

**NATIONAL ASSEMBLY  
OFFICIAL REPORT  
Wednesday, 2nd December, 2009**

The House met at 9.00 a.m.

*[Mr. Deputy Speaker in the Chair]*

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**BILL**

*Second Reading*

**THE CONSTITUTION OF KENYA (AMENDMENT) BILL**

*(Mr. Imanyara on 11.11.2009)*

*(Resumption of Debate interrupted on 18.11.2009)*

**COMMUNICATION FROM THE CHAIR**

**THE CONSTITUTION OF KENYA AMENDMENT BILL**

**Mr. Deputy Speaker:** Hon. Members, before I open the Floor for Members to contribute to this Bill, the Chair wishes to make some communication for the benefit of the Bill itself.

Hon. Members, I wish to remind you that consideration of the Constitution of Kenya (Amendment) Bill before us is guided by both the Standing Orders and the provisions of Section 47(2) of the Constitution. Standing Order No.68 (a) provides that before a vote is taken on a Constitutional amendment Bill, both at the Second and Third Reading stage, the requisite numbers of 65 per cent of 222 Members must be present in the House. Specifically, Standing Order No.68 (a) states:-

“In every instance where the Constitution lays down that a fixed majority is necessary to decide any question, the House shall not proceed to a Division on that question (Constitutional Amendment) unless and until a number of Members equivalent to such fixed majority is present at the time for directing the Division”.

The rules on Division are clearly set out under part 14 of the Standing Orders.

Therefore, hon. Members as we take Order No.8, bear in mind that the Second Reading will only be taken if the requisite number prescribed by both the Standing Orders and the Constitution are ascertained to be present in the House.

In terms of numbers, 65 per cent of 222 adds up to 144.3 Members which is rounded upwards to 145 Members since the words used are, “Not less than 65 per cent of the Members of the Assembly, excluding *ex-officio* Members”. This House will accordingly not proceed to division unless there are at least 145 Members present in the House at the time of directing the Division.

Hon. Members, please, note further, that if the Division on that question results in a majority of "Ayes" but less than 145 Members and the "Nos" have not numbered 78 Members or more, Mr. Speaker may direct one further Division within seven days.

Thank you.

**Ms. Karua:** On a point of order, Mr. Deputy Speaker, Sir. I would just like to seek your direction; it is quite clear that debate can proceed. It is only Division that we cannot go to when we do not have the prerequisite numbers. I would also seek your clarification on the fact that this Chamber should tolerate debate even on ideas some Members do not like so that they should stop interrupting debate on this Bill. We are waiting to contribute on this Bill and I support it.

**Mr. Deputy Speaker:** Hon. Members, the Chair will not accept or condone any interruptions unless it is within the provisions of the Standing Orders. If it is within the provisions of the Standing Orders, Members are free to do that. There is no way the Chair can gag Members.

Nonetheless, let us proceed on the Bill! Mr. Yakub was on the Floor and had 15 minutes more.

Please, proceed!

**Mr. Yakub:** Mr. Deputy Speaker, Sir, I stood to support this Bill last week. However, my fears are the consequences of not setting this Special Tribunal. The vast majority of inciters, suspects and those who sponsored the post-election violence may not be charged in our courts.

Secondly, we all know that very few Kenyans might be investigated and charged at The Hague. We all know that the procedure and process takes so long for anyone to get a ruling.

My other fear is that Kenyans might go to another General Election in 2012 and might not see justice done to those who were affected in the 2007 post-election violence.

The unfortunate part if the local Tribunal is not set up is that, this Parliament would be seen to be defending impunity. This demonstrates lack of respect for the rule of law. This is the reason no one has been taken to court on the two major scandals; Goldenberg and Anglo Leasing.

Kenyans have lost confidence in our Judiciary and that is why very few election cases were taken to court on the 2007 post-election violence. I hope we will join hands with the about 50,000 Kenyans who visited the website and commented on this issue.

With those few remarks, I beg to support.

**Ms. Karua:** Mr. Deputy Speaker, Sir, I rise to strongly support this Bill. It is to be remembered that the wave of election related violence started in 1991 during the advent of the multi-party system. That violence continued in 1992 during the elections. It was then, the Government of the day's weapon to try and stop the advent of multi-partyism. Thereafter, in every election, violence has been recurring and in 1997, it was a weapon by the then Government to try and scuttle the Opposition votes, especially in the Rift Valley Province.

In 2007, this violence was used as a tool to acquire political power. The Grand Coalition Government is founded on violence.

Mr. Deputy Speaker, Sir, this country is in a very precarious situation. If we do not break this cycle of violence by punishing impunity, we are creating a scenario where this country is likely to disintegrate in the next General Elections. We can only do that by enacting appropriate legislation like the one before this House.

When I was the Minister for Justice, National Cohesion and Constitutional Affairs, the Government did approve a similar Bill. It came before this House but some Cabinet Ministers from both sides of the political divide actively de-whipped Members not to support the Bill while they pretended to support it.

Mr. Deputy Speaker, Sir, the two Principals failed to give support to the Bill. None of them came here to contribute the way they came in person when there was a proposal to make the Grand Coalition Government that put them in the positions they are in. Their body language to the country and Members of this House was that the Tribunal Bill does not matter. Now, they are doing worse than that. We have not seen any of the Principals encouraging their supporters, Members or Ministers to come to this House and support this Bill.

I want to congratulate Mr. Imanyara for bringing this Bill to the House. The Government has all along been telling Kenyans that it is doing something about reigning in impunity and punishing the perpetrators of post-election violence. They were telling the international community and the International Criminal Court (ICC) that they were ready to put measures in place. By bringing this Bill, Mr. Imanyara has helped this Parliament to call off the bluff by the Government.

They never intended to do anything. That is why this Bill has been sabotaged time and again by the debate being curtailed by those who do not want even to hear the discussion go on.

**Ms Karua:** Parliament is a debating chamber where ideas should flow freely. Those who do not like a certain idea, must tolerate hearing the views of those who support it. This Parliament has not shown any tolerance during the debate on this Bill, and that is why the debate has had to be interrupted several times. Just today during Question Time, we saw the Government affirming use of violence as a tool during the answer to my Question by the Deputy Prime Minister and Minister for Local Government. It is okay to have violent Local Government elections. The only way Kenyans can rid themselves of violence is by lobbying their Members of Parliament to come into this Chamber and give support to this tribunal Bill, which should be able to put an end to, once and for all, violence as a tool of gaining political power.

Mr. Deputy Speaker, Sir, we are aware that the ICC has moved and we are sincerely hoping, at least I am sincerely hoping, that in a short while, we will hear of prosecutions. But the ICC cannot be enough; they will only deal with the top level offenders, those who bear greatest responsibility, those who incited, planned and funded violence. Some of them may be in Government. That is why they are able now to obstruct this Bill. But then, there are thousands of others who committed atrocities upon fellow Kenyans, ordinary citizens. It may be Members of Parliament, it could be members of the Executive; Ministers. It could be members of the disciplined forces. They all need to be brought to account. They all need to stand before a competent tribunal and face their accusers, be acquitted or convicted, and this is the only way we can reign in impunity.

I once again would want to congratulate my colleague, Mr. Imanyara, for bringing this Bill because it proves that the Government of Kenya is now admitting to the whole world that it is unable to fight impunity, especially as relates to election violence. It is, therefore, incumbent on us, and on Kenyans of goodwill, to say that if Parliament fails to pass this Bill, then as, a nation, we need external help. We need help from our friends, from our neighbours, because we clearly cannot handle our affairs. I hear Ministers, I hear the Prime Minister, and civil servants claiming that Kenya is not a failed State. The strongest indicator that we are on the last stop towards a failed State is that we are a country that does not want to deal with issues of impunity and violence, like this one.

Mr. Deputy Speaker, Sir, I was a Member of the Serena team, leading the Government negotiations. We agreed that we would bring here a law and support it to set up a local tribunal to try the master minds and perpetrators of post-election violence.

Simultaneously, we agreed to set up the National Cohesion and Integration Commission. We brought a law here, it was passed, and the Commission is in place. We agreed to set up the Truth, Justice and Reconciliation Commission (TJRC). We brought a law here, it was passed, and the Commission is in place. Those who are, therefore, saying that these issues of post-election violence are better dealt with by the TJRC are dishonest. We knew that we were going to have all these new bodies. We knew that the National Cohesion and Integration Commission, could not play the role that the TJRC was going to play, and we knew that the TJRC could not play the role of a local tribunal. The local tribunal is a court of law. The reason we are forming a local tribunal--- Let us be very clear. It is because there are fears that our judiciary may not be equal to the task. The few cases that have been presented to the courts do not give Kenyans confidence that our courts can competently deal with this.

The conduct of the Attorney-General's (AG) office and the utterances by the AG himself have not given Kenyans confidence that his office can prosecute these matters.

Our investigators, the police, have not given Kenyans confidence that they can investigate these matters. Therefore, the local tribunal is a by-pass. It is like a by-pass surgery, where an artery is by-passed and an artificial one replaces the natural artery when it is clogged. Our justice system is clogged; it is not working. The local tribunal is supposed to be a by-pass to create an adjudicator, courts, the special court and the appeal chamber, to create the prosecutor's office to by-pass the AG and his team, to create an investigators' office to by-pass our police, because we have lost confidence in our institutions.

The alternative to a local tribunal would have been an overhaul of our system. This Government is still not interested in reforms. I resigned as a Minister when I realized that all the reforms we would agree upon, the same members of Government would sabotage them. When I talk of Government, I mean the Executive. They would sabotage the efforts the Ministry I was in charge of was spearheading, and I decided I had no business engaging in a zero-sum game. It is better to be able to stand in the position I am standing in, exposing the reluctance of the Government, the refusal by the Government to fulfill its pledges to Kenyans, to fulfill its role.

A government that cannot protect the security of its people is not worth being called a Government. Failing to institute a mechanism, namely the local tribunal, to try the suspects of the post-election violence, is clearly a dereliction of duty by the Government. It is an indication that the Executive--- When I talk of

Government, I may be including Parliament. At least, a few Members of Parliament are making efforts.

Parliament, as an institution, is also likely to be counted among the anti reform forces by its conduct during the debate of this Bill. I am pleading with hon. Members that we should rise up to the occasion. We are not paid to run away from debate we do not like.

We are paid to be here to make our views known for posterity. Let them be recorded on the Hansard. Let us hear those who oppose the local tribunal and why they would not want it. It is cowardly of the Executive, of the Ministers, of MPs to stay away from the Chamber, to sit on the fence and not to come here and clearly declare on which side they are, whether they are for a local tribunal or not, and the reasons thereof. They need to tell us if we do not enact a local tribunal, what other mechanism is there?

When we say that we should put reconciliation first, are we saying that reconciliation must be founded on opaqueness, or that it should be founded on obliteration of the rights of others? True reconciliation can only be based on truth and justice, and justice demands that the victims of post-election violence have their day in court, and are able to meet their tormentors, or the suspects, and prove their cases against them or hear the suspects over their defences. We cannot have true reconciliation that is based on ignoring the rights of others, especially the victims, and on ignoring the law.

What right do we have as politicians, members of the Executive and as Parliament to ask the victims to go without redress? It is only a victim who can say in a court of law or before a tribunal that I forgive the perpetrator. We have no moral right to try to gloss over these matters and bury all these crimes without letting the victims have a say. It is clear that we may have forgotten our role. Our role is to represent the people and not ourselves. We should not make political trade-offs on the sufferings of others; on the lives of others and on their loss of property. That is what is happening in this Parliament.

Mr. Deputy Speaker, Sir, I, therefore, want to add my voice and say that let everyone in Kenya know that the Truth, Justice and Reconciliation Commission (TJRC), which is principally dealing with historical injustices cannot be the forum to deal with perpetrators of post-election violence. The National Cohesion and Integration Commission cannot be that forum either. Our courts and criminal justice system has failed to rise to the occasion. I pray that the elected Members of Parliament will hear the cry of the victims for redress and justice; that they will hear the cry of Kenyans that we need to reign on impunity so that we may

be able to save our nation. When one looks at what our prospects are and when we do not uphold the rule of law, it means that we disintegrate as a state and you can see the effects of failure to observe the rule of law. The amount of violent crimes; the threats that are being meted on Kenyans daily, including hon. Members like myself and others and the extrajudicial killings. The extrajudicial killings are again a confirmation that the Government adopts violence as a means because instead of combating crime through legal means, they have adopted summary executions as one of their strategies to combat crime; a strategy doomed to fail because with over 2,000 reported deaths, crime should have ceased by now but it is instead increasing. It is a wakeup call for the Government; a wakeup call for Parliament and a wakeup call for Kenyans that they judge the Government and Parliament as an institution by how faithful we remain to our pledges to them of the National Accord.

To wind up my contribution, Parliament was quick to embrace and enact, and the Executive as well, the law that brought in the Coalition Government. As politicians, we quickly shared power, continue, as a Government, including the institution of Parliament and earn our pay. However, on the promises for the reforms that make sense and actually improve the lives of ordinary Kenyans, we have been short of delivering. Since we have been blaming the Government, as a Parliament, we now have an opportunity to enact the Local Tribunal Bill to show that unlike the Executive, Parliament is a reform institution.

It is a pity that it looks like Parliament is set to fail in this duty and that is why I appeal to my colleagues to come to this Chamber and make their views known on this Bill. If it is clauses in this Bill they do not like or the Bill itself, let them offer safeguards.

This Bill is an improvement of the earlier Bill in that it is explicit about the Attorney-General having no role and about the Bill not offering immunity to anybody, including the President and the Prime Minister. However, even though those clauses were missing in the earlier Bill, the Rome Statute does not offer immunity to anyone. It does not even require a parliamentary legislation to exclude that immunity. It is given but this Bill is an improvement in that it explicitly lets hon. Members know the boundary that the law is setting. I see no valid reason for anyone to reject this Bill other than for other motives. If there are good reasons, this is the debating Chamber. Let Members of Parliament and the Executive; those who have been given this opportunity by Kenyans stand here and offer their reasons. Let us not commit suicide as a country by allowing our nation to disintegrate because we legitimise the use of violence as a means.

*[Mr. Deputy Speaker left the Chair]*

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

Madam Temporary Deputy Speaker, the failure by the Government to either take over or support this Bill means that the Government being a product of violence, because the Coalition Government is a product of violence, has itself internalized and embraced violence. We should remember that people fought because there were allegations of a stolen election. An hon. Member has recently said that elections were never stolen and that the party claiming that the elections were stolen did not win. This is an admission of the high level of impunity. You cause murder, raping, looting and killing of people knowing very well that you are advancing an unjust cause. This is the impunity we should uproot and, therefore, I strongly support this Bill.

**The Minister for Medical Services** (Prof. Anyang'-Nyong'o): Thank you very much, Madam Temporary Deputy Speaker. We stand at a time in the history of this country when history must not be falsified. We stand at a time in the history of this country when records must speak for themselves. We stand at a time in this country when those who have held public office must be prepared to bear the weight of that public office and the actions they take when they are in public office. We stand at a time in the life of this country when we moralise from the high pedestal of self gratification and may be paid for dearly when the truth comes as the TJRC does its work.

With regard to what led to the tragedy in this country following the elections of December 2007, a little bird tells me that those who travelled at night to go and intercede with the Chairman of the defunct Electoral Commission of Kenya (ECK) so that the forces of democracy could be subverted so that an election could be stolen, will have to bear with Kenyans to plead with them to come forth and seek reconciliation with the injured souls of this country. I say that because the Coalition Government was born out of necessity. Necessity is always the mother of invention. Necessity invented the Coalition Government so as to ensure that Kenyans could, under a certain political order, live in peace and earnestly start the process of reform, which those who are now speaking from the high pedestal of moral uprightness were, themselves, in the middle of putting it together. I plead with them to rise up to the occasion and face history squarely and say history can never be falsified.

Madam Temporary Deputy Speaker, yes, this country may, indeed, be faced with what could possibly be called a failed State, but which is not a proper scientific term to define and describe this nation. I know that the nomenclature "failed State" has been used in recent years in social science discourse to describe states which can no longer guarantee peace, order and institutionalized governments. This country faces several problems of insecurity and inherited structural

violence in our society which is, perhaps, caused by gross inequalities and unresolved historical injustices. But that does not mean that it is a failed State, scientifically speaking. The State, indeed, suffers from bad governance and the society is, indeed, bedeviled by corruption. Today, we are seeing levels of violence and insecurity unparalleled in the history of this nation. We are seeing irresponsibility on the part of security agents, which should be guaranteeing security to the people that now, are presiding over insecurity at times. These are, indeed, terrible problems that bedevil this nation. But I do believe that we have, again, in this nation, men and women who are committed to make this nation better, both in and outside the Government. We have in this nation people who have been in this struggle for very long and will never give up because of afro-pessimism. We also have in this nation men and women who have always stood firm at the moments of trial and have, themselves, been tried falsely and otherwise. We have in this nation people like my friend, hon. Imanyara here, who have slept in police cells and chained to hospital beds for their political convictions. They have more right to stand up and speak in high moral tones.

But others who, because of opportunism, try to do so, history will judge them harshly.

Madam Temporary Deputy Speaker, as I stand here today, I have said before and did say when we went to Githongo with hon. Gitobu Imanyara, Right Honourable Raila Amolo Odinga and hon. Orenge that we were for this Bill. That is because when the Government brought a Bill to this House for the formation of a local tribunal, Members of this House turned it down. It would have been better if that Bill was debated and the kind of amendments that hon. Imanyara has now brought to the House made, to make a local tribunal stronger. But because of populism, that Bill was turned away lock, stock and barrel. No opportunity was given for sound minds to prevail, reason and take the order of the day and amend it so that it could provide an opportunity for a process of justice for the post-election offenders to be brought before the law. So, we should not falsify history, claim easy victories and tell any untruths.

Madam Temporary Deputy Speaker, this Parliament was categorical that a local process would not be fair, just or transparent. This Parliament joined a national chorus saying "do not be vague, go to the Hague," and that is history. It cannot be falsified. As we stand here today, therefore, we must confess our sins and say we made a false step.

We should have looked at the issue more critically, made the necessary amendments to that Bill and soberly distinguished between a local process for justice and an external process for justice. What was going to be different was that, that external process was going to deal with certain specific forms of alleged

crimes and violations of human rights. The local tribunal was going to deal with issues that it could handle locally. But when we, in populist tones, dismissed any local process saying “do not be vague, go to the Hague,” we forgot that the Hague cannot handle everything and that if, indeed, we want justice for post-election offenders, we, as a nation, must take responsibility and ensure that the institution we put into place can rise up to the international standards of justice, promotion of human rights and democracy.

Parliament was and still remains doubtful of the ability of the local Judiciary to deal with this issue. It is in that regard that hon. Imanyara found it fit to propose a process that would be locally based, but would not be subject to the vicissitudes of the local Judiciary. The hon. Member for Gichugu was Minister for Justice, National Cohesion and Constitutional Affairs and claims that she was responsible for trying to bring reforms to the Judiciary. Time is now ripe for the hon. Member to write a book and let us know exactly what trials and tribulations she went through, the proposals she made, how tenaciously she pursued them and who stood in her way. That is because if, indeed, we were going to have a constituency of reformers in and outside the Government, we should have known those proposals and become champions, being mobilized by her noble self.

Madam Temporary Deputy Speaker, I have personally supported hon. Imanyara’s Bill for good reasons and not any transient sentiments or populist inclination. The reason is that this nation knows that on our television sets, we did watch people driving to Naivasha, stopping *matatus*, pulling passengers out of those *matatus* and hacking them to death and letting the *matatus* run over them. I watched that video personally in the studios of *Nation Newspapers* in the night it occurred and got a copy. The Right Honourable Raila Odinga, hon. Joe Nyagah, hon. Omingo Magara and I were present at Masaba Hospital the night when 26 people, who had been butchered to death by the security forces of this nation, were ferried from Kibera. I saw a young girl aged 14 who apparently had been watching television in her mother’s house and was shot to death in cold blood. She was brought to Masaba Hospital in a pick-up. I also saw a young man of 17 years whose head was blown away by a bullet and the back head was as wide as the crater of Mt. Longonot. That night, as we were driving back to Pentagon House, we said: “We are right to resist the injustice done against the Kenyan people by a stolen election, but we must rise up to the reality of the situation.” The security forces had gone rogue and were determined to beat their own people to submission because of popular rebellion against undemocratic imposition of an unfair decision.

Madam Temporary Deputy Speaker, these people had no arms to resist this kind of behavior, and it is better a soldier lives to fight the battle another day than to

unnecessarily die on the battle field. We, therefore, decided that let this cost take course.

Let us find a compromise for the promise that we gave Kenyans that another time, given a reformed Kenya, a democratic Constitution and a constituency of reformers willing to push this country ahead after more than two decades of struggle for democracy, that this compromise was a historical necessity and that, this necessity had to invent the form of Government suitable for this time in history of Kenya.

Madam Temporary Deputy Speaker, the Coalition Government was not going to be an easy process. We had no doubt in our mind that it was going to be easy. The Coalition Government was not going to be constituted by angels or people speaking from the high pedestal of morality. It was going to be a Government of necessity meant to fulfill some agenda set out in the National Accord. The Coalition Government expected that we, who were signatories to the National Accord, would remain faithful to our word for the sake of Kenyans and not for the sake of any career. That is where when the Right Hon. Amollo Raila Odinga speaks so passionately about the conservation in this country, it is because of the spirit of the Coalition Accord and that for once, let us stand up and be counted for the right of Kenyans and, for the social justice in this nation. Not for any other sentimental reasons that can distinguish us as the only sheep among the hyenas; but can distinguish us as simple Kenyans playing our role in the context of our time. The context of time requires consistency of views and consistency in historical record keeping so that we may not deviate from the path we have trodden. We cannot deviate from the stars in the skies on which we fixed our vision to deliver this nation from oppression, economic backwardness and retrogressive thinking.

Madam Temporary Deputy Speaker, I want to appeal to this House, the time is ripe for men and women of goodwill to reason together and to stop selling the needy for a pair of sandals, as Prophet Amos once said, but realizing that the needy, the weak and the down trodden need to be uplifted to be fortified and be strengthened to know that the path to democracy and prosperity is never easy. It is a journey that sometimes is zigzag, that at times may appear to be turning backwards, but if we fix our eyes in the high stars in the sky for which men and women of great vision are known, we shall travel that path and that will make possible the enactment of a new Constitution in this Republic, for which many *wazalendo* have put their lives on the line and have suffered for many years; a suffering of which opportunists do not know the cost, but a suffering from which opportunists quite often reap big rewards; either as instant heroes or as creepers into the excellence of power from which they seek to subvert the course of democracy, either lipservicing reforms or outwardly sabotaging reforms.

Madam Temporary Deputy Speaker, as we sit here today in this august House, I want to appeal to this Parliament that in wisdom, we shall shine together but in pettiness and self pity, we shall sink. I now remember the words of Ted Kennedy, the late senator from Massachusetts, in his autobiography, published a few months before he passed on.

He said that in the Kennedy family, we were always taught never to fear taking unpopular stance and never to give into self-pity, even when we are suffering and odds are against us. But we were taught the discipline of perseverance because resoluteness is the essence of struggle; perseverance brings victory in the end.

Madam Temporary Deputy Speaker, I must congratulate my friend, hon. Gitobu Imanyara, whose political career has been punctuated by a high sense of perseverance and a good dose of resoluteness in an atmosphere of calmness and of never claiming easy victory and shunning simple untruths to gain favour with anybody. So, we must examine this local tribunal proposal for what it is worth. Whether it is going to advance justice of Kenyans and not just simple retribution, whether it is going to make the course of history better for this nation, it is marched to democracy, whether it going to uphold and advance the commitments of the National Accord---

For those reasons, I appeal to the House to rise up on the pedestal of wisdom to debate and pass this Bill.

Thank you.

**The Temporary Deputy Speaker** (Prof. Kamar): Thank you. Any other hon. Member wishing to debate. If there is no any other hon. Member, then I will call upon hon. Imanyara to give a response.

**Mr. Imanyara:** Thank you, Madam Temporary Deputy Speaker, for giving me this opportunity. Indeed, as my good friend, Prof. Anyang'-Nyong'o, says, it requires men and women of great courage to stand in the face of a determined executive and say no to impunity.

I, therefore, wish to thank those hon. Members who have stood even against the advice of their party leaders to support this Bill. I wish to commend hon. Mungatana for rising to the occasion at a time when the intention to sabotage this Bill was being exhibited most shamelessly. I wish to commend hon. Rachel Shabesh, hon. Eugene Wamalwa, hon. David Ngugi, hon. Nderitu Mureithi, hon. Martha Karua, and finally, hon. Prof. Anyang-Nyong'o, for rising to the occasion

to say; the culture of impunity in Kenya must come to end. Indeed, it will come to an end one day. It may not be today, but let those people out there claiming victory because this Bill has not passed not sleep one more night thinking that the culture of impunity has succeeded, because it has not succeeded!

We, therefore, commend the efforts of the international community and, particularly, the International Criminal Court (ICC) for recognizing early enough that there was absolutely no political will on the part of this Government to get a local tribunal established and, therefore, begin the process of bringing justice to those who bear the greatest responsibility for the post election violence well before the next elections are held in 2012.

## **QUORUM**

**Mr. Chepkitony:** On a point of order, Madam Temporary Deputy Speaker. I realize that there is no quorum and yet we are debating a very important constitutional issue in the House.

**The Temporary Deputy Speaker (Prof. Kamar):** I have confirmed that there is no quorum. Please, ring the Division Bell.

*(The Division Bell was rung)*

## **ADJOURNMENT**

**The Temporary Deputy Speaker (Prof. Kamar):** Hon. Members, we are unable to raise the requisite quorum. Therefore, the House stands adjourned until this afternoon at 2.30 p.m.

The House rose at 12.20 p.m.