

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 12th November, 2008

The House met at 2.30 p.m.

*[Mr. Deputy Speaker in the Chair]*

PRAYERS

### PAPER LAID

The following Paper was laid on the Table:-

Report of the Tenth Ordinary Session of the Pan African Parliament held from 27th October to 7th November, 2008, in Midrand, South Africa.

*(By Mr. Imanyara)*

### NOTICE OF MOTION

ADOPTION OF REPORT OF TENTH  
ORDINARY SESSION OF PAP

**Mr. Imanyara:** Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-  
THAT, this House adopts the Report of the Tenth Ordinary Session of the Pan African Parliament held from 27th October to 7th November, 2008, in Midrand, South Africa.

### QUESTION BY PRIVATE NOTICE

CANCELLATION OF KENYA AIRPORTS  
AUTHORITY ERP TENDER

**(Mr. Magerer)** to ask the Minister for Transport:

(a) Could the Minister table the documents relating to the Kenya Airports Authority tender for the supply, installation, implementation and commissioning of an integrated Enterprise Resource Planning (ERT) System?

(b) Is the Minister aware that the KAA Board has formed an oversight tender committee contrary to the Public Procurement and Disposal Act, which Board has altered parts of the above tender's requirements to suit a company associated with some of the Board members?

(c) Given the foregoing anomalies, could the Minister consider cancelling the tender and order re-tendering?

**Mr. Deputy Speaker:** Mr. Langat! Is he still on the official parliamentary overseas trip?

The last time that we deferred this Question he was on a trip. I will again defer the Question!

*(Question deferred)*

## ORAL ANSWERS TO QUESTIONS

*Question No.462*

FATE OF STUDENTS ADMITTED TO BACHELOR  
OF TECHNOLOGY AT KENYA  
POLYTECHNIC UNIVERSITY

**Mr. Lessonet** asked the Minister for Higher Education, Science and Technology:-

- (a) whether he is aware that students admitted to pursue Bachelor of Technology - Electrical Power Engineering option of the Kenya Polytechnic University in the Academic Year 2007/2008 are yet to report; and,
- (b) considering that students admitted to other public universities in the 2007/2008 Academic Year have already completed their First Year studies, when the students in "a" above will commence studies.

**The Assistant Minister for Higher Education, Science and Technology** (Mr. Kamama):

Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that students admitted to pursue Bachelor of Technology - Electrical Power Engineering option - of the Kenya Polytechnic University in the Academic Year 2007/2008 are yet to report.

(b) The students will commence their studies in the next semester, which will start in January, 2009. It is too late to get them admitted in the current University Calendar Semester, which is about to end. The University College has now got a Principal. The handing over and taking over process is currently going on.

I wish to inform the House that the Minister has appointed the council members, which she has authority to do. It is expected that the Council Chairman and the Vice-chairman will be appointed shortly.

**Mr. Lessonet:** Mr. Deputy Speaker, Sir, I wish to thank the Assistant Minister for that response. At least, it is better than the one which was given last week. I am wondering whether the Ministry has any plans to fast-track the students' studies, considering that they will be more than a year behind the students with whom they sat the Kenya Certificate of Secondary Education (KCSE) Examination. Does the Assistant Minister have any plan to fast-track their studies, so that they can catch up with their colleagues?

**Mr. Kamama:** Mr. Deputy Speaker, Sir, it is known that these students have stayed at home for quite sometime. This is highly regrettable. As has been requested by the hon. Member, we will get in touch with the Principal and the University Council to make sure that the studies are fast-tracked.

**Mr. Mbadi:** Mr. Deputy Speaker, Sir, I have listened to the Assistant Minister answering this Question, and I am tempted to ask him some questions. Before the Ministry decides to upgrade a college into a constituent college of a university, does it conduct proper feasibility study to know whether it will have personnel in place and formalise the university before it even admits students?

It is really terrible if students who were admitted in the 2007/2008 Academic Year are yet to report. The Assistant Minister has said that they will have to wait until January, 2009. We are talking about the lives of our children!

**Mr. Kamama:** Mr. Deputy Speaker, Sir, the feasibility study was done. As you all know, the Kenya Polytechnic is an old college. It has the necessary facilities. It only needs a bit of face-lift to conform to what the Ministry wants. We have done the feasibility study. I want to confirm that the University has the requisite facilities.

**Mr. Muturi:** Mr. Deputy Speaker, Sir, could the Assistant Minister confirm whether the same will happen to the Mombasa Polytechnic? The students who were admitted for the same academic year are still at home!

**Mr. Kamama:** Mr. Deputy Speaker, Sir, that is an entirely different Question. [**Mr. Kamama**]

However, I want to confirm that the same will be done to the Mombasa Polytechnic and Moi Polytechnic in Eldoret.

**Mr. Deputy Speaker:** Mr. Lessonet, do you still have the questions that you had last week in view of that exhaustive debate on this Question? We sent the Assistant Minister back to come here with a better answer. I think he has answered the Question adequately.

**Mr. Lessonet:** Mr. Deputy Speaker, Sir, the answer is adequate. I am okay with the response.

*Question No.413*

WITHHOLDING OF UNCLAIMED FINANCIAL  
ASSETS BY FINANCIAL INSTITUTIONS

**Mr. M'Mithiaru** asked the Minister for Finance:-

- (a) whether he is aware that financial institutions in Kenya hold billions of shillings in unclaimed financial assets;
- (b) whether he is further aware that widows, orphans and other dependants have suffered due to lack of a formal mechanism to reclaim the funds; and,
- (c) what action he is taking in order to resolve this matter.

*(Mr. Michuki searched for the  
written answer from his folder)*

**Mr. Deputy Speaker:** Hon. Minister, you have been caught unawares!

**The Minister for Environment and Mineral Resources** (Mr. Michuki): Mr. Deputy Speaker, Sir, I have the answer here!

**Mr. Deputy Speaker:** Indeed, proceed then!

**The Minister for Environment and Mineral Resources** (Mr. Michuki): Mr. Deputy Speaker, Sir, I am just trying to retrieve it.

**Mr. Deputy Speaker:** Would you rather we come back to it later or you are ready?

**The Minister for Environment and Mineral Resources** (Mr. Michuki): Mr. Deputy Speaker, Sir, I am ready! I have the answer with me. It is a matter of just getting it out.

*(Mr. Michuki continued to search  
for the written answer)*

**Mr. Deputy Speaker:** Hon. Minister, let me give you some more time. I will come back to the Question.

Next Question!

**The Minister for Environment and Mineral Resources** (Mr. Michuki): Mr. Deputy Speaker, Sir, I will get it.

**Mr. M'Mithiaru:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order, hon. Member! The Question will still be answered this afternoon! So, just relax!

*Question No.354*

CLOSURE OF MARAGWA  
NCPB DEPOT

**Mr. Mbau** asked the Minister for Agriculture:-

- (a) whether he is aware that despite the National Cereals and Produce Board (NCPB), Maragwa Depot, having been re-opened in 2007, the same has now been closed owing to failure by the Government to provide fertilizer and grains;
- (b) when the Minister will deploy staff and operationalize the facility, which is well-connected by both road and rail transport; and,
- (c) whether he could also confirm the recommended price charged by the Board for respective categories of cereals and other produce.

**The Assistant Minister for Agriculture** (Mr. Ndambuki): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that after being reactivated in 2007, the National Cereals and Produce Board, Maragwa Depot, has not closed down.

(b) My Ministry, through the NCPB, has posted a depot manager and a stores clerk to operationalize the facility.

(c) The recommended prices charged for cereals and other produce are as follows:-

Maize - Kshs1,750 per 90-kilogramme bag; beans - Kshs5,940 per 90-kilogramme bag; rice - Kshs110 per kilogramme; the CAN fertilizer - Kshs1,700 per 50-kilogramme bag and *wimbi* flour - Kshs65 per kilogramme. The services provided by the NCPB are drying of cereals at Kshs311.10 per tonne; cleaning of cereals at Kshs50 per 90-kilogramme bag; warehousing at Kshs31.25 per square foot and fumigation at Kshs87 per tonne.

**Mr. Mbau:** Mr. Deputy Speaker, Sir, I want to thank the Assistant Minister for that attempt. The depot was re-opened in 2007. Since then, it has been empty. When I raised this matter, the Ministry tried to make the depot a little active. Last week, the Ministry brought 100 bags of CAN fertilizer. I want to thank the Ministry for that. I am told that some bags of maize have been deposited there.

The Assistant Minister has said that the Ministry has posted a depot manager to the facility. I would appreciate if he could tell me the name of the manager, because I was there on Monday and I did not see him. This depot is managed as a small subsidiary from Sagana. Indeed, I would appreciate, very much, if the Assistant Minister could post a manager to the depot, so that it can become fully-fledged. The farmers from Murang'a North, Murang'a South and Thika Districts will have a functioning depot where they can buy cereals and fertilizers at the recommended prices. When will the Assistant Minister make the depot fully operational?

**Mr. Ndambuki:** Mr. Deputy Speaker, Sir, the depot is fully operational. We have a manager but I do not have his name. I will give the name to the hon. Member.

As we speak now, we have 5,000 bags of imported maize and over 100 bags of CAN. We will increase the amount of fertilizers once the bulk fertilizer which has been ordered for arrives.

All the people around there can be served from there.

**Mr. Imanyara:** Mr. Deputy Speaker, Sir, I appreciate that the Assistant Minister is doing everything possible to make sure that these depots are operational. Could he ensure that when they become operational, they do not serve one individual such as the sub-depot in Nithi which serves one person and takes all the products that are being sold at twice the price?

Could he ensure that when these depots are operational, they serve wananchi? They should not be used as storage facilities for one person the way it is happening in Meru.

**Mr. Ndambuki:** Mr. Deputy Speaker, Sir, we have 112 depots all over the country and we are increasing the number by another five. I want to assure the House that these depots are for all Kenyans. They do not belong to one individual. If there is a case like the one the hon. Member referred to, we would like to know about it.

**Prof. Kaloki:** Mr. Deputy Speaker, Sir, could the Assistant Minister clarify whether that is the policy of the Ministry pertaining to these depots? The local people from Kibwezi, and the entire region, are not allowed to access that particular depot. When you go to that depot, you are told that all the stock in that depot is supposed to serve other regions and not Kibwezi. Could the Assistant Minister clarify whether that is the Government policy or not?

**Mr. Ndambuki:** Mr. Deputy Speaker, Sir, all the depots can serve anybody in Kenya. Just because a depot is in Kibwezi does not mean that it belongs to Kibwezi people alone. Anybody can access it. At the moment, the sale of maize has been stopped for a while. That is why you will find that some of the depots are not active. We have fertilizers in almost every depot, especially where there is rain at the moment.

**Mr. Mbau:** Mr. Deputy Speaker, Sir, I really want to believe every word of the Assistant Minister. I am happy that before he answered this Question, he ensured that he talked about some items being at the depot. He has also clearly told this House that there is a manager for that depot. I would not want to come back to this House to ask the name of the manager.

Mr. Deputy Speaker, Sir, I just want the Assistant Minister to confirm that the manager who will now operate the depot will have his own separate budget for that depot, independent of the Sagana Depot, so that the people of these three districts that neighbour the Maragwa Town Depot can know that this depot has become fully operational and begin to utilise it immediately because it is a big depot.

**Mr. Ndambuki:** Mr. Deputy Speaker, Sir, I can confirm to the House, and to the hon. Member, that they now have a manager who is responsible. He will be on his own. We posted him there because people were travelling for long distances, from Sagana, to access the services. Before the end of this sitting, I will tell the hon. Member the name of the manager who has reported there.

**Mr. Deputy Speaker:** Very well. Next Question, Mr. Mureithi!

*Question No.224*

UPROOTING OF TEA BUSHES BY  
SMALL-SCALE FARMERS

**Mr. Deputy Speaker:** Mr. Mureithi is not here? The Question is dropped!

**The Assistant Minister for Agriculture** (Mr. Ndambuki): On a point of order, Mr. Deputy Speaker, Sir. This is the third time this Question is before the House. The Chair has dropped it but tomorrow it might come back to the House again. The Member is not here to ask it--

**Mr. Deputy Speaker:** Order, Mr. Assistant Minister! That bit does not fall within the mandate of the Executive or your office. It is the Chair that determines whether a Question should be reinstated or not. When it is reinstated, this is done for a very good reason, for example, when

the hon. Member is out on a very important activity; in most cases a parliamentary activity.

So, for now, it has been dropped until the hon. Member is able to explain his absence. If he has a good explanation, it will be reinstated.

*(Question dropped)*

*Question No.421*

#### DRYING UP OF NGACIUMA RIVER

**Mr. Ruteere** asked the Minister for Water and Irrigation:-

(a) whether she is aware that Ngaciuma River is drying up due to the interference in the catchment area by the many eucalyptus trees which have been planted; and,

(b) what action the Government is taking to uproot the trees and discourage planting of eucalyptus in water catchment areas.

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

(a) Yes, I am aware that Ngaciuma River is drying up. This is being caused by the following reasons:-

1. High water demand in the upper catchments.

2. Destruction of springs and wetlands that discharge water into the river.

3. Planting of exotic trees such as the eucalyptus, that are not water conservation friendly, along the river banks and spring sources.

(b) Ngaciuma catchment area has been identified in our main catchment management strategy as one of the hot spots in terms of water resources management problems. In order to address these water-related problems my Ministry, through the Tana Catchment Water Resources Management Authority (WRMA), has established Ngaciuma/Kinyaritha Water Resources Users Association, which is currently mobilizing stakeholders to take an active and inclusive participation in the management of Ngaciuma River catchment in order to replace eucalyptus trees with less water hungry tree species that will restore the flow of water in the river.

In addition, my Ministry has sources of additional funds to the tune of US\$68 million from the World Bank for the natural resources management. These funds will be used in all the identified hot spots like Ngaciuma catchment.

**Mr. Ruteere:** Mr. Deputy Speaker, Sir, I thank the Assistant Minister for a well-researched answer. Now that the areas upstream are being destroyed and this association has no legal powers to stop those who will not adhere to the resolutions of the association, what will the Assistant Minister do to empower the association so that it can carry out its mandate properly?

**Mr. Kiunjuri:** Mr. Deputy Speaker, Sir, this is an issue of concern to us. We have tried to sensitize the communities through all the FM radio stations that are listened to locally in the area. It is also an issue of concern whereby the population has decided to encroach on the river.

People have decided to farm along the river bank and also destroy the streams. The Water Users Association has powers because it is anchored on the Ministry of Water and Irrigation. We have the District Water Coordinators, and youth administration, who will enforce the laws.

If they cooperate with us, we could use them to give us information and we shall take the necessary action including arresting and prosecuting those people who are encroaching on the streams and those farming along the river banks.

**Mr. Konchella:** Mr. Deputy Speaker, Sir, the Assistant Minister would be guided by the fact that the water table is going down. There is no grass for livestock---

**Mr. Deputy Speaker:** Mr. Konchella, get close to the microphone! Even the Chair cannot hear you!

**Mr. Konchella:** Mr. Deputy Speaker, Sir, the Assistant Minister should know that the water table, particularly in semi-arid areas, is going down. Also, there is no grass for livestock because of planting of trees. Those who plant trees are the rich people and not the owners of the land, or ordinary Kenyans.

Could the Assistant Minister come up with a policy which will ensure that trees are only planted in areas which are sustainable? They should be planted where the water table is high. The Ministry should discourage the planting of these trees in places where they will affect the environment, particularly livestock.

**Mr. Kiunjuri:** Mr. Deputy Speaker, Sir, you are also aware that it is only the Ministry of Environment and Mineral Resources that has the power to plant trees in forest land and it is properly designated. The rest of the trees, like the eucalyptus, are planted by farmers in their own farms. Otherwise, nobody plants trees in land that does not belong to him. We encourage them not to plant them.

We should also remember that there are reasons why they are doing it. First of all, the KTDA is encouraging the planting of trees in Meru area because the people there are selling the firewood to the KTDA. Secondly, they also want the trees because they grow very fast. They are doing it for commercial purposes. They have forgotten that those trees consume so much water from the rivers and springs. We need to have a programme to educate farmers on the right kind of trees that they should plant, especially indigenous trees.

**Mr. Konchella:** On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to protect farmers who are rich knowing that the majority of Kenyans do not have the ability to plant those trees? I am asking him to bring up a law to prevent people from growing these trees because this cannot be regarded as their farm when it comes to environmental issues.

**Mr. Kiunjuri:** Mr. Deputy Speaker, Sir, Parliament is charged with the responsibility of making laws. My Ministry can move such an amendment to the law. We must look at so many issues. It is affecting every area. Are we getting complaints from all areas across the country? Can we force people to grow certain trees? No, but we can sensitise them on the importance of not growing those trees. That is the farthest we can go. If Parliament feels that we can legislate on this issue, then the hon. Member should move a Motion here and we will go through the process. We shall pass the Motion which will seek to amend the law accordingly.

**Mr. Twaha:** Mr. Deputy Speaker, Sir, is the Assistant Minister aware that some people use this water catchment issue and the environment as an excuse to eliminate business competition and prevent people from developing their properties? The other day we heard two Ministers argue about a leopard breeding ground in the Maasai Mara. It turned out that somebody did not want the other to build a competing hotel. Who has the power in this country to declare a place a water catchment area? Could the Assistant Minister assure this House that before a place is declared a water catchment area, rigorous scientific studies are carried out and the place is not declared a water catchment area just based on rumours?

**Mr. Kiunjuri:** Mr. Deputy Speaker, Sir, we have the powers to declare those areas water catchment areas. You also know that the riparian area is about 30 metres from the banks of a river but you will find people living in the riparian area. Those are the people who are encroaching on water catchment areas. You will agree with me that we cannot police all those areas effectively. It requires a lot of political goodwill and sensitization. That is what we are trying to do.

**Mr. Twaha:** On a point of order, Mr. Deputy Speaker, Sir. People have declared parts of Lamu Island water catchment areas and yet there are no rivers in Lamu. They have done this without carrying out any scientific study. This is based on rumours. There are no rivers flowing in

Lamu. What is the definition of a water catchment area? Could the Assistant Minister, please, enlighten us on that?

**Mr. Kiunjuri:** Mr. Deputy Speaker, Sir, a specific Question was asked. If there is something happening, the hon. Member could forward his Question to this House or to the Ministry. He has two alternatives. He could write his Questions down and send them to the Minister and he will be answered. He can also seek answers from the Ministry directly. I wish he chooses the latter alternative so that when he comes to the office, we will tell him what is going on in his area.

**Mr. Deputy Speaker:** We have given ample time to this Question.

**Mr. Thuo:** Mr. Deputy Speaker, Sir, in part "a", the Assistant Minister responded by giving various reasons why the river is drying up. He agreed with the statement that eucalyptus trees are causing the river to dry up. In view of the fact that eucalyptus trees have been planted extensively - particularly in Central Province - not just for commercial purposes, but generally, is the Assistant Minister being categorical that we should not plant these trees because they will cause the drying up of rivers? If that be the case, could he tell us what programme they have put in place to educate Kenyans to stop this practice that has been carried out for very many years?

**Mr. Kiunjuri:** Mr. Deputy Speaker, Sir, I said clearly that the eucalyptus trees will affect the catchment areas if they are planted near the rivers or springs. So, it does not mean that wherever eucalyptus trees are planted, then they are endangering the water sources. They are only a risk when they are planted along the catchment areas. We are sensitizing the people. I have said that we already have sensitization programmes running. We have radio announcements on eight radio stations. We have also been conducting seminars for the water users associations and calling on the communities to sensitize them. So, already action is being taken.

**Mr. Ruteere:** Mr. Deputy Speaker, Sir, the Assistant Minister has said that they have got Kshs68 million from the World Bank for the natural resources management. What criteria is being used in the disbursement of those funds so that natural resources are managed properly? When will this money be disbursed to affected areas, for example, the Ngaciuma River?

**Mr. Kiunjuri:** Mr. Deputy Speaker, Sir, everything is in place now. We just received the money and we shall have a timetable. The allocation for Ngaciuma and other areas will be released. Once we get the programme of work and how much has been allocated, I will inform him.

*Question No.280*

AMOUNT OF MONEY DISBURSED TO RV  
WATER SERVICES BOARD SINCE 2005

**Mr. Deputy Speaker:** Mr. Sirma not here? Is he out of the country on official parliamentary business? No, he is not! The Question is, therefore, dropped!

*(Question dropped)*

*Question No.282*

BREAKDOWN OF POLICE RECRUITMENT  
SINCE 2005

**Dr. Eseli** asked the Minister of State for Provincial Administration and Internal Security:-



(a) if he could give the district-by-district statistics of police officers recruited into the force since 2005; and,

(b) if he could also indicate, giving the names, reasons and home districts, of officers who have been dismissed from the force since 2005.

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security** (Mr. Ojode): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I hereby lay on the Table a list of names of officers recruited into the police force since the year 2005 to 2008, district-by-district.

(b) I hereby also lay on the Table a list showing names of officers who have been dismissed from the force since 2005 to 2008. Copies are attached.

*(Mr. Ojode laid the documents  
on the Table)*

Mr. Deputy Speaker, Sir, I could give a summary for the benefit of hon. Members. I will focus on the provinces. The recruitment of officers summary as per province since 2005 to 2008 is as follows:-

Central Province, 1,120; Coast Province, 1,222; Eastern Province, 1,940; Nairobi Province, 1,203; Nyanza Province, 1,549; North Eastern Province, 597; Rift Valley Province, 2,819; and, Western Province, 1,374. The total is 11,824 officers.

The dismissal of officers summary as per province since 2005 to 2008 is as follows:-

Central Province, 111; Coast Province, 41; Eastern Province, 137; Nyanza Province, 102; North Eastern Province, 16, Rift Valley Province, 246; and Western Province, 100. That gives us a total of 753 officers.

**Dr. Eseli:** Mr. Deputy Speaker, Sir, I thank the Assistant Minister for that very comprehensive answer. I have gone through the answer and it seems to imply an attrition rate of just under 10 per cent. That rate is too high for a disciplined service. Does it imply that our recruitment methods are flawed and we are recruiting the wrong people?

Is it that the administration of the police force is at fault and so we are ending up with such a high attrition rate? It is unexpected to have that sort of attrition rate in a disciplined service.

**Mr. Ojode:** Mr. Deputy Speaker, Sir, first of all, I would like the hon. Member to know that we are talking about the police force and it is, indeed, a disciplined force. We need integrity while dealing with cases of discipline. There are a number of cases for which we have received appeals for reinstatement. We are considering them on a case by case basis. We expect high level of discipline within the forces. The police use guns and we need them to uphold integrity.

**Mr. C. Kilonzo:** Mr. Deputy Speaker, Sir, the Assistant Minister used to sit with me on this side. I am sure he remembers one case in Makueni where a senior police officer was sacked through the influence of a Minister purely because he blocked the supporters of the Minister from invading private farms. The name of that officer is on this list. Was that sacking justified? What action is the Assistant Minister taking to ensure that, that officer is either compensated or reinstated?

**Mr. Ojode:** Mr. Deputy Speaker, Sir, we do not allow interference from outside while dealing with disciplinary cases. Those are some of the disciplinary cases that we are now looking into. In fact, they have appealed. Let us wait and see what that appeal comes up with.

**Dr. Khalwale:** Mr. Deputy Speaker, Sir, we must, as Parliament, sympathise with those 753 police officers who lost their jobs. We know that many of those officers leave the police force after realising that they have no future. They realise that they are not going to progress to a higher level in the police force. So, they opt to be indisciplined and leave. What steps is the Assistant

Minister taking to make sure that promotions in the police force are done purely on merit, and not because people are connected either financially or through lineage to promoting officers and panels?

**Mr. Ojode:** Mr. Deputy Speaker, Sir, all cases of promotions are purely done on merit. Any outside interference will not be entertained in the police force.

Thank you.

**Mr. Chepkitony:** Thank you very much, Mr. Deputy Speaker, Sir. The number of police recruits vary from district to district. What criteria does the Ministry use to determine how many are recruited in each district? What are you doing about the alleged corruption? It is alleged corruption but, in reality, there is corruption in the recruitment of police officers.

**Mr. Ojode:** Mr. Deputy Speaker, Sir, you heard the hon. Member talk about alleged corruption. It is an allegation! I cannot comment on an allegation! I want a situation where the hon. Member could come to me and say: "Inspector so-and-so has been given money in order to secure a recruitment." We have never had any corrupt officers while recruiting and, if there is any, I would challenge the hon. Member to inform me, so that I can take action straightaway.

**Mr. Deputy Speaker:** Dr. Eseli, the last supplementary question on this matter!

**Dr. Eseli:** Thank you, Mr. Deputy Speaker, Sir. The high attrition rate among police officers shows that part of the reason is corruption. In fact, it is an incident in 2007 that, probably, led to the high attrition rate. It involved some officers who were captured on camera siphoning fuel.

There were others who just happened to be in the vicinity, but they were also dismissed. They were not part of the cartel that was siphoning fuel. Lastly, there is a high crime rate in the country. Is the high crime rate in the country related to the number of dismissals from the police force? Are those who have been dismissed actually fuelling the high crime rate?

**Mr. Ojode:** Mr. Deputy Speaker, Sir, one, the high crime rate is as a result of poverty levels in the country. Secondly, those who were captured on television are some of the cases that we are reviewing. Once the board sits, we will review those cases and some of them will be absorbed back.

Thank you.

**Mr. Deputy Speaker:** Next Question by hon. ole Lankas.

*Question No.253*

CONGESTION IN PUBLIC  
PRIMARY SCHOOLS

**Mr. ole Lankas** asked the Minister for Education:-

- (a) whether he is aware that the introduction of free primary education has resulted in shortage of classrooms and congestion in public primary schools; and,
- (b) what he is doing to alleviate the problem.

**The Assistant Minister for Education** (Prof. Olweny): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware that the introduction of free primary education in January, 2003, resulted in shortage of classrooms and congestion in some public primary schools.

(b) The Ministry has developed a strategic plan for primary school infrastructure improvement covering the period from 2005 to 2010, to alleviate the problem. The plan is being implemented within the Kenya Education Sector Support Programme. The implementation of the strategic plan has been as follows:-

All the districts have been ranked on the basis of the primary school permanent classrooms and toilet gaps. Some 4,778 poorest schools in 42 districts have been selected by the Ministry in liaison with the District Education Boards (DEBs). Over the last three years, Kshs3,131,900,000 has been disbursed to those schools for rehabilitation and construction of classrooms, toilets, water tanks and purchase of new desks.

During the same period classrooms, toilets, water tanks and desks have been purchased in the public primary schools. More classrooms and toilets are currently under construction with the disbursement made during the Financial Year 2007/2008. It has been planned that the infrastructure improvement programme be expanded each year to cover more districts and target more poor schools.

Thank you, Mr. Deputy Speaker, Sir.

**Mr. ole Lankas:** Mr. Deputy Speaker, Sir, the Assistant Minister is reading an answer which I do not have. I was not provided with a written answer.

**Mr. Deputy Speaker:** You should have said that from the beginning. The rules are very clear. If you were not provided with a written answer, you are not in a position to proceed with this question properly. You should have risen on a point of order and said: "I have not been provided with a written answer." Consequently, the Chair would have ruled that the Assistant Minister goes back and comes back to this House to answer this Question when there is a written answer in the possession of the Questioner.

**Mr. ole Lankas:** Mr. Deputy Speaker, Sir, now that the Assistant Minister has accepted that there is a shortage of facilities such as classrooms, is it, therefore, true that the Government policy on free primary education in Kenya is a failure?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, that is very different Question from what he had asked. But, anyway, it is a success because more Kenyan children are accessing education more than ever before.

**Mr. Muturi:** Thank you, Mr. Deputy Speaker, Sir. May I congratulate the Ministry for giving funds for improvement of infrastructure. I want to make an observation that the rehabilitation of pit latrines is not the best on land conservation. Could I suggest to the Ministry that it links up with the relevant Ministries so that the compounds of our primary schools are not filled with pit latrines such that there is no more land for development?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, that will depend on the land that is availed by the community. The Ministry does not provide land. The land is provided by the communities who own the schools.

**Mr. Muturi:** On a point of order, Mr. Deputy Speaker, Sir. The Ministry is supposed to give guidelines on policy issues. If there is no more land to expand schools, it is the responsibility of the Ministry to give guidance. Could the Assistant Minister tell us what policy and guidance he is giving to our community? Land is not expanding!

**Mr. Deputy Speaker:** Is that a point of order, Mr. Mwangi?

Anyway, Mr. Pesa!

**Mr. Pesa:** Mr. Deputy Speaker, Sir, while I appreciate that the Ministry has plans to improve infrastructure in our public primary schools, I would rather ask the Ministry to consider altering its plans. We still have schools in this country where our children are learning under trees. I think that is one important area that the Ministry should consider. It should construct classes in schools where pupils learn under trees, before it gives any other infrastructure to schools.

**Prof. Olweny:** Mr. Deputy Speaker, Sir, may I tell the hon. Member that the amount that we have disbursed to the schools--- If only you could come to the Ministry and find out how much has been disbursed to your constituency, you would be surprised. But along with that, the Government has given CDF. There is also money in the local authorities. Those are devolved funds

which come along with the money from the Ministry of Education to improve schools. That money, if it is properly used, will do a lot. I am sure that many schools have done very well. We have enough money to construct other classrooms. It is unfortunate that, in your constituency, you have money from the Constituencies Development Fund (CDF) and yet, you still have children learning under trees. Please, help those pupils by putting up more classrooms using the CDF money.

**Mr. Deputy Speaker:** Hon. ole Lankas, ask your last supplementary question!

**Mr. ole Lankas:** Thank you, Mr. Deputy Speaker, Sir. Now that the Assistant Minister has accepted that there is a problem of over-enrolment in most of our primary schools, could he, therefore, confirm or deny that teaching in those schools is effective?

**Prof. Olweny:** Mr. Deputy Speaker, Sir, teaching is effective because our candidates are passing examinations!

**Mr. Deputy Speaker:** Next Question by hon. F.T. Nyammo!

*Question No.344*

REHABILITATION OF GIAKANJA-  
MUKARARA-IHITHE ROAD

**Mr. Nyammo** asked the Minister for Roads:-

(a) whether he is aware that Giakanja-Mukarara-Ihithe Road (D434), which leads to Gathuthi Tea Factory and other agricultural areas, is in a deplorable state; and

(b) whether he could state when the road, which joins Tetu and Kinangop at Ndunyu Njeru, will be tarmacked.

**The Assistant Minister for Roads** (Mr. Kinyanjui): Mr. Deputy Speaker, Sir, I beg to reply.

I am aware that the road from Giakanja-Mukarara-Ihithe (D434), which leads to Gathuthi Tea Factory and other agricultural areas, is not in a very good condition. Road D434 is located in Nyeri South District in Central Province. It is a loop road which leads to Giakanja at the junction of Road C70 through Mukarara and ends in Nyeri Town, covering a distance of 20 kilometres. It covers mainly a tea-growing area.

Road E580, which joins Tetu Constituency and Kinangop at Ndunyu Njeru, is the only access between Nyeri South and Nyandarua District. It is 50 kilometres long and runs between Tetu Township and Ndunyu Njeru at the junction with Road D389. The Ministry has appointed a consultant to carry out design work for the road. Once the design work is completed, the Ministry will source for funding to start the construction of the road.

Thank you, Mr. Deputy Speaker, Sir.

**Mr. Nyammo:** Mr. Deputy Speaker, Sir, while I appreciate the answer, the Assistant Minister has admitted that the road is in a bad state. Is it possible to set aside some maintenance funds before the road is actually tarmacked?

**Mr. Kinyanjui:** Mr. Deputy Speaker, Sir, the Ministry has set aside funds for the annual maintenance, but the Question had actually focused on the tarmacking. But we have funds available for making the road passable as we think of long-term solutions.

Thank you, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Are you satisfied with that answer, Mr. Nyammo, or you still want to ask the last question?

**Mr. Nyammo:** Yes, Mr. Deputy Speaker, Sir. I appreciate the answer.

Thank you, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Next Question, Mr. Waititu!

*Question No.285*

HYGIENIC MANAGEMENT OF  
DANDORA DUMPSITE

**Mr. Waititu** asked the Minister for Environment and Mineral Resources:-

- (a) whether he is aware of the deteriorating state of Dandora Dumpsite, which has caused so many respiratory diseases to residents of Dandora and neighbouring areas; and,
- (b) what action he is taking to ensure that the dump site is hygienically managed to ensure safety of area residents.

**The Assistant Minister for Environment and Mineral Resources** (Mr. Kajembe): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware of the deteriorating state of Dandora Dumpsite, which has caused so many respiratory diseases to residents of Dandora and the neighbouring areas, according to the United Nations Environment Programme (UNEP) Study Report on Environment Pollution Impact on Public Health.

(b) My Ministry is coordinating efforts of the Government and UN agencies led by UNEP to deal, in a comprehensive manner, with the issue of solid waste management and the Nairobi River Basin Programme of Action. The programme addresses, in a holistic approach, the entire environmental management issues of the Nairobi River Basin, including the Dandora Dumpsite. That programme of action has proposed eleven interventions to be undertaken to rehabilitate and restore nine rivers in Nairobi. The major intervention is the integrated solid waste management system, which includes the decommissioning of the Dandora Dumpsite and commissioning of the Ruai Sanitary Landfill. A dumpsite is also to be established at Kariobangi as a waste sorting out centre.

Thank you, Mr. Deputy Speaker, Sir.

**Mr. Waititu:** Mr. Deputy Speaker, Sir, the Dandora Dumpsite has been a health hazard for a long time. So many promises have been made before by different agencies. This time round, I would wish to know what specific steps the Assistant Minister is taking to help the sick people in Dandora due to the gases emitted from the dump site?

**Mr. Kajembe:** Yes, I have said in my reply that there is a rehabilitation programme going on. Once that is completed, then we are going to do the needful by taking the waste to Kariobangi for sorting and, again, to Ruai. That would be the final destination.

**Mr. Deputy Speaker:** Is that the hon. Member for Lari?

**Mr. Njuguna:** Yes, Mr. Deputy Speaker, Sir. Thank you, Mr. Deputy Speaker, Sir, for allowing me to ask one question.

From the reply by the Assistant Minister, it is very clear to us that, that dumping site is a threat to human health. What are the current measures the Assistant Minister is taking against those people who are taking the waste to the site, thus worsening the situation of the health of the people in that area?

**Mr. Kajembe:** Mr. Deputy Speaker, Sir, in the preamble to my answer, I have said that, once the rehabilitation of the Dandora Dump Site is completed, and the Kariobangi site has been constructed to the required standard, we will take all the waste to Kariobangi for sorting, and then to Ruai. So, the Dandora Dump Site will no longer be a health hazard to the people. I can tell you that we will change that place to be a recreational centre!

*(Laughter)*

**Mr. Deputy Speaker:** Hon. Waititu, please, let us have the last question on this issue!

**Mr. Waititu:** Mr. Deputy Speaker, Sir, first and foremost, there is no rehabilitation at the Dandora Dump Site. Again, just recently, the officials from the National Environment Management Authority (NEMA) came for an exercise at Kariobangi Estate and the residents there refused to allow the Ministry to bring the transfer station.

I really think that the Assistant Minister is not actually aware of what is happening as far as the issue of the Dandora Dump Site is concerned! He should consult again so that he can give a comprehensive answer. That is because what I actually want to know is: What is he doing to help those people who are sick at Dandora because of the gas emissions at the Dandora Dump Site?

**Mr. Chanzu:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order, hon. Chanzu! Let hon. Waititu finish his question. He is a first-timer in this Parliament! Give him the leverage and the leeway!

*(Applause)*

**Mr. Waititu:** Thank you, Mr. Deputy Speaker, Sir, for your protection!

Could the Assistant Minister tell us when he is commissioning the Ruai Sanitary Site and when he is de-commissioning the Dandora Dumpsite?

**Mr. Deputy Speaker:** Mr. Assistant Minister, when are you commissioning one and de-commissioning the other; specifics!

**Mr. Kajembe:** Mr. Deputy Speaker, Sir, the commissioning of this programme will be done---

**Mr. Chanzu:** On a point of information, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** What is your point of information? You chose to assist the Assistant Minister, yet you are a Backbencher! You are not from the Government, but proceed!

**Mr. Chanzu:** Mr. Deputy Speaker, Sir, I would like the Questioner to declare his interest in this matter, because he was the Deputy Mayor in charge of---

**Mr. Deputy Speaker:** Order, Mr. Chanzu! That is not a point of information! That is a point of order and you have lost it!

Proceed, Mr. Assistant Minister, to answer the question.

**Mr. Kajembe:** Mr. Deputy Speaker, Sir, I have said that the programme has been discussed and technical officers are on site. Within the next 30 days, we will do the needful and possibly commission it.

**Mr. Deputy Speaker:** Give an undertaking to the House, because it touches on the health of Kenyans; it is not a laughing matter!

**Mr. Kajembe:** Mr. Deputy Speaker, Sir, thank you very much. This is information I gathered from my technical officers. Let me be very elaborate. We would have completed this programme, but we did not get political goodwill from leaders of that area. So, I am happy now that the hon. Member is cooperating. If he does so, then this programme will be completed the soonest possible. We will commission it after 30 days.

**Mr. Deputy Speaker:** Fair enough!

*Question No.325*

NUMBER OF KENYANS  
IN THE DIASPORA

**Mr. Kaino** asked the Minister for Foreign Affairs:-

(a) whether he could table a list of Kenyans living in foreign countries as refugees and indicate their respective host countries and the reasons why each of them fled the country; and,

(b) what steps he has taken to facilitate the return of those Kenyans.

**The Assistant Minister for Foreign Affairs** (Mr. Onyonka): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The United Nations High Commissioner for Refugees (UNHCR) is the custodian of all information relating to the number of refugees worldwide. The UNHCR estimates that the refugee population in most countries is based on statistics which are usually received from host governments, data relating to refugee arrivals and recognition of asylum seekers.

**[The Assistant Minister for Foreign Affairs]**

According to records available to the UNHCR, which is located in Nairobi, 10,132 Kenyans were living in foreign countries as refugees as at 31st December, 2007. The number of refugees and their respective host countries is listed as follows:-

<b>Country of Asylum</b>	<b>Number of Kenyans</b>
Ethiopia	2,644
United States	1,900
United Kingdom	1,580
Canada	760
Germany	284
Ireland	105
Australia	75
Uganda	2,640
Sweden	39
South Africa	32
Netherlands	25
Switzerland	23
France	16
Norway	14
Other Countries	30
<b>Total</b>	<b>10,132</b>

For security reasons, the UNHCR neither provides the names of the refugees nor the reasons why they fled the country. In addition, for purposes of confidentiality, which is internationally accepted, asylum countries with less than ten Kenyan refugees are referred to as "other countries". Other countries include Austria, Belgium, Botswana, Central African Republic, Denmark, Greece, Hungary, Iceland, Italy, Malawi, Mexico, Poland, the Republic of Korea, Spain, Swaziland, Syrian Arab Republic and Trinidad and Tobago.

(b) The Ministry of Foreign Affairs has no direct responsibility for the return of Kenyans living in foreign countries as refugees. It, however, works closely with the National Refugee Secretariat, which is under the Ministry of State for Immigration and Registration of Persons, with host governments and with the UNHCR. The three parties then form a tripartite committee which

facilitates the return of Kenyans living in foreign countries as refugees.

The UNHCR enters into a process of discussion and negotiation with states concerning voluntary repatriation operations. It is important to note that under the UNHCR Convention, the return of refugees to their home countries should be voluntary and no coercion should be used whatsoever.

**Mr. Kaino:** Mr. Deputy Speaker, Sir, let me thank the Assistant Minister for a well researched answer. He has researched properly, and has come with a good answer. However, my concern in this Question is that home is home. East or west, even south or north is not home!

Most of the Kenyans in Ethiopia, Canada and the USA went to school; they are professionals. There are Kenyans who are doctors, nurses or engineers, yet here we lack such manpower. Those people fled to those countries because of very simple reasons.

The only thing I want to ask the Assistant Minister is why he said that he is not responsible for coming back of Kenyans; so, should we leave it entirely to the UNHCR to see that those Kenyans, who are outside and suffering, including children, mothers and wives--- They are suffering and want to come home, but cannot do so because there is no facilitation. Is the Assistant Minister in order to say that he has no responsibility and leaves the matter to the UNHCR?

**Mr. Onyonka:** Mr. Deputy Speaker, Sir, to be honest with the hon. Member, we are a signatory to the UNHCR Convention, which means that we cannot, at any one time, force anybody, who may have declared himself a refugee, from any country to come back to this country. We believe that Kenya is a peaceful country, and that anybody who may wish to come back home is welcome. We always welcome them back. The only small addition I want to make is that Uganda still holds a number of Kenyans who fled the country as a result of the post-election violence. As a result of that, during the peak of the violence, the number rose to about 12,000. But, as a result of the changes and after the negotiations on the Grand Coalition, things, of course as you are aware, improved and the number has declined to only 1,800, and we are still persuading them to come back home. I think those Kenyans who may want to come back home are free to do so.

Thank you.

**Mr. Wamalwa:** Mr. Deputy Speaker, Sir, I have a number of my constituents who crossed over to Uganda after the clashes. Could the Assistant Minister tell the House what co-ordination is there between his Ministry and the Ministry of State for Special Programmes since the resettlement of Internally Displaced Persons (IDPs) is at an advanced stage? Monies have already been paid out. Could he further inform the House what co-ordination has been put in place to ensure that the Kenyans who are outside this country also get their share of that money and come back home to settle?

**Mr. Onyonka:** Mr. Deputy Speaker, Sir, as I said earlier and without sounding repetitive, what my Ministry has done in conjunction with the Ministry of State for Special Programmes is that we have been persuading and encouraging many of the Kenyans who have been residing in Uganda by giving them the token fee which was agreed of between Kshs10,000 and Kshs20,000 and making sure that there is peace in their farms which they were living in before they fled to Uganda.

As a result, I can confirm to you that as we are talking, only 1,800 IDPs still remain in Uganda. They should be coming home as soon as possible. If the hon. Member would like to be a little bit patient, I believe that in due course, we should be able to confirm that all the Kenyans who were displaced have come back into the country.

**Mr. Mututho:** Mr. Deputy Speaker, Sir, most of these refugees left because of fighting for multi-party democracy. Now that we have a Grand Coalition Government and even better still and more enticing that we are the first country that President-elect Obama has decided to call and to



acknowledge the good relationship with this country, could the Assistant Minister issue a circular through the media or any other means asking Kenyans who are abroad that *Mwakenya* does not exist any more and they should all come back now and help us to develop this country?

**Mr. Onyonka:** Mr. Deputy Speaker, Sir, I believe that is a wonderful idea and I shall consult and react to it immediately.

**Mr. Kaino:** Mr. Deputy Speaker, Sir, the refugees from Marsabit are in Ethiopia while the others are in Uganda. The Assistant Minister said that he has persuaded some IDPs in Uganda to come back. At the same time, he said that there is no persuasion for them to come back.

Could the Assistant Minister inform the House what plans his Ministry has made to make sure that those who have come back from Uganda are actually given the same money? Secondly, what arrangements has he made using the same persuasion to those ones in the United Kingdom (UK) and the United States of America (USA) because those are the top brains that we really want in this country?

**Mr. Onyonka:** Mr. Deputy Speaker, Sir, the large number of refugees who fled from the Marsabit area to Ethiopia did so because there was a problem of the Turbi Massacre of 2005. Since then, the conditions have improved and as the hon. Member has just said, I believe that the Ministry of State for Special Programmes should be coming up with an option of encouraging them to come back home. I believe the country is much more peaceful now and they will be welcomed. To a large extent, we believe that this will be good for the country and them.

**Mr. Deputy Speaker:** Next Question by Mr. M'Mithiaru!

*Question No.413*

WITHHOLDING OF UNCLAIMED FINANCIAL  
ASSETS BY FINANCIAL INSTITUTIONS

**Mr. M'Mithiaru** asked the Minister for Finance:-

- (a) whether he is aware that financial institutions in Kenya hold billions of shillings in unclaimed financial assets;
- (b) whether he is further aware that widows, orphans and other dependants have suffered due to lack of a formal mechanism to reclaim the funds; and,
- (c) what action he is taking in order to resolve the matter.

**The Minister for Environment and Mineral Resources** (Mr. Michuki): Mr. Deputy Speaker, Sir, before I proceed with answering this Question, I want to seek your indulgence on how to handle it because this information has come out of the Budget Statement by the Minister for Finance. So, if I am going to be asked whether I am aware, surely, it should be taken into account that I am the originator of the information. So, how do we proceed?

*(Laughter)*

**Mr. M'Mithiaru:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order, Mr. M'Mithiaru! Yes, indeed, Mr. Minister, you are aware and you are the originator. So, proceed now and answer parts "b" and "c" of the Question!

**The Minister for Environment and Mineral Resources** (Mr. Michuki): Mr. Deputy Speaker, Sir, on behalf of the Ministry of Finance, I beg to reply.

(b) I think I know that widows, orphans and dependants may have suffered and it was because of this. As stated in the Budget Speech, a task force was set up to take all the details in which we have ascertained of these unclaimed assets and there are about Kshs38 billion. We are

looking at this report in order to work out ways and means of how to deal with it so that the dependants who might be alive will benefit in accordance with the original intention.

**Mr. M'Mithiaru:** Mr. Deputy Speaker, Sir, first, I would wish the Minister to know that whereas there was mention of this in the Budget Speech, what the Minister for Finance said is that he was going to bring an amendment to the law to provide for balances which are in the bank to be claimed by owners when they resurface.

Could the Minister bring some mechanisms on how the holders of those unclaimed refunds could be able to reach out to the true owners because they are not speaking? They are using this money and the true owners are not aware at all. So, mine was for the Minister to bring the mechanisms on how the true owners could know this and the Minister has not come up with that. Secondly, we are in the know of the Kshs38 billion; which financial institutions can we trace these funds to? It is very simple.

**Mr. Michuki:** Mr. Deputy Speaker, Sir, Kshs38 billion is not peanuts. The task force was set up in order to come up with proper recommendations which the Treasury will reconsider. We must remember that we have to decide what happens even to the money whose owners cannot be traced. We have to consider about people who have died and whether some of the money should go to charity. All these issues require very sober examination. That is what is being done now. We will come to this House for the necessary legislation where it is found necessary when the case can be put without further doubt about it.

**Mr. M'Mithiaru:** Mr. Deputy Speaker, Sir, if I know that my balances are in a particular bank, I do not need any law or amendments to go and claim it because I will just walk in there and claim the money. So, the question about the law is not the issue. The issue is: What mechanisms is he going to put in place to unite these unclaimed funds with the true owners because they actually do not know? However, that aside---

**Mr. Deputy Speaker:** Mr. M'Mithiaru, the Minister has told you that a task force has been set up to do this. So, deal with the mechanism and the amount of Kshs38 billion as the Minister has put it.

**Mr. M'Mithiaru:** Mr. Deputy Speaker, Sir, I have no quarrel with that. If the Minister can agree with me, there is a decadence of our regulatory authorities in the financial system. The Central Bank is supposed to track down that money. There are other regulators like the Capital Markets Authority (CMA) and the Retirement Benefits Authority (RBA).

Mr. Deputy Speaker, Sir, so, since he did not say that those institutions are toothless and unable so that there is now a task force to prove that - things that are just in black and white - could he agree then that there is a decadence and that our regulatory authorities are not working?

**Mr. Michuki:** Mr. Deputy Speaker, Sir, this Question is about assets. Assets are not necessarily in money form. Some of those assets will be in shares. Some of those assets will be in deposits, with their terms of deposits which continue to apply. All these issues must be ensured. The mechanism will be there, but where the hon. Member knows which fund is holding what for him, then the answer lies in his going straight there and collecting it.

*(Laughter)*

**Mr. Chanzu:** On a point of order, Mr. Deputy Speaker, Sir. I rise to seek guidance from the Chair---

**Mr. Deputy Speaker:** Order, Mr. Chanzu! This Question has not been disposed of. We are still on the Question itself.

Mr. Konchella!

**Mr. Konchella:** Thank you, Mr. Deputy Speaker, Sir. Could I---

**Mr. M'Mithiaru:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** What is it?

**Mr. M'Mithiaru:** Mr. Deputy Speaker, Sir, I am not aware whether we have exited my Question.

**Mr. Deputy Speaker:** Your Question is still on. Mr. Konchella is contribution to your Question.

Proceed, Mr. Konchella.

**Mr. Konchella:** Mr. Deputy Speaker, Sir, since there are Kenyans who are waiting for that mechanism to claim their assets, as a matter of procedure, could the committee issue direction, so that Kenyans can apply for their funds to be released? There are widows, orphans and other people who are suffering and yet, their assets have been tied up in financial institutions. Maybe, the head of the family is not there. So, let us have that mechanism in place so that one can know where to forward the application for immediate solution.

**Mr. Deputy Speaker:** If you know where your financial assets are, and you are a claimant, then nobody stops you. You walk to the bank and collect it. That is, by and large, in respect of people who have died. The answer given by the Minister is very clear.

The only thing, Mr. M'Mithiaru, that I would probably help you is for the Minister to say when the task force will complete its work. Period!

**Mr. Michuki:** Mr. Deputy Speaker, Sir, you are quite right. In issues of this nature, there are temptations to even seek solutions where they do not exist.

**Mr. C. Kilonzo:** Mr. Deputy Speaker, Sir, this Question is purely dealing with financial institutions. But there are other Government institutions like the National Social Security Fund (NSSF), which is holding millions of shillings of people who have died. The deceased person's families have not been able to follow up. Could the Minister consider including NSSF amongst the financial institutions when that task force will commence its work?

**Mr. Michuki:** Mr. Deputy Speaker, Sir, that is an entirely different question, given that the NSSF is already established by law. It has its own regulations as to how it deals with monies that are not claimed. So, what we are discussing here, arising from the Question, is not similar to NSSF's problems.

**Mr. Deputy Speaker:** Hon. Members, we have disposed of that Question.

### POINTS OF ORDER

#### REQUEST TO THE CHAIR FOR RULING ON JUDICIAL REVIEW PETITION: ECK CHAIRMAN VERSUS ATTORNEY-GENERAL

**Mr. Olago:** Mr. Deputy Speaker, Sir, I rise on a point of order to raise a matter of very great concern, not just to this House but, I believe, to the entire Republic of Kenya - a matter which touches on the supremacy of Parliament. I wish to seek the Speaker's direction and ruling. I wish to lay on the table, copies of pleadings and ruling in Judicial Review---

*(Mr. M'Mithiaru stood up  
in his place)*

**Mr. Deputy Speaker:** Mr. Olago is on a point of order, Mr. M'Mithiaru!

**Mr. M'Mithiaru:** Mr. Deputy Speaker, Sir, you disposed of my Question without giving

me a chance to make my last comment!

**Mr. Deputy Speaker:** Mr. M'Mithiaru, you must admit that the Chair gave you much more than it normally does, for you to ask supplementary questions that would essentially give you a way forward. You chose not to do so and, finally, you did not stand. If you do not stand, you do not catch the eye of the Chair. Whereas I appreciate and feel very much for the fact that the Question raises a very important issue in this country, and which involves billions of shillings worth of financial assets belonging to Kenyans being held by financial institutions--- As you have put it, that money might have been used by the financial institutions to make their own profits. But, nonetheless, you have got to ask the right questions in order for the Chair to give directives for the right answers to come from the Minister. If you do not do that, the Chair cannot do your work for you. Under the circumstances, we have disposed of that Question. We are now on another issue. Should you wish to re-visit that Question, the provisions are in the Standing Orders. With further consultations, you will get help.

Proceed, Mr. Olago!

**Mr. Olago:** Thank you, Mr. Deputy Speaker, Sir. As I was saying, I am rising to raise a matter of very great concern, not just to this House, but to the entire Republic of Kenya; a matter that touches on the supremacy of Parliament. I wish to seek your direction and advice. In so doing, I wish to lay before the House, copies of pleadings and rulings in Nairobi High Court, Judicial Review Petition No.689 of 2008 in the matter of Samuel Mutua Kivuitu, the ECK Chairman and 21 others, versus the Hon. Attorney-General.

The ruling that I have just referred to contravenes Section 30 of our Constitution. With your permission, I wish to read, quickly, Section 30 of the Constitution of Kenya. It reads:-

"Legislative power of the Republic shall vest in Parliament of the Republic of Kenya."

Yesterday, the High Court issued an order, under a certificate of urgency, in the terms that follow:-

"A conservatory order be issued to restrain the Government of Kenya from taking or commencing any executive or legislative action to process to disband or abolish the Electoral Commission of Kenya and/or to remove its members from office, pending the hearing and determination of this application."

Mr. Deputy Speaker, Sir, that ruling by the High Court offends the Constitution and provides an avenue by which separation of powers in this Republic, that is the Judiciary, the Executive and the Legislature, can open chaos. This order amounts to subjugation of Parliament to the Judiciary.

*(Applause)*

It is a direct erosion of the powers and supremacy of this Parliament. The Judiciary has the responsibility to adjudicate on the legality of a legislation that Parliament may enact. But the Judiciary cannot stop debate in this House.

The Government Proceedings Act, Chapter 40, specifically outlaws orders of injunction against the Government. I also wish to refer to the National Assembly Powers and Privileges Act, Chapter 6. Section 12 of that Act specifically says:-

"No proceedings or decisions of the National Assembly shall be questioned in any court."

The National Assembly Powers and Privileges Act is an Act of Parliament to declare and define the powers, privileges and the immunity of the National Assembly, so that we can secure freedom of speech here in this House.

Mr. Deputy Speaker, Sir, in view of this very grave derogation of the Constitution - the

suppression of powers by the Judiciary, I wish to seek your direction and ruling.

That is all, Mr. Deputy Speaker, Sir.

**Mr. Imanyara:** Mr. Deputy Speaker, Sir, I wish to join my friend in raising this very important constitutional issue. Indeed, I am both an officer of the Court and a Member of this House. All public institutions, from the President, Judges of the High Court, Members of Parliament and Ministers swear an oath to defend and protect the Constitution.

*(Applause)*

Mr. Deputy Speaker, Sir, in fact, the power of the High Court to give any order comes directly from the Constitution. The Constitution is enacted by this House. In addition to what the hon. Member has said, the Constitution specifically says that the High Court shall have such powers as may be conferred upon it by the Constitution or any other law. What we saw yesterday is not an exercise of Judicial function but the arrogance of power by one branch of the High Court. Part of this reason is because this Constitutional Division of the High Court, which is unlawful in the first place, has overstayed. It is headed by the same judge who has headed it since it was set up.

*(Applause)*

Mr. Deputy Speaker, Sir, unless this House issues directives to the Judiciary not to issue orders in vain, we are going to erode the rule of law that is cherished. We shall create a situation of total anarchy. In supporting the hon. Member, I request that pending the decision on your ruling, this House issues direction that this particular division of the High Court be immediately dissolved and the Judicial functions be exercised by any other judge excluding the current one.

*(Applause)*

**Mr. Wamalwa:** Mr. Deputy Speaker, Sir, I also rise to support the very important issue raised by my learned friend, Mr. Olago. This country has since its inception, embraced the doctrine of separation of powers. It is the division of governmental authority into the three separate departments of the Government; the Legislature, the Judiciary and the Executive.

Mr. Deputy Speaker, Sir, this House has been very careful in observing that principle. Indeed, in the course of the proceedings during this session, an issue came up about the National Social Security Fund (NSSF). The Chair gave directions that because the matter was pending in court, debate was not allowed. A matter came up relating to a third mobile phone operator in this country and it is in court.

This House was very clear that because the matter was pending before court, debate was not allowed. Indeed, an hon. Member of this House asked the Chair to direct that in the meantime, the operative be injected. Mr. Deputy Speaker was very clear in his ruling. He said that it is not for this House to issue injunctions. That is the preserve of the High Court. So, the matter should go there.

Mr. Deputy Speaker, Sir, for another arm of the Government to attempt to actually give orders to prohibit this House from executing its constitutional duty of legislating is a very serious issue that must be addressed seriously. A leading authority in jurisprudence, Mr. George Whitecross Patterson, in his book in Jurisprudence, sets out the constitutional basis of each arm of the Government. He says that it is the work of Parliament to legislate, the Executive to execute and the Judiciary to construe the law. The three arms must be separate.

*(Applause)*

**Mr. Deputy Speaker:** Order, hon. Members! The Chair recognises the gravity of this matter. The Chair is going to give a ruling on the same and a direction on Tuesday, next week. Next, let us hear the Member for Kamukunji, Mr. Mbugua!

MEASURES TO EXPAND SEWERAGE  
SYSTEM IN EASTLEIGH

**Mr. Mbugua:** Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Water and Irrigation.

Mr. Deputy Speaker, Sir, Eastleigh is a centre of business activity. It is worth to note that all the roads in this area have been turned into sewer rivers. As a result, the roads have become impassable. Could the Minister tell this House what measures he is taking to expand the sewerage infrastructure in this area and how long these taxpayers will suffer as a result of the affluent emanating from these sewers?

Mr. Deputy Speaker, Sir, is the Minister also aware that the construction of roads have stalled as a result of sewer pipes which have burst in this area?

**Mr. Deputy Speaker:** Is the Minister for Water and Irrigation here?

**Hon. Members:** No!

**Mr. Deputy Speaker:** Hon. Ministers, all of you should give an undertaking on when this Ministerial Statement will be available.

**The Minister for Environment and Mineral Resources** (Mr. Michuki) Mr. Deputy Speaker, Sir, this message will be conveyed to the Minister for Water and Irrigation who is in charge of the Water and Sewerage Board of Nairobi City.

However, in the meantime, it might help the House to know that the problem is highly recognised. This is not only by the Ministry of Water and Irrigation but also the Ministry of Environment and Mineral Resources. The World Bank is in the process of considering an application for funds to expand and improve the sewage system of the City of Nairobi.

Mr. Deputy Speaker, Sir, we have found out that there has been deliberate breakages of sewage piping by the so-called urban farmers. If this has to stop, this issue must be addressed by the leadership in the City of Nairobi. I want to warn people that you must know where you eat. The so-called salads which you continue eating are putting into you a lot of regrettable stuff. I have come to discover that!

*(Laughter)*

Therefore, Mr. Deputy Speaker, Sir, the Ministry of Public Health is involved. We would like to feel that we all work together to get this city clean.

Mr. Deputy Speaker, Sir, there is a Question which was answered here. If the leadership in Embakasi would co-operate and we open up the garbage site at Kariobangi, which we are trying to fence as of now but with a lot of interference from the leadership of the area, we would have closed Dandora dumping site. We have started sealing and repairing the sewers that discharge raw sewage into Nairobi River from Dagoretti slaughter houses up to the Globe Cinema Roundabout. We are now addressing the problem of sewerage waste between Globe Cinema Roundabout and Kamukunji but we need co-operation.

MEASURES TO CURB SAFARICOM SIGNAL  
PROBLEMS IN NAIVASHA

**Eng. Gumbo:** Mr. Deputy Speaker, Sir, I rise to seek a Ministerial Statement from the Minister for Information and Communications concerning the prolonged interference with the mobile phone signals particularly for Safaricom around the Naivasha area. For the better part of last month and early this month, residents of Naivasha town and its environs particularly Gilgil, Kariandusi, Eburu Hill, Moriendat and Kabati among others, had experienced difficulties using their mobile phones. The problem seems most pronounced on the safaricom network. Indications are that the cause may be a nearby transmitter. As a result, many residents in this area have gone without this vital service and that naturally results in loss of revenue to the Government and could also have implications in security and job security for some Kenyans.

Arising from the above, first, I wish to ask the Minister if the Government has identified the cause of this problem and what they are doing to address the problem. What steps are they taking to identify and rectify the problem?

Secondly, whether the cause or causes were accidental or deliberate and why it seems to be affecting only one of the mobile phone service providers. If it was deliberate, has the Government identified those responsible and what action is the Government taking against them? Finally, what steps does the Government intend to take to forestall a repeat of similar problems both within Naivasha and elsewhere in the country?

**The Assistant Minister for Information and Communications (Mr. Khaniri):** Mr. Deputy Speaker, Sir, let me take this opportunity to thank the hon. Member for bringing this to my attention. I want to give an undertaking to the House that I will investigate the matter and come up with a comprehensive Ministerial Statement on Wednesday, next week.

**Mr. Mbau:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order, Mr. Mbau! To the best of my knowledge, points of orders which you raise when not in Question Time, must have been brought to the attention of the Chair before. You have not done that.

TOTAL REVENUE COLLECTED IN  
2001/2002 FINANCIAL YEAR

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. I rise on this point of order to seek for a Ministerial Statement from the Minister of State for Planning, National Development and Vision 2030. This is in respect to the collections of revenue by the Government in the financial year 2007/2008. The Minister should make the following clarifications:-

(i) How much money did the Government realise as the total revenue collection from the financial year 2007/2008?

(ii) By how many billions of Kenya shillings did this amount surpass the projected revenue collections for that year?

(iii) Consequently, when is the Ministers disbursing the 2.5 per cent which is due to the Constituencies Development Fund (CDF) in all the constituencies?

**The Minister of State for Planning, National Development and Vision 2030 (Mr. Oparanya):** Mr. Deputy Speaker, Sir, I would have given an answer now but unfortunately, my answer will require the input of the Minister for Finance. We had organised a meeting but he was not available. We organised another one again and I was not available. So, I am hoping that before I give a comprehensive answer, we would have met so that when I come here, I can be able to give a very accurate answer. That would be on 25th of this month because next week, I will not be there.

**Mr. Deputy Speaker:** Fair enough! 25th falls on a Tuesday; so, you will issue the Ministerial Statement on 25th November, 2008.

**Mr. Mbau:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order, Mr. Mbau. I have said before that after Question Time

when you rise on a point of order, you must have notified the Chair. But you being a first timer, please, ask your question.

**An hon. Member:** He is not a first-timer!

**Mr. Deputy Speaker:** He is not a first-timer? Under the circumstances, you should have done your homework right.

**Mr. Mbau:** Mr. Deputy Speaker, Sir, the matter that I want to raise is on the Order Paper today. It is slated for discussion in the next Order. I learnt about it when I came to the House.

**Mr. Deputy Speaker:** Then you should wait until the House is discussing it or do you not want it to appear on the Order Paper?

**Mr. Mbau:** Mr. Deputy Speaker, Sir, when we rose up in the morning, we learnt in the Press that yesterday, this House discussed and that Members of Parliament would not be taxed---

**Mr. Deputy Speaker:** Order! We are discussing the Finance Bill immediately after this. If you have any contributions to make, you will rise and debate.

## BILLS

### *Second Reading*

#### THE FINANCE BILL

*(The Minister for Environment and Mineral Resources on 11.11.2008)*

*(Resumption of Debate interrupted on 11.11.2008)*

**Mr. Mbadi:** Mr. Deputy Speaker, Sir, thank you for giving me the opportunity to complete my contribution. I was about to complete my contribution to this Bill. Let me repeat that I support the Bill. There was a point that was raised by Mr. Mungatana regarding the amounts that are voted, approved or treated as having been disbursed and coming through the Press that they are already disbursed but we have not received them in our constituencies. That point was put very clearly because it is truly creating concern because the constituents feel that we have the money for the roads and yet, what has gone to the constituency is only about Kshs5 million. The Minister should take this very seriously so that we get the funds.

*[Mr. Deputy Speaker left the Chair]*

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

Mr. Temporary Deputy Speaker, Sir, I wanted to make a contribution on distribution of resources in this country. In my yesterday's contribution, I mentioned that we need to put more emphasis on development expenditure. I have an example of the roads network in my constituency.

If you look at the contribution of the fish industry in this country, it contributes about Kshs7 billion to our economy. Out of that, Suba District contributes 70 per cent out of which Gwasssi Constituency contributes more than 60 per cent. If you translate that into monetary terms, you realise that Gwasssi Constituency alone contributes over Kshs3.5 billion to this economy. But if you look at the road network in Gwasssi Constituency, it is in pathetic state. Why can you not just give me even 10 per cent of what my constituency contributes to this country to develop roads. You will



realise that the contribution of my constituency towards the national budget would double.

Mr. Temporary Deputy Speaker, Sir, I want to conclude with a submission that I made yesterday with regard to the enforcement of the law that is already in existence. Much as we come up with new laws, I would request the Minister to make sure that our public institutions that fall directly under the supervision of the Treasury and by extension, Central Bank of Kenya (CBK) actually follow the legal framework that is already in place. I cited the example of Capital Markets Authority (CMA), National Social Security Fund (NSSF) and others. These organisations should follow, to the letter, the legal framework that is already in place. If that is done, we will reduce, to a great extent some of the problems that we go through.

I would like to conclude my statement by thanking the Minister once again, for the kind of zeal with which he takes his work. You could see that when the Minister stands to respond to questions, he gets applauded from the Back-Bench, which is very rare. I think the Minister deserves that credit. I wanted to mention something about the taxation of the Members of Parliament allowances. I know that this is a hot topic and many of us do not want to talk about it publicly.

Mr. Temporary Deputy Speaker, Sir, it should go down that Members of Parliament pay taxes. It is only that some allowances are not taxable, but we pay tax on our salaries. So, when it comes out in public that our salaries are not taxed, we wonder why we should get this kind of public bashing. Our basic salary is Kshs200,000 and it attracts tax amounting to Kshs53,000 per month.

It should come out clearly that hon. Members pay tax on their salaries, but the allowances are not taxable. We need to mention the allowances that are not taxable. They include an allowance like the constituency allowance. If it is that constituency allowance which a Member is supposed to spend on his constituents, if you tax it, then what is the rationale of giving it to me? I would rather instead of getting the constituency allowance, be given the amount of money you think I can spend on my constituency and take away whatever amount of money you feel I do not need. There is also the entertainment allowance. But why should it always be a subject of public debate? I know that members of the civil society and the Press mention that Kenyan Members of Parliament are the highest paid in the world. I do not know where they got those statistics.

Mr. Temporary Deputy Speaker, Sir, recently, I was in Germany. Even though their economy is superior to ours, they are paid more than twice what we are paid. Where do these people get the statistics they quote? In the British Parliament, what are the Members there paid? I am sure that hon. Members did not increase their salaries. This is my first time in Parliament and I know that even the hon. Members of the Ninth Parliament did not increase their own salaries. The increase in hon. Members' salaries was as a result of a Commission which was headed by somebody who was not an MP. I am told that, that Commission travelled all over the world and collected information on hon. Members' salaries. So, when you see it reported in the Press: "MPs Shame", you really get affected.

Wherever there is a problem with hon. Members, it is taken that we do not have the interest of this country at heart. Some of us are very young and we still want to make a contribution to this country. We do not want to move around only to be looked at as robbers or people stealing from this economy. If there is a problem, that is, if hon. Members are not performing, let that be put open for debate. We should not just be bashed by the public. I think that is a bit unfair. I wanted to come out clearly on that matter.

The reason I am saying that is, I do not want to be a coward. I know that some of us fear talking about this. I would like to be quoted as one of the hon. Members who maintains that we are not overpaid. If we are being overpaid, I would like to be challenged. I would like to know on what parameter that is based upon. Some of us are professionals and even where we were, we, probably, could be earning close to what we are earning today! If I consider all the money that I spend on my constituents, I could even be earning less! However, it is a calling. Being a Member of Parliament

is a calling and that is why I chose to contest for a parliamentary seat and I won. I knew beforehand that this is what I was going to get.

Mr. Temporary Deputy Speaker, Sir, I just wanted to remove the fear that is in some of us by saying what the truth is. I commend the acting Minister for Finance for removing the clause on our taxes from the Bill. It would have brought unnecessary tension. We should not play to the galleries! We should tell the public the truth. If these people want to convince me that my constituents do not want me to be paid that money, they should go to Gwassi Constituency and carry out a research.

I would like to see a factual and objective research conducted in Gwassi Constituency and Gwassi people interviewed. I would like to see the research report that 70 per cent of Gwassi constituents have said that my salary should go down. I am sure they will be shocked. My people will want my salary to be increased so that I can attend to their many needs that I am always willing to do.

Thank you, very much, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Imanyara): Is there any hon. Member who wants to contribute on this Bill? If there is no Member, I would ask the Mover to reply---

**Mr. Mbau:** Mr. Temporary Deputy Speaker, Sir, you can see that is why---

**The Temporary Deputy Speaker** (Mr. Imanyara): Do you want to be given time to speak?

**Mr. Mbau:** No, I do not want to speak. I had said that is why hon. Members are not worried. Members of Parliament have already been prejudged by the media. That is why they are not in the Chamber. However, when I raised the matter, I was told to sit down. Now, you can see what is happening.

**The Temporary Deputy Speaker** (Mr. Imanyara): Mr. Minister, you may go ahead, there being no other Member of Parliament wishing to speak.

**The Minister for Environment and Mineral Resources** (Mr. Michuki): Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me time to respond to various comments that have been made on this Bill, particularly in relation to the fact that, as Members of Parliament may have noted, there are very few taxation measures.

Indeed, Mr. Temporary Deputy Speaker, Sir, the issues raised in the Bill are more of reform proposals rather than any fiscal or budgetary legal plans. I want to thank the House for its understanding of the way forward. It is because of such reports that we have brought before the House on issues such as the capital market, certain procedural aspects in the banking system and the VAT deductions on essential foods. The Government has no intention of placing a huge burden on the taxpayers. That is why most of the revenue accrues from indirect taxation. The rate of direct taxation, which is, Income Tax, has come down considerably over the years. It will come down further as the economy grows. This is because we want to encourage citizens. In addition to contributing to the general welfare of the population of Kenya, they should also build themselves in terms of their capability to participate in this economy.

Mr. Temporary Deputy Speaker, Sir, therefore, the amendments that I referred to yesterday are going to be brought here. I want hon. Members to take me seriously because I do not take things in vain. At the same time, it is important to point out that we need a little bit to study the laws that have exempted hon. Members from taxation as far as their allowances are concerned. This law came about with Kenya's Independence. There must have been some history which must be revisited. Similarly, the issue of constitutional offices where the allowances are exempt from taxation. It is not a very big deal. Some newspapers have said that the Treasury was going to raise Kshs2 billion from that. It is not true.

Mr. Temporary Deputy Speaker, Sir, I would wish they consult me before they alarm the public. The figure involved, and I hope it will be properly noted, is Kshs600 million. But the issue is not over because this is not the first and final Budget. We shall continue to examine possibilities

of how to bring fairness into our taxation system.

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

*(Question put and agreed to)*

*(The Bill was read a Second Time  
and committed to a committee  
of the whole House tomorrow)*

**The Temporary Deputy Speaker** (Mr. Imanyara): Next Order!

THE KENYA COMMUNICATIONS  
(AMENDMENT) BILL

**The Assistant Minister for Information and Communications** (Mr. Khaniri): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Kenya Communications (Amendment) Bill be now read a Second Time.

Mr. Temporary Deputy Speaker, Sir, this Bill that you have given me an opportunity to move is a product of a lot of consultations from all the stakeholders that are involved in that sector. We tried to make it as all-inclusive as possible. I want to take this early opportunity to thank all those who participated in putting this Bill together. It was a long journey and a rigorous process. But I am happy that, at the end of the day, we managed to come up with this Bill that I want to present to this House for discussion. I hope that Members of this House will pass it.

I want to particularly thank the regulator of the industry - that is the Communications Commission of Kenya - for its input. I also want to thank all the service providers who were also involved in drafting this Bill. I want to thank Telkom Kenya, Safaricom Limited, Celtel - which is now Zain - Postal Corporation of Kenya, Kenya Broadcasting Corporation and all the other service providers who were involved in the formulation of this Bill. I also want to thank the Departmental Committee on Energy, Communications and Public Works which is responsible for my Ministry in this House.

Mr. Temporary Deputy Speaker, Sir, this Bill, if passed by the House, proposes quite a number of changes on the Kenya Communications Act of 1998. That is the Act that is currently governing the communication sector. You will agree with me that an Act that was enacted ten years ago has obviously been overtaken by events, considering the fast rate at which the communication industry is growing. There has been enormous growth in the industry.

There have been new technologies that were not envisaged when we passed the Kenya Communications Act of 1998. Therefore, generally, there have been so many changes that have happened in the sector. Therefore, the Act, as it is now, cannot effectively run the sector. That is why we are coming up with the Kenya Communications (Amendment) Bill of 2008 to address all those new technologies, so that there can be a smooth running of the industry.

Very soon, we are going to have digital broadcasting in the information sector. Yet, in the old Act, there is no legal framework to govern that. That is what we are introducing in the new Bill, so that we can be able to switch smoothly from the analogue broadcasting to the digital broadcasting.

The principle objective of this Bill is to make certain necessary amendments to the Telecommunication Act No.2 of 1998. The proposed amendments will help streamline and introduce regulatory provisions in electronic transactions and broadcasting, which are presently weak. That will be done by transforming and empowering the Communications Commission of Kenya into a fully-fledged information and communication technology sector regulator.

Mr. Temporary Deputy Speaker, Sir, if you go to the old Act, on page 198, Part 1, that is on the preliminary, it says:-

"This Act may be cited as the Kenya Communications Act, 1998, and shall come into operation on such a date as the Minister by notice in gazette appoint. Different dates may be appointed for different provisions."

We are changing that from the Kenya Communication Act to Kenya Information and Communications Act, so that we can include information, which was not provided for in the old Act. The Bill seeks to address a number of policy objectives. I will take you through some of them.

Number one, the Bill seeks to create a regulatory, advisory and dispute resolution bodies to support the implementation of the National Information and Communications Technology Policy.

Number two, the Bill also seeks to provide a new regulatory framework for broadcasting stations and services. Those provisions will be found on page 1311 of the new Bill that I am presenting. Section 46(B)(1), that is classification of broadcasting services. I will quote:-

"Broadcasting services shall be classified for specified areas according to the following service categories:-

- (a) Public broadcasting.
- (b) Private broadcasting.
- (c) Community broadcasting.

Section 46(B)(2) says:-

" Subject to the provisions of this Act, broadcasting service licences shall be categorised in the following classes:-

- (a) Free-to-air radio
- (b) Free-to-air television
- (c) Subscription radio
- (d) Subscription television
- (e) Subscription management
- (f) Any other class of licence as may be determined in accordance with the regulations.

Mr. Temporary Deputy Speaker, Sir, the Bill also provides for the licensing of certification service providers and country top level domain administrators.

Number five, Mr. Temporary Deputy Speaker, Sir, the Bill also provides for electronic transaction related offences, including cyber crime and programming of mobile telephones. Also, in order to ensure responsibility by the broadcasting houses in the reporting, we have made a provision, that is Section 46(II) on page 1316 - Responsibilities of Broadcasters.

"All licensed broadcasters shall:-

- (a) Provide responsible and responsive programming that caters for the varied needs and susceptibilities of different sections of Kenyan communities.
- (b) Ensures that Kenyan identity is developed and maintained in their programmes.
- (c) Observe standards of good taste and decency.
- (d) Gather and present news and information accurately and impartially.
- (e) When controversial or contentious issues of public interest are discussed, make responsible efforts to present alternative points of view, either in the same programme or in other programmes within the period of current interest.
- (f) Respect the right to privacy of individuals.
- (g) Respect copyright and neighbouring rights in respect of any work or material.
- (h) Keep a programme log or machine readable record of e-programming for a period of one year after the date of broadcasting.
- (i) Ensure that advertisements, either in terms of content, tone or treatment are not deceptive or are not repugnant of good taste.
- (j) They will ensure that derogatory remarks based on ethnicity, race, creed, colour

or sex are not broadcast."

Mr. Temporary Deputy Speaker, Sir, we put this particular section just to ensure that there is responsibility in our broadcasting houses.

In broadcasting, the Bill *inter alia*, proposes to empower the Commission to license and regulate broadcasting services as well as promote the development of local content in addition to allocating frequencies. The Bill further seeks to enable the Commission to set standards for the manner, time and type of programmes to be broadcast by licensees and set up mechanisms for handling complaints by the public against the broadcasters.

Mr. Temporary Deputy Speaker, Sir, in electronic transactions, the Bill provides for a legal recognition of electronic records and signatures, creates new offences with respect to electronic records and transactions, including cyber crimes, destruction of electronic records and programming of mobile telephones.

Mr. Temporary Deputy Speaker, Sir, Part VI(B) of this Bill on page 1347 is on the Universal Service Fund. The Bill also proposes the establishment of the Universal Service Fund to be funded by amongst others, levies from licensees. The Fund will be administered by the Commission and will be used to promote Information and Communications Technology (ICT) services in rural and other under-served areas. The Bill also has provisions seeking to empower the Commission to ensure fair competition in the sector, and further seeks to harmonise and enhance various penalties for offences under this particular Act.

Mr. Temporary Deputy Speaker, Sir, as I said earlier on, the Bill also seeks to introduce legal recognition of the electronic signature. I want to draw the attention of hon. Members to page 1336 of the Bill - Legal Recognition of Electronic Signatures; that is Section 83(p). It says and I quote:

"Where any law provides that information or any other matter shall be authenticated by affixing a signature, or that any document shall be signed or bear the signature of any person, then notwithstanding anything containing that law, such requirement shall be deemed to have been satisfied if such information is authenticated by means of an advanced electronic signature affixed in such manner as may be prescribed by the Minister."

Mr. Temporary Deputy Speaker, Sir, the Bill also proposes to make consequential amendments to the Kenya Broadcasting Corporation Act, Cap.221, the Penal Code Cap.63 and the Evidence Act Cap.80. Therefore, as I said earlier, there are so many provisions in the Bill. I want to believe that hon. Members of this august House have had a chance to look at the Bill, so that we can have a very fruitful debate and, eventually, come up with an appropriate legislation to govern the ICT Sector. I know that the Bill may not be perfect, and that is why it is subjected to this debate.

Mr. Temporary Deputy Speaker, Sir, this afternoon, as I was coming to move this Bill, I have received numerous phone calls from many media houses raising their complaints. All I want to say is that all is not lost. We are still going to have the Third Reading and the Committee Stage where, if anybody feels there is an omission, we will bring it in at that particular stage. We mean well. We just want to provide a proper legal framework to govern the ICT Sector in the country. We all know that this is long, long overdue. We started working on this Bill about two years ago, and I am happy that it has now seen the light of the day.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to move and I will call upon Dr. Mwiria to second.

Thank you, Mr. Temporary Deputy Speaker, Sir.

**The Assistant Minister for Higher Education, Science and Technology** (Dr. Mwiria): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to support this very important Bill. I would like to begin by congratulating members of the Ministry of Information and

Communications and the Communication Commission of Kenya (CCK) for the great work they have done, despite the many challenges. We really must appreciate that there have been major changes since the whole process of democratising the airwaves and other means of communication started.

Mr. Temporary Deputy Speaker, Sir, you realise that in the last five or six years, I think there has been a great deal of expansion with regard to the reach of both the print and the other communication media. We now have several mobile telephone companies in operation. We have several television stations and tens of radio stations. That has been a major step from the days of having only the KBC. That is what we knew. It mainly covered the Government and one politician. It was, basically, a mouth-piece of the State! This is also a major step from the days of Telkom Kenya. There was only one telephone company and the telephone lines were never working. Sometimes, they took ages before an individual could have a telephone line in this country. So, we have made major strides. It is in the protection of that, I believe, that this Bill is also being crafted to see how we can make that even more efficient.

Mr. Temporary Deputy Speaker, Sir, with that expansion, there has to be more efficiency from the point of view of performance that works. It is easier to communicate, even for hon. Members, from the political front and social life and so on, especially with the use of the mobile phones.

Also, it is in terms of the competition that has come with the various players, which brings efficiency and monopoly. Monopoly has always guaranteed a situation where only those that have the protection have the possibility of playing a major role in the area of communication development.

Mr. Temporary Deputy Speaker, Sir, with the democratisation and knowledge transfer, it has also been possible for us to widen access to knowledge by many Kenyans. In the area of education, for example, with the Internet, you can access information even more cheaply. You can access books that would not be available in the form of text books; there are many ways in which we can use the Internet, E-mail system and the short message service (SMS) for development through communication. So, that democratisation and expansion has also made it possible for us to reach out to more people, and also to use existing technology to have access to knowledge more cheaply, quickly and efficiently.

There has also been an increase in employment creation. With more players, of course, there are more jobs. I think there are thousands of Kenyans working for Safaricom, Zain, Orange and other players. Similarly, private radio and television stations have also increased the numbers of Kenyans who work with them. Again, this is a positive development.

We have also seen changes and improvement in the area of local content. For a long time, we were used to foreign content in the form of sports, music, drama, news and general entertainment. However, with more players, there has been pressure and competition to provide the kind of content that many Kenyans would appreciate in the form of local languages, local types of drama, soap operas and so on. So, from that point of view, technology has been used to make it more possible for us to appreciate that which is Kenyan, or that which is African.

Mr. Temporary Deputy Speaker, Sir, I think the Bill is long overdue for review, having been published in 1998, many years ago. Circumstances were very different and it is high time, that with the experience of those eight or so years, we did a review on the basis of some of the challenges that the Ministry and the Communications Commission of Kenya (CCK) have found when implementing the revised Telecommunications Bill.

Much has changed in terms of the frequencies that are available and with too much democracy that sometimes is being misused. With too many mobile telephone lines, and people being able to access mobile phones very cheaply, some of which are misused--- There is also unfair competition. In the area of airwaves, we have heard complaints about the already established

players making it much more difficult for new entrants to make any headway, or even be able to establish themselves.

In terms of standards, there are too many players, and it is not quite clear that there is any serious guide on the quality and content of what Kenyans are getting. So, in terms of standardising that and ensuring that there exists reasonable quality, and that we have a minimum that would be acceptable so that people do not just come out and unscrupulous business people try to make money, it is important that we have some kind of regulation that will guide the way forward.

Mr. Temporary Deputy Speaker, Sir, in terms of reacting to the challenges that are coming with the electronic transfers, signatures and a lot that is happening in the airwaves since we no longer have to deal with physical facilities, there is a lot more that is happening that requires the different kinds of challenges with regard to the way we operate.

With regard to crimes that have become common, crimes that are visible because they are not physical like SMS--- The SMS was used during the last general election to create a lot of havoc, insults and purveying of messages that were inaccurate. E-mails were used very disastrously during the campaigns, usually telling lies or insulting certain candidates. So, that is, again, something that we have witnessed with this expansion and democratisation that we have to react to.

In terms of the hate campaign, I think the SMS, the radio and the television were used during the Referendum and the campaigns of 2007 to send messages of hate; no wonder ethnic clashes tended to be intensified and there were more criminal activities. Messages would be sent to even prepare groups of people to begin to attack others. In other words, with this democratisation also, have come those kinds of challenges that, without control, can lead to greater damage in the way we do business, especially in the area of politics.

We also need to be able to protect innocent and unsuspecting public. Many people are at the mercy of this new technology. Many of them do not know how to operate effectively or accurately, but they also have no control over how technology is used to malign them, or to even cheat them in areas of business and other spheres of life. So, in terms of protecting those unsuspecting innocent majority, I think it is important, again, that we have regulations in place that would meet different kinds of challenges.

Mr. Temporary Deputy Speaker, Sir, it is important that we also remember that much of the media that was available in terms of the messages, a lot of the content was Western for many years. There was always talk about the media and cultural imperialism, where whatever we saw that was glorified was that which was Western in the form of movies, soap operas, language, ways of dress and so on. It is high time we also called our players to account and reflect much more that is African, so that we can advance the values that we deem important as a society, African and Kenyan.

Also in terms of ensuring there is impartiality, if the media is not objective, it can be extremely dangerous. It can be an extremely dangerous weapon for those who want unfair competition.

We also need to do something in terms of stemming criminal behaviour that has been referred to, upgrading as opposed to demeaning African values and checking against the intrusion into privacy - the media has been used a great deal to intrude into people's privacy. We also need to check uncontrolled advertisement. I think advertisement has become so aggressive that something needs to be done. Nairobi is full of billboards to the extent that a beautiful City is just becoming one major advertising facility. These kinds of things need to be checked, not only in terms of the physical structures but also in terms of the messages that do not give people a break to even think about how to make informed judgements.

Mr. Temporary Deputy Speaker, Sir, regulation should not, in any way, be seen to be gagging as opposed to promoting independent thinkers, who are able to speak their minds, or are able to exercise their democratic responsibilities; we are just saying that, as we enjoy that

democracy, it needs to be accompanied by responsibly. When you give people too much freedom without any responsibility, it is always bound to become a problem. But as we expand, let us pay greater attention to equity.

It is not uncommon to find that there are parts of this country where you cannot communicate with a mobile telephone, and where the Kenya Broadcasting Corporation (KBC) cannot reach. That also applies to the private media. So, we need to do much more to also reach other parts of Kenya that have not been reached, so that they can also take advantage of the benefits of development that come with increased communication opportunities. This would be the case with telephones, radio and television.

In terms of records management, I like the idea that records will be kept at a central point for up to a year, but it would be more important to digitalize this content, so that you will be able to go back to these volumes even 50 or 70 years from now. If you have it recorded in a computer, it will not be a big problem to access that information, or have it compressed in such a way that we do not have to take volumes of space. This is the kind of problem we are seeing with the Ministry of Lands and other Ministries that are still relying on traditional technology to store data. Expansion and regulation can also lead to much more employment. We should expand and liberalise. In the process, we should not reduce the employment opportunities that are made possible by much more widespread expansion of our media.

Mr. Temporary Deputy Speaker, Sir, in terms of how we use communication for the development of local talent, to what extent are we promoting local actors, announcers and musicians or people with traditional knowledge that has not been highlighted and could be made visible through our media? In terms of using radio for development, community radio is an important means of communication in many countries like in West Africa and southern Africa. It is a media that also politicians including hon. Members could use to communicate with their own constituents messages on development. It could be much easier.

If an hon. Member has a *baraza* and you have a community radio in your constituency, you are able to talk to every constituent as long as they are tuned to a radio. If you have a good teacher, they can solve mathematical questions to many secondary schools and so on. There are many ways they can use communication for development if we make it accessible in an inexpensive fashion.

Mr. Temporary Deputy Speaker, Sir, it is also gratifying that this Bill is also considering the idea of a social responsibility through the Universal Service Fund that will be used to support projects that will be used to promote electronic technology as a way of the people that have made it through this kind of expansion to give back to communities. The same applies to those that are sometimes the ones who pay the most for the process that they take.

Mr. Temporary Deputy Speaker, Sir, as I conclude, I would like to say that as we look at all this, we must also place it in context that we cannot review laws, regulations and talk about democratisation and so on, unless we also go out and create awareness among the consumers of this product of this new development. So, creation of awareness across the country is much more important if we have to have a Bill that will stand the test of time and that will have the support of the general public.

Mr. Temporary Deputy Speaker, Sir, we also need to call for more Government investment as well as more private players to come in. To reach out to more Kenyans, we certainly have to spend more by way of resources and Parliament will be called upon to support the necessary Vote that should make this possible. However, we should also do so by reaching out to those that want to invest in the private sector by not only making regulations not much more difficult for them but creating, generally, an environment that will make it much easier to operate and feel wanted as contributing to this revolution.

However, it also applies in terms of political maturity. It is up to the politicians also to play a role here. It does not really matter how much we democratise. We will continue to complain



about hate campaigns if hon. Members and people from opposing political parties see the media just as a way of giving them an upper hand of telling lies or doing whatever they can to give them an advantage. This is often an indication of our lack of political maturity in the way we view things. We could disagree by still being objective and use the resources that are available to promote a good cause and not to divide the country.

Mr. Temporary Deputy Speaker, Sir, I will conclude by saying that I think democratising Information, Communication and Technology (ICT) is one of the best ways of reducing the gap. It is not only the gap between the more industrialized countries and developing countries like ourselves but also in terms of reducing that digital gap between the disadvantaged rural communities and Kenyans living in slums who cannot afford computers or mobile phones. If we can bridge this gap both at the international, national and social level, I think we will be making a big progress. We will be realising many of the intentions that are promoted by this revised Bill.

I beg to second.

*(Question proposed)*

**Dr. Eseli:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to contribute to this very important Bill and by way of supporting it, I will just say a few things.

Mr. Temporary Deputy Speaker, Sir, the digital age or era is with us and yet in Kenya we have behaved like we were ill-prepared for it. I think that has been very tragic because the youths who are coming up now, without being computer literate, I think we have actually bequeathed them a very sad future. While we agree that the digital age is here and we need to, therefore, embrace liberalisation as much as we can, we should actually do it very carefully. Liberalising just because maybe some western power has told us to do so is not the way to go. The Government still needs to retain certain controls.

I am saying this because as we speak now, we are not in control of any communication system in this country be it mobile telephony or land line telephony. The Government is not in control of any. That is a very dangerous state of affairs, indeed. When you look at the security systems, that is a very dangerous situation indeed. We should not fear to control some of these things. We should liberalise but the Government should have a say in a certain sector of it and a strong say at that.

Mr. Temporary Deputy Speaker, Sir, we do not need to look too far. Just see what has happened in the United States of America (USA) recently. They liberalised and when it caught up with them, they are now nationalising. So, let us not set precedents that will give us problems later on. Let us control a sector of communication which the Government has control over for the security of this country. For the sake of the security of our borders, we need a measure of control and not total liberalisation as we have done.

While the communication industry is fast evolving, we need to be careful about what sort of Bills that we pass that eventually become Acts. As the Assistant Minister moved this Motion, he admitted that an Act only enacted in 1998 became obsolete before ten years. So, we need to be very careful. This is a fast evolving sector of our country. We need to be careful what sort of Bills we pass through here so that they are sustainable so that before five or ten years we are not bringing it back here for amendment. This is because maybe we were not pro-active in 1998 when we brought that Bill here and we are now amending it. So, I hope that this Bill will actually get a chance with the relevant Departmental Committee to go through it so that we give it a long-term approach so that we do not have a situation where in two or five years time, we are in this House again amending it.

Mr. Temporary Deputy Speaker, Sir, when we talk of information, we all know that it is power. We know that information is power and sometimes whoever controls it, ends up controlling

the power. Indeed, all of us are politicians here and we know the power of the media. That is why we are always rushing to see how much control we can have of the media. I think in this Bill, there should be a clause that will prohibit individuals, whether with good or ulterior motives, from controlling any sector of the media. As of now, we are having a situation where somebody can own radio stations, newspapers and television stations by the same entity. I think that is a very dangerous situation because we could easily be subject to a few investors who might end up controlling all these media houses. We will be subject to their whims and how they think. Eventually, they will hold us hostage. These are facts. It is not fear of liberalisation and not being against investors. Investors should get a chance to invest in the media and they should reap their rightful benefits. But, as a Government, we should make sure that we have a measure of control so that we do not allow a situation where we are beholden to a few individuals who own these media houses.

Mr. Temporary Deputy Speaker, Sir, while I say that information is power, it can also destroy if it is disinformation. As politicians, we have all experienced disinformation. I am glad that this Bill appears to address the issue of disinformation, especially misuse of Short Message Services (SMSs) which can cause instability. I am glad that this Bill addresses that particular issue. I hope that we should actually come up with adequate deterrents so that people do not misuse these forms of electronic media that they end up causing a lot of problems to the country.

Mr. Temporary Deputy Speaker, Sir, there is a healthy competition in the mobile telephone industry, which has led to a drop in calling rates. It is pretty obvious. I wish the Ministry of Information and Communications could liaise with the Ministry of Transport and show them how healthy competition can bring down prices for the benefit of wananchi. The Ministry of Transport is still enhancing monopoly at the Port in grain handling, so that mwananchi cannot benefit from reduced costs.

I wish the Ministry of Information and Communications could liaise with the Ministry of Transport and give them examples of what has happened in the mobile telephone industry. Today, I can make a call for less than Kshs1 or Kshs2, depending on the tariff that I am on. I accept that kind of liberalisation. The whole country should embrace that kind of liberalisation. It introduces healthy competition. So, a business person has to deliver quality services in order to retain any clientele.

Mr. Temporary Deputy Speaker, Sir, this Bill is long overdue. Once it goes to the Committee Stage, we shall be able to fine-tune it, so that the resultant Act can last longer than the previous one that we are amending.

With those few remarks, I beg to support.

**Mr. Chanzu:** Mr. Temporary Deputy Speaker, Sir, I thank you for giving me this opportunity to support this important Bill. I feel compelled to support the Bill because some of the issues which the Assistant Minister has mentioned here happen to have been part and parcel of deliberations in the Board of the Communications Commission. I was shortly on recess from this House and I was appointed to the Board of the Communications Commission of Kenya (CCK).

I know this is a job that has been well done. That is because it involved highly qualified and competent members of staff in the sector. The process also involved the stakeholders. What makes it very exciting is the fact that previously, the sector was open to those who could do whatever they could to run business in the sector. But what I see from this Bill is that there are comprehensive measures to regulate, direct and control the sector, which is very good for the economy.

Mr. Temporary Deputy Speaker, Sir, what is also very gratifying is the provision for independence of the CCK to enable it run the sector. What hampered some of the activities before was Government bureaucracy. I am happy that there is a section in this Bill which seeks to give the CCK independence, so that it can operate in a business-like manner. Recently, just for the training of those who are going to operate in the sector, the Kenya College of Communications Technology

(KCCT) reverted to the CCK.

That is a milestone development because CCK will now be able to manage whatever we are talking about, through training of our own people for the sector. So, there are measures which have been put in place, and which I think are very commendable. Hon. Members will recall that a few years back, one of the big operators, who was operating in a near monopolistic way, attempted to jam stations belonging to other operators. At that time, it was very difficult for CCK to do anything about it. I am happy that today, we are talking about measures which are going to get over that issue.

We have, in this Bill, a clause dealing with the kind of penalties payable by such offenders. All the proposed penalties have been quantified in terms of money, which is very good. There are penalties for trespass and wilful obstruction of telecommunication. That is a penalty levied against someone who obstructs a communication officer from performing his lawful duties. That has been quantified in terms of money. That is in the Bill.

There is a penalty for operating without a licence, which is very commendable. Earlier this year, an hon. Member brought a Motion to this House about text messaging. This Bill refers to the same as unlawful sending of misleading messages, *et cetera*. This Bill now takes care of that. The issue of ravaging messages that the public has received over mobile phones is also being taken care of.

There is also a clause that is of great significance to the sector and the economy. It talks about deliberate interference with radio communication. The previous speaker talked about the issue of security. Previously, without this kind of law, it would have been possible for somebody to deliberately interfere with radio communication, either internally or externally, and we would have no recourse. The Act now gives us recourse for such an action.

The Universal Service Fund, as proposed in this Bill, is a milestone. That is because it is going to take care of those who do not have a lot of funds to invest in the sector. Once this is put in place, those who may wish to take loans can apply from the CCK Board, and they will be considered on their own merit.

Previously, when we were talking about companies like Safaricom and Zain being monopolies, we saw the amount of money we were paying for a single phone call. To call from Safaricom to Kencel, it must have been more than Kshs50 per minute. Today, we are talking about calling for Kshs4 per minute. Now that there is competition, we are even getting incentives from those companies. Mobile telephone companies now give people telephone sets in order to attract them to use their services.

So, this Bill has not come in the right time. It has come rather too late. That is because Kenyans have been exploited over time. However, it is better late than never.

Finally, there is the issue of transmission of offensive material by post, or through postal articles. There are two items here, as we look into this. We have not been able to put in place how we are going to detect those who have transmitted offensive materials through the post.

Mr. Temporary Deputy Speaker, Sir, another issue I noted is that of unlawful opening of postal articles by non-employees of the licensee. I do not know whether we will put into place measures of detecting this. But if it going to be detected, that is great. This is because someone could even send you bhang through the post office and put your name. I think this could be taken care of. There are a number of issues.

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

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government** (Mr. Githae): Thank you Mr. Temporary Deputy Speaker, Sir, for recognising me and giving me this opportunity.

Mr. Temporary Deputy Speaker, Sir, I rise to support this very important Bill. This Bill should have come yesterday. As it is, some parts have been overtaken by developments in

technology. Technology is moving at a very fast pace. It is actually embarrassing that since 1998, we have not amended the Act.

Mr. Temporary Deputy Speaker, Sir, I will speak on four issues. One, is to recognise that today mobile phones are not a luxury. They are a necessity. I think everybody in this country now has a mobile phone. In fact, Kenyans have more mobile phones than bank accounts. They are also important in the sense that they help during emergencies. Even more so in view of the fact that landlines that used to be there are no longer there. This is because some Kenyans have formed a very bad habit of stealing telephone wires. They have all been stolen and all that remains are posts. Kenyans have been stealing those wires because we have not kept pace with modern technology. If you go to Rwanda, they have done away with telephone wires. All they have now are wireless telephones. When you arrive at the airport, you apply for a landline and by the time you reach your house, the line is already activated. This is because there are no wires to be installed and no survey to be done. We need to move in that direction.

Mr. Temporary Deputy Speaker, Sir, as we talk about technology even electricity should be included. We waste so much time having meter readers coming to your house, knocking on your door to be allowed to read meters. This is old technology. In our neighbouring country, Rwanda, they no longer have electricity meter readers. If you want to pay your electricity bill, you are given an electronic card. You then just go and put money in it and fix the card at your meter. As you consume electricity, it deducts the amount from the card. After the amount is exhausted, electricity is switched off. This would help to resolve disputes relating to electricity bills. We need to move with technology. It is unfortunate that we have wasted too much time before moving with technology. However, at least now, we have recognised this and we are taking certain steps and measures in the right direction.

Mr. Temporary Deputy Speaker, Sir, one of the things that has been amazing me is that we do not register our telephone number owners. You find some crooks with as many as 100 telephone numbers. The possibility of misusing these numbers is very high. In countries like Singapore and Turkey, they do not sell a foreigner a mobile telephone before he or she produces a copy of his or her passport. I am glad that, at least, we have recognised this mess in which we have been and now there will a requirement for registration of telephone numbers. This will even prevent fraudsters from using these telephone numbers.

Previously, Sim cards were expensive. They were going for Kshs500 but today, a Sim card costs Kshs20. There are companies that are actually giving them free of charge. This has encouraged fraudsters to acquire numerous telephone numbers which they keep misusing. I am glad that the problem has been recognised and it is being taken care of by the Bill.

Mr. Temporary Deputy Speaker, Sir, the telecommunication industry is growing. We need to encourage even more players in this market. I remember I bought my first mobile telephone which was being sold by the then Kenya Post and Telecommunications Corporation for over Kshs200,000. It was a walkie-talkie because it was so big. However, the new GSM technology came, and a telephone is now Kshs1,500. I am even told that there are some companies that are now giving them free of charge. You can see we have moved from a cost of Kshs200,000 to "free" because it is conditional. Therefore, we need to encourage as many players as possible as this will bring down the cost of telephony in this country.

Mr. Temporary Deputy Speaker, Sir, it was ridiculous that to make an overseas call was cheaper than to call across to another service provider. However, I am glad that from as high as Kshs50, it has gone down to Kshs8 for inter-connectivity. That is the way it should go. We should even license more. I would encourage the Ministry to license more providers. If you look at the time Econet has wasted in this country, I think they were issued with a licence about six years ago but they have not yet rolled out their services. This is a result of numerous busybodies. We even need to license two or three more mobile providers. Let the market determine the equilibrium.

Somebody said that you can make calls at Kshs1 per minute. I am sure if we got another company, it will come to 50 cents per minute. If we get another one, it will come to 30 cents. If we get another it comes to 20 cents or even 10 cents! Let us license as many providers as possible. There should not be a maximum number. Let the market determine the number of players.

Mr. Temporary Deputy Speaker, Sir, let me come to the issue of hate messages which are transmitted through mobile phones. We saw this during elections in 2007. We received numerous hate messages disparaging one presidential candidate against another and one community against another. It is unfortunate that because of my hate for these hate messages, I deleted all of them. I wish they were there, I could have read a few of them. Unfortunately, I deleted all those that I received.

Mr. Temporary Deputy Speaker, Sir, the issue is, should we regulate the Short Messages Service (SMS)? SMSs are the in-thing, or what the youth say "*sasa ni poa*." Sometimes, we are even invited to meetings through SMSs. So, we cannot abolish or ban them. I believe that it is the person who sends the hate message whom we should target, and not the service provider. The service provider only acts as a medium of transmission. The person that we need to take action against is the one who originates the hate message and not the message itself. It is like killing the messenger.

Mr. Temporary Deputy Speaker, Sir, let me now come to vernacular radio stations. It is even in the Kriegler Report that a few vernacular radio stations transmitted hate, or derogatory messages. But let us put the blame where it rightly belongs. Is it the radio that is at fault? To me, it is that person who is giving that message, whom we should target and not the radio station itself. It is that person who is issuing hate or derogatory messages. That is the person whom we should target. The only thing that the radio station can do is to vet the kind of people they invite to its studios. I believe in the freedom of speech, and I would not want to be, in any way, associated with trying to limit freedom of information, or freedom of the Press. So, we must blame the right person, and that is the person who is giving out the hate message and not the radio station itself.

Some people are saying that we should ban vernacular radio stations. Our mothers and fathers in the rural areas do not know English or Kiswahili; so, they depend on vernacular radio stations to receive messages, entertainment and funeral announcements. In fact, we need to encourage vernacular radio stations. Since we have 42 communities in this country, we should actually have 42 vernacular radio stations. Each community should have its own stations, so that we take care of the old people at home, who do not know any English or Kiswahili. If you go to Russia, their vernacular language is Russian. They broadcast in Russian. If you go to France, their vernacular language is French. They broadcast in French. So, we need to be proud of our languages. They are very rich and, in fact, we need to encourage more vernacular radio stations.

Mr. Temporary Deputy Speaker, Sir, I am glad to see that our local television stations have started financing local television programmes. It was ridiculous to find that more than 90 per cent of the content used to be foreign. For now, I am glad that a number of television stations are now financing local programmes, which are very popular. We started with *Vioja mahakamani*. New programmes were not forthcoming, but now we have new ones like *Tabasamu*, *Beba Beba* and my favourite *Papa Shirandula*. That is my favourite and I enjoy it. We need to encourage television stations to sponsor these local programmes. I know it is expensive, but we need to encourage them.

I am glad that the Minister will have power to give certain directions, or policy guidelines, on local content. In fact, if he could even have 100 per cent control on local content, I would be happy.

Since we have young actors and actresses, we need to encourage them, so that they can make this acting a full-time business and earn their livelihoods. In the United States of America (USA), the most highly paid people are the actors. But in this country, they are given peanuts. For one programme, they are paid Kshs5,000. If it was in USA, they would be paid millions. We want to create young millions, who work in television programmes. We should encourage the local

television stations to come up with more local programmes.

Mr. Temporary Deputy Speaker, Sir, we also do not recognise heroes who act in the television programmes and films. In the USA, they are recognised and decorated. Some of them have died but, we do not recognise them. There was Othorong'ong'o Danger who should be decorated. There is also Mama Kayai who should be recognised. That is the only way in which we will have an industry that is self-supporting.

I am also glad to see that the Minister has been given power to regulate confidential numbers. As a matter of policy, I do not pick any calls with hidden numbers. I ask myself why anybody would hide his or her number. So, as a matter of principle I do not pick such calls. In the same manner, I never hide my number at any time. I am glad that the Minister has been given power to regulate that. There is no good reason why anybody should hide his or her number.

I am also glad to see that we have now recognised electronic evidence. As of now, our Evidence Act does not recognise electronic evidence. That lack of recognition has made the Attorney-General lose a number of cases, where information was held in electronic form. I am glad that, that has been recognised, and electronic evidence can now be received in court.

Mr. Temporary Deputy Speaker, Sir, regarding the Kenya Broadcasting Corporation (KBC), during the Moi regime it was clear what the role of KBC was. But now we do not seem to know what the KBC should do. During the previous regime, news item number one was the President, second was the Vice-President, third was the Minister for Internal Security and fourth was the Minister for Finance. There was order and everybody accepted it. Then the Government used to fund the KBC. When the NARC Government took over, they said that the KBC should be a commercial station. That means that they were not to get funds from the Government, yet you wanted them to continue giving political messages. It cannot work. We have to decide. I can see that the Act is saying that the KBC is a public broadcaster; then it should be fully funded by the Government, so that it can broadcast Government programmes and policies. If you tell them to go and look for advertisements and at the same time, if they do not cover powerful Ministers, the Managing Director would be in problem, that is a contradiction.

So, we need to decide what exactly is the role of KBC. If you say, for example, that it is the Kenya Broadcasting Corporation (KBC), then it should be fully funded by the Government. Today, we have very many radio stations. Government officers used to listen to the 1.00 p.m news broadcast. That is the time KBC would announce who has been sacked and who has been promoted. At 1.00 p.m., Government Ministers would stop even by the roadside to listen to the bulletin. If one did not hear his or her name mentioned, they would say, "Halleluya" and then move on. We have moved from that situation. Even in this House, we have a number of hon. Members who were once sacked publicly over the radio. So, we need to make a decision. What is really the role of KBC? If it is a public broadcaster, then it must be fully funded by the Government. If we do that, then we shall have done good service to this country.

Mr. Temporary Deputy Speaker, Sir, we need to address the issue of piracy. We have very good young musicians who produce very good music which all Kenyans enjoy. However, these people are still poor because of piracy. These musicians make good video or music CDs, but there are some fellows down in River Road who specialise in piracy. We need to take action. Although we may say that the Copyrights Act is not under the Ministry of Information and Communications, this is all about telecommunications. The Ministry should be involved so that we can protect our young musicians. They are doing a very good job, but they are still poor. So, we need to find ways of protecting their copyright so that nobody pirates their music. That way, they will start earning good money.

I note that the Bill recognises community radios. This is a good thing and it should be encouraged. In fact, every sub-location should have its own radio. However, with regard to the licence fee, if you ask a local community radio station to pay a licence fee of Kshs1 million, where

will they get that from? The licence there should be issued free of charge because we need to encourage community radio stations. They will just be talking about local issues and nothing to do with national issues. It will be *mambo ya nyumbani*, that is, their own internal affairs. There should be a provision that for community radio stations, the licence should either be nominal or free of charge.

With regard to the Press, they are doing a commendable job. They are highly trained, but I think the problem is the news editors. If you go to a function and talk about development issues, that will not feature anywhere at all. However, when you talk *siasa*, that will be the headline. The Minister has been given powers to make regulations and issue policy guidelines. We need to advise both the electronic and print media to balance between development and politics. We cannot just be talking about politics all the time.

Mr. Temporary Deputy Speaker, Sir, let me turn to the issue of shared services. If we are not careful, this country will have so many masts because every mobile phone company and radio station is going to have its own mast. There is a provision where the Minister can require these companies to share the masts. Why should you put up your own mast where another company has already put its own? Why can they not share a mast? That will reduce costs and the benefits will be transmitted to the local mwananchi who is the actual consumer of the mobile phone service.

Mr. Temporary Deputy Speaker, Sir, these amendments are good and I fully support them.

I, therefore, support the Bill.

**Dr. Otichilo:** Thank you, Mr. Temporary Deputy Speaker, Sir. I would also wish to make some comments on this very important Bill. First of all, I would like to take this opportunity to thank the Minister, the Ministry and CCK for coming up with a comprehensive Bill that has taken into consideration all the issues in the ICT sector. When I was reading this Bill, I was very happy. This is because most of the issues that kept on coming to my mind, I saw them reflected in the Bill. So, I was very happy.

I am very happy that this Bill has addressed very many important issues. It has recognised that we are in the digital and information age. It has taken us a long time, that is, from 1998 to 2008 to make a major and important review of this Bill. I think they have done a good job. The 21st Century is about knowledge management which is facilitated through information and technology. The Bill has actually come quite fast and has addressed current issues. So, I am fairly impressed. One of the areas that I feel is very good, for example, is the area of electronic transactions.

Right now, in the world over, electronic transactions are the order of the day. All the businesses in the world today are electronic. The Bill provides for the facilitation of electronic commerce. Everybody is going e-commerce. I think it has not been possible for this country to move forward in e-commerce because the existing Act was limiting and did not address this area. It is very important that this Bill addresses e-commerce. This is going to really promote our economic growth and transaction of business.

Mr. Temporary Deputy Speaker, Sir, this Bill is going to inject public confidence and integrity in the use of electronic transactions. Most Kenyans have been worried about electronic transfers of monies, businesses and so on. This Bill has addressed that issue very well. The CCK should come up with a public awareness programme that will re-popularise this Bill when it is made an Act of Parliament. That way, people will have confidence in electronic transactions.

The other area that has been very limiting is the use of electronic signatures. This has been a big issue, particularly in the Government. There has been insistence that people must use their original signatures. Therefore, electronic signatures have not been recognised. With the Bill recognising the importance of electronic signatures, this is going to make business transactions very easy. We will be in a position to transact businesses across the oceans in a very simple manner without having to bother that you must have the original document which must be signed and given

to some courier company to ferry it across. I went through all the procedures that will be followed in authorising electronic signatures, and I am fairly happy with the process.

There is also the issue of forged electronic records. This is also an area that the Bill has covered very well. This area is very important and the regulators should give a lot of importance in the area of electronic fraud. This is an area that is very complex. It is an area where we need to see the Communications Commission of Kenya (CCK), and the Minister who has been given the power to introduce various regulations, to ensure that the area of electronic fraud is addressed. If there is a way that the Government and CCK could have a direct control over some of those transactions to ensure that fraud is not perpetuated through electronic transfers, it would be better. So, this is an area that is very important. Under the electronic transactions, I think this will now make it very easy for people to sign electronic contracts. One would not need to travel to France or any other country to sign contracts. The Government will not need to send delegates to go and sign contracts. With the provisions given in this Bill, electronic contracts can be effected very well. So, I am very happy with that and I think it will stand the test of time for some time, before the technology improves again.

Another area that is extremely important, and I think is yet to be enforced, is the area of provision of stiff penalties for electronic offenders. As you realise, we have now many electronic offenders. You have seen prisoners, even in Naivasha Prison, saying how much money they are making. They are making millions of shillings through electronic fraud. So, this is an area that we shall need to give a lot of attention and innovation. The CCK and the Government should invest in a lot of research and development. That research should be continuous because the technology is changing every day. The fraudsters are becoming smarter every day. So, you cannot afford to sit in your laurels and hope that things are okay. That is area that is very important. We will have to work with many other arms of Government such as the law enforcement agencies like the police, intelligence service and even the international intelligence agencies. That is because that is widespread issue in terms of electronic fraudsters and offenders.

Another area that I am equally happy, and I hope, again, it will be enforced when this Bill is passed, is the provision for fair competition and equal treatment among the players. That is an area where we have had a lot of inequalities. Some of the players have been allocated many frequencies and many other benefits. That has given them an upper hand in terms of competition. So, the Ministry and CCK should look into this area, once this Bill is passed, so that we have fair competition. Those who by, chance or luck, were able to be allocated some of those frequencies and privileges earlier on; there should be a mechanism to see how best we could repossess some of the frequencies to make sure that we have a level ground. So, that is an area that is very important.

I am extremely happy and excited with the creation of the Universal Service Fund. That is a very important Fund. This is a Fund that will provide resources for research, development and capacity building. This is a sector that is growing too fast. It is a sector that is knowledge driven. It is a sector that needs continuous research and development, as well as innovation. So, this is an area that we need to give a lot of priority. I hope that, that Fund will be readily available to Kenyans, particularly the youth, who have developed a lot of interest in ICT. They are doing very many innovative things. They should be funded to do research in some of the key areas, particularly in the areas of electronic transfers and electronic offenders.

I wish also to comment on the issue of community broadcasting service, which is also a very good innovation that has been introduced in this Bill. That is a good facility that will enable communities to use electronic technics to communicate and do business. As my colleagues said earlier, for community broadcasting service, we need to look at the licensing fees. Community broadcasting is for the good of the community. Therefore, they should be given, at least, a special preference so that we can have most of those community broadcasting services established in various communities, but specifically for development purposes and not for any other activity that



may bring some disharmony in the communities.

I also want to say that I am happy that the Minister has made a lot of leeway to make consultations and come up with regulations that would be able to control that sector. As he said, the sector is growing very fast. As we pass this Bill now, in the next two or three years, I bet there will be more innovations. We need the Minister to introduce some of the provisions to make sure that they take care of those innovations. So, I would like that inclusion, particularly when it comes to regulations in respect of competitive issues and, particularly, access, including the rules of inter-connections. We should have those rules clearly spelt out because various players would want to dominate, outdo or outplay their competitors. So, that is where the Minister has a role to play.

The issue of co-location of sites, I think, has also been covered. I think this is very important. We do not need to have this country full of transmission masts everywhere. The Ministry must come up with modalities on how those masts should be shared, and the players must agree. Otherwise, we will pollute this country in terms of aesthetics by having masts everywhere. That will not be very good for the scenery of this country.

I also want to note that the Bill introduces an establishment of a council to be known as Universal Service Advisory Council which will be doing advisory work for the Ministry and CCK. That, to me, is very important. I hope it consists of impartial but knowledgeable people; people who will be ready to give real good advice to the Ministry and CCK.

Lastly, Mr. Temporary Deputy Speaker, Sir, I wish to end by saying that Communications Commission of Kenya (CCK) has been given the control and independence to administer this Bill when it becomes an Act. The CCK must be very strong, focused, principled and impartial, so that this Bill will be implemented in a more impartial manner. So, I want to appeal to CCK that, when this Bill becomes law, you have to implement it! That is because the problem with this country is that we pass many, many rules and Acts, but once they are passed, they are never implemented. They are put on the shelves to gather dust! So, I hope that the CCK will not let this House down. We are going to pass this Bill because it is a good one!

Lastly, Mr. Temporary Deputy Speaker, Sir, the issue of transmission of various information in the internet, particularly pornography, is an issue that CCK and the Ministry must look into. There is too much pornography that is being posted on the internet. We must have a way of finding out the originators of that pornography, and how to deal with them! Also, on FM radios, most of you who have listened to them, there is quite a lot of vulgar language that is used. I think the CCK must come up with modalities and regulations on how to moderate that vulgar language that is used on FM radios, so that we have a society that has good norms. We should not start polluting the youth with a lot of bad things on the radio.

With those many, many comments, Mr. Temporary Deputy Speaker, Sir, I beg to support.

**Mr. Muthama:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this Bill.

Mr. Temporary Deputy Speaker, Sir, I want to touch more on issues and problems that affect Kenyans and, mostly, this Ministry as far as communications is concerned.

Mr. Temporary Deputy Speaker, Sir, I want to express great concerns. My concerns are based on the issues that Kenyans are going through. One of them is that I know many people, and me being one of them, who may want, very seriously, to invest in the broadcasting business. Even the Minister will agree with me that with the normal culture of Kenyans, just wanting to do things in order to circumvent and block other Kenyans from accessing certain services, the frequencies have been grabbed. They have been taken away. They have been applied for and given to certain individuals and they are lying in the stores. They are not being used as they ought to.

Mr. Temporary Deputy Speaker, Sir, it is up to the Minister himself and the Government to make sure that the frequencies which have been taken away; the frequencies that have been applied for and given, are given to provide services to Kenyans! By some people having them and

keeping them in their stores, they are not serving this country in any way.

Mr. Temporary Deputy Speaker, Sir, so it is the responsibility of the Government to get those frequencies back and have conditions like time limitation. The Government can say: "You have the frequencies allocated to you, but if you do not set up your broadcasting system in the next six months, return them." That is the property of the Government of Kenya. Use it now and somebody else will use it tomorrow, because life in Kenya must go on. That issue of frequencies must be taken seriously.

We are talking about broadcasting in this country in this Bill. Today, there is very clear evidence that Kenyans have resorted to watching movies from Nigeria. I want to confess, as a Kenyan, that Kenya is on the world map. If not everybody in Africa, we are ahead of many people in this continent. We are importing movies from Nigeria, yet we know very well that Kenya was the very first country in Africa to produce a movie depicting the former President of Uganda, Idd Amin, in *The Rise and Fall of Idi Amin*. That movie was filmed here in Kenya, and if you remember very well, Mr. Lidondo was one of the main actors; he performed so well that the movie was accepted worldwide. Kenya being at that stage at that time, what is so difficult about Kenya to be selling movies to Nigeria and other countries?

We have Mzee Ojwang' and he has performed well. I want to assure you that Kenyans in Tanzania, Uganda and other neighbouring countries, where Kiswahili is spoken, when *Vioja Mahakani* or *Vitimbi* comes on the screen, in Tanzania, nobody does anything else. They sit and pay attention to our people. Mzee Ojwang' started acting when the Kenya Broadcasting Corporation (KBC) was called the "Voice of Kenya (VoK)". The VoK was transformed to the KBC, so that it could be a commercial institution, but it has never worked like that. Mzee Ojwang' acted when TV was in black and white and he is still acting. Even with all that demand, the KBC has never transformed those movies into valuables that can be sold to those who watch them freely through our stations. Even with Kenya being the first East African country to have a TV frequency, the KBC has been unable to transform those movies into valuable movies.

We also have Mama Kayai, Masaku and others. If they can be taken seriously and be allocated enough time, not 15 minutes--- I love watching *Vitimbi* and *Vioja Mahakamani*, but what can I do with 15 minutes? People want more time for these programmes. That has to be looked into, because it is a way of promoting those people and making the world get to know them.

Mr. Temporary Deputy Speaker, Sir, with the technology that we have, it is not up to Kenyans to push for everything when they have the Ministry of Information and Communications. It is up to the Ministry to know that it is accountable for anything that takes place. Actually, they will be in charge of the services that they give to Kenyans and what they have done to execute their mandate. If they fail to transform those actors and make their movies generate income and promote this country outside as part of bringing tourism earnings to this country, then we will not be serious with what we will be doing.

Mr. Temporary Deputy Speaker, Sir, we have musicians in this country who have sung good songs. There was the late Peter Mwinamo, the late Kabaka and the late Fadhili Williams. It is us who fail to recognise our abilities. We have what it takes in this country to do what can be done. Fadhili Williams composed the famous song *Malaika* in the 1960s. Apart from the late Miriam Makeba of South Africa, a local African artist composed songs which actually can be admired in the world and more so Africa. There is no other musician who composed this song except Fadhili Williams. From my travelling experience, I want to assure this House that *Malaika* has been played all over the world. It has been played in Malaysia, America and so on. That song alone shows the talent Kenyans have. So, it is up to the Ministry of Information and Communications to tap those talents. If the people in the United Kingdom (UK) can play *Malaika*, what have we done to help our artists?

Mr. Temporary Deputy Speaker, Sir, on private broadcasting, we talk about doing our level

best but all this is governed by the Constitution. It is in the Bills that we pass in this House. I want to read Section 46, Clause 1 (D)(2) which says:-

"A licence granted under this section may include conditions requiring a private broadcaster to provide coverage in such areas as maybe specified by the Commission".

Mr. Temporary Deputy Speaker, Sir, if the permission granted is through the licence which is paid for, it has got a period of time. If it expires without being put into use, it should not be renewed just for someone to have it. That frequency should be withdrawn from that person.

With those few remarks, I beg to support.

**Mr. Yinda:** Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this very important Bill. I want to start by thanking the Minister for Information and Communications for bringing this Bill to the Floor of the House for us to discuss.

I would also like to thank the Ministry for the work they have put into this very important Bill. I have attended many workshops where many stakeholders came up with many views, amendments or improvements that they wanted to be included in this Bill. It is my hope that the Minister will ensure that those important suggestions will be taken care of before this Bill is finally passed.

Mr. Temporary Deputy Speaker, Sir, in this country, we need to look more on media ownership. There are many media owners who have dual ownership of both print and electronic media. If that trend continues without being checked, it can be very dangerous. We could have an individual owning all those institutions. One can almost do anything with them. Insemination of information is very important. As we know, information is power.

If you have a way of passing information, and you pass it irresponsibly, the results can be catastrophic. Therefore, it is my wish that some kind of control is put into the media ownership. Many of my colleagues have talked about the local radio stations and, more so, vernacular radio stations. We all know that during the skirmishes that we experienced at the beginning of the year, some vernacular radio stations were used very irresponsibly. We know that if information is passed through the radio without being controlled, it could cause serious fire in the country. We saw what happened.

Mr. Temporary Deputy Speaker, Sir, in this regard, it would be my wish that Kenya could borrow from Tanzania. As much as we, in Kenya, think that we have the best country and that everything goes on well here, I would like to think that Tanzania is actually a success story. I am saying that because in Tanzania, the languages of communication are English and Kiswahili. That is all. Therefore, Tanzanians have managed to be more nationalistic than Kenyans.

It is almost impossible to hear somebody in Tanzania saying that he or she comes from one ethnic group or the other. So, it makes me wonder when we, especially as Members of Parliament, stand here and go as far as encouraging vernacular radio stations. Any radio station in this country should be able to broadcast what all Kenyans can listen to and understand. For example, when you have a radio station broadcasting in Dholuo, the only people who can understand what is being broadcasted are the Luos and nobody else. That development is not in the best interest of a country like ours. I would like to see a situation in which we do away with vernacular radio stations and promote the stations that broadcast languages that all people in this country can understand.

Mr. Temporary Deputy Speaker, Sir, we lack patriotism in this country. This is normally seen in the print media. We have very irresponsible journalists. They write whatever they want irrespective of what fires they could light. I am happy to note that in the Bill, there are punitive measures which have been introduced to make sure that anybody who writes anything about anybody, if he cannot substantiate, he could be punished.

However, I would like to see the punishment brought up to a level where those in the print media would think twice before printing anything derogative in their newspapers. At the moment,

the fines are more or less non-existent. I think even the fines that are currently being proposed are not punitive enough.

Mr. Temporary Deputy Speaker, Sir, I would like to see a situation where if any newspaper writes any damaging article about an individual, that newspaper could be fined, say, Kshs5 million or Kshs10 million. This will usher in responsible journalism.

I would like the law to protect the media and the users as well. At the moment, the users are at the mercy of the media. Anything can be written about you but you have no recourse to fight back apart from going to the courts. However, the courts also have limitations on what amounts of fine they can levy.

Mr. Temporary Deputy Speaker, Sir, the licensing should also be a way of punishment. At the moment, as my colleagues have said, we have many newspapers, radio stations and people who have been issued with frequencies which they do not use. I think they use them more as a trading tool. They look for anybody who wants to start radio station or television station and if the price is right, they sell the frequencies. I think there should be a rule that give any applicant a limited period when he should roll out his service. If that time lapses, then the frequency is automatically withdrawn and passed on to the people who would use them.

Mr. Temporary Deputy Speaker, Sir, I mention patriotism again. Sometimes when you read what Kenyans write about Kenya or listen to radio stations broadcast about this country, you may at time think that they are talking about a different country and not their own country.

I would like to see a law put in place where Kenyans should practice to be patriotic. This is why when we talk to foreigners about our country, we talk almost jeering the country. This is the country of your great grandfather, great grandmothers and your own country but you talk as if you really would not care whatever happens to the country.

Mr. Temporary Deputy Speaker, Sir, I would like to see Kenyans love their country. This is lacking at the moment. When you look at those who own radio sets in this country, it is almost impossible for villagers to access radios, because of their price and the need to either buy batteries or have electricity. I would like to see the Government encourage the production of cheap radio sets which could use solar power, so that as many Kenyans as possible can access radios. At the moment, less than 60 per cent of Kenyans listen to radio.

Mr. Temporary Deputy Speaker, Sir, I would like to end by commending the Minister for a job well-done. I would like to remind him that some of the recommendations that were made by the stakeholders in the workshops that many of us attended should be put into consideration when debating the Bill before passing it.

**Mr. Nyambati:** Mr. Temporary Deputy Speaker, Sir, thank you for giving me the opportunity to be able to contribute to this very important Bill. I want to start by thanking the Minister and the Ministry for a job well-done; I commend them for having drafted this Bill. Even as we support this Bill, we need to call upon the Communications Commission of Kenya (CCK) to be more vigilant in relation to what is being done in the media and the communication world.

First and foremost, I want to address the issue of the print media in this country. I want to say that the gutter Press has become so irresponsible. I think it is very important that the CCK takes note that these publications come out only mudsling Members of Parliament and other Kenyans. It is important that a law be put in place, so that every publication is fully registered, so that if there is defamation, the publication concerned can be followed to where it operates from. You find that there are so many gutter publications all over the country and in this City for the sole purpose of blackmailing some particular members of the society.

I want to call upon the Ministry and CCK to ensure that there is law in place to ensure that whoever publishes anything is held accountable for whatever material they put out. Otherwise, we are going to create a society where anybody can come up and say anything about anybody without minding the consequences. So, it is very important that when we pass this kind of legislation the

Ministry takes it very seriously.

**Mr. Temporary Deputy Speaker** (Mr. Imanyara): Order, hon. Member for Kitutu Masaba! You will have another 25 minutes when this debate resumes.

### **ADJOURNMENT**

Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until tomorrow, Thursday, 13th November, 2008 at 2.30 p.m.

The House rose 6.30 p.m.