

Mission of the Centre for Basic Research

To generate and disseminate knowledge by conducting basic and applied research of social, economic and political significance to Uganda in particular and Africa in general, so as to influence policy, raise consciousness and improve quality of life.

Constitutionalism Project Phase Three

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Constitutionalism Project Phase Three

1. Opening Session

The Executive Director of Centre for Basic Research (CBR), Dr. Joseph Carasco, opened the meeting by introducing CBR as a non-governmental organisation of Ugandan researchers established in 1988. He stressed that CBR was independent and autonomous, a point that required particular clarification as we approached presidential and parliamentary elections. On CBR activities, the Executive Director informed the audience that researchers at CBR gathered data from people in the field, analysed it and wrote reports. These reports were discussed in workshops and seminars and the results thereof were published as working papers and disseminated to as wide a readership as possible.

He emphasised the fact that while the process and methods employed in research were as objective as possible, CBR did not claim to be neutral. Rather, research at CBR addressed those issues that affected the daily lives of the majority of the Ugandan people, with a view to achieving the betterment of their situation. This was in sharp contrast to consultancies which were remuneration-oriented and were only of short-term benefit to society. CBR also carried out the documentation of locally available materials and operated in liaison with other research institutions with shared objectives. Dr. Carasco ended his remarks by reiterating the point that research conclusions often, unavoidably, led towards positions that researchers had to stand by, notwithstanding the labels that were associated with adhering to such conclusions.

2. Introducing the Seminar

The Co-ordinator of the CBR Constitutionalism Project, Dr. John-Jean Barya, gave the background to the project. The first phase of the Constitutionalism Project began in 1990 and addressed the political situation before the formal debates on the new constitution. It entailed a survey of urban civic organisations, the results of which were compiled into a report. The second phase comprised the writing of five working papers on various areas of constitutional interest, which were to be published in 1996 as a book by the Council for Development of Economic and Social Research in Africa (CODESRIA). In the third phase, CBR was studying how the constitutional process unfolded and how it was viewed by various sections of society. A survey on these issues was carried out between March and May 1995, covering 55 urban civic organisations, Local Council leaders and women and youth council leaders at the sub-county level (LC III). The survey covered four counties namely, Nakasongola (Luwero District), Maruzi (Apac District), Kashari (Mbarara District) and West Budama (Tororo District). The Co-ordinator specified that the main purpose of the workshop was to discuss the contents of the report of the above-mentioned survey. Thereafter, the participants divided themselves into three groups to consider in detail the contents of the survey report. The first group considered

the Legislature and the Judiciary, the second group considered the Executive and the Military, and the third group considered Political Systems, Land and the Economy. In addition to each of these specific topics, each of the groups considered general issues such as the necessity of making a new constitution and the process of consultation by delegates to the Constituent Assembly (CA).

The following account is a summary of the main aspects of the discussion of the contents of the survey report and largely captures the views and attitudes views of the participants at the workshop. The report is in two sections. The first section covers the proceedings of each of the three groups. The second section summaries the discussions during the plenary sessions, and concludes with the recommendations made by workshop participants.

3. Proceedings of Discussion Groups

3.1 Group I Proceedings

This group proceeded by analysing issues sequentially, reading the text of the report aloud, page by page, and then raising comments. The first issue that arose was a query concerning the rationale of the size of the sample, that is, 71 groups in the earlier survey and 55 in the second survey. After some discussion and explanation that the groups were chosen to represent the various sectors of civil society, it was agreed the sample was adequately representative. Then it was pointed out that the army had been left out of the survey, yet it was a politically significant institution. Constitutional discussions, it was agreed in the group, were very important and it was felt that in order to increase attendance and response in future, phrases like "constitutional" or "constitution" that sounded too sensitive should be replaced by other less sensitive terms.

It was also recommended that areas not included in the last survey should be invited to future seminars. Participants commended the role of neutral parties such as elders and veterans associations and proposed that they should be included in future discussions. Another recommendation was that more information should be sent before research and dissemination to avoid hurried interviews and inadequate interaction between the researchers and respondents. It was recommended that, where possible, questionnaires be written or at least administered in local vernaculars.

Insufficient civic education by local leaders, as well as actions and behaviour of delegates to the CA were blamed for the failure by most people to follow the constitution-making exercise. There was also a view that the constitution-making process was influenced by a parallel process outside the Constituent Assembly itself. This was in the form of meetings between the President and the various caucuses like the NRM caucus, the Buganda caucus, the multi-party caucus. As it turned out, it was self-evident in some cases that the CA delegates did not represent the true views of local people who most of them were not consulting during the process of debating the constitutional proposals. Even elections to the Assembly were considered by some to have been influenced by the NRM in very many ways. One of these influences was through appointed representatives

to the CA. It was pointed out that such appointed members only represented the political interests of the authority that appointed them (the NRM). It was proposed that both parliamentary and presidential elections be held on the same day to avoid the outcome of one influencing the outcome of the other.

One participant reaffirmed that the new constitution was a necessary development. He supported the new constitution as corrective of the defects in the old constitutions as well as generally putting into place other corrective measures. This was opposed by another participant who contended that the new constitution was worded in bad faith and particularly decried the NRM's role in influencing the new constitution.

There were arguments for greater efforts in terms of affirmative action for both women and the disabled. Concerning the military, it was noted that whenever there was change of government, those who suffered most were the soldiers. Consequently, there was an opinion that to counter this trend the government should ensure that the army was neutral and not partisan. It was even proposed that terms of office for officers such as Army Commander should be fixed and rotated to avoid personal loyalty to the Commander-in-Chief.

About attendance at the workshop, it was questioned as to why the organised urban civic groups were grossly under-represented. Several explanations were given. One was the poor weather which was thought to have made travel from Kampala to Mukono difficult on the morning of the first day of the seminar. Secondly, apathy and saturation were suggested as possible causes. There was the view that since the constitution had already been written and promulgated, why attend another constitutional workshop. In other words the culture of constitutionalism, as an on-going process was felt to be still lacking.

One participant strongly felt that the army should have been represented both in the survey and the workshop given its stake in the political destiny of Uganda. Another one felt the constitutional discussions were very important and should be encouraged. It was pointed out that better response would be realised if CBR avoided high-sounding or sensitive phrases like "constitutional process". The CBR Project Co-ordinator pointed out that such the seminars were actually continuous and were bound to go on into the next phase including reports on various aspects of the constitution and reports of this very exercise. Someone affirmed that this was very positive as an avenue of representation of peoples' views. There was a reminder that there was room for amending the constitution, and debates on its should not cease simply because the work of writing the constitution had been accomplished and it had been promulgated. It was recommended that areas not covered in the survey should be visited and included in future seminars. To avoid conflicting approaches, it was suggested that the role of neutral parties (CBR, for example) at the forefront of organising constitutional debates should be encouraged.

The issue of representation of "broad opinion" as claimed in the survey report was queried and, in response, it was explained that this meant representation at the level of counties, based on broad political orientation such as party as opposed to movement affiliation. It was also noted that some groups like elders and those retrenched from the civil service have emerged in some villages and that in future surveys such groups should

be included in the sample. These generally acted as peer groups of elders who substantially affected the political configuration of power in the districts.

One concern was expressed about the selection of participants in the survey as biased, particularly in Nakasongola where the only anti-federal sub-county of the district was selected in the sample. It was observed that the Nakasongola anti-federal stand be taken seriously in future research, and someone added that veterans as a new group should be added. It was suggested that in the future CBR should give prior information by way of letters to areas selected for study to allow the mobilisation of respondents. Otherwise, it caused inconvenience and fear among some respondents, as exemplified by the case of Mbarara which probably reflected the highest level of distrust and misinformation arising from poor communication. This was felt to have affected the interest of respondents in the CBR project and in the constitution-making exercise. It was suggested that in future questionnaires should be written in the local languages of the study areas to allow for easier and more comfortable response. The failure to give views on controversial issues, such as on the party-versus-movement debate probably arose from fear of actual or possible harassment and repression. Such was particularly likely in a place like Teso.

Commenting on the questionnaire, it was observed that it was too long, and given the poor preparation this was very inconveniencing. Along with this, it was even observed that probably the research assistants were given very little time to administer the questionnaires. This time factor left respondents little room for comprehensive contribution.

On the other hand it was felt there was need for more introduction and identification on the part of the researchers and research assistants. In Apac there was an accusation that the researcher appeared to be campaigning for NRM. One participant pointed out that the view that there was no need for a new constitution was a very unfortunate view given the political trends in Uganda. He argued that when the NRM came to power in 1986 it had to create a new neutral ground in the form of new constitution as basis for a new democratisation. An explanation was also given for the selection of the Constitutional Commission. One participant argued that the Commission had to be hand-picked because of the lack of prior constitutionally-prescribed criteria for selecting such a commission. As a consequence, the Executive was deemed to have been right. It was also suggested that the new constitution created a level ground for new political actors without bias. But, above all, it was felt that the constitution-making exercise created grassroots consciousness about the process of governance and reduced the religious trappings of past politics. It was also a break from the foreign-influenced constitutions which Uganda had been trapped in. Finally, the new constitution was commended for having catered for marginalised opinion to a satisfactory degree particularly among the youth and women.

On the issue of CA delegates consulting the people two things were observed. First, that consultation in some cases turned into a clash of opposing groups which derailed the course of consultation, especially given the hostility among the groups. Secondly, it was also noted that consultations took two different forms. One meant taking

money to the people so that where there was no money delegates feared going down to consult, since people were more interested in what a delegate could give (logistics), than in the substantive issues of the constitution. Someone argued against this attitude by pointing out that there were cases of people who were elected as delegates although they were poor and they were even very vocal in presenting the problems of their constituencies. One person thought that these consultations were not even necessary, because they ultimately turned out to be nothing more than quarrels between people with different political opinions. It was further pointed out that the newspapers inflated the extent of wealth which the delegates had, creating a general need for money on the part of the electorate. All the same, participants agreed that consultations were necessary because delegates needed to fall back constantly and receive views from the electorate. But the politicking before the CA was blamed to have created a lot of unreasonable expectations. People were promised results and it was not pointed out to them that the process was to be negotiated. Allegedly, some positions were also shifted after financial gifts (bribes) from the NRM which created polarisation between delegates and the electorate. Such things as bargaining between government and federalists on constitutional issues were, for example, misunderstood. A trade union participant clarified that the statement that "there was no specific need to consult workers' unions" which was contained in the CBR survey report, was an overstatement. In Tororo, it was pointed out LCs of different political opinions tended not to effectively mobilise people to attend consultative meetings even when notice was given early enough by the delegates concerned.

3.1.1 The Legislature

It was pointed out at the beginning that the present method of electing as well as appointing the Legislature was very good but had one weakness of having no mechanism to reconcile the interests of those who won and those who lost. The good thing in appointing part of the legislature was that some very capable individuals, who, for some reason, failed to be elected, could be appointed and be afforded the opportunity to make their contribution. One person felt that there should be universal criteria for these special appointees, as well as specifying who would decide on the people to be appointed. There was general agreement with the provision in the new constitution which reduced the powers of the Executive, particularly in appointing sections of the Legislature.

It was also considered fair for counties or the stipulation of a specified population number, say 70,000 people, to constitute electoral constituencies, since such a criterion would rule out gerrymandering. But on the issue of minority interest groups, there arose a number of questions such as: Who determines them? How should they be elected? The idea that the present special interest groups were beholden to the NRM was considered by some as belittling the historical struggle of these groups. They were not simply NRM creations despite the fact that it was NRM which first recognised their struggles. A case to prove the point that women were not beholden to NRM was that of the head of the campaign team of the Democratic Party presidential aspirant who was a woman. NRM's attempt to put in place an affirmative environment was applauded. But it was pointed

out that when interest groups went to parliament, they ceased to narrowly stand for the interests of their constituents and broadened their goals and outlook much further beyond the interests of their groups. It was proposed that the new constitution should uphold affirmative action for the next ten years, beyond which the situation would be reviewed at intervals of five years with a view to expanding, reducing or even abolishing these groups as the situation would warrant. There was a query as to why the army, as opposed to other forces was singled out as a social interest group. In reply, it was clarified that the new constitution rectified this under the umbrella of the Uganda Peoples' Defense Forces (UPDF) which included prisons, police and the army. Another participant was very supportive of affirmative action especially for the youth and students. But some opposed the whole idea of special interest groups arguing that they were already represented in their respective constituencies of origin. In fact it was suggested that affirmative action logically led to such unrealistic political demands as ministerial appointments for minority nationalities. But on the whole, the general opinion was that special interest groups ought to be represented. With respect to the manner of arriving at people to represent these groups, the debate centred on whether these groups should themselves elect their representatives or whether the whole electorate should do it. The new constitution stipulated that they were to be selected by electoral colleges in the case of women representatives. Other groups were left to select their own representatives. There was also a discussion of what would happen in the case of those who failed to effectively represent the interests of those who elected them. A recommendation was made to the effect that such representatives should be recalled as stipulated in the recall bill. It would also be a learning experience to nurture new leadership in weak establishments; and on the part of the electorate, it would sharpen people's ability to choose by avoiding wrong representation.

On the question of accountability, it was felt that the Legislature should be accountable to the people who elected them. On major appointments, it was felt that the Legislature should vet them. There was also a strong case for substantial powers to be vested in the Executive as opposed to the Legislature. A case was cited of the National Consultative Council (NCC) which as a strong Legislature incapacitated past Presidents Lule and Binaisa. It was, for example, considered appropriate for the president to reserve the right to declare a state of emergency if Parliament was not in session and to seek ratification from it later. Issues of recall were also, in the participants' view, appropriately catered for in the report as well as in the new constitution.

Regarding the coincidence of terms for both the Executive and Legislature, one person observed that if elections for both organs were held on the same day, some of the anticipated manipulation would be avoided, costs of the exercise would be reduced, and the attendant demoralisation and tension once results were out would be mitigated. There was a dissenting view that it was demeaning to elect a President at the same time as local representatives. Even the issue of reducing costs was countered by the view that Uganda Revenue Authority was collecting enough money to finance the two exercises separately. If the tenures coincided, it was argued, we could face a scenario of a new Executive and a new Legislature which would incapacitate the government machinery. It

was observed that the new constitution provided for separate tenures for the Executive and the Legislature, whereby the tenure of the latter preceded that of the former. It was the general feeling that this catered for crises such as impeachment or resignation of the Executive, where Parliament would be in place to carry on and organise elections for a new President.

3.1.2 The Judiciary

It was pointed out that according to the provisions of the new constitution, there would be a Judicial Service Commission to recommend persons deemed fit to be appointed to the Judiciary, including the Chief Justice. Members of this commission would be nominated by the President and ratified by Parliament. Its composition would include people who were not lawyers, like those from the civil service, and the Attorney General would only be ex-officio because of his powers in the Executive. This position seemed to be agreeable to participants in this group.

In terms of avoiding a political vacuum should anything happen to the President, it was proposed that the Speaker, (and in his/her absence the Deputy Speaker), of the Legislature should be entrusted to oversee the transitions. It is only as a very last resort that judicial interference in political issues is to be called in. The Court of Appeal was recommended to expend justice in all cases beyond the High Court.

It was noted that ancillary courts such as LCs had grossly abused their judicial powers, particularly on issues relating to criminal matters. In one instance, their removal was even called for, because of their alleged arrogance and rigidity. Notwithstanding this factor, these courts were extolled as pillars of grassroot justice, provided avenues for their improvement, such as integrating lawyers into them, were established. It was considered appropriate for the new constitution to have provided for the Chief Magistrate to exercise powers of supervision over them, especially on the issue of immovable property. Much as emphasis was laid on their significance and importance, the need for refinement to facilitate their performance was strongly voiced. It was observed that continued interaction between the ancillary courts and the formal courts was the best way of improving their status while maintaining their grassroots role in demystifying law which had hitherto remained largely abstract, and consequently distant from the people. Among the gross defects of the LC courts was misrepresentation of their administrative powers to the extent that they had created an impression among themselves that they were government organs and not peoples' courts.

3.2 Group II Discussions

3.2.1 General Issues

The background to the present project was introduced to the participants. The organised groups interviewed during the survey were read out to the participants, together with the rural women, youth and Local Council leaders groups. A concern was

raised that of the 55 civic groups interviewed in Kampala, very few turned up to attend the seminar. In mitigation, someone stated that it was not the question of everyone attending which was important, but the issue of whether the views they gave during the interviews actually reflected those of the people they were supposed to represent.

Discussing the problems encountered in the survey such as non-response by would-be respondents and organisations which had ceased to exist, it was agreed that these did not have significant negative effect on the survey exercise because, for example, although some organisations had ceased to exist, their members had given their views in the new organisations to which they now belonged. And on the question of lack of interest, it was pointed out that the business of research was relatively new in our society and as such people did not appreciate its value.

There was commendation of Kakooge sub-county (Nakasongola county, Luwero District) for having constituted a committee on constitutional issues. This, it was noted, facilitated the interview because the population had made a follow-up of what was going on in the Constituent Assembly.

On the problem of language, particularly of the questionnaire having been written in English, it was observed that this was not as serious a limitation as the fact that the questionnaire was framed in technical language which posed a problem to the lay person. Nonetheless, the exercise was deemed successful because the people expressed a lot of interest in the questions raised.

On the issue of respondents feigning ignorance of issues considered controversial, participants said that this was because many people did not know what CBR was all about. So, they feared to speak out their mind as there was a lot of suspicion regarding the whole exercise.

Regarding groups that declined to participate in the survey citing the fact that they were private businesses, it was highlighted that they must have feared that should they give views which were opposed to those of government, for example, this would damage their chances of being helped by government when need arose.

3.2.2 Nature of Responses

On whether it was necessary to make a new constitution the members of this group identified themselves with the 81 per cent majority in the survey who had affirmed its necessity. Among the reasons stated was that it was necessary for the people to participate in making the most fundamental law that governs them. They also reiterated that the people who went to Lancaster (Britain) in 1961 to debate Uganda's constitutional order before independence, had been hand-picked and could not have represented the people's views.

While making a new constitution was a welcome development, some skepticism was expressed about the process having been shrouded in bad faith which aroused suspicion against those in charge of the exercise. The duration of the exercise was, for example, criticised as a stratagem to prolong the tenure of the incumbents. This view was opposed by those who felt that given the importance of a constitution it needed sufficient

time to be debated carefully. Participants opposed the idea that the old constitution could have been amended. They said this could not work because the old constitutions lacked sufficient legitimacy. The issue of special interest groups was opposed by those who thought their interests were represented elsewhere and their inclusion was deemed to be, in effect, a double vote. Women and the disabled could be represented in their constituencies. An example was given of the Uganda Newspaper Editors and Publishers Association (UNEPA) which had to lobby other than agitating for a constituency to be specially represented. The so-called interest groups should have just lobbied for the inclusion of their interests through delegates representing constituencies. But there ultimately emerged a consensus that special interests should be represented in the legislature since they were disadvantaged, but that they should be clearly defined, as had been done in the new constitution.

It was generally agreed that the consultation by the Constituent Assembly delegates was inadequate in most constituencies. But a participant from Luwero said that there were no complaints regarding lack of or insufficient consultation in his area. It was ironically observed that some delegates were now going back to their constituents distributing copies of the constitution to people whom they did not consult.

3.2.3 The Executive

Participants agreed with the proposal that the Executive be headed by a president elected by universal adult suffrage. They agreed with all the reasons as presented in the report for this particularly that of ensuring the president commanded a general mandate of the people and was competent.

On subjecting the president to the judicial process, it was argued that it was improper. The president was the symbol of society and should be respected. They feared what would happen if the president lost a case. It was, however, agreed that the president should be prosecuted after leaving office.

Participants supported the president to act as the Commander-in-Chief and agreed with the reasons given in the report. On the term of office, it was agreed that, two five-year terms were enough. There was a view that the incumbent should be elected as many times as the people wish, but in view of the culture of intolerance in Uganda, two five-year terms were deemed enough. The reason given was that if a person stayed in power for too long he declined in competence and became complacent, or might even degenerate into a dictator. But also if the term of office was shorter, it was feared that the president would tend to drain the country of its resources knowing that he was in power for only a short spell.

On powers of the chief executive, it was agreed that all major appointments should be made by the president and approved by parliament. It was felt that this would reduce the problem of making appointments as rewards for political support. There was another view of a possibility of electing a president without a majority support in parliament, with a likelihood of turning down his appointments and making it hard for him to govern. But participants agreed, not to be pessimistic, in anticipating such a conflict between the

executive and parliament. This was partly because, before the president appointed, extensive consultation was made with the professionals and cabinet to identify the best suited people, and parliament only needing to act as a check. In any case, it was also in parliament's interest to have good people appointed. The consensus was that the powers of the president should be reduced by subjecting them to parliamentary approval. This would be a check that these powers were not abused or used arbitrarily.

On whether the president should be impeached as a way of reducing his powers, this was taken as unnecessary if enough checks and balances were put into place. It was also felt that impeachment was least likely to succeed in our situation where it meant overturning the whole system and the consequences were not desirable. There was likely to be chaos say by the army. All the same, there was a consensus that the president should be impeached because it was the best way to check on his powers so that they were not abused, the possibility of chaos breaking out notwithstanding. And in any case, if things were to go by the current constitution, such an eventuality would not occur. On the process of impeachment, since it was the whole population which would have elected the president, it should be them to vote him or her out of office. Parliament should simply initiate the process.

3.2.4 The Military

It was agreed that the primary role of the military was defense against external aggression. All internal strife should be handled by the police, and where it became difficult for the police to handle, the army could be called in to render assistance. During peace time, the army should not be parasitic; it should be engaged in productive work so as to contribute to the economy. In terms of size, the army should be relatively small but well-equipped.

It was argued that the army should have a role to play in politics. From experience, if the army was left out, there was likely to be chaos. It should be involved in decision-making so that they were part and parcel of the policies of government. In that way it will be difficult for the army to turn around and oppose any decisions taken. The army should be regarded as a profession, like all the others, and not a dumping ground where academic failures were accommodated. It should follow a professional code of conduct and their participation in politics should not compromise their professional roles.

There were fears by some participants that in case of partisan politics, the army was likely to take sides and this would cause problems. It was suggested that there had to be regulations so that even if soldiers participated in politics, their professional ethics would remain uncompromised. It was recommended that the army should be represented in parliament and their representatives be elected by all soldiers. This would be more democratic rather than them being hand-picked or elected by the Army Council.

On the army tradition of obeying orders and how this tradition could be extended into the political arena, it was proposed that while executing their military role they should abide by their military code; and they should behave like politicians on joining politics.

Finally, the group expressed satisfaction over the manner in which the constitutional survey exercise was conducted. The resulting CBR report was declared a true reflection of the majority of the people who were interviewed. The group recommended that once CBR came up with a final document, all participants should be availed a copy.

3.3 Group III Discussions

The approach adopted by this group, which was considering political systems, land and property centred around the identification of those issues considered not to tally either with the views of the people at the grassroots or those of the participants in the workshop. This entailed the participants' interpretation of the research results, assessing whether these results were correctly interpreted in the CBR report, coupled with looking at the issues in the report *vis-a-vis* the provisions of the new constitution.

The first issue raised was the representativeness of the sampled respondents of the actual rural opinion on constitutional issues. The emphasis on LCs, youth and women council leaders, all of which organs were deemed by some participants as NRM creations, was considered inadequate by some respondents. It was felt that the majority of these being people who had gone through political education and military science courses run by the NRM, the likelihood was that they could naturally come out with views favourable to the intentions and plans of NRM. But this notion was disputed by others who felt that though the system was initiated by government, the election of leaders at the local levels was not interfered with by government, as reflected in the fact that some of the elected Local Council leaders were opposed to NRM. Besides, not all of these leaders had gone through the alleged indoctrination courses.

The participants questioned the rationale of focusing on LC, women and youth councils, even in situations where these individuals could not be traced, upon which the Project Co-ordinator clarified the justification for the sample selection procedures.

Besides the problems cited in the report, participants suggested two other factors which, they thought, could have influenced the responses. First, was the fact that since most of the respondents were very poor and expected to be financially rewarded for the information they gave, the failure to reward them must have affected the qualitative aspect of their responses. Secondly, there was the problem of the way the samples had been chosen to target only leaders at the sub-county level. Since it was not possible to reach the leaders at this level in all cases, the study design should have been so flexible as to allow respondents from the lower parish or even village level to also participate. It was explained that the reason for this approach was to standardise the levels at which respondents were drawn so as to come up with a systematic way to make generalizations and wider conclusions. It was further specified that where the targeted population could not be captured, this constituted a special phenomenon which the researchers had to explain.

3.3.1 Nature and Character of Responses

This first important issue raised during this discussion was that of the necessity for the constitution-making exercise. Some participants wanted clarification on the nature, character and social composition of those people who had affirmed that the exercise was necessary. This selection was, in their argument, biased since the targeted population was local council leaders who could not be said to exclusively represent the actual opinion of the people. This view was objected to by LC participants who insisted that they had the mandate of the people and actually championed their interests.

The most contentious issues that generated a lot of heated debate centred on federalism, decentralisation and the monarchy. There was a query as to whether it was possible to separate monarchism from federalism; given the way these two were so intertwined in the case of Buganda. One participant was of the view that what the Baganda appeared to yearn for was a politically loose political monarchy, but with firm economic control by those sections of the population which had hitherto been marginalised. It was also pointed out that federalism as an issue was not exclusive to Buganda and that people in other areas had a big stake in it as it had a bearing on the economic self-determination of the various regions of the country. On the question of preference of decentralisation to federalism, the participants accepted that the results in the survey were in agreement with the findings of the Constitutional Commission. But it was pointed out that the statistics from Nakasongola should not be taken as representative of the general opinion in Buganda regarding federalism. There was also the caution that the non-Baganda who reside in Buganda should not necessarily be taken as anti-federal.

On traditional leaders, there was acute polarisation. But with regard to Ankole, it was pointed out that the results seemed to contradict the general sentiment that most people in Ankole were against the monarchy there. One explanation was that the researcher covered Kashari, the very county where Barigye, the claimant to the Ankole throne, was born.

Although NRM was considered more accommodative than the old political parties, some participants were of the view that it did not meet the basic requirements of an ideal movement system of government. It was even pointed out that the NRM's suppression of alternative views explained the emergence of alternative movements like the inter-party alliance. In fact, one of the interpretations which emerged from the survey data was that NRM had fulfilled its duty and should, therefore, transform itself into a political party and compete with the old parties. It was also suggested that the high percentage of people (73.0 per cent), who affirmed the right of parties to exist ought to have been scrutinised to come to terms with the political history of the people holding this view.

On the Local Council system and the issue of democratisation, it was observed that the philosophy of democracy was diluted as one moved from the lower to higher levels. Instead of decisions coming from below, it was the reverse. For example when the government wanted federalism to be discussed, it was done at the level of district council

leaders. A caution was, however, expressed that the top-bottom mode of operation should not be generalised for all LCs as was testified to by one of the women delegates.

Because of time constraints, other issues like land, property and the economy, which this group ought to have discussed, were shifted to be considered in the plenary sessions.

4. Proceedings of the Plenary Sessions

4.1 General Issues

To begin with, there was near unanimity among participants that the CBR survey report broadly reflected actual civil and rural opinion of the Ugandan population on major constitutional issues. Regarding the necessity of making a new constitution, the workshop participants expressly affirmed that it was necessary to make a new constitution - the objections of some people interviewed during the survey notwithstanding. The reasons cited were again varied, but the major one centred on the fact that Uganda's turbulent post-independence history clearly pointed to the need to reconstruct our past and redefine power relations in order to emerge with a new and more acceptable framework of governance.

Much as the recent constitutional process facilitated the process of conscientising and awakening Ugandans to the importance of a constitution, participants felt that ordinary citizens had not yet fully understood or appreciated the essence and meaning of a constitution. They, therefore, called for intensified civic education and popularisation of the new constitution if constitutionalism was to be permanently entrenched as part of Uganda's political culture.

It was also felt by the participants that the legitimacy and durability of the constitution depended as much on the outcome as on the actual process of arriving at this outcome. Some reservations were expressed on procedural aspects, which were felt to have unduly influenced the final constitution. This, in their view, explained the fact that some sections of Ugandan society were contesting the new constitution. This fact notwithstanding, the workshop held the view that a constitution can never be fashioned to suit each and every interest, and recommended that it was better for Ugandans to begin with what they had and improve it as conditions changed.

4.2 Views on Substantive Issues

On the issue of the Executive the participants endorsed the view that it should be headed by the president, who should be elected by universal adult suffrage and serve no more than two terms of office. There was also a strong sentiment that the exercise of executive powers, particularly on major decisions be subjected to parliamentary approval to avoid an arbitrary exercise of such power and to allow for the correction of genuine human error.

The majority of participants called for an elected-only Legislature, and emphasized that nomination and appointments would dilute its democratic content. Electoral constituencies were recommended to be demarcated by following clear and uniform criteria such as existing local government divisions or specified population numbers.

The issue of interest groups being represented in the legislature drew mixed and animated debate. While some advocated for their inclusion, others strongly objected. Even the assumed uniformity of interest across each interest group was subjected to intense scrutiny. Since no definite criteria could be arrived at as to who qualified as a special interest group, it was recommended by those that advocated for their inclusion that the situation be reviewed periodically with a view to expanding, changing or even abolishing them as changing realities would dictate.

A lot of controversy surrounded discussions on the role of the Army in politics. All participants were agreed that their primary role was to guarantee the security of the country against external enemies. But like other citizens of a country, the soldiers were deemed to retain civil rights, part of which was participation in politics. Even then, the common-sense myth that having soldiers formally participate in politics made it less likely that they would take over government was dismissed. In Uganda's history, the army had usurped power even when it had effective representation in parliament. The only effective remedy against the army's intervention in politics, as suggested by the workshop, was ensuring a proper political process which would deny the soldiers the usual excuse for intervention.

In considering the political system, participants agreed on the need to strengthen the system of local government, through ensuring that all their leaders were elected and giving them more control over local resources. These twin goals were deemed possible under both the framework of federalism and decentralisation, notwithstanding the fact that the majority were in favour of the latter.

The issue of traditional leaders generated a lot of controversy. There was disagreement over their political relevance. The government was criticised for behaving ambivalently towards these institutions and subjecting traditional leaders to differential treatment in a way which seemed to indicate that this was calculated according to the perceived political advantages at a particular time.

Movement politics, understood on the principle of inclusiveness, was accepted as ideal for the country. But the NRM and movement politics were clearly distinguished, and the movement credentials of the NRM extensively questioned, especially in light of NRM's partisan conduct and orientation before, during and after the debate in the CA. Consequently, most participants saw no need to have constitutionalised the movement, or even, for that matter, to have enshrined the suspension of political party activity in the new constitution. In specific terms, participants were against the denial, for whatever reason, of institutionalised political competition and organised political opposition, and cautioned that a monolithic political arrangement was the most direct short-cut to dictatorship.

Local Committees (LCs) were partially understood to answer the democratisation challenges with several reservations. First their democratic character tended to fade as

one moved higher up from the village level. Secondly, there had occurred an inversion of power relations between the higher and lower LCs, so much so that the lower ones had become accountable to the upper levels and not the reverse as was the original philosophy. Thirdly, LCs had become integral organs of the state, faithfully implementing state policies instead of acting as a check on state bureaucrats.

On the land question, the CA recommendation was criticised as having postponed the resolution of the outstanding issues. The diverse interests in land were not catered for, and, as a result, the persistent evils of absentee landlordism, insecurity of tenure (especially for customary tenants), and increasing landlessness would continue to plague Ugandans.

5. Resolutions of the Workshop

1. Although the constitution-making exercise was necessary and the new constitution was passed legally, it is being contested by some Ugandans. The fact that members of the executive have tended to operate in a manner that violates the new constitution should be pointed out if the new constitution is to be respected by others.
2. There should be an executive headed by the president, elected by universal adult suffrage, serving two five-year terms, and whose major decisions are subject to parliamentary approval.
3. All members of the legislature should be elected. The legislature should be independent of the executive and electoral constituencies must be demarcated in a clear and uniform manner.
4. Special interest groups should be represented in parliament. The workshop resolved that the army should be represented in parliament although there was a strong minority that was of the opposite view. Whether women alone or both women and men should elect women representatives was highly contentious with 26 participants adopting the latter position and 24 participants the former.
5. The Judiciary should be independent of the executive. LC courts should be retained but their operations be strictly supervised by the traditional hierarchy of courts. The personnel of such courts should be adequately trained in legal matters.
6. The majority of the workshop participants felt that decentralisation may be a better form of government than federalism. But it was observed that under whatever form of governance Ugandans should choose certain considerations needed to be put in place. The leaders should be elected by universal suffrage, local areas must be in control of their resources and the exercise of their authority must be participatory and democratic.

7. Traditional leaders may exist where the concerned communities desire them. Most important of all, traditional leaders and institutions are by their very nature political. It is imperative to stop pretending they can, even for a single moment, be exclusively cultural. What needs to be done is to determine and specify their political roles clearly and in a democratic manner, preferably by parliament. This must follow a broad and all-encompassing discussion of the issue.
8. Both movement and political parties have a right to exist. Political parties need to democratise and improve on their past record. The majority (31 participants) recommended that when either is in operation, the other should remain in abeyance, while a significant minority (19 participants) felt they could co-exist.
9. Land should belong and be vested in the citizens of Uganda. Whoever has invested in land must be compensated if he/she is evicted from it. Peasant should be afforded security of tenure on land. Original allocatees of mailo holdings should also be given nominal compensation for land taken from them.

Many of the above recommendations need amendments to the constitution and other laws and therefore constitute a challenge to parliament and all interest groups specifically affected by them.

List of Participants in the Workshop

Rural Participants

A. Tororo (Samia Bugwe County)

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|-----|------------------|--|
| 1. | Christine Ichuum | Chairperson, Buteba LC III |
| 2. | Barasa Sulaiman | Chairperson, Dabani LC III |
| 3. | Mukibi Moses | Chairperson Busia, LC III |
| 4. | Okondo Agaitano | Finance Secretary, Lumino LC III |
| 5. | Samanya Teopista | Publicity, Secretary Busia Women Council |
| 6. | Sanya Florence | Chairperson, Buhehe Women Council |
| 7. | Nyakecho Agnes | Chairperson, Busitema Women Council |
| 8. | Ogubah Robert | Chairman, Masaba Youth Council |
| 9. | Osinya Joseph | Secretary, Masafu Youth Council |
| 10. | Namenay Henry | Secretary, Lumino Youth Council |
| 11. | Jesca Ojiambo | |

Apac (Maruzi County)

- | | | |
|----|----------------|----------------|
| 1. | Opio Okae J.W. | LC. III Apac |
| 2. | Agum David | LC III Akakoro |
| 3. | Atim Robert | LC III Chegere |
| 4. | Odongo Walter | LC III Ibuje |

Women Council

- | | | |
|----|---------------|------|
| 5. | Auma Hellen | Apac |
| 6. | ÿIrene Ogwang | Apac |

Youth Council

- | | | |
|----|----------------------|-----------------|
| 7. | Ocen Robert | Chairman, Ibuje |
| 8. | Odongo Nelson | Chegere |
| 9. | Ogweng Alfred Xavier | Akokoro |

Luwero (Nakasongora)

Lwampanga Sub-County

- | | | |
|----|---------------|-----------------|
| 1. | Batumbya Fred | Chairman LC III |
|----|---------------|-----------------|

Wabinyonyi Sub-County

- | | | |
|----|------------------|-----------------------------|
| 1. | Kiwanuka Mathias | Vice Chairman LC III |
| 2. | Sepuya Freddie | Vice Chairman Youth Council |
| 3. | Namirembe Joyce | LC III Women |

Kakooge Sub-County

- | | | |
|----|--------------------|------------------------------------|
| 4. | Muwanga Edward | Gen. Sec. Youth LC III |
| 5. | Mayanja Kissule A. | Sub-county Chief Kakooge |
| 6. | Musoke Kevina | Secretary for Women LC III Kakooge |

Nabiswera Sub-county

- | | | |
|----|--------------------|----------------------------|
| 7. | Nanyondo Proscovia | Women LC III |
| 8. | Mbangire John | Secretary for Youth LC III |

D. Mbarara (Kashari)

- | | | |
|----|-----------------------|--------------------------|
| 1. | Mpamize Scovia (Mrs.) | Rubindi Sub-County |
| 2. | Katagata S.D. | Rubindi Sub-County |
| 3. | Ngabirano Jones | Rubindi Sub-County |
| 4. | Christine Ndungu | |
| 5. | Siita D.K.B. | Rubindi Sub-County |
| 6. | Rushamata Annet | Rwanyamahembe Sub-County |
| 7. | Rukundo Joseph | Rubindi Sub-county |

Urban Participants**A. Trade Unions**

- | | | |
|----|-------------------|-----------------------------------|
| 1. | Emmanuel Baingana | Education Secretary, Postal Union |
|----|-------------------|-----------------------------------|

B. Professional Associations

- | | | |
|----|---------------------|---|
| 1. | Kajoba Amos | Uganda Newspaper Editors &
Proprietors Association (UNEPA) |
| 2. | Dr. Mukiibi-Katende | Makerere University Academic Staff
Association (MUASA) |

Women Organisations

1. Semugoma Jolly National Association of Women
Organisations of Uganda (NAWOU)

The Media

1. Mugisha Charles Cannaryö Radio Uganda
2. Kajoba Amos The People Newspaper

Political Organisations

1. Okalebo Hensley E. National Democrats Forum (NDF)

Students/Youth Organisations

1. Karim Kaliisa Makerere University Students' Guild
2. Enen Richard O. Uganda National Student's Association
(UNSA)

Centre for Basic Research (CBR)

1. Carasco Joseph (Dr.) Executive Director (CBR)
2. Barya John-Jean (Dr.) Co-ordinator
3. Oloka-Onyango Joe (Dr.)
4. Ssenkumba John Chief Rapporteur
5. Samson James Opolot Rapporteur
6. Musoke Raphael Rapporteur
7. Tumwesigye Lawrence Rapporteur
8. Muhereza Frank Emmanuel
Gira Chris Otim
10. Rubanga Edward
11. Matiya Kiyaga
12. Bikaako-Kajura Winnie

CBR Research Agenda (1998)

A. The Economy, Development Policy and Poverty

1. Poverty: Its dynamics, interventions against it and the role of social networks in fighting poverty
2. Developing countries and international financial institutions
3. Taxation, Tax incentives and foreign investments
4. Industrialisation
5. Regional integration and economic transformation
6. Labour issues
7. The development of the private sector
8. Economic liberalisation, privatisation
9. Natural resource management.
10. Health service delivery: Health: as a development concern, as a human rights concern, effectiveness of interventions in the health sector

B. Governance and Administration

1. Decentralisation
2. Democracy, and Civil Society
3. Ethnicity and identity Politics
4. Social Movements
5. Constitutionalism

C. Cultural Studies

1. Urbanisation and processes of social change in the city
2. Human rights and children's rights
3. Social movements and regional integration
4. Gender and political space: methodological insights in addressing gender
5. Organisational and institutional development: community-based organisations, their effectiveness and efficiency, organisational culture and character, formal and non-formal groups.

CBR Workshop Reports

1. **Pastoralism, Crisis and Transformation in Karamoja**; Report of a Workshop Organised by CBR and held at the Faculty of Science Makerere University, August 14 - 15, 1992, by Joe Oloka-Onyango, Zie Gariyo and Frank Muhereza; 26p.
2. **Women and Work: Historical Trends**; Report of a Workshop Organised by CBR, and held at the Faculty of Science, Makerere University, September 7-10, 1992, by Expedit Ddungu, James Opyene and Sallie Kayunga; 61p.
3. **Workers' Education**; Report of a CBR Workshop held at the Faculty of Veterinary Medicine, Makerere University, March 19-20, 1993, John Jean Barya, Sallie Simba Kayunga and Ernest Okello-Ogwang; 47p.
4. **Pastoralism and Crisis in Karamoja**; Report of the Second CBR Pastoralism Workshop held at St. Phillips community Centre, Moroto, January 28-29 1994, by Frank Emmanuel Muhereza and Charles Emunyu Ocan; 19p.
5. **Regional, Workshop on Public Interest Environment Law and Community-Based Initiatives for Sustainable Natural Resources Management in East Africa** held at Colline Hotel Mukono, in August, 1996 by Samson Opolot and James Opyene; 37p.
6. Report of a Workshop Organised by CBR on "**A Dialogue on Gender Dimensions of Agricultural Policy in Uganda**" held at Fairway Hotel Kampala, May 3-4, 1996, by Samson James Opolot and John Ssenkumba; 58p.
7. **Report on the Proceedings of the NOTU/CBR Seminar: Worker' Social Conditions in Uganda Today** held at held at Pope Paul VI Memorial Community Centre on 22-23 July 1997, by John Ssenkumba and Crispin Kintu; 27p.
8. **Report of the ENRECCA Workshop on "Modernity, Development and Institutional Change: A Dialogue Towards the Next Millennium"** held at Lake View Hotel Mbarara, 21 - 28 February 1998, Charity Kyomugisha; 38p.
9. **Report of the Workshop on the Survey: "Constitutionalism Project Phase Three"** held at Colline Hotel Mukono, 29-30 January 1996, by John Ssenkumba; 22p.