

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 3rd July, 2007

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPERS LAID

The following Paper were laid on the Table:-

Sessional Paper No.2 of 2007 on the Kenya Government guarantee of a loan of Japanese Yen 5.62 billion, equivalent to Kshs3.3 billion from the Japanese Bank for International Co-operation (JBIC) to the Kenya Electricity Generating Company for the construction of the Sangoro 21-Megawatt Hydro Power Project on River Sondu.

(By the Minister for Finance)

Recommendations of the Departmental Committee on Energy, Communications and Public Works on the Media Bill, 2007, pursuant to the provisions of Standing Order No.162.

(By Mr. Moi)

QUESTIONS BY PRIVATE NOTICE

DISAPPEARANCE OF RHINO HORN TROPHIES FROM MERU NATIONAL PARK

Mr. Maore: Mr. Speaker, Sir, I beg to ask the Minister for Tourism and Wildlife the following Question by Private Notice.

(a) Under what circumstances did seven (7) rhino horn trophies disappear at the Meru National Park on 17th February, 2007, seven days after the inventory was taken?

(b) What action has been taken to recover the trophies given that the security department facilitated the smuggling and cover-up?

The Minister for Tourism and Wildlife (Mr. Dzoro): Mr. Speaker, Sir, first of all, I would like to thank the hon. Member for asking this Question. I believe he did not ask the Question for the benefit of his constituents only, but for the benefit of the whole nation. Secondly, I would like to thank the Leader of Government Business, who attempted to answer this Question last time when I was away. However, there are some details that were requested and I would like to give them to the House.

The matter of the disappearance of rhino horns in Meru National Park is a criminal case pending at the Meru Law Courts, case No.C/R471/185/07, Criminal File No.259/07; theft by servant, contrary to Section 281 of the Penal Code, Cap.63, Laws of Kenya. The criminal case is before a court of law. Therefore, the matter is *sub judice*. However, I have information that the

Kenya Wildlife Service---

Mr. Speaker: Order, Mr. Minister! This matter has been in the House for a long time. It helps if we get the details at this very beginning, so that anybody who wishes to intervene has all the facts. If this is a criminal case, it must be the State against somebody. Who is the accused?

The Minister for Tourism and Wildlife (Mr. Dzoro): Mr. Speaker, Sir, those are the details that I want to give to the House. The Kenya Wildlife Service has taken two of its staff to court. These are Senior Sergeant Peter Macharia and Corporal Henry Mwakio. They are both on suspension pending the outcome of the case.

Mr. Sepaker, Sir, the then Warden in charge of the Meru National Park, Mr. Dominic Wambua and the Meru Platoon Commander, Mr. James Kiparus, have been interdicted, pending the outcome of the case and the ongoing internal investigations. The Senior Sergeant handed over to Corporal Henry Mwakio before he proceeded on leave on 17th January, 2007. At some point after handing over, the Senior Sergeant accessed the keys to the trophy room and that is why the two officers have been taken to court.

It was discovered that the rhino horns were missing from the store one month after the hand-over, namely, 15th February, 2007. The trophy room was, however, never broken into.

Mr. Maore: Mr. Speaker, Sir, even from the presentation, without raising matters that could be *sub judice*, you will notice that the coding of this case---

Would I be in order to ask you to peruse the Minister's answer? The Chair, being a lawyer, will tell that this is not the way we record cases in court.

Secondly, you will realise that the Minister is talking about interdictions and suspensions. He has not talked about the police taking over these investigations. The KWS is not an investigating authority and its officers do not know how to investigate, anyway.

Mr. Speaker, Sir, are the investigations being done by the police or by the KWS officers? If the matter is before the court, he may not answer that bit, but can we first of all ascertain whether there is an issue before court?

Mr. Speaker: This matter has been pending for quite some time. Mr. Minister, maybe I have been out of active practice for a long time, but when I was practising law, criminal cases were never described in the manner that you did. I know there are other lawyers here.

I do not think that criminal cases are ever numbered that way. Maybe you can get in touch with hon. Munya, who is seated next to you. I think he knows something about how criminal cases are numbered.

Mr. Dzoro: Mr. Speaker, Sir, thank you for asking me to get some legal advice from my colleague here. As you are aware, this is information that we ask our officers to get for us. May I, therefore, state that this is the numbering that I got. Since I do not know how criminal cases are numbered, I took it that this is how they are numbered.

However, in response to Mr. Maore's question---

Mr. Speaker: Mr. Minister, I have a lot of sympathy for you and respect, but I also have a duty to the House. The *sub judice* rule is a very central rule in the operation of the House. The Speaker must be satisfied that, as a matter of fact, there is a case pending before court, between what parties and that it touches on the particular Question. I am not satisfied, to date, that there is actually a case pending before court.

There may be an investigation, but I am not satisfied that there is a case pending before court.

Mr. Dzoro: Mr. Speaker, Sir, I have consulted my colleague and I have been told that there is something that is missing. There is something that is missing in the numbering of the file.

Mr. Speaker, Sir, may I seek the indulgence of the House, with your permission, to go and personally see to it that the numbering is done in a way that it will not only satisfy my colleague,

but all of us and Kenyans at large.

Mr. Speaker: Very well! Will Tuesday next week be all right with you?

Mr. Dzoro: Mr. Speaker, Sir, I will come back to the House on Tuesday, next week.

Mr. Speaker: I will oblige. We want to see the right thing happens.

Thank you very much.

(Question deferred)

GOVERNMENT'S ISSUANCE OF US\$70
MILLION INTERNATIONAL BOND

Mr. J. Nyagah: Mr. Speaker, Sir, I beg to ask the Minister for Finance the following Question by Private Notice.

(a) Could the Minister confirm that the Government is in the process of issuing an international bond abroad to raise US\$70 million?

(b) How much will it cost and when will it be issued?

(c) How will the money be utilised?

The Minister for Finance (Mr. Kimunya): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that the Government is in the process of issuing a sovereign bond of US\$150 million in the Financial Year 2007/2008 and not US\$70 million as questioned, if that helps the situation.

(b) The bond will be issued on terms similar to those issued in the international financial markets by countries with equivalent credit ratings. It is expected to be issued within the Financial Year 2007/2008.

(c) The proceeds of these bonds will be used to finance development of infrastructure in the country as was captured within the Budget.

Mr. J. Nyagah: Mr. Speaker, Sir, I do not question the powers of the Minister to raise money under the External Loans Act. This is a very large sum of money. I went through the budgetary documents and I could not find the figure anywhere. I read about it in the *Financial Times* or the international Press. I would like to ask the Minister to ensure that, in future, a figure of this magnitude is brought to the Kenyan public first, before we read it in the international Press. This is a huge sum of money and there are certain implications. This will prevent confusion and we will become aware of what is happening.

Mr. Speaker: The Minister's figure doubles yours! Mr. Minister, how many millions?

Mr. Kimunya: Mr. Speaker, Sir, I believe the hon. Member was asking about US\$70 million. I confirm that we are actually raising US\$150 million. This information was contained within the Budget Strategy Paper which I distributed to hon. Members and called upon them to read it and see what we are proposing. I am not sure what the issue is.

Mr. Gachagua: Mr. Speaker, Sir, perhaps the issue is that US\$150 million is a lot of money. If it is contained in the Strategy Paper, traditionally that is not where the Minister should account to the House how he is raising funds and how he intends to spend the funds. Perhaps the Minister should tell us, specifically, why such a big amount of money would be omitted in the Budget.

The Minister has been assuring the House that he is able to meet the deficit, but we have noted that there is no deficit in this Budget. Perhaps, he should explain a little more whether there are other such figures that may not have featured in the Budget and are in other papers. Could the Minister confirm whether there are such figures?

Mr. Speaker: For the benefit of the House, according to you, is it reflected in the Budget

or not?

Mr. Gachagua: Mr. Speaker, Sir, according to the Minister this is in a Strategy Paper, but it is not in the Budget that he read to the House!

Mr. Speaker: Mr. Minister, would you like to set the record straight?

Mr. Kimunya: Mr. Speaker, Sir, much as I appreciate the passion by hon. Members, I suspect that they are getting passionate on a matter that they do not quite comprehend.

Mr. J. Nyagah: On a point of order, Mr. Speaker, Sir. Is it in order for the Minister, instead of clarifying the issues, to start implying that we are idiots? I am a highly-qualified banker; better than him by any definition!

(Applause)

Mr. Speaker: Order, hon. Members! Maybe my basic English is failing. Is "idiot" and "non-comprehension" the same thing? Maybe the Minister can respond. My feeling is that an idiot can never comprehend.

Mr. Kimunya: Mr. Speaker, Sir, I did mention that the issue was contained within the Budget Strategy Paper which was the basis on which the Budget was constructed and which we requested hon. Members to look at. Within the financing of the deficit, part of the financing were proceeds from privatisation; Kshs34 billion was from local borrowing and the balance was from international borrowing. The US\$150 million is part of that international borrowing.

Mr. Nderitu: Mr. Speaker, Sir, US\$150 million at the rate of Kshs65 per one dollar is about Kshs9.75 billion. What does the Minister intend to use this money for specifically?

Mr. Kimunya: Mr. Speaker, Sir, I will try to be very slow. The reason why we are borrowing this money is for financing of the infrastructure.

Mr. Speaker: Order! I think, through this Question, the House is doing one of its prime duties and that is to have the Executive account to it on the acquisition and utilisation of public funds. This is a fundamental principle of parliamentary democracy. I would like the Minister to be as candid as possible because he is informing the Kenyan people who, ultimately, will pay for this bond through this House. So, please be as candid as possible!

Mr. Maore: Mr. Speaker, Sir, part "b" of the Question is asking about the cost of this bond. Could the Minister specify the interest bracket payable on this money and whether he would not have raised the same money from Treasury Bills?

Mr. Kimunya: Mr. Speaker, Sir, as hon. Members are aware, we recently received a very positive sovereign credit rating, in fact, a B plus from Standard and Poor's (SAP) which basically signalled to us that the country can tap the international capital markets, for money. More importantly for us, it is not just the Government but our private sector can also start tapping capital from the international market. Apart from financing our own infrastructural needs, we are also issuing this bond as part of our benchmarking exercise to facilitate our private sector to issue similar bonds in the international market. When you issue a bond, it means that you will basically provide funds at a certain rate. Kenya is in the league of countries that have been rated with a B plus which, I must say, is top of the range apart from countries that have resources like Nigeria and South Africa. When countries that are rated that way, because they have never defaulted on their debts, the interest rates will technically not be more than 6.5 per cent. We believe that it is a better way of internationalising our domestic debts. It is cheaper and it also opens the doors for our private sector to tap money from the foreign markets. I believe that, that is a better situation.

Mr. Angwenyi: Mr. Speaker, Sir, before I ask my question I would like to inform the Minister that I am very well grounded on public finance which I used to teach at the university.

Mr. Speaker: Order! Mr. Angwenyi I have nothing against you mentioning your qualifications, but I am reminded of the saying "Do not blow your own trumpet." I think you should let others do it.

Proceed!

Mr. Angwenyi: Mr. Speaker, Sir, this is a lot of money for Kenyans who will pay up the debt. I would like the Minister to specifically state to us which projects will be financed by this money.

Mr. Kimunya: Mr. Speaker, Sir, we are spending Kshs693 billion this financial year. I did lay on the Table of the House the Financial Statement showing what we will spend and where we will get the money from. Part of the Kshs693 billion that we will spend will come from the different financing sources; taxes, domestic borrowing, project financing and international borrowing. We may not split the amounts and say, out of the Kshs10 billion which is the equivalent of what we are borrowing, so much will go to this road and that road. We will look at it from a holistic perspective rather than from item to item. I can confirm to the House that we do not want to crowd out our private sector through domestic borrowing while we can access international capital cheaply because we have an international rating and Kenya has never defaulted on its debt obligations. We are not one of these least developed countries. We are now playing on the bigger league; thanks to the Kibaki Administration. I believe that is where we are going.

Mr. Sambu: On a point of order, Mr. Speaker, Sir. Is the House in order to start discussing policy issues which we could discuss in the Fiscal Analysis Bill which this Government has refused to enact? We are now asking questions that we should be asking through the Fiscal Analysis Act, which---

Mr. Speaker: Order, Mr. Sambu! The House is absolutely in order! Until there is a law to say otherwise, there is a difference between wishful thinking and the law. We are dealing with the law!

Mr. Ojode: On a point of order, Mr. Speaker, Sir. This Minister was asked a categorical question. He was asked the following: Before you source funds, you must have arranged what types of projects you will finance and which ones. Would I be in order to ask the same Minister to tell us why he was sourcing those funds? What was the project that he wanted to finance?

Mr. Speaker: Order, Mr. Ojode! You have a very legitimate question, but it was badly put!

Mr. J. Nyagah: Mr. Speaker, Sir, I have achieved what I set out to do with this Question. It was the oversight role of this Parliament. I wanted Kenyans to know about these big figures in advance in order to help the Minister sell his policies to Kenyans. Would the Minister agree with me that in the future he will go public with this kind of information and not through the Financial Statement so that we can understand them because I am a highly qualified international banker?

(Laughter)

Mr. Speaker: Order, hon. Members! Today is the day of blowing trumpets. We began with Mr. Angwenyi and then Mr. Kimunya blew the trumpet for Kenya. Now Mr. J. Nyagah is blowing a trumpet for himself!

Mr. Kimunya: Mr. Speaker, Sir, I am happy to note that this House has no limitations in terms of the expertise that we require. No wonder the economy is growing very fast.

Mr. Speaker: Order! Mr. Wanjala, while other people are blowing their trumpets with their mouths, you are blowing it with your feet! Could you do it slowly?

Mr. Syongo: On a point of order, Mr. Speaker, Sir. I do not have any intention of blowing my own trumpet. But I am very concerned. Would it be in order for me to ask the Minister, through you, to table the debt instrument which he is putting this into effect? The Minister, in his answer,

talked about the Strategy Paper, but we are talking about the Budget. It is the duty of this Parliament to approve the Budget. We are committing US\$150 million to be paid by this generation and the next without scrutiny of the debt instrument. Would it be in order for me to ask the Minister to table the debt instrument for proper scrutiny?

Mr. Kimunya: Mr. Speaker, Sir, there are two questions and the first one by Mr. J. Nyagah was whether we are going to engage Kenyans before going to the media. In fact, we did mention and sensitize Kenyans before the issue was picked up by the international media. The international media picked it up because we had talked about it to the Kenyans. That amount was included within the Papers brought to this Parliament and we will continue doing that [Mr. Kimunya] by engaging the Members of Parliament. The Members of Parliament who came during the Budget hearings remember that, that was one of the issues we discussed as early as February. But in terms of the instrument and tabling it, I said that we are in the process of issuing the sovereign bond and I will be very happy to share that information as we move on with the process.

I would like to assure this House that the US\$150 million that we are raising is only a very small portion of the entire Budget financing. Hon. Members had an opportunity to discuss the Budget Speech and I thought these issues would have come up as part of that debate, so that we could respond to them after the seven days, unfortunately, we had to cut short to only five due to poor contribution.

Mr. Speaker: Very well! Hon. Members, you can see that two Questions have taken half the time. I believe that we are right to do so. It is right that the House does interrogate the Minister on debts acquired on behalf of Kenyans. That has a risk to it because it means that other Questions will not be reached. But I will attempt, as quickly as possible, to reach as many as possible.

Next Question by Mr. Oparanya!

ORAL ANSWERS TO QUESTIONS

Question No.023

COMPLETION OF MALANGA-SIDINDI/ SHIKUNGA WATER PROJECTS

Mr. Oparanya asked the Minister for Water and Irrigation:-

(a) whether he is aware that Malanga-Sidindi and Shikunga Community Water Supply projects in Butere Constituency initiated by the Government stalled before completion;

(b) why those projects stalled; and,

(c) what measures he is taking to complete and operationalize the projects.

The Assistant Minister for Water and Irrigation (Mr. Wanjala): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that Sidindi-Malanga Water Supply Project which stalled in 1997 is now operational and serving about 50 per cent of the intended population. Shikunga Community Water Supply Project stalled in 1997.

(b) Sidindi-Malanga Water Supply Project stalled due to frequent breakdowns of the electro-mechanical turbine-operated pumping unit and frequent pipe bursts of both the rising and the gravity mains. Shikunga Community Water Supply Project stalled due to failure of the pumping unit.

(c) My Ministry continues to undertake rehabilitation of Sidindi-Malanga Water Supply Project in order to improve its performance. A total of Kshs40 million has been spent on this water

project since 2002 and the water project is now operational. My Ministry has also allocated Kshs6 million this Financial Year, 2007/2008 for rehabilitation of rural water supply projects in Butere District. Part of these funds will be used for the rehabilitation of both Shikunga Community Water Supply Project and Sidindi-Malanga Water Supply Project.

Mr. Oparanya: Mr. Speaker, Sir, I want to thank the Assistant Minister for that answer but let me confirm here that the Malanga-Sidindi Water Project is not operational. This water project serves two districts; Siaya and Butere. This is not the first time this Question has come to this House. We have been told that a lot of money has been spent on that project but nothing is on the ground.

Mr. Speaker, Sir, I want to invite the Assistant Minister to come and personally inspect it - since he said the other day that he is idle in the Ministry - to confirm that this water project is not working. Since it serves two districts, Siaya and Butere, I would want to know, out of the Kshs40 million that was allocated from 2002, to the current position, how much money has been spent on the Butere side of the project, since the project serves two districts and it is under two District Officers (DOs).

Mr. Wanjala: Mr. Speaker, Sir, it is true that this project was meant to serve two districts, that is, Siaya and Butere. It covers a total of 210 square kilometres. This project was meant to serve a population of 90,000 people and 8,000 livestock. This project is on River Yala at Ndal Falls. This means that it serves people as it flows.

Mr. Speaker, Sir, at the moment, it is serving 50,000 of the intended population it was supposed to serve. We will continue with the rehabilitation.

Mr. Arungah: Mr. Speaker, Sir, the Malanga-Sidindi Water Project does indeed serve the two districts as my colleague says. What is the Ministry doing to ensure that Butere District gets its share of water as a matter of right because the current scenario is that water flows on the Butere side only when the needs of Siaya have been met. What are you doing to ensure that we get our share of water by right and not as a favour as is currently the position?

Mr. Wanjala: Mr. Speaker, Sir, I have said that this year, we have Kshs6 million for rehabilitation in Butere. So, that money will go towards the two projects.

Mr. Oparanya: Mr. Speaker, Sir, I think the Assistant Minister is not answering the questions we are asking him. I said clearly that the project is not operational. He has not responded to that. I asked him how much money, out of the Kshs40 million that was allocated to this project, was allocated to Butere District side because this project is serving two districts. He says that the Shikunga Water Project stalled in 1997 because of the water pump. We agreed that we construct a house to take care of the water pump. A pump is a very cheap thing.

From 1997, the Ministry has not been able to provide a water pump. When are they going to provide it? Could he answer my three questions?

Mr. Wanjala: Mr. Speaker, Sir, I said that the project is operational and so far it is serving 50 per cent of the intended population.

*(Several hon. Members stood
up in their places)*

Mr. Speaker: Order, all of you. Kuna nini Mbunge wa Wundanyi?

Bw. Mwandawiro: Jambo la Nidhamu, Bw. Spika. Mbunge ambaye ameuliza hili Swali anasema kwamba ana hakika kabisa kwamba huu mradi haufanyi kazi, naye Waziri Msaidizi anatueleza kwamba unafanya kazi. Tutamwamini nani? Hawa Mawaziri wanapokea habari kutoka kwa watu wengine mashinani, ilhali hawajafika huko. Tutamwamini nani?

Mr. Wanjala: Mr. Speaker, Sir, of course, you have to trust and believe in the

Government.

An hon. Member: Which one?

Mr. Wanjala: Mr. Speaker, Sir, there is only one Government at any given time!

The project is operational and it is serving 50 per cent of the intended population. During this financial year, we have allocated Kshs6 million---

Mr. Oparanya: This Assistant Minister is---

Mr. Arungah: On a point of order, Mr Speaker, Sir. Is it in order for the Assistant Minister to talk about 50 per cent? It is true that the scheme serves two districts. However, Siaya District is being served, while ours is not! When is it going to start working? We do not want to hear about percentages!

Mr. Speaker: Waheshimiwa Wabunge, nani amewaruhusu nyinyi wawili kuzungumza kwa wakati mmoja? Ni lazima mfahamu kwamba hata Siaya ni sehemu ya Kenya na wanaoishi kule pia ni Wakenya. Watu wa Siaya wanastahili kupata maji!

Mr. Wanjala: That caters for the 50 per cent, Mr. Speaker, Sir.

We still need to do much and the Member of Parliament for Butere Constituency knows why the KANU Government was voted out. Since 1997, it could not afford to install a simple thing like a water pump. But the Government has already allocated Kshs6 million---

Mr. Sambu: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead the House when, this morning, he was quoted in the newspapers saying that he does not get any information? Is he in order to mislead the House when we know that he does not have any information?

(Applause)

Mr. Wanjala: Mr. Speaker, Sir, I am fully informed! I am also informed that he is the one who "stole" all the forests in this country.

Mr. Sambu: On a point of order, Mr. Speaker, Sir!

Mr. K. Kilonzo: On a point of order, Mr. Speaker, Sir. Is it in order for the hon. Assistant Minister to impute improper motive on the hon. Member; that he "stole" forests in this country?

Mr. Speaker: Order, hon. Members! There are certain things that must be addressed here. First, I think the hon. Assistant Minister has of late acquired a terrible reputation of being very insulting to the other hon. Members of the House. In addition to that insult, he uses unparliamentary language all the time. May I advise the Assistant Minister that there is absolutely nothing heroic in using insulting words. It actually lowers your dignity! Because of that, you also lower the dignity of the House, which I will not allow you to do. As I told you before, you are at liberty to lower your own dignity, but you have no right to lower the dignity of this House!

Now, could you proceed to the Dispatch Box and withdraw and apologise to the whole House? If you had any way of apologising to yourself, you should do the same!

(Applause)

Mr. Wanjala: Mr. Speaker, Sir, I withdraw and apologise, but he should also withdraw his remark, that I am not informed!

Mr. Speaker: Order! I take your apology, but hon. Members must also understand that you have a right to say what you please, and when you have said it, we take you seriously. If you have said that you are idle, we take you seriously!

(Applause)

Mr. Wanjala: Mr. Speaker, Sir, how can they tell whether it was not just a case of misreporting?

Mr. Speaker: Okay! Can we finish this fire now? Mr. Sambu, could you also withdraw your remark that your colleague is idle?

An hon. Member: But it was in the newspapers!

Mr. Speaker: Order! I do not run a newspaper, but a Parliament!

Mr. Sambu: Mr. Speaker, Sir, I withdraw the remark. But how do we withdraw it from the minds of Kenyans who have read the newspapers?

Mr. Wanjala: Can you apologise?

Mr. Sambu: Apologise for what? I did not steal any forests. Read the Ndung'u Report!

Mr. Speaker: Order! I have a duty to throw the two of you out if you try again! You know, this House was not built for the two of you, and it must continue with or without you! I intend to do exactly that if the two you become a hindrance to the orderly conduct of the Business of this House. The two of you will be removed, and we will continue! So, please, keep your peace, both of you, now!

The Minister for Trade and Industry (Dr. Kituyi): On a point of order, Mr. Speaker, Sir. For the benefit of some of us who are slow-witted, I was just wondering whether a claim of stealing a forest is an imputation or amputation.

(Laughter)

Mr. Speaker: It is neither an imputation nor amputation! It is an insult!
Very well! Next Question!

Mr. Sambu: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, Mr. Sambu! Again, I have warned you! What is the matter? Now, any other hon. Member who is on an insulting mission or mood? I know what you want to do! You want to get out of this House, to go and do something else. I will facilitate, very quickly, your getting out of this House and premises of Parliament!

So, keep your peace now! Proceed, Mr. Lesrima!

Question No.047

SIZE OF LIVESTOCK POPULATION
IN KENYA

Mr. Lesrima asked the Minister for Livestock and Fisheries Development:-

- (a) what the livestock population is in Kenya; and,
- (b) when the next livestock census will take place.

The Assistant Minister for Livestock and Fisheries Development (Mr. ole Ntutu): Mr. Speaker, Sir, I beg to reply.

(a) The estimated livestock population in Kenya as at the year 2006 was about 60 million. The main livestock species that are kept in Kenya are: head of cattle, sheep, goats, poultry, camels, rabbits and pigs. We have 12,425,300 head of cattle; 8,277,000 sheep, 10,238,000 goats; 27,771,800 poultry, 1,058,300 camels, 547,500 rabbits and 320,000 pigs.

(b) The next livestock census will be undertaken when funds will be available.

Mr. Lesrima: Mr. Speaker, Sir, I thank the Assistant Minister for informing me that rabbits also constitute livestock. But for planning purposes, is he satisfied that these numbers are sustainable in terms of our food security, export potential and capacity of the environment to carry

their numbers, particularly of the big stocks?

Mr. ole Ntutu: Mr. Speaker, Sir, yes, I am satisfied. I am very sure that the numbers are okay, as I have given.

Mr. Lesrima: Mr. Speaker, Sir, is the Assistant Minister aware that there is a shortage of dairy cattle in Kenya which is likely to have an impact on milk production and the economy? Given that the dairy industry has collapsed, what action is he taking to improve this sector?

Mr. ole Ntutu: Mr. Speaker, Sir, I am not aware that there is a shortage of dairy cattle in Kenya.

Mr. Speaker: Next Question by Mr. Karaba!

Question No.200

MINIMUM FEES CHARGED IN PUBLIC SECONDARY SCHOOLS

Mr. Karaba asked the Minister for Education:-

- (a) what the minimum school fees charged in public secondary schools is;
- (b) whether he is aware that the cost of items that a student is required to bring in order to enrol in Form One is normally higher than the fees charged for the first term; and,
- (c) in light of "b" above, what he is doing to make education affordable to many poor students.

The Vice-President and Minister for Home Affairs (Mr. Awori): Mr Speaker, Sir, on behalf of the Minister for Education, I beg to reply.

(a) There is no minimum school fees set. However, the Ministry has set some maximum amounts to be charged in public secondary schools as given in the Ministry's fees guidelines issued at the start of each year. The table below shows the current amounts charged in every category of school. Schools may charge amounts lower than those stipulated and, in fact, many are doing so.

National Schools - Kshs26,900
 Provincial Schools - Kshs20,900
 District Boarding Schools - Kshs20,900
 All Day Schools - Kshs8,500

(b) I am not aware that the cost of items that a student is required to have in order to enrol in Form One is normally higher than the fees charged for the first term. I am, however, aware that students admitted to Form One have to carry personal effects which cost a substantial amount of money.

(c) My Ministry has put in place the following strategies to make education affordable to many poor students:

- (i) The Government will waive tuition in secondary schools with effect from 2008.
- (ii) Establishment of a task force on affordable secondary school education led by Dr. Eddah Gachukia. In consultation with stakeholders, the task force, which is already working, will come up with recommendations on how to make secondary education affordable.
- (iii) Provision of bursary funds to support poor and disadvantaged students.
- (iv) Promote the development of day schools as a means of expanding access and reducing costs.

(v) Through the District Education Boards (DEBs), the Ministry regularly reviews and rationalises school fees and levies in secondary schools in order to reduce the cost burden on the Government, parents and communities.

(vi) Provision of infrastructure funds to put up classrooms.

(vii) Provision of grants for the purchase of science equipment for over 700 secondary schools per year.

(viii) Supporting the affirmative action by assisting schools in Arid and Semi-Arid Lands (ASALs), pockets of poverty, marginalised areas and urban slums.

Mr. Karaba: Mr. Speaker, Sir, I thank the Vice-President and Minister for Home Affairs for his answer. It has been quite elaborate. However, we note that he is using two words which are almost the same. He says that the students who are entering Form One buy items which are of "a substantial cost or value." He further says that he is not aware that those items are of a higher cost. My worry and problem is that once the students are admitted to secondary schools, most of them fail to join Form One places because of the high cost of the shopping list, including books and tools. Is he going to make sure that the cost of the shopping list is reduced, so that students can access Form One?

Mr. Awori: Mr. Speaker, Sir, as far as books are concerned, they are standard and there is nothing anybody can do about their cost. So far as the other items are concerned, the lists differ from one school to another. There are those which are known as high-cost schools and, normally, the shopping list tends to be long enough. However, for national, provincial and district schools, the required items are not really that expensive.

Mr. Mwandawiro: Bw. Spika, kutokana na umaskini miongoni mwa wazazi, baadhi ya wanafunzi wanaomaliza Kidato cha Nne hawapati vyeti vyao kwa sababu huwa hawajamaliza kulipa karo. Je, Wizara inafanya nini kuhakikisha kwamba wanafunzi wanapata vyeti vyao baada ya kumaliza masomo yao ya Kidato cha Nne? Je, wanafanya nini kuhakikisha kwamba ule mrundiko wa maelfu ya vyeti katika shule za upili umepewa wanafunzi waliomaliza masomo yao ya Kidato cha Nne ili watafute kazi au waendeleo na masomo katika vyuo vikuu vya na vyuo vingine hapana nchini?

Mr. Awori: Mr. Speaker, Sir, currently, there is, indeed, dialogue between the Parents Teachers Associations (PTAs) and the Ministry to see how the recent quotation of Kshs40 billion owed to schools by students will be waived in order to allow students to have their certificates. However, nevertheless, whenever a student is required to produce or show that, indeed, he or she completed their education, the schools have got the latitude of certifying that the student obtained such-and-such qualification.

Mr. Karaba: Mr. Speaker, Sir, I am very impressed by the Vice-President's answer. My question is about bursary funds. Given that national schools charge Kshs25,000 plus, and the bursary awards for orphans is Kshs10,000 per year, is the Ministry preparing to have those orphans who are in national and provincial secondary schools paid for because even if they are paid Kshs10,000, they are still sent away from school for not paying the additional Ksh15,000?

Mr. Awori: Mr. Speaker, Sir, the sum of Kshs8,000 is the minimum. Every area will have to consider the orphans and, of course, let us not forget the criteria that this bursary has to help the poor, but bright children. So, if an orphan is, indeed, bright, schools should not restrict themselves to the Kshs8,000.

Mr. Speaker: Very well. I am sorry now, hon. Members. Messrs. Weya, Omingo and Rev. Nyagudi, you are all there! I will defer your Questions to between tomorrow and Thursday. As for hon. M. Maitha, at his request, his Question is deferred to Tuesday next week.

Question No.309

AMOUNT OF MONEY ALLOCATED FOR
CONSTRUCTION OF SIAYA LAW COURTS

(Question deferred)

Question No.333

DISMISSAL OF KISUMU
MUNICIPALITY WORKERS

(Question deferred)

Question No.340

IMPLEMENTATION OF GOK/FRENCH
PHASE II POWER PROJECT
IN SOUTH MUGIRANGO

(Question deferred)

Question No.341

TOILET FACILITIES FOR KANGUNDO/
TALA POLICE STATIONS

(Question deferred)

COMMUNICATION FROM THE CHAIR

DEFERMENT OF COMMITTEE STAGE:
SUPPLIES PRACTITIONERS
MANAGEMENT BILL

Mr. Speaker: Hon. Members, before we go to the next Order, I am informed that the Government is not ready with its preferred amendments on Order No.8, and I think this has been discussed with the hon. Member in charge of the Bill; that is, hon. Prof. Julia Ojiambo. Is that correct? She is not there. I am sure she assumed that this Bill was going to be deferred.

Consequently, I defer that particular Order; that is, Order No.8, Committee of the whole House on the Supplies Practitioners Management Bill. It will be brought to the Order Paper subsequently.

Sorry, we are through with Questions. Yes, Mr. Assistant Minister!

POINTS OF ORDER

TABLING OF REPORT ON STATUS OF
MIWANI/MUHORONI SUGAR COMPANIES

The Assistant Minister for Agriculture (Mr. Kaindi): Mr. Speaker, Sir, arising out of your ruling last week with regard to Question No.080, I wish now to lay on the Table a signed copy of the Inter-Ministerial Task Force Report on both Miwani and Muhoroni sugar companies.

*(Mr. Kaindi laid the document
on the Table)*

Mr. Speaker: Thank you. You had the courtesy of showing me the document in my Chamber much earlier. It is, therefore, admissible and is so admitted.

Yes, Mr. Kirugi!

DELAYED MINISTERIAL STATEMENT ON SECURITY
OF KENYAN MPs ATTENDING
SESSIONS OF PAN AFRICAN
PARLIAMENT

Mr. M'Mukindia: Thank you, Mr. Speaker, Sir. I rise again to remind the Minister for Foreign Affairs that we are still awaiting the Ministerial Statement regarding the security of Kenyan Members of Parliament who are Members of the Pan African Parliament in South Africa. That Statement has still not been presented.

Mr. Speaker: Is the Minister here? Anybody prepared to respond on his behalf?

The Minister for Planning and National Development (Mr. Obwocha): Mr. Speaker, Sir, the Minister for Foreign Affairs and his two Assistant Ministers are still in Accra. So, I believe that the Statement will be prepared.

Mr. Speaker: Would you be kind enough to remind the Minister as soon as he comes? This matter has been pending for quite some time now and I think it is a matter of great moment.

The Minister for Planning and National Development (Mr. Obwocha): I will do so, Mr. Speaker, Sir.

Mr. Speaker: Now, that finishes all these issues. However, before I go to the next Order, the hon. Beth Mugo---

(Loud consultations)

Order, Members! Hon. Beth Mugo, I saw a very interesting letter by you copied to me. I am sure you do not want me to deal with it here.

The Assistant Minister for Education (Mrs. Mugo): No, Mr. Speaker, Sir. Thank you.

Mr. Speaker: Very well! Next Order!

BILLS

First Reading

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

*(Order for the First Reading read -
Read the First Time and ordered
to be referred to the relevant
Departmental Committee)*

Second Reading

THE MEDIA BILL

The Minister for Information and Communications (Mr. Kagwe): Mr. Speaker, Sir, I

beg to move that the Media Bill be now read a Second Time.

Mr. Speaker, Sir, in moving this Bill today, I would like to commend hon. Members, particularly those of the relevant Departmental Committee of Parliament, for their contributions and the many instances we have had debate on the matter.

Mr. Speaker, Sir, this Bill aims to support the functioning of the media industry by providing mechanisms for settling an enduring professional conduct within the media. The Books and Newspapers Act, the Communications (Amendment) Bill and the Films and Stage Act will deal with licensing and conduct of media owners. The Media Bill seeks to deal with the conduct and discipline and self-regulation of the media. The Books and Newspapers Act provides for the registration, printing and deposits of newspapers in addition to the execution of bonds by printers and publishers of newspapers. The Communications (Amendment) Bill will provide for the licensing of broadcasters in addition to providing for a broadcasting code to be adhered to by owners of the broadcasting stations. Films and Stage Act provides for licensing of stage plays, theatres and cinemas and classification of films for licensing and broadcasting sector. The reason I am citing these Acts and laws is because these are the ones that are related to the particular Bill that we are reading today.

Mr. Speaker, Sir, the justification of this Bill and the reason why the Bill is here with us is because there has been an increasing trend within the media of engaging in areas that are clearly unprofessional and hence, the need for a body to set and enforce standards of practice of journalism. It is also borne out of public demand to create a level playing field between the media and those who are served by the media by creating an institutional framework where individuals who---

(Loud consultations)

Mr. Speaker: Order, Members! Order! Hon. Members, how are you going to contribute to this Bill if you cannot hear the Minister say the reasons that have led him to formulate a Bill that has courted as much controversy as this one? So, please, listen!

Proceed!

The Minister for Information and Communications (Mr. Kagwe): Thank you, Mr. Speaker, Sir. Over the last few years, the country has witnessed a rapid increase in both the number of newspapers, radio stations, particularly FM stations and, indeed, training programmes for professionals who are now seeking statutory recognition like other professionals such as lawyers, engineers, architects, quantity surveyors, accountants, valuers, nurses, medical laboratory technologists and public secretaries. All these people are recognised statutorily.

The Media Council of Kenya has, indeed, been in existence in Kenya for the last ten years, but the only problem has been that the Media Council of Kenya has had no legal teeth during that period and consequently, its inability to move in a manner that it can create the said level playing field between the media and those that it serves.

Mr. Speaker, Sir, in designing this Bill, there were a lot of consultations between my Ministry as well as the various arms within the media fraternity, particularly the Kenya Union of Journalists (KUJ), the Media Owners Association (MOA) and other interested stakeholders, including Committees of Parliament. So, the Bill that is before the House is actually as a result of the engagement with all these people. Having said that, I would like to bring to the attention of the House and, indeed, the country that the issue of the Media Bill and having a Media Council is not something that is new in our region. Indeed, it is basic practice across the world.

Mr. Speaker, Sir, in creation of media councils in other nations, some countries have independent media councils while others have statutory media councils. For instance, the list of countries with Press councils or media councils include Austria, Belgium, the Flemish Community, Denmark, Finland, Fiji, Germany, India, Luxembourg, Malawi, The Netherlands and Spain;

although only the Catalonia has a Press Council or original jurisdiction. The others are Sweden, Tanzania, Uganda and the UK.

In the UK, the Press council that was established in 1953 was an industry initiative. Indeed, in that country, the situation continued to be as such for many years. However, it was relaunched again in 1991 in a shape of Revised Press Complaints Commission now increasingly referred to in the UK as PCC.

The original UK Press Council's apparent inability to deal satisfactorily with privacy led to the demise of that particular council. The main reason for the abolition of the council was the increasing intrusion by the Press, especially the tabloids, into the private lives of people and the inability of the council to curb it. The main difference between the Press Council and the Press Complaints Commission is that while the Press Council was also responsible for preservation of freedom of the Press, the latter only ensures decent standards of conduct by newspapers.

Mr. Speaker, Sir, in Sweden, the Press Council was originally established in 1916. It was as a result of an initiative of three Press organisations, namely, the Publishers' Club, the Swedish Union of Journalists and the Swedish Newspapers Publishers Association. The intention of the foundation was changed later in the century as the council was opened for late participation in its Board. In the 1960s, in Sweden, the council underwent deep reforms spurred by plans in the Swedish Parliament to use legislation to curb sensationalisation in the Press. The industry responded by setting up, in 1969, the first Press Ombudsman, which is now part of the system of the Press Council under a revamped code of ethics.

In Luxembourg, the Press Council is a statutory creation. The composition of the Press Council is determined by law of December, 1979. On the recognition and protection of the professional decree of journalists, Council Members are renewed every two years, and it covers professional ethics of all the media. The Danish Press Council was founded in 1964. Its statutory basis is Article 41 of the Danish Media Liability Act.

The partnership between the industry and the authorities is evidenced in the membership of its strong Board. The Chairman and the Vice-Chairman are appointed by the President of the Danish Supreme Court of Justice, and should be lawyers. Two members are appointed by the Union of Journalists; two members represent the Print Media or Broadcast Management, and two members come from the public at large. The partnership between the authorities and the industry is also clear in the sourcing of funding for the council from the Union of Publishers and the Ministry of Justice.

Mr. Speaker, Sir, the Press Council of India was first set up in the year 1966 with the objective of preserving the freedom and maintaining and improving the standards of the Press in India.

The council functions under the Press Council Act, and it is a statutory quasi-judicial body which acts as a watchdog of the Press. It adjudicates the complaints against and for the Press for violation of ethics and violation of freedom of the Press, respectively. The council is headed by a Chairman, who has, by convention, been a retired Judge of the Supreme Court of India. The council consists of 28 members of whom 20 represent the Press and are nominated by the Press organisations and news agencies, recognised and notified by the council as all India bodies of categories such as editors, working journalists, owners and managers of newspapers.

Five are nominated from the two Houses of Parliament, and three members represent cultural, literal, legal fields as nominees of the Satire Academy, University Grants Commission and the Bar Council of India. The members serve on the council for a term of three years. The Press Council of India is funded by a fee levied on the registered newspapers, on the basis of their circulation. More fees are levied on newspapers with a circulation of less than 5,000 copies. The deficit is made good by grant of the Central Government, through the Ministry of Information and Broadcasting.

In Tanzania, there is ongoing debate right now on a Media Bill that has presented vibrant

debate, just as we have in this country but I can tell you, having seen the Bill, that it goes a longer way in terms of interference with the Press. The Uganda Press and Journalists Act of 1995 that established the Media Council gives the Minister for Information discretionary powers to intervene in the affairs of the media. For example, the new law provides for the appointment of members of the Media Council by the Minister. The Media Council has quasi-judicial powers and is by law mandated to handle accreditation of foreign correspondents. It also issues practising licences for local journalists.

Mr. Speaker, Sir, I have taken time to go through these countries and their media councils and the laws that apply to the councils of those nations, because there has been a tendency within the Media, over the last few weeks, when debate on this matter started, to create the notion that the Government of the Republic of Kenya is, in passing this Bill, attempting to control the media. From the outset, I would like to assure both media and hon. Members of this august House that the Government of this Republic has no intention whatsoever of muzzling, controlling or, in any way, interfering with the freedom of the Press. Indeed, this issue of the freedom of the Press is actually provided for within the Constitution of this nation.

The relevant constitutional provision, Section 79 of the Constitution of Kenya states very clearly, as follows:-

"Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression. That is to say, freedom to hold opinions without interference; freedom to receive ideas and information without interference; freedom to communicate ideas and information without interference, and freedom from interference with his correspondence. Nothing contained in, or done under the authority of any law, shall be held to be inconsistent with, or in contravention of, this Section to the extent that the law in question makes provision---

There are several provisions under part (a) of this Section but part (b) goes on to state as follows:-

"(b) that is reasonably required for the purpose of protecting the reputations, rights, freedoms of other persons and their private lives."

Mr. Speaker, Sir, therefore, I want to assure the House that, in dealing with this matter, we have, indeed, looked at the relevant section of the Constitution just to ensure that in no way do we interfere with the said freedom. Having said that, the idea of creating responsibility within the media - the idea of the media regulating itself - in my opinion and, indeed, in the opinion of the drafters of this Bill, does not in any way contravene any part of our Constitution.

In the United States of America (USA), the Constitution provides that the Congress shall make no law that will interfere with the freedom of the Press but having said that, there are regulations which must be followed through the Federal Communications Commission of the USA. I would like to just give an example for hon. Members to think about: That, in that land of freedom - the USA - recently, during a football match, when the entertainer, Ms. Jannet Jackson, bared her breasts to the American public at large, the broadcasting house that actually showed Ms. Jannet's breasts, was actually fined by the Federal Commission.

So, in agreeing that we should not interfere with the freedom of the Press, nowhere in the Constitution does it say that freedom must be exercised irresponsibly or that freedom is absolute in its nature.

Mr. Speaker: Mr. Minister, during the 9/11 incident in the United States of America, did you see any blood shown by TV?

The Minister for Information and Communications (Mr. Kagwe): Mr. Speaker, Sir, I am sorry, I did not hear what you said.

Mr. Speaker: You know that during the 9/11 incident, thousands of people died in New York. Did you ever see on any television, any blood shown?

The Minister for Information and Communications (Mr. Kagwe): Mr. Speaker, Sir,

during the 9/11 incident, I did not see any blood on any American television or newspapers, for that matter. Indeed, throughout the Iraqi War, we have not seen the display of dead American soldiers in any of the American Press. Whether that means that the American Press is self-regulated, or whether it means that they exercise responsibility, it is a matter for conjecture and debate, but the fact of the matter is that there has not been even one display of a dead American soldier in their broadcasting houses. While that is happening in the USA, when our policemen fight crime in this nation, they are displayed on television by our broadcasting houses as if they are, really, of no consequence. That is something that I have raised. Our journalists have to think about it and keep their consciences as clear as possible.

Mr. Speaker, Sir, issues have been raised regarding the membership of the Media Council of Kenya (MCK). One of the contentious issues that have been raised in the Press is the appointment of the Chairman by the Minister for Information and Communications. The Ministry of Information and Communications has no particular interest in appointing a chairman for the MCK.

There is also the issue of who constitutes the MCK. In my various discussions with the media owners--- Indeed, I have sat with them and other interested stakeholders to discuss the Media Bill. That matter has come up over and over again. It is good for us to recognise as Parliament that the historical relationship between the media and the Government of the day has not always been very good. Perhaps, that history has created serious suspicions on the part of the media on the intentions of this Government and Parliament in addressing this Bill. The MCK, as proposed in terms of membership, will include the Kenya Union of Journalists (KUJ), the Media Owners Association (MOA), the Law Society of Kenya (LSK), the Editor's Guild of Kenya (EGK), the University of Nairobi School of Journalism and Mass Communication, the Kenya Correspondents' Association (KCA), the Public Relations Society of Kenya (PRSK) and the Joint Forum for Religious Organizations as described in Sub-section (3) of the Bill.

Mr. Speaker, Sir, in the continuing debate on MCK, the media has publicly said that, indeed, there is a difference between the media and the LSK. I concur with that. The reason why there is a difference is because what a lawyer says in a court of law does not have the same impact as what a journalist writes in a newspaper publishing over 50,000 or 100,000 copies per day or, indeed, what a television broadcaster broadcasts to the public at large.

Consequently, in discussing the formation of the MCK, I am inclined to agree with the journalists and hope that they will agree with me that if, indeed, the impact of a journalist's story or a news broadcast is much wider than that of a lawyer, then it follows that the composition of the MCK should, likewise, be wider than that of the LSK. Consequently, debate on this matter, I am sure, will follow to agree on the constitution of MCK. There are those within the journalistic circles who believe that MCK should be constituted only by journalists. In addition to that, there are those, particularly in the religious organizations, who feel very strongly that the receptors of the broadcast and the print media - the public at large - ought to have a say within the MCK.

Mr. Speaker, Sir, in addition to the MCK, there is also, within the existing Bill and the subsequent amendments that we will propose, the framework for individuals as well as Governments to take their grievances to the MCK for them to be heard. However, those ones will be heard by an independent commission that will be formed by the MCK. That commission, however, will be independent of the MCK because it is not possible to make judgements against yourself.

Mr. Speaker, Sir, there are many upcoming institutions of higher learning which are venturing into mass communication training. We have examples of Daystar University, Kenya College of Communications Technology (KCCT) and national polytechnics. Therefore, the question that arises is: Who will constitute a journalist? What qualifications is this country willing to allow an individual who makes serious contributions both in terms of education, entertainment and informing? What level of education should such a person have? Therefore, the Bill attempts to

address the question of who should become a journalist.

Mr. Speaker, Sir, because of the debates that have been held, and as a result of the various engagements I have had with the stakeholders in the industry, the Government will be proposing various amendments that will address some of the issues that we feel strongly about, and other issues that we feel would create greater independence of the Press while, at the same time, maintaining the question of responsibility and quality of journalism that will be in this country.

Mr. Speaker, Sir, there has also been the question of timing. When should this Bill be brought to Parliament? There has been the question that, now that we are heading for an election, this Bill will be read wrongly; that the Government wants to use this Bill. But I am of the view that hon. Members of this august House are above such considerations.

This law is not being made for this Government and this Parliament. This law is being made so that, in future, Kenyans can live better. Consequently, my view is that, like Martin Luther King said: "It is always the right time to do right."

Mr. Speaker, Sir, with those few remarks, I beg to move.

Mr. Speaker: Thank you. Any hon. Member seconding?

Mr. Maore: Mr. Speaker, Sir, I am here!

Mr. Speaker: Very good! That is bipartisan!

Proceed, Mr. Maore!

Mr. Maore: Mr. Speaker, Sir, I wish to second this Motion---

Mr. Speaker: Order, Mr. Maore! It is a Bill!

Mr. Maore: Sorry, Mr. Speaker, Sir. I wish to second this Bill by the Minister for Information and Communications. From the outset, I would like to say that this Bill has been published every year, since 1994, but something always happens and it expires. Even the Tobacco Bill and the Land Policy were affected in a similar way. Over the years, we have had problems because of the intensity of lobbying outside Parliament---

(Loud consultations)

Mr. Speaker: Order, hon. Members! We have to give the hon. Member an opportunity to make his contribution!

Mr. Maore: Mr. Speaker, Sir, the Government always ends up being intimidated out of the passage of this important piece of legislation. As the Minister has rightly concluded, it is always the right time to do the right thing. I want to support that, for once, we need this Media Bill as a country and as a society.

After reflecting on various issues and incidents that have happened elsewhere in this country - and I am not trying to be repetitive of what the Minister has enumerated - you will realise that, in many other societies where the media has been a key mover, there is enormous amount of self-regulation and responsibility.

In addition to the example that was given - the bombing of the Twin Towers in America on 11th September, 2001 - the entire media society in America--- America is said to be one of the most liberal societies. The media there never displayed pieces of human flesh, blood or bombed victims because there was no desire to do so, but because they felt, as professionals, they had a duty to protect the nation from the trauma of displaying dead bodies and pieces of human bodies on television. This is unlike here, whereby, when people are killed and some of them beheaded, you will see pieces of human body on television even when watching it with children.

Mr. Speaker, Sir, one of the most outrageous photographs I have ever seen on a piece of newspaper is that of the two children of the late Matheri. The late Matheri was said to have been a fugitive, criminal and murderer. However, his children are independent Kenyans who have nothing to do with the lifestyle of their father! They have a future. It was, therefore, not necessary to show them. It was very cruel and evil for media houses to display pictures of the children on newspapers.

The children had nothing to do with what happened.

Mr. Speaker, Sir, if you go to the Nairobi Stock Exchange (NSE) or even the New York Stock Exchange and violate the rules on which they operate, there is the Security Commission which investigates and fines those found guilty. This stops quacks from being members of the stock exchange. However, you will find even hon. Members being intimidated by people who have never been to a class of journalism. They say that they should be respected as people who are providing guidelines and guidance to the society. We need to differentiate between irresponsible journalism and proper recording or archiving of events in our society.

Mr. Speaker, Sir, you will find that in the *New York Times*, the Cable News Network (CNN) or *Time Magazine*, the ownership reflects the content. The Jewish community who control the media outlets all over the world are very highly conservative and religious. That is why you will find a lot of ethical pieces of articles in their own media. It does not require an angel to know that in an election year; like we are in now, people will be tempted to destroy others' careers, so that they can get a chance to be elected. The easiest target to use is the media.

Mr. Speaker, Sir, some of us have been, unfairly, victims of the media. I want to read just a sentence on what was said about me on 4th, June, 2007, by the gutter-leaning *The Standard*. After I had switched political parties for future elections, they said something to do with road accidents. It says:-

"The problem is the Ntonyiri residents believe he will eventually expire through another road accident---"

The whole thing goes like that. The last bit then says:-

"If the rationale of joining politics is to form governments, it is the right time to count his losses and rightfully disappear into thickest *miraa* bush locate---"

Mr. Speaker: From what?

Mr. Maore: Mr. Speaker, Sir, it is a very offensive piece of article. I am actually intending to sue the newspaper.

I am trying to say that, when you have a newspaper opening and using insults just because they have an outlet, it needs to be controlled. We do not want a situation whereby you have a pen and paper and you are not different from a monkey carrying a loaded gun. We need some control. We need some sanity. For this reason, I have gone through the Bill. We, as a committee, scrutinised it and proposed amendments.

Mr. Speaker, Sir, the media is supposed to be the mirror of the society. It is supposed to be the catalogue of our events. In every bit of society you have some mad men and women. It is these elements that we want to contain. It is these elements that we need to legislate on. It is possible to negotiate some of the issues. It is possible to litigate others. However, when you can legislate, this House has a duty to litigate the issues of the media. Accuracy and truth in the media is not subsidiary, it is the central and core value of any media house. It does not help when we say we want the media to be free. Yes, it is free; it is very vibrant, but on those who want to go beyond the limit of good manners, how do you contain them? How do you tame them?

Mr. Speaker, Sir, the Media Owners Association (MOA), who have been purporting to regulate themselves, never raise a finger against each other. When these matters happen to victims, they just meet and laugh it off. There is no piece of legislation that requires them to do one or two corrective measures. So, on the creation of the Media Council, who should be in it should not be the issue. The issue is that we need it.

Mr. Speaker, Sir, the issue about the Media Advisory Board is not who should be in it or how they should be there, but we need it. We would want to support the amendments, when they come. Where it is acceptable, the Minister should not fear to stand firm. It is through his standing firm that we will tame the sensationalism of stories by media Houses in order to sell most. I remember there is one that came up today in the media for the first time! What appeared there, actually borders on criminology. If you read the headline---

Mr. Speaker: Where was this?

Mr. Maore: Mr. Speaker, Sir, there is a media piece that was launched this morning. The headline said how one Assistant Minister here procured abortions for nuns and mistresses of priests.

Mr. Speaker, Sir, when you find that kind of headline and a responsible Assistant Minister of this Government is saying he has done it, it is possible that those things happen. However, when you put them on printed newspaper, you are becoming "mannerless". You are becoming insensitive to members of the Catholic Church. It is an insult!

Mr. Speaker, Sir, it is this kind of borderline that we need to know. When somebody has crossed the line, what do you do? You do not just wish that you had something in your hand and throw it at them. We need some law that we can fall back to.

The other issue is that of professional ethics. Ethics happen to profession, but when you find a profession that has been invaded by non-professionals, you do not know where to start. That is why we are telling the Minister that he has done the right thing in this Bill. We need to have the responsibility and liability. This is not control; it is not censorship; it is trying to put some sense into some of these hotheads.

Mr. Speaker, Sir, without taking a lot of time, I have seen the arrangement of the Bill. When this Bill becomes an Act, the Minister intends to mediate and arbitrate disputes. It is also about promoting and protecting freedom and independence of the media. This is what we are going to do. This is just like the hen and chicks. When she kicks them, sometimes it is to protect them from the enemy or chase them away. However, in the process, they might get some injuries. Therefore, the society needs to be protected from a rogue, unregulated media. We have had a problem over the years about the regulation of the gutter Press or alternative media. Every time we come here, the Minister comes and says they may not be registered at the General Post Office (GPO) as a newspaper. However, there is no regulation on their returns given that they do not have even physical address. When this Bill becomes an Act, we will have somebody to account why we have those who have made it a hobby and earning a living by trading insults, untruths and destroying our society and families.

Mr. Speaker, Sir, with those few remarks, I beg to second.

(Question proposed)

The Vice-President and Minister for Home Affairs (Mr. Awori): Thank you, Mr. Speaker, Sir, for allowing me to make a few comments in support of this Bill. The written word or words heard on radio and television are believed by many people. It is, [**The Vice-President and Minister for Home Affairs**]

therefore, very important for the media to have a sense of responsibility. I do not think this Government has any intentions, whatsoever, of muzzling the media. I think what this Bills attempts to do is to set some guidelines so that the media can be free, but with some responsibility.

[Mr. Speaker left the Chair]

*[The Temporary Deputy Speaker
(Mr. M'Mukindia) took the Chair]*

Mr. Temporary Deputy Speaker, Sir, in recent times, we have seen excesses with the freedom of the media. During the referendum, this country was polarised practically on ethnic grounds when FM stations came out and, in many cases, they were setting one tribe against another in the name of freedom. We do need to have a responsible media because we have seen examples of uncontrolled media. Not very far from us - in Congo and, particularly, in Rwanda - nearly half a

million people died because they were incited through the media. We normally see at the front pages of various newspapers a pledge to be "frank and fair". But, indeed, when you read them, you will find that there is very little fairness. The media has attempted many times to bring hostility here by being against a particular leader or against a particular community in the name of freedom. The proposed media council needs to be very responsible. That is where people will be appealing to.

Mr. Temporary Deputy Speaker, Sir, I am quite concerned with the family values and the way we bring up our children. The newspapers, journals, television and radios are now open to the children. I want to cite an example of a case where a man was found with somebody's wife somewhere in Mombasa. They were committing adultery and, naturally, members of the public were angry at them. They stripped the man and the woman naked and walked them in the streets. Their pictures were taken and displayed in a newspaper. It may be a question of freedom. But imagine the traumatic experience the children of that man and woman went through. One is not excusing the act of adultery, but is that a reason to scar the children of those two people for the rest of their lives? We have had cases where children have been assaulted. Our girls have been assaulted by people and that has been depicted graphically by the media. They go by the word: "The need to know!" But the need to know does not give a licence to destroy lives. There has to be some decorum. In many countries of the world where people practise responsible media, all those things do happen. There are people who assault children. But that is never shown graphically as it is done here.

Mr. Temporary Deputy Speaker, Sir, the media has been used to promote certain people, even when we know that those people have qualities on the surface, and they know it. It is important that we do not talk about controlling or muzzling the media. Let us talk about regulating the media. We want to make the media responsive to what is happening. The public in this country is very gullible, indeed. We have seen cases where the headline is saying one thing and when you read inside, there is no co-relation whatsoever! Of course, when the media destroys somebody's character and they are told to withdraw and apologise, they allow time to pass. Then, they will put such an apology in very small print in the middle of the newspaper. Then they go home and sleep peacefully because they say they have fulfilled the obligation they had under the law.

Mr. Temporary Deputy Speaker, we need responsible journalism where reports will be factual. Many times, journalists have attended public meetings and leaders have been quite clear and spoken honestly. But what is written thereafter is not what the leaders said. It will be an opinion of what the journalist wanted the leader to say. Many times, we have seen cases where people have gone with already pre-written statements in public meetings, so that they can mislead the public completely. Some of us have come to learn that you cannot win against the media. But you may complain. But when members of the public or leaders complain, the media hides between the word "misquoted". When we ask the media to be responsible, they will, indeed, become responsible later, so that they can find it an honour to actually write, publish or broadcast only the truth. We would like members of the media and the public to know that all what this Government requires is a responsible media.

With those few remarks, I beg to support.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, this Bill is dealing with a matter that, obviously, excites a lot of passion, particularly because each one of us - Members of Parliament - at one time or the other, have had to endure unfavourable publicity by the media. When you read an article that is not favourable to you or to what you said, you feel strongly against the media. But my appeal to honourable colleagues is that we must not allow our emotions to take the better of us, when we are debating a matter so important!

We have to debate the contents and objectives of this Bill by distancing ourselves from any unpleasant personal experiences, which we may have undergone. Let us not allow our anger about bad media coverage, to which we have all been victims, to be the dominant consideration when we

are debating the Media Bill.

Mr. Temporary Deputy Speaker, Sir, no one disputes that there should be a statute, or an Act of Parliament, to provide the legal statutory framework to enable the media to self-regulate. This is the core value of this Bill. The objective of the Bill should be to provide for a statutory framework to enable the media to self-regulate. It is not a law that will enable you and I, another body or even the Government to regulate the media. It is to enable the media to self-regulate. If that principle is accepted; that, that is the objective of the Bill, then we truly must bite the bullet and allow the media to self-regulate. The content of the statute should be to permit the media to self-regulate and not to permit you and I, the Government or some other bodies, to regulate the media.

You and I are not the best judges of what should be covered. If the principle is accepted, then the best way of going about this Bill is, obviously, for the Government of the day to consult widely, particularly, with the media fraternity on how best the media can self-regulate on the contents of the code of conduct. It is not for you and I to dictate that, and impose it on the media. That is not a statute that will assist the media to self-regulate. That is a statute that will enable a person outside the media, the Ministry or other institution, to dictate the content of media coverage. By doing that, even if you are to call it regulation, you are giving a wrong name to what is actually "control". It does not become regulation because you call it "regulation". What you call it is neither here nor there. It is the effect of what you are doing. As long as you are seeking to regulate the content of an article and the headline--- I agree that quite often the headlines are misleading. However, as long as you are seeking to tell the media what the headlines are going to be; to regulate the content, then that is abuse of the English language by saying that you are regulating. You are not regulating! You are controlling! It does not become regulation because you are calling it so.

Mr. Temporary Deputy Speaker, Sir, the principle has to be accepted from the beginning then everything else follows. If you look at the current Bill, I am aware that amendments have been proposed. However, if you look at the Bill in its present formatting and content, it is not a Bill that is intended to allow the media to self-regulate. This is a Bill that is intended to allow the Ministry to regulate the media, including the content. You will see that from Clause 7 where even the chairperson will be appointed by the Minister. You will see that from the long body of institutions that have nothing to do with the media, which will be doing the appointing to the Media Council. I would say this: If we accept that all we are doing is to come up with a statute that will enable the media to self-regulate, so that every media house and journalist will come under the authority of this statute and the authority of the Media Council, then we must be extremely circumspect on the institutions that are going to appoint members to the Media Council. We must be extremely circumspect and carry out consultations with the media fraternity, so that those institutions that have nothing to do with the media; that are being given the opportunity to nominate, for example, the Law Society of Kenya (LSK), can be agreed upon between the media fraternity and the Government. It is not for us to dictate to the media the institutions that have nothing to do with the media and that will be appointing people to the Media Council.

The design of the Media Council needs a lot of consultation if, indeed, self-regulation is the objective of this Bill. I am aware, as I said, that there are amendments which are proposed. When they come here we shall debate them, but the issue is whether those amendments go far enough towards realising the declared objective of permitting the media to self-regulate. I agree about some of the coverage about dead bodies and that sort of thing, that are unhealthy. However, these are issues that can be covered through a code of conduct rather us, you and I, or other bodies, including the Ministry, being the one to dictate the content of what the television is going to cover or what it is not going to cover.

If you look at the entire design of this Bill, including the Advisory Board, you will find that, undoubtedly, in the absence of those amendments that might be coming, the design of this Bill was, clearly, intended for control of the media. There can be no doubt about that! If you wanted a statute

that will help the media to self-regulate, the way to go about it is not for the Ministry to say they have carried out consultations, then come and dictate the content of the Bill. It is to bring a Bill that enjoys the widest possible support. I heard the Minister saying that it enjoys a lot of support. However, that is not the factual position! This Bill is still attracting a lot of contention. The Government may succeed in having the Bill enacted into law, because the numbers are present but a Bill that becomes law without enjoying consensus, particularly from the entire media fraternity--- When I talk about the media fraternity, I talk about the journalists. There are many journalists who are not members of the Kenya Union of Journalists (KUJ). Their voice needs to be heard. The voice of the KUJ also needs to be heard. The voice of the media owners needs to be heard. Outside this House, I want to be on record by stating that the Bill does not enjoy wide consensus and support from the media fraternity. It enjoys support from certain sections of the media fraternity, but not from the entire or the majority of the media fraternity.

Mr. Temporary Deputy Speaker, Sir, when you are talking about the objective, you look at the surrounding circumstantial evidence from which you can infer the objective of the Ministry. When you look at the published Bill, the amendments that the Minister is seeking to bring to the Communications Commission of Kenya (CCK) Act, to prohibit even cross-ownership and very far-reaching changes, including cancelling of licences, you can see that the objective is to control the media in this country. It is not to permit the media to self-regulate. I urge caution! I urge that we proceed on this matter very---

The Minister for Information and Communications (Mr. Kagwe): On a point of order, Mr. Temporary Deputy Speaker, Sir. The inference that the Minister wants to control the media---

Would I be in order to say that Mr. Muite is misleading this House by referring to issues that appeared in the newspapers and to amendments that have not even been proposed, by saying that I am trying to control the media in this country?

The Temporary Deputy Speaker (Mr. M'Mukindia): Mr. Muite, could you, please, be specific?

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I said that if we want to understand the motive, we have to approach the issue in totality of the surrounding circumstances and not from one narrow point. The reason why a Bill is published is to give notice to members of the public. The Bill has not come here, but because it was gazetted by the Government Printer, the amendments by the Communications Commission of Kenya (CCK) Act, which he wants to amend in a very drastic manner, at the same time as he is bringing this Bill, to my mind, the only inference is absolute determination to control the media in this country. We, as Members of Parliament, unhappy as we might be because of bad coverage, and I, perhaps much more than other hon. Members, I have been a victim, but let us think in terms of the long-term interest of this nations. There is a price to be paid for everything. The media cannot be right all the time. The media must be permitted some latitude as long they are not doing it deliberately and they have got a disciplinary council that will deal with the complaints. That, to me, goes sufficiently far to enable the media to deal with the complaints.

Mr. Temporary Deputy Speaker, Sir, the other major failings of the current Bill is in the design of the Disciplinary Committee. I have great reservations about that. If you entrust the media with self-regulation and accept that the objective of this Bill is to enable the media to self-regulate, then you must automatically entrust the responsibility under the law to a disciplinary committee which will be constituted by the media to enforce those disciplinary measures. We may bring on board the Kenya Law Society of Kenya and one or two other people, but why are lawyers permitted to discipline themselves? Why do doctors discipline themselves? It is because they know when ethics have been breached and when they have not. Why do we want outsiders to be the ones to implement disciplinary measures against the media? If the media is self-regulatory, the flip side of that coin is that the disciplinary measures must be undertaken by an organ created within that statute by the Media Council. We should bring one or two lawyers but the majority must be from

the media because they are the ones who know.

Mr. Temporary Deputy Speaker, Sir, we are talking about all media houses and not one. If the Disciplinary Committee consists of membership from all the media houses, and a number of outsiders like the Law Society of Kenya, then they are the ones best placed to know whether there has been violations of the code of conduct. The code of conduct, I agree must be passed off the statutes, but it is not for you and I to enforce those disciplinary measures. If we do, and yet, we are not in the media industry, we are not the best judges and we shall bring to bare all disciplinary proceedings and our private prejudices against the media, generally.

I beg to oppose.

Mr. Kipchumba: Mr. Temporary Speaker, Sir, I wish to give my comments on this Bill. For several years, Kenyans have faced many frustrations because media houses have failed to carry out their duties. When people fail to do their job, then that calls upon other people to assist them. I, personally, did not wish that the media be assisted. However, I think the media is made up of people who do not want to do their job. The Vice-President and Minister for Home Affairs has put it very clearly, that if you are misreported, and you ask for an apology and they, indeed, establish that you were misquoted, the apology note appears in very small print, in a section that you will struggle to find. That beats logic. Why would the media want to apologise in a way that nobody would see? That frustration is forcing many people to think that the media requires assistance. That assistance has to come from elsewhere. Many of the print media houses we have in this country today - and I think, partly, this has to do with the Government--- We have some newspapers in the streets whose addresses are not known. What is the Government doing about this? Are we being told that we have a Government which cannot locate the physical addresses of the media houses? This is not a question of the law. We have a newspaper which is printed every day, but no one knows its address. If you wanted to sue that newspaper, you would not know who to sue. So, I presume that if the media was self-regulative, that newspaper would not have been in the streets. They would have enforced certain regulations that would not allow newspapers whose addresses are not known to sell. Nobody knows who writes them. That is the frustration we are facing. I would have expected this Bill to go beyond what it is stipulating.

While I agree with what hon. Muite has said, that we should allow the media to self-regulate, I think the media fraternity should tell us when they will have the capacity to do that. If, indeed, they will not have that capacity, then they should ask for it or we give it to them whether they like it or not. I have read this Bill--- While we appreciate that the media is a very good forum from where this country can fight corruption--- Corruption in this country has been highlighted mainly by the media. We would like to use this tool to fight corruption and to do justice to this country. Those are the positive aspects of the media.

Mr. Temporary Deputy Speaker, Sir, many Kenyans cannot afford to go to court when the media misreports them. The ordinary people do not have money to go to court. If you read through history, you will see that those who have managed to go to court are people with money. They can afford to hire a lawyer. Therefore, we must allow extra avenues that will protect even ordinary people's rights. If we expect to go to court every time we are wronged, considering the slow course of justice, it might take many years before the case is heard. I was wondering whether, since I read through the Bill, and the Bill clearly says in part; "The Council shall comprise the following---" It names the Kenya Union of Journalists (KUJ), the Media Owners Association, the Law Society of Kenya, among others. Most of these are agencies that deal with the media. If, indeed, the media is not in concurrence with what we are proposing, what will happen if they fail to nominate representatives? If the KUJ refuses to nominate their representative to the Council, what will happen? That is the law. We are establishing a law that will govern both the media and the Government. We have said that the media should appoint somebody to the Council. What if they do not, what will we do? If the Media Owners Association does not appoint somebody to the council, what are we supposed to do? Probably, we should create an avenue to regulate the media. I

want to agree to a certain extent that we should cultivate more agreements so that we pass a Bill that is acceptable to everybody. You cannot come up with a Bill today, and then ask the media to appoint their representatives to Media Council of Kenya. If they do not, what will we do?

Therefore, while we want to have a whip that will make sure that this media is regulated, I foresee a very dangerous situation where if they refuse to nominate the persons, this Bill will be as good as dead. Therefore, I would want us to still create more time.

Mr. Temporary Deputy Speaker, Sir, I do not know what problems the media have, but many of the journalists are poorly paid. That is a fact! If they were well paid--- The reason we say the police should be paid well is to reduce corruption. It should also happen for the media. The media should also be well paid. Many members of the so-called Media Owners Association (MOA) pay these journalists peanuts and expect them to write a very good story. They may not complain because they have no other jobs! If they get other jobs, they will move immediately; if they get the job of Koigi, they will come and take it over. Everybody would like to have the best, but in the absence of an alternative, I would personally believe that many of the newspapers or media stations do not pay very well. And that is why, occasionally, we have a lot of problems.

Mr. Temporary Deputy Speaker, Sir, I want to request--- And let us not bury our heads in the sand! Many people say that when you fight the media, you can never win because they will keep on reporting a story after a story, and that has been the trend in this country. But if, indeed, we would want to allow the media to self-regulate, as it is being proposed, why do we not then remove the Minister from appointing the chairperson of this association? But then, the next question will be: How will the Government fund an office that it has no total control of? Why would the Government want to spend extra taxpayers' money on an institution which we can deal with in another forum? We are talking of--- And if you read through, it finally says: "The enactment of this Bill will occasion additional expenditure of public funds". Those are public funds that the Exchequer--- Our taxes will be used to fund this institution. I wish we could avoid a situation where we are going to use taxpayers' money to fund this animal of regulating the media.

Therefore, Mr. Temporary Deputy Speaker, Sir, I would still want to request that--- This Bill says that the headquarters of the Council shall be in Nairobi. I mean, why Nairobi? I have always argued in this House that when you prepare a Bill, let us not be very particular about its location. And we have always changed, we have always removed it from saying: "The headquarters of the Council shall be in Nairobi". I would personally say: "The headquarters will be located as may be decided". It can be in Mombasa or anywhere else. Therefore, that should be removed.

Mr. Temporary Deputy Speaker, Sir, if you read Clause No.5, it says:

"The functions of the Council are to-

(a) mediate or arbitrate in disputes between the Government and the media, between the public and the media and intra-media;"

What for? So what? So, after you mediate, so what happens? We must be told of the consequence.

Mr. Temporary Deputy Speaker, Sir, if we are to allow the media to regulate itself, we must, therefore, provide for penalties that in an event the media or the association is unable to do its job, that the following shall apply--- They must pay penalties to the Government or the respective agencies.

Mr. Temporary Deputy Speaker, Sir, I want us to make additions to these bodies that will form this agency. The Kenya Association of Manufacturers (KAM) is an interested party. If you look at many of our newspapers today, especially on Tuesdays, most of the sections pertain to advertisements of jobs and so forth, that are intended for the manufacturers or the business community. Therefore, they must be represented. Consumer organizations, which is the aggrieved body, is not taken care of.

Mr. Temporary Deputy Speaker, Sir, the Minister talks of the joint forum of religious organizations. I have never in this country heard of a joint forum of religious organizations. It describes them as the Supreme Council of Kenya Muslims (SUPKEM) and so forth, but does such

a forum exist? If, indeed, we want the religious sector to be involved, you cannot put one! If you put a Muslim, you must always put a Christian and so forth. Therefore, that must be expanded.

Mr. Temporary Deputy Speaker, Sir, if you look at Clause 8, it says:

"(1) Without prejudice to the provisions of section 7(2), a person shall not be eligible for appointment to the Council unless such person-

(b) is committed to constitutional freedom of expression, responsible journalism---"

Those are subjective! How would you determine whether a person is committed to all these? I do not believe that we will make laws that are very subjective.

Mr. Temporary Deputy Speaker, Sir, Clause 12 says:

"The members of the Council shall be paid such remuneration, fees, allowances and disbursements for expenses as may be determined by the Minister for the time being responsible for finance".

Why the Minister for Finance? Why can the Minister responsible for Information and Communications not do his job and determine how much remuneration these people should be paid?

Mr. Temporary Deputy Speaker, Sir, I thought that maybe this Bill was going to sort out for us or solve for us once and for all, who registers the media organizations or agencies that we have in this country. Who actually registers them? In my view, that is the crux of the matter, to the extent that there exists newspapers in this country whose origin and addresses are unknown, and they are operating in this country. If you open a business today, you have no licence and you are not paying taxes, the Government or any responsible arm of the Government will come and close it tomorrow. Therefore, I would have expected the Minister to go a step further and tell us who are going to register the media.

Mr. Temporary Deputy Speaker, Sir, I recall that during the referendum, when the competition between the banana and orange teams was so hot, one of our vernacular stations was shut down by the Government. Therefore, when people think of regulation, we fear that, probably, the Government may want to use its power to control certain stations. The station was shut down for no apparent reason because it was talking in our own vernacular and telling people certain facts, which we believed were true, then it was shut down! When the Standard Group offices were raided, of course, it was not the right channel!

Therefore, Mr. Temporary Deputy Speaker, Sir, I would have expected this Bill which it has, in some way, to provide a forum from where if certain individuals, including Ministers and so forth are aggrieved, they can have a forum from where they can air their views. But like I have said before, it is the failure by the media to act on certain complaints that has prompted people to imagine that they are unable to do it themselves.

Mr. Temporary Deputy Speaker, Sir, today, hon. Maore talked about the reason the media is irresponsible. If you look at the new newspaper which came out today and which quoted our colleague here in the headlines--- Being a Catholic, that paper should not be allowed even in the streets! *The Nairobi Star* said that Dr. Kibunguchy assisted nuns to perform abortion! For us in the Catholic fraternity, that is unacceptable and it is an abuse of our religious rights. That is a newspaper that was advertised that it was going to hit the streets in a big way only to read the headline saying that our nuns have abortions being performed by one of our own Assistant Ministers here.

Mr. Temporary Deputy Speaker, Sir, such stories, whether they are true or not, must not form the headlines of any worthy newspaper in the Republic of Kenya. It is unacceptable. While we appreciate that the media has a right to inform but it also has a right to responsibility. They must be responsible to this country and to themselves. That is why I would have wanted us to put in the law that the Media Owners Association must subscribe to certain regulations that will ensure that their journalists are paid proper salaries. This is to ensure that they do not go an extra mile to extract some extra money from people so that they can write a story. They should not extract

money from certain quacks. We are not saying this just as stories, they are facts. How many hon. Members have had their stories not printed or published because they have failed to give a few shillings to journalists! Those are facts that must be said in this House. We cannot bury our heads in the sand.

If you cannot give a journalist Kshs1,000, then he or she cannot cover you or your story. What a shame! Then they call hon. Members corrupt. They say that hon. Members are corrupt and they steal time. When you give a very nice story and you have not bought them lunch, they will not cover you. When somebody says "nonsense" - allow me to use that term - they will publish his story because he or she has been given Kshs1,000.

Mr. Temporary Deputy Speaker, Sir, you cannot blame the journalists because they are paid very little money. Why can the Media Owners Association (MOA) not, in its own regulations--- That is what they fear, they do not want to be regulated because they want to pay peanuts to these Kenyans who work day and night to get a story so that the media owners can get a fat cheque at the end of the month.

Mr. Temporary Deputy Speaker, Sir, I would have expected the Minister to go an extra mile to tell us that no media agency will be owned more than 50 per cent by one person. The reason why they can arm-twist a journalist is because some of the media houses are owned solely by one person. Therefore, they will always have their way. Kenyans have a right to use the media that we have but the media must be seen to be fair to every Kenya.

Therefore, in future, the Minister should re-look at this issue. If you have more than 50 per cent ownership in a media you should sell the rest to Kenyans so that there is some resemblance and you cannot arm-twist these young Kenyans who are working hard everyday to earn a living, only to be paid peanuts. That is why they have to go an extra mile. Hon. Members had to be paid well because we had the same problems. You could not make your ends meet. That is why we are well paid now. These fellows should also be paid. Since the owners have refused to do so--- I do not understand why the media sometimes do not strike in this country. Why can they not strike? I am surprised that they have what we call Kenya Union of Journalists (KUJ). I did not know that there exists such a union. If it exists, what does it do for its people? What does it do for its workers? If it exists, do these workers subscribe to it? Do they give it money, and for what?

Mr. Temporary Deputy Speaker, Sir, while we respect the media, it must respect us as well. They must respect hon. Members, Kenyans and everybody else. The media is very happy to highlight to the public images of hon. Members when they are asleep. They become so excited. What is so interesting about that? This House sometimes becomes very hot especially when everybody is around. Of course, you will have to read the Budget anyway. So the hon. Member will doze off for a while. Then that becomes the best story that there is in the world and they are so excited about it. There is no excitement about it! The failure of journalists to be responsible is forcing everybody to think that we must regulate them. As I said before, I do not believe that we can, but to the extent that they cannot, then the Minister is trying to do some justice.

Mr. Temporary Deputy Speaker, Sir, therefore, I want to urge the Minister to hold one final forum with the media where some of us, hon. Members, can be invited so that we can listen to what they would want us to do. We should give them a time-span or limit. If they want two months so that they can change, let us give them that. If they cannot regulate themselves after that, we would have given them a yellow card and then we give them a red card after that. I fear a situation where they refuse to nominate people and then we are back to square one. We want to pass a good law. Right now, this cannot be implemented because we are forcing people to appoint individuals into a council. We must all agree.

With those very many remarks, I want to beg the Minister to withdraw it for a while and then we shall go and discuss it in another forum. There is no hurry in Africa and in Kenya.

Ms. Ndung'u: Mr. Temporary Deputy Speaker, Sir, Kenya has gone through many interesting times since 2002. We are in the third liberation with this Government. There has been a

transition. The civil society has also been in transition. The media has also faced the challenge of transition. How to move from an oppressive regime to being in existence in a regime that allows you freedoms and rights. But with freedom and rights, also comes obligations and duties.

One of the things that I learnt when I was learning Human Rights Law in the university, is that when it comes to media reporting, there is a difference between fair comment and libel, but the line is the same. The line has to be monitored so as to protect free comment but to punish libel and slander.

Unfortunately, libel and slander have become the new kids on the block, particularly, in the commercial courts in this country. If you go to the courts today and look at the daily course-list, you will find that libel cases are the majority of the cases. Lawyers are saying that these are the new cases in which to make money. I know that there was a request to the Chief Justice that libel cases--

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(Loud consultations)

The Temporary Deputy Speaker (Mr. M'Mukindia): Order! Hon. Members, I plead with you that if you have to consult, please, do it quietly. As you know, this is a very important Bill and hon. Members have taken time to really think about it. Let us hear what they have to say. Allow others to listen!

Ms. Ndung'u: Thank you, Mr. Temporary Deputy Speaker, Sir. I am aware that there was a request to the Chief Justice to direct a fast-tracking of libel cases because they are taking precious court time which should be used by *wananchi* to do their other cases. Therefore, it is important that we introduce a legal framework that can prevent, manage and resolve these kind of libel cases.

It is also important for the media professionals to find a way of regulating themselves as the lawyers or doctors do. Unfortunately, in the last few years, it appears that any attempts to self-regulate have not been successful or the media houses have not been able to come up with a framework with which we can interrogate them; where the public can go and complain, where we could interrogate untruthfulness or non-factualness of some of the reporting and some of the issues of discipline. What happens to a reporter who misleads the public or does not tell the truth? Where can members of the public go?

Also, I think the media professionals have not been able---

(Dr. Kibunguchy consulted loudly)

The Temporary Deputy Speaker (Mr. M'Mukindia): Dr. Kibunguchy, I do not need to point that out again! Please, consult quietly!

Ms. Ndung'u: Mr. Temporary Deputy Speaker, Sir, it appears to me, also, that the media professionals have not yet been able to set standards, with relation to issues of patriotism. For example, as it was said earlier, American media houses will never show bodies of dead Americans. It did not happen neither during the 11th September bombings nor is it happening in Iraq. It cannot even happen if they have incidents where they have to protect their own law enforcement officers. It really bothers me to see our own police officers who are gunned down, being laid out on televisions, when even their own relatives do not know. This is not the way to treat our law enforcement officers. We have to instil, in all professions, including the media, the love for the country and respect that we must give to institutions and persons like that.

Mr. Temporary Deputy Speaker, Sir, I am also concerned, for example, about the exposure of victims of sexual crimes. Although the Sexual Offences Act in itself is very clear about media houses being careful not to identify victims of sexual violence, there are some media houses which

are still doing it. That means that they are breaking the law. Who, then, will ensure that they do not break the law?

Incidentally, speaking about the Sexual Offences Act, I was not amazed on Saturday to read, in a very reputable newspaper, that the Sexual Offences Bill was, in fact, conceived and drafted by a Non-Governmental Organization (NGO), and then handed over to me. Now, not only is this misleading and untruthful, but it also affects my credibility. Where, then, do I go? This journalist, one Billy Muiruri, never called me to ascertain, actually, who had drafted this Bill and where the idea was conceived. This is a very small example. I do not want to blow my trumpet, but I want to ask: Surely, are there no standards for people who write and investigate news? Are there any standards for them to live by? Why are they there?

Therefore, is this Bill the solution? I read it and I know--- Actually, I was a Member of the relevant Committee that was looking at this Bill. We had two meetings. One was held in Mombasa two weeks ago, where we were able to engage other media professionals and suggested amendments. Then, the Committee held another meeting with the Minister in Naivasha. It is true that, that Committee has a report in which it has proposed amendments. I would want to appeal that the Chairman of the Committee should lay the Report on the Table of the House, so that as hon. Members are debating this Bill, they can be informed of the amendments. This is because I think the amendments will resolve some of the issues that I hear hon. Members raising.

However, I agree with hon. Muite and hon. Kipchumba that, perhaps, full consultations did not take place. The media owners have not been consulted at any stage and, yet, they are the people who own the media houses and, in the end, manage the editorial contents. They were not in the meetings held in Mombasa and Naivasha. I think that---

(Mr. Wamwere consulted loudly)

Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister for Information and Communications allow me to contribute? He is heckling me!

The Temporary Deputy Speaker (Mr. M'Mukindia): Order, hon. Wamwere! Please, allow the hon. Member to contribute.

Ms. Ndung'u: The media owners have informed me that they have not been adequately consulted. I think that they are so key here to be left out. As we continue to debate this Bill, and before we come to the Third Reading, I think it is important for us to have that consultation, including, to what extent their numbers should be in the council. As an owner of a media house, do I get to have the same slot as the person that I employ? These are questions that I think we should discuss and consider when proposing amendments to the Bill.

However, I want to say that we must make sure that the Government is not overzealous. It can never be our intention to muzzle or restrict the media. As hon. Muite said, I think we must allow the media to have their own self-regulation. Let them set up their own disciplinary committee, but within the framework of this Bill.

With those few remarks, I would like to support the Bill, but with the necessary amendments.

Mr. Syongo: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving a chance to contribute to this Motion.

From the outset, I would like to congratulate Kenyans because Kenya is one of the very few countries where we have a media which is self-sustaining. Many countries have a single journal and radio station. Right from the time when the media was opened up, there has been considerable investment in that sector and they are largely self-sustaining. How do they sustain themselves financially? They sustain themselves through two fundamental sources. One, of course, is

advertising revenue from the advertisements that they receive. Secondly, they sustain themselves from the copy sales, in the case of print media and so on. But, ultimately, it all depends on the circulation; how many readers does a newspaper enjoy? It also depends on the listenership of the radio station and viewership of any television station.

The Assistant Minister for Transport (Mr. Githae): On a point of order, Mr. Temporary Deputy Speaker, Sir. I rise under Standing Order No.1. Whenever Members of Parliament are not in the Chamber, the journalists are very fond of highlighting the issues. We are discussing a very important issue on journalists, but I am shocked to see that the journalists are not in their Gallery. Would I be in order to ask if you could order them to be summoned as they are drinking tea?

The Temporary Deputy Speaker (Mr. M'Mukindia): Mr. Assistant Minister, are you talking about Members of Parliament or journalists?

The Assistant Minister for Transport (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I am saying that whenever Members of Parliament are not in the Chamber, journalists are very fond of highlighting the issue. We are discussing a very important issue, which deals with journalists, but none of them is here. I understand that they are taking tea outside there. Mr. Temporary Deputy Speaker, Sir, would I be in order, under Standing Order No.1, to ask you to order the Orderlies to summon them to come and listen to this very important debate?

Mr. Sirma: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. M'Mukindia): Order, Mr. Sirma! Let us deal with one point of order at a time!

While the observation by the Assistant Minister is quite valid, I do not think that the Chair has any powers to order journalists to come here. But it is good to note that, indeed, this is a very important Bill. I think that members of the journalism profession should be here to listen to the debate on a Bill that actually concerns their livelihood and profession.

So, it is a valid point of order, but our powers are limited.

Hon. Sirma, what is your point of order?

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, I wanted to challenge the hon. Member, because Standing Order No.1 gives that discretion to the Chair. But it appears as though he wanted to take over that privilege. Again, it is the wish of the media to decide what to cover or what not to cover.

The Temporary Deputy Speaker (Mr. M'Mukindia): Well, it is disappointing to the hon. Members and Chair as well, that the members of the Fourth Estate are not here to hear something that, really, concerns them. But, let us go on!

Proceed, hon. Syongo!

Mr. Syongo: Thank you, Mr. Temporary Deputy Speaker. I noticed that as soon as my---

Mr. Poghiso: On a point of order, Mr. Temporary Deputy Speaker, Sir. Lest you get the impression that there are no journalists in the Press Gallery, there are actually five of them up there, above the Chair. So, the impression given that there are none is not true.

The Temporary Deputy Speaker (Mr. M'Mukindia): Very well! We appreciate those who are here. More are welcome to come.

Let us continue!

Mr. Syongo: Mr. Temporary Deputy Speaker, Sir, I was just about to say that, in fact, as soon as that point was raised, a number of them trooped back to the Press Gallery. So, it is good that the point was raised, because, obviously, it has brought them back.

Mr. Temporary Deputy Speaker, Sir, I was making this point that we, as a nation, should be proud that we have a media which is thriving, extremely active and self-supporting. That is an achievement.

Mr. Temporary Deputy Speaker, Sir, I was trying to make the point that, in fact, with the

self-sustainability of the media sector in this country, which is largely private-owned, except for Kenya Broadcasting Corporation (KBC), I hope the Government will sell the shares to the Kenyan public soon, it receives revenue from advertising as well as from selling copies in the case of print media because of the desire to self-sustain and to maximise revenue, there is no question about it that there have been cases where even straightforward issues have been coated with sugar, even *pilipili* and salt added, so that they can sell copies. I think that is where we have a problem with the media in this country. This is a situation where we run the risk of deliberate scandalising of certain people in order to sell. This is a situation where we have people who cannot defend themselves being put into a situation such as that the hon. Vice-President and Minister for Home Affairs was talking about. It is just because we want to create excitement around our media in order to increase sales. We want to increase the advertising revenue which is based on the number of sales or the viewership or the listenership. This is immoral. However, it is important that for the media to be objective and truly do their job, they must not be controlled by the Government.

*[The Temporary Deputy Speaker
(Mr. M'Mukindia) left the Chair]*

*[The Temporary Deputy Speaker
(Mr. Poghisio) took the Chair]*

Mr. Temporary Deputy Speaker, Sir, my colleague, hon. Muite, has talked with considerable enthusiasm about the need for self-regulation. However, I beg to disagree with him. It is not possible for the media to self-regulate. It is also wrong for the Minister or the Government to regulate the media. What must regulate the media is an Act of Parliament developed with soul searching, objectivity and passed by this House. This is the best method of regulating the media and ensuring that the needs of society as well as the ones of those who invest in the media are taken care of and are balanced.

Mr. Temporary Deputy Speaker, Sir, we have a situation where we have very weak laws. If today you are scandalised by a newspaper just as Mr. Kipchumba was saying, it will take you a long time to be compensated. Also, you have no guarantee that you will actually be listened to in your lifetime. So, even as we deal with the issues of laws of libel and slander, let us put in place a piece of legislation that will ensure that the media sector grows. We would like to have a responsible media that will ensure our people do not fall victim to an irresponsible media.

Mr. Temporary Deputy Speaker, Sir, in essence, the media has played a very good role in terms of informing the public and educating them. They provide fantastic materials in terms of entertainment and, of course, providing space to advertise in order to oil the engine of economic growth. However, on the issue of entertainment, we have seen obscenities exposed to our children, irrespective of the fact that the media owners and programme managers---

(Ms. Ndung'u walked across the Chamber)

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Ndung'u! You have to make a decision if you are walking somewhere or just standing. You can still make your move, particularly on where you want to go. You may want to go out or sit somewhere, but you are on your feet while another hon. Member is on his feet.

Proceed, Mr. Syongo!

Mr. Syongo: Mr. Temporary Deputy Speaker, Sir, I was talking about the exposure of our children to obscenities by the media, particularly televisions and now Frequency Modulation (FM)

stations. We all know that in this country we have societies which have very sound cultures. We have a cultural heritage that has kept us going for many years. Therefore, the freedom of press cannot be a licence to destroy our cultural heritage and to expose our children to behaviour that will definitely destroy them as well as society.

I am convinced that even the high rate of violence and crime and the kind of crime that we are seeing, including rape and sexual offences, are largely attributed to the kind of exposure that our youth and children are subjected to by television as well as by the FM stations.

Mr. Temporary Deputy Speaker, Sir, we have a terrible case in the nearby country which is now a member of the East African Community (EAC), Rwanda, where the media was used to set one community against another all belonging to one society and using stereotypes. That country experienced unbelievable pain which will take years to heal. We also saw the head of that ugly side of the media beginning to show itself during the Referendum debate when certain communities were targeted deliberately, so as to destroy their image and leadership in order to simply win the referendum game. If we were not a mature and prayerful society, maybe, we would have gone into a civil war.

Mr. Temporary Deputy Speaker, Sir, I would like to suggest and to convince my colleagues that we must put in place a piece of legislation that will control the excesses of an irresponsible media. It is only a responsible media which will flourish and not the reckless ones which are too willing to set us on the warpath and to destroy our cultural heritage and really trash the youth that are the heritage of our country.

Mr. Temporary Deputy Speaker, Sir, so what mischief would one be trying to deal with in this particular Bill? I think one of them is that there should be minimal Government control of editorial policy as well as content. Secondly, we should deal with the possibility of using the media to scandalise and character-assassinate communities as well as individuals. Thirdly, we would like to control the proven capacity of the media to promote discontent and even hatred and animosity amongst communities leading to civil war and strife. Fourthly, we would like a situation where we can check on the likely and actual proven capacity of the media to promote moral decadence amongst our society which you now see even during the very early evenings when families would normally sit together and watch television. Parents with their children sit down to watch television. We all know in our society, many times we also have our mothers and mother-in-laws sitting next to each other and watching television. Today, it would be a big risk for you to sit together with your children and parents-in-law to watch television in this country in complete disregard to our cultural heritage.

Mr. Temporary Deputy Speaker, Sir, fifthly, we also should, through this Act, be able to control the possibility of monopoly of the media sector by a few investors or media owners. It is so important that there is a multiplicity of investors in this sector and that there is a multiplicity of media and fair competition, so that this old very powerful tool of communication and influence is not in the hands of a few individuals.

Mr. Temporary Deputy Speaker, Sir, much has been talked about the claim by the media saying that they are in pursuit of the truth. However, any responsible person knows that in any society and given situation, sometimes the cost of disclosing the truth is far much greater than the cost of non-disclosure. It takes a mature person little time to know that difference. If you look, for example, at the Iraq war going on now in the Middle East, not a single day will you ever see a dead American soldier shown on Cable News Network (CNN). Never a single day will you ever see a dead British soldier shown on British Broadcasting Corporation (BBC), and yet they die. You will never see them even on BBC. It is not that they do not have a free media, they do, but they will never show a peace-keeping soldier dead on the streets of Iraq, or anywhere else. Never!

Mr. Temporary Deputy Speaker, Sir, we had the September 11 bombing of the Trade

Centre in the USA. Which one of us here ever saw the body of a dead American by the side of the bombing site and yet that event was covered profusely by the Western media? They never showed it. But ourselves, in this country, we show horrible scenes to our children. Right now, I can tell you that amongst our youth, human life means nothing. It is because they are so used to seeing death that they do not really care about human life. No, wonder we have, for the very first time in our history, a situation where human beings are being beheaded by youths of our society. That is where they are getting it from. It is because the media and even ourselves, as leaders, we have let all systems loose. I would like to challenge our media, that is, media owners as well as journalists, for goodness sake, to be Kenyans and members of the society that has brought them up. They should be proud of a culture that has brought them up. They should not destroy other people's children. They should not destroy this society on which they depend by being irresponsible just for the sake of selling newspapers and increasing viewership of their television stations.

Mr. Temporary Deputy Speaker, Sir, with those remarks, I beg to support with the full understanding, as has been said before, that, indeed, the relevant Parliamentary Committee has actually done a considerable and very good work. I would like to support hon. Njoki Ndung'u that the proposed amendments should now be tabled so that we can share in them and inform our debate before we go to the Committee of the Whole House.

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

The Minister of State for Immigration and Registration of Persons (Mr. Konchella): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute on this very important Bill.

Mr. Temporary Deputy Speaker, Sir, we know that the Fourth Estate is one of the pillars of our economic development. As we work towards the Vision 2030, we must have a responsible Press and one which is accountable to the people of Kenya and understands that the development of this country is the development of each and every one of us.

The hon. Member who has just spoken before me alluded to what happened in Rwanda. I visited that country, and I saw what an irresponsible media can do to destroy society. Today, we are trying, through my own Ministry, to return the Rwandese back home. Some of them have been here for so long and they do not even know where to go because they have felt at home here in Kenya. They have felt at home here in Kenya because they have been taken care of. They have lived in peace and they are able to survive here. Indeed, when I spoke to them the other day when they were celebrating the Refugee Day, I told them that within the East African Community (EAC), we should actually not have any refugees because we are all East Africans now and that all our people should now work and live together wherever they want to. So, it means that, as Kenyans, we must have a law that will regulate and control the conduct of our media houses and journalists in conformity with the EAC even as we move towards developing the EAC.

Mr. Temporary Deputy Speaker, Sir, the other day, a number of journalists from a certain media house were sent home from Tanzania. In fact, one of the Kenyan media houses in Uganda was closed down for sometime. Why was it closed? They were closed because they were displaying the same arrogance and the same way journalists and the media do their work in Kenya. The way the Kenyan media works is not known anywhere in the world because they expose our weaknesses and ignorance. Of course, none of that is excusable, but surely we should protect our society. We should protect our people because we are a growing nation. Why are we saying that we are growing? If we are growing, we must grow together, learn together and educate each other. In the process of educating each other, we must then develop our nation and our people.

Mr. Temporary Deputy Speaker, Sir, what happened in Rwanda should never happen anywhere in the world. When you hear people talking about Mt. Kenya, what are they talking about? Is there anything more special about the people of Mt. Kenya? These are nationals of this

country who must be protected by law and respected by everybody. When people talk about the Luos, who are the Luos? They are the people of Kenya and we should be talking as a nation and State, and not as tribes. This is where we need a law to ensure that anybody, be they leaders or the media, who is trying to divide the people of Kenya through ethnicity, is punished by law. We are yet to see, in this Bill, the laws that will apply. I hope they will come in the form of regulations or amendments during the Committee Stage. I am happy to see that Clause 19 has actually been amended. It is about the Media Advisory Board. It states in part:-

"In the performance of its functions, the Board shall not be subject to the direction of or control of any persons or any authority."

Surely, what about if they advise that pornography be shown to our children? As we see now in our country, when there is a problem anywhere in the country, they expose and show everything. That does not happen anywhere in the world in any civilised society except in Kenya. Why is this happening? So, the issue of self-regulating of the media houses and owners, and I think they should all be here, to me, is something that we must address very carefully, as lawmakers, to ensure that we do not allow people, whose motive is to make profit, to control or dictate the direction of the media and to decide the way we are going to expose our problems. We must protect this country and we must protect the weak.

If you look at, for example, the problem of films--- One of the proposals is to classify films. What is sometimes shown to our children are actually things that should not be seen. This is because most of our youth are rebellious and they tend to do horrific acts. Why? It is because they are being shown things other people do and they adopt them because their minds are still young. It is the media that encourages these things. There are a lot of drugs in our schools. Why? It is because they are being reported in the media and everywhere. While I do not want to say that nothing should be reported, there should be responsibility and a way by which these things are reported. I believe that one of the issues that need to be addressed is, for example, if the media houses want to encourage responsibility within their editors, writers or correspondents within the districts, there must be a standard format of training of journalists and reporters within the whole Republic. This standard training should cover everybody so that by the time you are qualified to handle media matters, you have been trained and examined by a responsible council or authority to ensure that you are able to conform to the norms of your profession.

Mr. Temporary Deputy Speaker, Sir, I say this because a lot of young people are being employed to report not only for the media houses, but also for the gutter Press. So, you will find people just writing stories for the sake of it and making money. Sometimes you are even forced to look for these people to give them money so that they do not do it. I think it is very wrong for things like these to happen in a nation that is developing and where the truth and lies are the ones that are selling the media, or the material being pedalled around so that leaders are made to, more or less, try and survive by trying to please writers and journalists. I think that is wrong. We must bring a law that will protect the media and whoever else needs protection in this country, because we are all developing as one nation and one people.

Mr. Temporary Deputy Speaker, Sir, "self-regulating" is a new terminology which came up just the other day. After the Bill was published, and everybody rushed around, saying: "The media is going to die", the terminology "self-regulating" came up. We agree that self-regulation should be done within the law, and be based on certain parameters, so that, regardless of whether the media regulates itself or not, it will not display, or write, certain things that may lead to destruction of the society. What is the purpose of a nation, for instance?

The national interests of Kenya should be paramount to us and the media in whatever we do. The moral values of our society and the unity of the Kenyan nation should be the overriding factor in whatever we say or write. These are values which the Press should uphold, just as all

leaders should do. So, when we say that the media should be self-regulating, it should do so within certain values of the society that everybody must respect. The practice of publishing pictures of children who have been subjected to inhuman treatment - thank God, we now have the Children Act to protect children - or broadcasting clips of people when they riot everywhere, should be stopped.

Mr. Temporary Deputy Speaker, Sir, we have almost 100 Non- Governmental Organisations (NGOs) in Kenya, which show such pictures all over the world in the course of soliciting for money worldwide, purportedly, for protection of children and the weak in society. However, all the individuals behind these NGOs do is to receive money, put it into their personal bank accounts and send it back to their countries of origin. The media is encouraging corruption by splashing such pictures, which NGOs use to solicit money internationally. The personalities behind NGOs use such pictures to show the world that there are problems in Kenya, and that people are being killed thus collecting a lot of money, which they use to destabilise this country and its society.

So, after the enactment of this law, if one gains materially out of reports that are not true, one should be punished by law. These are some of the provisions we should include in this Bill, so that people who will take photographs of children and people who are dying and use them to earn money they do not account for, and come here to use that money for other purposes, can be punished by law. The Bill should provide for that, so that people do not profit out of our misery. I am yet to see the good development record of this Government being highlighted by the media. It is as if the media is non-existent when it comes to highlighting matters of development.

Mr. Temporary Deputy Speaker, Sir, leaders work so hard to develop their constituencies, but the media does not report such achievements, be it in a constituency of an hon. Member who is in the Government or one who is in the Opposition. Media people do not report development matters because it is not in the interests of their respective media houses to do so. Their interest is only in reporting destruction and problems, yet we know that we are doing a lot of good for this country. This country is developing. We are moving forward. So, can we have a media industry that will develop and move forward with the nation, so that Vision 2030 can be realised with the media being one of the pillars of the development of this country?

Mr. Temporary Deputy Speaker, Sir, another issue I would like to comment on is the fact that, as East Africans, we tend to forget our traditional values.

In Tanzania today, there are certain things you cannot say about the Head of State or the First Lady, because the society in that country has traditional values it upholds. There is respect you have to give to elders. However, in Kenya, we treat everybody equally, irrespective of whether one is a leader or an elder or a child. Why? Because we are losing our values. We are exposing ourselves to the West. We are adopting the worst values from the West.

Mr. Temporary Deputy Speaker, Sir, we want to tell our journalists that it is time for us to think again as a people and a nation, so that we report, not only in the print media but also broadcast on our television screens but also things that will add value to us as a society, but not to destroy us. We should not just ape what other people are doing.

Having said that, I would like to, once again, say that I support this Bill and request the Minister to ensure that we have regulations, which will ensure that the problems we have now, in terms of exposure of our children to bad influence and incitement by leaders, does not continue to happen because we want to have a society which will be cohesive and accountable to its own people.

Thank you.

Mr. G.G. Kariuki: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to also air my views on this Bill. This Bill ought not to have been here if the media was

willing to deal with the matter before we got into this situation. I understand that the Bill has been there for nearly ten years. It was first published in 1994. The Government must have been expecting the media to change its behaviour and adopt itself into good reporting and responsible journalism.

Mr. Temporary Deputy Speaker, Sir, the media is responsible, just like politicians are, for peace and stability in this country. There is no way you can single out the media as the one which causes problems in any nation. The media shares that responsibility with politicians, and especially with Members of Parliament, as well as with warlords, in any given state. Time has come for politicians and the media to accept their responsibility. We are seated here to regulate the behaviour and conduct of the media, but the media has no opportunity, as we have, to regulate the behaviour and conduct of Members of Parliament, and those of leaders of any given country. So, it is my view that until the media, and politicians, accept their responsibility in building the nation of a given state, we shall continue to be in this muddle.

The media is a very important tool, in the absence of law, for regulating the behaviour of politicians. That is why politicians do not fear being called "corrupt", but they fear appearing on the front pages of newspapers, being described as corrupt men and women. That is deterrence, which members of the public can also get from the media.

The media should not be condemned for all the evils that happen in a country, for example, in the case of Rwanda. It is not the media which throws the first stone. It is the politicians who do so. I feel sorry when we direct our ammunition to the media, without directing the same to the politicians. Until the time we will have responsible politicians, that is the time we will have responsible journalists.

Mr. Temporary Deputy Speaker, Sir, we are a developing country. An hon. Member, while contributing to this Bill, referred to Britain and the United States of America (USA). It is very difficult to compare Kenya with the United Kingdom or USA. In those countries, there are many opportunities for journalists to be employed. They behave responsibly because of their knowledge and talent. But in this country, the shortage of employment opportunities is a major problem. Journalists in this country have families just like we do. Therefore, they just follow what the editorial board wants. They write what they are directed to or expected of by the media groups. Unless our economy becomes stronger and advanced, our reporters will not be in a position to report responsibly. He or she will have no principles to apply. He or she will not be sure of getting another job when sacked. Because of lack of job opportunities, we cannot expect independent and responsible journalism.

Mr. Temporary Deputy Speaker, Sir, we have to give credit to our journalists for what they have done. It is not the law which has stopped the dangerous vice of corruption. Corruption levels have gone down by almost 30 per cent. The levels have gone down because the Press has woken up and said what the leadership of this country is doing. They have done a commendable job since Independence. My expectation of responsible journalism or media is to fight poor governance. Poor governance is not created by the media. It is created by the leadership and the politicians. Poor leadership is our greatest problem. That problem needs to be exposed in and out of Parliament, so that the wider public is educated against their leaders. For a long time, we have taken advantage of our people because of lack of exposure, information and knowledge about situations. We do what we want to do because we can tell the public there will be an election, and that election will be forced by politicians. The politicians will be elected again, no matter how bad they have been. We have taken advantage of the lack of awareness of our people. That is a very important issue. The media should hammer it very hard and explain about the human politicians.

Mr. Temporary Deputy Speaker, Sir, as I said, the media has given service to this nation by fighting corruption. I admit that, sometimes, they misreport issues. But do they have the

opportunity of knowing the truth? Are they given any opportunity to know the truth? If they have no opportunity to know the truth, they report gossip. That gossip will be taken as if the media is working against the nation. Time has come for the Minister for Information and Communications and hon. Members to avail themselves to the Press, and tell them what they think. But there is no way we can regulate human minds. We cannot regulate the Press to the extent that it will not make money. It is just in business like any other business! The media is looking for advertisements. They want to say what they think is sellable to the people. They are not there to run a business that is not making money. In fact, they have survived!

We should start thinking about having our own journalists. At one point, the Kenya Broadcasting Corporation (KBC) became a Government tool. It was not telling the people the truth! They used to air news about the chiefs, DOs, Ministers and so on. The public decided to forget that damn thing! That station was forgotten until very recently, when they tried to rejuvenate it. It is now growing again. The public will not entertain a media house which is just there for praising the Government, Ministers, hon. Members and others. The public wants to be told the other side of the story.

Mr. Temporary Deputy Speaker, Sir, there is no way newspapers can survive without reporting what they think is sellable to the people. The only problem that we have concerns the gutter Press, which is neither regulated nor registered by any organisation. They have defeated the Government. But there is nothing that can defeat the Government. Those papers have not been dealt with because some of us are shareholders in those little newspapers. That is why we cannot make a move.

No one can tell me that the police do not know where the gutter newspapers come from. No one can tell me that the Minister for Information and Communications does not know the owners of those papers. I need to be told the truth that, for goodness sake, the Government does not know the owners! I challenge the Minister to say that they do not know those people. In fact, I will fail to understand what they know!

On the issue of reporting scandals, it is up to the Press to be in a position to prove whatever they report. They have to be responsible. They must disclose the source of their information and inform the country responsibly that so and so has done "A", "B", "C" and "D". Let that be known as a fact.

In my view, no rational leader would want to muzzle the Press because no leadership can survive without the support of the Press. It has to inform the public what that leadership wants. It can only be done by the Press. Therefore, I do not agree with hon. Members who are saying that the Government is out to muzzle the Press or deny the Press the independence of reporting. I said that there was no need for this Bill if the Press really behaved the way it is expected to. For the last 10 to 15 years, the Press ought to have read the mind of the Government. We are lucky here because we may be told that we are a dictatorial kind of State. But I think there is no other free country in Africa today like Kenya, in terms of Press freedom. That freedom needs to be protected so that it is not abused by a few reckless reporters.

Mr. Temporary Deputy Speaker, Sir, in the case of the Rwanda genocide, for example, I said that the Press cannot be blamed for what happened. It is the politicians and the Press. Those are the people who caused the problem. The person who throws the first stone is always the politician, and not the Press. If we have to regulate the conduct of the media, we also have to start thinking about regulating the character and behaviour of politicians.

Mr. Temporary Deputy Speaker, Sir, the establishment of the Media Council and the Media Advisory Board is okay. There is no organisation without this kind of regulatory body. However, I think that if you look at the schedule of the Media Council and Advisory Board, you will find that it is very good for both sides; the Government and the Press. In fact, the Government is not, in any

way, trying to stop freedom of Press. There must be somewhere to take the disputes by either sides. Even an individual who is aggrieved needs to have an opportunity to air his or her views.

Mr. Temporary Deputy Speaker, Sir, as one of my friends argued, why would other professionals, like lawyers, have a body that regulates its conduct? Even without this piece of legislation, we expect the media to start working on how to harmonise their business. They must make sure it is a business like any other, without necessarily bragging that they can muzzle politicians. This is not the case. There should not be any political match between politicians and the Press. The public expects to hear the truth from both sides. The consumer will then feel satisfied with what is being said.

Mr. Temporary Deputy Speaker, Sir, I also support the accrediting of foreign media. All foreign media are dumped in this country. Even the crazy ones are brought into Kenya. I think---

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. G.G. Kariuki! Even the what?

Mr. G.G. Kariuki: My apology, Mr. Temporary Deputy Speaker, Sir. I talked about even the "crazy" ones.

Mr. Temporary Deputy Speaker, Sir, some of them may not appear normal when you look at them.

Mr. Temporary Deputy Speaker, Sir, I would like to conclude my contribution by calling for co-operation between the political leadership and the Press.

With those very few remarks, I beg to support.

Prof. Maathai: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to today's Motion.

Mr. Temporary Deputy Speaker, Sir, I would like to express satisfaction to a certain extent with our Press. When I recall sometime back, it was so difficult to have a free Press in this country. Newspapers, television and radio stations were controlled. It was so difficult to get a second opinion from any side. At this time, it is really a moment to be grateful for the road that we have walked to come to this far.

I appreciate the fact that we do not only have newspapers in foreign languages, but also in local languages. I remember this is a new opening in our country. There was a time when local radio and television stations were completely unknown in this country. Then came a time when we had radio stations opening up in local languages. I am saying this because, any country in the world that has moved forward, including those colonised and forced to speak in foreign languages, has recognised the need for people to speak in their own languages. In fact, in the Cable News Network (CNN), there is a saying that, "the world makes more sense when it speaks your language." This is used to advertise the use of Arabic Language. That statement always speaks to me because I know, for sure, that it is extremely important for a people to speak in their own language.

Mr. Temporary Deputy Speaker, Sir, it is quite possible for us to speak English Language or Kiswahili Language very well, but then we forget that majority of our people do not speak these foreign languages. For us, as a country, to develop it is very important to speak in our languages.

Mr. Temporary Deputy Speaker, Sir, when we have national days, I sometimes observe that the President has a statement either in Kiswahili Language or English Language. I want to thank the President because these days he usually has a speech that starts with Kiswahili and then English. It is an official statement translated into Kiswahili. In other words, the two speeches are exactly the same. We know in the past how the President would speak in English Language and then Kiswahili Language as if he was giving a completely different speech targeted to a non-serious population. Sometimes, it was completely different from what he read in English Language. That meant that he was speaking to two different people; the foreigners, who understood English and his own people who understood Kiswahili Language. The speech in Kiswahili Language was usually

light, and not serious. It never referred to the serious issues addressed in English Language.

Mr. Temporary Deputy Speaker, Sir, that is an extremely dangerous tendency. I am happy that it has now been rectified. When the President speaks, whether in Kiswahili or English language, the people of Kenya understand his speech. Even then, I know that at the local level, people do not understand either English or Kiswahili Language. I have seen people in my constituency, when the District Officer (DO) reads the speech, it is often in Kiswahili Language. I know, without any exaggeration, that at least 70 per cent of the people he or she is addressing do not understand Kiswahili Language well enough to understand the speech. Therefore, here we are, standing in front of our own people, speaking to them in a language they do not understand. Of course, out of respect, when the speech is over, we all clap, although we have not followed it. This is something that should be addressed. If we are surely and sincerely addressing our people, we ought to address them in a language they understand. If the speech is read in Nyeri, for example, it should be read in Kikuyu Language! If it is read in Nandi, it should be read in Kalenjin Language. If it is read in Luo land, it should be read in Dholuo Language. In that way, the people would understand what their President is saying.

The Assistant Minister for Health (Dr. Kibunguchy): On a point of order, Mr. Temporary Deputy Speaker, Sir. Sorry, I hate to interrupt Prof. Wangari Maathai. However, as she speaks, what disturbs me is that, is it in order for her to advocate that a speech read in Nyeri be read in Kikuyu Language and that in Kapsabet be read in Nandi Language? Is she saying we should post DOs and DCs who come from those areas?

The Temporary Deputy Speaker (Mr. Poghisio): Order! You have raised your point of order. I think if that is what she intended to say--- I cannot say it is out of order, but it will not be proper. But I do not think that is what she intended; that we post DOs and DCs from those communities. I do not know. If that is what she meant, then she can explain herself.

Prof. Maathai: Thank you, Mr. Temporary Deputy, Sir. All I am saying is that we do not have to follow a system that we sincerely know is not benefiting our people. If people do not understand what we are saying, what value is it that we continue to say it in a language they do not understand? If we want to continue to speak to ourselves, of course, we can continue to speak to ourselves---

The Temporary Deputy Speaker (Mr. Poghisio): I think Professor, your colleague there was asking whether that is what you meant, when you said that speeches delivered in Nyeri should be in the Kikuyu language! Of course, you need to know that Nyeri is not a Kikuyu territory. The people who live in Nyeri town are varied. There are Government officers and other people there. Are you going back to that? That is basically what he was asking. In Nandi and Kapsabet, by the way, it is not necessarily--- Kapsabet is not necessarily occupied by only Nandis.

Prof. Maathai: Mr. Temporary Deputy Speaker, Sir, I do understand the argument here. I know that what you are trying to say is that we are mixed everywhere. But the truth of the matter is, nevertheless--- The question I want to ask is: Do we really want to continue speaking to our people in languages that they do not understand? For the same reason, I know for sure, when we shall go looking for votes very soon---

I know when we go looking for votes, we will speak the language that the people understand. How come when we go to these people asking them for votes, for example, we speak to them in their languages. We speak to them in their languages because we want them to understand us. Why then do we speak to them in languages that they do not understand when we are giving them public policy? However, we deal with that issue---

The Assistant Minister for Gender, Sports, Culture and Social Services (Mr. Onyancha): On a point of information, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Poghisio): Professor, do you want to be informed?

Is that okay?

Prof. Maathai: He wants to inform me?

The Temporary Deputy Speaker (Mr. Poghisio): Yes!

Prof. Maathai: Yes! Maybe, he has something that I do not know.

The Assistant Minister for Gender, Sports, Culture and Social Services (Mr. Onyancha): Asante sana, Bw. Naibu Spika wa Muda. Nimemsikiliza Mheshimiwa akijaribu kubainisha kwamba kuna namna fulani ya uzalendo ambao tunaweza kupata tukitumia lugha zetu, kuliko kutumia Kiingereza. Ningemuomba aonyeshe kwa sababu hapa Bungeni, tuko na njia mbili ambazo tunaweza kuwakilisha fikra zetu. Ningemuomba aonyeshe mfano mwema kwa kutoa maoni yake kwa kuzugumza Kiswahili hapa.

Prof. Maathai: Mr. Temporary Deputy Speaker, Sir, except for the fact that if you start in English, you have to continue in English, I can easily switch! That is not a problem for me. I think what the Member is asking is different from what I was trying to explain.

The Temporary Deputy Speaker (Mr. Poghisio): I am not sure he was informing you of anything actually. So, you proceed.

Prof. Maathai: Thank you, Mr. Temporary Deputy Speaker, Sir. I hope that I am giving food for thought. There are many countries in this world that try to speak to their people in languages that they understand. But I do know that it is costly. I also know that it is, sometimes, very hard. We may not be able to do, for example, what South Africa did. It allowed languages other than Afrikaans and English to be spoken in their Parliaments. But I think, at least, for me, it is something that really always bothers me when I see us, especially at national occasions, speaking to our people in languages they do not understand---

The Temporary Deputy Speaker (Mr. Poghisio): Could you address the Media Bill now?

Prof. Maathai: Mr. Temporary Deputy Speaker, Sir, I want to agree with other hon. Members who have called for the responsibility of the Press. I want to say that it is, indeed, very important that the Press have a responsibility. Without responsibility, the freedom of the Press is, in a way, undermined. Freedom of the Press is a very important pillar of good governance. When the freedom of the Press--- As the Press developed, especially in the western World, it was a big struggle to allow it to speak, inform, advise and give ordinary people an opportunity to know what their leaders are doing. But I also think that it is very important for the Press to be sensitive when it reports. I particularly want to appeal to our Press to respect the dead. I have raised numerous points in this House of the fact that, we continue to kill people even though we only suspect them of being criminals. But even worse is the insensitive way in which our dead are exposed. Sometimes, they are treated with a lot of disrespect. I also find it very unacceptable that, when the dead are filmed and shown on television, our children are watching. I really think that we are missing something very important here. We should not expose such horrible things to our children. Exposing dead people because they have been shot by police almost looks like it has become an entertainment in this country.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Poghisio): Order! Order, Members! Consultations are becoming louder.

Proceed!

Prof. Maathai: Mr. Temporary Deputy Speaker, Sir, I want to appeal to the Press--- If the police want to expose the dead, the Press can, at least, act in a civilised form of governance and refuse to expose those bodies to our children at home. It is almost like we enjoy looking at those dead bodies. When you think that some of those people are truly innocent--- I do not believe that

you can always shoot--

Mr. Temporary Deputy Speaker, Sir, if you are only suspecting, most likely some of those people you are shooting are innocent people. Then, not only have you killed them even though they are innocent, but you exposed them in the most indecent way. I want to appeal to our Press to demonstrate a certain amount of sensitivity. I also want to repeat what I have said here before, that we are doing a lot of de-service to ourselves, when we continue killing innocent or, rather, suspected people in this country. I want to say that this morning, I was listening to reports about the terrorism in England. I learnt that eight of the suspected terrorists have been arrested. What they were about to do in that country was horrific. If those bombs had exploded, hundreds of people would have been killed. But I guess that, because Britain is a civilised society, none of those suspects have been killed. They are waiting to be tried in a court of law, so that it can be proved that they were, indeed, involved. I have always wondered why we prefer to silence those we suspect. If you silence them, where will you get the information? I hope that, one day, this country will find it completely unacceptable to kill people when we suspect them.

Mr. Temporary Deputy Speaker, Sir, I want to say that the Press has a responsibility to tell the public what is happening. I want to say that, as we pass this Bill, it is extremely important that we protect the Press. We cannot have good governance in our country without respecting the Press. However, at the same time, we also call upon the Press to be responsible and sensitive.

Mr. Temporary Deputy Speaker, Sir, with those few words, I beg to support.

The Minister for Justice and Constitutional Affairs (Ms. Karua): Thank you, Mr. Temporary Deputy Speaker, Sir. I rise in support of this very important Bill. It is to be remembered that this is a culmination of a long journey, searching for a statutory framework within which the Press can self-regulate.

I recall that in 1990, which is almost 18 years ago, the Press itself, working with other Non-Governmental organisations (NGOs), had come up with a Media Bill, 1990. That Media Bill, which never saw the light of the day, was substantially the same as this Bill before the House. I am, therefore, at a loss as to what the Press has been complaining about, by claiming that the introduction of this Bill is intended to muzzle them. Can the Press be honest and tell us what they intended when they, themselves, came up with the Media Bill, 1990? Was it not the same thing that the Government is proposing today, that there be self-regulation within a statutory framework?

Mr. Temporary Deputy Speaker, Sir, we have several professional societies, a majority of whom, I would say, regulate themselves but within a statutory framework. The very notable ones are the Law Society of Kenya (LSK), which has a disciplinary committee, pursuant to the Law Society of Kenya Act. We have the Architects Board of Kenya, the Medical Practitioners and Dentists Board, the Certified Public Accountants of Kenya and many other professional societies, all of which regulate themselves but within a statutory framework. Journalists are being called upon to regulate themselves, but within a statutory framework. It is not correct to claim that the Media Council of Kenya (MCK), as currently constituted, can be a mechanism for self-regulation of the Press. The MCK, working with the Press, were the ones responsible for the Bill that was drafted in 1990, the Media Bill, 1990, and the Code of Conduct for the Practice of Journalism in Kenya.

One would have expected that if it is possible to have self-regulation outside a statutory framework, and since this code has been existent since the early 1990s, the Press would have been able to streamline their operations with this code of conduct. However, the truth of the matter is that even after the setting up of the MCK, it has remained a toothless bulldog. Even when you write complaints to it - I have personally written several letters to the MCK - they are not even courteous enough to respond to correspondence. Then, how can we compel them to adhere to their own code? We need a law that compels them to act!

Mr. Temporary Deputy Speaker, Sir, if there was a statutory framework, some of us would have gone to court for the *writ of mandamus* to compel the MCK to act. One cannot do that in the absence of the law. It is not only all complaints that need to be taken to court. However, there are some complaints that the MCK can solve. That can only happen if there is a statutory framework. I am, therefore, saying that we need this Media Bill like yesterday.

Mr. Temporary Deputy Speaker, Sir, I have heard envoys accredited to our country commenting on this law. What they fail to tell us is that all progressive countries of the world regulate, or have self-regulation of their media, pursuant to statute. I want to cite the United States of America (USA), where we recall that recently a journalist was jailed for failing to disclose the sources of her information. That means that in that country, there is not only self-regulation but also regulation by statute. I am not proposing that we adopt that very harsh legislation. However, let us, at least, have a law by which we can compel the media to abide by their own set standards of ethics.

You will recall that in Great Britain, a year or two ago, when the British Broadcasting Corporation (BBC) reported on a manner not favourable to their country about Iraq, the BBC chief was forced to resign. True enough, the Board is independent, but the complainant was the Government. The course of action was the BBC chief being forced to relinquish his position. There is regulation of the media by statute in that country.

I need not give a list of countries where the media is regulated, but in East Africa I can cite Tanzania and Uganda. In the Scandinavia, I know of several countries also.

I am saying, let us approach the debate with honesty. Let us not pretend that by the Kenyan Parliament, or the Government tabling this Bill, it is an attempt to muzzle the media. On the contrary, it is a very spirited effort to improve the standards of our media. There must be freedom of the Press, but there must also be responsibility by those in the media. Freedom and responsibility go together. There is no absolute freedom! Where my freedom starts is where the beacons of your freedom are planted, and that is where it ends. That is why in our statutes books, we have laws even today, through which we can take the media to court. I must, upfront, say that I use those laws, as a complainant, because I am entitled to safeguard my rights. So, we must have a statutory framework that helps us to establish the boundaries of each others' freedoms. We uphold the freedom of the media, but so do we also uphold the rights of individuals.

Mr. Temporary Deputy Speaker, Sir, I am looking at the Third Schedule, which is attached to this Bill and it reproduces the Code of Conduct for the Practice of Journalism. This, as I have said, is a code purely authored by the MCK. When some in the media are complaining about the Bill, I do not know what part of it they are complaining about, because it is themselves who have drafted this code, which, sadly, a majority of them have not been following. The code obligates them to maintain accuracy and fairness. It means that their stories have to be unbiased. They should obtain comments from anyone who is mentioned in an unfavourable context, which they rarely do. Where then can an ordinary citizen go to complain that: "I am being cast in bad light, without being given a chance to explain"? The media is a great tool for upholding democratic principles, and for fighting against corruption. The media can also be a very destructive tool, if not used responsibly. We all know what happened in Rwanda. They can perpetuate a hate campaign against individuals, groups and sections of society. After all, personalities in the media are human beings like any other. So, they too, need to know their boundaries.

When I look at this Code, knowing that it has, so to say, been accepted by the media fraternity for almost a decade, yet they operate as though it does not exist, I am convinced - I am urging the House to be convinced - that we need self-regulation backed by statute. That is what we are here today, to legislate. It is okay for people in the media to complain and say that a certain section needs to be amended. It is right that they articulate their views as well. It is up to the hon.

Members of this House to look at and weigh the various issues raised by the various sections of the society and those that have been raised within the Floor of this House so that we can style this Bill in a manner that is acceptable to all Kenyans.

Mr. Temporary Deputy Speaker, Sir, I am looking at the preamble to this Bill which says in part; "An Act of Parliament to provide for the establishment of the Media Council of Kenya and the Media Advisory Board, for the conduct and discipline of journalists and the Media, for the self-regulation of the media and for connected purposes".

So, from the outset, the Bill is talking about self-regulation, and not regulation by the Government. It is self-regulation but anchored in a statute. It is also to ensure that there is discipline because those people who uphold standards of journalism are likely to be grouped together with quacks who do not uphold standards, if discipline is not being maintained. This Bill, in my view, will assist the journalists who operate above board and who adhere to the code, to be distinguished from quacks who do not follow the established guidelines.

I need not go clause by clause. However, I want to say that this Bill is long overdue. It is time we not only debated but moved to enact it so that those in the media and also those of us in society may, finally, have a tool by which the beacons of our freedoms may be easily identifiable.

The enactment of this law will also, in my view, reduce litigation in the courts. If the Media Council moves with speed to correct inaccuracies, then there will be no need to litigate in our courts. This Bill is going to improve the relationship between society and the media. It is going to promote better understanding. It is going to uphold the freedom of the Press, while respecting the rights of individuals. It is a well thought-out Bill but also, as I said, it is before the House to be strengthened and for us to take the genuine concerns that are expressed and which we find ought to be addressed.

With those many remarks I, strongly, beg to support.

Capt. Nakitare: Thank you, Mr. Temporary Deputy Speaker, Sir. The Media Bill, under the statutes of any country, protects both the society and the writers. As the saying goes; "Communication is power." Communication in this case is enhanced by the media. We discussed this issue and references were made. My question is: While the United States of America was under the British rule for many years, they had the freedom of speech. The first amendment to the laws of America expresses the freedom of speech. Therefore, there is no way that the media can be muzzled. The media controls itself within the framework of the country's laws.

Mr. Temporary Deputy Speaker, Sir, I do not see the reason why anyone can say that we should give autonomy to groups of people who are in business. We are very well aware that media houses mischievously misuse journalists. I emphasise this because journalists are underpaid. When journalists are underpaid, that is where the creation of *paparazzis* is; competition for news or collection of information to sell for money and soliciting for money from the information centres, who are the people, for the purpose of selling to the media houses in order that they can raise enough money for a living.

We have the Communications Commission of Kenya (CCK) and we look at the media, which is not a laughing matter. When you say freedom, it does not balance. When you look at the Information Technology and Communication (ICT) now, it baffles me as much as it baffles you for what comes out of the media. The Kenya Film Corporation (KFC) has been unable to filter good information for publicity in our country. The cyber cafes have come through computers and the messages we get through this communication of the internet is blasphemous to African society. It abuses us, it teaches us and it brainwashes us because somebody picks a topic and spreads it across the world for amusement, publicity or to raise money for a purpose. How many of these cyber houses have been controlled? There has been money laundering through the internet and most of these countries have been aware of particularly where this technology came from and they have

laws now to govern communication. It is not for the purpose of harassing or denying businesses from the media houses, but it is because of upholding sanity in the society!

I benefitted by attending the Media Bill workshop in Naivasha and we interrogated this issue. The Minister agrees that, yes, we have to clip some wings. Otherwise, if you leave the media houses under their own autonomy, it will be ridiculous. But again, will the Government fund the media houses? But we arrived at a situation where we said that if they are given autonomy, then media houses must be self-financing so that they do not have to underwrite information and employment that solicits money through corruption. There is a lot of highlighting of corruption by the media houses. But there is also a lot of corruption in journalism and there has to be a code of conduct that controls this. We have seen this when there is piracy in music. Music houses also came up and said: "We must have regulations that will bar people from misusing the trademark". That is under the Statutes!

It was a very interesting point when the Minister for Justice and Constitutional Affairs was emphasizing about statutory laws. This is a country that is governed by law. We are not in a jungle where everybody will want to wake up and be---

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Poghio): Hon. Member, you will continue for 25 minutes next time.

Hon. Members, it is now time to interrupt the Business of the House. This House is, therefore, adjourned until tomorrow, Wednesday, 4th July, 2007, at 9.00 a.m.

The House rose at 6.30 p.m.