



THE REPUBLIC OF UGANDA

PROCEEDINGS
OF
THE CONSTITUENT ASSEMBLY

OFFICIAL REPORT

CONTENTS

THURSDAY, 8TH SEPTEMBER 1994

MOTION:-
Consideration of the Draft Constitution of the Republic of Uganda [Pg 1974]

Price: Shs. 2,060

Thursday, 8th September, 1994

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

P R A Y E R S

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

The Assembly was called to order

THE CHAIRMAN: We have no Communication from the Chair. Proceed to the next item please.

REPORT FROM THE LEGAL AND DRAFTING COMMITTEE

THE CHAIRMAN: I am giving the Floor to the Chairman of the Legal and Drafting Committee to report.

PROF. KANYEIHAMBA: Thank you, Mr. Chairman. I apologise for my voice. I gather that this is a sign that I am getting better from my flu. Mr. Chairman, I beg to report that the Legal and Drafting Committee sat and considered the various amendments submitted by Distinguished Delegates and has come up, this morning, with a list of 15 proposed amendments to be moved by various people. I believe that the list has been circulated among the Hon. Delegates. So, I need not read them but Mr. Chairman, I am compelled to report on at least three of them so that the House is guided.

Whereas, in all other proposed amendments the Legal and Drafting Committee was happy that these should be brought here for debate, there were three in which the Legal and Drafting Committee advised very strongly that the proposers should not bring these amendments here, if only because they were already covered by other laws. These were - if you have the report - the first one, the proposer insisted that he will bring his amendment here, is Amendment No. 9 on Page 3. This Delegate insisted on his right to bring that Amendment, notwithstanding that the Committee had advised very strongly against it. The other one is on Page 4, Mr. Chairman - Proposed Amendment NO. 14 which deals with the right to terminate the life of the unborn child. Again Sir, the Legal and Drafting advised against that Amendment having explained very fully the circumstances why it was rejected but the hon. Members moving

insisted that they would bring it to the Plenary Session. The last one Sir, is on Page 5 - Proposed Amendment NO. 15. Then again Sir, the Legal and Drafting Committee advised the Movers that this is a matter which is already covered by law and it was unsuitable to be included in the Constitution. Nevertheless, the Movers insisted that we bring it here for discussion. I thank you Sir.

On the other matters which were referred to the Legal and Drafting Committee, there has been a lot of research which is being undertaken and although we have agreed on principle Sir, we have not yet agreed on the wording. I refer to the General Derogatory Clause which we all agreed on in principle and on the provision regarding double jeopardy of persons who have been tried and convicted and I think the third one was on - I cannot recall what it was but there was another matter which was referred to us. I think, to relate to bail - bailable offenses and also the period for which any suspect should stay in remand without trial. That again was complicated by the recent Amendments in the Law which transferred some of the powers of the High Court to the Chief Magistrate's Court. So, again the Technical Committee is carrying out research to see how we can word that so that it is agreeable to everyone. Thank you Sir.

THE CHAIRMAN: Thank you for your report. It would appear, therefore, from that report that we will not be in a position to handle the items that we had referred to the Legal and Drafting Committee under Article 53, 57 and 58 - if I am correct. Yes, Hon. Ben Wacha.

MR. WACHA: Mr. Chairman, I just wanted to bring to the attention of our Chairman - it might have escaped this attention that we dealt with 57 57, Mr. Chairman, was just a matter of drafting really and the new draft was presented to us yesterday by the Legal and Drafting Committee and we agreed that it should read as follows: 57 (1) "No person shall be subjected to: a) unlawful search of the person or property of that person or; b) unlawful entry by others of the premises of that Person." If you recollect, Mr. Chairman, we had asked that this matter be stood over because we found in the Committee that "search" and "entry" were confused in the original Draft and we wanted it to be spelt out clearly and I think this one brings out the issues clearly, Mr. Chairman. Thank you.

THE CHAIRMAN: Unfortunately, the text was not circulated. Yes, Hon. Ben Wacha.

MR. WACHA: It must have been an oversight Mr. Chairman, because we did look at it yesterday and we passed it in our Committee and we thought we would report it accordingly.

THE CHAIRMAN: But we had approved the other provisions of 57. We did not have a problem with them. Did we?

MR. WACHA: We did not have a problem for discussion but we had a problem about the Draft.

THE CHAIRMAN: 57 (1) and (2) and (3). If we adopted the wording of (1), we can go on to pronounce ourselves on that Article. Could you read it out again Hon. Ben Wacha so that Members internalise it and we make a decision.

MR. WACHA: The new 57 (1) should read as follows: *"No person shall be subjected to: a) unlawful search of the person or property of that person or, b) unlawful entry by others of the premises of that person"*.

THE CHAIRMAN: That is the formulation from the Legal and Drafting Committee. We had given them a job to rewrite because the wording as it sounds was not satisfactory and Hon. Rwabiita, I think you were one of those who did raise this issue. Do you have any complaints?

MR. WACHA: Maybe before you raise it, let me give an information. Mr. Chairman, the Committee also discussed the proposal which had been brought by Hon. Rwabiita to the effect that any search which was to be made upon the premises of a person should be in the presence of some administrator and we considered this and came to the conclusion that there actually does exist laws which spell out the manners in which searches should be carried out. So, it would not be necessary to include it in the Constitution.

THE CHAIRMAN: Do you Hon. Rwabiita still want to - in view of that clarification?

MR. RWABITA: Mr. Chairman, I am not happy about the decision of the Committee because these are facts of life. The things we have experienced in the past and usually it happens that even the official people who come to do the search, some of them steal

the property of the owners of that house or other property. But if it would be indicated and specified that when there is a search, especially when it is lawful, there should be some witnesses, i.e. local authorities. For example, in our case now, we have RCs - the Chairman RC I should be around to know that this search is official and it is done properly but in many cases these people who come to do research, they steal things. They can even put dangerous weapons in that man's house in order to victimise him and these things have happened Mr. Chairman.

THE CHAIRMAN: But Hon. Rwabiita, the Deputy Chairman said that that matter was visited and they came to the conclusion that this is only a Constitutional provision relating to permitting searches to take place but the details as to how and who should do so are subject of other pieces of legislation. Should we include those in the Constitution as to who and how the searches should take place? *(Laughter)* - I think we do appreciate your concern but those - Hon. Wanendeya.

MR. WANENDEYA: Thank you very much Mr. Chairman. Mr. Chairman, I just want to reinforce the point of Hon. Rwabiita that, even if there were subsidiary legislation, Mr. Chairman, it is imperative that the Constitution should be interpreted in Local languages and therefore, to an ordinary Ugandan, if it is done, it may not be necessary for him to go to lawyers and look the particular provision in the law. Therefore, Mr. Chairman, with the indulgence of Delegates, these kind of things should be specified in the Constitution so that it makes it easy for our people, without spending a lot of money on going to lawyers in order to interpret for them and look up this and that law so as to extract money and especially at the present time, most of our people do not have money. So, therefore, Mr. Chairman, I would request that the Legal and Drafting Committee should consider that as an important point to be looked into rather than saying that it is covered somewhere in substantive legislation. I thank you Mr. Chairman.

MR. BANTARIZA (Buhweju County): I was on Clause (2) of Article 57. *"Interference with private correspondences through the Post Office"*. In the past, some letters were being opened and even a stamp indicated on the letters and telephone being tapped. I wondered how that can be catered for, because here in the Draft Constitution, it is not explained. It is not good enough.

THE CHAIRMAN: I think really, while we do understand sentiments of Members - this is a Constitutional provision from which other pieces of legislation will flow. In other words, we have to make two categories - thieves who open letters to steal whatever there is and those who, for other reasons access people's correspondence. Now, the Constitutional Provision is saying that is not lawful, unless there are other things in terms of the qualifications which are given there. Do you still want to make a comment on that? Member for Bunyaruguru - is it in your capacity as a Munyaruguru or Member of the Legal and Drafting Committee?

MR. KATUREEBE (Bunyaruguru County): Thank you Mr. Chairman. This is in my capacity as a Member of the Legal and Drafting Committee because Hon. Bantariza did consult me this morning on that and I did explain to him that the present Draft which is talking of correspondence is wide enough instead of limiting it to correspondence through the Post Office, because whether it is DHL or Speed Delivery, it is correspondence and it is protected. As to communication - Communication covers even by telephone or by what - So, I thought he had taken my advice that the present Draft, more than amply covers his concerns instead of restricting as he wants to do.

THE CHAIRMAN: Now, I think Hon. Delegates, we were mainly concerned with the rewriting of Clause (1) and the fears, particularly those of the person who raised them, have been answered. I can see a persistent request from Hon. Bateganya. You would like to make some new discovery on this point?

MR. BATEGANYA (Bukooli Central): Thank you Mr. Chairman. We wanted to bring in the element of search of the same gender and we had suggested that where search of the person is necessary, it should be effected by an authorised person of the same gender as the one being searched. I do not know whether that one is -

THE CHAIRMAN: That is part of the ordinary Law as to who, when and in what circumstances may search take place. I do not think we should really make it a Constitutional issue. The Statutes providing for that can say only women should search women and vice-versa. I think it would be covered. Now, let us really - Hon. Ongaria is it something that must be raised?

MR. ONGARIA (Tororo Municipality): Point of Clarification. Mr. Chairman, I wanted some Clarification on Clause (2) "*No person shall be subject to interference with privacy of his home*". Now, Mr. Chairman, mindful of the fact that there are some Administrative Officers who normally carry out inspections in relation to matters like public health and safety. I do not know whether that also will be termed as - how will those people carry out their normal duties if no person shall be subject to interference with the privacy of his home? And then secondly, Mr. Chairman, I would like a distinction to be drawn between a home and property used for commercial purposes. Normally you will find that a home is, of course, there is privacy attached but there are some, in case of private commercial properties - how can "*no person*" be subjected to places like commercial properties? I wanted a clarification on that Mr. Chairman.

THE CHAIRMAN: If you had read that one to the end, you would have seen. No. 2 reads: "*Interference with privacy of his home, correspondence, communication or other property*". That opens it up so that if it is your shop and you have your goods in there, except for purposes of insuring your property license, they should not intrude. That is how I read it and in a similar manner, on the question of Health Inspectors coming to check for mosquitoes in your backyard, I think the laws providing for public health also would make that exception but it is worth that Members have sought Clarification. Can we now pronounce ourselves on the Draft as it was proposed and came back from the Legal and Drafting Committee. It was read out, so I will now proceed to read the question.

(Question put and agreed to)

THE CHAIRMAN: Now, let us say our position on 57, as amended or redrafted.

(Question put and agreed to)

THE CHAIRMAN: Article 57 is settled but we shall await reports on 58 and so on. I am grateful for the intervention of Hon. Ben Wacha to correct this position which has enabled us to dispose of 57. Now, we go on Articles 60 onwards. We have received a report from the Chairman of the Legal and Drafting. The first one is an Amendment on Article 60 by Hon. Omara Atubo. I give the Floor to Hon. Omara Atubo.

MR. OMARA ATUBO (Otuke County): Thank you Mr. Chairman. Mr. Chairman, I beg to move the following Amendment to Article 60 and that the proposed Amendment becomes Clause (1). It reads as follows: *"The family is the natural and basic unit of society and is entitled to protection by society and the state"* Mr. Chairman, this proposed Amendment *(Interruption)*

THE CHAIRMAN: Is that seconded? Okay, could you speak to the Motion seconded by Hon. Leander Kamakech and others.

MR. OMARA ATUBO: Mr. Chairman, this proposed Amendment seeks to transfer the same wording, indeed, from Article 13 of the Constitution which is in the Chapter 3 and reads the same as Article 60, Mr. Chairman, it is more convenient that the proposed Amendment should be the opening and declaratory statement on the family rather than for it to be in Chapter 3. Secondly, Mr. Chairman, the same procedure is also adopted for other Articles, 14, 15 and 16 dealing with the family, the women, the disabled and the aged and that will come later.

Mr. Chairman, we know that the family is the natural and basic unit of society and definitely, society and the state should endeavour, in all ways possible, to ensure that the family is protected because without the family having proper protection and support of society and the state, that society and the state is bound to be either weak to eventually perish. So, Mr. Chairman, apart from being the declaratory statement, in that Clause dealing with the protection of the family, it reinforces the idea that the family is the natural and basic unit of society and also states the role of society and the state and all other Clauses will now flow from that basic statement. Mr. Chairman, I beg to move

THE CHAIRMAN: There is not much enthusiasm for desire to contribute beyond for the Mover. I will propose the question and go on to put it. Hon. Kabwegyere, I think you have been out numbered by the wishes of the majority *(Applause)* I think we shall go ahead to put the question. Let us see if you will improve on it.

PROF. KABWEGYERE: Mr. Chairman, thank you very much. I would like to improve on the newly introduced Clause by substituting the word *"unit"* with *"institution"*. I think it is more technical and makes more sense.

THE CHAIRMAN: I think it is talking about units of society but if they are becoming institutions of Society, does that read and flow naturally?

PROF. KABWEGYERE: No, a basic Institution.

THE CHAIRMAN: I think the unit is better from the general view. *(Applause)*

PROF. KABWEGYERE: As you like it Sir.

THE CHAIRMAN: So, let me put the question.

(Question put and agreed to)

THE CHAIRMAN: There is an Amendment to what now becomes Clause (2) of Article 60 by a consortium of Members: Hon. Rainer Kafire, Hon. Kanyike, Hon. Musekura, Hon. Yiga, Hon. Mrs. Cecilia Ogwal to Article 60. What now has become Clause (2) by virtue of the Motion we have just passed? Who is going to lead the Consortium? I give the Floor to Hon. Rainer.

MRS. KAFIRE (Women Delegate - Pallisa): Thank you Mr. Chairman. I beg to move an Amendment on Article 60 Clause (2) by deleting the words *"Full age"* and inserting of *"the age of 18 years and above"*.

THE CHAIRMAN: It is seconded now. Could you speak to your Motion first before we - let us give her the chance to justify her Motion. Go ahead Hon. Kafire.

MRS. KAFIRE: By leaving the words *"Full age"* it leaves to a parent to decide when full age comes in. Some parents tend to marry off their daughters at the early age of 12, 14. These will go unchallenged. Education, if compulsory for primary and secondary, this will push our children to be 18 so that by then they are mature and they could get married after that. What is happening now, there are a lot of school dropouts. They have nothing to do or what they do, they turn to marriage. 18 years is a legal age, it is a voting age and it is an age where a son or daughter is more mature. With those, I beg this august House to consider 18 and above, an age for marriage. Thank you very much Chairman.

MR. LUBULWA (Katikamu South): Thank you Mr. Chairman. Mr. Chairman, I want to oppose the Amendment. The reasons for my opposition is that

this word "full age". I think varies with civilisation of society and advancement of society. Now, when we fix in our Constitution, the age of 18, what will happen if after some time we realise that there is need to reduce that age 1, therefore, Mr. Chairman, feel that the present Draft as it is, the word "full age" should only be defined with time because time varies. For those reasons, Mr. Chairman, I want to oppose the Amendment.

LT. COL. ODONGO (NRA Delegate): Thank you Mr. Chairman. Mr. Chairman, I beg to support the Amendment. *(Applause)*- I do so, simply because, to me, the implication behind the words of full age - in my opinion, are sex related. In other words, they seem to imply sexual maturity. Now, if that is so, then the words of full age remain vague. A boy tends to come fully sexually mature much later than girls and therefore, there is a tendency to think that one is more mature than the other. Why do we not even it out, so that there is technicality related to the period. In other words, we know a cut off period rather than leave it vague to interpretation. A girl may be 13 - she is full, a boy is 21 is full - where do you talk about this now? Thank you Mr. Chairman.

PROF. KANYEIHAMBA: Thank you Mr. Chairman. I thought that it was very important the Mover emphasised the fact that whether the impression given was that it was only when you are 18 or over, that you can marry. This is not the understanding of the Legal and Drafting Committee. Our understanding is that if you are 18 or over, you have a right to marry and nobody can stop you. You do not need the permission of anybody but we accepted that, knowing that our laws and customs allow people to get married at the age of 14, 15 and 16 and these are not affected by this provision because they are covered by the ordinary law of marriage. I thought that it was very important to clarify this position.

MR. KAIJUKA (Sheema (county North): Point of Clarification. Thank you Mr. Chairman. I am raising a point of Clarification here because my understanding of the expression "full age" as contained in the Draft, I thought for those who were opposed to the Motion, I was beginning to listen attentively and I was of the view that, the minute you define "full age" as understood by society, you then move to the subsidiary legislation which is done by Parliament from time to time. In other words,

whereas, we think 18 is the appropriate age, there is no harm raising it to 19 or going down to 16 at any time with good feeding and so on. Now, I am getting confused here - that is why I am seeking Clarification from you Mr. Chairman, in the light of Hon. Kanyeihamba's interpretation because this now is going to be subject to interpretation depending on who is proclaiming interpretation, whether in the court or in any other place. Could you guide us whether or not, the interpretation given by Dr. Kanyeihamba is the one any layman or any lawyer would give or not. I will welcome your guidance Mr. Chairman.

THE CHAIRMAN: I think here, Hon. Kanyeihamba was very clear on the issue. People are putting two interpretations on the Draft as it is. It is presumed that if you remove the words full age and insert 18, then you are prohibiting marriage below the age of 18. That is how some people are understanding. But there is also the other side of it that it does not actually prohibit marriage below the age of 18. What he is saying is this that when any Ugandan attains the age of 18 and above, he should be free of interference from either the state or his parents in choice of setting up a family and getting married and that when they are married - *(Interjections)*- and that when they are married, they dissolve their marriage as equal partners; not discrimination between man and woman - if you read on. So, really it is not prohibiting in my view. Other laws making provision for, for instance, age of consent being lower but he is saying that once you want to set up an institution called a family and you are 18 and above, all other hinderance should not stand in your way and should you choose to dissolve, then do so, as equal partners but not in a discriminatory manner. That is how I understand it. So, I think we put the question on this one.

(Question put and agreed to)

THE CHAIRMAN: There is also another Amendment to what has now become Clause (3) by Hon. Nantongo Zziwa and Hon. Mwesigye. Hon. Zziwa, you have the Floor to introduce your Amendment.

MRS. ZZIWA (Women Delegate - Kampala): Mr. Chairman, I wish to move that the words "intending party" in Article 60, Clause (2), which is now (3) be deleted and substituted by the words: "The man and woman intending to marry". Mr. Chairman, I beg to move.

THE CHAIRMAN: Is that seconded. Yes, do you give reasons?

MRS. ZZIWA: Mr. Chairman, thank you very much. The words "*intending party*". Mr. Chairman, they seem vague. They can simply or easily imply the family of the groom and the bride-to-be, which, in this particular respect, we want really to cut out because in most cases, you find that when some parents agree beside the curtains, they can decide that let their children marry but we want this consent to be for the woman and man who are going in to make the nuclear family. Secondly, Mr. Chairman, you realise that the essence of drafting this Article 60 is really man and woman. So, I think, it will be really in order to have the words "*man and woman*" as the persons being referred to in this aspect of family. So, I think, Mr. Chairman, as we are stressing the aspect of the nuclear family, let us have the words "*man and woman intending to marry*" substituted.

MR. HARUNA SEBI (Koboko County): I support the Motion. Mr. Chairman, for the simple reason that we should specify who these intending parties are because in the Clause (2), it simply says "*marriage shall be entered into with free consent of the intending parties*" without specifying who these intending parties are. In fact, I was about to move an Amendment to Article 61 but because 61 talks of men and women and it does not specify - because you may find that there are cases where men would want to marry each other. *(Laughter)*

THE CHAIRMAN: No, I think we are debating (2) which has become (3). You are dragging us back. If you have completed your contribution to (3), do not drag us back.

MR. SEBI: I have not quite completed. In fact, Mr. Chairman, I would like to borrow - it is unfortunate that Hon. Abu Mayanja is not here but I think some time back he actually cautioned us on this particular Article. He said we have to be very careful where we shall give freedom for men to marry each other or women to do the same. So, why I am supporting this Article by Hon. Zziwa is that, it categorizes very clearly men marrying women and not - *(Laughter)*

THE CHAIRMAN: I think you have finished your contribution.

MISS NABAFU (Women - Mbale): Thank you Mr. Chairman. I stand in support of the Motion moved by my sister Hon. Zziwa. There is a situation Mr. Chairman, where we find many parents forcing girls to marry men not of their choice and I think this will help the women, first of all to consent to that kind of marriage before they are forced to marry and there are many who are suffering under that kind of marriage, they have no where to appeal but if this Law is in place, it will help them to object to such marriages. Besides, I would like also to agree with the former Speaker who said that, to avoid homosexual and lesbian marriages creeping into our society, we need to say "*the man and woman intending to marry*". With those few points, Mr. Chairman, I would like to stand in support of this Motion. Let us be specific and say the man and the woman to avoid Sodom and Gomorrah coming in our society. *(Applause)*

THE CHAIRMAN: I am sure the Hon. Member has received full support from Hon. Kitaka Gawera on that. Do we really want to push this very far? I think, let us put the question. Is the Hon. Ssabalangira having a special angle to this? I think let us hear Ssabalangira on this one and then we vote.

MR. MULONDO (Mityana County South): Mr. Chairman, while I will not really object to the Amendment, I wanted to add in something because we, especially, who would like to protect our culture, *(Applause)* feel that one or two things have been left out. In Buganda in particular, we do not allow boys to marry from the lines of their mothers or even the uncles and that applies to the girls as well. So, Mr. Chairman, I want to propose and I want to humbly ask the Hon. Members here to support my further Amendment on this particular Amendment that the Amendment should read: "*Marriage shall be entered into with free consent of the man and woman intending to marry, in accordance with the culture of the society concerned*". Mr. Chairman, I have reasons for this.

THE CHAIRMAN: Is that Amendment seconded? You see Hon. Ssabalangira Mulondo, if you do not get Seconders, it will be very difficult for us to give the Floor -

MR. MULONDO: I have some here, only that - I have some people here supporting me.

THE CHAIRMAN: I think, let us put the question. Because really the customs are already built within the Constitution here, are they not? Because the applicable laws of marriage will then come in and they take into account the other aspects of our customs as part of our underlying law and it is only when they are repugnant that they are removed from application so that we do not have to repeat it in each and every Clause. I think Ssabalangira will be covered in the other situation. Let me put the question.

(Question put and agreed to)

THE CHAIRMAN: We have another Amendment to what is now Clause (4) proposed by a long list of Members - Hon. Luberenga, Kawooya, Kakunguru, Masiko Winfred, Atamvaku, Kamakech Leander and Betty, Okullo. I take it that - but I can see one of the sponsors - will you take the Floor and move your amendment to what is now Clause (4)

MISS. LUBERENGA (Women Delegate - Bushenyi): Thank you Mr. Chairman. Mr. Chairman, Hon. Delegates, I beg to propose an Amendment to Article 60, new Clause (4) which currently reads as follows: *"It is the natural right of parents to care for and bring up their children"* I beg to propose, to add the words *"and duty"* after the word *"right"* so that the new Clause will read as follows: *"It is the natural right and duty of parents to care for and bring up their children"*

THE CHAIRMAN: It is seconded. You do not want to speak to it. I think we put the question.

(Question put and agreed to)

THE CHAIRMAN: You want to debate what we have passed?

AN. HON. DELEGATE: Mr. Chairman, I am not trying to change what has already been passed but there is something that I would wish to get clearance on. In that Amendment and even in the original Draft, there is the word *"children"* where you say, in the original Draft - I will read it as amended: *"It is the natural right and a duty of parents to care for and bring up their children"*. Now, I am not happy with this *"their children"*.

THE CHAIRMAN: No, you are now beginning to take us back. We have pronounced ourselves on the

Amendment - if you are not happy, you will come back in the reconsideration stage. Because otherwise, we can be working backwards. Now, I will give the Hon. Ben Wacha the Floor to effect an Amendment to what is now Clause (5).

MR. WACHA: Mr. Chairman, this really should not have been a fully fledged Amendment. It was a matter referred by the Legal Committee to the Draftsmen but now that it is here, I better bring it out. Mr. Chairman, the principle behind Article 60, Clause (4) is that the child should not be separated from its family or its protectors by third party without the consent of such persons. However, the way in which it is formulated in the Draft does not spell out this principle fully. What the Amendment seeks to do therefore, Mr. Chairman, is to bring out this principle by drafting the Clause in the following manner: *"Children may not be separated from their families or the persons entitled to bring them up against the will of their families or of those persons"*. Spelt out this way, Sir, the principle behind this Clause will be clearly brought out. I beg to move, Sir.

THE CHAIRMAN: This is a straight forward proposition. The question has been read out and I will proceed to put the question. Hon. Member for Kikinzi West

MR. MBABAZI (Kikinzi West): I shouted in order to get an opportunity to oppose this Amendment because I think the original Draft is much better because it provides for the same thing to keep the family together but in the Original Draft, there was a provision that where the parents, for whatever reason defined by the law, are unable to bring up this child and especially maybe for the welfare of that child, then society can take away the child. Mr. Chairman, we have had cases - *(Interruption)* - even in our society, particularly, so, in the developed societies of the west where there has been child abuse by parents and most of these modern societies provide for the protection of such a child even against the parents - the natural parents if the parent is guilty of child abuse. So, I see that this Amendment seeks to avoid that situation whereas, in the original Draft, it provides for it. I, therefore, support the original Draft as it was.

MR. WACHA: Mr. Chairman, reading from the circulated handouts, Hon. Amama Mbabazi - because the handout leaves out the vital words *"except*

in accordance with the Law” This should not have been left out. We have had cases -*(Interruption)*- even in our society - particularly so, in the developed societies of the West where there has been child abuse by parents and most of these modern societies provide for the protection of such a child even against the parents - the natural parents if the parent is guilty of child abuse. So, I see that this Amendment does not seek to avoid that situation at all, whereas, in the original Draft, it provides for it. I, therefore, support the original Draft as it was.

THE CHAIRMAN: I think Hon. Ben Wacha -

MR. WACHA: I do not see why he is opposing.

THE CHAIRMAN: I think there were two versions. There is one which came out earlier and did not have the words “*except in accordance with the law*” and it was reprinted but maybe it was not circulated in time but the one I have has those words “*except in accordance with the law*” at the end. If that is added, then, in fact the one of Hon. Ben Wacha comes out much clearer than the version you are talking to. I should have made that proposition early. Yes, Hon. Babu, you have put up your hand for a long time.

MR. BABU: (Kampala Central): Mr. Chairman, I support this Amendment, but instead, I want to add - instead of using “*the person entitled to bring them up*”, to put there the word “*guardian*”, one word.

THE CHAIRMAN: No, “*guardian*” then brings in a different concept because “*guardian*” is in accordance with Guardianship Act and Laws of the common Law. The definition is much more technical than you think. Can we now put the question

(Question put and agreed to)

THE CHAIRMAN: Now, we have Clause 5 and there is a proposition to add another Clause and this is by Hon. Luberega, Hon. Hanifa Kawooya and Hon. Deo Rwabita. Hon. Luberega, will you move

MRS. LUBERENGA (Women - Bushenyi): Thank you Mr. Chairman -

THE CHAIRMAN: Order! Order! Order! Can I draw the attention of the House to the Provisions of Clause (1) of Article 60. If we read it carefully, you may see that those Members who may have wanted

to vote against this proposed Amendment have already voted in support of it. - *(Applause)* - If you read Clause (1) and I guess Hon. Members who want to move the Amendment can withdraw it because Clause (1) is saying “*Men and women of 18 years and above have the right to marry and found a family and shall be entitled to equal rights to marriage, during marriage and its dissolution*”. - *(Applause)*

MISS. LUBERENGA: Thank you Mr. Chairman. May I now have the Floor please? Thank you Mr. Chairman, Hon. Delegates. You have just pointed out actually its being already in Clause (2) as it is now but then, I would like to beg to be allowed to put my Motion and give my reasons why we would like to have it that way.

THE CHAIRMAN: Okay, let us put it this way. It is not fair - this recommendation has come in from the Legal and Drafting Committee, let the Hon. Member move her Motion and then we proceed from there. I was just drawing the attention to what is now Clause (2), which seems to carry that message but not in an explicit form as this one.

MISS. LUBERENGA: As the Chairman has just

THE CHAIRMAN: Order! Order! Hon. Member for Nyabushozi, could you please not conduct a choir on the other side.

MISS. LUBERENGA: Thank you Mr. Chairman, Hon. Delegates. I beg to propose to add an extra Article to Article 60 and call it Clause (5). I want an extra Clause. Which will read as follows. “*On dissolution of marriage, men and women shall have the right to equitably share all property jointly acquired during the marriage*”. Mr. Chairman, I beg to proposed.

THE CHAIRMAN: Hon. Hanifa Kawooya, you Seconded that - You are a sponsor actually. Maybe you want to speak to the Motion or you want to speak to the Motion and give your reasons? Okay, Hon. Luberega, give your reasons. Order!

MISS. LUBERENGA: Thank you Mr. Chairman, Hon. Delegates. Much as we have said in other Articles including Article 61 that men and women are equal or entitled to equal rights, I wish to add this Clause for emphasis and I want to clearly spell out

here that I am not talking about the property the woman found the man with. I am talking about what was jointly acquired during the said marriage. Mr. Chairman, Hon. Delegates, we Ugandan women have suffered so much despite our existing Marriage and Property Laws because of the scourge of culture. Mr. Chairman, Hon. Delegates, I want you to look back and recall the argument we used to retain the words "violent means" in Chapter 1, Article 3, Clause (2). We all understood that "violent means" - actually meant that it is automatically unlawful but we still went and used these same phrases together for emphasis because we felt we had to emphasise our detest for violence because of our history. It is for the same reasons, Mr. Chairman, that I wish to emphasise the right of women to equitably share the property that will be jointly acquired during the marriage.

Mr. Chairman, Hon. Delegates, I feel that having this Clause in the Constitution, will be a great step forward for the women of this Country because it will specifically tell generations of Ugandans to come that, women have rights which include the right to share up the property which they have sweated for. As things are, Mr. Chairman, you find a woman being literally thrown out of her home after 20 years of countless hours of labouring, cooking, digging, collecting firewood and water as well as bearing and taking care of children. Mr. Chairman, Hon. Delegates when such women dare to protest, which very few rural women have the nerve to do, she is told that after all, she came with nothing and that property belongs to the man and not woman. All that she was bought - (Interruption) - Mr. Chairman, could I have some order please, since you have given me the Floor.

THE CHAIRMAN: If you can complete your remarks quickly because I see you are taking much longer than expected.

MISS. LUBBERENGA: In short, Mr. Chairman, when we women ask for the sharing of properties, we are actually simply asking for the hours which we spent labouring, cooking, digging, collecting firewood and water, as well as bearing and taking care of children to be evaluated. We have found that women are thrown out of their homes after years of marriage literally naked and when these woman dare to protest, which very few rural women have the nerve to do, they are told that after all, they came with nothing or that the property belongs to men but not women

or that these women were paid for and therefore, do not have any right to speak. The men go on to further say that, women do not make any monetary contributions towards the purchase of the said property among other flimsy excuses. Yet, Mr. Chairman, Hon. Delegates, we all know that many women heavily contribute towards the property acquisition. Even the rural women who do not have any money, do a lot of work. I would like, Hon. Delegates, Mr. Chairman, to think about that rural woman who wakes up at 5.00 a.m. cooks, cleans, goes to the well, collects firewood and so on and so forth. If these men who are saying that women contribute nothing were to do all this work by themselves, I do not think they would ever have any time to go out and make the money.

Finally, Mr. Chairman, I would like to beg the men who are seated here and the women to look at their mothers, their daughters and the generation of Ugandan Women to come. Do not throw our women out naked. All we are asking for is for you to evaluate the endless hours that we spend doing all that manual work. Just give us our share when you decide you no longer want us. Thank you, Mr. Chairman. I beg to move.

PROF. SSENTEZA KAJUBI (Kyadondo North): Mr. Chairman, I beg to oppose this Motion. I oppose it on three grounds: First of all as you pointed out Mr. Chairman, the concept is already taken care of in Clause 61, it is already covered. Secondly, the Amendment emphasizes dissolution of marriage and sharing of property. In the Church where I go, dissolution of marriage is not allowed by religion, we should not encourage dissolution of marriage in order to share property. Thirdly, Mr. Chairman, the Amendment also talks about amassing.

THE CHAIRMAN: No, she skipped that one. When she presented her Motion she specifically skipped that one.

PROF. SSENTEZA: Well I am sorry. But the implication is there. Mr. Chairman, the implication of getting property illegally in marriage and then sharing it after the marriage is dissolved, to me I think it has sinister implications. Mr. Chairman, because of those reasons, I beg to oppose the Motion.

MRS. ANIFA KAWOOYA: Mr. Chairman, it is very unfortunate that Hon. Members have just

shown their selfish interest in sharing property before listening to our side of reasoning. However, I agree with you that the Clause is taken care of in Article 60 but I do not see any *(Applause)* despite the fact that I agree that it is taken care of but in a general term, I do not see any reason of defining it more further, stressing, emphasizing on property sharing.

Mr. Chairman, currently women do not command an equal status with men in marriage and at its dissolution and still the Marriage Act as it is now, does not address the crucial issue of maintenance and of property rights of marriage. We have seen it in today's society, for example, here in Uganda, women contribute so much to the family, to this property, but when it comes to sharing it, you just go as you came. I do not see why it cannot be made constitutionally that this right is defined for the women since we expect that this constitution will be taught in schools, that everywhere these old women in rural areas who contribute at least 50 per cent and you know Hon. Members that behind every successful man there is a successful woman and vice-versa. So, we need to share this property and in a way, we need to readdress our issues as has been put forward by Hon. Kabirisi. Leaving it in a general way does not clarify or guarantee us our right. If it is a woman's right, I do not see why it cannot be constitutionally defined and put forward. Thank you, Mr. Chairman.

MRS. MUKWAYA BALUNZI JANAT: Thank you very much, Mr. Chairman. As a beneficiary of Sharia Law, I would wish other women to benefit from the Sharia Law if it is made constitutional because in our Sharia Law, on death and dissolution, property is shared equally between spouses. But in the Christian Church as Professor Ssentenza said, and in other Laws, these rights are vague because I could say, if I can give an example, in marriage, the right to sex would be automatic but most men and women go without sex in marriage, but they cannot complain. So, if such a situation happens *(Laughter)* Mr. Chairman, I am stating that this is a fact, the fact that I was a Director for Women Affairs, I conducted seminars in the whole of the 39 districts and in those seminars, women expressed sincerity that some of them are denied their sexual right by men. So, do not think that Mukwaya does, but these are facts. *(Laughter)* Mr. Chairman, to be more serious, I beg Hon. Members to really look at this item very seriously. So, I see no harm, Mr. Chairman, legalizing the Sharia Law constitutionally and those people who

have not benefited from the Sharia Law to benefit constitutionally. So, I beg to move that Mr. Chairman, you put the Question.

THE CHAIRMAN: No, not yet.

MR. KIGAYE-BILLYAWO: Thank you, Mr. Chairman. As I very much sympathise with the women and almost agree with what they are saying when they talk in terms of property. But why are you concerned about property, this is the clarification I want but not children? Why are you concerned with material property but not the children during the dissolution? So, Mr. Chairman, I propose an Amendment here that we include children also. Thank you.

THE CHAIRMAN: I think children are in a separate provision - there is a separate provision related to children.

LT. GUMISIRIZA GUMA: For me I support the Amendment as it stands. First of all, I agree that Article 62, Clause (2), has got the inbred right of women over property. But my basic position why I support this is that women have been suffering for long under male chauvinism in our society. So, I think it is very necessary to erase both our ambiguities that their rights over property are entrenched in the constitution. Secondly, I do not understand why men should continue to exercise this chauvinism where it is not even necessary because you imagine, even in class, a girl can defeat a boy in terms of class performance, or even in elections a woman can be a president. Margaret Thatcher was a Prime Minister for Britain for ten years. So, I do not agree that rights that concern women must be left hanging. They must be articulated so that in future there is no room for disguising and explaining here and there to misinterpret the Law. So, I support this Amendment that a right that concerns property sharing of a wife and a husband must be properly articulated so that there is equal sharing when there is a dissolution of their marriage. Thank you very much.

MR. OBEL ONEGI: Mr. Chairman, I support this Amendment whole heartedly. *(Applause)* May I, Mr. Chairman, presume that our problem is probably with English. The word "equity" Mr. Chairman, does not mean equality that you divide properties equally. May be that is what is frightening most of us. Secondly, Mr. Chairman, I think the Hon. Delegates opposing this Motion are directing their minds to wives particularly who are probably not

one out of the home. But otherwise if we direct our minds to our daughters, that this Amendment is going to protect our daughters so that when they separate or divorce, they do not run back to us empty handed *(Applause)* then we shall see the sense in this Law. Mr. Chairman, I beg to move that the Question be put.

THE CHAIRMAN: I think Hon. Members, if I was to cover all of you up, we would not finish. In fact I was inclined that we should divide on this one.

AN. HON. DELEGATE: Thank you, Mr. Chairman. I would like to amend that Motion by deleting the word "jointly". It has transpired from the Movers that they want to share the property acquired. The legal technicalities about the word "jointly" is you need to prove it. It must be tangible. Whereas if you leave it as acquired, it means even the indirect contribution is taken into account. I beg the Movers to accept that slight amendment by deleting "jointly".

THE CHAIRMAN: Is that seconded?

HON. DELEGATES: No.

THE CHAIRMAN: Hon. Members I think the Hon. Member did not explain fully the use of the word "jointly". Of course here, the word jointly is not used in technical terms of property held as joint tenants. I think that is what they were trying to remove. That is a different concept. Here, "acquired jointly" or "jointly acquired" is different from "held as joint tenants". As the joint tenant stands, in my view is referring to the act of working together to get property. The only difference here is this of course that one can argue that she never contributed therefore there is no joint effort. So, the best would be really if you want to make a serious contribution would be to delete the word "jointly" and just leave the word "property acquired". Now, is that seconded?

MR. AMANYA-MUSHEGA: I wanted the Mover of the Motion to clarify one point where they put "amassed during marriage".

THE CHAIRMAN: No, the word "amassed" was omitted.

MR. AMANYA-MUSHEGA: I would support the removal of the word "jointly" and leave it to

"equitable sharing of the property acquired during marriage" because "equitable" takes into account one's contribution, direct or indirect, and I am glad, Mr. Chairman, that impartiality in this matter is beyond question because when the motion was being moved, many Members became emotional. I am appealing to the Mover to accept the Amendment to remove the word "jointly" and leave it to "equitable sharing of property on the dissolution of marriage" because this leaves room for subsidiary extension to be made and the most important part about it is that it will take into account the contribution of the spouse, direct or indirect. It is high time really male Delegates took into account the efforts of our mothers, grandmothers, wives and daughters into the development of families. *(Applause)*

Actually this is very strong for economic development because the wife will now be contributing with all the efforts with the man knowing that when things do well she is okay, when things do badly she will go empty handed. There is nothing as dangerous as working with somebody who has no future and no hope. The contribution is small. So, indirectly this will be a great effort to fight poverty in the country by recognising each other's contribution to the development of property in the family. Thank you Sir.

THE CHAIRMAN: Now, first of all, let us go about it this way. There is a Motion on the Floor which has obtained secondment of Hon. Mushega regarding the wording of the Amendment as it stands. We have to pronounce ourselves first on the Amendment, namely, deleting the word "jointly" then we come back to the main, depending of course on our decision on this issue. That one will be on the voices, that the Motion as proposed by Hon. Luberenga be amended by deleting the word "jointly".

(Motion as proposed, agreed to)

THE CHAIRMAN: Now, the Motion reads as follows, and by the way the word "amassed" was left out deliberately at the time the Motion was moved. So, it reads this way "On dissolution of marriage, men and women shall have the right to equitably share all property acquired during marriage". That is now the text as it stands.

MRS. EGUNYU ASEMO: Mr. Chairman, I would like to seek clarification on the word "equitable". It

may impart the same meaning as "jointly" because if you are to share equitably, it means you get what you contributed into it and it is very difficult to compute.

THE CHAIRMAN: Equitable share - that one brings in a different concept. I think you are pushing us backwards.

MR. KANYIKE: Thank you, Mr. Chairman. I would like to oppose this Motion because it does not talk about liabilities. It talks about property only and does not bring in the question of liabilities. Secondly, it is also misplaced because if we are talking about protecting the family, then we cannot talk about destroying the family by dividing the property. (Applause)

MR. ERESU ELYANU: I am very gender sensitive but I think I oppose this Motion, now, on the following grounds: One - it would mean we should define the kind of property we are talking about because there are instances, even in marriage, when may be the husband or the wife has acquired the particular property solely on her or his own effort without necessarily resorting to the other party. Two - I oppose this Motion because it introduces an element of materialism in marriage which I think should not be at play. We shall end up with the situation, Mr. Chairman, where women entering marriage will go to such contracts purely because of dissolving that marriage in order to acquire property so that a woman will look for a rich man in order to get into marriage contracts only to dissolve it the following day, because she will want to get the property. (Applause)

MRS. LOYCE BWAMBALE: Thank you, Mr. Chairman. Before, I support or oppose this Motion, Mr. Chairman, I wanted the Lawyers to help me with the implication of the words "equitably" and "equally". I think that one should be clarified to me and then I will give my position.

THE CHAIRMAN: Well the thing is this, those of you who have exposed yourselves to modern pieces of legislation relating to families, you will find that this wording will be taken that as it is in many of the other countries, that you look at the property and you do not discount the contribution by the parties in doing some jobs for the families. You do not say the husband worked and the money which they have saved but the wife did not work. You take into

account the amount of work she has done in the home which enabled the husband to be able to earn the family income. (Applause) In doing so, when you are amassing or if you are collecting property for purposes of distribution, then what Courts do, is that they take into account the liabilities and only look at the Net, so that at the end of the day the parties will be represented of course by Council if they are serious and you can argue on the basis of whether the contribution of one party was higher than the other and then you share on the basis of either 40 to 60 or 50 to 50. So, it does not mean equally - it means taking into account other factors including contribution and services rendered. So, all these are taken into account in the wording of this nature. I thought I should clarify you on that

MRS. BWAMBALE: Then Mr. Chairman, I would propose that I support the Motion. Mr. Chairman, women have been ignored for too long and we are now here participating in making this Law. We should not give room to be vague. I agree that Clause 62, now, could be availing equal rights in marriage and at dissolution, but to leave it very vague is to leave too much room when Parliament is making Laws. And as of now, we are struggling as women to have the domestic relations Bill presented and passed in Parliament. Now if we come up with a Draft or Provision in the Constitution that is vague, and we happen to have gender insensitive men in Parliament, then they are not going to protect the rights of the women properly. So, for that matter and to enable us to come out clearly in the Domestic Relations Bill, to protect the families, both men and women, I do support the Proposal that is put on the Floor. Also it is wrong to assume that it is only the men who amass property in the home. You may find a situation, as we say that we should improve the economic capacity of women, we may find a situation in future where women will be amassing more property than men in a home. So, this Amendment, Mr. Chairman, is meant to protect both men and women at the dissolution of marriage. I beg to support.

MR. LUBEGA DAMIANO: Thank you very much, Mr. Chairman. I stand to oppose this Motion. In the first place, if this Motion passes for a Law into the Constitution, the Law will be very difficult - almost impossible to implement. Mr. Chairman, when you talk of equitable distribution of wealth and particularly, when it comes to acquiring of property, you may need endless number of valuers in order for

an amount to be arrived at as the property, in terms of money or otherwise, that the family or the husband and wife possess. Part of this will have the labour of the spouses have gone into consideration when the properties are talked about. Imagine there is a residential house and, equitably, the wife is supposed or it is found out as a matter of fact that the wife put in more labour and initiative, not necessarily money because it is quite often in our accounting procedures you will not be able even to trace that. Then the question will come, suppose the wife is adjudged to, she should be taking 60 per cent and the husband appeals to Courts of Law that that situation does not prevail. Now a lot of evidence will be adduced on either side and in the end you will find that even for a few families it will not be practicable to work out the finalities of the equity because even in companies where shares are definite, it becomes very difficult when the company is being wound up for revaluation and so forth and so on. Looking at assets and liabilities, it is a very difficult exercise even in those cases where we have definitive share-holdings. So, in family life, I think it could be almost impossible.

Secondly, there are many ways by which spouses can guard their ownership. Mr. Chairman, you have talked about the joint tenancy, there is also tenancy in common. The modern way of doing things, and I think we need to educate our society, is, if you are acquiring property as spouses, is to register that property either in jointly or by way of tenancy in common. Then it becomes very, very clear and these laws were promulgated in order to cater for these situations. There are also Divorce Laws talking about alimony and so forth and so on. So, we can leave most of these formulations to Laws other than the Constitution being specific as we are intending to do in the Motion I think will not serve the purpose. Thank you very much. I oppose the Motion.

BRIG. MATAYO KYALIGONZA: I stand to support the Motion. Mr. Chairman, I have got some points I would like to highlight before the Hon. Members so that when we are reacting on the proposals of women, when they are trying to highlight their rights, we should also understand the situation behind our backward culture and developing culture.

Mr. Chairman, we seem as if we are discussing the Constitution of today and not tomorrow. We are discussing as if when things start happening and changing, we should therefore amend this Constitution. Mr. Chairman, I would like also to talk about

the rights of women. In developed countries many of you Hon. Members know that when you are not considerate enough and you are not able to interpret the rights of women, men are supposed to be the least considered in terms of rights. They start with a dog, then child and woman. Sometimes a man may go out with nothing if you violate the contract of marriage.

Mr. Chairman, we seem not to understand the purposes of marriage. Marriage is a contract between the two parties. There must be an understanding, and when Hon. Kajubi is talking about his religious ethics that no dissolution of marriage is allowed, it can happen. Dissolution of marriages can take place if it is proved that one of the parties is not satisfying the norms of marriage. Therefore, in the catholic church, for instance, where I go to, dissolution of marriage can be allowed for instance, if one person is found to be say, impotent. Those can cause dissolution of marriage. Therefore, when this happens, and you have been acquiring property, there is need to consider

Now, some Hon. Members have been talking about liability. You know, in liability when you are talking of equity and so on, when you want to balance your equities, for instance, if you have got property and you have got liability and you deduct liability you may end up with nothing. But in this case, we are talking about what contribution, as a wife, is given by a woman to her husband during marriage. People are saying for instance, that if I went and stole money, made up my wealth, do I have to go to prison with you when I am being sentenced or I am being hanged because I made money by stealing? Definitely, many of you Hon. Members may not be realizing the problems which women are normally subjected to during that theft of yours. If you are making money, you have left your children with this woman to look after, you have not even told her that I have stolen so much. She will struggle to look after your children until you come back from prison.

Two, Mr. Chairman, when it comes to political sharing, now we are in politics here, we are not looking at the contribution of women. Supposing something political went wrong and you are subjected to some political musnomers, a woman will be subjected to suffer what you would have otherwise suffered alone. You are hearing of women being raped, being abused, they rape them on your behalf and therefore, women were suffering under dictatorial regimes. Mr. Chairman, with that I support the Motion.

MR. BEN OLWA: Mr. Chairman, when we were discussing this matter, we agreed really that the family is the basic unit of deciding. I think it is the spirit of this Assembly that we should protect and preserve the family. *(Applause)* Mr. Chairman, the way I look at the idea is that we are actually rewarding those who intend to dissolve the family and I think this is not the best way of doing it, Mr. Chairman. If we agree to reward people who are intending to destroy the fabrics of society, I think we are rewarding the wrong people. *(Applause)* Mr. Chairman, there has been an argument advanced that the Sharia Law allows for division. But we realise also that the Sharia Law at the same time allows, in fact, for a man to marry more than one wife. So, naturally if they are four wives, they have to divide the properties and I think that should be okay. But in this case we are talking about the woman who has only a husband for herself and she intends to run away from this husband after dividing things and then go to destabilise another family and divide there also. Mr. Chairman, I think, if we agree, Mr. Chairman, this proposal, I think this will be dangerous to our community. I beg Mr. Chairman, to oppose this Motion.

MR. BATANYENDA: Thank you, Mr. Chairman. I think I am the most neutral person to contribute on this Motion. Mr. Chairman, before I oppose or support this Motion, I would like to have some doubts in my mind cleared. I want to ask this Motion if it is passed, whom does it intend to protect and what are its effects in the long run? Because the way it is, according to the way I see it, it is tended to protect these women in the highest class. I am giving my views because I have been dealing with these women in the villages and for example, most of these women in the villages, what property do they have, it is land, children, one wooden bed and may be one rotten blanket and in a thatched house. Now, suppose we pass this Motion as it is, and at the time of dissolution of their marriage, what will these people share? The children, the house, the small land, the wooden bed? Suppose they have got only one goat, will they kill it and share the meat? They have got one cow, will they kill it and share the meat? Mr. Chairman, some men in the villages are too happy to do away with their children. They leave the children with their wives. Now, if you say that you share the property, so, you take six children, she takes six children. This woman cannot go to her father with these children. They will kill her. So, Mr. Chairman, what I am worried about is the implication or the practicability of this Motion. Whom does it intend to protect? Thank you.

MRS. WINNIE MASIKO: Thank you! very much, Mr. Chairman. Mr. Chairman, as I listen to the comments from fellow Delegates I think I am really touched and I feel very sad because I do not think that what they are saying here is what they gathered from their constituencies. Most of you, I can recall very well, that you were protecting the women when you were looking for your votes and you assured them that you are going to make sure that even they should keep their property. *(Applause)* So, Mr. Chairman, I really think that we need to be fair and not to think that this statement only concerns women. We are reminded that in future some women might have more property than men. So, we also protect men who might not have the property equivalent to the women's property.

Mr. Chairman, I think that it is high time we really knew that when a marriage is dissolved, it does not mean that the strength should lie on the man's side to give the woman whatever is the left over. I think that really we should sit down here to compromise on this and know that the property we get together should really be shared and I know, though we might say that it is catered for in 60, Clause (2), that we have equal rights during the dissolution of the marriage, we should make a Constitution which is easy for the masses to read and understand. Let us expand on this so that we clearly bring it out that this property will be shared and I am sure the women will appreciate it. The women we are representing here are the women from the village, whether they are going to share one bed or not, that is what they need. Thank you very much, Mr. Chairman.

MR. BEN ETONU: Mr. Chairman, I rise to oppose this Motion for the following reasons. In some of our societies, when marriages are contracted, there is a dowry element, and the young man getting married is charged very highly. For instance, in Karamoja, they ask the young man to pay over 100 heads of cattle. Now, if that marriage is dissolved and according to the Law we would want to pass now, who will benefit now if the property you will have acquired during your marriage is to be shared? What about the dowry paid? How will you recover it? Should we include in this Clause that we deduct the amount of dowry which was paid first. Secondly, Mr. Chairman, while we were campaigning for elections - I would like to report this one to Hon. Members - that one of the points why I scored very highly against a female opponent was that the ladies voted for me to protect their interests in that their marriages are not disturbed but if we pass this

Law now here, we shall definitely spoil the marriages and the marriages will be destabilised. Now, Mr. Chairman, when you marry in Uganda, the married lady is taken to the boy's home and the land and property in that home belongs to a family. For instance, the cows which will be in the home in some areas, they are inherited by that boy from his parents. Now if the marriage is dissolved, these cows also or property which are inherited from the parents is going to be divided. I beg to oppose this very strongly.

MRS. LAGADA: Mr. Chairman, I would like to start from the point which the last Hon. Member stopped on. It would appear that our customs or culture is meant to keep a woman in perpetual slavery. Are we surely arguing here that because dowry is paid so many cattle in certain cultures, it means that the girl who has been married and therefore the woman whose marriage may come to an end should go without anything and yet those cows do not benefit that very woman. It benefits the parents? What has the woman got to do with the cows? Mr. Chairman, I think we should make a Constitution which would help us to moderate our cultures in such a manner that part of society, which is the woman, does not suffer. We should look at the person we are talking about. We are talking about a woman who is a human being. How come, Mr. Chairman, that when we passed Article 62, there was no much disagreement. Is it because this House had not realized that the question of property would be involved? Why are we having an out-row now? Mr. Chairman, I am actually saddened because we are bringing very awkward arguments here. How can we sit here, Mr. Chairman, and argue that this particular issue is meant to protect the high-class woman? If anything it is the rural woman who really needs it because this is the woman - Mr. Chairman I am going to beg the indulgence of the Members that

since I listened to you without heckle, you also listen to me. I am saying, Mr. Chairman that it is the rural woman who comes and really slaves in that home and usually at the end of it all when the man has seen a young girl, she is chased away minus even her own dresses in some instances and she goes back to her parents twenty years later, the breasts are down, nobody wants her and she has nowhere to start from. I think, to argue that this Article is for the educated woman is completely wrong. Mr. Chairman, I would like to say something else.

We have been arguing that if we pass this Article, we are breaking the family. I would imagine, Mr. Chairman, that if a woman contributes to the family welfare and puts her effort in it, why is it not an incentive for her to stay in that marriage and also the vice-versa applies? If the man knows that at the end of that marriage, if he mistreats this woman and the marriage comes to an end, he is going to work to share that property, it will make them both work very hard to keep that marriage. Mr. Chairman, I urge Members to keep this. Thank you.

THE CHAIRMAN: Hon. Delegates, let us put it this way. We have listened to as many arguments as can be made for and against this case. Some of them are beginning to be repetitive and I think we value our time as much as we value the Motions on the Floor. The only question now is the manner in which we express our views on this matter. I was tempted at one time to suggest that we divide. I will now put the Question that the Motion was moved and it was read out following this Amendment. It reads as follows: "*On dissolution of marriage, men and women shall have the right to equitably share all property acquired during the marriage*". I suggest that we divide - to the right those in favour of the Motion and to the left those against the Motion.

(The Assembly went in Division)

AYES

DELEGATE

- 1 ABALIWANO ALBERT BREWER
- 2 ABU WONOTIYA DOMINICA
- 3 ADIIMA BETTY
- 4 ADIMOLA ANDREW BENEDICTO
- 5 AKECH OKULLU BETTY (MRS)
- 6 ALI MOSES (BRIG)

ELECTORAL AREA

- BUGABULA SOUTH
- WOMEN - MOYO
- WOMEN - ARUA
- GULU MUNICIPAL
- WOMEN - GULU
- EAST MOYO COUNTY

7	AMAMA MBABAZI	KINKIZI COUNTY WEST
8	AMANDRUA PAUL	NOTU
9	AMANYA-MUSHEGA NUWE (MAJOR)	IGARA COUNTY EAST
10	ANIKU JAKOB R.F. (DR.)	MADI-OKOLLO COUNTY
11	ARONDA NYAKAIRIMA (MAJ.)	NRA DELEGATE
12	ATAMVAKU ZUBAIRI	ARUA MUNICIPALITY
13	BABU EDWARD FRANCIS	KAMPALA CENTRAL
14	BAGARUKAYO MAISOTIGALYA JANET (MRS)	WOMEN - NTUNGAMO
15	BALYEJJUSA VICTORIA SEKITOLEKO	BUTEMBE COUNTY
16	BWAMBALE-BIIRA LOYCE	WOMEN - KASESE
17	BYANYIMA WINNIE KARAGWA (ENG.)	MBARARA MUNICIPALITY
18	BYARUHANGA M. FABIUS (DR.)	KITAGWENDA COUNTY
19	BYENKYA BEATRICE (MRS)	WOMEN-HOIMA
20	CHEBET MAIKUT	KWEEN COUNTY
21	CHEPSIKOR MUHAMMAD	YOUTH-EASTERN REGION
22	DHUGIRA ESTHER OPOTI	OKORO COUNTY
23	EGUNYU ASEMOM FIONA LUCY (MRS)	WOMEN - KUMI
24	GUMISIRIZA GUMA DAVID (LT.)	IBANDA NORTH
25	HASHAKA JACKSON	KIBALE COUNTY
26	JAMWA TEZIRA	WOMEN - TORORO
27	KABAYO JOHN PATRICK	KASSANDA SOUTH
28	KABIRISI LUBERENGA HOPE	WOMEN - BUSHENYI
29	KALIKWANI IRENE (MISS)	WOMEN - KAMULI
30	KANYEIHAMBA GEORGE	RUBANDA COUNTY EAST
31	KATENTA-APULI STEPHEN	CONSERVATIVE PARTY
32	KAVUMA STEPHEN B K	KYADONDO SOUTH
33	KAWOOYA ANIFA	WOMEN - MASAKA
34	KAYONDE ISRAEL	GOMBA COUNTY
35	KIIZA-BESIGYE (LT.COL.)	NRA DELEGATE
36	KINYATA STANLEY GEORGE (DR.)	KINKIZI COUNTY EAST
37	KISEMBO AMULEJU GEORGE WILLIAM	BURAHYA COUNTY
38	KITAKA GAWERA ELIJAH JOHN	BBALE COUNTY
39	KITARIKO K. ROBERT	DEMOCRATIC PARTY
40	KIWAGAMA WILLIAM WILBERFORCE	BUNYA WEST
41	KIYONGA CHRISPUS WALTER C B	BUKONZO COUNTY WEST
42	KULANY GERTUDE (MRS)	WOMEN - KAPCHORWA
43	KULE MURANGA KIGHOMA JOSEPH	BUSONGORA NORTH
44	KUTESA PECOS ONESSMUS (COL.)	KABULA COUNTY
45	KUTESA SAM K	MAWOGOLA COUNTY
46	KWERONDA RUHEMBA	KAJARA COUNTY
47	KYALIGONZA MATAYO (BRIG.)	BUHAGUZI COUNTY
48	LAGADA AMONGI BEATRICE (MRS)	WOMEN - APAC
49	LIIGA ALOYSIUS C M	BUVUMA (ISLANDS)
50	MASIKO WINFRED	WOMEN - RUKUNGIRI
51	MATEMBE MIRIA R. K. (MRS)	WOMEN - MBARARA
52	MATOVU BYATIKE DAVID	ENTEBBE MUNICIPALITY
53	MAVENJINA AKUMU CATHERINE (MRS)	WOMEN - NEBBI
54	MAYOMBO NOBLE (LT.)	NRA DELEGATE
55	MAZIMA ELIPHAZ	NUDIPI
56	MUGYENYI POSIANO R (DR.)	ISINGIRO NORTH
57	MUKASA MURULI WILSON	NAKASONGOLA COUNTY
58	MUKIIBI BENIGNA (MRS)	WOMEN - KIBAALE
59	MUKISA SOLOME (MRS)	WOMEN - IGANGA

60	MUKWAYA ABBEY HAFEZ	BUSIRO COUNTY EAST
61	MUKWAYA BALUNZI JANAT (Mrs.)	MUKONO COUNTY SOUTH
62	MUSAANA SOPHY (DR.)	BUIKWE COUNTY NORTH
63	MUSHEMEZA ELIJAH DICKENS	SHEEMA COUNTY SOUTH
64	MUSOBYA LUBEGA GODFREY	KAGOMA COUNTY
65	MUTAGAMBA LUBEGA MARY	WOMEN - RAKAI
66	MWESIGYE RUHINDI HOPE (MRS)	WOMEN - KABALE
67	NABAFU JENIFER ROBBINA (MISS)	WOMEN - MBALF
68	NABUDERE DANI WADADA (PROF.)	BUDADIRI WEST
69	NACHA LORIKA ROSE	WOMEN - MOROTO
70	NAKYANZI MARIA VERONICA (DR.)	NTENJERU SOUTH
71	NANKABIRWA SENTAMU RUTH (MISS)	WOMEN - KIBOGA
72	NDEGE JOHN JOSHUA	LUUKA COUNTY
73	NSANGI KAKEMBO MARY	WOMEN - KALANGALA
74	NSIBAMBI APOLO (PROF.)	PRESIDENTIAL NOMINEE
75	NTABGOBA JENINAH (MRS)	WOMEN - KISORO
76	NYEKO JACK H. PEN-MOGI (DR.)	PRESIDENTIAL NOMINEE
77	OBEL ONEGI	JONAM COUNTY
78	OBIGA KANIA RIO	TEREGO COUNTY
79	ODONG JEJE (LT.-COL.)	NRA DELEGATE
80	OKORIMOE JANET (MRS)	WOMEN - KOTIDO
81	OMARA ATUBO DANIEL	OTUKE COUNTY
82	ONDOGA AMAZA (MAJ.)	NRA DELEGATE
83	ONYOK-ETUKU DAVID	MOROTO COUNTY
84	ORYEM AKABO ALICE	WOMEN - KITGUM
85	OTAFIIRE KAHINDA (COL.)	RUHINDA COUNTY
86	PINTO MANUEL XAVERIO	KAKUUTO COUNTY
87	PULKOL DAVID BWANGAMOE	MATHENIKO COUNTY
88	RAINER KAFIRE JULLIET	WOMEN - PALLISA
89	RUZINDANA AUGUSTINE	RUHAMA COUNTY
90	RWABITA DEO K.	IBANDA SOUTH
91	RWABYOMERE JOAN N.K.	PRESIDENTIAL NOMINEE
92	SEBI DATA HAROUN	KOBOKO COUNTY
93	SEMPA VICTORIA ESTHER (MRS.)	WOMEN - LUWERO
94	SERUWU-BAKOJA BEATRICE	WOMEN - MPIGI
95	SSEMAALA KIRUNDU KIWANUKA	KYAMUSWA COUNTY
96	SSEMAKULA NAKABUGO KIGGUNDU	WOMEN - MUBENDE
97	SSENDAULA GERALD	BUKOTO SOUTH
98	SSENTONGO THOEPISTA	NOTU
99	TUMUKUNDE HENRY	RUBABO COUNTY
100	TUMWINE POLLY KATAHWI	YOUTH WESTERN REGION
101	TURYAHIKAYO ALICE KUNIHIRA (MRS)	WOMEN KABAROLE
102	WAGIDOSO MADIBO CHARLES	BULAMBULI COUNTY
103	ZZIWA NANTONGO MARGARET (MRS)	WOMEN - KAMPALA

NAYS

1	ADIO WINIFRED	WOMEN - SOROTI
2	ADOKO NEKYON	MARUZI COUNTY
3	AJIGA ABDUL	OBONGI COUNTY
4	AKURE H. PETER	JIE COUNTY
5	ATARE AJAI JAMES	KILAK COUNTY

6	ATWOKI AMBROSE	YOUTH - NORTHERN REGION
7	AWORI AGGREY SIRYORI	SAMIA BUGWE NORTH
8	BAGENA ANTHONY M.S.	BUFUMBIRA COUNTY EAST
9	BAGEYA GEORGE PARTRICK	KIGULU COUNTY NORTH
10	BAMWENDA TOTEREBUKA BONEFACE	BUYAGA COUNTY
11	BANTARIZA FRANCIS	BUHWEJU COUNTY
12	BASALIZA HENRY ARAALI	FORT PORTAL MUNICIPALITY
13	BASOGA NSAJU	BUSIKI COUNTY
14	BATANYENDE GAITANO (REV.FATHER)	PRESIDENTIAL NOMINEE
15	BATEGANYA MUKUVE DICK	BUKOOLI CENTRAL
16	BIDANDI SSALI JABERI	NAKAWA DIVISION
17	BWAMBALE WALEMBA IVAN	BUKONZO COUNTY EAST
18	BYAKIKA KASAJA GERESOM SAMSON	BUNYOLE COUNTY
19	BYARUGABA BAKUNDA ALEX	ISINGIRO SOUTH
20	DIDI AGARD CYRIL	MOYO WEST COUNTY
21	EJOKU SAMUEL	NGORA COUNTY
22	ELYAU MIKE JUVENTINE	KALAKI COUNTY
23	ERESU ELYANU JOHN	KABERAMAIDO COUNTY
24	ETONU BENEDICT	AMURIA COUNTY
25	JURUA ALEX	VURRA COUNTY
26	KABUGO MESUSERA	NAKASEKE COUNTY
27	KABWEGYERE TARSIS BAZANA	IGARA COUNTY WEST
28	KAGGWA SSOZI K. MEDI	KAWEMPE DIVISION SOUTH
29	KAGIMU KIWANUKA MAURICE	BUKOMANSIMBI COUNTY
30	KAHEEBWA FOX JOHNSON	BUJENJE COUNTY
31	KAJA JOHN WYCLIFFE	KIBANDA COUNTY
32	KAJUKA RICHARD HENRY	SHEEMA COUNTY NORTH
33	KAJARA ASTON PETERSON	MWENGE COUNTY SOUTH
34	KAJUBI SENTEZA WILLIAM	KYADONDO NORTH
35	KAJURA HENRY MUGANWA	BUGAHYA COUNTY
36	KAKUNGULU SHANNON (DR.)	PRESIDENTIALNOMINEE
37	KALEMA RHODA NSIBIRWA	KIBOGA COUNTY EAST
38	KAMANDA BATARINGAYA COS (DR.)	BWAMBA COUNTY
39	KAMURON PETER	KONGASIS COUNTY
40	KANDOLE CLEMENT	KYAKA COUNTY
41	KANYIKE ANTHONY WILLIAM HENRY	BUIKWE COUNTY WEST
42	KARAAHWA MONICA	WOMEN - MASINDI
43	KARUHANGA ELLY W	NYABUSHOZI COUNTY
44	KARUSOKE CONSTANTINE	INTOROKO COUNTY
45	KASAJA GEORGE PATRICK	BULAMOGI COUNTY
46	KASANGAKI PANTALEO KAAHWA	BURULICOUNTY
47	KASOLE BWERERE LWANGA EDWARD	BUWEKULA COUNTY
48	KATUMBA ROBINSON MATHEW	KIBOGA COUNTY WEST
49	KATUREEBE BART MAGUNDA	BUNYARUGURU COUNTY
50	KAWANGA JOHN BAPTIST	MASAKA MUNICIPALITY
51	KAWERE SEMPA PIUS	MUKONO COUNTY NORTH
52	KAYIZZI ASANASIO	KASSANDA NORTH
53	KIBIRANGO GYAGENDA (MAJ.)	NRA DELEGATE
54	KIGAYE-BILLYAWO ERIYA PAUL	BUDAKA COUNTY
55	KIWANUKA-MUSISI G.	BUIKWE COUNTY SOUTH
56	KIYONGA FRANCIS ADAMSON	UPE COUNTY
57	KOMAKEC LEANDER	ARUU COUNTY
58	KWERONDA RUHEMBA	KAJARA COUNTY

59	KYEMBA HENRY KISAJA MAGOMBA	JINJA MUNICIPALITY WEST
60	LANGOYA TIMONY	LAMWO COUNTY
61	LOKERIS SAMSON	DODOTH COUNTY
62	LUBEGA DAMIANO	RUBAGA DIVISION SOUTH
63	LUBEGA-WAGWA SWAYIBU	BUTAMBALA COUNTY
64	LUBOWA MOSES PAUL	BUDIOPE COUNTY
65	LUBULWA MIGADDE UMAR	KATIKAMU SOUTH
66	LUKUMU FRED	BULIISA COUNTY
67	LUKWAGO GABRIEL	KOOKI COUNTY
68	LUMALA DFOGRATIUS NKALUBO	KALUNGU WEST
69	LUTALO KAMYA JAMIL	NTENJERU NORTH
70	MALINGA LO OJULLA IGNATIUS	USUK COUNTY
71	MALIRO GASTON JOHN R.	MWENGE COUNTY NORTH
72	MASALU MUSENE WILSON	MANJIA COUNTY
73	MASIKA GEORGE JAFETH	MBALE MUNICIPALITY
74	MBURA-MUHINDO JEROME	BUSONGORA SOUTH
75	MIYINGO KEZIMBIRA LAWRENCE	BUKOTO MID-WEST
76	MULASSANYI DAVID JOHN	RUBANDA COUNTY WEST
77	MULENGA N. JOSEPH	DEMOCRATIC PARTY
78	MULONDO BESWERI KIWANUKA LUSSE	MITYANA COUNTY SOUTH
79	MULONGO SIMON	BUBULO COUNTY EAST
80	MUSEKURA NDARUHUTSE B. THADDEUS (DR.)	BUFUMBIRA NORTH
81	MUSUMBA ISAAC ISANGA	BUZAAYA COUNTY
82	MUYIISA JOHN CHRIZESTOM	BUJUMBA COUNTY
83	MWAKA DAVID	NWOYA COUNTY
84	MWEBESA FRANCIS (MR.)	PRESIDENTIAL NOMINEE
85	MWONDHA PATRICK JOHN	BUKOOLI COUNTY NORTH
86	NABURRI LORIKA WILLIAM	CWEKWII (KADAM)
87	NJUBA KALEGA SAMUEL (HON.)	KYADONDO EAST
88	NSUBUGA NSAMBU YUSUFU	MAKINDYE DIVISION WEST
89	NYAJ DICK	AYIVU COUNTY
90	OBONYO JABWOR CLEMENT HENRY	LABWOR COUNTY
91	ODOY-ASOKA ALFRED	WEST BUDAMA NORTH
92	ODUR DICK	DOKOLO COUNTY
93	OGWEL LOOTE SAMMY	MOROTO MUNICIPALITY
94	OJOK B'LEO	KIOGA COUNTY
95	OKALEBO HENSLEY EPHRAHIM	BUKEDEA COUNTY
96	OKANYA JAMES	BUTEBO COUNTY
97	OKENY TIBERIO ATWOMA	CHUA COUNTY
98	OKULA O. CHARLES	SOROTI COUNTY
99	KIMERA VINCENT	BUKOTO EAST
100	OKWONGA-LATIGO ONESIMO	OMORO COUNTY
101	OLEGA ASHRAF	ARINGA COUNTY
102	OLWA BEN	KOLE COUNTY
103	OMOLO PETER	SOROTI MUNICIPALITY
104	OMUTE JULIU	KUMI COUNTY
105	ONETI-BATIA SAMUEL A.B.	MARACHA COUNTY
106	ONGARIA STEVEN	TORORO MUNICIPALITY
107	ONYOK-ETUKU DAVID	MOROTO COUNTY
108	OWINY-DOLLO CHIGAMOY ALFONSE	AGAGO COUNTY
109	RINGWEGI SAM FIESTER SURF	PADYERE COUNTY
110	RWOMUSHANA CHARLES	RUJUMBURA COUNTY
111	SABIINI JACK	RUKIGA COUNTY

112	SAKWA DARLINGTON NANYWAKA	BUNGOKHO SOUTH
113	SEKITOLEKO SALI SEBASTIANE	BUGANGAIZI COUNTY
114	SEMAJEGE HIGIRO	LWEMIYAGA COUNTY
115	SSEKANDI EDWARD	BUKOTO CENTRAL
116	SSENGOOBA ANDREW BEN	KYOTERA COUNTY
117	SSERWANGA-LWANGA (LT COL.)	NRA DELEGATE
118	TIGWEZIRE JOHN KASAJA	BUNYANGABU COUNTY
119	TINYEFUZA DAVID (MAJ.GEN.)	NRA DELEGATE
120	WACHA BEN	OYAM COUNTY NORTH
121	WAGIRA MOSES P.	KIBUKU COUNTY
122	WAMBEDE SETH MASSA	BUNGOKHO NORTH
123	WAMULONGO WAHIBI ALUPAKUSADI	BUNYA EAST
124	WANDERA OGALO DAN	BUKOOLI SOUTH
125	WANENDEYA WILLIAM GIBONI	BUDADIRI EAST
126	WANJUZI WASIEBA SYLVESTER	BUBULO COUNTY WEST
127	ZZIWA GEORGE WILLIAM	KAWEMPE DIVISION NORTH

ABSTAINEEES

BAGUMA ISOKE MATIA

THE CHAIRMAN: 231 Members were present in the Chamber the time of voting. One Member did not vote - in other words, the Member abstained. The 230 voted, the result is that for the proposition 103 and against the proposition 127. So, the proposition is not carried and therefore, lost. *(Applause)* That is the position with regard to that Amendment.

Hon. Delegates, this means that the Amendments that we have with regards to Article 60 have been exhausted and having been negatived, the Article remains as amended previously and therefore, now let me put the Question on Article 60 as amended.

(Question put and agreed to)

THE CHAIRMAN: So, as Article 60 has been disposed of today, and there are other amendments which of course, are before us, but seeing that we have exhausted the time we have allocated today, I would like that we adjourn to resume tomorrow morning; have done but I can see a hand of Hon. Zziwwa who would like to make some announcement.

BUYANJA COUNTY

MRS. ZZIWA: Thank you very much Mr. Chairman. This is an open invitation Mr. Chairman, to Hon. members. Dear members all of you who currently are residents of Kampala district, and I wish to take this opportunity as a CAD woman Kampala to invite you hon. Delegates, to an open exhibition currently taking place at Kampala City Square. I wish hon delegates that the scenario of the afternoon should not derail you frOm supporting Women s efforts. This one is actually a drive for economic empowerment, and we feel that where there is finance, there is harmony in the home, So dear Members, all of you, I beg you that as you go, through the afternoon, to just pass by the city square; there are a lot of articles which are hand-made, and really support the small scale industries our women are really opening up into. So Mr. Chairman and dear Delegates, I look forward to receiving you there, and really you buying the articles which the women have put on market. Thank you very much, Mr. Chairman.

(The Assembly rose and adjourned until Friday, 9th September, at 8.30 a.m.)