

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 17th April, 2008

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

Prayers

CONSIDERED RULING

SITTING ARRANGEMENT IN THE CHAMBER: ESTABLISHMENT OF GRAND OFFICIAL OPPOSITION COALITION MUST BE WITHIN CONFINES OF RULES OF PROCEDURE

Mr. Deputy Speaker: Hon. Members, on Tuesday, 15th April, 2008, the Member for Igembe South, Mr. Linturi, rose on a point of order and requested the Chair to guide the House on the following matters: The implication of the National Accord and Reconciliation Act, 2008, and the Constitution of Kenya (Amendment) Act, 2008, on the sitting arrangement in the House. The Member cited Standing Order No.172(2), which states:-

"All seats in the Front Benches of the Chamber to the left of Mr. Speaker shall be reserved for leaders of Opposition Parties and Members of the Official Opposition Party designated as having responsibility in particular matters".

The implication of the formation of a Grand Coalition Government comprising the largest parties in the House on the provisions of Section 1(a) of the Constitution of Kenya, which states:-

"The Republic of Kenya shall be a multiparty democratic State".

The Member went ahead to suggest that Members who are not Ministers should be allowed to constitute an Official Grand Opposition Coalition to perform the role envisaged for an opposition party in a democratic system. Hon. Members, these are, indeed, weighty matters and the Chair fully appreciates the gravity of the issues at hand, especially on the entire realm of governance. As I promised on Tuesday, I would like to guide the House as follows on the matters raised.

I will start by drawing the attention of Members to the fact that the issues we are grumbling with now have cropped up in this House in the past and it is important that we take cognisance of the manner in which they were addressed as they constitute a precedent and a practice in our National Assembly.

On 13th November, 1963, Members requested the Chair to give guidance, or to guide the House, on the sitting arrangement given that the Government had a big majority who could not fit on the right hand side of the Chair. The Chair then, the late hon. Humphrey Slade, issued the following communication:

"I think some Members have not yet become accustomed to the new arrangement for sitting. I referred to this yesterday, but I do not think all the Members were here.

The arrangement is on account of the size of the Government's supporters' party and, therefore,

on my left, as far as the gangway, seats are reserved for the Opposition. The rest of the seats on both sides of the House are available for Government supporters. Therefore, I ask the Members of the Opposition to move up a little to this side of the gangway"

That was the ruling. He went further and said:-

"We shall, in a day or two, provide a definite barrier on the Front Bench - the arm of a seat - so that there will be no difficulty".

On 24th September, 1964, following similar requests, the then Deputy Speaker, the hon. De Souza ruled that:-

"Technically speaking, an hon. Member can sit anywhere in this House, but there are certain conventions laid down. The conventions laid down are that there are certain seats of Government Benches reserved for Government Members and there are certain Benches made for Opposition Members, so that people can identify them. If a person wants to go and sit somewhere else, obviously he causes a certain amount of confusion and, as Mr. Speaker pointed out, he makes a very bad impression of himself. But the Government Front Bench is invariably reserved for Ministers. It is a convention and, as far as I am concerned, it should be adhered to. I would appeal to hon. Members that even if technically they can sit anywhere, they should still abide by these conventions. They have been followed in this House for very many years and are in keeping with the smooth running of Parliament and they do assist with the running of Parliament instead of Members going all over the place and creating a disturbance".

Hon. Members, let me now address myself to specific concerns raised by Mr. Linturi. First, on the question of sitting arrangement, it is my view that Standing Order No.172(1) suffices in addressing the matter and hence should be adhered to.

It states as follows:-

"All seats in the Front Benches of the Chamber to the right of the Speaker shall be reserved for the exclusive use of Ministers".

However, as alluded to earlier, there have been instances where Government Ministers overflow to the Front Benches traditionally reserved for the Opposition on the left side of the Chair, as was noted in the ruling of 13th November, 1963. Secondly, on the suggestion that Members should constitute an Official Opposition party, I would like to draw the attention of the House to Standing Order No.2, which states, and I quote:-

"Official Opposition party means the opposition party consisting of not less than 30 Members of Parliament".

Provided that there are two or more parties with more than 30 Members, the party with the highest number of seats in the House shall be deemed to be the Official Opposition party. The question of the Members of the House grouping to constitute an Official Grand Coalition Opposition Party, therefore, does not arise as they cannot for all interests and purposes, be deemed to constitute a party.

Let me also draw the attention of the House to the provisions of Section 17 of the National Assembly and Presidential Elections Act, Cap.7, with regard to Members of different parties joining the Government.

"No person who is elected or nominated as a Member of the National Assembly with the support of or as a supporter of a political party, other than the party whose candidate has been elected President at an election, shall be appointed a Minister of the Government of Kenya under Section 16 of the Constitution without the concurrence of the party which supported him for election or nominated him for

appointment as a Member of the National Assembly".

Hon. Members, the Chair takes it that all Parliamentary parties in the Grand Coalition have complied with that provisions of our own statutes. I am made to understand that only KADDU, the party of Mr. Jirongo, is not part of the Coalition Government.

Thirdly, on the implication of the formation of the Grand Coalition Government with regard to Section 1(A) of the Constitution, my understanding is that the parties have not been disbanded. They are merely co-operating in Parliament and in the Government for now. For the information of the Members, there are 23 parties represented in the House and hundreds of others which are registered by appropriate authorities and there is, therefore, absolutely no contradiction in as far as that is concerned.

In my view, the operations of the Committees shall not and should not be affected in their oversight role, especially given that a number of them, particularly the Public Accounts Committee and the Public Investments Committee have remained effective even under one-party rule. These Committees perform a watchdog role on behalf of the House and my advice is that Members who will be nominated to serve in those Committees must be vigilant at all times.

Hon. Members, arising from the foregoing, I order that the Front Benches on the right of the Chair will be occupied by Ministers in accordance with Standing Order No.172(1) and conventions which this House holds in high esteem. That, in the event that the size of the Cabinet makes it necessary that Ministers need to occupy the Front Benches on my left, I am inclined to allow them following the ruling by my predecessor, the late hon. Humphrey Slade, made on 13th November, 1963, until such a time that the House will have an Official Opposition party as stipulated by the Standing Orders.

Under the same, the Chair also rules in accordance with the ruling that was given by the late Humphrey Slade when only Mr. Shikuku was left in the Opposition, and in which case, the late Humphrey Slade ruled that Mr. Shikuku would sit on the left of the Speaker, on the Bench that is closest to him. Under the circumstances, I rule that, Mr. Jirongo will sit on the left on the Bench that is closest to me. That any parliamentary party that is not in the Coalition Government and has the requisite number of Members capable of naming a Shadow Cabinet, shall be recognised by the Chair as Official Opposition and appropriate action taken when that happens. That, whereas Members have a responsibility and, indeed, a duty to hold the Government accountable, it is paramount that whatever measures that may be taken, be done within the rules and where amendments are necessary, action be taken.

As the Speaker indicated upon his election, and that of the Deputy Speaker of the Kenya National Assembly, the Chair will submit itself to the will of the House and will, therefore, uphold and enforce the rules of procedure without fear or favour. The rules are made by the House itself. It is the Members of Parliament who make the rules for this House. The so-called Grand Official Coalition Opposition, that some Members wish to establish, must be done within the confines of the rules of procedure and necessary statutes. In which case, as we talk now, we do not have a provision for that under the circumstances that were tabled by Members last week.

Members of Parliament who are not in the Cabinet are at liberty to occupy the Back Benches on both sides of the House. A Member, or Members who is or are in a party or parties and not in the Government will notify the Chair and will be allocated seats on the left side of the Chair.

I draw the attention of the House to the year 1964 when the Member for Butere, Mr. Shikuku, was allocated his own seat on the left side of the Chair as I had indicated earlier. Hon. Members, in conclusion therefore, I take this opportunity to appeal to the leaders of the political parties to take note of the concerns raised by the Members and exercise due diligence in the appointment of the Chairs and Members of the oversight and scrutiny Committees and to ensure that they discharge their duties effectively and efficiently in that role for which they are assigned,

on behalf of the House and the people of Kenya.

Thank you.

(Applause)

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: You do not rise on a point of order on a ruling!

Dr. Khalwale: It is not on the ruling, Mr. Deputy Speaker, Sir!

Mr. Deputy Speaker: Okay, Dr. Khalwale!

Dr. Khalwale: Mr. Deputy Speaker, Sir, I am not rising in respect of the ruling, but I am rising to seek further clarification, if the Chair does not mind, because the events leading to the Statement you have just read have been borne out of the extraordinary circumstances that came out as a result of the 2007 General Election. I would like you to clarify to us, as the people who are behind this initiative, because we are doing this in recognition of the fact that the extraordinary circumstances that created the Grand Coalition have ended up giving the Government power.

If it does not become very clear on what we are seeking, then we are going to move from having given the Government power to having given them absolute power. As Lord Acton said, "power tends to corrupt and absolute power corrupts absolutely". I, therefore, would like to request the Chair to consider the possibility of directing that we have the revised Standing Orders that have already been worked on to come in force such that we become blind to the requirement that they cannot be introduced at this stage and so that we capture the issue of the Official Opposition.

I want to thank you for pointing out that Mr. Jirongo may sit on the seat reserved for the Leader of the Official Opposition. However, I want to remind the Chair that one man cannot face that Grand Coalition. He is not even going to start! He will be crushed and crushed like nobody else! These difficulties are real in the sense that, again, one man cannot fill all the vacancies in the Departmental Committees that are reserved for Members of the Official Opposition.

Mr. Deputy Speaker, Sir, why I seek this further clarification is because you have said that there is no political party with 30 Members which can, therefore, constitute the Official Opposition. However, do not forget that also, in the House today, we do not have a ruling party. What we have is a ruling coalition! So, if we do not have a ruling party, why should you interpret and deny us our request simply because we do not have a party with 30 Members?

(Applause)

In the same spirit, kindly remember your ruling on 15th January, 2008, when you went out of your way and brought the country to order. This thing is big! I know the House rules do not allow us to quote the media but, today in the morning at 6.30 a.m, it was the subject of a television footage on CNN, from Washington. It is being reported by Mr. Kakir, a professor of history and political science.

We beseech the Chair to further direct the House Business Committee (HBC), given that the Chair is aware that we are intending to move a Motion that will give this country an Official Opposition, when this Motion comes up, to give it preference so that it is brought before the House for us to debate it immediately.

I hope that having been given this opportunity, I will not be insulting the Chair by requesting that there is still room for us to withhold the constitution of the Departmental Committees until what I have said has been clarified.

Mr. Ruto: On a point of order, Mr. Deputy Speaker, Sir. Without contradicting the Chair on the ruling, I wish to appreciate the spirit in which you ruled. You further admitted that the Chair

is willing to submit itself to the will of the House. Considering that it is the feeling of the majority of Members of this House that they wish now to associate with Mr. Jirongo and, therefore, form the requisite quorum to form that Opposition, would you, therefore, not be in order to allow Mr. Jirongo to proceed and give you a list of the Members of Parliament coalescing around his party?

Mr. Deputy Speaker, Sir, further to that, would it not be in order for you, being the Chairman of the Standing Orders Committee, to immediately call for a meeting to seek the requisite amendments to any impeding Standing Orders to this particular request?

Mr. K. Kilonzo: Thank you, Mr. Deputy Speaker, Sir. First, allow me to congratulate you for your ruling on this weighty issue. Whereas you have referred to the ruling of the late Speaker, Mr. Humphrey Slade, that Mr. Shikuku was allowed to sit on the nearest seat to the Speaker's left, by then, Mr. Shikuku was alone on the Opposition side. Given that Mr. Jirongo is seated on the left side of the Chair, but he is not alone and given that we want to avoid any ambiguity, could you clarify or order that the Front Bench on the left of Mr. Speaker shall be occupied by Mr. Jirongo and other Members of the Opposition to avoid some of the Ministers occupying this Bench?

Mr. C. Kilonzo: Mr. Deputy Speaker, Sir, we do have high regard for the Chair. These are difficult times for the Opposition. They say that desperate times call for desperate measures. After the 2007 General Election, we were faced with desperate times where the laws we had were no longer suitable.

Mr. Deputy Speaker, Sir, that is why we had to come up with desperate measures. One of the desperate measures we came up with was the formation of the Grand Coalition Government. It was not the wish of Kenyans to have a Grand Coalition Government. However, we were in desperate times and those were the desperate measures we had to come up with. So, we are not against your ruling, but these are also desperate times for the Opposition. There are those of us who are in political parties which are on the Government side. We have no intention of forming a political party.

Our intention is to form a Grand Coalition Opposition. The Kenya National Democratic Alliance (KENDA) party is not grand. It will basically be a one-man show - an imperial opposition. I know you ruled yesterday that it is not your duty to form an opposition. Since none of us sits in the House Business Committee, if possible and at the right time, we would like our Motion to form a Grand Opposition be allowed to come to the Floor of the House for debate.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Linturi: Thank you, Mr. Deputy Speaker, Sir. I rise again to seek a further clarification on the ruling that you have just made on the matter of how we should associate or coalesce to get recognition as an Opposition. I appreciate the fact that the Standing Orders require that the Official Opposition should have 30 Members of Parliament from one political party. However, being a new Member of Parliament, at times, it may not be within my knowledge, but I would appreciate if I am proved wrong. Section 80(1) of the Constitution talks about the freedoms of assembly and association. It says:-

"Except with his own consent, no person shall be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to a trade unions or other associations for the protection of his interests."

Mr. Deputy Speaker, Sir, the main interest we are trying to champion here, as the hon. Members who have signed the petition which I presented to your office, is that there is need for this House to have an Official Opposition to check the Government. If the Standing Orders override the Constitution, it would be quite unfair. I pray that you re-consider your ruling in relation to Section 80(1) of the Constitution. I believe and feel that our freedom of assembly and association will either be contravened or interfered with, if we are not allowed to petition this House to recognise us

as a group of opposition.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Hon. Members, this is the supreme organ of the State and the Government. You are all lawmakers. The Speaker rules in accordance with the Standing Orders which are passed by the House. He does not create his own Standing Orders; rather the institution of Parliament does so. The laws are enacted and amended on the Floor of this House. The Constitution of Kenya is also a product of Parliament. We can only rule in accordance with those three documents. The three documents are within your mandate and authority in as far as reforming or amending them is concerned.

The Backbenchers, in this House, have the right of association. You have the right of taking a position in the House. If you have the numbers, you have the right of overriding the Government. These are rights which are within your own authority and mandate. You exercise them yourselves in the best possible manner you can, but, again, within the rules. You can change the rules. The Standing Orders Committee is a Committee of 11 Members. They are all Backbenchers. None of them is a Frontbencher.

We have 16 Committees. Two of them are oversight Committees. These are the Public Accounts Committee (PAC) and the Public Investments Committee (PIC). The rest are Departmental Committees. All the Members of those Committees are Backbenchers. You have the tools to change what you want to change. When you change the rules, the Chair will rule on the basis of the new rules.

Thank you very much.

Ms. A. Abdala: Mr. Deputy Speaker, Sir, while I agree with much of your ruling, I am of the opinion that given that the Standing Orders Committee of the Ninth Parliament spent a lot of resources travelling all over the world, and having amended most of the Standing Orders, would I be in order to suggest that instead of the new Standing Order Committee dealing with the amendments to the Standing Orders, which is, in my opinion, the only blocking point; you facilitate a *Kamukunji* to finalise the review of the Standing Orders? This matter can be settled once and for all. It is within your jurisdiction to facilitate the amendment of the Standing Orders without a Committee.

Thank you.

(Applause)

Mr. Deputy Speaker: Hon. Members, the Chair has taken cognizance of that request. The Seventh Draft of the Standing Orders, which is very comprehensive, will be brought to the Floor of the House as soon as possible.

Mrs. Odhiambo-Mabona: On a point of order, Mr. Deputy Speaker, Sir. Whereas I want to agree with parts of your ruling, however, if you look at Standing Order No.31(1), you will realise that it makes the matter before the House a procedural matter which does not require any amendment. On the issue of sitting, you have discretion. It does not have to be an Official Opposition. It can be a *de facto* Official Opposition that can be sitting there. Under that Standing Order, it is within your mandate and discretion to allow us form that kind of Opposition, and to reserve the Front Bench to your left for us.

Mr. Deputy Speaker: Hon. Members, I agree with you. Standing Order No.1 say:-
"In all cases where matters are not expressly provided for by the Standing Orders or by other Orders of the House, procedural questions shall be decided by Mr. Speaker."

My ruling was based on what is provided for in the Standing Orders, on the threshold of the number of Members of a political party that can constitute an Official Opposition. The rest of the ruling was based on precedent. Precedents are very important in the practice and procedure of National Assemblies in the Commonwealth States.

Thank you.

PAPER LAID

The following Paper was laid in the Table:-

The Report of the 15th Session of ACP-EU Joint Parliamentary Assembly and the Related Meetings

(By Prof. Kamar)

NOTICE OF MOTION

ADOPTION OF REPORT OF 15TH SESSION OF ACP-EU JOINT PARLIAMENTARY ASSEMBLY

Prof. Kamar: Mr. Deputy Speaker, Sir, this is the Report of the 15th Session of the ACP-EU Joint Parliamentary Assembly and Related Meetings held at Ljubiana Exhibition Centre in Ljubiana in Slovenia in March, 2008.

Mr. Deputy Speaker: Prof. Kamar, please read the whole Motion! When you give a Notice of Motion, you read the Motion!

Prof. Kamar: Mr. Deputy Speaker, Sir, the Kenya Delegation to the 15th Session of the ACP-EU Joint Parliamentary Assembly comprised of Mr. Kabando wa Kabando, His Excellency, Mark Kahende, Kenya's Ambassador to Belgium---

Mr. Deputy Speaker: Order, Prof. Kamar! You give the Notice of the Motion, you read the Motion and then you sit down then you will contribute on it afterwards! First of all, you must give Notice of the Motion as it is. Can you please hand over to her the Notice of Motion?

Prof. Kamar: Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-
THAT, this House Adopts the Report of the 15th Session of the ACP-EU Joint Parliamentary Assembly and Related Meetings held at Ljubiana Exhibition Centre in Ljubiana in Slovenia in 12th to 20th March, 2008 laid on the Table of the House on Thursday, 17th April, 2008.

MOTION

ADOPTION OF REPORT OF 15TH SESSION OF THE ACP-EU JOINT PARLIAMENTARY ASSEMBLY

Prof. Kamar: Mr. Deputy Speaker, Sir, I beg to move:-

THAT, this House Adopts the Report of the 15th Session of the ACP-EU Joint Parliamentary Assembly and Related Meetings held at Ljubiana Exhibition Centre in Ljubiana in Slovenia in 12th to 20th March, 2008 laid on the Table of the House on Thursday, 17th April, 2008.

The delegation of the 15th Session of the ACP-EU Joint Parliamentary Assembly comprised of Mr. Kabando wa Kabando, His Excellency, Mark Kahende, Kenya's Ambassador to Belgium and the EU, Prof. Kamar as Leader of Delegation and Mr. Samwel Njoroge, Clerk Assistant III, who was the Secretary to the Delegation.

The ACP-EU(JPA) brings together 78 Members of the EU Parliament and 78 Members of the ACP Group of States. The JPA is a joint institution created under the Cotonou Partnership Agreement (CPA) between the Members of the ACP Group of States on the one part and the EU and its member States on the other. The ACP-EU holds its sessions twice a year. The 15th Session of the ACP-EU(JPA) and its related meetings took place in Ljubiana, Slovenia between 12th and 20th March, 2008, at the Ljubiana Exhibition Conference Centre. The session was a follow-up of the one that was held in Kigali, Rwanda in October, 2007 where milestone resolutions on matters affecting the member states were adopted.

The session was preceded by meetings of the ACP States Parliamentary Assembly whose purpose is mainly to address issues related to the ACP Group of States prior to the meeting with their counterparts of the EU. Prior to the session, the three Standing Committees met and addressed matters related to the member states and the partnership agreements. Various topics were discussed by the joint committees.

Committee No.1 on Economic and Development Finance and Trade, discussed food security in ACP countries and the roles of the ACP-EU co-operation; the effectiveness of aid, Economic Partnership Agreements (EPAs) and the programming of the Tenth European Development Fund.

Mr. Deputy Speaker, Sir, Committee No.2, which is on Political Affairs where Kenya sits, discussed three areas, the first one being experiences from the EU regional integration process as relevant to the ACP countries; protection of civilians during peace keeping operations by the UN and regional organisations and the political situation in ACP and EU countries, and the emphasis in this session was on Kenya and Chad.

Committee No.3 on social affairs and environmental issues discussed social and environmental consequences of Structural Adjustments Programmes (SAPs), social consequences of child labour and strategies to combat it and a case study on Botswana on the implications of a decision to re-elect Setata Fence in Ngamiland. In the process, the ACP Group of States holds its meetings a day or two prior to the joint session with the EU counterparts. The 12th Session of the ACP Group of States took place on 14th March, 2008 wherein, Kenya, as a delegation, was given an opportunity to give oral and written statements on the situation in Kenya and the prevailing developments thereof. Mr. Deputy Speaker, Sir, whereas all Members of the Assembly hailed the return of peace and welcomed the National Accord between the Government and ODM which had just been signed before our departure, the delegation admitted that we all have a huge task ahead of us to restore the international image of Kenya. The Assembly debated and adopted the following Reports and Motions:-

- (a) Food security in the ACP States;
- (b) The Situation in Kenya;
- (c) Regional integration; and,
- (d) Structural Adjustments

The Assembly also debated matters related to EPAs and the Tenth European Development Fund. It also debated migration and the plight of women, especially during war.

During the 11th ACP Parliamentary Assembly held in Brussels on 22nd January, 2008, wherein Kenya was represented by His Excellency, Mark Kahende, because at that time we had not been constituted and we had a number of problems, it was decided during that meeting that the then political crisis in Kenya should be discussed as a matter of urgency during the 15th ACP-

EU(JPA) as an urgent Motion for resolution under the title "*The Situation in Kenya*".

Subsequently, Kenya's post-election crisis featured prominently throughout the meetings in Slovenia. In the Motion debated and adopted by the Assembly, the Members agreed as follows:

They hailed the maturity of the people of Kenya for embracing democracy as demonstrated by the peaceful elections conducted on the 27th of December, 2007. They observed that, whereas the Electoral Commission of Kenya (ECK), in general, managed the electoral process well, it did not demonstrate, at the counting stage of the presidential election results, impartiality, transparency, confidentiality, and above all, the autonomy necessary for organising credible elections.

Mr. Deputy Speaker, Sir, the Assembly deplored the loss of innocent lives and the critical humanitarian situation brought about by the post-election violence. They called for all acts of violence to be urgently and thoroughly investigated through appropriate means and in a way that helps to restore the trust of the Kenyan people in democracy.

They also called on the Government of Kenya to ensure that offences under the Electoral Offences Act are impartially and vigorously investigated and perpetrators made accountable for their actions. In this regard, the Assembly commended the creation of the Elections Inquiry Commission.

They further called on the Kenyan authorities to ensure adequate protection and assistance to all displaced persons wherever they are, without ethnic discrimination and to meet their obligations regarding the social and economic rights of those displaced, for example, access to food, health and education services.

The Assembly also commended the Party of National Unity (PNU) and the Orange Democratic Movement (ODM) leadership for embarking on a peaceful search for a solution to the political crisis arising and welcomed the National Accord between the Government and the ODM on power-sharing.

Mr. Deputy Speaker, Sir, the Assembly hailed the efforts of the former United Nations (UN) Secretary-General, His Excellency Kofi Annan and the Group of Eminent Persons that is Mrs. Graca Machel and His Excellency Benjamin Mkapa in assisting Kenya to resolve the political dispute and appreciated the critical intervention of the African Union (AU) Chairman, His Excellency, Jakaya Kikwete, the President of the Republic of Tanzania.

The Assembly also called upon the international community to render adequate assistance for the reconstruction of the affected areas in Kenya, including the urgent resettlement of the displaced persons with special focus on rural and slum habitations.

Mr. Deputy Speaker, Sir, the Assembly further called on this House to, among other issues, create concrete measures to establish a truly impartial Electoral Commission which will be better able to conduct free and fair elections in the future. They recommended that this House must undertake the necessary judicial, constitutional and institutional reforms and to ensure that the requisite national law reviews address the pre-election, election and post-election periods to allow for credible and effective mechanisms for redress of election complaints.

Mr. Deputy Speaker, Sir, the Assembly commended the Parliament of Kenya for adopting the legal and constitutional instruments necessary for operationalising the Accord and congratulated it for unanimously approving, on the 18th of March, 2008, the Constitution of Kenya (Amendment) Bill and the National Accord and Reconciliation Bill to give effect to the power-sharing agreement and approval that took place when the parliamentary session was going on in Slovenia.

The Assembly further urged the Kenyan authorities to address the economic disparities between the rich and the poor in order to pave the way for a more balanced distribution of wealth in the country and urged them also to address the underlying issues such as land ownership that have undermined governance in the country.

Mr. Deputy Speaker, Sir, the Joint Parliamentary Assembly (JPA) also urged all parties to live up to their responsibilities by engaging constructively and fully in the reconciliation process, working jointly, through dialogue, on all issues, including electoral, constitutional and gender-sensitive reforms and to agree on a sustainable and consensual political solution to the crisis.

The Resolution of the JPA on the topic: "*Situation in Kenya*" is contained as Annex II of this Report. I urge hon. Members to pay great attention to the resolutions that were passed in the ACP-EU Parliamentary Group.

Mr. Deputy Speaker, Sir, the ACP-EU Joint Parliamentary Assembly is an offspring of the Cotonou Agreement. Subsequently, amongst the most pertinent issues commonly and intensely discussed during the JPA meetings are matters of trade, economic partnership agreements and the European Development Fund Programme. Despite the fact that Kenya is a signatory to the Agreement and its subsequent trading instruments, it is common knowledge that, save for a few, who serve in the line Ministries, most Members of this House are not very conversant with these matters as they relate to our country. Why is this so?

Mr. Deputy Speaker, Sir, one of the reasons is that, maybe, despite its important place in the structure and functioning of Kenya and contrary to the practice in most of the ACP-EU states, our National Assembly is sometimes overlooked in the processes of endorsing international treaties and agreements. This House has the duty to change this trend. This may involve passing legal instruments necessary to require that all international treaties and agreements need be based on endorsement by this House. Moreover, it is important that line Ministries work with the relevant House Committees on matters of international agreements and treaties. In this regard, we recommend that, as practicably as possible, representatives of the National Assembly in any international fora, should serve in relevant Departmental Committees.

Mr. Deputy Speaker, Sir, the delegation conveyed congratulatory messages from Mr. Hans-Gert Pottinger, the Speaker of the European Union (EU) Parliament, who saluted you on your election as the Speaker of the Tenth Parliament of Kenya and commended your impartiality as demonstrated in your Acceptance Speech. The delegation is also grateful to you for allowing us to attend the Session and for facilitating our travel and providing logistical and technical support in liaison with the Office of the Clerk.

Mr. Deputy Speaker, Sir it is now my pleasant duty, on behalf of the delegation, to present and commend this Report for adoption by the House.

Thank you, Mr. Deputy Speaker, Sir.

(Applause)

Mr. Kioni: Thank you, Mr. Deputy Speaker, Sir. In seconding this Motion, I wish to give a brief background on the ACP-EU Joint Parliamentary Assembly.

This Assembly was created out of a common desire to bring together the elected representatives of the European Community, the Members of the European Parliament and elected representatives of the African Caribbean and Pacific (ACP) States that are signatories to the Cotonou Agreement. It is the only international Assembly in which the representatives of various countries sit together regularly with the aim of promoting the interdependence of North and South.

The ACP-EU Joint Parliamentary Assembly brings together 78 Members of the European Parliament and 78 Members from the ACP Group of States. The JPA holds its sessions twice a year.

Mr. Deputy Speaker, Sir, the 13th Session of the ACP-EU Joint Parliamentary Assembly, and related meetings, took place from the 12th to the 20th March, 2007. There was an exhibition and conference centre. The Session was a follow-up of one held in Kigali, Rwanda in October, 2007, where many resolutions were made. It is important to note that since the entry of the Treaty

on EU and EU Enlargement, it has acquired a more prominent role. A substantial part of the work of the JPA is directed towards promoting human rights and democracy and the common values of humanity. This has produced joint commitments undertaken within the framework of the United Nations (UN) conferences.

Mr. Temporary Deputy Speaker, Sir, briefly, it is also important to take note of the role of the Joint Parliamentary Assembly. The role of the Joint Parliamentary Assembly is fourfold.

One, it is to promote democratic process through dialogue and consultation. Two, it is to facilitate greater understanding between the people of the EU and those of the ACP States and raise public awareness on developmental issues. Thirdly, to discuss issues pertaining to development and ACP-EU Partnership. Fourth, it is to use the resolutions and make recommendations to the Council of Ministers, with a view to achieving the objectives of this agreement.

Mr. Deputy Speaker, Sir, let me just briefly highlight the initiatives taken by the ACP-EU Joint Parliamentary Assembly. I think it is important to note that the ACP-EU JPA has made an active contribution towards implementing and reinforcing successful ACP-EU Conventions and has put forward numerous proposals. One of the proposals is upgrading the role of women in the development process. Two, is the integration of environmental policy in development projects. Third, is the promotion of trade as a tool for development, particularly by way of economic partnerships foreseen in the Cotonou Agreement. The fourth one is the improvement of measures aimed at combating epidemics and enforcement of health and hygiene services; creation of decentralised development policies; the promotion of regional, political and commercial co-operation; closer co-operation with non-Governmental Organisations engaged in development; measures to enhance the cultural dimensions in North and South co-operation; the acceleration of aid procedures and, the increase in appropriation intended for refugees and for displaced persons. Another one is the commitment to reinforce and defend human rights and dignity.

It is important to note that Kenya is a member of the Standing Committee on Political Affairs. It is important to highlight what this Committee is responsible for. This Committee, of which Kenya is a member, has 25 member States and is responsible for political dialogue, development and institutional matters. It is also responsible for respect for and promotion of human rights, democracy and good governance.

*(The Assistant Minister for Foreign Affairs
(Dr. Onyonka) crossed the Floor of the House
without bowing to the Chair)*

Mr. Affey: On a point of order, Mr. Deputy Speaker, Sir. The hon. *Waziri*, who has just been sworn-in crossed, the Floor of the House as if he is somewhere in his home!

(Applause)

Mr. Deputy Speaker: Hon. Onyonka, there is a way of crossing the Floor of the House. Could you, please, follow the procedure?

The Assistant Minister for Foreign Affairs (Dr. Onyonka): Mr. Deputy Speaker, Sir, I will.

*(Dr. Onyonka walked to the Bar
and bowed to the Chair)*

Mr. Kioni: Mr. Deputy Speaker, Sir, I was going through the responsibilities of the Political Affairs Committee, of which Kenya is a member State, among other 24 member States.

One of its responsibilities, that I had mentioned, is political dialogue and development of institutional matters. Two, the Committee is also responsible for respect and promotion of human rights, democracy and good governance. Three, the Committee is also responsible for peace-building policies, conflict prevention and resolution. Fourth, the Committee is also responsible for issues concerning migration. Finally, it is also responsible for assembly relations with relevant international organisations. This Committee co-ordinates the works of fact-finding missions including being sent to monitor elections according to Article 28 of the Rules of Procedure of the Assembly.

The Committee held its Sitting on 12th March, 2008 and 15th March, 2008 and deliberated on a number of issues among them the experiences from the European Region, integration process relevant to ACP countries; protection of civilians during peace-keeping operations by the UN and regional organisations and; the political situation in ACP-EU countries with emphasis having been put on Kenya and Chad.

[Mr. Deputy Speaker left the Chair]

*[The Temporary Deputy Speaker
(Prof. Kaloki) took the Chair]*

It is important for Members to note that the matter of the crisis that followed our 27th December, 2007 elections in Kenya featured prominently during the Assembly and it was, actually, discussed on 12th March during the sitting of a Committee on Political Affairs by ACP States. It was also discussed on 14th March, during the sitting of the ACP Group of States Parliamentary Assembly and again on 15th March, during a sitting of a Joint Committee on Political Affairs. It was also discussed on 15th March during the opening of Joint Parliamentary Assembly by various speakers. On 17th March, the issue of Kenya was also discussed by ACP-EU JPA under the Motion, *The Situation in Kenya*. On 28th March, the issue of Kenya was again discussed during a Sitting of the ACP Group of States.

Finally, on 20th March, the situation in Kenya was again discussed by ACP-EU JPA by way of voting and adopting a resolution on the Motion entitled, *The Situation in Kenya*. I think it is important to note with appreciation that the Kenyan Delegation had the opportunity to give all the needed statements on the situation in Kenya and the current developments thereof. The delegation further held various formal and informal conciliatory meetings with Members that were present in order to update them on the current situation in Kenya and garner support to draft a compromise Motion.

It is also important to note that while these issues were being debated, the ACP-EU Joint Parliamentary Assembly called for an urgent and thorough investigation into the violence that was triggered by the 27th December Post-Election violence and the offences under the Electoral Offences Act to restore trust in democracy and enable displaced persons go home. The JPA deeply regretted the deaths of Mellitus Were and David Kiptoo Kimutai. In the Motion, *The Situation in Kenya* the Assembly noted, among other things, the violence that followed the election, the mood of the campaign viewed against the various freedoms that we have in this country; for instance, the freedom of association, expression and assembly. It also noted that there were two major political parties, PNU and ODM. The two parties were able to bring together 206 seats out of the 210. It also noted the verdict by the international observers.

The Committee also noted the general conduct of the ECK and the tension that prevailed during that time in the country. It also noted the disruption of normal life by the violence that engulfed the nation. It also noted the effects on the economic activity in the region and increase in

food prices in our own country. It also noted the efforts that were being put in place by the various eminent persons; the President of the Republic of Ghana, John Kufuor, the former UN Secretary-General, His Excellency Kofi Annan, assisted by Her Excellency Graca Machel and former President of Tanzania Benjamin Mkapa, to dissolve the dispute. It also noted that all these efforts culminated in the National Accord and Reconciliation Act to create a Grand Coalition Government. The resolutions that came out of this were highlighted by the Mover of the Motion, Prof. Kamar, and I do not wish to go over them again.

Mr. Temporary Deputy Speaker, Sir, as I wind up on my contribution in seconding this Motion, it is important to note that the dispute that followed the 27th, December general election took a little too long to resolve. It is important that even when we are faced with such difficult circumstances, we take note of important meetings that are going on around us in the world. It is crucial to note that our country was not represented during the first meeting, or the meeting that was held on 22nd, January. We were, therefore, not able to take part in the deliberations of the committees. It is always important to ensure that we are represented in such forums, even when we have difficulties. In so doing, we are able to articulate the positions that we have. We are able to be understood better and learn from others, so that we continue improving on the things that we want to do within Parliament and outside.

Mr. Temporary Deputy Speaker, Sir, I ask that the Report be adopted by the House, and that the content of the same be noted, especially those of the Motion on the situation in Kenya.

Thank you, Mr. Temporary Deputy Speaker, Sir.

With those few remarks I beg to second.

(Question proposed)

The Assistant Minister for Medical Services (Mr. Mungatana): Mr. Temporary Deputy Speaker, Sir, may I first take this opportunity to congratulate the Leader of the Delegation, Prof. Kamar, together with all the members of the delegation for doing us proud. I wish to thank them for taking time to attend this meeting during a time when the whole country was in a difficulty.

Mr. Temporary Deputy Speaker, Sir, I would also want to congratulate the Speaker for ensuring that this trip was undertaken, and we were ably represented by this delegation in the meeting that produced this Report.

Mr. Temporary Deputy Speaker, Sir, I support the adoption of this Report. It is a good Report and this House should agree to adopt it and all its recommendations. But as I always say, we can always make something good to be better. On the whole, I must say that this Report is comprehensive. May be, just to add on to some of the things that needed to be said, I want to pick on one or two points that emanate from this Report.

Mr. Temporary Deputy Speaker, Sir, on the issue of food security that was discussed under the joint committee No.1 on Economic Development, Finance and Trade, the details of these discussions and resolutions reached, in my opinion, are captured on page 16 of this Report. Page 16, paragraph 14 explains the kind of problems that African countries experience from day to day. We have talked a lot about food security. I am sure that the arguments were raised in the presence of Members of Parliament from some European Countries. We were told that 78 MPs attended from Africa and another 78 attended from Europe.

Mr. Temporary Deputy Speaker, Sir, one of our biggest problems in terms of food security in Africa is that there is the question of agricultural subsidies that are given to farmers in European countries. These food subsidies enable farmers there to produce at a cost of almost nil. People are paid just to keep farming and increase employment. When the food is brought to Africa, it is dumped here. This effectively kills the food industry within the African continent.

Mr. Temporary Deputy Speaker, Sir, I would urge this Parliament, and any future delegation that will go to these meetings of the ACP and European Union Parliaments to make this point, and extract a commitment from them that they will stop these subsidies. We cannot have food security in Africa, if we continue to have the dumping of food as has been the case throughout.

Mr. Temporary Deputy Speaker, Sir, I want future delegations from this Parliament to stick to this. This is where, as the Member for Garsen, I would want to request that any time we are going to have this Parliament being represented outside there, we should be able to be given notice in time. We need to pass certain resolutions that our representatives will carry and make sure they bring us reports on them. We cannot continue to pretend that food security will be achieved if the global economy is skewed to this extent.

Mr. Temporary Deputy Speaker, Sir, the other point that I have extracted, and would want to discuss, is the issue of the Economic Partnership Agreements (EPAs), which was also discussed under the Joint Committee No. 1. In the world, we are going into economic partnership between States. Today, during the swearing-in ceremony for Ministers and Assistant Ministers, the hon. President of the Republic of Uganda demonstrated this fact very clearly. The East African Community (EAC), as a community, suffered during the time when Kenya had a problem. He said that when one part of a body is aching, the whole body is affected. He said if the back is aching the head will also ache.

Mr. Temporary Deputy Speaker, Sir, the EAC is a great economic partnership. It is now integrating even other countries like Burundi and Rwanda. I like the recommendation contained here, that there is need for us to mix political reality on the ground with the economic partnership. I like the recommendation from the leader of the delegation in particular. She pointed out that it would be necessary that when we are choosing Members to represent us in the East African Legislative Assembly (EALA), it is time we started to think seriously about direct elections. This will give them the mandate to properly speak for us, both in the political and economic partnership.

Mr. Temporary Deputy Speaker, Sir, on the political situation in Kenya, there was a lot of interest during this meeting, as can be seen from the Report. A lot of recommendations were made with regard to the political situation in Kenya. However, the thing that I would want to underline is contained on page eight of this Report. If you look at bullet one of this page, at the very top, you will see that one of the things that the Members of ACP-EU recommended was to call upon the international community to render adequate assistance for the reconstruction of the affected areas, including the urgent resettlement of the displaced persons with special focus on rural and slum habitations.

Mr. Temporary Deputy Speaker, Sir, the experience we, as a Government, have had previously is that a lot of meetings and many countries in international fora, are very quick to give undertakings. They even go ahead and say we are pledging Kshs1 billion for this, or US\$10 million for that, or 20 million euros for these programmes. However, at the time of implementation, these countries always let us down. Again, I would want to use the Floor of this House to urge our partners who have committed themselves towards helping us in the reconciliation process, to please make good their pledges. Today, the Kenya Government requires a lot of money to carry out resettlement of our displaced people. We need money to rebuild classrooms that were destroyed. We also need money to reconstruct teachers' houses that were burnt down during the post-election chaos. We need to construct more dispensaries and rehabilitate other facilities that were burnt down. We need to help businessmen to start again their works. The international community should make good all their pledges. Otherwise, we would have a big problem in this country. It would be a big embarrassment to this Government, if one month after the Grand Coalition Cabinet was sworn in, we would still speak of visiting people in the Internally Displaced Persons (IDP)

camps. This would be a big embarrassment, to not only Kenya, but also to the East African Community and the world which pledged to help us. I hope that recommendation would be taken very seriously by our supporters and friends who were there, when we needed them most.

Mr. Temporary Deputy Speaker, Sir, on the same topic of the political situation in Kenya, I really hail the fact that on page seven, there was special recognition for the former UN Secretary General, Dr. Kofi Annan and the Eminent African Persons; Mrs. Graca Machel and the former Tanzanian President, His Excellency Benjamin Mkapa for resolving the crisis. It was a good example that showed Africa needs an african solution. For a long time, the habit has been, Africa always looks up to the West for its solutions. We look up to the West when we are seeking new technology. We look up to the West when we are looking for every other thing. I am very happy that when we got into problems, it was the same people from Africa, who came together and made peace part of the continent. This is something that I am very pleased to see in this Report. We may, in the future, need to focus on fellow Africans to get our own solution. Indeed, this would help us to change our mentality as a continent.

Mr. Temporary Deputy Speaker, Sir, I am also very interested on the topic on domestication of international instruments. If you look at Parliament today, and it was the experience of the Ninth Parliament, it has been noted by the leader of the delegation, in paragraph 9, on page 9 of this Report. Whenever we are discussing important matters and reports on international relations, Kenya relating to other countries, or our Parliament going abroad to do this or that in another country, or our country adopting international laws, you find that Parliament is not interested. Members of Parliament are not even grasping a lot of the stuff that needs to be discussed. I am very happy that the leader of this delegation, who is a first time Member of this House, has seen it necessary to put this issue in this Report. It says:

"One of the reasons may be that, despite its important place in the structure of functioning of Kenya and contrary to the to the practice in most other ACP-EU states, our National Assembly is invariably overlooked in the processes of endorsing international treaties and agreements. This House has a duty to change this trend. This may involve passing of legal instruments necessary to require that all international treaties and agreements need debate and endorsement of the National Assembly."

Mr. Temporary Deputy Speaker, Sir, this is a very critical point. I am happy that the leader of the delegation has captured it. She is a new Member of this House. Time has come for this House, being the supreme organ that expresses the combined will of the Kenyan people, to pass legislation that will require every international obligation, that the Executive led by the President, wants to commit this country to, must pass through this House, for proper debate and adoption. In so doing, this Parliament and Members of Parliament will be aware of what is happening. We have been in many times told as parliamentarians, Kenya is a signatory to this and that convention or international law. Yet, this Parliament has never been given the opportunity to debate those issues. We have adopted the system similar to the United States, where the Executive goes out there, and commits the entire nation; then that becomes the law. It is time we went the European way where if the Executive has any intent of committing the nation to any international norms or standards, they must come back to this Parliament and get approval. We must have that because it is only then we would be able to properly help our country. We carry the nation to bring it where it should be internationally. It would be very dangerous to continue with the trend of adopting international instruments without approval of Parliament.

Mr. Temporary Deputy Speaker, Sir, I know that any ordinary Member of Parliament can bring a Motion for that purpose, but it would be easier for the Ministry of Foreign Affairs. I think time has come for them to originate legislation to that effect, so that this Parliament can be

empowered to that effect. That will enable us to approve international treaties.

Mr. Temporary Deputy Speaker, Sir, as I said before, on the whole, the entire Report is good. I would urge hon. Members in this House to adopt it without much ado.

But, Mr. Temporary Deputy Speaker, Sir, as I sit down, there is one point that has struck me, and which needed to be looked into again. When you have a gathering of Members of Parliament from 78 African countries and 78 countries from Europe--- One of the things they discussed under the Joint Committee is social affairs and environment. Amongst the things they discussed were, for example, children. It is very sad that we were not able to discuss an important issue that affects the health of Africa as a whole. Statistics show us that--- It will be very sad if we keep on escaping the scourge of malaria, not even HIV/AIDS! HIV/AIDS has been touched on in this Report. But the health of our children and women in Africa is at risk because of the killer disease called malaria.

Mr. Temporary Deputy Speaker, Sir, I feel that it was very sad to have left out that issue. About 2 million people die every year from malaria-causing mosquitos. Those deaths occur mainly in children and women in Africa. About 90 per cent of those deaths occur in Sub-Saharan Africa. Surely, Mr. Temporary Deputy Speaker, when you have 78 members of Parliament discussing, amongst other things, child issues, it would have been important to discuss that. I feel that, probably, in the next ACP-EU meeting, they should have that issue as part of their discussions. The Heads of States from 44 African States met on 25th April, 2000, in Abuja, Nigeria, and they made a declaration about the fight against malaria. They set certain standards or criteria. It would be important that when we have gatherings of such nature, those themes are discussed. It is very well to discuss economic development, finance and trade, political affairs and also social affairs. But who are we discussing with if our people are all dying in the Continent of Africa? Then, we fail even to have a quick mention of this killer disease.

So, Mr. Temporary Deputy Speaker, Sir, other than this omission, I think this House will be doing a good and great duty to make sure that we adopt this Report in its entirety. It is my prayer that the Ministry of Foreign Affairs will take into cognisance all the issues that we have raised here in the House and, most importantly, bring legislation that will help us, as a Parliament, to start dealing with international instruments before we domesticate them.

With those few remarks, Mr. Temporary Deputy Speaker, Sir, I beg to support.

Thank you.

QUORUM

Mr. Nyamweya: On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not know! I am not very good at arithmetic and, maybe, a lot of activity is going on elsewhere, but I doubt whether we actually have a quorum to continue with whatever we want to do.

The Temporary Deputy Speaker (Prof. Kaloki): Serjeant-at-arms, would you verify whether we have a quorum? Would you, then, ring the Division Bell, please?

(The Division Bell was rung)

The Temporary Deputy Speaker (Prof. Kaloki): We have a quorum now. You may proceed, Dr. Onyonka.

The Assistant Minister for Foreign Affairs (Dr. Onyonka): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity. I want to mention that I am actually happy and proud to be in this House talking as an Assistant Minister in the Coalition Government of the Republic of Kenya.

Mr. Temporary Deputy Speaker, Sir, I would like to request the House to adopt this Report for the simple reason that, one--- I wanted to thank the delegation which went to---

(Loud consultations)

The Temporary Deputy Speaker (Prof. Kaloki): Order! Order, please!

The Assistant Minister for Foreign Affairs (Dr. Onyonka): Thank you, Mr. Temporary Deputy Speaker, Sir. First, I want to thank the delegation that went to the meeting which was held in Slovenia. It comprised of hon. Kabando wa Kabando, His Excellency Max G.N. Kahenda, Kenya's ambassador to Belgium, the European Union and Prof. Kamar. I have seen bits and pieces of this Report and I think it is a very, very good Report.

Mr. Temporary Deputy Speaker, Sir, I have seen bits of this Report and I think it is very good, but I wanted to make a suggestion. After having a word with hon. Members, it seems that such a good Report has not been circulated in time. Most of the hon. Members do not even seem to know what we are talking about. Essentially, it is a Report which was done by the 15th Session of the African, Caribbean, Pacific and the European Union (ACP-EU) Joint Parliamentary Assembly, and related meetings, which was held in a place called Ljubjana in Slovenia on the 12th - 20th March, 2008. When you look at this Report, you notice that the it is very precise and timely, because it deals with various issues.

It talks about the African, Caribbean and Pacific arrangement and the relevance of the economic arrangement which exists in the African, Caribbean and Pacific Union. There are issues which have to do with the environment, economic development and political issues. One of the major issues which has been discussed in this Report is the fact that the Kenyan issue is discussed openly. When I look at and analyze it, the Report is very clear. I hope that the recommendations which have been brought forth in the Report will be adopted by the House, for the simple reason that the Report is fair, reasonable and conclusive in its analysis of the problems which have existed in this country after the elections, the post-election violence and what actually needs to be done in order for the country to become peaceful and develop again.

Mr. Temporary Deputy Speaker, Sir, all these recommendations have been clarified, and made very clear. I would recommend that all the hon. Members of this House are actually provided with a copy of the Report, so that they can go through it. I believe that if we were to adopt and accept the recommendations, including those concerning our healthcare network systems, the issue of HIV/AIDS and Millennium Development Goals (MDGs), we should be able to reach a stage where those recommendations might help this country, particularly since the grand coalition is in place. We have agreed that we are going to try and put our country together in a peaceful and a good way. The only recommendation that I can make right now is that the House adopts this Report.

With those few remarks, I support.

The Assistant Minister for Labour (Mr. Ojaamong): Mr. Temporary Deputy Speaker, Sir, thank you for giving me the opportunity to add my voice to this Report of the ACP-EU 15th Session. The issues discussed were very important for Kenya. I would like to thank the EU, because I have had an opportunity to interact with the people who bring in the EU projects. It has been as a result of these meetings between the ACP-EU countries. There have been a number of projects in my constituency, and the way they are being implemented, even though they are few, is more effective than the way the projects that are being done by the World Bank and the International Monetary Fund (IMF). The EU projects that are initiated to aid Africans, in particular in Kenya, are actually tailored to fit the communities where they are being implemented. I have had three or four schools put up by EU through the Community Development Trust Fund, which is one

of the organizations working with the EU. These schools are built to suit local standards, the projects are implemented by the locals and the materials are bought by the locals. So, you will find that all the money that comes in, if it is Kshs3 million or 5 million, goes to benefit the community as compared to what the Bretton Woods institutions do.

These institutions have also been discussed here. Their projects and policies on Africa have been questioned. If you look at some of sanctions that the IMF and the World Bank imposed on Kenya, for example the freeze on the employment of teachers, have had a very counter-productive effect on us. We now have one teacher attending to 100 to 300 pupils, depending on the area. This has led to very poor standards. This condition has not been lifted, and we continue to go through a very awkward education system. A child moves from Class I to Class II without knowing anything because of the large numbers. If the IMF and World Bank want to assist Africa, and Kenya in particular, let them come and assess the situation; I think they know it, but they just want to ensure that African remains backward and awkward.

Mr. Temporary Deputy Speaker, Sir, as we were been sworn in today, the President of Uganda was also condemning the IMF and the World Bank. They come to lecture Africans on African affairs, as if they know everything but provide no tangible solutions. The employment of nurses and doctors has also been frozen through the advice of the IMF and the World Bank. You can see the consequences. I visited one of the sub-district hospitals in my constituency, called Alupe, and found out that there is an acute shortage of doctors, nurses and support staff to the extent that service delivery has almost collapsed. This is the time we should look for African solutions to African problems. I believe that through the EU partnership with the ACP, we might be able to realise more, compared to what we achieve from our co-operation with the IMF and the World Bank.

Mr. Temporary Deputy Speaker, Sir, the issue of food security was also discussed. Most hon. Members, especially those from the Rift Valley, have already sounded an alarm that we might experience famine in the near future. It is my appeal to the relevant authority to take into consideration the reality of that appeal. It will be very painful, worse than the post-election violence, to see our people die due to lack of food, yet we have plenty of land in the Rift Valley and elsewhere lying fallow. Today, the President said that farmers will be provided with seeds, fertilizers and other farm in-puts free of charge. That will be a plus. This is also mentioned in the Report. Whereas I will not agree that the Report be adopted in totality, there are some other areas, like on page 22 of the Report---

QUORUM

Eng. Rege: On a point of order, Mr. Temporary Deputy Speaker, Sir. Do we have a quorum to continue?

The Temporary Deputy Speaker (Prof. Kaloki): Mr. Serjeant-At-Arms, could you verify whether we have a quorum? There is no quorum. Could you ring the Division Bell?

(The Division Bell was rung)

The Temporary Deputy Speaker (Prof. Kaloki): We have a quorum now. Hon. Member, you may proceed!

The Assistant Minister for Labour (Mr. Ojaamong): Mr. Temporary Deputy Speaker, Sir, I was just saying that, whereas I agree with most parts of the Report, on page 24, Part "V", the Assembly called for all acts of violence to be urgently and thoroughly investigated through appropriate means, and a way that helps to restore the trust of Kenyan people in democracy be

found.

You will find that the Government might have sent special District Officers (DOs) to go and investigate or identify the perpetrators of that violence. Already, we know the cause of that violence. Even the group of Eminent Persons led by His Excellency Koffi Annan already identified--- There were deep-rooted problems and historical injustices. The violence that occurred was as a result of all those things. It will be unfair for us to go and open the wounds that are healing again. If we were to start investigating why you killed so and so--- If, indeed, we know that people were killed and property destroyed, I think it has reached a time when we should forgive each other and say: "Let bygones be bygones. Let us start a new Kenya." The President emphasized today, during the swearing in ceremony that, let us forget about the past and start from here and move forward.

So, I would appeal that the group that prepared this Report expunges Part "V" which calls for those acts of violence to be urgently investigated. That is because His Excellency the President himself has already said: "Let us forget about the past and move to the future." Let us address the issue of the IDPs. I think that is the most critical thing. We know what caused that violence; the historical injustices.

If you look at the community where I come from in Western Kenya, we are a minority. The same applies to hon. Kapondi who is also from a minority community. We are surrounded by a larger majority. We have never had our fair share. Even though we do not take on each other--- But now, we are starting to get our share. I do not think it will be good for us to revisit those historical injustices. Let us go to the constitutional reforms as explained in this Report. Let us give the people of Teso another constituency and Mt. Elgon another constituency.

Mr. Temporary Deputy Speaker, Sir, even in the creation of the new Cabinet---

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Member, could you, please, contribute and comment on the Motion that we are talking about in the House, that is, the African, Caribbean Pacific and European Union (ACP-EU) Report? You seem to be drawing a lot with your examples.

Proceed!

The Assistant Minister for Labour (Mr. Ojaamong): Mr. Temporary Deputy Speaker, Sir, I think I am just in line because in the Report, we have the Kenyan situation. There is a topic. They said that we should move with speed to implement the constitutional and institutional reforms. So, I am just within.

So, for the Tesos to get another constituency, there has to be constitutional reforms in Kenya. That is what I am saying. For Tesos to get employment in the Government, there has to be institutional and constitutional reforms.

Mr. Temporary Deputy Speaker, Sir, in order to address the pressing issues, particularly in the Kenyan situation, we have to adopt this Report the way it is, but with a little amendment. Part "V" should be expunged for the sake of peace, national healing and tranquillity in our country.

Mr. Temporary Deputy Speaker, Sir, I beg to support the Report.

Mr. Nyambati: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute.

First and foremost, I want to---

(Loud consultations)

The Temporary Deputy Speaker (Prof. Kaloki): Order in the House, please!

Mr. Nyambati: Mr. Temporary Deputy Speaker, Sir, I want to take this opportunity to commend the Members who represented us in that very important meeting, for the good work that

they have done. I am very impressed with the work that they did and the able representation that they gave on our behalf.

Mr. Temporary Deputy Speaker, Sir, this Report has done a lot of deep analysis on most of the problems that are facing us. The Report has very ably talked about the food security in the countries involved - especially in Africa. It has also talked about the economic partnership and the maternal mortality. It has also discussed in details about the Kenyan situation. I would like to request that such an important Report should be availed to us before we come to debate it on the Floor of the House, so that we have a chance to go through it. When we go through it we will be in a better position to debate it.

Mr. Temporary Deputy Speaker, Sir, the recommendations given in this Report, especially on Kenya as captured in Resolution Three, are extremely important to us. This Section addresses the problems that we faced. We must now ensure that this Report is implemented. Parliament should ensure that reports, when adopted, are implemented. On many occasions most reports which are adopted by the House are not implemented. We should have sufficient machinery to ensure that reports that are adopted are implemented.

Mr. Temporary Deputy Speaker, Sir, this Report addresses the issue of the Internally Displaced Persons (IDPs). The Government, including the Tenth Parliament, must ensure that the causes of the post-election violence are addressed. Some of these problems, which are also addressed in this Report, include the disparity between the rich and the poor. This is expressly explained in this Report. This Parliament should ensure that we reduce the gap between the rich and the poor. If we do not do so, then we will not avoid the kind of situation that we experienced after the general election. We will continue having these problems. The *Mungiki* menace and other forms of unrest are mostly as a result of the disparity between the poor and the very rich. We, as a House, must ensure that we address these issues and focus more on reducing the gap between the very rich and the very poor.

The situation of the IDPs must be addressed very urgently. I come from a community where we have IDPs, who are suffering. This matter is addressed in this Report. We must ensure that this problem takes priority, so that our people are re-settled. This will ensure that our people are able to work and earn a living, rather than being refugees in their own country.

Mr. Temporary Deputy Speaker, Sir, this is a good Report; it is not controversial. But I want to urge that we find a methodology of ensuring that such good reports are implemented.

With those few remarks, I beg to support.

The Assistant Minister for Youth and Sports (Mr. Kabando wa Kabando): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this Motion. I was among the delegation that was led by Prof. Kamar. With a lot of pride, though Kenya was disadvantaged and, therefore, was put on the agenda of the ACP-EU Joint Parliamentary Assembly, our participation from this House was very well received. The President of the ACP-EU Joint Parliamentary Assembly, and the Chairs of the other plenaries said it was very befitting.

I want at this juncture to recognise the very able leadership of the delegation by my colleague, Prof. Kamar. This was recognised by the President of the ACP-EU Joint Parliamentary Assembly and by other participants. Her presentation of the issues at the Assembly was very lucid. She was also very eloquent. That, indeed, helped to add value to the previous meetings that were held in Brussels, where Kenya was discussed without any representation. This time round, Parliament having nominated the two of us, the participation was more significant and was taken more seriously, since it was coming from political leaders; very uniquely, it was from two sides of the political divide of that time.

Mr. Temporary Deputy Speaker, Sir, I would also like to thank the Speaker of the National Assembly for our nomination to participate in this Joint Parliamentary Assembly. It was, indeed,

very good exposure, and gave us an opportunity for our first business as new hon. Members of this Tenth Parliament.

I would like to address only one issue on page 28, which says:-

"The Assembly urged the Kenyan authorities to address the economic disparity between the rich and the poor in order to pave way for a more balanced distribution of wealth in the country, and urged them also to address the underlying issues such as land ownership, that have undermined governance in the country."

Indeed, these are matters that have been raised in different forums, for example by the civil society, the various opposition groupings since 1992, and also in the current times. Today, His Excellency the President and His Excellency the Prime Minister addressed these issues as being urgent and critical matters that need redress, if this country is to move forward and realise economic empowerment.

Mr. Temporary Deputy Speaker, Sir, there are a few things that we need to do beyond policy formulation, or even pronouncements. This Tenth Parliament has an ideal opportunity, as it is walking through the tight rope of political reconciliation and improvement of governance through constitutional review and other legal and administrative reforms. We also need to walk the path of giving freshness of ideas through this House, and outside the House, to ensure we get real and concrete achievements that can be celebrated by our country. We may have a very good Constitution, but we need to have the culture and commitment to do things differently.

We are happy that Northern Kenya now has a special Ministry in order to focus on that area, which is huge. That area is almost equal to Nairobi, Central and Eastern provinces combined. We also have the Ministry of Fisheries Development. With lakes Victoria and Turkana having an abundance of fish, those areas have not had any reflection of economic prosperity.

Mr. Temporary Deputy Speaker, Sir, there are areas we need to fast-track. This country has been celebrated in various places. If you visit Europe or the United States, it is very expensive to obtain--- I am happy that the Chair is one of the Kenyans who have lived in the USA, and am sure he knows how expensive it is to obtain a mug of coffee. It is called the Kenyan gold in some areas. Other people will say fish or tea is their gold. But coffee is an example of a cash crop that has not translated into actual benefit for the people who grow it, just like fish and livestock may not have translated to actual earnings.

I remember that as His Excellency the President was opening this Session in this House, he mentioned that among the Government agenda is a Coffee Bill. This is something we need to focus on in order to address the question of economic disparity. We have land and a hard working population. Kenyans are celebrated as very optimistic and vibrant. We have sportsmen in this country. If you visit any country outside Africa and mention Kenya, you will be asked whether you are an athlete, yet we do not have a sports policy. These are things that we need to put on the table in order to harness talent and convert the abundance of skills that we have to wealth. If you mention Kenya anywhere outside Africa, you will be told that it is a country of wildlife; more so, the "big five". However, the workers and small-scale entrepreneurs in the tourism sector are not enjoying the earnings that are mentioned and covered in the assessment and studies that are done in that sector. So, we need as a House to fast-track and address the question of the tourism policy. We are a tourism hub and yet we do not have a national tourism policy. Other countries that are smaller than Kenya have tourism policies that ensure that there is easy conversion of domestic wealth into household income for their people.

Mr. Temporary Deputy Speaker, Sir, we need to fast-track the already existing reforms in the water sector to ensure that stakeholders have greater ownership on the ground. Consumers need to have a greater say on the ground. Investment in this sector should not be commercialised blindly. You know that the Water Act, 2002 addresses this question very well, but sometimes because of

narrow politics, we have not managed to diversify and take this legal instrument to the ground in order to carry it the way it is required. We have not given it the seriousness and attention it requires so that water becomes a driver for economic development and not just for consumption. Water should be used for agricultural purposes, for example, in horticultural farming. This will lead to production of fruits which will then be enhanced through the new Ministry of Industrialization. That way, whatever products we have in this country will be processed or finished products.

The next level is to ensure that the Economic Partnership Agreements (EPAs) that exist within the ACP countries address the question of trade imbalances with Europe so that our processed goods are not taxed more in those markets than the unfinished goods.

Mr. Temporary Deputy Speaker, Sir, the multitude of people you see fertile for incitement or rioting are the youth. This is because of joblessness and desperation. It is a time bomb! We were reliably informed that last year, the Ninth Parliament was given a very detailed presentation by the Ministry of Youth Affairs on issues to address, but politicians did not take it very seriously. You saw what happened and you know what is likely to happen and what is even happening now. Perhaps, as a House, it may be proper now, as a way of redressing the economic disparities, to consider true and concrete leadership assimilation of the young and vibrant generation. We are talking about gender. It is very important so that we redress the historical injustices, particularly, against women.

However, we also need to say that for the case of companies, board of directors shall not be composed without, say, 45 per cent of members being below 35 years of age. In this House, today, one of the Members who was sworn in as a Minister is 34 years of age. One of the Members of Parliament in this House graduated in December, 2007 and is, in fact, a doctor. So, we have a lot of young people who are endowed intellectually and who need to be harvested so that they can input strategically and concretely into national rebirth. It is not necessarily so that just because you have a policy paper and a requirement that the youth shall be involved, the leadership will take it just naturally. We need to have young people also talking for themselves in order to address their issues.

Mr. Temporary Deputy Speaker, Sir, the final point I want to make is on investment law in order to address the economic disparities. In some countries, for example, South Africa and other developed countries, you cannot, as an investor, just enter that nation and construct an industry, wholly owned by a foreigner. We need to bring a law in this country that compels any foreign investor to have a local partner. That way, we shall harness the local skills and ensure that there is a trickle down effect or a multiplier effect on wealth creation even as more jobs are created.

We need to ratify treaties as a Parliament. We need to empower Parliament more. We need to do many other things. Even though we were sworn in today, there is a cloud of doubt hanging upon us about the size of the Cabinet. Indeed, His Excellency Kofi Annan mentioned that. There is an international and local cloud about that issue. Is it really necessary? Parliament needs to play a role in firmly enacting a system that will compel the size of the Cabinet and also define its responsibilities.

The Report before this House, I realised with some concern and I am sure the head of delegation, Prof. Kamar has noted it, may have reached some hon. Members late. I think it is time that all Reports of Parliament are online. We are in the ICT age now. It is the 21st Century and mobile phones are being used to send and receive e-mails. They can even display websites. I think Reports of Parliament, even before the HANSARD is complete should be availed on the Parliamentary website and Members' e-mail addresses should be utilised effectively. That way, Reports will be submitted in a very speedy manner. This will also allow this country to comply with very many treaties and laws that require conservation on paper. There is so much paper that is being produced in Parliament and I am not sure that all Members of Parliament are able to store all

these papers in the libraries in their houses. I think we need to go online. Let us go to our websites and personal e-mails and get all these documents in time. When you are travelling or you are out of town, you should be able to access the documents. Currently, no Member of Parliament can access any Parliamentary documents online; be it a Bill or an Order Paper.

Mr. Temporary Deputy Speaker, Sir, with regard to what was mentioned about impunity, it is important to understand that this country was going through a difficult time. However, it will be very unconscious of us to also imagine that this country is over that. The fact that the Cabinet has been composed and sworn in is not any reason to say that we are now over the bridge. We are yet to cross the bridge. We need to develop a culture of responsibility, smartness and patriotism. I do not agree that we need to suspend our laws. If, indeed, you kill anyone and you are caught, you should be taught a lesson. Rwanda did not do it. They had more people killed; nearly one million. The Germans also never did it. So, it will be foolhardy for Kenyans to do it now. Nobody in this country has any reason; be it a Member of Parliament or a Cabinet Minister or a big business person, to say that we need to conveniently hide under the carpet of forgetfulness. In fact, the greatest tragedy of this country is that we forgot many things about the past. We are very fast to forget like the warthog. We are chased across the ridges and deserts, but we forget very fast and then say that our history is gone. History is very rich. If it is a history of prosperity and patriotism, that is good for us. However, if it is the history of being a criminal or being irresponsible, people need to pay for that.

Mr. Temporary Deputy Speaker, Sir, let me repeat that you are among the Kenyans who were in the USA. You are respected as a leading intellectual. The Head of delegation to the ACP-EU Parliamentary Assembly, Hon. Prof. Kamar, is a leading intellectual too. She has studied in Europe and the USA. Today, no country in Africa, among the over 50 African nations, is leading Kenya on the number of intellectuals residing in the USA. The USA is a big country with over 300 million people. Therefore, our country is very rich. The question is whether we have converted our intellectualism to harness national ideals that will allow this country to move to the next point.

Mr. Temporary Deputy Speaker, Sir, as we are being spoken down by other nations - and I will say this very proudly - I think people should carry their own crosses. You remember when I was written a letter by the United States of America (USA) Ambassador to Kenya, I came out on my own. Some Members of Parliament wanted to come out and defend me. But I said: "I do not ought to be defended by members of any political divide, because I should carry my own cross." If, indeed, I was involved in any violence, I should carry my own cross and be taken to the Hague. In USA, a lot of things are done to promote the culture of diversity. They celebrate the black culture and the Hispanic culture. In fact, even the national Parliament of the USA, the Congress, has a black caucus. Let us be proud of who we are.

Let us be proud of our roots, like Marcus Garvey, the civil rights leader in Jamaica would say: "A people without a culture are like a tree without roots." It is very humiliating and, indeed, an insult to Africa, that the most eminent African political leader, the symbol of patriotism, freedom and justice, Mr. Nelson Mandela, remains banned from entering the USA. The Nobel Peace Prize holder cannot enter the USA without special clearance by the Foreign Department of the USA. That is why we must, firmly, stand our ground and tell anybody speaking to us: "Put the facts on the table". I will use this opportunity to ask whether, indeed, the Americans need not look back and ask themselves whether they are not insulting Africa by retaining Mandela on their black list, just because he was a freedom fighter in the African National Congress of South Africa?

Thank you, Mr. Temporary Deputy Speaker, Sir. I support this Report as a Member of the Delegation.

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Members, there being no other hon. Member wishing to contribute to the Motion, I will now call upon the Minister for Foreign

Affairs to reply.

The Assistant Minister for Foreign Affairs (Dr. Onyonka): Mr. Temporary Deputy Speaker, Sir, after having heard the wonderful words that have been raised about this Report by my fellow Members of Parliament, I believe that they are satisfied, and that we will actually adopt this Report without any further delay.

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Members, I now call upon the Mover to reply.

Prof. Kamar: Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to thank all the hon. Members who have debated this Report. It was a great opportunity for us as a Delegation to attend the ACP-EU Joint Assembly. It was our first time to attend the Assembly and we learnt a lot.

I would like to respond to some of the comments that hon. Members have made. There is an hon. Member who talked about the topic of malaria. I want to mention that we will take that forward, because the ACP-EU Joint Parliamentary Assembly relies on topics from various groups. So, we will take that topic through the African group and see if it can be tabled in the next one or two years. That is a very important point that was raised.

Another hon. Member mentioned something, which I should touch on - the issue of expunging a clause from the Report. When we went for this Assembly, there were nine Motions on Kenya, two by the ACP group and seven by the EU group. We have put all those documents in the library for posterity. We had to re-work on that because of the changing situation in Kenya. We were able to convince them that the scenario had changed.

In some of the motions that had been raised, especially by the EU group, there were even statements of censure on Kenya, because of what was going on. However, we managed to convince them that the National Peace Accord had been signed. Fortunately, Parliament passed the two Motions when we were sitting. So, they were able to receive the good news and, in fact, commended this Parliament. Yes, there are some points that may look out of place in the Motion that was passed, but the state of affairs was different at that stage. Therefore, some of the statements that came in did so, because of the situation that was prevailing in Kenya at that time.

Otherwise, as for the Report's circulation, I would like to assure hon. Members that the Speaker's Panel will be discussing the issue of how long the document should be with hon. Members before they are discussed in the House. That is a very valid point. We will be able to raise it.

With those remarks, I would like to commend the Report to the House and thank the House for the lively debate.

Thank you.

(Question put and agreed to)

ADJOURNMENT

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Members, that concludes the business on the Order Paper. The House is, therefore, adjourned until Tuesday, 22nd April, 2008, at 2.30 p.m.

The House rose at 4.50 p.m.