

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 25th May, 2011

The House met at 9.00 a.m.

*[The Temporary Deputy Speaker
(Mr. Ethuro) in the Chair]*

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.764

TREND OF DIRECT FOREIGN INVESTMENT IN KENYA COMPARED TO EAC STATES

Mr. Bahari asked the Deputy Prime Minister and Minister for Finance:-

(a) what the trend of Direct Foreign Investment (DFI) in Kenya has been compared to the rest of the East African Community member States; and,

(b) what measures the Ministry is taking to encourage more DFI.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) According to the World Investment Report, 2010, prepared by the United Nations, Foreign Direct Investment (FDI) inflows into the East African Community countries remained minimal in the 1980s and 1990s, with Kenya taking up the lion's share. However, the 2000s witnessed increased FDI inflows to most countries. FDI inflows net more than tripled between 2000 and 2007. FDI inflows increased from US\$93.5 million in 2000 to a peak of US\$2,191.9 million in 2007 before dropping to US\$1,779.2 million in 2008. In 2009, FDI flows grew by two per cent to US\$1,712.9 million.

Despite the growth in FDI inflows in the East African Region, Kenya has lagged behind Tanzania and Uganda save for 2007 when FDI inflows to Kenya increased to a peak of US\$729.1 million following privatization of Telkom and Equity Bank participation by a foreign investor. This compares favourably with US\$733 million and US\$647 million to Uganda and Tanzania respectively.

For the late entrants to the East African Community, Rwanda and Burundi, Kenya is still ahead, although Rwanda seems to be catching up quickly. The FDI trends notwithstanding, Kenya remains the number one investor in the East African Community.

We need to appreciate that Kenyan firms are investing heavily into the East African Community region and stand to benefit from the ongoing integration efforts.

According to the Ugandan and Tanzanian investment authorities, Kenya is among the top ten sources of FDI into Uganda, with 27 licensed investment projects worth US\$158 million, and the second largest in Tanzania.

Mr. Temporary Deputy Speaker, Sir, I would like to point out that for a long time, we have not had accurate data on FDI flows into Kenya. I am, however, happy to report that the Kenya National Bureau of Statistics has conducted a baseline survey which is to be published soon. Preliminary information indicates that previous sources of FDI data understated the actual amounts of inflows. The results also show that FDI to the East African Community region by Kenyan firms was almost ten times higher than those of firms in the East African Community into Kenya.

(b) The Government has undertaken various measures to improve the investment climate and to encourage FDI inflows into Kenya. These measures include:

(i) maintenance of a stable micro-economic environment following implementation of prudent fiscal and monetary policies under the Economic Recovery Strategy (ERS). The economy has witnessed improved situation. Economic growth rose to reach 7 percent in 2007, while interest rates and inflation remained fairly low and stable.

Hon. Members will agree that this has resulted in improved resilience of our economy as witnessed over the last three years when Kenya steered out of multiple shocks, including post-election violence, high energy and food prices, global economic and financial crisis and severe drought.

(ii) implementation of massive investment programmes relating to expansion and maintenance of infrastructure, especially roads and energy;

(iii) broadening and deepening of structural reforms to reduce the cost of doing business; key among these is the business licensing reforms that started in 2005 and has resulted in elimination of over 100 licences and simplification of another 600 licences.

In addition, the Ministry of Finance, established a Business Regulatory Reform Unit to keep track of all regulatory and licensing regimes in Kenya and ensure that new regulations, licences, fees and charges do not create unnecessary burdens on business and conform to international best practices. Thank you.

Mr. Bahari: Mr. Temporary Deputy Speaker, Sir, I want to thank the Assistant Minister for a fairly detailed answer. However, from the answer, you can see him going round in circles, and sometimes contradicting himself in the process of attempting to answer this question. When you do not have reliable statistics from the Kenya National Bureau of Statistics (KNBS) and come to answer a question - The Assistant Minister himself admitted this - how are we expected to accept this answer?

Having said that, does this Ministry which is largely responsible for issues regarding investments, have concrete, specific annual plans and targets that they have put in place to crack down foreign direct investments? This is what brings employment in this country and not the kind of stories that we have been listening to over the years.

Dr. Oburu: Mr. Temporary Deputy Speaker, Sir, we have the Kenya Investment Authority whose responsibility is solely to crack down investments. We have already started establishing a one-stop shop center where all the information about investments in

Kenya will be available to investors. However, the Member is right that, as a Ministry, we do not have a special mechanism of tracking or recording every investor who comes into the country. This is the reason why the Government established a survey through the Kenya National Bureau of Statistics to assist in establishing the exact amount of direct investment. A baseline survey has just been completed and it will be published soon.

Mr. Mbadi: Thank you, Mr. Temporary Deputy Speaker, Sir. Even though the Government has over relied on infrastructural development as the only driving force for direct foreign investment, it is important that the Government recognizes and realizes that there are other factors that contribute to high cost of doing business in Kenya.

The Temporary Deputy Speaker (Mr. Ethuro): Order! Mr. Mbadi, it is Question Time.

Mr. Mbadi: Yes, Mr. Temporary Deputy Speaker, Sir. Apart from making sweeping statements, could the Government and the Assistant Minister tell us how they intend to address these three issues which are contributing to high cost of doing business? First, what are the tax measures that he has put in place? Could he quantify the effects of the tax measures in attracting direct foreign investments and the bank interest rates? Banks have become like shylocks. They are making the cost of doing business in Kenya very high. What is the Ministry doing to rein in these banks, which I would call rogue banks, which are fleecing Kenyans, investors and discouraging investment in this country?

Dr. Oburu: Mr. Temporary Deputy Speaker, Sir, it is true that one of the reasons discouraging investments in the country is the high cost of doing business in the country. One of the factors contributing to the high cost of doing business in Kenya is corruption. The other factors include bureaucracy in licensing of our business. Kenya has over 1,300 licences and we have taken steps to reduce these number of licences by more than 300 and---

Mr. Temporary Deputy Speaker (Mr. Ethuro): Order, Assistant Minister! You had an opportunity in part “b” of the Question to answer that which you did not. The hon. Member asked a specific question on tax regimes and interest by the banks. Just respond to that question.

Dr. Oburu: Mr. Temporary Deputy Speaker, Sir, it is not easy to quantify the effect of the measures on taxation and the incentives that we have given to investors in terms of taxation. The Member wanted to know the exact effect of this. However, we have put in place several tax measures to assist the investors. First of all, when you invest in Kenya, there is a tax holiday when you are recovering your investment. However, I am unable to quantify the exact impact of that taxation measure. With regard to reining in the banks and their interest rates, as you know, we have a free market where the market forces play a great role in regulating the interest rates. We have the Advisory Committee at the Central Bank of Kenya. However, this Committee only gives guidelines and does not rein in banks as far as interest rates are concerned.

Mr. Mwangi: Mr. Temporary Deputy Speaker, Sir, in his answer, the Assistant Minister has admitted that there are a lot of shortcomings and unpreparedness. For example, would the Assistant Minister be in a position to give this House a directory of what has been done by the direct investors? He has also stated that they have problems with red tape factors like provision of electricity, among other issues that have caused

lack of investment. What is the Government doing to make it much easier for foreign investors to invest in this country? Could he also give the distribution of the investment?

The Temporary Deputy Speaker (Mr. Ethuro): Order! Let the Assistant Minister respond!

Dr. Oburu: Mr. Temporary Deputy Speaker Sir, if I understood the Member well, he asked what the Government has done to make it easier for investors to invest in the country. I said that we have reduced the number of licensing procedures which had made it cumbersome for an investor. For example, it takes a minimum of about three months for an investor who comes to Kenya to start investing. We want to reduce this period by reducing the bureaucracy involved in doing this. I said that there are also other factors like the political risk factors which we also want to reduce to minimize the inconvenience caused to investors who come to the country.

Mr. Imanyara: Mr. Temporary Deputy Speaker, Sir, one of the earliest legislation that was passed in this House far back as 15th December, 1964 was the Foreign Investment Protection Act under which Government issues certificates to foreign investors. Could the Assistant minister tell us whether the operations of this law have been complied with because if they have been, he would be able to provide all the information that the Question is requesting. From the register that you are required to maintain under the Foreign Investment Protection Act, Chapter 518, do you maintain the requirements of this law with regard to foreign investments in Kenya?

Dr. Oburu: Mr. Temporary Deputy Speaker, Sir, we have not been maintaining a register as such. However, according to that law, since 1965, the investors have been allowed to repatriate profits. One of the major components of that law was to allow investors to repatriate their profits and not necessarily to invest in Kenya against their will. However, I am sorry that we have not kept that register.

Mr. Mbau: Thank you Mr. Temporary Deputy Speaker, Sir. I wanted the Assistant Minister to clarify whether he is aware that since 1990s, industries and organizations have been closing and, therefore, creating a lot of unemployment. He has talked about the---

The Temporary Deputy Speaker (Mr. Ethuro): Order! Hon. Mbau, it is Question Time! Just formulate a question.

Mr. Mbau: Mr. Temporary Deputy Speaker, Sir, in view of the fact that since the 1990s, many manufacturing organizations have been closing down and, therefore, occasioning a lot of unemployment in this country, further noting that the budget of this country has largely been tilted towards funding the recurrent expenditure at the expense of investment development productive activities, the Assistant Minister has said that we have a lot of direct investments coming in. Could he give this House, at least, three projects that have been undertaken in partnership with the Government in pursuit of public private investments so that we can confirm, therefore, that DFI has been coming in?

Dr. Oburu: Mr. Temporary Deputy Speaker, Sir, I stated it clearly because this particular Question is about the comparison of Kenya with the three other East African countries. While I agree with the hon. Member that a number of companies have not just closed down business, but some of them have relocated to our neighbouring countries due to various reasons. We have also had several other companies coming into the country.

As I stated in my answer, we have, for instance, privatised. When we privatised Telkom Kenya, we brought in investors who partnered with the Government. We also have several other investments where the Government has partnered with foreign companies. The identities of the companies with which the Government has partnered to bring in direct foreign investment are public knowledge.

Mr. Wambugu: Mr. Temporary Deputy Speaker, Sir, in his answer, the Assistant Minister has talked of the issues which have discouraged direct foreign investment in the country. Most of the factories owned by both local and foreign investors in this country have closed down, because of the cheap imports that we are---

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! We are really constrained by time. Therefore, let us be specific in the questions we want to put to the Assistant Minister.

Mr. Wambugu: Mr. Temporary Deputy Speaker, Sir, most of the factories in this country have closed down because of cheap imports from China. What is the Government doing to stop this trend? As long as we encourage cheap imports from China, most of our factories will close down and we will not be able to generate employment for our people.

Dr. Oburu: Mr. Temporary Deputy Speaker, Sir, I do not know which factories have closed business because of cheap imports from China, but, generally, speaking, the policy is that we are in a free market economy. We encourage our firms to compete with foreign companies and improve on their efficiencies; they can compete effectively. If there is any company which has closed business because of cheap imports from China, that fact has to be brought to our attention so that we look into it specifically and see if there are measures we can take to protect such a firm.

The Temporary Deputy Speaker (Mr. Ethuro): Last supplementary question, Mr. Bahari. Hon. Members, I appreciate the interest you have shown in this particular Question, but I am afraid that we have to conclude it.

Mr. Bahari: Mr. Temporary Deputy Speaker, Sir, the much talked about economic growth of 7 percent is largely in the financial sector, whose benefits hardly go down to the ordinary person. Countries like Mauritius have the best business environment in Africa, despite the fact that it is a small country. Rwanda, which came out of war the other way, is the fastest growing economy in this region. The Ministry has not taken this matter seriously. What specific steps will the Ministry put in place to ensure that Kenya takes its rightful place in terms of DFI?

Dr. Oburu: Mr. Temporary Deputy Speaker, Sir, as I said before, Kenya takes the investment climate very seriously. There are certain factors which are not controlled by us. These are factors like the political risk and our neighbourhood, which also inhibits the inflow of foreign investment into our country. However, on those factors which are within our control, we are trying to improve the investment climate by entering into various agreements with foreign countries. We have already negotiated investment protection agreements with several countries. We continue to look for more to give them more comfort in investing in this country.

We are also intensifying campaigns through our foreign missions to ensure that more people come to invest in this country. We are giving them assurance that our country is stable, and that we are not likely to get into the political turmoil that made our

foreign direct investment drop from over US\$700 million in 2008 to less than US\$95 million currently.

The Temporary Deputy Speaker (Mr. Ethuro): Next Question, hon. Chepchumba!

Question No.847

UPSURGE OF INSECURITY IN ELDORET SOUTH CONSTITUENCY

The Temporary Deputy Speaker (Mr. Ethuro): Is Ms. Chepchumba not here? We will come back to this Question in the second round.

Next Question, hon. Nyamai!

Question No.854

USE OF DEVELOPMENT BUDGET BY MINISTRY

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Nyamai also not here? We will come back to the Question in the second round.

The Minister for Water and Irrigation (Mrs. Ngilu): On a point of order, Mr. Temporary Deputy Speaker, Sir. This is the second time this Question has come to the House. Last week, I was asked by the Speaker to go and get the right answer because the Questioner claimed that the answer I had given was not adequate. I now realise that the Questioner is even not here! The same thing happened last week. So, you also have to make a ruling on whether it is right for someone to ask a Question two times and finally fail to turn up in the House.

The Temporary Deputy Speaker (Mr. Ethuro): Madam Minister, your concern is valid, but I will consider it during the second round of calling out the Questions. So, just bear with us. You appreciate that there are times when Ministers also come to the House a bit late. Also, Question Time is not yet over. So, we will deal with the matter at that time.

Next Question, Member for Emgwen!

Question No.942

LIMITED SCOPE OF KAPSABET WATER PROJECT

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

(a) why Kapsabet Water Project, which is funded by the Japanese Government, is not covering the surrounding areas such as Singorwa, Kapkrio, Mosobecho, Meswo, Chebarbar and Kamurguiywa.

(b) what plans the Ministry has to ensure the areas benefit from the project; and,

(c) who changed the original survey, which covered all these areas, and how the resulting balance of funds will be used.

The Minister for Water and Irrigation (Mrs. Ngilu): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) Kapsabet Water Project, which is funded by the Japanese Government, is not covering the surrounding areas of Singorwa, Kapkrio, Mosobecho, Meswo, Chebarbar and Kamurguiywa for they were not considered in the design due to limitation of funds, inadequate water source, distance and terrain. These factors would not allow the scope of the project to be extended to those areas and remain within the available budget.

(b) My Ministry has set aside funds in the next financial year's Budget to ensure laying of distribution pipes in Singorwa area, which was originally left out of the design due to lack of funds. My Ministry will also undertake a feasibility study to identify and develop a new source to serve Kapkrio, Mosobecho, Meswo and Chebarbar areas. The design capacity of the system being improved is 3.6 metres cubed per day, and is not adequate to serve all these areas due to limitations of the source at Kabutie River.

(c) The original design, which is available for scrutiny, has never been changed as has been claimed. This project is a grand project from the Government of Japan, that was specifically negotiated by the Government and we do not expect any balances as the project's scope of works has not changed. The project is already substantially completed. I am sure the hon. Member who was there when we inaugurated it a year-and-a-half ago was aware of that.

Mr. Lagat: Mr. Temporary Deputy Speaker, Sir, first of all, I want to thank the Minister for the answer that she has given. But, unfortunately, the tank is built in the Singorwa area. It is very embarrassing when a tank is built in an area and the residents of that area do not receive water. Secondly, there is no T-joint to show that there will be a connection line in future to serve that area. The project is almost 90 per cent complete. If the Government has set aside funds for that area, then there should be a sign to show that there will be a connection even in future. However, there is no T-joint to show that there will be future connection.

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, I did say that the original design of this project did not provide for a T-joint to connect water to this area. However, I am saying that we will set aside funds and redesign again. The hon. Member should also appreciate the fact that the water source is not enough. So, if we put a T-joint at the design stage the water will not get where we projected it to go. However, we will go back to the drawing board and see where else we can get water for these people. I do appreciate the hon. Member's concern.

Mr. Chepkitony: Mr. Temporary Deputy Speaker, Sir, this project uses a pump to pump the water. Does the Ministry have plans to provide water through the force of gravity, because pumping water is very expensive, particularly now when the cost of energy is very high? This is not sustainable. Does the Ministry have any plans to supply water to this town in future by the force of gravity?

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, it is true that when you supply water by the force of gravity, it is much cheaper for the communities and even the Government. However, I am told that, that is the first thing that our engineers look for when they design a project. Therefore, for them to have used the pumping system, it means that maybe the force of gravity could not be used, but I will have to check that again.

Mr. Koech: Mr. Temporary Deputy Speaker, Sir, the Minister has alluded that there is inadequate water source from this river. Kapsabet and the entire Nandi have very large rivers that can serve the entire Nandi. The Minister is aware that there is a very big dam next to Eldoret Airport, which is not serving our people to date. What has she done to ensure that, that dam is utilized to serve Mosoriot all the way to Kapsabet?

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, it is true that most of the Rift Valley areas other than the Arid and Semi-Arid Lands (ASALs) are endowed with rivers and lots of water. Therefore, designs have to be done to ensure that they can be used to serve the communities. However, that will only happen when we have funds. We could put the designs in place and then look for funds.

The Temporary Deputy Speaker (Mr. Ethuro): Last question, Mr. Lagat!

Mr. Lagat: Mr. Temporary Deputy Speaker, Sir, the Minister answered the Question by saying that there is not enough water. Chebarbar River is big and, in fact, the tank in Singorwa takes more than one million litres. I fail to understand why this tank which takes more than one million litres does not provide enough water to serve the surrounding area. First of all, I appreciate this project, but if we can agree with the Minister, this water is enough to serve the surrounding area and also the Kamurguiywa area where there is a hospital, shopping centre and school. I fail to understand how a connection line can pass just next to these facilities and yet they are not connected. This is the case and yet there is enough water.

The Temporary Deputy Speaker (Mr. Ethuro): Madam Minister, that is a genuine request in connection with the Kamurguiywa area.

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, it is not a million litres but 3.6 metre cubed; that is about 3.6 million litres per day. During the design, the area was looked at. I think this was done before the hon. Member was elected. However, he has consistently come to check on this water project, and I really feel very good about it. I will go back to the drawing board and see whether we can supply these areas. However, it is sometimes very dangerous to oversupply and then not give people water, because it is not adequate. I will check on this and talk to the hon. Member. He can come to my office and I will let him know what can possibly be done.

Question No.827

STABBING OF BANGI KALUKU MUNUVE AT WORKPLACE

Mr. K. Kilonzo asked the Minister for Labour:-

(a) whether he is aware that Mr. Bangi Kaluku Munuve, an employee of Osteria Gigiri Italian Restaurant (Employee Card No.0009), was stabbed and injured by a colleague at the workplace;

(b) whether he is also aware that the employer did not visit him or pay the hospital bill of Kshs364,285.57; and,

(c) what action the Ministry is taking to ensure that the employer settles the bill and the employee is reinstated.

The Assistant Minister for Labour (Mr. Ojaamong): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am aware that Mr. Bangi Kaluku Munuve, an employee of Osteria Gigiri was stabbed and injured by a colleague at the work place.

(b) I am not aware whether the employer visited the employee in the hospital or not or whether he paid the hospital bill amounting to Kshs364,287.57.

(c) I intend to take no action as assault is a criminal offence and cannot be reported to my Ministry since it was not a labour related matter. I have established that the matter is being handled by Gigiri Police Station under criminal case No.1893/10 and has already been filed in the Chief Magistrate's Court, Kiambu. I also wish to confirm that the injured person was reinstated and resumed duties on 26th February, 2011.

Mr. Bahari: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister, in part "b" of his answer to the Question says that he is not aware that there is a bill and whether or not the employer has visited the employee in hospital. The purpose of this Question is for him to go and find out, and he dares to bring this kind of answer. Through the Chair, could we get direction on how we will proceed on this matter when the Assistant Minister has refused to give an appropriate answer?

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Bahari! Definitely, the Chair is very sympathetic to your concern but it is an issue that you could have raised as a supplementary question. It is not a breach of any Standing Order.

Proceed, hon. K. Kilonzo.

Mr. K. Kilonzo: Mr. Temporary Deputy Speaker, Sir, Osteria Restaurants are well established in this city. We have one in Karen. We have one on Lenana Road and another one in Gigiri. Could the Assistant Minister inform the House whether the restaurants have a health policy on employees or Workman Compensation? If an employee is hurt in whatever nature during his course of work, he can be catered for. Has that been enforced in those circumstances? Do they have a health policy?

Mr. Ojaamong: Mr. Temporary Deputy Speaker, Sir, we have the Workman's Compensation Act which caters for the compensation of employees at the work place. However, in that case, that was a criminal act. Those people were not advancing the course of the employer. They engaged in a criminal act and fought. So, there was no benefit accruing from the fight which the employer was going to gain. They are not catered for in the Act.

Mr. K. Kilonzo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Clearly, the Assistant Minister is not attentive to the questions that I am asking. I am asking him to confirm to this House whether Osteria Restaurants have a health policy and, if they have, from which insurance company? Could you table the name here? I am not interested in the circumstances under which the injury was inflicted?

Mr. Ojaamong: Mr. Temporary Deputy Speaker, Sir, as to whether the employer--- I know it is an established hotel chain. I know they are covered by National Health Insurance Fund (NHIF).

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. You know the main reason why the Government created this Ministry was to regulate labour environment and to help workers. But it appears that the Ministry is protecting the interests of what Kiswahili calls *mabwanyenye*. Is it in order for the Assistant Minister to avoid answering a direct question and instead, going into generalities of what is there? Why can he not find it fit just to answer the question asked by hon. K. Kilonzo?

The Temporary Deputy Speaker (Mr. Ethuro): Order! You are also running the danger of repeating yourself. Mr. Assistant Minister, it is a valid point in terms of a specific response to a question you are asked about whether they have a health policy or insurance. It is either there or not.

Mr. Ojaamong: Mr. Temporary Deputy Speaker, Sir, I said that I have not established whether they have a health policy or not. But what I know very well is that, that is a well established chain of hotels. The employees are covered very well under NHIF. I know that employee was getting a very good salary. Definitely, they are covered and he has been reinstated.

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. It is very evident---

The Temporary Deputy Speaker (Mr. Ethuro): I think at this point we can also entertain the issue raised by the hon. Bahari after hon. Mbadi. Proceed!

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, it is very evident that the Assistant Minister is not prepared to answer this question. The question is very clear. It is asking whether there is a social health policy. In his answer, he has said that he is not sure. He has then gone ahead to make assumption that because that is an established chain of restaurants, they should be having it. He has been having this Question for a very long time. This is an ordinary Question.

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! I also want to add something. The Assistant Minister has said that the fight was between two employees. It was not an issue between the employee and the employer. Proceed, hon. Bahari, so that the Assistant Minister can deal with two issues at one go.

Mr. Bahari: On a point of order, Mr. Temporary Deputy Speaker, Sir. Like hon. Mbadi has said, this Assistant Minister looks like he is not sure about any answer that he is giving this House. The whole purpose of this Ministry of Labour is to ensure that employees are protected, among other things. Since the Assistant Minister seems not to be prepared, is it in order to give him more time so that he can go and find out, including among other things, the last inspection report by his labour officers so that he can table it in this House?

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Assistant Minister, what is your response?

Mr. Ojaamong: Mr. Temporary Deputy Speaker, Sir, if you look at the Question, what the hon. Member for Mutito wants to find out is one, whether the employee was reinstated. He has been reinstated. There is a bill that accrued from the hospital. It was Kshs364,205.57. That is what he wants the employer to settle. But I am telling him that according to the Work Injury Benefits Act, the employer has no business settling a criminal matter where the two employees decided to fight, advancing a course which was not worthwhile for the employer. So, maybe, the hon. Member should ask me to talk to the employer on humanitarian basis to settle the bill. The bill has already been settled.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Assistant Minister! But there is also Part (b) of the Question!

Mr. Ojaamong: Mr. Temporary Deputy Speaker, Sir, as for Part (b), it is the employer who took the employee to hospital and paid some amount. He knows that.

Mr. K. Kilonzo: How much?

Mr. Ojaamong: Mr. Temporary Deputy Speaker, Sir, it was Kshs2,400 to admit the guy to the hospital. But, generally, what we are saying is that the Act which the hon. Member passed in 2007, that is the Work Injury Benefits Act, the employer is not---

The Temporary Deputy Speaker (Mr. Ethuro): Order. Assistant Minister! You know in your formal response to Part (b), you were actually asked whether you were aware. You confirmed to the House that you are not aware whether the employer visited the employee. At that point is where you should have said he actually took him to the hospital. You did not say that.. That is a valid one. Part of the reason you get good notice of the Question is so that you can get the information. So, I feel that you need to go back and get the information. This Question is deferred to next Wednesday in the morning.

(Question deferred)

Question No.845

DISBURSEMENT OF YOUTH FUND MONEY
TO MOSOP CONSTITUENCY

Mr. Koech asked the Minister for Youth Affairs and Sports:-

(a) how much money in the Fund has been disbursed to Mosop Constituency by the Youth Enterprise Development Fund (YEDF) through the Constituency Youth Enterprise Scheme (C-YES) and financial institutions (FIS); and,

(b) whether he could provide a list of financial institutions involved in the disbursement of funds as well as the list of beneficiaries (individual or group(s)) since the inception of the Fund.

The Minister for Youth Affairs and Sports (Dr. Otuoma): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) In Mosop Constituency, the Youth Enterprise Development Fund (YEDF) has so far disbursed Kshs2.59 million and Kshs275,000 through the Constituency Youth Enterprise Scheme (C-YES) and Youth Enterprise Scheme, respectively. Further, the Fund has disbursed an additional Kshs67 million through the financial intermediaries in Eldoret and Kapsabet and which are accessible to the youth in Mosop Constituency.

(b) The list of financial institutions involved in disbursement of funds as well as the list of beneficiaries is also listed. I will table this at the end of my answer because they are tied together. We have got around 32 financial intermediaries and 57 youth groups that have benefitted. There were about 11 individual beneficiaries.

(Dr. Otuoma laid the document on the Table)

Mr. Koech: Mr. Temporary Deputy Speaker, Sir, I want to thank the Minister for this answer. From the answer, it is very clear that what goes through the youth officer is hardly Kshs3 million. What my youth could actually access through financial intermediaries is over Kshs67 million. If the youth of Mosop could actually access this money, we would not be having problems. The conditions given by these financial

intermediaries in our area are too stringent. The large banks give serious conditions because the interest rates for these funds is very low and, therefore, they discourage the youth from accessing them so that they can give this money to other people at commercial rates. What is he doing to ensure that the youth of Mosop actually access the Kshs67 million that is in the bank?

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Minister! Mr. Koech, could you be more specific so that he can really assist you? With that kind of question, he may not be of much help. He will give the same answer he gave. What are those conditionalities?

Mr. Koech: Mr. Temporary Deputy Speaker, Sir, the banks ask for so many things, including title deeds. My youth do not have these things. What I am actually saying is that the banks are reluctant to release this money to the youth because the interest rate is very low compared to when they give out to other people. So, what is he doing to ensure that the conditionalities are removed so that the youth can access this money?

Dr. Otuoma: Mr. Temporary Deputy Speaker, Sir, in my answer I told you that we have got around three components of this youth enterprise fund. In Mosop, the first component, although it looks very little, of Kshs3 million, is supposed to be a revolving fund. So, the more you recover that money, the more you are able to give out to other beneficiaries. The recovery rate in Mosop has been very low; actually below 50. However, we have held sensitization meetings with the youth. Hopefully, I am yet to get the outcome of that sensitization on the need to pay back the loans.

On the second component of financial institutions, we have also changed the way we engage with these financial institutions. We are no longer just giving them money to disburse out. Recently, we had put out an advert for new financial intermediaries, especially in areas that were under-represented in terms of being able to reach to the youth. That exercise is still going on, to bring more intermediaries on board. We believe once those ones come on board, Mosop should be able to benefit.

I had also engaged the Member of Parliament earlier that those financial institutions that are in Mosop should take advantage of that advert that we had put out and make applications to be considered as financial intermediaries to help us reach out to more youth in Mosop.

Mrs. Shebesh: Mr. Temporary Deputy Speaker, Sir, the Minister is aware that his Ministry is expected by the young people of this country to be number one in terms of information disbursement. This is expected to be done even through a website by your Ministry.

Does he not think it is about time he avoided answering these questions that keep coming here from Members of Parliament by developing a website where all monies disbursed to constituencies are posted? What intermediaries are used in those particular constituencies? That kind of information which is supposed to be useful to Members of Parliament and their constituents does not need to be raised in this House time and time again, with answers that do not, probably, always satisfy the Members of Parliament?

Dr. Otuoma: Mr. Temporary Deputy Speaker, Sir, the hon. Member must be aware that we have started that exercise of being ICT compliant in trying to reach out to as many youth as possible and give information on timely basis. So, the website is being

developed. As I said, there are a lot of reforms that we are carrying out through this youth fund just to help correct some of the problems that we have been having in reaching out to the youth. One of the major ones that we are doing is the training on entrepreneurship. Just giving money alone is not enough. We have come to realize that the component of entrepreneurship must go together with funding.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Minister! The question was specific and I think you have responded. All you need to do is to reassure the House when the website will be operational.

Dr. Otuoma: Mr. Temporary Deputy Speaker, Sir, I will find out how ready we are. As far as I am concerned, that exercise was going on.

Mr. Koech: Mr. Temporary Deputy Speaker, Sir, once again, I want to thank the Minister for confirming that if some other financial institutions or intermediaries apply, he will consider them. For purposes of record, we have Kabiyeet Financial Services Association which is serving the milk farmers in Kabiyeet area.

We have Surungai Financial Services Association which serves the milk farmers in Surungai area and Chepterwai area. We have Kipkaren Ebese which is serving the milk farmers in Kipkaren area. We also have Hekima SACCO in Kaiboi which is serving the farmers within that area.

Could he confirm to the youth in Mosop that once these institutions apply, he will direct all the money to them? I am concerned about the Kshs67 million which is actually not going round. Will he ensure that all the money meant for the youth in Mosop will be channeled through those financial institutions?

Dr. Otuoma: Mr. Temporary Deputy Speaker, Sir, I want to confirm to the House that if these institutions that the hon. Member has mentioned have applied and they fulfill the requirements of that application, definitely, they will be considered.

Question No.851

LEVEL OF SUCCESS OF TREE PLANTING
EXERCISE IN EMUHAYA CONSTITUENCY

Dr. Otichilo asked the Minister for Education:-

(a) how successful was the programme to establish tree nurseries in 20 primary schools in each constituency, particularly in Emuhaya Constituency considering that Kshs60,000 was allocated to each school through the Economic Stimulus Programme (ESP) in 2009/10, and;

(b) how successful was the programme to purchase and plant seedlings in 50 schools in every constituency, particularly in Emuhaya Constituency considering that Kshs30,000 was allocated for this purpose.

The Temporary Deputy Speaker (Mr. Ethuro): Is the Minister for Education not here?

Leader of Government Business, do you have any information about the whereabouts of the Minister for Education?

The Assistant Minister for Education (Prof. Olweny): Mr. Temporary Deputy Speaker, Sir, I was surrounded by colleagues when you called out the Question.

The Temporary Deputy Speaker (Mr. Ethuro): You have the Order Paper and you should know your---

The Assistant Minister for Education (Prof. Olweny): I am sorry, Mr. Temporary Deputy Speaker, Sir.

I beg the indulgence of the Chair and the House to give me up to Thursday, next week to give a good answer to this Question. As you can see, part “a” of the Question involves getting information from all over the country. We do not have adequate information yet. By Thursday, next week, I shall be in a position to give a good answer to this Question.

The Temporary Deputy Speaker (Mr. Ethuro): Dr. Otichilo, what is your response?

Dr. Otichilo: Mr. Temporary Deputy Speaker, Sir, the Minister has discussed with me and we have agreed that he brings a comprehensive answer on Thursday, next week, without fail.

The Temporary Deputy Speaker (Mr. Ethuro): The Question is deferred to Thursday, next week.

(Question deferred)

Question No.905

INSECURITY/ LACK OF POLICE VEHICLES IN KIRINYAGA

Mr. Gitari asked the Minister of State for Provincial Administration and Internal Security:-

(a) whether he is aware that the Kirinyaga OCPD, OCS and DCIO have to share a vehicle because vehicles meant for the OCS and DCIO are unserviceable,

(b) when the Ministry will avail new vehicles to the station, and;

(c) whether he is aware that eight people have been killed by criminals in Kirinyaga Central Constituency and, if so, what measures the Government is taking to improve security in the constituency.

The Temporary Deputy Speaker (Mr. Ethuro): Member for Kirinyaga Central, the Minister is not available. He had already intimated to the Chair that he is bereaved. So, he requested the Chair that all the Questions be deferred to next week. Let us bear with him.

(Question deferred)

Question No.935

DELAY IN ISSUANCE OF TITLE DEEDS IN KIENI EAST DISTRICT

Mr. Njuguna, on behalf of **Mr. Warugongo**, asked the Minister for Lands:-

(a) whether he is aware that the case to wind up Mwichwiiri Farmers' Company Ltd in Kieni East District was concluded in the year 2009 but the beneficiaries have not received their title deeds despite the Minister's promise that the title deeds would be issued immediately the case was concluded, and;

(b) when the title deeds will be issued.

The Assistant Minister for Lands (Mr. Rai): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that the case to wind up Mwichwiiri Farmers Company Limited in Kieni East District was concluded in 2009.

(b) Title deeds will be issued when Petition No.1 of 2009 at Nyeri High Court is concluded and directions given.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, I would like to thank the Assistant Minister for the very brief answer he has given to this very important Question. However, could he inform this House the efforts the Ministry has made to procure determination of Petition No.1 for the farmers of this company in Nyeri High Court?

Mr. Rai: Mr. Temporary Deputy Speaker, Sir, efforts have to be made by the petitioners because we were sued as respondents. However, as late as February, we were with the Attorney-General trying to confront the situation so that this matter is concluded. So, if the petitioners can push for a date, we will be more than ready to have this matter concluded.

The Temporary Deputy Speaker (Mr. Ethuro): Your last question, Mr. Njuguna!

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, I am very satisfied with the answer given by the Assistant Minister.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, we will now do the second round on the Questions. There is Question No.847 by the hon. Member for Eldoret South.

Ms. Chepchumba: Mr. Temporary Deputy Speaker, Sir, I apologise for coming late. I beg to ask Question No.847 on the Order Paper.

Question No.847

INCREASED INSECURITY IN ELDORET
SOUTH CONSTITUENCY

Ms. Chepchumba asked the Minister of State for Provincial Administration and Internal Security:-

(a) whether he is aware of the recent increased insecurity cases in Eldoret South Constituency;

(b) whether he is also aware that a number of investments, among them, El'Periso, Soin and Mariot hotels have been targeted by thugs and, if so, what the status of police investigations is into the incidents; and,

(c) what steps the Government is taking to arrest the heightened state of insecurity in the constituency.

The Temporary Deputy Speaker (Mr. Ethuro): I am afraid, for the same reasons we gave when handling the Question by the Member for Kirinyaga Central, we will not be able to get the answer to your Question. The Minister is not available for the reasons I gave.

(Question deferred)

Question No.854

USE OF DEVELOPMENT BUDGET
BY MINISTRY

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Nyamai still not here? Madam Minister, you had raised the matter. Do you wish to state the same?

The Minister for Water and Irrigation (Mrs. Ngilu): Mr. Temporary Deputy Speaker, Sir, on this Question, as I had told you earlier on, I had been told by the Speaker to go and get a proper answer which I did. However, I am surprised that the hon. Member is not here. I do not mind the Chair reinstating the Question. However, you can also drop it.

Mr. C. Kilonzo: On a point of order, Mr. Temporary Deputy Speaker, Sir. We must not at any time appear to be flouting the rules of the House. The Standing Orders are very clear. If Mr. Nyamai did not come to ask this Question, he gets the same treatment as other hon. Members who are handicapped.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. C. Kilonzo! You only challenge a ruling if it has been made. You are not supposed to anticipate the ruling of the Chair. Although I am afraid, I have to agree with you. The Question by Mr. Nyamai will be dropped for now and the Minister was fully aware of that. We want to appreciate her because she still wants to give an answer to the Question given the import of it. So, there are established mechanisms in which a Question can be reinstated and the hon. Member will be at liberty to do so.

Mr. Imanyara: Mr. Temporary Deputy Speaker, Sir, since the Minister is very keen on giving the information to the public, could she consider issuing a Ministerial Statement at her own time over this issue so that we can benefit?

The Minister for Water and Irrigation (Mrs. Ngilu): Mr. Temporary Deputy Speaker, Sir, I can do that since it is a specific Question that was asked and it touches on national issues, especially on how we allocate our resources.

(Question dropped)

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, that is the end of Question Time.

Next Order!

MINISTERIAL STATEMENT

ADVERTISEMENT OF SENIOR POSITIONS BY PUBLIC COMPLAINTS COMMISSION

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): Mr. Temporary Deputy Speaker, Sir, you will recall that on 30th March, 2011, Mr. Gitobu Imanyara rose on a point of order to seek a Ministerial Statement on the advertisement of senior positions in the Secretariat of the Public Complaints Standing Committee (PCSC).

The hon. Member sought to know why the advertisements for the several positions appeared to be tailor-made to suit current serving staff of the PCSC with a view to promoting them before the PCSC transits into a constitutional commission and whether the intention of the advertisement is to deny the new Commission on Administration of Justice the option to recruit staff in a fair and transparent manner.

The PCSC was established on 21st June, 2007 vide Gazette Notice No.5826 by His Excellency the President in exercise of powers conferred upon him under Section 23(1) of the former Constitution. The composition and functions of the PCSC was also set out in the said *Kenya gazette*. Following the said establishment, His Excellency the President also vide Gazette Notice No.5827 dated 21st June, 2007 appointed a chairman and three other persons as members of the Committee for a period of three years from 21st June, 2007. Thereafter, the Minister for Justice, National Cohesion and Constitutional Affairs vide Gazette Notice No. 63207 dated 11th July, 2007 appointed the Executive Director of the PCSC for a period of three years with effect from 11th July, 2007.

After the appointment of the Committee members and the Executive Director, the Ministry of Justice, National Cohesion and Constitutional Affairs developed a draft staff establishment and forwarded the same to the Ministry of State for Public Service. On 29th October, 2007, the Ministry of State for Public Service vide a letter Ref. No TBM10/121A/4A approved the staff establishment of the PCSC. The number of the personnel for the secretariat was approved at 26.

Mr. Temporary Deputy Speaker, Sir, in the course of time several offices in the PCSC fell vacant due to various reasons among them resignations and expiration of contracts. It was, therefore, prudent to replace these officers. In so doing, my Ministry made a policy decision to do so transparently and competitively. A case in point is that of the Executive Director whose contract expired on 31st March, 2011. Prior to the expiry of this contract, the Executive Director wrote to my Ministry expressing his desire to be considered for another term. The Minister acknowledged receipt of this letter and advised the Director that the Ministry would advertize the position so as to ensure a competitive and transparent recruitment. The Ministry is of the view that transparent and competitive recruitment is in line with the values and principles of the public service under Article 232 of the current Constitution. We wish to assure Kenyans and the House that the advertisement was done procedurally, and with administrative expediency and not in pursuit of self interest or to defeat debate on any Bill.

Mr. Temporary Deputy Speaker, Sir, the advertisement was placed by my Ministry and not by the Public Complaints Standing Committee. The officers working in the secretariat of the Public Complaints Standing Committee are considered staff of my Ministry. If and when a new constitutional commission is established to succeed the Public Complaints Standing Committee, then the new commission will be at liberty to recruit its own staff in accordance with the Constitution and the relevant law to be enacted by this honourable House.

Finally, the positions advertised are those that have become or have remained vacant in the approved establishment of the Public Complaints Standing Committee. None of these positions has been tailor made for anyone.

Mr. Imanyara: Mr. Temporary Deputy Speaker, Sir, I thank the Assistant Minister for the Statement he has given. However, given that His Excellency the President during his address to Parliament this Session did emphasize on the important constitutional Bills which would have to be tabled in this House during this period, and that he listed this administrative commission as one of them--- Given the Prime Minister's clear instructions in his letter to the Permanent Secretary in the Ministry, dated 24th March 2011, where he advised--- This advice was not ordinary advice but advice pursuant to the constitutional provisions as the Prime Minister exercised the powers of co-ordination and supervision of the functions of the Government. He specifically said:-

“During the period before the new Commission is appointed, the PSC Commissioners, management and staff should work jointly with the relevant stakeholders to finalize the Ombudsman Commission Bill, and prepare a comprehensive plan for smooth transition to the Ombudsman Commission, including laying sufficient ground for the procedural appointment and recruitment of commissioners, an executive director and staff of the Ombudsman Commission, you should withhold filling these positions and prepare your staff to transit to the new commission”.

In these circumstances, I would like the Assistant Minister to tell us why they have not complied with this circular from the Prime Minister's office, which makes sense given that we are required to pass this new Bill under a Schedule of the new Constitution before the end of June.

Mr. Temporary Deputy Speaker, Sir, the letter in question is dated 24th March 2011 and I have a copy of it here.

(Mr. Imanyara laid the document on the Table)

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): Mr. Temporary Deputy Speaker, Sir, I have not had the benefit of perusing through the letter that was referred to by my learned colleague. However, it would appear that this letter from the Prime Minister came after the decision to advertise was undertaken by the Ministry. As it is today, the various applicants have already put in place---

Mr. Imanyara: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it not prudent, now that the Assistant Minister says that he was not aware, and has now become aware of the contents of this letter, for him to take some time? I emphasized that the Prime Minister exercised his supervision and coordination powers under the Constitution.

In these circumstances, really, there ought to be compliance. Is it in order to request that the Assistant Minister takes some time to look at this letter and then comes back to respond more appropriately, because of the constitutional implications involved in it?

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): Mr. Temporary Deputy Speaker, Sir, it is my responsibility also to ensure that the law is complied with. I have no problem, given the contents of this letter, with going back and looking at it with a view to either amending my statement or confirming what I have already given the House today. I do not have a problem. I will still come back to the House on another day and give the house more information based on the contents of this letter.

The Temporary Deputy Speaker (Mr. Ethuro): When will you then be able to make the Statement? As you confirm when you will come back, you may wish also to confirm that the Government has other avenues of receiving letters from the Prime Ministers and not from the Floor of the House.

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): I can do that on Tuesday next week, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Ethuro): So, next Tuesday!

Mr. Imanyara: Mr. Temporary Deputy Speaker, Sir, I was only tabling a document to show that this has been done. I am sure the Government has other ways of receiving letters and they have them in their possession. However, since the Assistant Minister agrees that this is an issue that he requires to look at afresh in view of the contents of the letter I have tabled, it is only fair that we give him that opportunity. I also want to provide him with further information, so that he can give us a comprehensive response. This information is here and he can look at all of it.

(Mr. Imanyara laid the document on the table)

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Imanyara! For purposes of the House, do you want to mention which information is in the document you have tabled?

Mr. Imanyara: Mr. Temporary Deputy Speaker, Sir, that is a comprehensive document setting out the case that I made when I made the request for information; that these appointments and advertisements appeared tailor-made to filling positions and undermining the fair hiring of new staff in the commission when it is formed. I am only providing background information. I am sure the Assistant Minister is going to benefit from the information that I am giving him.

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): Mr. Temporary Deputy Speaker, Sir, I would, indeed, appreciate going through the document.

I have just noted that I will be away on Tuesday next week. I would request that we do this on Wednesday. I would really appreciate making use of the documents availed.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Imanyara, the Assistant Minister has revised the day to Wednesday. So, the Statement will be made on Wednesday next week in the morning.

Is there any other Minister with a Ministerial Statement? Any other hon. Members seeking Ministerial Statements?

Next order!

MOTION

ESTABLISHMENT OF OPINION POLLS CONTROL BOARD

THAT, appreciating that the freedom of speech and information is a fundamental right for all Kenyans as enshrined in our constitution; realizing that this right ought to be exercised with utmost care and responsibility, so as not to send false alarm and thus cause social disharmony; noting that recently there have been a proliferation of polls conducted by private entities and results which may not reflect the realities of the moment; aware that the country is geared towards a general election next year; cognizant of the fact that propaganda and misinformation are potent tools for destabilization of peace and stability, especially during electioneering period, this House urges the Government to develop a framework that includes an Opinion Polls Control Board for the regulation and conduct of opinion polls that are factual and adhere to the rule of law.

(Mr. Jamleck Irungu Kamau on 11.5.2011)

(Resumption of Debate interrupted on 11.5.2011)

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, the last speaker was Mr. Kamama and he had nine minutes to go.

If Mr. Kamama, is not here any other hon. Member should feel at liberty to contribute.

Yes, Mr. Mbadi, please, proceed!

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, I would like to take time and oppose this Motion by my friend Mr. Jamleck Kamau. If you look at the intention of this Motion, it is suspect. The intention of this Motion takes us back many steps from where we started. The argument that is advanced by Mr. Jamleck Kamau about the opinion polls influencing decisions, or reactions, after general elections cannot be true. We have to be honest and candid with each other. The opinion polls that have been carried out in this country--- Those of us who have been keen from 2002, have more or less predicted the outcome of elections.

Mr. Temporary Deputy Speaker, Sir, I want to take you back to the 2005 Referendum; all the opinion polls predicted that those who were opposed to the draft Constitution were to carry the day with a huge margin, and it turned out to be so. The referendum was lost by about one million votes.

If you come to the most contentious elections of 2007, I have heard arguments about a presidential candidate who was ahead and later on started to lose ground. The answer was obvious.

Mr. Temporary Deputy Speaker, Sir, the outcome was obvious. There was a feeling in this country that there would be a position of a Prime Minister, somehow and that somebody was supposed to be a Prime Minister while another one was supposed to be the President. Therefore, supporters of that candidate had assumed and believed that their candidate would be the Prime Minister and that the other person who was also a presidential candidate would be supported by their preferred candidate. When it turned out that the person who was earlier assumed to be the Prime Minister designate or would be the Prime Minister was now running for presidency, definitely the support shifted and you could see the predictions of the opinion polls showing different figures. That cannot be blamed on the opinion pollsters.

Recently we held a referendum in this country on the new Constitution. All the pollsters predicted the correct outcome of the result. Therefore, blaming the pollsters for making mistakes in their predictions is not a good reason. I think the hon. Member should be candid enough to tell us that the results of the opinion polls do not favour his political grouping. The results of the opinion polls do not favour his presidential candidate of choice.

Mr. Temporary Deputy Speaker, Sir, even the 2007 election that is being talked about and maligned that the opinion pollsters did not predict the correct outcome, I remember that these pollsters gave a close contest. Even though the results were reversed, they gave a close contest where one candidate would win but number two would have a close margin. It turned out that candidate "B" was declared a winner while candidate "A" followed or trailed him with a small margin, but we all know the reasons behind it. Some people may dispute it but some of us know what happened. This cannot be blamed on pollsters.

If you start regulating pollsters and, worse still, put this body under the office of the Vice-President, who himself has confessed that he will be a presidential candidate in 2012, what you are saying is that you want the pollsters in this country to be controlled by the Office of the Vice-President; the occupant of which office is a presidential candidate. Therefore, you will not solve the problem you are set to solve. What you will be doing is to make it worse. You will be putting pollsters under the hands of one presidential candidate.

This is a Motion that I did not expect to ever appear on the Order Paper in this House. I never expected any Member of Parliament, in his wisdom, to bring such a Motion to be debated in this House. I urge this House to ignore this Motion.

The Temporary Deputy Speaker (Mr. Ethuro): Order! Mr. Mbadi, it is the Member's right to express his opinion. It is also your right to challenge those opinions.

Proceed!

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir that is true. That is why I am urging hon. Members. I have not forced hon. Members. It is also important for me to advise my friend. The hon. Jamleck Kamau is a young Member of Parliament. If this Motion came from people who resist change, support impunity and have no hope, then I would have taken it easy. However, this coming from a young hon. Member like Jamleck

Kamau makes me surprised. I am told that he is working on a Bill with hon. Mututho. I urge the two of them to drop that idea and not to waste Parliament's time with motions that are retrogressive; that have no value for this country; motions that are bound to take us decades back.

Kenya is respected because of the opinion polls in this country. That shows our democratic maturity as a country. We have moved several steps ahead of our neighbours. You have seen what is happening in some countries around us like Uganda and many others, but Kenya has moved a step forward. We should not take ourselves back.

Mr. James Maina Kamau: On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not think it is right for the hon. Member to attack another hon. Member for raising a Motion like this one. When a Motion comes to this House, it becomes the business of the House. So, is he in order to attack an individual?

The Temporary Deputy Speaker (Mr. Ethuro): Order! The Chair has already made a ruling that every hon. Member has a right to express his or her opinion through a Motion like Jamleck Kamau's. Hon. Mbadi is also at liberty to disagree with him. However, hon. Mbadi, I think there is some counsel there. Deal with the issues and not with the person.

Mr. Mbadi: Mr. Temporary Deputy Speaker, Sir, with all due respect, I was not attacking any of my colleagues. That is why I said that hon. Jamleck Kamau is my friend. However, even if he is my friend, I need to advise him. Some of these things will live with us forever. Twenty years from today, hon. Jamleck Kamau may want to be appointed to a high office and these things may come to haunt him. Recently, when the Judicial Service Commission was interviewing judges, you could see some of the actions they took in the 1980s haunting them. I do not want my friend to suffer the same fate 20 years from today. That is why I was advising him that if I were him, I would withdraw this Motion because it is retrogressive and portrays him in very bad light. It puts him in the league of those who support impunity in this country and those who are fighting democracy. I remember we were with him, although he came in late, but he supported the new Constitution. Initially, he was in the red and then he was undecided and then finally he supported the Constitution.

Now, I want to give him the benefit of doubt that he believes in the Constitution that we have and the democratic space that we have got ourselves in. That is why I am advising him that this Motion is dangerous and not important. It is not adding any value and it is not even worth the paper it is written on. This is a very serious Motion that no one should think about.

Mr. Temporary Deputy Speaker, Sir, having said that, I was urging that once we finish with this Motion, the two hon. Members who I know - Hon. Mututho is someone who listens very well - to drop the idea of bringing a Bill. Once this Motion is lost, let us not have another Bill discussing the same in this House. I would urge my colleagues not to act out of emotions because today the opinion polls portray one candidate as the probable winner. Tomorrow it may be their candidate. What will they say? Today, based on the opinion polls, my candidate may lose but tomorrow things may change. So, please, let us look at these things in a holistic way. Let us have a broad view of the whole thing. I plead with hon. Members not to give a chance to this Motion because it will take us back.

Thank you.

Mr. Imanyara: Mr. Temporary Deputy Speaker, Sir, Mr. Jamleck Kamau is a very good friend of mine and my neighbor. However, I find this Motion extremely dangerous. We have taken close to 50 years to liberate ourselves from the one-party KANU era where everything was controlled; from vets, opinions to movements. Just when we are beginning to realize the promise of the new Constitution, I see efforts to take us backwards. A careful look at this Motion talks about a framework that includes opinion polls control board. The word “control” reminds me of a very dangerous period of our history. That is a regulation. Opinions are held by people and whether we have opinion polls or not, every day in discussions and when people meet, they express their opinions. The moment you try to regulate and control those opinions, you are acting in the most undemocratic manner. You are sending this country backwards. I cannot comprehend what moved my friend to think that a Motion like this would see the light of day. It will be more shameful for this House, having worked so hard to get this country on a new constitutional dispensation, to engage itself in an exercise which takes away rights.

Mr. Temporary Deputy Speaker, Sir, for those reasons, I oppose this Motion and urge my colleagues to reject it.

Ms. A. Abdalla: Mr. Temporary Deputy Speaker, Sir, I would like to support this Motion.

We keep judging ourselves against the best practices all over the world. The home of purported freedom of speech is said to be in the United States of America (USA) but even in that country, there is regulation pertaining to this subject. Why should we allow situations because they favour us at one time? Why am I supporting the regulation of this matter?

Let us be frank. In most of the opinion polls that are run by FM radio stations, we send airtime to our supporters to give their opinions in our favour. These things are manipulated. I do not have issues with the national opinion polls where we are told: “This opinion poll covers 1,300 respondents in this region.” In such opinion polls, you can see why the opinions are being shaped in a certain way.

Mr. Temporary Deputy Speaker, Sir, this thing begins when an opinion poll is conducted by a television station or a FM radio station. When an opinion poll is conducted by a television station, we give money to our supporters to send SMS messages to tilt the views in a different way. I once met an individual who had sent an SMS saying “no” to a certain opinion poll. When I asked him what his view was, he said: “That is the message we received – that, we, Muslims, must send SMSs saying “no” to this matter.”

Therefore, since we know that there is manipulation in some opinion polls, and that some of the outcomes of opinion polls have very serious consequences, why do we say that opinion polls should take place, but in the case of radio stations, they must state how many callers said what. For instance, if out of 30 callers 15 agreed or disagreed, the fact that you know the number of respondents enables you to give credence to such an opinion poll.

Mr. Temporary Deputy Speaker, Sir, we have situations where an opinion poll being run by some agency is cancelled without reasons being given for doing so.

Sometimes, you wonder; is it because the outcome of the opinion poll does not favour the person who framed the question?

Another reason as to why I think it is important for us to regulate opinion polls is, for example, something happens in the afternoon. You find that by evening, some opinion poll agencies have already conducted an opinion poll showing that 60 per cent of Kenyans support the issue. However, when you go back to the number of respondents, you find that they are very insignificant, but you have already shaped the whole country's opinion on that matter.

Mr. Temporary Deputy Speaker, Sir, I get so amused that every time somebody wants to label individuals as anti-reformists, they refer to the KANU era when the bulk of the individuals who are labelled anti-reformists served in the KANU Government. Some of us are in KANU but we never served in former President Moi's Government. So, when you call people anti-reformists and keep on repeating that they were in KANU, look at your leaders, whom you call the pillars of---

Mr. Midiwo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is my good friend, hon. Amina Abdala, in order to imply that KANU did not oppress reformers in this country? So many people died. KANU jailed so many people, and there is no escape from this. Is she in order to try to use this Motion to sanitise the former KANU Government, whose image is irreparable?

Ms. A. Abdalla: Mr. Temporary Deputy Speaker, Sir, the Member for Gem happens to represent a constituency with the highest number of PhDs in this country but I do not believe that, that is reflected in some of the points of order that he raises in this House.

(Laughter)

The issue I am raising is that if a Motion is anti-reform, deal with the anti-reform nature of that Motion. Labelling it "KANU" is assuming that the KANU that was there before is the same KANU that exists now. The people who benefited the most from the KANU regime, in both the public and private sectors, are some of the people we are cheering as reformers.

Mr. Mbadi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for hon. Amina Abdala to mislead this House and the country that the people who benefited most have left KANU, when we know very well that the current Chairman of KANU, although on paper, benefitted most, given the fact that the heaviest land grabbing in this country took place during the KANU regime, and that he benefitted and now he enjoys the largest share of land in this country?

Ms. A. Abdalla: Mr. Temporary Deputy Speaker, Sir, I would like to inform the Member for Gwasi that during the short span of time his party leader was with KANU, he got the molasses plant.

(Laughter)

My party Chairman's linkage to KANU is for over 40 years. His party chairman's linkage to KANU lasted less than two years old, but he got the molasses plant.

The Temporary Deputy Speaker (Mr. Ethuro): Order! Order, hon. Members! Let us be relevant to the Motion. That matter has received the attention it deserved.

Continue hon. Amina Abdala!

Ms. A. Abdalla: Mr. Temporary Deputy Speaker, Sir, what I would like to urge my colleagues is; yes, there is a time when opinion polls will provide results which favour you and times when the results will not favour you. Do not be moved when opinion poll results favour you. Establish a system, so that whether the results favour you or not, the system is credible enough for you to believe the outcome of the opinion polls. We, as Kenyans, look at who heads the opinion polls institution. If by chance the name of that person starts with letter “O” or “K”, you immediately start doubting the validity of that poll.

So, let us not promote anarchy because it is working well for us now. Let us promote organisation and proper regulation, so that whether it works for you or not, you support the poll.

With those few remarks, I beg to support.

Mr. Njuguna: Mr. Temporary Deputy Speaker, Sir, I would also like to take this opportunity to very strongly oppose this Motion.

This Motion is not timely, and it has no bearing to what is happening to the society today. The new Constitution guarantees the people of Kenya a new level of civilisation. This Motion does not promote civilisation. However, I wish to caution the media and other organisations which conduct opinion polls that credible polls, with wider participation by the people are required in this country. Results of opinion polls must be acceptable, and must not cause hostility in the country. Justifiable opinion polls are very important. An opinion poll conducted in the USA gives a true picture as to where the vote is headed. When an opinion poll organisation indicates that So-and-So is leading towards the end of a campaign, that candidate wins.

Look at what happens in France and India, where there are credible opinion polls. An opinion poll should not be conducted to cause strife in the nation. Also, it should not be allowed to trigger any disharmony in the society. An opinion poll should not be directed by political groupings to try and win certain favours in the society by fronting unelectable leaders. Opinion polls should not be seen to be manipulated. It is, therefore, important that freedom of the Press in this country is guarded as it is provided in the Constitution. All elected leaders in this country must appreciate that freedom of the Press in this country has enabled the country to attain the current situation we are in. The opinion polls must, therefore, be very objective. This Motion looks at eroding that freedom that the Constitution has already guaranteed. This House must not be called upon to support a Motion that will jeopardize that freedom. Kenya is an open society and freedom of thought, opinion and disseminating information must continue to prosper in this country for now and for posterity.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I oppose this untimely Motion.

Mr. Ochieng: Mr. Temporary Deputy Speaker, Sir, I oppose this Motion.

Mr. Temporary Deputy Speaker, Sir, this Motion has come into this House in a frivolous way. I do not understand how an opinion poll would actually mislead or gag the nation towards thinking in a certain direction. The opinion polls worldwide have been

used to tell the people of a nation the direction the country is facing towards a certain event. Even the Mover of this Motion, while moving it, indicated that he appreciates the fact that the freedom of speech and information is a fundamental right of all Kenyans as enshrined in the Constitution; realizing that this right ought to be exercised with utmost care and responsibility. I want to believe that this right has never been abused by opinion poll organizations and taking into account that they also employ Kenyans. We need avenues of creating employment to our people and several people have been employed in these organizations. What they have always done at the end of it all, will always give directions in which certain thinking or an idea is supposed to take.

Mr. Temporary Deputy Speaker, Sir, I urge the author of this Motion to desist from bringing such Motions to this House, because we need even more important Motions than this. We have several issues which require to be discussed in this House in form of Motions.

The Temporary Deputy Speaker (Mr. Ethuro): Order, Mr. Ochieng! You cannot issue what would amount to threatening other hon. Members. Given the fact that the Motion was approved by the Speaker and the House Business Committee, it is properly before the House.

Mr. Ochieng: Mr. Temporary Deputy Speaker, Sir, it is important always to bring Motions which are relevant to this House. According to me, this Motion is not properly in this House, taking into account the fact that it gags certain organizations in this country, including the media. I do not see any harm or threat to any quarters that these opinion polls are causing. In future, Kenyans should be left alone. Those who want to go or think towards those opinion polls, the way they have been put, should always be let alone to do that. Those who do not want to go that direction should be left alone to think the way they want. I do not understand why these opinion polls would always tilt the thinking of Kenyans, even those who think in the right manner.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I oppose the Motion.

Mrs. Shebesh: Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity. I rise to oppose this Motion.

Mr. Temporary Deputy Speaker, Sir, as I oppose this Motion, I really would like to join some of my colleagues who have raised issues with the intentions of bringing some Motions before this House. With all due respect to my colleague, Mr. Jamleck Kamau, who brought this Motion to this House, its intention continues to baffle some of us. Some of the wording of this Motion is total alarmist statements which have no basis. For example, when the Mover of this Motion says that opinion polls cause social disharmony, it is obvious that he cannot substantiate which social disharmony. Of course, the social disharmony can only be, if you belong to a particular political grouping, which is not favoured by the opinion polls that are being conducted. However, if Mr. Jamleck Kamau, who has moved this Motion, means well for this country and issues of regulation, he will find that most of the media houses that carry out opinion polls are already regulated within their own regulation policies. Whenever we see opinion polls being published in the newspapers, we should know that those newspapers are also under regulation. I would find it very difficult to believe that propaganda and misinformation as he puts it here, are printed in national papers and posted in many of the media houses that

we have, if those media houses had not ascertained that the opinion polls are factual and can be verified. If those are the kind of things he was questioning here, we would be ready to listen to this Motion and see the merit of having opinion polls that people can believe in.

Mr. Temporary Deputy Speaker, Sir, what is most important for this House is: Do we represent what people feel? My opinion is that Kenyans are very happy with opinion polls and they are the ones who participate in opinion polls. Therefore, to regulate opinion polls in the manner that the Motion seeks is simply to silence the voice of the people and I will never be party to silencing the voice of the people.

Mr. Temporary Deputy Speaker, Sir, I strongly object to this kind of Motion.

Mr. Kabogo: On a point of order, Mr. Temporary Deputy Speaker, Sir. I rise under Standing Order No.57 which states:-

“After the question has been proposed on a Motion, the Motion shall be deemed to be in the possession of the House, and cannot be withdrawn without the leave of the House.”

Mr. Temporary Deputy Speaker, Sir, I would like to seek the leave of the House to withdraw this Motion to allow consultations.

The Temporary Deputy Speaker (Mr. Ethuro): Mr. Kabogo, do you have support?

(Some hon. Members stood up in their places)

Order, hon. Members! If you look at the Standing Order read by the hon. Member, you will find for a Motion which is already in the possession of the House to be withdrawn, you need the leave of the House. If you look at page two, that gives us the interpretation; “leave of the House” means, “there being no objection by any Member, either with the sympathy of the Speaker or with the support of at least two other Members”.

Hon. Members, I think there were three hon. Members who stood to support that particular hon. Member. The Chair is, therefore, satisfied that this Motion should be withdrawn for purposes stated.

(Motion withdrawn)

ABOLITION OF KENYA CERTIFICATE OF PRIMARY EDUCATION

THAT, considering that Education is a fundamental human rights and every child is entitled to it; mindful that when we ensure that children have access to a rights-based, quality education that is rooted in gender equality, we create a ripple effect of opportunity that impacts generations to come; acknowledging that Education enhances lives and ends generational cycles of poverty and disease and provides a foundation for sustainable development; aware that quality basic education better equips girls and boys with the knowledge and skills necessary to adapt to socio-

economic challenges and enable them take an active role in social, economic and political decision-making as they transit to adolescence and adulthood; further aware that educated adults are more likely to have fewer children, to be informed about appropriate child-rearing practices and to ensure that their children start school on time and are ready to learn; this House resolves that the Government abolishes the Kenya Certificate of Primary Education and provide for a continuous, uninterrupted education system from level one to form four in order to accord all Kenyan students universal basic education.

The Temporary Deputy Speaker (Mr. Ethuro): Hon. Members, this motion, Order No.9 by hon. Kioni is deferred.

(Motion deferred)

Let us move on to the next Order!

DEVELOPMENT OF MODERN ELECTRONIC VOTING BY SYSTEM

Eng. Rege: Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-

(Loud consultations)

Mr. Temporary Deputy Speaker, Sir, protect me from loud consultations?

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Members! Order, hon. Kabogo! Order hon. Mbadi! You may be advised to retain your usual self for the purpose of the House. Just allow the hon. Member to move his Motion.

Eng. Rege: Mr. Temporary Deputy Speaker, Sir, hon. Mbadi will second the Motion.

However, I beg to move the following Motion:-

THAT, aware that the election management process in Kenya, especially the tallying and transmission of presidential votes in 2007 general elections was marred by allegations of rigging and fraud leading to disputed results that precipitated Kenya's most serious political crisis to date; aware that the report of the Independent Review Commission (the Kriegler Commission) on the general elections held in Kenya in 2007 as adopted by Parliament recommended among other things, "review of the Electoral Commission's administrative procedures with a view to introducing as much certainty as possible in key operational areas so as to ensure uniformity of performance throughout the electoral process from polling station level up to the various teams at the national tallying centre"; this House urges the Government to facilitate the Independent Electoral and Boundaries Commission (IEBC) to develop a modern electronic system for collection, collation, transmission and tallying of electoral data that will legalize electronic voter registration nationally in preparation for electronic voting in the 2012 general elections.

Mr. Temporary Deputy Speaker, Sir---

The Temporary Deputy Speaker (Mr. Ethuro): Order, Eng. Rege! You are moving a Motion and, therefore, proceed.

Eng. Rege: Mr. Temporary Deputy Speaker, Sir, all Kenyans are now used to electronic transactions everywhere, including fund transfers which are done globally, including in Kenya. For example, we have *Pesa Pap* and *M-Pesa*. All Kenyans are now in love with electronic transactions. We can go further to accept that, to date, we can do electronic voter registration using biometric electronic systems. They use face recognition and fingerprints. That does not even require writing. In other words, if a voter cannot write, face recognition and thumb printing can be easily used. Moreover, to date in Kenya, in Parliament, for example, the parliamentary proceedings are going to be elevated to efficiency higher than ever before, because we are going to have all multi-media networks of systems in place when we move to the new Chamber. So, we can as well start by using all these systems right now.

Mr. Temporary Deputy Speaker, Sir, electronic voter registration has been practiced here before. During the Referendum, the system was used in over 18 constituencies and it was a big success. Even at this time, we used the system to conduct voter registration in Ikolomani and Kamukunji. When we use electronic voter registration, tallying of votes is a lot faster than the manual procedure. Therefore, nobody can question anything about using the electronic system.

Mr. Temporary Deputy Speaker, Sir, this is not something that really needs to be debated upon. That is because we are all aware of what is happening. Therefore, I wish to move that we legally adopt electronic voter registration.

Thank you. I wish to ask hon. Imanyara to second the Motion.

Mr. Imanyara: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to second this Motion and in doing so, to congratulate the Mover for the effort of crafting it. We have come a long way. As I said a few moments ago when I was opposing another Motion, the promise of the new Constitution requires each and every Kenyan to take practical measures to ensure that, that promise is realized.

Mr. Temporary Deputy Speaker, Sir, if you look back to 2007, beginning of 2008 and the problems that this country went through – deaths, violence and loss of property - one wonders why it has taken us so much time before we start taking steps to ensure that there is an environment that will prevent a repeat of what happened during that period. This effort by hon. Eng. Rege is one of the many that needs to be supported to ensure that the next election is held within a framework of fairness and, more importantly, the process of announcing the results must not only be fair, but must be seen to be fair, efficient, prompt and transparent.

Mr. Temporary Deputy Speaker, Sir, in this era of Information, Communications and Technology (ICT) compliant society, I cannot see any better method than supporting what the hon. Member is encouraging in this Motion. We have learnt during the pilot scheme that Interim Independent Electoral Commission (IIEC) used electronic means in 18 or so constituencies. Where electronic means are used, we reduce and all together prevent all electoral malpractices, particularly at the stage of announcing the results. I wish the relevant arms of the Government would be here – especially the Deputy Prime Minister and Minister for Finance. We require him to take note of what the Member's view are when we speak on behalf of the public, so that a provision can be made in the

Budget for this kind of Motion. There is no point of passing this Motion today when the Government is not listening. There are two wings of Government that do not seem to speak the same language. The Cabinet never meets or when it meets, it does not transact business that we expect. We are lagging behind in the implementation of the new Constitution in terms of bringing Bills for debate. The Minister should have been here. The Minister for Planning, National Development and Vision 2030 and Minister for Justice, National Cohesion and Constitutional Affairs should be here to take stock of what is being said and ensure that, in fact, they participate in the process by making provision for this Motion's intentions to be realized.

The Temporary Deputy Speaker (Mr. Ethuro): Order, hon. Imanyara! I do not want to interrupt you. The Chair wants to agree with you. This is such a grave matter. The Government must be seen to be taking it very seriously. Hon. Kajwang', you being the Cabinet Minister who is present, it is for you to take leadership and ensure that the proceedings of this particular Motion are captured by the Government? It is important!

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang'): Mr. Temporary Deputy Speaker, Sir, I came in to debate this matter because I am personally interested in it. But because I am also in the Government at the same time, I am taking serious notes. I will make sure that the proceedings reach the right places.

Thank you.

The Temporary Deputy Speaker (Mr. Ethuro): Proceed, hon. Imanyara!

Mr. Imanyara: Thank you, Mr. Temporary Deputy Speaker, Sir. I thank my learned friend for that assurance. I hope that he will be able to speak to both sides. I know he can speak to one side, but I hope that he can speak to the two sides, so that we can get a collective Government response, rather than a one-sided response from the Government.

Mr. Temporary Deputy Speaker, Sir, as I end, I want to say that the collection, collation, transmission and tallying of electoral data is absolutely critical to a fair electoral system. As we move to the new era and new dispensation, we must do everything possible to ensure that the promise of the new Constitution is realized.

With that, it is my pleasure and privilege to second this Motion.

(Question proposed)

The Assistant Minister for Environment and Mineral Resources (Mr. Kajembe): Thank you, Mr. Temporary Deputy Speaker, Sir. I stand to support this Motion.

Kenya would have now introduced this system in full operation. The Government did introduce the electronic system as a trial in counting votes in a few constituencies.

It is true that we, Kenyans, especially politicians, experience problems during elections. A good example is the last general election where we had a lot of problems and violence. If this system is introduced, it will stop all anomalies from occurring. It will stop violence and prevent the problems that we experience during elections.

Mr. Temporary Deputy Speaker, Sir, I suggest that when the electronic system of voting is introduced, it should not only be for the general election, but also be used when political parties are holding their nominations.

*[The Temporary Deputy Speaker
(Mr. Ethuro) left the Chair]*

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

Mr. Temporary Deputy Speaker, Sir, in this country, the way political parties are managed leave a lot to be desired. Some people are denied nomination because the top brass of those political parties would like to appoint their friends and relatives. So, it is important that when this system comes into full operation, it should be used both for the general election and nomination by various political parties.

I concur with the sentiments of the previous speaker who said the relevant Ministries should have been here to take part in the debate, so that when we pass this Motion, which I believe we will do so, they take action immediately.

Mr. Temporary Deputy Speaker, Sir, the time is now to introduce this system. We are left with very short time before we go for general elections. The time is now to employ staff. We should train them, so that they can operate this system effectively.

We need also to budget so that we buy the necessary equipment for this system. It does not pay much for us just to sit idle without taking any action now as far as the electronic system of voting is concerned. We should not wait until it is too late to introduce it. If we do so when it is too late, we will not be in a position to introduce this system and use it in the next general elections.

Most of the election petitions are as a result of anomalies detected in counting of votes. The problem arose when one candidate “stole” the elections. Stealing of elections in this country has been the order of the day. So, time has come for us to rectify the situation.

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

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang’): Thank you, Mr. Temporary Deputy Speaker, Sir. Personally, I am interested in this Motion because we have tried to improve our electoral system for a long time. In the last election, I was actually very confident that nothing would go wrong because we had tried to improve our electoral system considerably.

We had agreed with the defunct ECK that votes would be counted at the polling station. That was one of the previous problems of carrying votes from the polling station to the counting centres. Some boxes would disappear in rivers between the polling station and the counting station.

We said to avoid these ballot papers disappearing and some people tampering with them and exchanging boxes between the polling station and the counting station, let us count the votes at the polling station. We said that the presiding officer would then turn himself into a returning officer for the purpose of counting the votes and declaring the results. We thought that we had cured the problem of stealing votes in between those two places. We would chase votes with youth with vehicles. Sometimes, we would be armed with guns and runguns so that nobody would steal the votes. In fact, we would tie the agents to the boxes with ropes just to make sure nobody separates the agent from the

box. Those were desperate measures because we were trying to fight stealing. The interference was most of the time, done by the Provincial Administration. We fought this, but we failed miserably.

So, we said; let us change the law. Let us count the votes; let us declare the results; let us sign the certificate. After signing, let the counting agents also sign. Please, give each agent a copy of the results that have been signed. We said, then, please, make sure that you paste the results on the door of the classroom of wherever you were counting, so that the public would know that those were the results at that polling station. These were serious measures to make sure that nobody would tamper with the results.

What happened at the end of the exercise? What did we see? I was so sure nobody would steal the elections. It was so clear that every result would be announced at the polling station. Every agent would sign and a copy of the result would be pasted on the door. There was actually no other loophole. What happened? It was announced on radio that now, the radio stations were not supposed to announce the results any more. We were told the person to announce the result would be somebody at KICC. The law is clear that the person to announce the results at the polling station would be the returning officer before it then goes to the tallying centre at the constituency. However, all those things were ignored. I do not think the elections failed because of the law. I think they failed because somebody wanted them to fail. It is a pity that every time, we have to think outside the box on how to fix the law, so as to fix these people. We all know what happened.

Electronic Voting System will to some extent fix this. I hope that the people who will man it will this time be true to the job. Let me just remind you that I have been a little bit involved in this as the Minister of State for Immigration and Registration of Persons, especially with regard to registration of identity cards. I have done some learning on this and I know that it can be done. I have been to many places, including East Germany. When a Kenyan sees you, he asks you: “When will there be electronic voting?”

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Minister, did you say East Germany?

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): I said East Germany, Mr. Temporary Deputy Speaker Sir. I found a certain Kenyan in a bar and he asked me: “When will there be electronic voting so that I can vote?”

The Temporary Deputy Speaker (Mr. Imanyara): I thought there was only one Germany.

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): Mr. Temporary Deputy Speaker, Sir, well, there is still the eastern part of Germany. That is where I found the Kenyan in a bar. That part of Germany has a very cold weather. He told me that they would like to have electronic voting because we have already allowed it in the Constitution. Every Kenya has a right to vote, but we are denying them the right to vote because they are far away from this country. If you allowed electronic voting, you opened a website and put a thumb print on it, that would be a vote. You will not even need to print ballot papers.

I have been to Spain where a company has been outsourced to conduct the mayoral elections in London. Those results are out within one hour of voting. Within one hour of closing the voting, the results are out. Because this company can be outsourced, we do not even need to train anybody. The electoral Commission just needs to say that they will outsource those services and they will come here and register people in any wild place just by putting the thumb print. You do not even need to put your name. Of course, you can put your name, your ID number and so on, but you do not need that. You just need to put your thumb print and on the election day, you see the names of the political parties and you just put your thumb print on the face of Kajwang' and that is a vote and nobody else would vote again using that thumb print because there is only one thumb print to the vote. We will be watching as the election goes on; "now it is one million votes, 1.2 million votes, 1.3 million votes and so on" and everybody will know the results by the end of the election. This is something that can be done and we do not even need to buy this system.

The electoral Commission – and it does not need the Government – can make the decision that they will outsource the company that will register our voters, keep the data base and conduct the elections and their officials will only be there to supervise to ensure that it is done correctly and accurately. This can be done. They did it in Nigeria recently. They outsourced those services. I have already said that they have outsourced it twice in the mayoral elections of London. Every part of the world is now going outsourcing because you do not have to own everything because it is not even necessary. We can do this very easily and nobody will be able to steal an election. We will not even talk about stealing elections. In fact, there will be no petitions. If there is any petition, it will not be on counting because you would have seen it as you were being defeated. So, you do not need to make noise. The only noise you can make is that somebody bribed, but it is up to you to prove bribery at night and in the wrong places.

Mr. Temporary Deputy Speaker, Sir, the problem was on this thing called, "tallying". We should not even have had a problem. In fact, they provided for faxes where you would fax the results from every counting station. Those faxes, somehow, did not work or they were made not to work. They said: "Although we received the fax, we must see the original Form 16A." Which of this form is called "original Form 16A" and yet you have already faxed it and things are tallying? It was intended that somebody had to steal this election. Of course, Kenya does not want to go to war. Kenya does not like what we saw in 2007 and 2008. So, we must make up our mind. Today, the electoral Commission should tell us that they will not print voters' cards. This is because if it is electronic, there is no need to print all those books. It is more expensive to print those books than to register people electronically and voting electronically. So, this election will be cheaper. We do not even need to buy the big equipment because somebody will bring it, install it, register and ensure that we see it everywhere and there will be no quarrel.

Mr. Temporary Deputy Speaker, Sir, I beg to support this Motion.

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I thank you for giving me this opportunity. I must pronounce myself on this Motion. I want to do that by bringing a small amendment which is just to ensure that---

Mr. Temporary Deputy Speaker, Sir, I beg to move the following amendment to the Motion:

THAT, the word “nationally” in the second last line be deleted and be replaced by the words, “from each polling station to the national level.”

The Chairman of the Departmental Committee on Information, Communication, and Energy derives his Motion from the recommendation by the Kriegler Commission which talked of the electoral process from polling stations up to the various teams at the national tallying centre.

I am bringing this amendment so that a station in a place known as Baragoi, Mbita, Manderla Border Point One or El Wak will also be accessible to this technology. I am also saying this because during the referendum, the Interim Independent Electoral Commission (IIEC) decided on some constituencies to carry out the elections on a pilot basis. This is not an issue we should be piloting for purposes of an experiment. This is an issue about political careers of people, decision-making in a country and putting people with responsible leadership in office. I expect experiments to be done when things are still developing. However, the recommendation of the substantive Motion is to develop a modern electronic system. I want that to be appreciated.

Mr. Temporary Deputy Speaker, Sir, if you have noticed what I am trying to do in this House – not just in this Motion, but several others – you will find that I want this country to think for a moment that the centre of Kenya is not Nairobi. We know Nairobi is just a capital city. The centre of Kenya is Isiolo. Whatever we do should not be on the basis that it comes from Nairobi and then we take it to Mombasa and Kisumu and then the rest of Kenya can benefit. I want a new thinking in the spirit of a new Constitution. It is very possible that some of the national experiments can start at any point in the Republic including northern Kenyan and, maybe, flow by some other form either gravity or defy the same to Nairobi or Suba. We will be able to talk about Kenya when we speak that way.

I said that I must pronounce myself to this Motion because I cannot agree more with Mr. Kajwang and the other speakers before me. We want to make our electoral politics cheaper and the right decisions to be made. We want those who lose to lose fairly and appreciate that they have lost. We also want those who win to appreciate that they won fairly. There are some politicians who think that coming to office should be by any means necessary. They have the concept of Malcolm X in America; that, you can justify fighting racism by any other means. However, the history of the world has taught us more peaceful mechanisms of resolving conflicts. The later Dr. Martin Luther King Junior engaged in non-violent reforms. As we speak today, the presidency of the most powerful nation is not only living the dream of the elites of Kenya, but has actualized it. I watched President Obama the other day speaking from Ireland; he talked of the great great great grandparents from the maternal side. It was through peaceful methods that America realized racial equality.

Mr. Temporary Deputy Speaker, Sir, again you go to the Asian world; it was none other than Mahatma Gandhi who brought down the curtains on the great empire of the British. It was none other than Winston Churchill who wondered who the half-naked kefir, who was bringing down the empire, was. It was, again, peaceful non-violent methods that brought these countries independence. We celebrate our own Nelson

Mandela. Although there was a bit of armed struggle, at least they negotiated and when he was released from prison he developed the rainbow nation. Today, as I speak South Africa stands tall in Africa because of the leadership of certain characters. I want to say this because peace delivers better results than any violence.

Coming to the 2007 General Election, I want to believe that even if we are enjoying our offices--- Even if it means it will be after the next general election, we want to know who won the 2007 elections. We want to know who lost. We owe it to history and ourselves. This business of just hiding things for convenience is what is ruining this country.

Mr. Temporary Deputy Speaker, Sir, a country that has a new Constitution--- The rule of law must at all times defend constitutionalism and the rule of law, including the business of the House.

When we come to this House, the difference between this House and a market place is that this House has rules. I must be able to subscribe to the rules that the House has provided. So, I would like to bring that amendment so that each part of the Republic, for example a place called Merier, where I come from and which is not accessible, can be electronically engaged. Also, the issue of mobile telephony and opening up this country should be captured. We cannot continue employing the normal way of saying, "Which one is more convenient?", you say "Nairobi" and look at the numbers. Every vote counts, from the Presidency to the dungeons. I want my people's votes to be counted.

I ask Mr. Shakeel to second my amendment.

Mr. Shakeel: Mr. Temporary Deputy Speaker, Sir, I second that amendment.

*(Question of the first part of the amendment, that
the word to be left out be left out, proposed)*

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): Mr. Temporary Deputy Speaker, Sir, I want to begin by congratulating Eng. James Rege for bringing this very important Motion. I also want to support the amendment brought by Mr. Ethuro. I support this because, as you know, there is what we call "a digital divide in Kenya". There is also digital discrimination in terms of the areas that have developed ahead of the others. I want to support the idea that we go to polling stations and that we cover the rest of Kenya. On question of piloting, I think it is time that these "pilots" now land and allow every part of Kenya to be covered at the same.

Mr. Temporary Deputy Speaker, Sir, the use of ICT is now widespread in Kenya. Even this question of literacy in terms of use of technology is something that is already in place. I know that there is a Non-Governmental Organization (NGO) by the name "Jamii Bora" which operates in many parts of the country, including in my own constituency. They use the finger to do banking transactions. All you need is just to place your finger on an electronic gadget, and a printout comes out from the headquarters showing your balances. Using this gadget does not depend on whether you are literate or not. All that you need is just a finger, or a thumb. That is the practice in that micro-finance organization. I can see this same technology being utilized in rural areas of Kenya. This is very important.

We know in the next general elections we will have six ballot boxes. That is already a massive task. However, I believe with the use of technology we can reduce errors and speed up the election process. You realize that in the recent by-elections results were out before 8.00 p.m. In the past, elections would drag on until the following day.

Mr. Temporary Deputy Speaker, Sir, I want to support this system. However, I want to say that since we are not endowed technologically countrywide, there will be areas that will require infrastructure development, in particular supply of electricity. There are areas in my county, for example Arsim Ngurunit, which are between mountainous areas. There will be technological challenges there. We need to put infrastructure in place. This is why budgetary provisions will be required---

The Minister of State for Immigration and Registration of Persons (Mr. Kajwang): On a point of information, Mr. Temporary Deputy Speaker, Sir. I just want to inform my friend that, in fact, we do not need electricity everywhere. The registration of voters, and even voting, just need solar energy. Those things are portable. The only thing you need is a network of Safaricom or some other service provider, and we are on and moving.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Lesrima): I thank the Minister for that information. However, the solar power provision needs to be equitably distributed in the country.

He has captured my other point. This is the question of availability of network countrywide. Again, there is a big shortfall in the northern parts of Kenya in terms of the distribution of the mobile phone networks.

With those few remarks, we need to put money in the Budget, because this is the last financial year we are facing before the general election next year.

Thank you.

(Mr. Kabogo stood up in his place)

The Temporary Deputy Speaker (Mr. Imanyara): Mr. Shakeel is going for a committee meeting, so, let him speak first then we come back to you.

Mr. Shakeel: Thank you, Mr. Temporary Deputy Speaker, Sir and Mr. Kabogo. My comments will be very brief.

I support this Motion as amended. The electronic age is here. Electronic voting is one of the pillars of the Vision 2030. However, looking at it, there is no electronic world that works without garbage in garbage out, unless we have a solid documentary system; one that is on the ground that has checks and balances. No electronic or computer system will work unless the foundation is solid. The foundation we need is having checks and balances. Likewise, the electronic system that we are proposing should have checks and balances and adequate backup. The backup should not only be at the Electoral Commission's offices, the backup should also be elsewhere like at the National Security Intelligence Service (NSIS) offices and other places where they can be secure. We could also use the Central Bank of Kenya premises where there is tight security and where there is no opportunity to tamper with information. That is one of the things we want. The

electronic system should also be one that can detect and defend itself against viruses that are very rampant in the electronic system.

I am told India and China have used this system. However, we do not want to take over defective systems from any of these countries. We must have a system that is tailor-made for Kenya even if the framework and back up will be from India or China. We do not want to bring in another country's electronic voting system that has anomalies into our already flawed tallying system.

Mr. Temporary Deputy Speaker, Sir, the electronic tallying system can also be tampered with. It should be tamper proof. I remember watching a movie by Robin Williams where some sort of tampering made him be declared the President of the United States of America. That was a flaw. This is something that can be misused and we must be aware of it. We need to have a report on the pilot system that has been ongoing. Has it worked? What are the flaws and the problems and how can they be corrected? It is very important that we know about it, as Members of Parliament.

With those few remarks, and thanking my colleague, hon. Kabogo who allowed me to speak, I beg to support.

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

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

Mr. Kabogo: Thank you, Mr. Temporary Deputy Speaker, Sir for giving me this opportunity to support the Motion as amended. I have been a victim of a very unfair system of elections; the manual elections system. There is nothing as painful for a leader as knowing that you have been elected by people and yet the system is manipulated for you to be declared a loser while it is very clear that you were the winner.

We have had many electioneering processes. You very well remember the *mlolongo* type of voting where if you were not in the system, you would lose the election. I am happy that we now have a new Constitution. The sovereign power is vested in the people. It can be exercised directly by the people or through their elected leaders. Therefore, the process of finding elected leaders must be one that is beyond any temptations by any organization or institution to tamper with. It is important that we come of age and start using electronic computerized system of voting.

Mr. Temporary Deputy Speaker, Sir, I listened to hon. Kajwang when he suggested that rigging could only be done at the KICC. It can also be done in Mbita and Juja. That is why an amendment has been done to indicate the results from the polling centers. You will use your thumb and you are the only one with that thumb. If we bring in the electronic voting system, we will remove most of the opportunities that avail themselves for manipulation or rigging of elections. One is that you can only vote once and you can also be registered once.

We know of situations where people who are dead have participated in voting. If we have a situation where we are using electronic registers, you will see that once your thumb is placed on that machine, you cannot repeat the exercise because the machine

quickly picks your name, your identity card number and says whether you are in the register or not. Once you vote, you cannot come round again unless someone cuts off your thumb and replaces it with another one, which is not possible.

Mr. Temporary Deputy Speaker, Sir, again, the manual voting system is very tiring and time consuming. In 2007, the then Chairman of the Electoral Commission of Kenya complained that his officers had all switched off their phones and that he could not get results from them. If we were, so to speak, in an electronic voting system, he would not need to know where his officers were at any given time because the results would be available electronically. So, in a nutshell, this is a God given opportunity to this country to bring in the computer age into voting so that the representatives we have are the true representatives that have been elected by the people.

Most times, you will see that more than 60 per cent of Members who sit in this House come here not necessarily by the ballot but by the whims of those who support them, probably party heads. They decide that they want to vote for so and so because the party leader has said that or the queuing system has said so. However, individually, once you put your thumb on the ballot paper and elect the person you want to elect, that goes automatically to the voting station level, the tallying center level and to the national level.

I strongly support.

(Mr. Cheptumo entered the Chamber)

(Mrs. Mugo stood up in her place)

The Temporary Deputy Speaker (Prof. Kaloki): Minister, are you responding on behalf of the Government?

The Minister for Public Health and Sanitation (Mrs. Mugo): Mr. Temporary Deputy Speaker, Sir, the Assistant Minister for Justice, National Cohesion and Constitutional Affairs has just walked in.

The Temporary Deputy Speaker (Prof. Kaloki): So, are you contributing as a Member of the House?

The Minister for Public Health and Sanitation (Mrs. Mugo): Mr. Temporary Deputy Speaker, Sir, I would have responded, but the Assistant Minister has come. So, I will just contribute to the debate.

Mr. Temporary Deputy Speaker, Sir, I thank you for giving me the opportunity to contribute to this very important Motion. I want to thank the hon. Member for bringing the Motion to the House. It is very timely and needed, and it will go a long way in reforming the electoral system in this country.

We remember very vividly what happened in 2007, and what had happened in previous years. I believe that if we had an electronic voting and tallying system in place in 2007, we would not have had the problem we experienced then. It cost lives and massive destruction of property. Many other issues came to the fore, because some people believed that the election had been stolen. Some of us believed otherwise because if the elections were, indeed, stolen, one would have gone to court and proved that the election had been stolen, and that they had won.

Mr. Temporary Deputy Speaker, Sir, that notwithstanding, Agenda Four of the national reconciliation talks called for reforms of our electoral system, and I really thank the hon. Member for bringing this Motion to the House on time as we look into the reform process, as provided in the new Constitution. I want to thank the Ministry because the pilot programmes are still going on. This shows the commitment by the Government in implementing these reforms. So, I support the idea of going electronic countrywide by the next general election. In his recommendations, Justice Kriegler said that we had to improve on the constituencies and the electoral law to avoid any more upheavals in the future.

Personally, I am a victim of manipulation of vote tallying. My election result in 2007 took three days to be announced. The vote counting at Uthiru Polling Centre ended at 10.00 p.m. but by 8.00 a.m. the following day, the results had not been sent to the tallying station. Indeed, the Chairman of the defunct Electoral Commission of Kenya (ECK) had to ask why the results for Dagoretti Constituency had not been announced two days after the polling day. In the process, I lost 15,000 votes. My vote was announced as 20,000 votes, while my nearest opponent's vote was announced as 22,000 votes. When the matter went to court, the court reinstated my vote and it totalled 38,000 votes, which was the correct figure.

Mr. Temporary Deputy Speaker, Sir, had the vote tallying been electronically done, this would not have happened. In Dagoretti, there was a private organisation which was independently tallying votes. The total number of votes the President got in Dagoretti was over 50,000, but they were announced as slightly over 30,000 votes. I am sure that this happened in other areas too. That was why I believe what Kriegler said – that both sides had problems. That is why I strongly support the electronic voting system.

I believe that the use of electronic voting and tallying will go a long way in reducing this perennial problem of people saying that they have been rigged out. It is very sad for the people of a constituency, when they think that they elected their leader, to hear that he has been rigged out. Electronic voting and tallying will restore credibility in the political leadership of this country. Every political leader will feel that he is in office because he was really elected by the people, and nobody will discredit his election. Even if you are defeated by ten votes, that will be it.

Mr. Temporary Deputy Speaker, Sir, I want to congratulate Dr. Khalwale for winning his seat back; I also applaud the voting and tallying of the votes that was done electronically. I congratulate the Interim Independent Electoral Commission (IIEC) for the effort they have put. I hope that some of the Commissioners serving in the IIEC, like the Chairman and others, who have shown exemplary leadership, will have places in the Electoral and Boundaries Commission that will be constituted. This is because this Commission, unlike the Ligale Commission on boundaries review, has shown that they can deliver openly.

Since we have the Assistant Minister for Justice, National Cohesion and Constitutional Affairs here, I will not pronounce the Government's position on this Motion, even though I know that the Government supports it. I know that the Government supports this process wholeheartedly because we want to see credibility restored in our electoral system, and to ensure that the cry of people, saying that they have been rigged out, is done away with for good. Electronic voting and tallying should

happen in respect of all elections countrywide, especially now that we are going to have so many officials elected on the same day. We must remove confusion by supporting and funding the electronic voting programme and reforms.

With those remarks, I beg to very strongly support the Motion.

Mr. Midiwo: Mr. Temporary Deputy Speaker, Sir, I rise to support this Motion, which is very timely. If you look at our recent election process, especially the one which happened this week in Ikolomani, where electronic voting system was being experimented, you will realise that there were no complaints.

Mr. Temporary Deputy Speaker, Sir, let me also take this opportunity to congratulate Dr. Bonny Khalwale for recapturing his seat. Despite everything else, I happen to believe that Dr. Khalwale is good for the country as a legislator. That is my personal opinion, and not my party's opinion. Dr. Khalwale is a good Kenyan, who is needed during this critical time in this country.

Our recent past shows that we have mismanaged the process of electioneering. It is still very clear in my mind that the former Chairman of the defunct ECK told Kenyans that he could not trace some of his Returning Officers, and went ahead to add that those Returning Officers were from particular regions of the country. It beats logic why Mr. Kivuitu at that time did not declare the winner of the Presidential elections using the provisional results. It beats logic because everywhere else, people were declared winners on projections.

Mr. Temporary Deputy Speaker, Sir, over the weekend, I read an article which was written by hon. Kivuitu, which seems to rubbish the Kriegler Report. I thought that it was a shame, after the blood-letting that happened, and after what we went through as a country, somebody still imagines that the old system was good for this country. We must make a clean break with the past and catch up with technology. In a country which is as polarised as ours, where everybody has an opinion, human error cannot be wished away. Therefore, the only way to do it is by use of technology.

I want to thank my brother, Eng. Rege, for trying to be ahead of the pack. This is because it is incumbent upon us to try and prevent and seal every loophole that led us down the road of destruction. A few people may still wish that the events of December, 2007 are repeated, but I do not think so. I think Kenyans want to do the right thing. People want to wake up in one piece, vote in one piece and be told the winner without unnecessary commotion. I think it is incumbent upon political players, all of us included, that if you joined the ring to compete as a political player, you must also be prepared to accept and concede when you lose. I think people who do not want to lose or go into any battle with a preconceived mind that they must win even if they lose are the ones who lead countries into scenarios that Kenyans went through.

Mr. Temporary Deputy Speaker, Sir, I do not want to belabour the point that this Government must come up with monies to facilitate this process. Since the Minister of State for Immigration and Registration of Persons is here, I want to say that Kenyans need to go the direction of the third generation identity cards, in a way that we come up with a simple identification. The ID should be the one that is carried from birth and with one simple number. Every Kenyan needs to have only one identification. I think an ID should be enough for us to vote. This will make us not to carry paper voters cards.

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

Mr. Ogindo: Mr. Temporary Deputy Speaker, Sir, I rise to support the Motion. I want to congratulate Eng. Rege for his vision and wisdom in bringing this Motion.

I want to start by saying that nothing is as critical to the management of a country as data and statistics. Mr. Midiwo has just taken wind out of my sails. It is imperative that this country adopts a single identity for every Kenyan. Every Kenyan born should have a number. That number should be your identity, birth certificate number, bank account number and voter registration number, so that these numbers in a data bank become self-regulating and when you die it is deleted. We will never exhaust the numbers. So, it is imperative that this be given a priority, if we are to go the era of modern technology.

Mr. Temporary Deputy Speaker, Sir, secondly, we conduct elections so that we can have a government that is more responsive to the wishes of the people who vote them in. In the past we have seen in this country that our politics is driven by two negative factors. We profess the politics of exclusion. We want to exclude others from the political mainstream. The other reason that underlies the politics of our country is that of dominating others. I think it is time we ran away from this by modernizing our voting system, so that we give Kenyans an opportunity to vote on issues that affect their lives. Kenyans do not normally enjoy voting because it is a very strenuous process. The most peaceful way we do it, the better for this country. Kenyans are busy and want to go about their businesses and develop themselves. Therefore, we must minimize the amount of time that is spent in electioneering and in the campaigns.

Mr. Temporary Deputy Speaker, Sir, in view of that, I think it is important for this country to get its priorities right. This will be a single most and milestone step in the right direction. I listened to Mr. Orengo pleading year in, year out, as the Minister for Lands, that we need to digitize our land system. It is important that we do that because every county will be relying on this. So, this kind of data is very important in this era of technology.

Mr. Temporary Deputy Speaker, Sir, it is upon those reasons that I support this Motion.

The Temporary Deputy Speaker (Prof. Kaloki): Mr. Chanzu, you have two minutes!

Mr. Chanzu: Thank you, Mr. Temporary Deputy Speaker, Sir. I also want to take this opportunity to thank and congratulate Eng. Rege for bringing this Motion at a time when Kenyans are happy that they have got a new Constitution. This is what should go along with their celebrations, although they are yet to see the gains.

Mr. Temporary Deputy Speaker, Sir, there is a phrase here “to develop a modern electronic system for collection” *et cetera*. Kenya is now being rated very highly in the sector of Information and Communications Technology (ICT). It is only good that we are rated that way, not only in being able to demonstrate what we know, but being able to put into practice what we also know. So, this Motion is very timely. Hon. Members have talked about the by-election in Ikolomani. Actually, I was the only Member of Parliament from ODM at the tallying centre to witness the result. By about 8.00 p.m., we had already gotten all the results for the by-election. I think that was wonderful because the polling

centres closed at 5.00 p.m. I heard Mrs. Mugo talk about how long it takes sometimes to get these results, and in the process rigging takes place. I saw it, I was the only Member from my party who was at that place and I congratulated Dr. Khalwale for winning the by-election. He is a resourceful Member of this House.

On where the hon. Member says that this House urges the government to facilitate the Independent Electoral and Boundaries Commission (IEBC) to develop a modern electronic system, just like other contributors have said in this House, I hope the Government will take note of this and implement it as soon as possible.

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

The Temporary Deputy Speaker (Prof. Kaloki): Very well! It is now time for the Assistant Minister for Justice, National Cohesion and Constitutional Affairs to respond.

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to, first and foremost, thank my good friend, Eng. Rege, for introducing this very important Motion before this House. I would like also to thank all Members who have made very important contributions to this very important Motion.

Mr. Temporary Deputy Speaker, Sir, listening to various contributions by Members, it is very clear that there is urgent need to undertake serious reforms in our electoral processes. In our country today, I would say this is reform time. I am saying it is reform time because, as I speak in this House today, we have embarked, as a country, on serious reforms in our institutions of governance. In the Judiciary, reforms have been initiated and today, we are able to see, as Kenyans, interviews being conducted live on television. You saw what happened during the interviews for the Chief Justice and the Deputy Chief Justice. We also have reforms being undertaken in the Police Force and the public sector. Therefore, it is true that this is reform time for our nation. Reforms, therefore, in the electoral system of our country, are equally very necessary.

Mr. Temporary Deputy Speaker, Sir, we have serious grounds and justification to advocate for reforms in the electoral system. In 2007/2008, we faced a serious challenge in our country. We had the post-election violence and to a large extent, we know that arose as a result of the manner in which the elections were conducted, how the results were announced and so on. Therefore, we need to look beyond and come up with reforms in the electoral system. Therefore, as a Ministry, country and Government, we are supporting this Motion. Shortly, we are going to table a Bill on election laws in this country. That way, all the issues that have been raised by Members in this House when contributing to this Motion will be taken into account. We are looking forth to a time when we will take the shortest time possible to undertake our elections.

Mr. Temporary Deputy Speaker, Sir, in India, for example--- That is a country with a population of over a billion people. They are able to undertake elections of over 700 million registered voters within a span of two days. That is for members of parliament, governors and senators. You can imagine that population and the time taken to accomplish that process. It means it is possible because they have electronic system of elections. That will be one of the issues we are going to raise when we bring to this House the Bill on elections.

Mr. Temporary Deputy Speaker, Sir, in the beginning of last year when we held a few by-elections, the Ministry and IIEC were able to undertake electronic voting in some constituencies on a pilot basis. On Monday, when the Ikolomani elections were being held, we were able to receive the results by 9.00 p.m. That is already giving the Kenyan people hope. If we can adopt real electronic registration of voters, voting and tallying of elections, I can assure this House and the country that the issue of disputes and challenging results will be something of the past in our country.

So, I would like to thank Members of this House for supporting this Motion. I would like to say that, as a Ministry and Government, we support this Motion for the reasons that I have given. We are going to bring a Bill on elections very soon. I believe our Members of Parliament will have more time to bring more ideas on how to undertake elections. This is a House that is representing the Kenyan people. What we say is the voice of the Kenyan people. I would like to salute my friend here and look forward to the day when we will have the Bill so that we can make more substantive contributions.

Thank you.

The Temporary Deputy Speaker (Prof. Kaloki): I will now ask the Mover to reply. Eng. Rege!

Eng. Rege: Thank you, Mr. Temporary Deputy Speaker, Sir. First, I would like to thank all my colleagues in the House for supporting this very wanting Motion. E-“anything” is in and we can see that in our mobile phones. Today, almost everybody has a mobile phone. Those who can have the smart phones can even have Global Positioning System (GPS). They can trace where their farms and houses are. They can draw a map of their own anywhere in the world. That is what we call an electronic system.

Mr. Temporary Deputy Speaker, Sir, in 2002, I was appointed by the Rt. hon. Prime Minister, Raila Odinga, to monitor vote counting at County Hall. I was with Mr. Eddy Njoroge. We were monitoring votes as they were coming in from all parts of the country. Across the hall was ECK, where Mr. Kivuitu was. We made sure that all the votes that were coming in electronically were counted by ECK. When we saw certain bad movements, we actually walked straight to them and told them: “No, this is the data.” It went well and there was no problem.

In 2007, the voting was convoluted and nothing went right. That prompted me to come up with this Motion. We have to legalize and legislate that electronic voting system be adopted in this country. I know of someone who has been in Parliament for ten years and has never won any election. Once that is done, that person will never see Parliament again because he does not have the means. Even in the future, we are going to---

Mr. Midiwo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Mover of the Motion to whet appetite of Parliament and not tell us who that stranger amongst us is? That is because people only get here through elections. Could he be so kind enough to tell us, at least, the region where that man or woman comes from?

The Temporary Deputy Speaker (Prof. Kaloki): Eng. Rege, that is a very serious allegation.

Eng. Rege: Mr. Temporary Deputy Speaker, Sir, that person comes from southern---

The Temporary Deputy Speaker (Prof. Kaloki): Order! The honourable thing to do is to withdraw that remark. I wish you do not continue with that. Please, could you withdraw that?

Eng. Rege: Mr. Temporary Deputy Speaker, Sir, that person comes from Kenya. I know his name, but I do not want to mention it. Therefore, I will withdraw the statement.

The Temporary Deputy Speaker (Prof. Kaloki): Proceed.

Eng. Rege: Thank you, Mr. Temporary Deputy Speaker, Sir. In the future, when we adopt the real electronic voting system, the Returning Officer will have on him a chip in a laptop and every voter, after voting, the results will show in real time on the worldwide web, www dot something, that, that vote is cast. If you think it will be possible to steal votes in future, then you must belong to the past. It will never happen. It is immoral to steal votes.

Mr. Temporary Deputy Speaker, Sir, it is so ugly to see trucks carrying boxes full of votes and guarded by police officers with guns. This is something we, Kenyans, must resist by all means. We are very civilized and we should not encourage practices of yesteryears. We must encourage wireless voting, tallying and counting of votes in the future.

Mr. Kajwang' is about to introduce the third generation identity cards. This card has embedded in it all personal data that anyone can have, including voting. We should use those cards to vote in this Parliament, so that we do away with the manual voting. It is very mechanical. It will be so nice to use those cards because you walk in and the system already knows whether you are in or not. So, manual counting will be a thing of the past.

I also want to take the opportunity to congratulate Dr. Khalwale for winning the Ikolomani by-election. He is a gentleman and he deserved to win. I think he will contribute immensely to the development of this country.

Finally, I want to just quote the Prime Minister when he once said: "The coming of electronic voter system in our country is more than a revolution."

With those few remarks, I beg to move.

*(Question of the first part of the amendment, that the word
to be left out be left out, put and agreed to)*

*(Question of the second part of the amendment, that the words to be inserted in
place thereof be inserted, proposed)*

*(Question of the second part of the amendment, that the words to be inserted in
place thereof be inserted, put and agreed to)*

(Question of the Motion as amended proposed)

(Question of the Motion as amended put and agreed to)

Resolved accordingly:

THAT, aware that the election management process in Kenya, especially the tallying and transmission of presidential votes in 2007 general elections was marred by allegations of rigging and fraud leading to disputed results that precipitated Kenya's most serious political crisis to date; aware that the report of the Independent Review Commission (the Kriegler Commission) on the general elections held in Kenya in 2007 as adopted by Parliament recommended among other things, "review of the Electoral Commission's administrative procedures with a view to introducing as much certainty as possible in key operational areas so as to ensure uniformity of performance throughout the electoral process from polling station level up to the various teams at the national tallying centre"; this House urges the Government to facilitate the Independent Electoral and Boundaries Commission (IEBC) to develop a modern electronic system for collection, collation, transmission and tallying of electoral data that will legalize electronic voter registration from each polling station to the national level in preparation for electronic voting in the 2012 general elections.

ADJOURNMENT

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Members, there being no other business, the House stands adjourned until this afternoon at 2.30 p.m.

The House rose at 12.15 p.m.