the National Council of State cannot work for the reason that one has to know the problem it was answering. There are arguments that a strong Parliamentary opposition is the most correct and most efficient way to provide checks and balances on the powers of the President, and further there is another argument that the President should enjoy the majority support of Members of Parliament and not necessarily National support. On this argument, the people of Jinja gave me instructions to remind this august Assembly assembled here on the 29th day of June, the year of our risen Lord, one thousand nine hundred and ninety four (1994) that, that model of governance has failed us twice for obvious reasons. One; the opposition is not rooted in mass interests. It is a self picking opposition that as soon as one party is declared a winner, the role of the opposition vanishes, and no wonder the opposition joins government in some instances for buttered bread. Alternatively, the losers flee in exile because of harassment, intimidation by the ruling party and threats to their lives. Experience has shown that this type of Parliamentary democracy in our situation is 'democracy of exclusion not of inclusion' and just follows the phenomenon of winner-takes-all. It denies the people the right to participate in the affairs that govern them. The people of Jinja strongly feel that in light of the 94 per cent population majority of the peasant farmers, it is difficult to organize a strong opposition because as I said earlier on, the peasant farmers have no class, they have the same economic interests. The people of Jinja wonder, on what line

the strong opposition will be based. Will it be the type of crop grown say, a strong opposition from the growers of millet and versus growers of maize and matooke? Since such an organization cannot be there, the option will be to resort to tribes, religions and the like which perpetuate disunity.

The Parliamentary democracy talked about is very far from being objective in our situation, for the time being. The people of Jinja need a breathing space as we mature politically. If this type of democracy is brought now, it will just be assumed and assumed democracy, what our history has shown, does not work. Democracy has to evolve and be built over time if it is to be sustained. The people of Jinja hailed the commission for the provision of direct elections of the President as this one, in the first instance, ensures sovereignty of the people and ensures accountability of the President to the people which also facilitates a check on his powers.

Regarding equality, I have expressed the view of the people of Jinja. It is clear in the draft constitution that Ugandans are committed to having a constitution based on principles of equality, and equality has been said to be the only humanizing element that brings the people together without oppression or powerlessness, inferiority or superiority and leaves no room for double standards in morality and judgement.

The provisions of Chapter 4 are endorsed by the people of Jinja, as you know, the Republican Constitution of 1967 denied the Ugandan women's children whose fathers were not Ugandans to become Ugandan citizens among other things. The people of Jinja, further hail the commission for outlawing discrimination basing on sex.

At this point I would like to erase the fears of those who think that if the women are given a right to affirmative action and it continues, it is going to overshadow the men. The people of Jinja are of the opinion that sufficient flexibility has been put in place to prohibit holding this constitution in contempt and in their view it will be able to move with the times without seeming to be destroyed by the times.

Unlike the Republican constitution of 1967 which was highly flexible (this exposed it to contempt and being called a sham) the draft constitution provides for the amendment of the constitution and there is a particular provision to do with amendment of the

right to affirmative action. A bill can be tabled provided two thirds of the Members of Parliament consecrate on the second and third reading and then the district councils rectify the amendment, this amendment can be effected. So, the fears as should go away. It can be removed as and when necessary.

As far as the judiciary is concerned the people of Jinja cherish a credible, qualitative and an independent judiciary, which is accessible, relevant and simple enough to effectively resolve disputes or conflicts in society right from the grass roots. They want a system of adjudication that must be seen to deliver justice to the understanding of the ordinary people. Since the people of Jinja have enjoyed participatory democracy for those years, and they have participated in the affairs that affect them, they do not see why participation in the day to day administration of justice should be an exception for obvious reasons. First of all, they are at the grass roots, they know their localities better, their litigation is not expensive, there are no complicated rules of procedure and technicalities to hinder their quick disposal. The people of Jinja feel that the vesting of judicial powers in the NRC Courts has been great improvement in the administration of justice of cases. Their prayer is that the body concerned intensifies education on how to handle cases more accurately. This is so because there is a misconception that people to try cases should be Lawyers or Magistrates. But not all Magistrates are Lawyers. So, if all Magistrates are not Lawyers, there is no reason why these people who administer justice at the grass root level cannot be educated on how to handle cases. *(Applause)*

There has been clear testimony that justice cannot only be done by adhering to change principles of separation of powers whose applicability, especially in African countries should be with limits in as far as circumstances permit. To achieve a credible, qualitative, and independent judiciary the people of Jinja urge every Ugandan to be of 'quality' because we have had so many accusations that: "the judiciary is corrupt" meaning that Magistrates and the Judges are corrupt. But corruption does not exist in a vacuum, and corruption is two edged as it involves a giver and a receiver. The giver bribes and the receiver solicits, maybe. These accusations come because we are not of 'quality'. For if we were of 'quality', one would not be bribed and one would not allow to give a bribe.

As far as the Judicial Service Commission is

concerned, one of its functions is to advise the President as far as appointments are concerned. The people of Jinja feel that the composition of this commission leaves a lot to be desired, the Chief Justice, Principal Judge and Attorney General in most cases and in most times it is one of these three who are the complainants. And secondly, apart from the Attorney General the other two administrators are heads of the judiciary. It, therefore, goes without saying that the composition of the commission is contrary to the principles of natural justice, equity and good conscience. To ensure that the objective of guaranteeing the independence of the judiciary; to ensure effective maintenance of the rule of law; and to ensure that justice must not only appear to be done but seem to be done, the commission should be independent. That is the opinion of the people of Jinja.

THE VICE CHAIRMAN: Can you, please, wind up.

MRS. MWONDHA: The issue of land in Jinja is crucial as the people feel that land belongs to them. They endorsed the provision which provides for a tenure system to remain in the existence, at the commencement of this constitution. They, however, detest the provision in the land reform decree which makes customary tenants to be tenants at sufferance.

The people of Jinja are in support of Chapter 13 that is of local government and they fully endorse the policy of decentralization with devolution. They feel that, if there is to be any unity for the purpose of paving way to meaningful development and nation building, the form of government conducive should be a unitary one.

The people of Jinja are looking forward for a Law Reform Commission and a Human Rights Commission which will be efficient and will be provided for, they do not wish that these provisions in the draft constitution remain sleeping provisions as it has been before. They have to be facilitated and if possible, as far as human rights are concerned, they should be given powers to prosecute the people who have violated people's rights.

As far as the DPPs powers are concerned, the people of Jinja...

THE VICE CHAIRMAN: You have run out of time.

MRS. MWONDHA: I am begging for just a few minutes. They are saying that if the DPP is given power to withdraw cases arbitrarily, this jeopardises the interests of justice, and they feel that an application has to be put in a competent Court to withdraw a case.

On provisions of traditional leaders the people of Jinja accept the provision as provided in the draft Constitution. They would only like to emphasize that there should be no mixing of culture and politics.

THE VICE CHAIRMAN: Please, thank you very much.

MRS. MWONDHA: Just one minute, Madam Chairman. Last but not least, before I take leave, the people of Jinja gave me instructions to urge you to come in this House with clean hands and clean minds to facilitate a lasting democratic constitution.

THE VICE CHAIRMAN: I think they have. Can we have our last person. I can see we are looking at our watches but by my watch it is not yet 1.00 O'clock so we can have one more person and that is hon. Tirusasira Katongole - Bugabula North.

MR. TIRUSASIRA KATONGOLE (Bugabula North): I congratulate you upon your election to that high Office and the Commissioner for the Constituent Assembly, Mr. Stephen Akabway, for the noble job he did during the election exercise. I would also like to thank Mr. Odoki and his team for their dedication exhibited during the exercise of collecting views from the people of Uganda. I cannot forget to heartily thank the NRM government, without which we would not have been able to come together as citizens of this country, and debate this draft constitution.

You will agree with me that there are so many reasons why countries make constitutions. At this time, I would like to mention just a few. A constitution is made to provide a basis on which the country can be governed. A constitution is made in order to provide a procedure for changing government peacefully and in an orderly manner. A constitution is made so that internal conflicts can be solved peacefully instead of resorting to war. A constitution is made, objectively, to unite people. This is why a good constitution should try to reconcile different views, demands, interests, culture

and traditions within that country. It is in this spirit, that even the views and ideas of the minority should be listened to, and given serious consideration when we are deliberating on this draft constitution. A constitution is also made to accommodate all aspirations of all people of that country, and that is exactly why we are here elected by the people themselves. Lastly, a constitution is made to provide a line of direction in which the country should move.

Having outlined the general principles of making a constitution, specifically, I would like to outline why we need this new constitution in Uganda. We need a constitution because the previous constitutions have failed or failed to provide the country with a strong, lasting and good government. Instead, since Independence, the various governments have been responsible for instability, chaos, destruction and blood shed. At this juncture, I would like to thank the NRM government for the following reasons. One; for having established peace and security. Two; for creating democratic institutions through the RC system. Three; for respecting human dignity. Four; for having tried to ensure social justice which we are now enjoying. Five; for having the vision for National Unity. Finally; advocating for national development.

We are making a new constitution because the 1962 Constitution suffered from the following weaknesses. It was based on the Westminster principles, in which the British interest was to make our country remain in their hands. The Constitution was mainly based on religion rather than being broad based. It had sectarian tendencies aiming at 'divide and rule.' The interests of the Ugandan mass were not considered. Therefore, it was not a representative of the people. Last but not least, the constitution failed to address certain issues that are important for peace, stability, and development. For instance, control of the Armed Forces, all of us are Ugandans and we remember very well that during those days when one became a soldier, he almost became a king.

The 1967 Constitution was hardly debated, it was mainly made by a few people to suit Obote's cliques and as a result fundamental changes on major constitutional issues were made without the knowledge of most Ugandans, such as: the abolition of the Kingdoms; concentration of power in central government from local government; concentration of power in the Presidency - that a President cannot be touched; interference with the citizens' rights to vote, and other violation of human rights; etc. The

subsequent regimes of 1971, 1979, 1985 and even the NRM have operated with no or little consultation of the people, hence the need for a new constitution. There are some of us who, apparently, say that the 1962 constitution is okay, and there are those who say that the 1967 constitution is also okay. Now, what does this mean? This means that the two constitutions are unsatisfactory to one or another section of the population of Uganda. It is in view of this that we establish the political, cultural and economic foundations of this country anew.

The people of Bugabula North, Kamuli district recommend that Swahili be the National language, and English, the official language. This is because Swahili can be spoken by both the elite and the illiterate people in Uganda. They also recommend Swahili because it has a rich vocabulary and it is also widely spoken even outside Uganda. I would like to disagree with some hon. delegates who say that Swahili is spoken by thugs. In my view, I think it depends on who is using it, when and where he is using that language. According to my recollection, Swahili was widely used by the soldiers of Uganda, and because they were undisciplined, we still have that hangover that whoever uses Swahili is a thug.

On citizenship, the people of Bugabula North have requested me to request this august House that a clear and comprehensive provision on citizenship be provided in this constitution because we have had problems on citizenship. Just as hon. Bart Katureebe the other day said that if you do not agree with your fellow Ugandan politically he calls you a Munyarwanda or an Anyanya; and even to a certain extent during our campaigns some of us suffered because we had light skins, they associated us with being Banyarwanda when we have never been at all. I think efforts to trace the child's origin must be put up before accepting a child of not more than seven years of age found in Uganda as it is stipulated and whose parents are not known, as Article 42 section (1) states or else the Bagabula North are saying Uganda is likely to become a dumping ground for the children.

On the issue of Kings, the people of Bugabula North have no quarrel with re-instating those Kings where they were as long as the Kings are not involved in political matters.

The people of Bugabula North are strong supporters of the movement. They have no problem with the

five years extension of NRM. Their reasons are as follows: they feel that if this period is extended, then the people of Uganda will attain political maturity through political seminars. Two; they feel the women, the youth, and some minority groups like the Rwenzururu, and the Batwa should be given time to achieve political recognition which has been lacking in the previous constitutions. Thirdly; they also feel that these political parties, as my colleague has just mentioned, should be given time really to re-organise themselves.

The people of Bugabula North have a problem with the British Law operating in Uganda today; and they have requested me to quote how injustice is, at following the British law: "*A person is presumed innocent until proved guilty.*" The Bagabula are saying that, that one should be reversed to read: "*a person suspected to be a criminal, must prove that he is innocent, otherwise, he will be presumed guilty.*" (Applause) Because, we have cases where somebody has murdered a person and you know he has murdered him but because you have not seen the pang, this person cannot be proved guilty. I think that is injustice.

The concept of decentralization has been properly conceived by the people of Bugabula North and it has been welcomed with full support. Their reasons for accepting it are as follows: They feel effective and efficient administration of human and material resources will have been established. That is to say, the Bagabula will have been given a chance to manage their own affairs. Two; to quickly implement National resolutions. Three; to employ quality managers. Four; to make their own priorities instead of priorities being decided in Kampala and Entebbe. Five; to reduce administrative overhead expenses. Six; effective supervision of civil servants will have been established. Effective monitoring and utilization of resources will be put in place, and even the relationship between politicians and civil servants will improve. And lastly; enhance comparative development among the districts.

The legislature. The people of Bugabula North would like to recommend that if one is elected a Member of Parliament he should not hold the ministerial post; this is because where one person has combined the two he or she is inefficient in one of these organs. This can be justified by the present N.R.C. members who sometimes fail to make a quorum in Parliament because they are on other state

duties. The same people even failed to go back to their electoral areas and that is why some of them could not be elected here.

The issue of land in Kamuli District and especially in Bugabula North is very, very crucial. The Bagabula are saying that land must belong to the people. People in Bugabula North do not agree with Article 276 which reads that *the entire property in and control of all mineral and mineral ores in or upon any land or waters, in any land shall be vested in the government of Uganda*. They do not agree with that one. In the draft constitution we should acknowledge a sense of ownership. If I have a piece of land and I have Mivule trees on that piece of land, and I have minerals on that piece of land, why should I own only the top land to use for agriculture and the wealth is taken by government. So, they are saying, ownership should be meaningful to the people. Wealth on any piece of land which belongs to an individual should be shared equally by the owner of the land and government. That is to say, if some minerals have been discovered on Katongole's land, fifty (50) per cent goes to government and fifty (50) per cent goes to Katongole because government will be involved in excavating the minerals from the ground.

Demarcation of land is done traditionally with the trees called Bilowa, in plural, if it is one tree it is called Ekilowa. We know that my piece of land passes here or ends there and we demarcate our pieces of land by planting these Bilowa. Now the Bagabula are saying that these Bilowa should be recognised by the new constitution so that the poor peasants can also go to the Bank and get a loan to develop their land. (Applause) In other words, the customary land tenure system should be accepted by the constitution and all Banks to enable a poor peasant to develop throughout the country. An alternative to this would be a uniform free hold land tenure system. For those who have already leased their land, the land should be leased once and for all. In other words, land should not be leased periodically, If I have leased my land, why are you telling me to lease it after every 49 years? Why, this is my land. So, the people of Bugabula also do not agree with article 277 section (f) which says the imposition of taxation on land because in Kamuli district especially Bugabula North, we are assessed according to how we are utilizing our land. So, they are saying that if you impose taxation on land, then you will be taxing us twice. So, they are requesting that section (f)

should be erased. Why should we be taxed twice?

The people of Bugabula North would like to support the National Council of State but with the following amendments. The Bagabula are saying that the Chairman of the National Council of State should be an independent person other than the President. This is because one of the functions of the National Council of State is to counsel the President on the exercise of the executive power of the State. Now, if the President is the Chairman of that council, how is he going to counsel himself? That is the argument. The membership should have nothing to do with the legislature and executive, if one of its functions is to liaise between the executive and the Parliament. All in all, the Bagabula are advocating for different composition.

The stability of the state depends on the relationship between the civil society and the state. If the civil society is weak, as in the case of Uganda, and the state is strong then the state will dictate over the civil society and there will always be fighting hence we shall get an unstable Constitution. The only way of making a stable Constitution for our country is to create a strong civil society over the state. This can only be achieved by providing the following provisions in our Constitution:

1. Sovereignty of the people must be supreme;
2. Every able bodied Ugandan should undergo military training so that arms can be raised against some fellows who would like to capture power by force. They are also suggesting that there should be a provision in the Constitution that if such a mad man who wants to grab power by force is killed, whoever will have killed him should not be convicted;
4. There should be a provision in the Constitution that where the above three ways of preventing that mad man have failed then why can't all Ugandans, the citizens of Uganda, go on a sit down strike, say, for instance, doctors do not go to work, teachers do not go to teach, engineers do not go to factories, farmers do not produce food, industrialists, transporters and the whole country will go on a sit down strike and then we see how that mad man can rule the country.

The Bagabula North are suggesting that a National Army should be created by a provision in the Constitution. The Constitution should try as much

as possible to see to it that all districts are represented evenly. Here the Bagabula have got a problem because when we were discussing this point they said that when they had Amin, Amin had all his men around himself. When Obote came it was the same story and, in fact, this time also where they did not expect something to happen, they are saying even now we have started seeing the same thing. So what is wrong with Ugandans? So they are saying a national army can only be created, if we can avoid the President to bring all his men from his area.

The President must be a degree holder from a recognised university. He must be a man of high integrity and sound mind and at the age of forty years. He must be a citizen of Uganda. He must be a person who has never been declared bankrupt. He must be a man with good self income generating activities, that is, he should be involved into gainful employment. The President should not hold the office for more than two terms.

I would like to appeal to hon. Delegates that we have an enormous task ahead of us as entrusted by the entire population of Uganda. The task will only be effectively accomplished if:

1. We make ourselves accessible to the people who sent us here as we deliberate;
2. We can realise that we are accountable to our people;
3. We try, as much as possible, to be, not only trustworthy, but also honest to our people and even to ourselves here in the House;
4. All of us here can advocate for unity; and
5. We deliberate democratically.
6. I appeal to hon. Delegates that we should listen to one another with patience and give respect to each other, where it is due.

Finally, I would like to appeal to the hon. Delegates that we should have love for our country. Without love whatever we are doing here may be a wastage of time. Thank you very much.

THE VICE CHAIRMAN: Thank you very much for your presentation. I think now we can adjourn for lunch and be here in the afternoon at 2.30 p.m. Thank you.

(The Assembly adjourned for lunch and resumed at 2.30 p.m)

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

THE CHAIRMAN: Hon. delegates, when we adjourned for lunch we still had a number of speakers who had indicated willingness to speak, and I now give the Floor to hon. David Mwaka of Nwoya County.

MR. MWAKA (Nwoya County): The people of Nwoya County believe that this is the only forum and time where and when we should be free to talk frankly. Diplomacy, where sugar-coated words are used, will not work here because this is where we can afford to disagree and then agree by consensus and this is a matter of paramount importance. If we write a good Constitution, according to the will of the people, there will be peace in our country, during our life time and for generations to come. If we make a mistake by writing a Constitution just to please a group of people without any due consideration to the will of the majority who are dirt poor, we would have done a disservice to this nation. History will judge me, and everybody here, by the decisions we take here on the various issues that will come before us.

We represent people who have experienced or are experiencing all kinds of suffering in their various localities. Many of them have lost very close relatives or friends; many have lost properties; people who are bitter for different reasons; people who are being marginalised. People led by leaders of different calibre, and some of these leaders are diplomatic in their language and know how to talk to the suffering people. Then there are those who want to portray themselves as being spokesmen or spokeswomen for the government in power, and to please their bosses, utter remarks that make the suffering people even more bitter. These are leaders who are, in fact, over excited by the positions given to them in society; these are leaders who do not care about those many families that go to beg everyday. They themselves are comfortable, they have everything they need for comfort, and because of this they want to continue in the status quo at the expense of the majority who are dirt poor.

Let us build a nation free of ethnic hatred and discrimination. The people of Uganda have suffered too much because of bad leadership and our only

hope is in this new constitution that will stand the test of time. A constitution that this generation and all future generations will respect; a Constitution that will guide this country to prosperity; a Constitution that will bring about true democracy, absolute peace and stability throughout this country. Our new Constitution must ensure that never again shall we have the kind of human prejudice we have witnessed in this country. Yesterday, it was in the Luwero triangle, today it is in Acholi, Lango and Teso. If we do not write a good constitution now, tomorrow the same prejudice might be seen in Ankole, Kigezi, Toro, Bunyoro and may re-occur in Buganda. Our new Constitution must emphasise respect for constitutionalism. Our Constitution should ensure transfer of power by peaceful and democratic means. Formal rules of politics must be adhered to very strictly by everybody or group of people interested in power. Let us not forget that human beings would not live for ever. As leaders we should also remember that when we come to power, we should not begin to play tricks in order to remain in power for life. Leaders, come and go. Our leaders, therefore, should be ready to leave peacefully when their time is up. The will of the people must be respected. Never again should this country have undeclared life Presidents. Never again should this country have a political group dominating the politics of Uganda without the will of the people. There must be power sharing in a multi-party system as opposed to winner-takes-all system. Respect for Constitution is a very important matter. We could write a good Constitution acceptable to all the people of Uganda, but if tomorrow a group of gunmen would overthrow this Constitution and form a government through the barrel of the gun, our efforts would have been wasted.

Let it be enshrined in our next Constitution that never again will an elected government of the Republic of Uganda be overthrown by any group of people, be they politicians or soldiers or any of the armed forces. Let us remove from our active vocabularies, once and for all, this talk of going to the bush, as if it was something to be proud of. What is there to be proud of, if going to the bush means leaving Acholi, Lango, Teso, Buganda, etc. in ruins? All of us, without any exception whatsoever, should respect democratic institutions and the rule of law. Power hungry individuals who have been rejected by the electorate should not use force of arms. (*interjections*) Here we can borrow a leaf from Burundi when the entire population refused to be ruled by a military junta that had toppled a democratically elected government.

Apart from life, the people of Nwoya County say that the most important thing God has given us is the land we live on. God has apportioned all the people of the world land on which we live. It is this land that feeds us all everywhere. In Acholi, people own land according to customary norms. For instance, my father who owned a large piece of land sub-divided it into six parts, and gave each of us a piece according to customary laws of inheritance. I have a piece and I have to use it wisely, because should I decide to sell it off or misuse it in any other way, I cannot go to any of my brothers'. Customary land tenure is important in my society. Every family knows its boundaries, marked by some big trees and hills, a river and so on. Our new Constitution should clearly state that no natives or indigenous people in a particular area will be forced out of their ancestral land by anybody, irrespective of whatever position they hold in society. Foreigners should not at all be allowed to own land in Uganda in freehold. They may lease land for a specific period, and this must only be for industrial purposes; but agricultural land must be left to indigenous Ugandans.

Our new Constitution should be clear on all matters concerning boundaries. Our Constitution should respect our territorial boundaries in order to avoid sparking off confrontation with any of the neighbouring countries. Our new Constitution should also ensure that no future governments will attempt to grab land from an ethnic group to give it to another ethnic group by deliberately interfering with the present ethnic boundaries. The ethnic boundaries should remain as they are today. However, a district whose population has become too large, may, for administrative reasons, be sub-divided into more districts but within that area and without tampering with the existing ethnic boundaries.

Today in Uganda most people do not have title deeds for the land they own. It is mainly because of rampant corruption in Land Offices. Our people must be assisted to get land titles more easily and cheaply. First, each district must have a District Land Board with power to issue land titles in that district. Members of the District Land Board must consist of representatives of counties.

Freehold system is most ideal for rural areas and leasehold system for urban areas. For rural areas, the process of introducing freehold system should be gradual. People need education in order to see the value of having a land title as opposed to the

customary land ownership. Here, I would like to say that the Land Reform Decree of 1975 must be repealed. Public Land Act of 1969 which protects a customary tenant should be reinstated wholly. Any compulsory acquisition of land by the state should be very much restricted. Where this is necessary, the District Council and the District Land Committee or Land Board concerned must first be consulted and must agree that the purpose for which the land is required will benefit the people of that district. The people of the district should have the right to object to acquisition of any of their land by the state if they see little or no value in the undertaking. Under no circumstances should government grab land from the peasants.

Equitable distribution of the National Resources is very important. There are parts of Uganda which have been neglected for too long. These are areas that need more immediate attention. In Nwoya county, children walk long distances to school and health facilities are too far apart. This is because our Leaders have not been fair in distribution of the 'national cake'. These are some of the reasons for dissolution of those in authority and their administration. Discontent breeds disunity and leads to insecurity problems. Let all our leaders remember this, always.

The question of the national language has been hanging in the air since independence. This is, now, the forum that should resolve it once and for all. Let English remain our official language and let us adopt Swahili as our national language. Swahili is a neutral language and it does not belong to any particular tribe in Uganda. It is a language widely spoken in East and Central Africa. We can borrow a leaf from our neighbouring countries where civil servants are expected to pass swahili before being considered for promotion. we can also promote Swahili through other means. The people of Nwoya are opposed to adopting any of the tribal languages as a national language, as this promotes a myth that some tribes in Uganda are superior to others. All tribes in Uganda are equal in all respects despite the size of their various population. As leaders we must always weigh what we say, because every word we utter is carefully analyzed by the listeners. In 1972 the question of a national language came up, that was during Amin's time, and representatives were brought in from the different regions in Uganda to discuss this matter, and I remember one evening when there was a panel discussion on Radio and Television, and one

prominent citizen said: "*I do not know why we should waste time taking about a national language, my mother tongue is the best and should be adopted as the national language of this country.*" This was uttered, not by a tribal leader, but by a prominent citizen. This person was the then Minister of Education of the Republic of Uganda. In other countries -(Interjections)- Thank you very much. Mr. Chairman, for your protection. Yes, this was a statement made by a national leader. That is why our new Constitution must emphasise the need for the code of conduct. This would make leaders of all categories choosy in their words, and will not just get excited and utter anything like one minister who recently went round uttering sectarian remarks without any care of the repercussions. As leaders, we must be cautious of the way we talk. We must weigh everything we say. When the Press has reported your remarks, then you turn around and say you were misquoted or misunderstood, or that you were talking in private capacity, or you were joking. You cannot joke on matters of importance like that.

The people of Nwoya County believe and would like to say that Parliament is the voice of the people. Our new Constitution must state clearly that the parliament is the supreme ruling organ of the land. Therefore, there should be no other body between Parliament and the executive. The decision of the parliament is final and must be acceded to the Executive. There should be no question of having another body to sieve, as it were, what Parliament has decided. Parliament must be independent and not controlled by the President through some dubious body like the National Council of State. Our new Constitution should not have anything like the National Council of State. We consider this as an organ of suppression. These bodies are necessary in a genuine democracy as it only serves to water down and weaken the power of Parliament. If the Executive disagrees, with the legislature that represents the voice of all the people of Uganda, the most honourable thing for them to do is for the entire Executive to resign.

Our national Army must not include non-citizens. Under Amin many Sudanese and Rwandese nationals were recruited. These non-citizens together with some brutal and sectarian soldiers joined in brutalising indigenous Ugandans and plundering this country. Similarly, recently the same Rwandese refugees who were educated on Uganda's tax payers' money were recruited and did a lot of havoc in Acholi, Lango and

Teso and in different parts. Many of them were recruited from Orukinga and Nakivale refugee settlements. They left that part of Uganda in ruins. Instead of expressing appreciation for the hospitality accorded to them by Ugandans they brutalised us, looted our property and left the country without any word of appreciation.

The national Army must be regionally balanced. The British colonial government created problems here by recruiting people from, mainly, one region. Let us change this by making the Army truly national in all respects. We cannot ignore the different tribes in Uganda. By involving them all in the Army, they become more nationalistic in their outlook. I would like to say that we support the decision of the National Resistance Council to establish a new institution to be called the national service. The youth should join the national service where they would be taught military science and various economic activities. They should serve for, at least, one year in the national service. I remember in 1969 this body was created, but of course, it had not come off the ground when the government was overthrown in 1971.

Democracy cannot be postponed; the rights of the people cannot be deferred. People must be free to exercise their democratic rights at all times. The people of Nwoya County say that human rights must be emphasised in our Constitution. Our people must be free to exercise their rights. If the people of Uganda want multiparty democracy, that is the freedom to belong to a party of their own choice, they should not be denied that right. Nobody, or no group of people should begin to deny the people of their rights. Dictatorship all over the world today is in disarray. People all over the world want their rights to elect a government of their own choice. The wind of change is now blowing all over the world and has not skipped Uganda, we cannot ignore it. Let our Constitution state very clearly that Uganda will practice multiparty democracy, and that political party activities will never be banned by anybody in power. It is not true to say that political parties bring chaos. Never. The spirit of competition in society is good for development. It keeps those in power on their toes. I remember on the 11th June 1994, when addressing a large gathering of people at the coronation of Omukama Iguru of Bunyoro, His Excellency, the President clearly stated that the restoration of Kingdoms would not create any form of disunity or instability in Uganda. This is important. It is important to remind ourselves that political parties

cannot bring disunity in the country. Let us stop contradictions. Bad leaders are the ones who create disunity by their sectarian or corrupt activities; uneven distribution of the national resources; favouritism in giving jobs; etc. These are the people who create problems here. This is why a free press is very important. Under no circumstances should government try to muzzle the press. Any government that tries to muzzle the press is corrupt and wants to hide its sins. In a developing country like ours, where there are some very corrupt and irresponsible leaders, a free press can play a very important role by exposing their corrupt and irresponsible activities.

Uganda must have a strict immigration law that must be enforced by the personnel concerned. We are too lax at the moment and it is not the case in the neighbouring countries. I was a refugee in one of them and could not move about without an alien card which I had to renew from time to time. Non-nationals coming here must make their intentions known, and must indicate for how long they would like to stay. Immigration officials must keep such record and follow them up. Otherwise, Uganda will become a haven for international criminals. All refugees entering Uganda must be properly registered and issued with appropriate documents according to the UN conventions. All Ugandans who want to own passports must be free to do so. The process of issuing passports must be made simple so as to eradicate corruption in the process. Every district must have a passport office to speed up the work, but each applicant must be recommended by the local authority in his or her home area to ensure that refugees do not play tricks and obtain Ugandan passport.

The people of Nwoya County support the office of the IGG. At the moment it is ineffective. It should have authority to arrest those government officials who embezzle public funds since it would have collected documentary evidence to prove a case against such officials. Those who embezzle public funds must be prosecuted immediately. Here I support what His Excellency the President has said on a number of occasions that those officials who embezzle government funds must not be bailed out. We always read with shock about public servants who embezzle millions and get away with it because of fear to embarrass bigger thieves in those ministries.

Let it be enshrined in our Constitution that never again should an elected government of the republic

of Uganda be overthrown by anybody or group of people. Let us enshrine it in our Constitution that never again should a national Army be used by leaders to suppress any act of discontent with the administration of the incumbent President. Let it be enshrined in our Constitution that never again should any leader try to rule without the mandate of the people.

Finally, all the people of Nwoya County, just like all the people of Uganda, want peace, stability, justice and development. I hope to give my views in detail on various issues of the Draft Constitution when we start discussing them chapter by chapter. I thank you all for listening.

THE CHAIRMAN: Thank you hon. David Mwaka for your contribution to the debate. I now give the Floor to hon. Onegi Obel of Jonam County.

MR. ONEGI OBEL (Jonam County): I want to thank, first of all, the many delegates who have written to me to congratulate me on my election and also wishing me fruitful contribution for the good of our motherland Uganda. I consider these letters as an honour to the people of Jonam.

We have called for understanding here; I personally think I am a reasonable man and I intend to be reasonable if given reason to be reasonable. A call for unity has been clearly sounded here, I welcome that. On behalf of the people of Jonam I must make it clear that the unity we seek cannot come the way things came in the book of Genesis. The book said, God said 'Let this happen' and this happened. But we are not just going to say 'let there be unity and there is unity.' There must be seriousness about that.

I am going straight to an item of importance and that is the presidency, and I say, on behalf of the people who sent me to agree to the five year term, twice, for the President, if necessary. We agree with the manner of election proposed in the Draft Constitution, but we do not support a President who is going to stand alone as a candidate. This is the wisdom of the people of Jonam - rated for being intelligent because they eat fish. They have passed their judgement from the experiences in Zambia and noted that had Kawunda stood, again, alone, he would still be President of Zambia today; had Banda stood alone under the one party system, he would still be President of Malawi, even on his dying bed. They, therefore, suggest that the President will stand to be elected in

competition with a candidate for that post. One of them gave me a small reference: 'Carl Lewis of America would not have been a world champion if he had to compete against himself'. The word 'election' gives us meaning, and in fact, I told them that I would never myself vote in a situation where the candidate is alone. When unopposed, it is different, because people will have given their full mandate to say we do not want anybody else to stand.

Now, I come down to the proposal of the five years extension. My people wonder about this figure of five; it has never been explained to them - why five years and not two, three or seven. What is the magic behind the figure five? Assuming that the extension is necessary, must it go to the Constitution? Because to them this is an administrative matter, and we are talking about a Constitution that will stand the test of time. Is five years a test of time? That is the question I failed to answer and to receive the answer from hon. Colleagues here. But they also suggest one thing that, maybe, we could go around this matter by asking political parties here for their view, do they agree to the five year extension or not? That is how they could, perhaps, come down to two years, or they may even go to five, considering that they are not ready. I think if they are not ready they will be the first to request for the period of re-organisation. The people of Jonam ask that the parties be consulted - *(Interruption)*.

CAPT. BABU: I am sorry I am disturbing his very nice speech. I wanted him to clarify on the extension he is talking about. Because the extension of the NRM is coming to an end on the 25th of January, 1995; what has been proposed in the Constitution is a model of a Movement which is totally different from NRM system.

MR. ONEGI OBEL: I thank the hon. Member for Kampala Central, perhaps, he did not understand me. I am talking about the five year period which we also look at as an extension of the administration. With good will, I think a compromise could be reached with the political parties.

There is a seemingly clear sign that that the President has got too much power. When I talk about the President, I am not talking about a particular President. The power of the President is too wide; but then, of course, we are not surprised because these are abrogated powers. **They are not given powers.** At home we say, **a lady does not send**

another lady into her granary and then complain that she has taken too much. So, it is the allocating authority that might decide on how much power to give and, therefore, since we have this opportunity now, we can look at this very seriously. But, let me give you some information why I think the power of the President is too much. I looked at this document we are going through and counted that the President is mentioned 173 times. This is in contrast to the figure you find in the American Constitution whose main body mentions the President only 43 times. So, if we are talking about the power of the President we can draw it from my statistics of this simple research which anyone of us can do this evening.

I go to the system that has denied my electorate a right to the cake of this country. The Jonam people are poor. They have seen two things since independence: the bridge across the Nile, which does not belong to them alone, and a senior secondary school built in early 1986. The NRM by the way did not built that. We think the distribution of the cake of this country has been distorted by two major factors: one, there was a time we were giving jobs and services to people who were labelled 'fighting forces'. The Jonam people hate the Army. I am going to come to that, they have never been to the Army in good numbers, so they could not form a fighting force, so they got nothing; and instead to them it looked that this was a very clear way of rewarding people who killed Ugandans. Two, there is the culture of asking what has this community contributed to our coming to power, and therefore, as there was no contribution coming from Jonam, we have got nothing. But you see, neglect promotes resentment; that is obvious even in the family (*Interruption*).

BRIG KYALIGONZA: I would like to inform the hon. delegate holding the Floor now that, actually, the people of Jonam have been equitably supplied with all resources. For instance, in NRM we have got a whole Colonel Kerim, he is an Alur from Jonam, and the speaker was once a governor, in one of the governments, of Bank of Uganda. Thank you very much.

MR. ONEGI OBEL: That is the problem of counting distribution of resources on the basis of one or two jobs, which does not benefit the public. I was saying that 'neglect promotes resentment'. But, unfortunately, this lawful resentment is sometimes given a tag of disloyalty and even treason. The people must complain and I can encourage them to complain, because they have nothing.

Excessive borrowing, that is the debt burden we are talking about. We cannot avoid borrowing, poor as we are; but the people of Jonam wonder whether the practice that was once in place that Parliament approves all external loans is still there. They wonder - because if that was the case there should not be so much borrowing with no results seen. There are no results seen because in economic jargons, the internal rate of return of the borrowed dollar is negative. You borrow the dollar, the dollar does not produce the money or another dollar with which to pay the loan. We resent that, particularly, if we connect it to the degree of corruption that is going on in society uncared for and nothing done about it. It is why we ought to propose that the office of the inspectorate of government should be abolished. Because we consider it an institution with a mere power of intimidation, that has failed to intimidate 'anybody who is somebody'. It is catching clerks, clerical people, but not the big guns.

Conscription to the Army is a point I will go to with a little bit of emotion. I said earlier that we are non-violent. The rate of murder in Jonam County counts to something like one every ten years and, therefore, they consider even killing at the battle front as murder. There is no compromise on that. We do not want anything to do with conscription because we also know and understand that even in advanced countries, even in America where conscription was in practice, it has been stopped, because America does not have any enemy to fight. Israel has got a conscription, that was also understandable, being surrounded by hostile Arab states. But I think should the time come that the peace they are talking about materialises, they also might stop it. We have no enemy, all our wars have been internal wars. In 1971 when Amin wanted to overthrow the UPC government led by Milton Obote he had to borrow soldiers from Sudan, the people who are called Anyanya. In 1979 when we needed to overthrow Amin, we had to borrow the Tanzanian soldiers to come and help us, showing clearly that on our own we did not have the means to cause any revolution. And of course, we know that without the Banyarwanda, who have now gone home, we do not know if we could have succeeded, that is the question only history will tell. We had to borrow outside soldiers because we are non-violent. I will go back a little to the question of distributing resources according to who has done what and forgetting that we are all Ugandans. Back to this idea of fighting forces; there is neglect or departure from morality. Some of these fighting

forces did not measure and were not, therefore, fit to be called fighting forces. One group of fighting forces composed of three guns - a man with three guns emerged as a fighting force. The whole point is that three people or a man with three guns calling himself a fighting force in order to get a job is not to be lame. I am not a politician but a citizen of this country...

THE CHAIRMAN: Order, order. He is entitled to his opinion.

MR. ONEGI OBEL: As I said, I am not a politician but a citizen with children and grandchildren. It is wasteful to go back to the field of politics of hegemony already abandoned in most parts of the world. The issue is not UPC; is not DP; is not CP; or any party that might be formed later, but the issue is one of the morality of the right to differ and still be considered a worthy citizen. What is good for the rest of the world cannot harm us. There is nothing special about us in Uganda, we have not made any discoveries in science that makes us stand out, as if we have special brains. I think let us consider our position and love Uganda and stop this madness, that is if I quarrel with you, I will have quarrelled with all your people and if possible get as many as I can in jail or into their graves. We need a society for which any incoming group of leaders will be able to have or find, at least, one word of kindness for those they are succeeding. Our history has always been that, because of violence, that a new administration comes and talks as if there was no administration before them. That administration did nothing, absolutely nothing as far they are concerned. That is a culture we must try to avoid. If you are talking about giving credit to where it belongs, you must be able to recognise a bit of action taken by the administration - the outgoing administration, even the administration you have overthrown - that something good has happened. The UPC government put across 22 hospitals across the country, but nobody wants to talk about that, as if it is a crime to say so. The bridge I am talking about was put up during that period. This is not to say that the administrations that have passed have not made any mistake. Even this one, this administration, just let us wait after it has come out of power, and then the group that comes will talk as if...

PROF. KABWEGYERE: Point of information, Mr. Chairman. I would like to inform the hon. Member on the Floor that talking from knowledge of

psychology, man is supposed to be the most ungrateful animal. What is good today, what he is enjoying today if tomorrow the situation arises when he needs the same thing, he immediately forgets that he enjoyed a good thing yesterday. So, it is a normal aspect of a human being that he forgets the good and remembers the bad thing.

MR. ONEGI OBEL: Mr. Chairman, I do not know whether that is a compliment to manhood or womanhood...

THE CHAIRMAN: I think he agrees with you.

MR. ONEGI OBEL: I do not agree, and I am saying that a man should say 'thank you very much for what you did, although I have overthrown you. Thank you very much'. A man comes to your place steals something and leaves a note saying thank you very much for cultivating this thing. Well, that is the appreciation I am talking about.

The talk that we are not now ready for multiparty or what and what is not a new thing. We had it before. The colonialists said we were so primitive so backward that we could not govern ourselves and, therefore, we were unfit for independence. We disagreed very violently. In Kenya it was in blood, although here we disagreed but did not take to guns. Now, although we disagreed with the British on that issue, we seem to be approving it now by saying we are not ready for this or that to govern ourselves. Smith told Robert Mugabe to wait for one thousand years before he is able to govern himself decently. Mugabe refused and became President and I do not think that he has failed. In fact, when the colonialists told us to stop agitating for independence, Kwame Nkrumah is quoted to have said: "now, you British, leave us alone to govern or even misgovern ourselves" and so I would say here, if parties are, actually, evil in substance; if they are just bad because the leaders are bad, - and I see here it is provided that no Parliament will pass a law against banning parties - then I see no reason to wait. If we must wait let the people involved agree. But the people of Jonam are waiting for that understanding on that consensus; otherwise, for them they say you do not postpone the right to life, and for that reason the right of association is theirs. I will give the analogy of a baby learning to walk. If you hold that baby who must fall and carry him or her all the time, she will never learn how to walk. So, we too here must learn that the massive strength of democracy across the world has taken its

toll, it has not been easy and let us go through it with the good will that we have now. Let us go through it even if we must fall and rise, but we shall reach there in the name of this country, so, that we have a world decently left behind for the generations yet to come. So that by the time we are about to go each one of us here can say "well I did my part for my grandchildren. Thank you very much, Mr. Chairman.

THE CHAIRMAN: Thank you hon. Onegi Obel for your contribution to the debate. I now give the Floor to hon. Dr. Nakyanzi Veronica of Ntenjeru South.

DR. NAKYANZI (Ntenjeru South): I represent the people of Ntenjeru South and before I make my submissions, I would like to present to you know the background of my people.

Ntenjeru South is an area which is found in Mukono District and characteristically it has people from all walks of life. It is made up of every tribe in Uganda and, in addition, it has various nationalities: the Banyarwanda, the Barundi, Tanzanians, Kenyans and some Zaireans. All these people are significantly represented in this area and the ideas I have, here, are as a result of a consensus by all these people.

The people of Ntenjeru South are principally concerned about four issues. First of all, they are interested in peace, security, better social services and development. Their hope is that this Constitution will be able to give them those four aspirations. As far as peace and security are concerned, they would like to very much thank the NRM Government for what it has achieved so far. Bravo, NRM! The people of Ntenjeru cherish, very much, the present peace and security and they do not want to relinquish it. They, therefore, want the RC system to continue and that the Movement form of governance should continue for another five years. Not only to allow the people mature up politically, but, to let the multiparty activists themselves mature up.

The people of Ntenjeru want this Constitution to be supreme. It should be widely taught in schools and other civic organisations. They further recommend that it should be availed widely and cheaply. This will increase public awareness; as people will know its importance; and will be able to defend it. You cannot defend a right when you do not know that it exists.

I, personally, and the people of Ntenjeru are very happy, and appreciate the positive affirmative action taken by the NRM Government. However, they are trying to warn us, against the issue of gender sensitivity. It may become negative. I am a woman; and a beneficiary of affirmative action; but I should not take it for granted that everywhere, we should have to over emphasize it. It will look like 'a goal keeper, who goes to play football, but every time he realizes someone is going to score, he collapses down and claims there is foul play'. As women we should be able to stand firmly without having to ask for special treatment all the time.

The people of Ntenjeru have always disapproved of over centralization of politics, administration, finance and planning. They argue, and not without reason, that forceful unionization is never nation building. The former Soviet Union is an example of a forceful union, and you all know what happened. The argument that some units are not viable economically, does not hold water. When and how will they ever become viable? Even in this House; you have already heard complaints of some areas being under developed and forgotten. And others suggesting opening up Ministry offices up country. The question is; who is responsible for under developing this country or those areas, and who should develop them? The people of Ntenjeru said that, if the areas are allowed to do their own planning; to deal with their resources; to collect their revenues and distribute it; then this issue of saying, we are forgotten; we are under developed, will not come up. We are confident as evidenced in this House, that all the areas in Uganda are endowed with riches and very big politicians. It has the elites in their midst. So, each of those people will be able to plan, and develop the areas without having to point at the central government, through a more decentralised system, a system which is more regional than the present one. Because with present decentralization, although the power is being taken back to the people, it still lacks the authority and the finances to run the services and development. You cannot plan without finances.

I am under obligation not to agree to article 48, sub sections (a) to (e). We see no justifiable reason as to why somebody who is not eligible to become a Ugandan through all the previous sections who is not a Ugandan by birth, nor eligible to register as a Ugandan, should have the privilege to become a citizen by some irregular provision. Why should that person still be made a Ugandan? We are worried that

in the future we might get some people who should not be Ugandans becoming Ugandans. You all remember what we had here - what happened in the case of Bob Astles and how he eventually denied Ugandan citizenship. All people who are not Ugandans by birth, should be made to register. We should not give Parliament or Cabinet special powers to grant citizenship. Bugerere has so many tribes and all other nationalities are present. Now, these people are saying, those people have stayed with us; the Banyarwanda, the Barundi, Tanzanians and the rest, have been paying tax and have been contributing to the development of the area. And they have been saying, since they have been with us, they have their 'Bibanja' with us, let them be allowed to become Ugandans. However, the issue of saying - taking it for granted that they all become Ugandans automatically, they feel it is wrong. You will force some people to become Ugandans, when they are still looking for their stations. You are aware of what happened recently. We used to take for granted that, all the Banyarwanda are Ugandans. But for the last 30 months they have been fighting to go home. Now, if you say that the Banyarwanda are Ugandans, how will you be able to differentiate between the Banyarwanda who are Rwandese and then, the Banyarwanda who are Ugandans? It is a big question, and what my people are saying is that, either we scrap the provision which says that everybody born in Uganda, or whose parents belong to one of the ethnic tribes in Uganda is a national or else, they remove the tribe Banyarwanda from the second schedule. This is to take caution because the combination of article 41 Clause(a) and the second schedule will mean that, somebody say a woman, who has even never been to Uganda, who is a Rwandese by birth and origin, can easily come here, give birth, and that child will be called a Ugandan when actually, both parents have never been Ugandans. All aliens who want to register to become Ugandans should register through a simplified means, say at Sub county offices, so that we get a starting point.

The people of Ntenjeru feel uneasy about article 27 subsection (1). They are afraid of being driven into jail for failing to educate their children, and yet they cannot afford it. They propose that the sub clause should be 'the state shall promote gradually free compulsory basic education'. This is because it would make sure that they cannot be imprisoned because they have failed to educate the child, and yet at the same time, it will be promoting parental

responsibility; so that the parent is responsible for the children he is producing. They also insist that basic medical services should be free. These are the views of the people of Mukono. And they are saying that the recently introduced cost sharing does not have any effect on service delivery.

The people of Ntenjeru want the power to originate from the people. They want periodically and regularly to elect their president and legislature directly. The issue of extending tenure of office is wrong. In fact, it is tantamount to the abuse of office. Much as people of Ntenjeru South madly love and support the Movement form of Government, they were not amused by the extension in 1989. It almost shook their confidence in the system. The polls will always show the popularity, and so no one should depart from it. They want to have the power to recall their representative and this would encourage accountability. Because one would always have to go back to these people to ask for their mandate.

Another burning issue, is in article 138 and article 155. We are concerned about making a constitution, which should give us security, peace, better social services and development. And also these issues, we believe, revolve around the economy and finances. You will have to agree with me that the discrepancy between political emoluments and civil emoluments contributes somehow to political instability. When so many people are fighting to join politics, and yet those ones there do not want to come out; you will always get conflict. One is trying to stay there by all means, and one is trying to join by all means; I believe it is because of that discrepancy.

I have read several constitutions and there are provisions which are made to put a scale to the remuneration. It is very unfair for someone to determine his own salary. Because it will always result into over remuneration. Hon. Delegates, Ntenjeru South, and hopefully all Ugandans want security. The people want better social services, medical services, education and all that. However, it is not surprising that hospitals and other social services are not functioning. It does not require a genius to tell you why for example, an honourable doctor will miss night duty, or even go so low as to ask for a bribe, when his total monthly salary is just a mere percentage of what a politician gets in a single day's allowance. And yet they have to shop from the same market. Well, from the previous research, I have found out that, part of the problem comes from

different remunerating centres. While our politicians remunerate themselves and they determine their salaries, the public servants do not have that chance. So, you will find, much as politicians will appreciate that 50,000/- shillings a month cannot be enough to a senior public servant, they claim they are not the ones deciding and determining salary. So, this is what we have to say as people of Ntenjeru who are interested in better services. Let the people's representatives be responsible in service delivery in their areas. The only way this can be achieved, is by giving the legislature responsibility of a public servants' remuneration. At least by setting the minimum salary. This will make the legislature answerable to the people. The issue of saying we are under remunerating you because we are aware that the money is not enough will not be there. We cannot give you more because the government has no money. When the next day you turn up and increase your already big remuneration by 300 per cent, it is really unfair. Let the same people remunerating public servants remunerate you, so that, if you have to increase your own remuneration, you have to explain why you have decided not to increase other peoples remuneration, too.

There is a need for a disciplined and educated army. The army should be recruited to be representative of the population size to avoid an army which is going to be polarized and thus referred to as so and so's army. There should be proportionate representation for all areas. It should be say ten thousand people to one army man or four army men, whatever is necessary to represent them. And it should be for all areas, so that no area brings so many people into the army, and another area brings none. When an army is polarized on selection, it is not easy to influence it. As you know, we have tribes; we have to accept the fact that we have tribes and we cannot hide it. So, if we have those tribes, and one tribe is dominating the army, it is very, very easy to manipulate that army so that it keeps the government in power in spite of the government not being given the mandate of the people.

I have heard several attacks on the issue of the mailo land tenure system. Unfortunately very few areas in Uganda have the mailo land system, and probably the people being represented, do not know much about that system. This system perse is not bad as it gives ownership of the land. What we need is to purify it. The people of Ntenjeru, want people to own their land, and this will also help in environmental

protection. What they are differing about is the business of the 'Bibanja' or the customary tenure system. Because, these people are being abused and they want protection. You find somebody, who is a tenant on the land; who pays for the kibanja, does not own the trees which grow on it. It is the land owner who comes, cuts down the trees, tramples the crops and goes away. So, now what is happening is that many people cut those trees when they are young to save themselves the bother of bringing them up and risking damaging their plants. So, the people of Ntenjeru want to have ownership. Those who have the land, let them have it. The freehold system has been highly commended. If we increase the spirit of ownership, it will be able to promote environmental protection.

Concerning Traditional rulers, the people of Ntenjeru align strongly to the Kabaka. All of them incidentally whether Baganda or not. All tribes even the non Ugandans, pay allegiance to him. And they want him to be present in this new constitution. They want their *kabaka* not to be involved in partisan politics. However, the statement that the *kabaka* should not get involved in politics makes them wonder what it exactly means. We have had an incident once, when the *kabaka* advised his subjects to go to register for voting. Is such an utterance political or apolitical? Because he was advising them to register for a political occasion. They want it properly defined, so that in future, their *kabaka* may not be victimized and yet what he is doing to construct the community.

The people of Ntenjeru strongly object - (Interruption)

MR. MULONGO: Point of clarification, Mr. Chairman. The speaker on the Floor says the *Kabaka* should be involved in politics, but not in partisan politics. What kind of political division will he be making. Thank you.

DR. NAKYANZI: Thank you very much for asking for clarification. When you talk of non partisan politics; it means that the *Kabaka* will not advise people whether to vote for this party or the other party. He should neutral. He should be able to tell his people if there is voting, to go to vote or register.

The people of Ntenjeru feel that the death penalty should be...

A HON. DELEGATE: Point of information, Mr. Chairman. I do not think the issue is whether the

Kabaka should not advise on political matters or not. The issue is whether the *kabaka* should have political powers or not. And I think those people are saying that he should not have political powers; but he is free to advise. If he advises his people on matters of political nature, there will be nothing wrong. But we are saying that, he should not have political powers.

DR. NAKYANZI: I think my statement was clear enough. We do not want a *Kabaka* who is to be involved in partisan politics, or politics as such. But it must be clear in the constitution that, if the *Kabaka* advises on such an issue he will not be interpreted as having got involved in politics. Because one cannot avoid politics completely as man is a political animal.

The people of Ntenjeru want the death penalty abolished, and they have their own reasons. As a woman, and we are very many women, we feel that the death penalty mainly punishes the women. As you are aware, very few women ever get the death penalty. Personally I have not heard of one woman who has been sentenced to the death penalty. It is mainly the men. And when they die, you find that, it is the woman who is left a widow, to look after the orphans. And given the background of most of our women, I think it is unfair to punish them for a crime they did not commit.

MR. KUTEESA: Point of information, Mr. Chairman. I would like to inform the hon. Delegate holding the Floor that, whether a husband is sentenced to death, or imprisoned for life, the lady will still be left alone to be responsible for looking after the children. Because when you are in prison, you have no access to your family or ability to assisting them. Secondly, the death sentence continues to be extremely desirable; in that it has proved contrary to figures that are being thrown around that it is a deterrent. And also, you must take into account, that your husband is being sentenced to death for having killed another man, whose family he has left family unattended. Thank you.

DR. NAKYANZI: I find it disturbing that, my informer is trying to ignore statistics. Statistics show that the death penalty has never been a deterrent. And secondly, whereas when your husband is in prison, you do not communicate with him frequently, but you have visiting rights; and at least you have that moral support. Two crimes don't constitute a right. In Kuteesa's case he is proposing the creation of two

sets of widows and orphans instead of one. I disagree with him. It is different when one is completely dead and gone.

The people of Ntenjeru South, first of all, recommended - Protect me, Mr. Chairman - (*Interruption*)-they recommended that the Movement form of Government should continue for another five years. However, they urge that, when time comes for parties, those parties should be properly formulated. It is quite unfair for someone to belong to a party when you do not even know its objectives.

Secondly, the case whereby the party stands as a party and voted as a party, then its president becomes the president of the country is unfair. They feel that, if we have to go to multipartities, any presidential candidate, should first stand on their individual merit, so that he can be voted on. After wards, we can vote in our constituencies. They observed that it is possible for a voter - do not be offended, please - to support the UPC but not to like Obote as president, and it is possible to be a DP, when I do not want the chairman of that party to be the future president. So, one should be given that chance by allowing different presidential and parliamentary elections, not as practised in 1980.

I feel that Article 96 should be modified, so that, parties are free to disseminate information for us to understand them. When we postpone multipartities, and we think of a referendum after 5 years; people will not be any better informed. How will we ever be judged? How will we be able to judge that we are mature politically, when nobody is informing us? All the information I have is probably trying to make the Movement appear like angel. We need these parties also to come up and explain to us what they did wrong and, maybe, try to clear themselves so that we know where they stand.

Article no. 97, Clause no. 12, is unfair. That is the article banning political parties from getting financial assistance from non-Ugandans. Since we are encouraging investment, and since a party in government can actually get financial assistance from outside, then all parties, should be free to get financial assistance from where they feel like. If we make it illegal, it will, definitely, be smuggled in behind our backs. With those points I beg to stop here, and then I will continue my deliberations in due course. Thank you very much fellow delegates.

THE CHAIRMAN: I thank Dr. Nakyanzi for her contribution to our debate. Our today's programme indicates that we have come to the last speaker of the day. If there is another delegate who is willing, and whose notes are ready, I think we shall give him a chance before we close.

PROF. KABWEGYERE: (Igara West): Although I am not ready as I should have been but I would like to use this time. I am sure when I say that Members present know the importance of why we are here, I am saying the obvious. We are here, at a point in history, to make a constitution for Uganda. We are here to make a constitution where none has been done before. We are here to provide the contents of the constitution. A constitution is not a book, a constitution is not just words in that book; a constitution is contents. A constitution is values; is beliefs which people respect, which people live according to. We are here, therefore, to provide the contents of that constitution. So that, 2,000 years from now, people will say: what did A say; what did B say; in regard to article 10, article 20, so that they can interpret the mood of the day that led to this constitution. Therefore, we are really, being observed by history. Those yet to be born are our judges. And from that point of view, I stand here to give my views to be judged in that category.

Why do we need a constitution? First of all, before I say that, we know what a constitution is; and I do not want to repeat it. Why do we need a constitution at this point in time?

Why was it felt necessary that we should have a constitution? I think, it has dawned on us, that there are a number of things we want to consider seriously. We are Ugandans, however we are born. Whether big or small; tall or short; we are all Ugandans. I think we need, therefore, to recognise Ugandans first before we can have a law to guide their behaviour regarding their government. We need to recognise ourselves, individually and collectively as Ugandans; and as Ugandans who must agree on what is good and bad for all of us. I want at the end of the day, to feel sure that we have come out with something that is good for hon. Adoko Nekyon, good for Francis Bantariza, and for their future and for the future generations irrespective of where they come from.

Our sitting here has so far indicated that we breathe the same air, that we break off for lunch together etc. And I think this has brought us together than ever before. You may have been in Parliament, gatherings,

conferences, etc., but this Constituent Assembly, has brought us together as delegates from different corners of Uganda with one purpose. That purpose is to have a constitution for Uganda. And I feel that this moment in history is a very, very important moment; and therefore, the spirit of working together must dominate us. A sense of unity must underlie our thinking and our talking about the constitution. The unity of purpose. A search for unanimity; a search for consensus. What is good for Kabwegyere must be good for all of us. If it is not good, let us all agree and say it is not good.

Therefore, we want to put emphasis on what one may call LCM - lowest common multiple. The lowest common multiple - to go back to our elementary mathematics - is unity; is peace; is stability. These must be our LCM. These must be the bottom line. On the other hand, we might talk also of the highest common factors - these are the human rights. These human rights do not select who is a woman, who is a man; who is so and so. These are the highest factors that protect our dignity.

Therefore, I would like the Hon. Assembly to turn their eyes to the objective of this constitution as announced or as written out on page 97 of the report of the Uganda Constitutional Commission, Paragraph 5.72 says 'on the basis of people's views and our discussion on this section, we conclude that the new constitution should pursue the following objectives: When you look at them they establish a firm basis for peace and stability... -(Inaudible)- of the people. I want to say much more on this question of Consensus-politics as the best constitution making. Those of us who are talking about political parties, so on and so forth, please; do we have the consensus on which we divide on political parties? The free and democratic system of government. Decentralised system of government based on popular participation. Regular, free and fair elections, public Accountability of leaders, fostering regional African and International cooperation. These are very noble objectives of a constitution based on the people's views and ascertained by the constitutional commission. We, delegates, as we were voted in must consider all these as they are the contents of the constitution.

Now, I feel that, the following chapters of this draft constitution make the basis, the entire basis of our major debate to be a general debate. Chapter 1, if you have your draft constitution, fellow delegates. The constitution. That is the purpose of our being here, Chapter 3, says: 'National Objective and Directive

Principles of State Policy form the contents' Chapter 4, which many members have talked about. Citizenship. Because without a citizen, we have no constitution, we have no country. That is a fact. These four chapters to me, are the mother chapters of the whole draft constitution and indeed of the final document we shall produce. Because when you are talking of the constitution you are talking of an operational earthquake of what a citizen or how citizen should govern himself. So, in that point of view, I feel those four chapters should guide us more fundamentally in the general debate. Because as we think of each of the Articles, we are thinking about the content, the guiding principles that will foster the unity, the stability, the peace we are hoping for to be guided and guaranteed by the constitution.

If you look at the whole concept of the political system, and many of us here have been concerned about it, our people ask questions about what political system we want to build. Some of us feel that when you have political parties, you have solved the whole problem of political system. The concept of political system, talking as a social scientist, exists as long as you have conflicts to resolve, and as long as you have society. Therefore, we have had societies before the emergence of political parties, and they had political systems. And even here in Africa, before the imposition of colonialism, we had political systems. The political system of their rule, the political system of the Baganda. They did not have political parties; they were resolving conflict. So, we are talking of a working system of value guiding the governance of society. That is what the political system is about. So, any obstruction -(inaudible)- that focuses only on political parties and thinks that all questions of a political system have been resolved is to underestimate the problem man has faced for millions of years.

The political system that we want to build in this country is based in my opinion from the general objectives as outlined. The first one is the people. The people are the centre of any political system. If it is monarchy, the monarchy cannot do it alone, they have to work with the people. Some times, I even wonder, whether people who talk about monarchy, give themselves enough time to see the relationship that a monarch has with the people beyond simply being their leader. There is relationship. There must be the social contract. What is this that the ordinary man derives from being subject to a king. And I think this is a time in our

history, that this question is relevant. Because worldwide, we are talking of democracy. And democracy is the government by the people, it is a government got from the sovereignty of the people. So, if we are talking about the sovereignty of the people, to what extent is the political system we are building going to guarantee this and to what extent are political parties in their mushrooming, numbers like -(inaudible)- in Zaire, like in Tanzania, Kenya are going to guarantee the sovereignty of the people? In Uganda, we have had a history of parties, and we can know by ourselves to what extent they guarantee the sovereignty of the people. If they did not, let us ask ourselves. Why - like hon. Onegi Obel who said that it is bad leaders - Why should bad leaders be so bad and succeed and do it for so long? Like Amin ruled for 8 years. I do not want to mention the others, because sometimes, people get a bit nervous.

Now, we must have a constitution that guarantees the sovereignty of the people, irrespective of whether we are alive today or we are dead. So, that the people can engage in their governance. Therefore, these political parties in the past, hampered the people's governance and I appreciate the people's governance. To what extent did UPC and DP guarantee the people's sovereignty? That is a question Members of this House must ask ourselves. Secondly, I think democracy is no longer something to be thought about as that given by leaders. Democracy, now, has been a necessary condition or a healthy existence in society. Democracy is not a policy of leaders. Leaders respond to democratic values. We have had leaders and the question is to what extent did they behave, or act? Did political parties act as democratic parties? The reason why, in fact, we have this need to put a condition that parties must be political parties with certain qualities was because of the first experience, that some parties -(inaudible). Parties are not simply a guarantee of democracy. Democracy is much more than the availability of the present political parties.

The third pillar is peace and stability. Peace is not for leaders. We are not talking of peace for leaders. We are talking of peace for citizens of a country. We lacked peace when parties were in progress; we have lacked peace for a long time. One of the reasons why I gave information to my hon. Friend Onegi Obel, about man being forgetful and ungrateful, was because here we are repeating in this manner, enjoying the fruits of Uganda, which should be everything that all of us work for. But there was a time, when we

could not be able to do so. There was a time when I would travel from Katalamwa to Kampala and I would have seen not less than five, ten bodies. We have almost forgotten this. We are taking it for granted, and yet, this is not a simple affair. In the North, my only neighbour here, Cecilia Ogwal staying in the north, yes there is *-(Interruption)-*

THE CHAIRMAN: She is hon. Cecilia Ogwal. Would you like to refer to her properly please?

PROF. KABWEGYERE: Hon. Cecilia Ogwal.

MR. KOMAKEC: I wonder whether the speaker knows who was responsible for these deaths?

PROF. KABWEGYERE: I think that will take me from the point I am making. I am in the process of finishing a book on 'Birth pangs of democracy in Uganda'. I hope when it comes our hon. Komakec will have a look at it.

I was saying peace and stability are necessary conditions and they are not a gift. It is not to say, like the question of clarification, who was responsible? Somebody was responsible, of course. I might not even know his name. But I found dead bodies along the road; and people were killed. That was not a kind of stability; not a kind of peace. The reason why we need peace and stability is, because, in society man needs these qualities for his reproduction, for his development.

I have observed chicken. Garden chicken. A layer cannot lay an egg without a corner in which it can hide.

PROF. KANYEIHAMBA: Point of clarification, Mr. Chairman. I am unhappy that this question was asked, 'who was responsible for these deaths?' and was left in the air, whereas we said we should be very frank and come out, with all the answers I can make for you. I want to provide answers if people are afraid. These people were killed by Ugandans, Sir. It was Ugandans who were responsible for these deaths.

PROF. KABWEGYERE: Thank you very much for that addition.

THE CHAIRMAN: Hon. Kabwegyere, will you take the information?

PROF. SENTEZA KAJUBI: Point of information, Mr. Chairman. I have read in the press that, last Saturday, a soldier by the name of Komakech, killed 13 people.

THE CHAIRMAN: That information does not relate to historical perspective.

PROF. KABWEGYERE: Thank you, Mr. Chairman *-(interruption)-*

A HON. DELEGATE: Point of order. Between the 28th and 30th March, 22,000 homes in Minakulu sub county in my constituency were ruined down, and people were all misplaced. Six schools were burnt down.

THE CHAIRMAN: Which year?

A HON. DELEGATE: Just when we were going for elections. Today believe, we still do not have total peace.

THE CHAIRMAN: Now, that is an argument, rather than information. The point is, could Prof. Kabwegyere tell us, the time perspective he is referring to, when he saw dead bodies between Katalamwa and whatever place?

PROF. KABWEGYERE: Yes, I am talking of 1984, 1985. And, people who are in here, who had never seen anything like that in Kampala and were around that time; then, I am deceived. My eyes saw wrong things.

THE CHAIRMAN: No, the point is that the information which was given by a few hon. Members in terms of time perspective was relevant.

PROF. KABWEGYERE: I have not said *-(Interruption)*

MR. MUSHEMEZA: Is it in order, Mr. Chairman, for the hon. Delegate Prof. Senteza Kajubi to imply that hon. delegate Komakec, is related to the soldier Komekec who killed people? Thank you, Mr. Chairman.

THE CHAIRMAN: If he did indicate that there was a relationship, it would be out of order. I understood him as only making a reference to a name. I have already ruled in terms of time perspective, the information was not correct.

A HON. DELEGATE: Point of clarification, Mr. Chairman. Since we have all said, we should be honest to each other and open to each other, there is a fear in Prof. Kajubi's statement, and I would like him to clarify, because of some hon. Delegate in this House by the name Komakec. So, what we would like to know is what he knows more about that information.

THE CHAIRMAN: I do not know if that is how he understood the information.

MR. KOMAKEC: Thank you very much for giving me opportunity. I would rather get up, so that people can see the Komakec that is being spoken about, because the name came immediately, after I had asked it as a question of clarification. I wanted the information, but I had no connection with the soldier Komakec who is responsible to have may be, committed some crime. Of all, I know is that, the name is quite different from mine. The late, I understand, spells his with KECH, and I do not like my name mentioned like that. Secondly, I understand that the late Richard comes from West Nile, and I come from Kitgum. There is no relationship whatsoever. It is just a coincidence in the sound of the name, but the names are not the same. Thank you.

THE CHAIRMAN: With that clarification from hon. Komakec, I do not think we should waste more time on this.

PROF. KABWEGYERE: Thank you. Just only a passing remark by way of comment. I think, my friend's thoughts are being interfered with.

A HON. DELEGATE: The point is this. If that Komakech was from West Nile, we spell the name with KU; not KO. Thank you.

THE CHAIRMAN: I do not think it is a question of whether being in order or otherwise, if it is a matter of fact, then the hon. Member is right to make a reference to the origin. *(Interruption)* Is it on a point of order? But that matter has been closed.

MR. BIDANDI SSALI: Point of information, Mr. Chairman. In the spirit of the information given by one of the Members on the Floor, I would like to give an information that, in 1985, my elder brother was shot dead by a soldier; simply because my brother, who was, after all blind, refused the soldier to take

chicken. And the name of the soldier was Mukasa Kajubi. This happened - *(Laughter)* - I am completing the information; in case anybody thinks it is a fabrication. It happened in 1985; at Kyabadaza my home, and the grave of my brother is there. By that time, I could not manage to go for the funeral. Thank you.

PROF. KABWEGYERE: As I said at the beginning, I feel the moment is right for us to be open to ourselves, and for us to come to a consensus and have a common value that can work for our society. All these information given did arise from the past that I had said, that killing 1985 was worse than the killing in 1986 and now. And for this I believe the information about Komakech - he was certainly mad; and I do not think mad men are supposed to be used as characteristic of any group. In any case, I was talking about peace and stability.

Anybody, anyone who interferes with peace and stability, interferes with the working of society, I do not care whether it was done; it has been done; or it is being done. It does not matter. We are talking of a society for all of us, a stability for all of us. I had reached a point, where I was talking of chicken; a layer. That it needs a corner, a dark corner where it will lay an egg. If you do not put dark corners for the chickens, they will not lay the eggs. Now, if chickens, very, very elementary animals, do need that; how about ourselves here who are sublime of creation?

MR. BYAKIKA: Point of information, Mr. Chairman. I want to inform hon. Kabwegyere, that in a cage hatchery system, where we keep layers, there is no room for looking for a corner.

PROF. KABWEGYERE: Development is the basis of society. From the primitive state, when man extracted from nature, from the days of Adam and Eve, as we read in the Bible; to the present stage when Man has successfully controlled the forces of nature to his advantage, man has gone through stages of development.

I feel that a political system must guarantee development of society. The development of society where the people begin to appreciate their environment more; where they begin to convert the environment to their values and use it for their enjoyment. This often is ignored for purely economic development, material development. But the mind needs to be

developed as well, of course, as the material, and the two go hand in hand. Now, in our first experience, whether we were the dominant leaders, whether we enjoyed the rule that took place; social and economic development in Uganda were hampered. I am personated when people say oh, yes. Hospitals were built to enough. One can even say, now, we have built roads. But so what? We are still a poor country. We are still begging. So, where are we? We seem to be satisfied so little - so marginal, so long as it is ours, so long as we did it, even if it is nothing, we are clapping for ourselves. This is where I want us to get the contents of those four pillars: the people, democracy, peace and stability and development.

PROF. NABUDERE: Point of order, Mr. Chairman. Is the hon. Member in order to make a running comment on what other people have said? Instead of telling what his constituency wants us to do in this assembly?

THE CHAIRMAN: We are having a general debate, so he is in order to comment on what is already said and on what is to be said.

PROF. KABWEGYERE: I thank the hon - *(interruption)*

A HON. DELEGATE: I note the observation made by professor, that development is not substantial, and we were still beggars. I would like to remind him that, the development we had was destroyed by the wars of the bush. Thank you.

PROF. KABWEGYERE: All that is recorded in the analyses of history, so I can go on. Who are these people? We have had an experience before, when there was an effort to determine who is the common man. Because I think, even as we talk now, hon. Nabudere is saying, I should talk on behalf of the people who sent me. Yes, but who are these people. When we talk of the people, the sovereignty of the people. Most often the people have been those in power. The votes that we all got, the thousand registered voters in Igara West. Those are the ones who suffer when the situation arises. Many of us, here, do run away. Many of those have nowhere to run, or if they run, they run into camps, in refugee camps in Sudan, in Zaire and so on. Those are the people and these are the people today who are clamouring for democracy, for sovereignty and for control of their own destiny. These are the people who in the RC system now are making decisions

without asking what Kabwegyere is doing in Kampala but solving their problems. These are the people whose sovereignty must be guaranteed by the constitution. I want to inform my hon. Friend Dan Nabudere that these are the people I am representing.

THE CHAIRMAN: He is hon. Nabudere please.

PROF. KABWEGYERE: Yes, I said so, Sir, hon. Nabudere. Now democracy as a pillar, what is it? Can you have democracy without democrats? How many in Uganda can stand to be judged and say they will die for democracy or have died for democracy? Democracy is not a theory, democracy is values. There must be respect of other people. There must be an acceptance that the people make a choice and the choice is respected. I sometimes wonder if the votes are stolen by the returning officer and one who is supposed to be declared a winner is defeated - that is supposed to be democracy because there is an election. We must establish the correct value to work for democracy. We must establish the correct values, the peace values, the stability values, development values...

MR. MOSES WAGIRA: *Point of clarification*, Mr. Chairman. I would like to seek a clarification from hon. Prof. Kabwegyere. The point is laboured in this way, that he has, said something about sovereignty of the people and respecting other views and not thinking, that only through political parties is it possible for people to exercise their sovereignty. I would like on this point to reckon that hon. Prof. Kabwegyere could have been somehow directly or indirectly in the machinery of making the provision for the composition of this constituent Assembly. If so, and we believe that other views should also be respected, how come that people, political interest groups like parties are represented here while people who do not believe in political parties as such were not represented here as an interest group? Two places were given to parties and no places were given to people who do not believe in political parties as a form of democracy. Thank you.

PROF. KABWEGYERE: I was trying to translate each of these pillar values into the actual meaning on ground and how these very grounds must guide us in our day to day life. So, I was saying how could one produce democracy when he or she is not a democrat. Is it possible that a person does not respect democratic values; that a party does not respect democracy for it to be an agent of democracy? Because the reason

why democracy has not been in this country is not because there were no parties but because democratic values were not there. This is the whole point and I think we must build these values in our day to day affairs.

I look at this concept of traditional leaders, as has already been mentioned, I think by several people from Bushenyi District. Bushenyi is very republican and the people of Igara West want no traditional leaders. The ones who want traditional leaders can go ahead and have them but it should be very clear that monarchy or a monarch should not be confused with culture as if culture is totally monarchy. Monarchy is one element of culture and not the most indispensable part of culture. You can have and we do have societies which have no monarchs and are viable and we know that there are societies where monarchs are no longer existing. So, the issue of a monarch should be seen in its own historic-time. France had a monarchy and it was abolished but we still have France. Equally, there was a monarch in Igara and there is no more monarch and so on. So it should not be taken as if to say - especially Delegates from Central Province, Buganda, who seem to be saying that the culture of Buganda is simply monarchy or the *Kabaka*. You can actually have Buganda viably advancing and developed without a monarch. And this can be a stage later on, it does need not to be forced but monarchies will disappear whether we like it or not. Uganda is too small for a federal system. I have read the article in the newspaper today in the New Vision and you look at the proposed states which are artificial and if we are talking of freedom, if we are talking of democracy, if we are talking of sovereignty of the people, if there is going to be federalism, let us again go back to the people. The people sent us here and I think the majority of us are saying 'federalism for Uganda out' and we are saying the majority I think, are saying: 'monarchy, be where you are, let those who want it have it' but then it should not be an imposition. Uganda needs a new constitution Uganda needs a commonality of valuing needs to emphasise what we all need and what we all must have for our reproduction, for our survival so that nobody should feel left out. Our constitution must be that document, must be that content and I fully subscribe to the historic effort that was made to produce these conditions that we can now talk and freely exchange views and hopefully build the values that Uganda needs so much that we never repeat the mistakes of the past. I thank you.

THE CHAIRMAN: Thank you Prof. Kabwegyere - Member for Igara West for your contribution to the debate. As I did indicate Prof. Kabwegyere was the last speaker on our list today and so with this, I adjourn the Assembly to 9.30 am tomorrow morning.

(The Assembly rose and adjourned until Thursday, the 30th of June 1994 at 9.30 am)