

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tenth Parliament – Fourth Session

*Parliament Recalled by the Hon. Speaker – Legal
Notice No.2915 of 17th March, 2011*

Tuesday, 22nd March, 2011

SPECIAL SITTING - 2011

*The National Assembly met at Three O'clock at Parliament
Buildings on 22nd March, 2011*

ARRIVAL OF HIS EXCELLENCY THE PRESIDENT

*[His Excellency the President (Mr. Mwai Kibaki)
escorted by the Speaker and accompanied by the Mace
of the National Assembly entered the Chamber
at ten minutes past Three O'clock]*

*(Hon. Members rose in their places while
His Excellency the President took
his seat in the Chair of State)*

*(The Mace of the National Assembly
was placed on the Table)*

PRAYERS

Mr. Speaker: Order, hon. Members! It is now time for us to be led in prayer by our spiritual leaders.

*(Prayers were then said by the following: The Most Rev. Eliud Wabukala;
Rt. Rev. Philip Sulumeti; Sheikh Mohamed Shebwana Mohamed;
Rt. Rev. Dr. David Gathanju and Mr. Siopin Lekoolool)*

COMMUNICATION FROM THE CHAIR

WELCOME TO HIS EXCELLENCY THE PRESIDENT

Mr. Speaker: Your Excellency the President of the Republic of Kenya and Commander-in-Chief of the Armed Forces, honorable Members, it is my pleasure to

welcome your Excellency and all Members back to the Fourth Session of the House after a short recess.

Allow me, your Excellency, to make brief remarks that are limited to urgent matters calling to the attention of Members of Parliament who comprise the premier leadership of this country.

The promulgation of the new Constitution in August 2010 heralded, in more ways than one, a new dawn for our country. This momentous event brought with it heightened hopes, aspirations and immense expectations from the Kenyan people. Within a short time, the implementation of the Constitution has had a significant impact on all sectors of our country. The economy, for instance, has taken an upward turn growing at more than 6 per cent per annum. Walking in the streets of Nairobi, or any other town in Kenya, you encounter determined Kenyans; citizens who envision where Kenya shall be in the next few years. They aspire to see a country standing tall in the league of successful nations.

(Several hon. Members were standing at the Bar)

Order, hon. Members! I will pause for a minute to just allow you to come in and sit.

(The hon. Members standing at the Bar entered the Chamber and sat down in their places)

Your Excellency, hon. Members, you will bear with me to go back to the beginning of the second paragraph of my Speech.

The promulgation of the new Constitution in August 2010 heralded, in more ways than one, a new dawn for our country. This momentous event brought with it heightened hopes, aspirations and immense expectations from the Kenyan people. Within a short time, the implementation of the Constitution has had a significant impact on all sectors of our country. The economy, for instance, has taken an upward turn growing at more than 6 per cent per annum. Walking in the streets of Nairobi, or any other town in Kenya, you encounter determined Kenyans; citizens who envision where Kenya shall be in the next few years. They aspire to see a country standing tall in the league of successful nations.

So far the House has done its part in the process of implementing the Constitution. I am alluding to the setting up of the three important commissions, namely: The Constitutional Implementation Commission (CIC); the Judicial Service Commission (JSC) and the Revenue Allocation Commission. The House passed the Judicial Service Bill and the Vetting of Judges and Magistrates Bill in the course of the last sitting. In this sitting and after, more will be demanded from all of us. In view of the foregoing, my appeal to you, hon. Members, the leaders of Kenya, is that you be in the forefront in providing a transformational leadership; a leadership fully committed to actualize the promises of the new constitutional order.

Your Excellency, hon. Members, security in our country is worrying. We must act so as to enhance, if not assure security. This way, we shall be able to attract investors, tourists and visitors. It does not make sense that when on a visit to other jurisdictions one witnesses a distinctly higher level of security so much so that homes are actually demarcated by flower pots or garden shrubs. Compare this to our country where our

offices, homes and even places of worship are secured by high stone walls, electrical fences, razor sharp wires and all manner of high-tech security gadgets. This, obviously, is not a positive indicator. A visitor seeing how we have barricaded ourselves senses insecurity.

Hon. Members, we need to deliberately take steps to harness opportunities timeously. There has been a tendency for us to take infinitely long to implement decisions that we make. We have examples of decisions that stayed on our tables for far too long until they were overtaken by events or considerably diminished in value by the time we implemented them. I have in mind, for example, the modernization of the Jomo Kenyatta International Airport (JKIA). We seem to have taken too long that a neighboring country, that took up a similar project, completed implementation a lot earlier and now threatens our pride or place as the regional hub.

(Applause)

Your Excellency, hon. Members, I urge that we move quickly to among others:

- (a) Finalize the road link to both Ethiopia and Southern Sudan. For Southern Sudan, we have a plethora of reasons to complete this link considering the important role we played in the realization of the Comprehensive Peace Agreement (CPA).
- (b) Upgrade the railway line from Mombasa to Kisumu and beyond and even create new lucrative routes for this important means of transport.
- (c) Provide a quick transit corridor through Kenya to our neighboring countries leveraging on our divine location endowed to us by creation.
- (d) Complete the proposed tourist cities across the country and see to it that we attract more visitors to the same including internal tourists.
- (e) Open up the Lamu Port for sea transport which is one of the efficient ways of transporting large consignments.

Your Excellency, hon. Members, Kenyans are eager to move forward in building this nation. We need to desist from sideshows, power games, retrogressive politics and posturing that tend to delay our grand development plans. Let us be progressively flexible and avoid rigid positions.

History is beckoning on this Tenth Parliament which has, *inter alia*, the cream of this country's leadership, to exclusively go into its annals as the Parliament that led the implementation of the Constitution within set timelines so as to give Kenyans the full value therein and made an infinite positive difference.

With those few remarks, it is now my pleasure, privilege and honour to invite Your Excellency the President to address this House.

I thank you.

PRESIDENTIAL ADDRESS

His Excellency the President (Mr. Mwai Kibaki): Mr. Speaker, Sir, hon. Members, it is my pleasure to join you and make this inaugural address to a Special Sitting of Parliament. I also trust that the short recess provided you with an opportunity to closely interact with your constituents.

We have reconvened at a critical juncture of our nation's history. Our new Constitution has renewed our sense of nationhood and given us hope for a brighter future. Indeed, Parliament has an opportunity to engrave itself in the annals of our national history. You are called upon to pass additional landmark legislation that is required to implement our new Constitution.

Mr. Speaker, Sir, I am pleased to note that in the last Session this House passed 17 Bills that are critical to our national affairs. Some of these relate to the implementation of the Constitution. They include The Commission on the Implementation of the Constitution Act and the Judicial Service Commission Act. Others addressed security and socio-economic concerns facing our people. They included the Alcoholic Drinks Control Act and The Prevention of Organized Crimes Act. I commend Members of Parliament for the work done in ensuring the passage of this important legislation.

Mr. Speaker, Sir, this House is also reconvening at a time when Kenya's economy is rebounding with an estimated 5.4 per cent growth rate registered last year. Our economic prospects this year are high though we are faced with serious challenges. These include high fuel costs, increased inflation and depreciation of the Kenya Shilling. Many parts of our country are also experiencing prolonged drought, food shortage as well as lack of grazing pasture. The Government is working hard to ensure that our brothers and sisters affected by the drought are provided with adequate food. Measures are being taken to mitigate losses of livestock. Furthermore, the Government is continuing to expand support for irrigated agriculture and improved livestock management. Moreover, I would like to assure this House and indeed, all Kenyans, that the Government is undertaking fiscal and monetary measures to maintain the economy on a high growth path.

Mr. Speaker, Sir, despite the challenges that we have faced, the Government has remained focused on the expansion of our economy in line with Vision 2030. For example, our Gross Domestic Product (GDP) has been on an expansionary path. In the year 2002, our GDP, which measures the total value of goods and services produced, stood at less than Kshs1 trillion. Last year, our GDP was valued at about Kshs2.5 trillion. This is an indication of increased economic activity in our nation. Significant progress has also been made in infrastructure development, especially in the roads, energy, Information and Communication Technology (ICT) and water subsectors. These have not only enhanced the wellbeing of our people but also improved the business environment.

Mr. Speaker, Sir, the Grand Coalition Government is determined to systematically implement the new Constitution. We will, therefore, give Bills relating to judicial reforms high priority. With an objective and independent Judiciary any dispute arising from interpretation of the new Constitution will be resolved lawfully. In this Session of Parliament the Government will table additional Bills to fast-track the reform of the Judiciary and make operational Commissions and independent offices. These reforms are intended to strengthen accountability, administration of justice, rule of law and ensure checks and balances in governance. To further strengthen the Judiciary, the Supreme Court Bill has been prepared. This will establish the Supreme Court and provide for its rules of procedure. Similarly, the Government will introduce the Other Superior Courts Bill which will provide for the establishment of courts with the status of High Courts to hear and determine disputes relating to employment and labour relations, the environment and land.

Mr. Speaker, Sir, the Government will also present the following Bills to make operational various commissions:-

1. The Independent Commissions Bill;
2. The Commission on Revenue Allocation Bill;
3. The Salaries and Remuneration Commission Bill;
4. The Kenya National Human Rights and Equality Commission Bill;
5. The Ethics and Anti-Corruption Commission Bill;
6. The Public Service Commission Bill;
7. The National Land Commission Bill;
8. The Commission on Administrative Justice Bill;
9. The National Police Service Commission Bill; and,
10. The Independent Electoral and Boundaries Commission Bill.

Mr. Speaker, Sir, the general election will be held in less than two years from today. As we approach this important event, it is in the interest of all of us to ensure that the elections are conducted within a framework that guarantees free and fair exercise of people's choices.

Mr. Speaker, Sir, the next elections will be more demanding due to the large numbers of offices to be contested for. In this regard, an Independent Electoral and Boundaries Commission Bill has been prepared and discussed with the stakeholders. It is now ready for tabling.

The Bill makes provision for effective operation of the Independent Electoral and Boundaries Commission, including continuous legislation of voters, the delimitation of electoral boundaries, registration of candidates and voter education. The Elections Bill provides for the settlement of electoral disputes arising from nominations, the conduct and supervision of elections and the development of a modern system of collection, collation, transmission and tallying of electoral data. These two Bills will safeguard free and fair elections and entrench our democratic system of governance. I, therefore, call upon this august House to debate and pass the Bills within the next three months.

Mr. Speaker, Sir, the performance of our security forces is always a matter of great interest to all of us. The new Constitution has a far reaching framework to facilitate reform in provision of security. In this regard, the Government will introduce important security related legislation. These include the National Security Council Bill, Police Service Commission Bill, National Police Service Bill, the Independent Police Oversight Authority Bill and the Private Security Providers Bill.

Mr. Speaker, Sir, the new Constitution has created two levels of Government; the National and County Governments. The creation of counties is informed by the desire to devolve decision-making to the grassroots and to ensure that all corners of the country receive due attention and resources.

Counties will deliberate and decide on their development priorities. It is anticipated that they will turn into new growth centres. In this regard, the Government will be forwarding the Public Finance Bill which will bring fundamental change in how we budget and manage our public finances. Moreover, the Government has created a task force to collect and collate views from Kenyans regarding this important matter. This will inform a policy framework and legislation for the implementation of the devolution. This task force has commenced public and stakeholder consultations in all parts of our

country. I, therefore, call upon all Kenyans, including Members of this House to positively participate in these deliberations.

Mr. Speaker, Sir, for a long time, investors in our country have complained about our outdated Company Law and other related laws. Therefore, in order to improve our business environment and make our economy globally competitive, the House will be requested to debate and consider the Companies Bill, Limited Liability Partnership Bill and the Insolvency Bill.

To further boost private sector investment, the Government has identified the co-operative movement as the key sector for empowering our people. Co-operatives will enable Kenyans to participate in all aspects of the economy, including the provision of financial resources, real estate development, transport, manufacturing, fisheries, livestock and agricultural value addition. In this regard, the Government will be presenting a Sessional Paper on Co-operative Development.

Mr. Speaker, Sir, the Constitution has created a National Land Commission with wide responsibilities over the management of public land and administration of land in general. In order to make operational the National Land Commission, the Government will be submitting the National Land Commission Bill and the Land Registration Bill.

Furthermore, and in view of the need to accelerate the development of affordable housing for all Kenyans, we shall be tabling the Housing Bill.

Other areas that will be covered by Bills to be presented include power of mercy; system of courts; provision for Speaker of County Assembly, urban areas and cities; and contingencies fund and loan guarantees by the national assemblies.

In my speech today, I have focused on the Bills that must have been passed according to the Fifth Schedule Constitution, within one year of the promulgation of the Constitution.

Mr. Speaker, Sir, Article 55 of the Constitution provides that the State shall take measures, including affirmative action programmes, to ensure that the youth:

1. Access relevant education and training;
2. Have opportunities to associate, be represented and participate in political, social, economic and other spheres of life;
3. Access employment; and
4. Are protected from harmful cultural practices and exploitation.

This constitutional mandate requires that the Youth Policy and the current institutional frameworks dedicated to the youth be supported by a legislative framework. My Government will prioritize the development of a youth employment and protection law. As a matter of urgency, I shall establish a taskforce which will work with our youth and other members of our society to assist develop a blueprint of this crucial bill. I have decided that this matter must be addressed urgently, although it is not given a five-year timeline by the Constitution.

Mr. Speaker, in conclusion, I would like to remind hon. Members that we have the rare opportunity to participate in the enactment of new laws which are intended to transform our governance architecture, and which will change our social, economic and political interactions.

Indeed, as a country, we have not, in the past, given priority to the systematic unveiling of a set of values and principles which define or become our national interest. We have now a clear opportunity to do so through the national values and guiding

principles that are enshrined in our new Constitution. As we implement our new Constitution, we will encounter challenges. However, that should not distract us from our goals.

In saying this, I am fully aware of the challenges and opportunities that we face in decisively dealing with the post election crisis that we faced in 2008. I thank the Kenyan people and you, the leaders, for embracing the spirit of national reconciliation and healing.

Our new Constitution has given us the necessary framework to create credible institutions that can serve our needs and deal with past injustices. We have begun creating objective and independent institutions to ensure the fair application of the law. It is my hope that we shall play our role in ensuring that these institutions are fully operational.

I thank you and may God bless you all.

God bless our country.

(Applause)

Mr. Speaker: Hon. Members, I now call upon the Leader of Government Business to lay on the Table the President's Address.

PAPER LAID

The following Paper was laid on the Table of the House:-
The Presidential Statement on Exposition of Public Policy

(By the Vice-President and Minister for Home Affairs)

NOTICE OF MOTION

THANKS FOR THE PRESIDENTIAL ADDRESS

The Vice-President and Minister for Home Affairs (Mr. Musyoka): Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, the thanks of this House be recorded for the exposition of public policy contained in his Excellency's Presidential Address laid on the Table of the House on Tuesday, 22nd March, 2011.

COMMUNICATION FROM THE CHAIR

Mr. Speaker: Order hon. Members! Your Excellency the President, hon. Members, I have two Communications to make.

TABLING OF THE BUDGET POLICY STATEMENT

First, hon. Members, pursuant to Standing Order No.143, the Deputy Prime Minister and Minister for Finance is obligated to table the Budget Policy Statement on or

before 21st March, 2011. As you are aware, the House has not been in session until today when we reconvened. Section 7(2) of the Fiscal Management Act, 2009, states *inter alia* that:-

“The Budget Policy Statement shall be laid before the National Assembly not later than 21st March of each year or in the event that the National Assembly is not in session on 21st March, within the first week upon the reconvening of the Assembly”.

In view of the foregoing and taking into account the provisions of Standing Order No.143 read together with those of the Fiscal Management Act and the practice of the House, the Deputy Prime Minister and Minister for Finance will tomorrow, Wednesday, 23rd March, 2011, during the Morning Sitting, lay on the Table of the House the Budget Policy Statement.

INVITATION TO GARDEN PARTY

Second, hon. Members, hereafter, it will be the pleasure of His Excellency the President to leave and I urge that all Members will remain upstanding until after the Spiritual Leaders and the Judges of our courts have left. Hon. Members, you are all, thereafter, together with our invited guests, requested to come to the Garden Party in the Parliamentary Gardens.

DEPARTURE OF HIS EXCELLENCY THE PRESIDENT

(Hon. Members rose in their places while His Excellency the President left the Chamber)

ADJOURNMENT

Mr. Speaker: Your Excellency, hon. Members, the House now stands adjourned until Wednesday, 23rd March, 2011, at 9.00 a.m.

The House rose at 3.50 p.m.