

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 18th October, 2006

The House met at 9.00 a.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

The Minister of State for Youth Affairs (Dr. Kuti): Mr. Deputy Speaker, Sir, I would like to Table the Sessional Paper No.3 of 2006 on the National Youth Policy for Youth Development.

Mr. Deputy Speaker: Mr. Minister, could you table the document?

The Minister of State for Youth Affairs (Dr. Kuti): Mr. Deputy Speaker, Sir, let me go and bring it.

(Laughter)

Mr. Deputy Speaker: Order! I will not accept that laying now. So, that is cancelled. You will lay it in the afternoon.

Next Order!

ORAL ANSWERS TO QUESTIONS

Mr. Deputy Speaker: Hon. Members, since we do not have Questions by Private Notice on the Order Paper, we will proceed on to Ordinary Questions.

We will start with the Question by the Member of Parliament for Kisumu Town West.

Mr. Nyagudi: Mr. Deputy Speaker, Sir, before I ask my Question, I would like to point out that I do not have a written answer to it.

Question No.443

REMUNERATION AND DUTIES OF GOVERNMENT SPOKESMAN

Mr. Nyagudi asked the Minister of State, Office of the President:-

- (a) how much is paid to the Government spokesman in form of monthly salary;
- (b) what other benefits are in his remuneration package; and,
- (c) what his specific duties are.

The Assistant Minister, Office of the President (Mr. Kingi): Mr. Deputy Speaker, Sir, this Question is being handled by the Minister of State for Public Service. Maybe, we should give him a bit of time.

Mr. Deputy Speaker: No, Mr. Assistant Minister! Last Wednesday, we had an incident where Ministers did not show up to answer Questions. It looks like we are repeating what occurred that day. We are not going to wait certainly.

His Excellency the Vice-President and Minister for Home Affairs is here. Since you are the Leader of Government Business in this House, what do you have to say?

The Vice-President and Minister for Home Affairs (Mr. Awori): Mr. Deputy Speaker, Sir, I am sorry the Minister in charge of the Directorate of Personnel Management (DPM) is in Nyeri. But he did not leave the answer at all. So, the Question should be deferred to tomorrow afternoon. I will make sure that he is here to answer it. **Mr. Deputy Speaker:** Your Excellency the Vice-President and Minister for Home Affairs, the Office of the President has a number of Assistant Ministers. One of them is sitting on the Front Bench. It does not really matter to this House the internal arrangement of any Ministry. I am afraid that unless Ministers improve on their performance on Questions, this House will have to take more drastic action.

In this connection, I want to report to the House that as I promised last Wednesday, I did, as a matter of fact, write to His Excellency the President. I reported what happened last Wednesday and asked him to take action. Therefore, I hope he will take action in accordance with the request I made through the letter I addressed to him last week.

Mr. Midiwo: On a point of order, Mr. Deputy Speaker, Sir. On that note, since we have the Vice President and Minister for Home Affairs in the House, could we know the consequences of non-performance of a Cabinet Minister or an officer, in reference to the so-called performance contracts?

Mr. Deputy Speaker: That is directed to the Leader of Government Business.

The Vice-President and Minister for Home Affairs (Mr. Awori): Mr. Deputy Speaker, Sir, there must be a mechanism to look at the performance contracts and I do not think it is the purview of this House.

The Assistant Minister for Roads and Public Works (Eng. Toro): On a point of order, Mr. Deputy Speaker, Sir. This is first Question that you have called out. Now, it appears that the performance of Ministers is being determined on it, yet, we are here to answer the other Questions. So, I would request the Chair to wait until the end of it all and see how we will perform so that it can determine whether we have done well today or not.

Mr. Deputy Speaker: I want to assure you that we are not going to end well. The first Question is directed to the Office of the President. If it has started so badly, I do not expect other Ministries to do better.

The Assistant Minister, Office of the President (Mr. Kingi): Mr. Deputy Speaker, Sir, I want to say that we take our work very seriously in the Office of the President, and you will bear me witness. This is only one incident. We undertake to answer this Question tomorrow afternoon. Let our record not be soiled by just this one incident.

Mr. Deputy Speaker: Mr. Assistant Minister, you take your work very seriously. But I want you to know that this House is not begging for Ministers to answer Questions!

The Question is, therefore, deferred to Tuesday, next week!

(Question deferred)

Mr. Nyagudi: On a point of order, Mr. Deputy Speaker, Sir. This is not the first time I have asked this Question and, as you have rightly pointed out, this is from the Office of the President himself. It shows how inefficient the Government is---

Mr. Deputy Speaker: But, Mr. Nyagudi, we have already finished with that. We have already dealt with this matter and the Chair has done his best. We have deferred the Question until next week. Why can you not wait until next week? Please, be patient.

Next Question is by the hon. Member for Samburu West, Mr. Lesrima.

SECONDARY SCHOOL FEES WAIVER FOR
PASTORALIST CHILDREN

Mr. M.A. Haji, on behalf of **Mr. Lesrima**, asked the Minister for Education:-

- (a) whether he is aware that 80 per cent of children from pastoralist communities who qualify to join secondary schools cannot do so due to lack of school fees; and,
- (b) whether he could consider waiving fees for all

Form I students from those communities.

Mr. Deputy Speaker: I have a note here from Dr. Mwiria regarding Question No.049. He is requesting that the Question be deferred. I have not been given the reason. The Assistant Minister is not present and he requested that the Question be deferred. That answers the question from Eng. Toro! We are not doing better. The Question is deferred until Tuesday next week following the request by the Assistant Minister for Education.

(Question deferred)

Next Question by the hon. Member for Mbita Constituency, Mr. Kajwang.

Question No.266

DECENTRALIZATION OF REGISTRATION
OF SCHOOLS/BOARDS

Prof. Anyang'-Nyong'o, on behalf of **Mr. Kajwang**, asked the Minister for Education:-

- (a) why the Government has failed to decentralize the registration of schools and that of Boards of secondary schools to the District Education Boards; and,
- (b) when the Education Act will be amended to provide for such decentralization.

Mr. Deputy Speaker: Very well. I have a note here requesting that the Question be deferred. I am told that Tuesday is a holiday. Is Tuesday a holiday? So, the Question is deferred until Wednesday. That also answers Eng. Toro. We are not doing well. The Question is deferred until Wednesday next week.

An hon. Member: Is there an apology?

Mr. Deputy Speaker: Yes, there is an apology. That is why I am deferring it.

(Question deferred)

Next Question by the hon. Member for Gachoka!

Question No.306

COMPLETION OF GIKIIRO/MAYORI REP
IN MBEERE DISTRICT

Mr. J. Nyagah asked the Minister for Energy when the Gikiiro and Mayori Rural Electrification Programmes (REP) in Mbeere District will be completed.

The Vice-President and Minister for Home Affairs (Mr. Awori): Mr. Deputy Speaker, Sir, the Minister for Energy is unwell and in bed. His Assistant Minister is abroad. So, may I seek your indulgence and ask that the two Questions - because the next Question is also addressed to the same Ministry - be deferred to Wednesday next week.

Mr. Deputy Speaker: Yes! I confirm that Mr. Obwocha got in touch with my office and said that he is unwell and, therefore, he could not make it. His Assistant Minister is out of the country. Therefore, Questions No.306 and 314 are deferred.

(Question deferred)

Mr. J. Nyagah: But you have not sought my opinion!

Mr. Deputy Speaker: But even if I seek it, what will I do with it?

Question No.314

ELECTRIFICATION OF PUBLIC FACILITIES
IN BUTERE CONSTITUENCY

Mr. Midiwo, on behalf of **Mr. Oparanya**, asked the Minister for Energy:-

- (a) whether he is aware that Manyala Sub-District Hospital and Shiatsala Market in Butere Division were left out during the implementation of the rural electrification program sponsored by the French; and,
(b) what steps he is taking to ensure that those important public facilities are supplied with electricity.

Mr. Deputy Speaker: You did not get authority from Mr. Oparanya to ask the Question on his behalf?

Mr. Midiwo: Yes, I did, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: You did not inform the Chair.

Mr. Midiwo: That is the mistake I did, but I got the authority.

Mr. Deputy Speaker: That confirms that both sides are not doing well. The Question is deferred until Wednesday next week.

Hon. Members, you can see how we are doing!

(Question deferred)

Next Question!

Question No.502

UPGRADING OF ROADS IN
KERUGOYA TOWNSHIP

Mr. Karaba asked the Minister for Local Government:-

- (a) whether he is aware that roads in Kerugoya Township are in a deplorable condition; and,
(b) what plans he has to upgrade the roads in the township to bitumen standards.

The Assistant Minister for Local Government (Mr. Tarus): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware that roads in Kerugoya Township are not well maintained.

(b) The Council, through the Kenya Roads Maintenance Fuel Levy Fund and receipts from the local sources, has continued to gravel/patch a total of 2.58 kilometres of road in the last two financial years - 2003/2004 and 2004/2005 - at a total cost of Kshs3 million. The first quarter disbursement of the financial year 2005/2006 of Kshs596,797 has been received by the council. It has already tendered for the delivery of materials for gravelling.

(c) In this financial year, approximately Kshs30 million has been set aside for rehabilitating selected roads in Kerugoya Township. The contracts for the works will be procured by November.

Mr. Karaba: Mr. Deputy Speaker, Sir, I thank the Assistant Minister for that very nice answer, although I do not have a written response. Could the Assistant Minister tell us when the Kshs30 million will be availed, so that works could start? Experience has shown that many times, when promises are made here, nothing happens on the ground. I want to know exactly when those works will start. I am talking about tarmacking and not gravelling.

Mr. Tarus: Mr. Deputy Speaker, Sir, that used to happen in the past. I want to assure the hon. Member that what we have planned will be done. Once the tendering process has been completed, the works will be done. I apologise to the hon. Member for not having a copy of the answer. I wish he could have come a little bit earlier.

Capt. Nakitare: Bw. Naibu Spika, nimeshangazwa na jinzi Waziri Msaidizi amelijibu Swali hili, ambalo linahusu barabara za manisipaa. Tangu Uhuru, wakati Waafrika walichukua sehemu ambazo Wazungu walikuwa wanaishi, Wizara hii haijashughulika kutengeneza barabara sehemu hizo. Lami imeporomoka. Waziri Msaidizi sasa anasema kwamba kuna pesa. Je, katika sehemu ya Kitale Township, ambayo ni maarufu sana, kuna mpango gani sambamba na ule wa Kerugoya Township?

Mr. Tarus: Mr. Deputy Speaker, Sir, I thank the hon. Member for that question. But I would like to say that, if the hon. Member wants to get the full details of programmes for Kitale Municipality, he should put another Question. But the Ministry has elaborate programmes for the entire urban road requirements across the country.

Mr. Khamisi: Mr. Deputy Speaker, Sir, I want to submit that the Ministry of Local Government has ignored its responsibilities in most of the county councils across the country. Now that the rains have been pounding most of the places, including the Coastal area, what emergency plans does the Assistant Minister have to repair the roads that have been destroyed by rains in areas under county council jurisdictions?

Mr. Tarus: Mr. Deputy Speaker, Sir, the hon. Member can use many channels to obtain emergency services for the affected areas. We are yet to receive information from that particular area. But since the hon. Member has raised the matter, we will take it up, find out the situation and see how best we can assist.

Mr. Deputy Speaker: Last question, Mr. Karaba!

Mr. Karaba: Mr. Deputy Speaker, Sir, given that November will start next week - he has said that work will start in November - what has been started now, so that we can know something will happen in Kerugoya Town? It is a town that has been neglected for quite sometime. I am not very optimistic that something will happen, given the short time that is remaining. What preparations are you putting in place, so that I can come next week and get the money?

Mr. Tarus: Mr. Deputy Speaker, Sir, if the hon. Member does not believe me, why can he not wait for a surprise?

Question No.549

REHABILITATION OF ROADS E1162,
UR16 AND E386

Mr. Midiwo asked the Minister for Roads and Public Works:-

- (a) whether he is aware that Roads E1162, UR16 and E386 have been rendered impassable following heavy rains and are in need of urgent repair;
- (b) whether he is aware that a letter from the District Works Officer, dated 15th May, 2006, appealing for emergency help, has not received a response; and,
- (c) what measures he is taking to rectify the situation.

The Assistant Minister for Roads and Public Works (Eng. Toro): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that roads E1162, UR16, and E386 have been rendered impassable due to heavy rains. I am also aware that the above roads are in need of urgent repairs.

(b) A letter from the District Works Officer (DWO) dated 15th May, 2006, appealing for emergency help was acted upon and the roads have been prioritised for repair during the 2006/2007 Financial Year. The repair works will be done through the District Roads Committee (DRC) under the 24 per cent and the 16 per cent Petroleum Levy Fund allocated to the District Roads Committees.

(c) My Ministry has taken the necessary measures to improve the conditions of the above roads. In the current financial year, Kshs3,494,000 or 24 per cent has been allocated through the Roads Maintenance Levy Fund (RMLF), for the repair of Road E386 between Nyagwesso and Muhanda. Along Road UR16, another section will be repaired. Multiple culverts will be installed at a cost of Kshs420,000 using the constituencies 15 per cent of the RMLF.

Mr. Midiwo: Thank you, Mr. Deputy Speaker, Sir. I want to thank the Assistant Minister for at least, making an effort to be here. However, my question has been answered unsatisfactorily. During the last heavy rains, all those roads were washed away and the District Roads Engineer (DRE) wrote to the Ministry for help. It is now seven months since then, yet no work has been done. The Assistant Minister is now telling this House that he will use 24 per cent and 16 per cent of the money allocated to District Roads Committees to repair the roads. We specifically asked for emergency help. My people cannot use the roads which are not even motorable. One cannot even use the roads because the bridges have been washed away. I urge the Assistant Minister to help us by instructing the PWO to help us. There is money which engineers are just squandering in our district headquarters.

Eng. Toro: Mr. Deputy Speaker, Sir, I would like to confirm to the hon. Member that there is no money being misappropriated in the headquarters. During the heavy rains of March and April, many roads and bridges countrywide were washed away. We received letters from all DWOs where heavy rains occurred but we did not have emergency funds to do the work. We asked the DWOs to prioritise the same roads and bridges in the current financial year, using the Petroleum Maintenance Fund, for the roads which fall under the DRCs. That was what happened because we could not cope with the situation. We also did not help by providing the emergency funds to do the work. The cases the hon. Member is complaining about cannot be catered for under the Emergency Fund. They have been catered for under the 16 per cent and the 24 per cent fuel levy allocated to District Roads Committees.

Mr. C. Kilonzo: Thank you, Mr. Deputy Speaker, Sir. When the DREs submit any work plans, no one is supposed to make any alterations. This means that if a bridge is swept away, then it has to wait for an allocation in the next financial year. Once that happens, some areas are left totally cut off from the rest. There is a bridge in one of my divisions which was swept away last year, but the DRE could not use the funds which had been allocated to him. Why does the Government not allocate emergency funds to address such simple cases?

Eng. Toro: Mr. Deputy Speaker, Sir, there is some small proportion of money which is allocated for emergency cases. However, it is not enough to do all the work that hon. Members are requesting. It is not true for the hon. Member to say that once a DRE submits a work plan, it cannot be changed. That is not true. If there is need to change a work plan, DRCs are supposed to meet and approve an amended work plan. The DRC then submits the work plan to the Kenya Roads Board which acts upon it.

Mr. Manoti: Mr. Deputy Speaker, Sir, rural access roads are very important because they connect main roads to various towns. The Ministry has a bridges department. Could the Assistant Minister tell us how much money the department has for such emergencies?

Eng. Toro: Mr. Deputy Speaker, Sir, I cannot tell off-head how much money the bridges

department has, especially for emergency cases. However, we have money for programmed work in this financial year and to complete the on-going work on bridges that were started in the last financial year. The issue of rural access roads is a responsibility of the Local Authorities and the DRCs and there is nothing that the Ministry can do to have plans for rural access roads which are under the DRCs.

Mr. Nyagudi: Mr. Deputy Speaker, Sir, thank you, very much. The Assistant Minister said that his Ministry has a section that takes care of emergencies. I am aware of the situation of the road which we are talking about because it passes through the school which I attended. Could the Assistant Minister confirm to this House that he will increase the allocation for emergencies because there are many cases?

Eng. Toro: Mr. Deputy Speaker, Sir, when we receive cases of emergencies, because the money is dispatched in tranches, we increase it to a certain proportion to cater for emergencies. Otherwise, there are issues which are brought up, which are not emergencies. Most emergency cases are very expensive because they have to do with improving bridges. Their designs and construction is expensive and takes time.

Mr. Midiwo: Mr. Deputy Speaker, Sir, we all now see the effects of unfair distribution of roads money. Recently, in the current financial year Budget, my district got a paltry Kshs3 million, while others got as much as Kshs1 billion. If Gem Constituency was in those favoured districts, we would not be asking this Question. The Ministry has also changed the mode of procurement that the DWOs use. To put a line of culverts which costs only Kshs100,000, they cannot use LSOs and have to do tendering which takes six to seven months. Could the Assistant Minister enlighten this House on what happened to the feeder roads system which has been much talked about and which they have been pledging to revive? If we were using the system, we would be having graders and bulldozers and emergency equipment in our districts.

Eng. Toro: Mr. Deputy Speaker, Sir, there is the issue of decentralisation of road maintenance equipment to regions. Once that is completed, any Member will be able to have access to the various types of equipment that will be in these regions. That is the only way that the District Roads Committees (DRCs) and Members can utilise this equipment on a hire basis. On the issue of unfair distribution, I do not agree it is unfair. Just like he is talking of heavy rains in his constituency, there is also unfair distribution of the rain, because some parts did not get enough rains.

Mr. Kombe: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to deny that the distribution of equipment is unfair yet one district gets Kshs3 million and another gets Kshs1 billion? Is that fair?

Mr. Deputy Speaker: That is not a point of order, it is a question. Let me hear a point of order.

Mr. Raila: On a point of order, Mr. Deputy Speaker, Sir. The Question that hon. Midiwo asked was about this decentralisation; the 16 regions that the Minister is talking about. The question was, when is this going to be done? When will these regions begin to operate now that the equipment came over eight months ago?

Mr. Deputy Speaker: Again, that is not a point of order, it is a question. But, Mr. Assistant Minister, you can address those issues together.

Eng. Toro: Mr. Deputy Speaker, Sir, there is no issue of unfair distribution because we do not yet have the funds. Until the funds are available and we have disbursed it to certain areas, then you can say it is unfair. On the issue of decentralisation of the equipment, it is taking a bit longer. The hon. Member for Langata knows this best because he is the one who started the issue of the equipment and he knows it was not going to take a month or two. He knows exactly what I am talking about when I say there is a delay. He knows the programme from point A to Z.

DELAYS IN RESOLVING LAND CASES
IN COURTS/TRIBUNALS

Capt. Nakitare asked the Minister for Justice and Constitutional Affairs:-

- (a) whether she is aware that most land cases filed in court and Land Board Tribunals take years to be resolved;
- (b) whether she is further aware that as a result of the above, tycoons and the Provincial Administration personnel take advantage and evict poor farmers from their land; and,
- (c) how many cases filed in court and the Board are pending, especially in Trans-Nzoia District and what steps she is taking to protect the farmers.

Mr. Deputy Speaker: There is a communication from the Minister that the answer seems unsatisfactory to her and she is requesting the Question to be put up for next week. What do you have to say, Capt. Nakitare?

Capt. Nakitare: Mr. Deputy Speaker, Sir, I have no objection, since this Question is of national importance.

(Question deferred)

Mr. Raila: On a point of order, Mr. Deputy Speaker, Sir. This is not a Question by Private Notice. Usually, these kind of Questions are sent to the Ministry long time ago. I think it is not fair for the Government to come here and tell us that they have unsatisfactory answers. They have had enough time to consult with their officers in the Ministries. This should not be happening.

Mr. Deputy Speaker: Before you came in, Mr. Raila, we had dealt with this issue of answers from Ministers, and I do not want to repeat what I have said. But the point is that the Minister made a communication, which is better than not turning up at all. So, I still commend her for making that communication earlier. Let us move to the next Question.

Question No.076

NON-PAYMENT OF TERMINAL DUES
TO MR. MANYARA

Mr. Mwanicha asked the Minister for Labour and Human Resource Development:-

- (a) whether he is aware that Mr. Nyagesoa Manyara, ID No. 6924576/69, P/No. 10219, who was an employee of African Safari Club, Mombasa, was dismissed on 18th May, 1996; and,
- (b) whether he could inform the House why Mr. Manyara has not been paid his terminal benefits to-date.

Mr. Deputy Speaker: I have just received a message from the Ministry of Labour; it was received in the Clerk's office at 9.05 a.m., and it reads: "The PS, Ministry of Labour and Human Resource Development has called requesting that Question No.076 be deferred as the Minister and Assistant Ministers are not available." What does the Leader of Government Business have to say?

The Vice-President and Minister for Home Affairs (Mr. Awori): Mr. Deputy Speaker, Sir, the message may have reached the Clerk's office at 9.05 a.m., but I had already, at 8.30 a.m. got information from the Minister; that he is presiding over a function right now while one of his Assistant Ministers is abroad and the other one is unwell in Laikipia. So, he asked that we get this Question deferred until next week.

Mr. Khamisi: On a point of order, Mr. Deputy Speaker, Sir. In this morning Session, we

have had not less than five chits coming from Ministers giving reasons why they should not be here to answer Questions. This is causing a lot of delays on the list of Questions that are pending to be answered in this House. As much as you have ruled on this issue, can you, as Chair, give us direction on how we are going to proceed on this matter, if we are going to have Questions deferred on a daily basis, messing up the queue of Questions that are already pending in the Clerk's office?

Mr. Raila: On a point of order, Mr. Deputy Speaker, Sir. There is collective responsibility in the House. Any Minister can answer a Question on behalf of another Minister. Likewise, apart from Questions by Private Notice, a Member can ask an Ordinary Question on behalf of another Member if that Member is not able to be here to ask the Question personally. This has been the practice. If there is an answer, there is no reason why any of these Ministers sitting here, earning money from the public cannot stand and reply. This is a sign of a Government that is tired. The Leader of Government Business should stand up here and tell us why this Government is refusing to answer Questions in the House everyday or if he believes, as I do, that it is time to advice his leader that it is time for us to go back to the electorate?

Mr. Deputy Speaker: That does it, Mr. Raila. It is a matter of Question and answer and I think we have dealt with this matter. But I want to underline what Mr. Khamisi said. Today, we had nine Questions listed and only two have been answered. Remember, last Wednesday, eight Questions were not answered. It just goes to show that something is amiss. I want to ask the Leader of Government Business to rise and assure this House that this kind of practice is not going to continue. I think now, having drawn the attention of His Excellency the President to the same matter last week, and seeing what we are seeing, we now need perhaps, to move a step further to take a firmer action. But I would like the Leader of Government Business to address the House now on this matter.

The Vice-President and Minister for Home Affairs (Mr. Awori): Mr. Deputy Speaker, Sir, I am sure you have witnessed me answering Questions from various Ministries, provided the answers are satisfactory. I normally have the answers in my office. When I go through and I find it is totally unsatisfactory, I would need the substantive Minister to come and deal with it. In many cases, I seek your indulgence. I understand the frustration of hon. Members but we are in the process of streamlining. This happens only occasionally. So, for my colleague, Mr. Raila, it is not a tired Government. It is a Government that is working.

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

Mr. Deputy Speaker: Order, hon. Members! There will be no more issues on that matter. That matter is closed!

(Question deferred)

There is a Ministerial Statement by the Minister for Youth Affairs.

Mr. Mwanicha: On an a point of order, Mr. Deputy Speaker, Sir. I share the concerns of the House on this matter---

Mr. Deputy Speaker: Order, Mr. Mwanicha! Do not raise anything on that matter. I said that, that matter is finished. We have deferred all the Questions to Wednesday, except for Mr. Nyagudi's which was deferred to Thursday. All the other Questions are deferred to Wednesday morning. However, do not address yourself to that matter. I asked the Vice-President and Minister for Home Affairs to make a statement. He finished and, therefore, that is the end of the matter.

Yes, Mr. Minister for Youth Affairs!

MINISTERIAL STATEMENT

EMPLOYMENT OPPORTUNITIES
FOR THE YOUTH

The Minister of State for Youth Affairs (Dr. Kuti): Thank you, Mr. Deputy Speaker, Sir. I stand here to make a Ministerial Statement because of the various Questions hon. Members have been asking about the issues of the Ministry of Youth Affairs as regards the services that are going to be offered to the Kenyan youth. There is a specific hon. Member who asked a Question just before we went on recess. I had promised that I would release a Ministerial Statement on that issue. Here it is!

This is a Ministerial Statement by Dr. Kuti, the Minister for Youth Affairs during the---

Mr. Deputy Speaker: Just read the Ministerial Statement! It is yours and we know it.

(Laughter)

The Minister of State for Youth Affairs (Dr. Kuti): Mr. Deputy Speaker, Sir, the youth in this country as, indeed, in a number of other countries are a wonderful resource that can greatly contribute to national development. If not properly

[The Minister of State for Youth Affairs]

addressed, however, they can be a veritable time bomb. This is a fact that all hon. Members of this august House are aware of. I am sure that all of us want the issues concerning the youth addressed urgently. The following amazing statistics will illustrate the extent of the problem we are grappling with as a nation.

(i) Seventy five per cent of our population is below 30 years of age.

(ii) Those between 15 and 30 years old account for 32 per cent of the population. By our definition, the youth is 15 to 30 years old.

(iii) Over 50 per cent of all convicted criminals are young men and women aged between 16 and 25 years.

(iv) Sixty seven per cent of all those who are unemployed are between 15 and 30 years and 45 per cent are under 24 years.

(v) Ninety two per cent of those unemployed, especially the youth, have no vocational skills or professional training.

(vi) Over 60 per cent of new HIV/AIDS infections are among the youth.

Mr. Deputy Speaker, Sir, with all these, Kenya will not meet its Millennium Development Goals (MDG) without addressing youth development. While many challenges face young people, undoubtedly, the most acute is the inability to access employment. That is the lack of opportunity to earn a decent and honest living. It is this that drives young people into crime and drugs and into a general state of hopelessness and despair.

The issue of creating employment opportunities for the youth, be it formal, informal or self-employment, needs to be addressed urgently and with the kind of resources focus and commitment as we have directed at HIV/AIDS.

Mr. Deputy Speaker, Sir, the youth are Kenya's most wasted resource. If two million unemployed young people could be given jobs and produce at average industrial output per worker, they would add Kshs504 billion to our Gross Domestic Product (GDP) constituting to a 50 per cent increase.

The Ministry has identified eight key areas to be addressed urgently.

In the area of youth and environment, where we have initiated the planting of 50 million trees through collaboration with youth organisations countrywide, we recognise that the degradation of the environment through pollution, poor waste management and deforestation is a major challenge for Kenya. With the ensuing destruction of water catchments, depletion of fish and

other marine stock, pollution of rivers and destruction of plants and animals, the youth cannot be assured quality of life in the future.

The Ministry is working closely with the Ministry of Environment and Natural Resources to create employment for youth through re-afforestation. We expect remarkable achievements in this area in the coming month.

In the area of youth and health, especially HIV/AIDS, it is recognised that health has become a major issue among the youth. Apart from the traditional health problems like malaria, tuberculosis (TB) and the more conservative sexually transmitted diseases (STDs), the exponential spread of HIV/AIDS and drug abuse have become issues of major concern. As the majority of new infections take place among the youth, we believe it is only through mobilizing the youth that we can win the war against this scourge. The Ministry's work plan for the next financial year addresses this problem in the context of the proposed National Youth Council.

With regard to youth education and training, the 8-4-4 System of Education was geared towards imparting appropriate skills to enhance self-employment. However, due to the high cost of living, poverty and lack of facilities, there have been high school drop out rates. Most of the youth drop out of school or graduate without acquiring the skills necessary for self employment. Many girls drop out of school due to pregnancy.

Statistics show that almost 90 per cent of our unemployed youth have no skill or vocational training. To address this, 16 youth polytechnics are being rehabilitated and, similarly, work in another ten will commence soon. We intend to provide equipment to one youth polytechnic per constituency. I think most hon. Members have by now received letters inviting them to nominate one youth polytechnic in their constituency.

Mr. Deputy Speaker, Sir, the Ministry has requested hon. Members to identify the institution to receive this support. Several have already responded. We are also finalising a new policy for youth polytechnics and curriculum revision.

The Ministry believes that it is important today to develop the next generation of leaders. In this regard, we have organised three career clinics where students from various schools have benefitted by getting first hand information from over 20 different careers ranging from military to medicine. This type of information will help them make proper choices regarding their future career. We are planning more such career fairs across the country.

Mr. Deputy Speaker, Sir, the National Youth Service (NYS) is playing its role in youth development. For example, the Street Youth Rehabilitation Programme is progressing well. The NYS is undergoing a reform process. We will also review its curriculum to ensure that it is in line with the job market requirements.

Due to lack of access to Information and Communication Technology (ICT), especially in rural areas, the youth cannot exploit their career, business and education opportunities. There is need to take advantage of benefits associated with ICT to foster youth development by mobilisation of youth groups, creating awareness of the information society to the youth groups, integrating local cultural content into the information society, enhancing existing facilities with collaborating partners, creating employment opportunities for the youth in the information society and advocating for policy reforms relevant to the youth with regard to ICT.

Mr. Deputy Speaker, Sir, on youth, crime and drugs, the abuse of illicit drugs is on the increase, especially among the youth. This has had an effect on crime as research reveals that the use of drugs and crime are inter-related. The Ministry is working closely with other agencies, notably the National Campaign Against Drug Abuse (NACADA) and the United Nations Office on Drugs and Crime to seek a solution to this problem.

Mr. Deputy Speaker, Sir, in the area of youth participation and empowerment, we have recognised that youth empowerment is about facilitating the youth to forge partnerships with other groups in society, instilling a sense of ownership in an effort to improve their wellbeing and building their capacity to realise their aspirations and boost self-motivation. Involving the youth in

planning, implementation and evaluation of programmes that affect them gives them a sense of belonging and ownership. This results in sustainability and success of such programmes. In line with this, my Ministry will facilitate the creation of a National Youth Council (NYC), a youth-owned and led body. In order to effectively co-ordinate services targeted at the youth, the Ministry will commence work on the development of a comprehensive web-based data base of youth organisations in the country.

With regard to youth recreation, leisure and community service, we believe that sports and recreation are important for the psychological and physical development of the youth. They also contribute to their personal development by promoting good health, personal discipline, leadership and team skills. Community service enables young people to give back to society and encourages an inter-generational discourse.

Finally, on youth unemployment, about 500,000 youth join the labour market every year ready to enter the job market. However, due to the slow economic growth, corruption, nepotism and demand for experience by potential employers, 75 per cent remain unemployed. The Ministry of Youth Affairs is developing policies that will address unemployment problems and create an environment where the youth can exploit their potential through value-added initiatives.

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

Mr. Deputy Speaker: Dr. Kuti, how long do you have to go? Mr. Raila, what is it?

Mr. Raila: Mr. Deputy Speaker, Sir, that Ministerial Statement is too long. What the Minister really needs to do is to table a Sessional Paper rather than coming here to bore us with a lengthy document! This is not the occasion for a Minister to read policy!

Mr. Deputy Speaker: Order, Mr. Raila! The Minister, as a matter of fact, will be tabling a Sessional Paper this afternoon. Nevertheless, Dr. Kuti, try to summarise your Ministerial Statement.

The Minister of State for Youth Affairs (Dr. Kuti): Mr. Deputy Speaker, Sir, sorry for that interruption. I am just about to finish. Some people have to say something anyway, all the time!

Slow economic growth, rapid increase in the number of youth graduating from secondary and tertiary education institutions, inability of public and private sectors to accommodate this large group of skilled young graduates accounts for youth unemployment in the country.

In the absence of opportunities in the formal labour markets, young people turn to self-employment in the informal sector. The Government has addressed youth unemployment in several policy documents such as the Poverty Reduction Strategy Paper which extensively elaborates on youth employment strategies through youth entrepreneur training, micro-credit skills, vocational training and career guidance service development, youth leadership training and ICT skills training. The Ministry of Youth Affairs intends to collaborate with other stakeholders to implement these strategies with emphasis on increasing financial commitments to youth employment initiatives.

The Government has formed an inter-Ministerial task force on employment creation for the youth mainly through re-afforestation, road construction and labour export. The task force draws its membership from the Office of the President, the Ministry of Youth Affairs, the Ministries of Labour and Human Resource Management, Environment and Natural Resources, Roads and Public Works and Planning and National Development. We believe that through structured labour export schemes, it will be possible for the youth with the right skills, experience and education, to get international jobs in other liberalised external markets. Locally, the use of labour intensive technologies will generate employment opportunities for the youth, especially through large public works and road construction.

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

Mr. Deputy Speaker: What is it?

Mr. Sungu: Mr. Deputy Speaker, Sir, it appears the Minister is moving a Motion!

Mr. Deputy Speaker: Mr. Sungu, we have dealt with that matter. Let the Minister finish!

The Minister of State for Youth Affairs (Dr. Kuti): Mr. Deputy Speaker, Sir, it is envisaged that the NYC will further promote and popularise the Kenya National Youth Policy and other relevant policies affecting the youth, ensure structures are established and developed for effective implementation, design key performance indicators and mechanisms to ensure adherence to policy and provide broad-based policy direction on the youth and at the same time create an environment which enables young people to understand and assume their respective roles and responsibilities.

Mr. Deputy Speaker, Sir, I am happy to inform the House that this afternoon, I will lay the Sessional Paper No.3 of 2006 for debate. I request that debate on this Sessional Paper be prioritized. Its adoption, will lead to the creation of the National Youth Council (NYC).

Thank you.

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

Mr. Deputy Speaker: I thought hon. Members were tired of listening to the Minister because of the lengthy Ministerial Statement. I see there are many hon. Members standing up on points of clarification. I will start with Mr. Oparanya. Dr. Kuti, take notes.

Mr. Oparanya: The Minister has come up with quite a number of issues that he has undertaken to do within this financial year. I want to know if there is adequate provision in the budget to undertake all these activities that he has pointed out.

Dr. Ojiambo: Mr. Deputy Speaker, Sir, the youth are anxious to know where the Kshs1 billion that was set aside for the Youth Fund is. Is it true that, that money has been spent by the Minister at the headquarters?

Mr. ole Metito: Mr. Deputy Speaker, Sir, one of the issues affecting the youth, and which the Minister has pointed out is unemployment. What efforts is the Ministry putting to ensure that the Government stops recycling retirees, and provides youthful Kenyans those employment opportunities?

Mr. Deputy Speaker: Dr. Kuti, deal with those questions first and then I will allow a few more.

The Minister of State for Youth Affairs (Dr. Kuti): Mr. Deputy Speaker, Sir, we have adequate provision. However, resources are always in short supply, but I would like to re-assure the House that we are getting a lot of support, both from the Government and bilateral partners. I hope we will achieve most of our stated programmes.

Secondly, where is the Kshs1 billion for the Youth Fund? Has it been used at the headquarters? We have not received this money from the Treasury because we are in the final stages of establishing the structures that will manage this Fund. We have formed the advisory board. We have advertised and asked for expression of interest from micro-finance institutions. Until all these structures are ready, we are not in a position to start spending this money. We will get this money as soon as our structures are ready. So, the issue of this money being used at the headquarters is a fallacy. I would like to re-assure the House that the money is safe and it will be spent for the intended purpose for all the Kenyan youth.

Thirdly, on the issue of stopping the re-cycling of retirees, this is a reality that we have people in employment who are past their retirement age. However, I would like to reserve that question for the Minister of State for Public Service. As of now, we are working very hard to create the NYC, so that the youth can speak loud, so that such matters are addressed by the Government.

Mr. Deputy Speaker: Let us get more questions on this issue.

Mr. Sambu: Mr. Deputy Speaker, Sir, the Minister has said that his Ministry will co-ordinate with the Ministry of Environment and Natural Resources to employ youth to do re-forestation. There are areas, particularly in the North Rift, where two companies, Pan Paper Mills

Limited and Rai Ply Limited have done a lot of de-afforestation. The Ministry said that they will make available 50 million seedlings for the purposes of re-afforestation. If some of us have seedlings ready for planting through the Constituencies Development Fund (CDF), will the Minister make it an immediate policy to employ the youth to plant those seedlings?

Mr. Raila: Mr. Deputy Speaker, Sir, the international classification of youth is those people aged 35 years and below, and not 30 years. I do not know where the Ministry got this arbitrary classification. Recently during the Youth Summit, the youth were required to pay Kshs7,000 yet, he is saying that the youth are so impoverished. Could he explain this contradiction? Why demand that people who are already impoverished pay Kshs7,000 to participate in the Youth Summit?

Mr. Deputy Speaker: Let me finish the clarifications with the young man, Mr. Weya.

Mr. Weya: Thank you very much, Mr. Deputy Speaker, Sir. I was young when I came to Parliament because I was under 35 years old. Now, I am a bit older.

Mr. Deputy Speaker, Sir, you heard the Minister say that in this year's Budget, the Government has removed secondary school bursaries. Could he tell us how he is addressing the issue of secondary school bursaries so that this Government can be able to stop this problem of school dropouts?

Mr. Deputy Speaker: Mr. Minister and hon. Members, that will be the end of clarifications.

The Minister of State for Youth Affairs (Dr. Kuti): Mr. Deputy Speaker, Sir, on the issue of mass employment of youth especially in re-afforestation, during these short rains we have a pilot scheme in Mau Forest and four other areas designated by the Ministry of Environment and Natural Resources and we are going to use about 2,000 youth to plant trees. We are negotiating with the Ministry of Environment and Natural Resources to designate certain areas that need urgent attention where the youth can then be employed.

Mr. Deputy Speaker, Sir, for specific issues like that one raised by hon. Sambu, I think it will be good if he comes to my office and we will then be able to see how we could work together to incorporate his plans as relates to the seedlings that he has.

Mr. Deputy Speaker, Sir, about the age, the Commonwealth defines the youth as those who fall in the bracket of 15 to 30 years. The United Nations (UN) defines the youth as those who fall in the age bracket of 18 to 24 years. There are various definitions of youth. As for our Ministry, we have kept to the Commonwealth definition of those who fall between the age bracket of 15 and 30 years. However, as we table the document, I think maybe the House will ratify it because there is a generalised-like feeling in the community, youth and various partners that maybe 35 years is a more appropriate upper limit.

Mr. Deputy Speaker, Sir, the other issue is about the payment of Kshs7,000 for the summit. This is the third Global Youth Employment Summit and this has been a collaboration between my Ministry and Education Development Centre (EDC) in Boston where we had to arrive at that arrangement that has been going on from the first one in Egypt, the second one in Mexico and the third one is with us. There had to be some contribution from Government, EDC and the youth. I think that while we also talk about poverty, the ability to encourage youth to be independent, self-reliant and participate in things which are not for free, will be a good way to go. However, I appreciate, of course, the level of poverty in the country but I think this was an arrangement between the three partners.

Mr. Deputy Speaker, Sir, on the bursaries issue, as stated earlier, the bursary money in the Ministry of Education, I think, has been put in the Constituencies Development Fund (CDF), but the best placed Minister for this question would be the Minister for Finance.

Thank you, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Next Order!

MOTIONINTRODUCTION OF FREEDOM
OF INFORMATION BILL

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, I beg to move the following Motion:- THAT, this House grants leave for the introduction of a Bill for an Act of Parliament entitled "Freedom of Information Bill" for the purposes of nurturing information resources as a tool for development.

Mr. Deputy Speaker, Sir, the hon. Omingo will second this Motion. I would also like to acknowledge, in moving this Motion, that the Government drafted a Bill last year on freedom of information after many years when the NGOs and civil society had been discussing this and indeed the International Commission of Jurists (ICJ) too has been in a process of drafting a Bill to that effect. So, in this Motion, we would like the Government to join us in ensuring that this country has a freedom of information law.

Mr. Deputy Speaker, Sir, let me begin by explaining to the House what "freedom of information" is all about. The United Nations principles of freedom of information was passed and published in the year 2000 and it defines freedom of information as "the right to know; the citizens' right to have access to public information". It also entails the obligation of public institutions, particularly the Government, to ensure that they facilitate access to this public information by the citizens and other organisations of society especially by ensuring that this information is available in published form or through the electronic media particularly the internet.

Mr. Deputy Speaker, Sir, secondly, freedom of information demands that governments do not interfere with the flow of information to the public, journalists or the media for that matter, and to whoever among the citizenry who would require this information for purposes of making decisions that appertain to individual or public interest. Access to information is justified by the simple principle that official information is public property and that this official information is created and maintained for the interest of the public since governments exist for the purposes of serving societies that create them.

[Mr. Deputy Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Speaker, Sir, we will never tire in reminding this House of that saying written at the entrance of this august House that everybody should read whenever they leave this House; "This House or Government exists for the welfare of society and the just Government of men". That just Government cannot exist unless one, the people know what the Government is doing; and two, they can evaluate, on the basis of full information, whether what the Government is doing is in the interests of the public; and three, they can account or hold the Government accountable.

Mr. Temporary Deputy Speaker, Sir, what is the current status of freedom of information in the Republic of Kenya? The prevailing constitution and legal framework inherited from the colonial regime, and also the previous regimes, was deliberately designed to deny Kenyans access to information, let alone using it in a user-friendly medium, when they access it. In the first place, the Constitution does not provide for the freedom of information. Indeed, where it is provided for in Section 79 of the Constitution, it is then qualified by numerous exceptions. The qualifications are, themselves, ambiguous and wide to the extent that, they leave the ordinary citizenry perplexed as to whether the freedom of information, that should be part and parcel of the Bill of Rights, can

be pursued by the Government, if it hides behind vague provisions in the Constitution. Those provisions have, therefore, allowed for the enactment of laws whose effects negate the right to information. Draconian laws like the Official Secrets Act and Preservation of the Public Order and Security Act which, fortunately, has now been removed from the statutes have, in the past, restricted citizens' access to official information and use of that information in promoting both individual and public interest.

Mr. Temporary Deputy Speaker, Sir, our concern is to ensure that we put in place a law that will, not only make it possible for individual citizens in this Republic to have access to public records, but also compel the Government and other public institutions to avail those records to the public in a user-friendly manner. When information is not readily available, it creates wide possibilities for rent-seeking in Government. In other words, when a citizen wants information, somebody who occupies a critical position in the Government bureaucracy ends up having the power to sell this information to the citizen. That is what is called rent-seeking.

Further, Mr. Temporary Deputy Speaker, Sir, as I will continue to illustrate, lack of access to public records and information does not only hinder development, but also promotes corruption in Government bureaucracies and public institutions. That is great disservice to development.

Mr. Temporary Deputy Speaker, Sir, we must, therefore, in promoting or advocating the need for a freedom of information law, be aware of certain policies and principles that will guide the framing of such a law.

The first principle is that public officials, who occupy public positions, have a duty to make information available to the public. That is good in and of itself.

(Applause)

Secondly, in making information available to the public, it compels public institutions and bureaucracies to maintain good records which cannot be altered at will, so as to hide further information and make the Government opaque to the detriment of good governance.

Thirdly, public officials will need to take reasonable steps to assist any person seeking to exercise the right to access official information. In other words, when a citizen goes to a public office to seek information, he or she is not unduly hindered to have access to that information. I will give an example of something that happened to me last week. My nephew - the son of my sister - was arrested by Administration Police officers in a house where he stays. It was during one of the inspections that the police do at random. He was taken to Karen Police Station and kept there for three days. I was too busy to pay attention. But when my niece called and told me the conditions under which he was arrested, I did not think it was something that would take more than six hours to sort out. Unfortunately, he was detained at Karen Police Station for three days. His cousin gave Kshs10,000 to his sister. The sister went to Karen Police Station, paid that money and was not given any receipt. The young man was then released. I did not know all that until I went to the police station to find out what happened. I found out from the police that he had been released. When I asked them the conditions under which he was released, they were not able to tell me. I insisted on looking at the Occurrence Book (OB), but they refused and yet, it is a public document. I insisted further and had access to the Deputy Officer Commanding Police Station. The Deputy OCS could not let me read the OB until he called the Officer Commanding Police Division (OCPD). When he gave me the phone to talk to the OCPD, I asked him one question: "Tell me, Mr. OCPD, is the OB a public document or not?" He told me it is a public document. I said: "I will have access to it". Then he said: "*Afande*, yes, Sir! Have access to it". That is when the Deputy OCS copied down the entry on a paper - he did not want me to read the OB - and handed it to me with the rubber stamp of the station. The case has now been reported to the Kenya Anti-Corruption Commission (KACC). I am waiting to see the extent to which KACC can take up this issue and act

on it. But that is a practical case of Government officers hindering, even an hon. Member of Parliament, access to OB, which is at the front office at any police station. It is meant to be a medium of interaction between the Police force and public so that, when you go there, they can tell you what has been occurring. That is why it is called: "Occurrence Book!" But because we do not have a law compelling officers to make the public have access to information, it was demonstrated to me very clearly at the police station. We do not have freedom of information in this Republic, 45 years after Independence.

Mr. Temporary Deputy Speaker, Sir, there is public interest for official disclosures. If there is no official disclosure of information, it leads to corruption and bad governance. I want to read to this august House what President James Madison said about freedom of information or availability of knowledge to the public. James Madison, Hamilton and Jeiy were the three very prominent Americans who took part in the debate that laid down the Constitution of the United States of America (USA). Of those three, only Jeiy never become a president. I think Hamilton and Madisson, subsequently, became presidents. James Madison said the following:-

"Knowledge will for ever govern ignorance. And a people who mean to be their own governors must arm themselves with the power of knowledge. A popular government without popular information or the means of acquiring it is, but a prologue to a farce or a tragedy or, perhaps, both."

Mr. Temporary Deputy Speaker, Sir, when we took power as NARC, we proclaimed ourselves as defenders of democracy and promoters of good governance. However, it has rapidly become tragic that rather than champion the politics of "disclosure" the Government rapidly began practising the politics of "foreclosure".

Recently, I went to the University of Nairobi. We were intending to have some lectures at the University of Nairobi. The dons there could not guarantee me the possibilities of lecturing at the University simply because the authorities now fear the Opposition. That is what used to happen when I was teaching at the University in the late 1970s.

I remember one day when the police came to pick me up at 5.30 a.m. They collected four cartons of books so as to take me to a police station and prove that I was teaching Marxism at the University of Nairobi. Among the cartons of books they took away, there were two interesting books. One was titled, *"Why Men Rebel"*. It is a very conservative book authored by Tedd Robert Garr, an American sociologist. The other one, authored by Edgar Snow, was titled, *"Red Star Over China"*. This one was purely about the history of China after the revolution.

Now, to the police, these two books were very important Marxist books. This is how they must have thought: "Since one is called *"Red Star Over China"* then it must be Marxist because of the word "Red". The one titled *"Why Men Rebel"* must be the one this man uses to teach rebellion at the University of Nairobi." Mr. Temporary Deputy Speaker, Sir, that is what drove away a lot of university dons from the University of Nairobi and others to the extent that the teaching of social sciences at the university level suffered a tragedy.

It is that kind of fear of information and spread of knowledge that hampers development and the maturing of our people as a democracy. We know that democracy thrives best in an atmosphere of trust, openness and accountability. It is trust between the governors and the governed; among the governors themselves; and trust between the governmental institutions and the public. Where there is no trust, there cannot be a free flow of information and where there is no trust, corruption will thrive and survive.

Corruption is pegged to the lack of openness. At the moment, we have two very important initiatives at the local government level. They are the Local Authorities Service Delivery Action Plan (LASDAP) and the Local Authorities Transfer Fund (LATF). These are extremely important initiatives of transferring funds to the local level. However, even among Members of Parliament, there is very little information as to how these funds operate. LASDAP assumes that, at the local level, there will be participation and sharing of information by the local people so that, through

participation, they can be aware of the available resources and use them for purposes of serving the public interest at the local level. But local authorities have not been compelled to give this information out and create avenues of participation. Up to this very day, there is very little information available at the local level and effectiveness in the use of these resources.

Mr. Temporary Deputy Speaker, Sir, people know more about the CDF, for example, because of more openness in discussing issues related to CDF. That is even why when iniquities are exposed we feel good because it will improve performance. For the public to participate in local governance, there must be free flow of information. The information must be timely, relevant, accurate and complete for it to be used effectively. Information that does not come out in time and in a relevant manner cannot be used effectively. Take the example of the Budget. It comes when it is tailor-made to be passed. Members of Parliament cannot, therefore, have effective input into it. So, this law will be very important in improving governance in this country.

Mr. Temporary Deputy Speaker, Sir, I beg to move and ask hon. Omingo to second the Motion.

Mr. Omingo: Thank you, Mr. Temporary Deputy Speaker, Sir for giving me this chance to second this very important Motion which has been ably moved by a scholar in the name of Prof. Anyang'-Nyong'o. It is important to understand and underscore the very important underlying issues regarding information. We all know that information is power. It can enable you make money and even give you authority.

If you look around, those who are scared of this Motion are only living up to the Kiswahili saying that goes, "*Mjinga akierevuka, mwerevu yu mashakani*". When a person with less information gets more information, that one who knows a lot gets worried. I believe that is common knowledge to all of us. In fact, that is why people will always want to withhold information for purposes of walking on others' backs.

It is critical that so many years after Independence, we do not want to still harbour this archaic thinking of "*siri kali*". We are aware that "*siri kali*" is top secrecy. It means withholding information from the people you are leading with the purpose of misleading them. This must stop. If this Motion is passed, we believe that Kenyans will be more informed and enlightened and, therefore, challenge us on whatever decisions we make.

Some of us in Parliament are being demonised for being unable to deliver services simply because people do not know what we do at the Committee level. People do not know how much we are involved in other fora, including seminars. So, it is important that Kenyans get information in order to make judicial judgement as opposed to blaming us always.

Mr. Temporary Deputy Speaker, Sir, one wonders again that even Members of Parliament are not liberated informationwise. Our internet connectivity has been a mirage. Year in, year out, we have been told that we shall be connected to the internet. One really wonders how we can access information to enable us debate adequately, for instance, by comparing information existing in other Parliaments of the world. It is important that we get enriched with information. It will, in fact, make us wiser as leaders.

When people are denied information, the possibility that corruption will thrive is very high. I want to give an example of the kind of shady contracts that were awarded in the Anglo Leasing scandal. The Anglo Leasing idea was noble. If only Kenyans knew the content, value, benefit and execution of the contract, they would not be as poor as they are. Lease financing is a good thing. However, what does it entail? Who executed it? It was executed in a dark room under the guise of security operations. That action robbed our country billions of shillings. Mr. Temporary Deputy Speaker, Sir, some time back, I moved a Motion in this House on opening up a public debt registry. My party Members supported me in moving the Motion, but later on they turned their backs against me simply because people sign on dotted lines in dark rooms with the intention of getting kick-backs, they actually blocked that Motion at the expense of Kenyans who are still suffering and paying huge debts. Corruption and ineptness creep in when we do not have free

flowing information network.

During the Budget that is read here every year, the Executive wants to hold back information from us so that they can bring us maggots in a briefcase. When they open the briefcase, we either take it or leave it. Kenyans do not have an input in the preparation of the Budget neither do Parliamentarians. The more reason why hon. Oloo-Aringo's Motion on setting up a Budget Office was really dragged or opposed.

We hope that this Motion will be implemented, so that our people can participate in the management of information resources. Kitui and Mwingi Districts need water more than the Mount Kenya region. This is a fact. Owing to lack of flow of information our people end up suffering. If we do not have efficient flow of information, our decision-making process will be impaired and decisions made at wrong times. At the end of the day, Kenyans will not know what is meant for them in the annual Budgets. You will find that technocrats in Government offices will not spend money and will return it to the Treasury at the end of the financial year. This is because people, who are supposed to benefit from this money, are not well informed to enable them pressurise the Government to use funds.

Time has come when those big stamps "top secret" or "highly classified" became a thing of the past. We must also guard against some people accessing information for purposes of using it to undermine others. We must have guidelines and regulations on the use of information, so that it is used only for the wellbeing of the nation or society. Information should never be used for the purpose of witch-hunting certain people. In the absence of free flow of information, we do not know who is corrupt and where they are. Those with classified information pick on somebody they perceive to be on the other side of the divide, and take him to court. If we have access to all the information about what happens where, we can challenge some of the decisions that are made to make use of it in a partisan or selective manner.

Mr. Bill Gates is a billionaire because of using information. We cannot pretend not to know this fact, and bury our heads in the sand. The media today can only report what they term "reliable sources". This is simply because they work on speculation since they have no law to protect them from defamation suits. When the proposed Bill is passed, we will be able to authenticate information. The media will be able to access information from authentic sources, and will not fear prosecution. We do not access proper information because it is termed "secret"

The Mover of this Motion indicated that the CDF is really in the minds of people because of openness in its operations. You can imagine the debate CDF has generated in this country and yet it is just 2.5 percent of the total Government revenue. It generates more debate than the 97.5 per cent of the Government revenue. This is why we need to open up and allow scrutiny of Government operations. I suggest that this be done so that the issue of secrecy of information becomes a thing of the past.

This House has resolved that parliamentarians should be audited by their constituents. But because of the fear of the unknown a Bill has not come to the Floor of this House to make us accountable to Kenyans, which will make them re-elect us. As I speak here now, my constituents should be seeing what I am saying for the purpose of cultivating goodwill between them and me. Unfortunately, there is scanty information from this Parliament to the public. This portrays a wrong image, that we are paid a big salary for a job we do not do. It is important for this Parliament to be fair to Kenyans. Are we fair to ourselves as Parliament? Are we doing anything useful for the nation?

If this Motion passes, I believe that it will be implemented. We can use the law to agitate for what is supposed to be done. I believe that the Government will support us to enable us to give Kenyans value for their money. It is only a stone-age person who will oppose this Motion. I believe that in the current era, we need to embrace free flow of information and information technology. Whether we have been doing right or wrong things, the only way to correct ourselves is to open ourselves up for public scrutiny and audit.

With those few remarks, I beg to second.

(Question Proposed)

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, I would like to start by thanking the Member for Kisumu Rural for his initiative to seek leave of the House to introduce the proposed Bill. This is something that should have been done a long time ago.

Governments the world over have one common trait. That common trait is to control the free flow of information. Practising dictatorship is easier than practising democracy. Therefore, if you want to be dictatorial, you deny people information. So, it is not reasonable to expect that the Government can come up with a suitable Freedom of Information Bill. Its doing that will be going against the grain. Therefore, it is very appropriate that a Bill of this nature should be sponsored as a private Member's Bill to ensure that its contents will accord with the objectives of making it easy to access information.

I have seen a Bill that has been generated by the Government. Although it pretends to give access to information, in fact, it does the opposite. It proposes to control free flow of information. This is why the Government has tried to generate its own Bill. Information is critical. The first thing we should do when leave to introduce the proposed Bill is granted is to repeal the Official Secrets Act. I believe that we will have the numbers to grant the leave. We are now living in an age of transparency. The Government needs to be transparent. We need to repeal the Official Secrets Act, which is used as an instrument of oppression and cover up of shortcomings. All of us have to be transparent.

Among the major beneficiaries of the freedom of information will, of course, be the media, the civil society and individual citizens. Today, even mundane information like wanting to know how much money the Ministry of Agriculture has allocated to Kabete Constituency is a difficult task. We want to access this information as individuals, civil society and the media. It is unreasonable to oppose or object to this Motion. When leave is granted, we will need to ensure that the contents of the proposed Bill will grant legal rights to information.

The House Committee on the Administration of Justice and Legal Affairs recently visited the State of New York. We learnt that this State has a commendable Freedom of Information Act. We were able to meet the Commissioner in charge of this matter. People go to this Commissioner to present their complaints. Individuals and the media go to the Commissioner and report which information they have sought from a government department and have been denied access to it. Individuals and the media go there and say: "We want this particular information. We have gone to this government department but we have been denied access to this information.", and he orders that, that information be made available. It is a very effective tool. That is what we want. If, indeed, we want to fight corruption, a Freedom of Information Bill must be enacted into an Act of Parliament. That is the only way we can ensure that people will no longer conduct clandestine activities in the knowledge that they will cover up this information.

Mr. Temporary Deputy Speaker, Sir, we do not want leakages. We want accurate information to be accessible to the media, individuals and civil society. That is why even our own Standing Orders - I am glad that we are reviewing them - are behind times. How can we conduct hearings of Committees in camera? What are we hiding? It is only those who have got things to hide who object to these things. Why would anybody want to say: "Receive evidence about the Artur brothers in

camera"? Not unless the Government has got something to hide.

So, these are cobwebs that we must sweep out. Let us enact this Bill, so that we become transparent. The Government, its Ministers, Permanent Secretaries and other public officers will be transparent if there is nothing to hide. Obviously, there will be mechanisms for regulation in matters to do with defence and morals. Those are areas which can be regulated. There would have

to be very good reasons for not giving access to certain aspects of the matter.

However, we should not confuse individual personal interests of a Minister, or even that of the President, with public interest. The public interest is the interest of all of us as Kenyan people, and not the political interests of the government of the day. Sometimes, the political interest of the government of the day can, and do, indeed, run contrary to public interest. What is now normally called "public interest" is, in fact, the political interest of particular individuals within government. How else do you justify a raid in the middle of the night on a media house? What public interest are you protecting?

Mr. Temporary Deputy Speaker, Sir, we must grant leave for the introduction of this Bill and subject its contents to public debate. The civil society should be let to debate the Bill and make their own contribution. The media and the Kenyan people should also give their views, so that we can enact the Bill as quickly as possible. If we wait for the Government to enact this Bill, we will wait until the cows go home.

With those remarks, I beg to support.

(Applause)

Mr. Raila: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this debate. I rise to support the Motion very strongly. I want to thank the Mover for bringing it to the House at this moment in time.

I want to join my colleague, Mr. Muite, for giving very elaborate views on this particular Motion. Kenyans have struggled for a very long time in order to have freedom of expression, association and free access to information. These are fundamental human rights. We can go back and look at the dark days when Kenyans were sometimes incarcerated because of trying to access information or trying to disseminate information to other people. Mr. Temporary Deputy Speaker, Sir, hon. Members will remember that Ngugi wa Thiong'o was sent to detention merely for staging a play at Kamirithu entitled "*Ngahika Ndenda*." For doing that, Ngugi wa Thiong'o had to go to detention and, eventually, into exile. Before then, Mr. Washington Okumu, who was an employee of the Kenya Railways Corporation had revealed that there were some improprieties in awarding tenders by the corporation. Mr. Okumu found himself in detention for making that revelation.

The late Mr. Anyona, was detained in similar circumstances. He came to substantiate in this House the fact that there had been some improprieties in the awarding of tenders for procurement of locomotives for the Kenya Railways Corporation. For doing that, the late Anyona ended up in detention. There are others like Paul Amina, who was released with me in 1988 because he was covering the *Mwakenya* trials. There is Bedan Mbugua, who during the *mlolongo* elections, was the Editor of *Beyond* magazine who also ended up in prison. Other victims include Tony Gachoka and George Githii.

Mr. Temporary Deputy Speaker, Sir, we have come a long way to where we are. Today, we talk about the global village. Why do we talk about the global village? The world has become so small because of the speed at which information can now travel. If North Korea conducts a nuclear test in that country, that information is aired by the *CNN* and the people can see it. We can now watch UN proceedings live on the internet. It is possible today for a doctor in Nairobi to perform a joint operation with another doctor in California through the internet. All this information is now being given freely. You can now access information that is in Stanford or Cornell universities while seated in the library.

In the past, it was impossible for people to access a lot of information. For instance, at one time, I intended to do research on explosive foaming of metals at the University of Nairobi. At that time, it was a requirement that you had to get permission from the Office of the President to do any kind of research. Being who I am, I never got that clearance.

(Laughter)

Mr. Temporary Deputy Speaker, Sir, the Official Secrets Act has been used to suppress and oppress civil servants who may want to give out information. The whistle blowers in the system are not protected. Of course, they are now going to be protected, but that was not the case. So many people have been oppressed. If we had the Act being envisaged by this Motion, corruption that we have in this country would not have reached its present level. Civil servants are being threatened, intimidated and blackmailed all the time. I know this for a fact because I have been in the Government. The Head of the Civil Service and Secretary to the Cabinet, Mr. Muthaura, keeps on blackmailing Permanent Secretaries and all senior Government officials with repression or dismissal if they release vital information.

There was a time when I invited Edgar Tekere, a former freedom fighter in Zimbabwe. He was invited by my friends and colleague, Prof. Anyang'-Nyong'o, to address students at the University of Nairobi. The moment this appeared in the newspapers, the security system started looking for Mr. Tekere. Some officers came to my office, picked me up and demanded that I produce Mr. Tekere. I took them to my residence. They picked up Mr. Tekere. He was warned that he had no right to address students at the University of Nairobi basically because he was considered to be marxist.

Mr. Temporary Deputy Speaker, Sir, the tendering process in this country is so opaque. That is why we have a problem. While I was in the current Government, as the Minister for Roads, Public Works and Housing then, I appointed a committee to investigate the pending bills issue in my Ministry. The committee was chaired by Eng. Kiptoon. When the committee finished its work, I invited the then Permanent Secretary for Governance and Ethics, Mr. John Githongo, to be present when the report was being presented to me. I also invited members of the Press.

Immediately the report was presented to me, my Permanent Secretary panicked. He asked me: "How are you releasing Government secrets before this matter has been discussed?" I told him that in as far as I was concerned, we had now reached a level and era of transparency and so, we must have complete disclosure of whatever we are doing. We must give information to members of the public. That was considered to be something that was very irregular in as far as the Government was concerned.

Mr. Temporary Deputy Speaker, Sir, the raid on the *Standard* newspaper production plant, and *KTN* newsroom, by Government security personnel was a very sad episode. The raid was carried out purportedly because the two sister media houses were supposed to have been publishing something that was very damaging to the Government. Hon. Muite will own up here that when his Committee invited hon. Michuki, he told them that the sister media houses were supposed to publish some very dangerous material. When they asked him to share the danger with them, he told them that the media houses were supposed to publish something about the First Family.

Mr. Temporary Deputy Speaker, Sir, even if one were to publish something about the First Family, what is criminal or treasonable about it? The fact is that when they raided the media houses, they got copies of the *Standard* Newspaper which had already been published and there was nothing negative about the First Family. Hon. Michuki has never come out openly to **[Mr. Raila]**

apologise to Kenyans and neither has the President seen it fit to dismiss him from service for disgracing the Government.

My friend, long time colleague and a comrade in arms, hon. Wamwere, is in this Ministry. I hope that when he stands to speak, he is going to support this Motion. He knows very well how much him and I have suffered because of the kind of laws that we have in this country. In fact, I feel sorry for hon. Wamwere for sometimes having to defend this Government that is indefensible in some of the criminal activities that it gets involved with. I was happy that he was able to come

out strongly in the issue of the *mamlukis*.

Mr. Temporary Deputy Speaker, Sir, we need to go the route that Malaysia went. Dr. Mahathir was able to move Malaysia from a poor struggling Third World country to a First World country in 20 years. In as far as the issue of information is concerned, he came up with a system that was completely transparent in whatever the Government was doing. For example, the tendering process was being done in a very transparent manner. You should advertise, negotiate with the contractors and publish in the media who has won the tender and why it has been awarded.

At the moment, the reason why this country cannot move forward in as far as infrastructural development is concerned is the system through which these things are done. Before you know it, somebody has rushed to court. Then you discover that the Attorney-General has some of the information that you do not have, another part is in the Ministry and the rest is in the court. The Government keeps on losing a lot of money because of this. It is important that this Motion be moved by a private hon. Member, like my colleague here, so that we can have an input into the Bill. Then we can factor into it things that will enable us to move to the 21st Century properly and be in tandem with the rest of the world. Information should not be kept secret. Information, as it has been rightly said, is power.

Mr. Temporary Deputy Speaker, Sir, during the Nazi regime in Germany, very many people either lost or had to save their lives by merely getting some advance information. If you got advance information, you were able to do something to protect yourself. If you did not, you ended up in the concentration camps or you were just shot dead. Information, therefore, is power. Lack of information is what created the Mobutu Sese Sekos and the Kamuzu Bandas of this world, Ngwazi of Malawi, Papa Doc Duvalier of Haiti, the Shi'ites of Iran and Jean-Bedel Bokassa of Central African Republic.

With those few remarks, I beg to support.

Prof. Oniang'o: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to contribute to this Motion.

I would like to support the Motion whole heartedly. I would like to commend my colleague, Prof. Anyang'-Nyong'o, for bringing it to the House, although it is a bit late. The Motion is long overdue.

Information, like he said, is the right to know. When people do not know, they result to rumour mongering. Rumour mongering can be very dangerous. It can render people victims of situations which they have absolutely nothing to do with. Information should be factual. It should not be ambiguous. Sometimes, information is used as propaganda, especially by the Government. When a station like the Kenya Broadcasting Corporation (KBC) is being used by the Government for propaganda, it is not right. Many democratic nations have stations which are just confined to informing the public about what the Government is doing and what services are being provided by the Government. These stations should not be mutilated, abused and the workers should not be victimised or intimidated just because they are relaying the truth to the public.

Mr. Temporary Deputy Speaker, Sir, we have many different media houses here. Over 90 per cent of Kenyans listen to the radio which is their only source of factual information. It is the only source that informs them about what is happening in the national and the international arenas. Therefore, we must make sure that we safeguard what is being relayed. Information needs to be free. We live in a world of transparency, but at the same time, information can also be misused. We have heard cases of information being abused in our neighbouring countries, for example, in Rwanda.

We have mushrooming tribal stations in this country. I visited one of them and I found out that they are doing well. We can now talk to our people and inform them about what is going on in the country. We have individuals, including patriotic Ministers, who misuse these stations. You wonder what kind of a Government this is which is driving people to begin to commit crime or behave unlawfully.

We need to safeguard our stations, so that they are not free for all. Even in America, which is the democracy of democracies, they are now beginning to track what is being relayed in through the internet. You can be trapped in terms of the information that you are relaying. This should not just be free for all. When this Bill is brought to the House, then we shall have what provisions should be put in it.

Mr. Temporary Deputy Speaker, Sir, when we ask Questions here, we are seeking information for the electorate. So, when Ministers are not here to answer Questions and convey information, like last Wednesday, you wonder what their responsibilities are. What are they being paid for? I would like to believe that in both sides of this House, there are people who are better placed to serve the Government even better.

We want to make sure that Ministers understand their responsibilities. We are even beginning to wonder whether the answers that they give us here are correct. I believe that most of these answers are just "cooked up". Ministers come here and say: "I just saw the Question today". How can a Minister see the Question the same day he is answering it when it was sent to his Ministry three months ago? This is the height of irresponsibility.

Mr. Temporary Deputy Speaker, Sir, we are still operating on archaic laws which were enacted during the colonial days. The Britons have already discarded these laws. Kenya, as a British colony, is still using British laws which the Britons have already discarded. Why are we not moving on? Something must be very wrong. We need to reform our laws to update them.

One of my colleagues has made reference to the Budget. Sometimes when the Budget is being read here, I feel like I am wasting my time. It is brought to the House when it is already set. We cannot change anything. We do not even know whether the Government tells us the truth. What are we doing here as hon. Members if we cannot change even the Standing Orders? Since we make laws, we should be able to change them.

We have laws that many Kenyans, including hon. Members, do not know anything about. Recently, I went to a college and the management was asking me to get the college to be autonomous. I asked them to give me the statute that they use and they gave me a 1999 statute which gives them autonomy. They have a 1999 statute which was accented to and signed by the then President, which made the college autonomous. They did not know that. If the people who are learned and have gone to school do not even know this, how about the rest of the Kenyans? There is a lot of ignorance out there and we hope that we shall actually make sure that information is now truly available using modes that people can understand.

Mr. Temporary Deputy Speaker, Sir, when you come to the internet, we are averse to it and we fear it. Kenya is behind Tanzania and Uganda! We even force our media people to reveal their source of information. What are we doing when we do that? We are rendering them vulnerable to attacks. We are unnecessarily exposing whoever gave them the information to attacks and, maybe, even death threats. So, we must make sure that we protect the source of information. We also have to make sure that it comes out in the open and that it is used properly. If you have that information and you do not use it, then it is of no use to anybody. So, I believe that, today, we shall give leave so that a Bill can be drafted so that we can look at it in a comprehensive manner.

With those few remarks, I beg to support.

The Assistant Minister for Health (Dr. Machage): Thank you, Mr. Temporary Deputy Speaker, Sir. Indeed, this Motion is important and I support it. The Government had noted this early enough and it is in the process of introducing a Bill on the freedom of information.

An hon. Member: When?

The Assistant Minister for Health (Dr. Machage): Mr. Temporary Deputy Speaker, Sir, it is, therefore, paramount that every hon. Member understands what it means and what it entails. We have to look at the Bill critically when it is introduced in this House.

Although hon. Members from the Opposition side have totally supported the total freedom of information, I beg to differ. Some information has to be concealed. It is no wonder that, as men

and women grow up, after a certain age, they have to hide behind closed doors when showering, because certain information has to be hidden. As a Government, we cannot give freedom to all information completely and great care has to be taken in the repealing of the Official Secrets Act. It will be so naive for a Government to release all the information pertaining to the security of this country.

The Temporary Deputy Speaker (Mr. Khamasi): Order, Dr. Machage! Are you responding to the Motion on behalf of the Government, or are you just contributing?

The Assistant Minister for Health (Dr. Machage): I am the hon. Member for Kuria Constituency.

The Temporary Deputy Speaker (Mr. Khamasi): No, answer my question!

The Assistant Minister for Health (Dr. Machage): I am not responding for the Government.

The Temporary Deputy Speaker (Mr. Khamasi): Thank you.

Proceed!

The Assistant Minister for Health (Dr. Machage): I am giving my views as the hon. Member for Kuria Constituency. Therefore, some degree of censorship of information is healthy for our security and well being. We have to watch out not to crunch ourselves onto the patient-doctor information system, where some oaths have been taken by certain professionals to conceal certain information that is important to you as a client. We are all clients and subjects of this Government or any other government. Indeed, there is no government in the world which releases all its information. Therefore, a Bill has to be introduced in this House to define the extent to which information has to be given freedom. That is why I support this Motion. If it appertains to resource distribution in this country, yes, we need that! If it comes to *sirikali* issue, then we have to think twice.

Given that children access the internet freely and also given that the level of exposure that the current youth population has had is enormous, this will have a great psychological impact and determine their growth for centuries to come. We need to ask ourselves: Is it important? Is it necessary? Is it good to release all the dirt in the internet for our children to access in the name of freedom of information? If it were so, then I would say that hon. Members who more often than not meet in certain hotels in this country to deliberate on matters on their parties, like we had last week in Naivasha, where the hon. Members of the Opposition met--- If, really, they are true to their request to this House, then let us have all the information about the wars that were in Naivasha. You should not preach water and drink wine!

Mr. Sungu: On a point of order, Mr. Temporary Deputy Speaker, Sir. Are you satisfied that the hon. Member is now being relevant to the debate on the issue at hand, which is to grant leave by this House for the introduction of a Bill for an Act of Parliament entitled "Freedom of Information" Bill?

The Temporary Deputy Speaker (Mr. Khamasi): Order! Dr. Machage, you have not broken any rule of the House!

Proceed!

The Assistant Minister for Health (Dr. Machage): Indeed, Mr. Temporary Deputy Speaker, Sir, I have just given a most recent example as I illustrate my desire to have good freedom of information.

It is true that we need information on research. We need to have access to books. It is true that we need to build more libraries in this country. At the same time, we cannot have the justification to rule that whatever information you do not want to hear, as may be given by the Kenya Broadcasting Corporation (KBC), is propaganda. That is your own definition of propaganda! Sometimes when true information is given, some people rubbish it as propaganda when it is true. Let the Press be given its freedom. Let them also use that freedom to the level that the Act may define, because certain statistics and demographic facts are secret. Christians, Muslims

and even the heathens know that even God himself did not give us all the information about himself. There is certain information that is concealed and you are not supposed to know! So, who are you to demand to have total freedom of information?

As we support this Motion, let us be ready to totally scrutinize the Bill when it comes to the Floor of the House. Let us not look at ourselves as people who, when in the Opposition, always support any trash, and when in the Government, support any trash. We have to be subjective and objective in our analysis of the facts that come to this House because they are going to have an impact on the governance of this country today when the current Government is in power and tomorrow when you might be the next President of this country. So, our decisions should be guided by wisdom and self-realization of facts. Leaders should not be distracted or destroyed by today's or tomorrow's information.

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

Mr. ole Metito: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this chance to contribution to this very important Motion. From the outset, I support it.

It is a fact that information is a tool for development. It is also a fact that information is power. I subscribe to the belief that the right to know is a fundamental human right.

An informed society can make good decisions on business issues, education and socio-political activities among others. Many examples on the oppression of the people who are sources of information have been given by the previous speakers. Those people should be protected.

The recent case concerns the employees of the Central Bank of Kenya (CBK) who gave information about malpractices at Charterhouse Bank. Those employees have sought asylum in the United States of America (USA) because of informing members of the public the malpractices in that bank.

Mr. Temporary Deputy Speaker, Sir, a lot has been said about the importance of having free information flow. However, very briefly, let me talk about the mode or medium through which information reaches the end users. It is very important to have a free medium or mode of information transfer but as another hon. Member has said, we need to have accurate, precise, timely and non-biased information. Members of the public should make proper decisions based on correct information.

When we talk about transfer of information, the Press which is the medium mostly used, says that bad news is good news. They always give this example:-

"When a dog bites a man, it is not news." However, when a man bites a dog, it is news and it ought to be reported."

It is time that we defined the mode through which information reaches the end user. Members of the public also need good information in order to make informed decisions that will have a positive impact to their lives.

The people who pass on information to others should also be patriotic. They should not report negatively. As we seek leave for the introduction of the Bill entitled "Freedom of Information", it is important to note that we need to be responsible. Members of the public should demand to be provided with correct information.

Mr. Temporary Deputy Speaker, Sir, recently, as a group, we visited the USA and a presentation about media and media relations was made to us. The presenter made it very clear that the Kenyan media is one of the most biased in the world. That is what we were told in Washington DC after discussing what is supposed to be reported. That is why I am saying that we should receive correct information. Some of us do not just need negative information.

Sometimes, we talk about monopoly of the people who own media houses. If you look at the scenario in our country, you will find that every electronic media house is engaged in the print media. That promotes monopoly. It is high time that those media houses either engaged in the electronic or print media. It is through this that we can get a variety of reports.

Other hon. Members have talked about propaganda, which is mostly brought about by

vernacular radio stations. We should discourage the setting up of vernacular radio stations and become nationalists or find a way of ensuring that those stations which have the widest coverage report objectively. This is because during the Referendum period, most of those radio stations incited Kenyans against others. As we welcome the free flow of information, it is also important to be responsible. As other hon. Members have put it, we should not classify information into secret, top secret, private or public in Kenya.

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

Mr. Weya: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to say one or two things about freedom of information.

I would like to thank Prof. Anyang'-Nyong'o for bringing this Motion to the House. I had an opportunity to travel to four states in the USA, through Europe, to see how the freedom of information works. In today's society, we need an open Government, open legislature and open councils. That is the only way that a society can participate in the growth of its country.

This Parliament has no cameras today. The society is not informed about what the hon. Members are doing. If we had information from Parliament going out to the general public, the House would be fuller than it is today. This is because members of the public will know the hon. Members who attend Parliament and those who do not. Members of the public will know what their Parliamentarians do. We were elected by our people to represent them in Parliament. We are not doing due diligence to the people of this country when we fail to attend Parliament sittings.

Mr. Temporary Deputy Speaker, Sir, freedom of information to members of the public is key to development. It is almost impossible today, to get information about who your neighbour is if you sought it from the Registrar of Lands. If you visit the developed countries, log in to the internet and type "Registrar of Companies or Registrar of Lands and the name of an individual whom you want to find out the properties he or she owns, or who owns which company", you will get that information.

Today, it is almost impossible to get some information from the Registrar of Lands to assist you get a loan from a bank in this country. This is the case and yet in the developed countries, the bank will know whether your title deed is charged, co-owned and give you a loan within two or three days.

As Parliamentarians, we should be open with ourselves. We should declare our wealth so that the society can know how much we have at the time of election and how much we have when the next election is being held. This will enable members of the public know whether you have been corrupt by the next election. This is because many hon. Members are not the same financially as they were five years ago. You will find that somebody who was staying in South C is now staying in a huge house in Karen and yet all parliamentarians earn the same salaries. Where is he getting this extra money from? He is not being open to society.

Mr. Temporary Deputy Speaker, Sir, today the Constituencies Development Fund (CDF) is being scrutinised by the public. Why are Government documents not being scrutinised? Today, if you ask departmental heads at district headquarters to give you a work plan at the constituency level; of the resources available, expenditure and work progress, as a Member of Parliament, you will not get that information. This is because they are given money which they "eat". Out of the money that is disbursed to the rural areas from the Government, 97.5 per cent is used irregularly. This will continue to be the practice until that information is made public.

The same applies to the use of LATF funds. When I went to a council meeting in America, I noted that it was held in camera. The public was present at the meeting and they were discussing how resources are supposed to be distributed in the rural areas. We will never get service delivery in the rural areas if our county and municipal councils are not open and if their deliberations are not open to scrutiny by the public. You will find a few councillors dividing LATF money amongst themselves to use in their locations. They end up misusing that money because of lack of accountability. We are complaining about how LATF money is being misused because the public

is not clear on how much money goes to those individual municipal county councils. The public is not clear about how that money is spent.

Mr. Temporary Deputy Speaker, Sir, political parties also need to be open and transparent. They should indicate where they are getting their funding from. If somebody donates money to a political party that should be made very clear. I have seen that work well in First World countries. This will avoid the issue of the government funding political parties because they are in power or engaging in corrupt practices. You will find unscrupulous businessmen being given tenders by the Government because they have promised to finance a particular political party during the general elections.

On the issue of accountability, you will find that the Government keeps on auditing itself. For example, you will find that the Ministry of Local Government sends local government officers to go and investigate county councils and municipal councils. What happens is that the Town Clerk would give Kshs200,000 to the officers and tell them to give clear reports. We need independent auditors sent to those county councils to investigate them and not Government officials whose hands will be greased.

Mr. Temporary Deputy Speaker, Sir, I have heard hon. Members talk about freedom. We are talking about freedom of information. We are not talking about freedom of the Press. I think freedom of the Press is key to the development of our society. You will be able to scrutinise as an individual and find out which newspaper is giving you gutter information and which one is giving you realistic information. We cannot curtail the freedom of the Press or the information that is given to society. However, the public can do that by checking the facts.

It is only recently that many Kenyans knew what was in the Constitution of Kenya. Many Kenyans do not even know their rights. In the rural areas, you will find a policeman raiding a homestead without a search warrant. He has no right under the Constitution to come and raid your premises. He will even go to the bedroom of your mother-in-law, where he is not supposed to go. Who gives him that authority? It is because Kenyans do not know what law governs them. It is only recently when the new Constitution was circulated that Kenyans were able to read and understand its contents.

Mr. Temporary Deputy Speaker, Sir, I would like to support Mr. Muite on the issue of the Artur brothers being heard in camera. If the Government is afraid of some issues, that shows that it is guilty. If this Government wants openness, it should be accountable to the people. I thought we had reformists in the Government. It looks like the reformists are not there because of all these cartels and the roadblocks that they have put in place.

Today if you go to any county council and ask them how much revenue they collect on a daily basis, they will not be able to tell you because some of this money is collected and is not accounted for. Information through the internet is also very important. We are saying that we will curtail information coming through the internet. I think there are now ways and means through which those who have the equipment can put limits on issues that will bar information that is coming through those computers, as individual institutions. We cannot ask the Government to sift issues. It is like asking parents to supervise how their children are being governed in school when they have given that responsibility to teachers. The Government cannot show you how to run your homestead. That is the responsibility of the father and mother of that house. So, the Government cannot tell us that it cannot allow freedom of information because there are things that come through the internet that are disturbing. There are those who have the responsibility to do that. You cannot ask the Government to be involved in those issues.

Mr. Temporary Deputy Speaker, Sir, if we do not have internet facilities in this Parliament, then I do not think we are making any progress because we are here to represent the people. While debating in Parliament, one of your constituents might want to give information to you to present as an issue of concern. In many parliaments, you will find that Members of Parliament are always connected to the internet wherever they are so that they are able to communicate with their

constituents while in parliament. You do not have to be sitting in Parliament to follow the proceedings of the House. You can follow the proceedings of Parliament while in your office in Continental House or your constituency office. That happens in many parliaments. You do not have to sit here physically in Parliament to represent your constituents. You can represent your people from where you are.

Order papers are prepared using a lot of stationery. This information can be got through the internet.

I beg to support.

The Assistant Minister for Planning and National Development (Mr. Serut): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to support this Motion on freedom of information. At the outset, let me say that I am opposed to some sentiments expressed by my colleagues, especially when they talk about proceedings in Parliament.

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

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

Mr. Temporary Deputy Speaker, Sir, I do not think that proceedings in our Parliament do not reach our people because of any inhibition or provision in the Act that hinders us from passing this information. I think it is the Parliamentary Service Commission which has delayed renovating this Parliament in order to ensure that our electorate follow the proceedings in Parliament.

I want to agree with my colleagues on the issue of freedom of information. Without freedom of information, no development can take place in any country. This freedom must be up to certain limits. You cannot tell me that information to do with national security should just be given because people are in dire need of information. The right to know is a fundamental right to human beings. As we yearn to know, there is also the right not to know everything. If you know everything, then you are not a human being. I believe as human beings, there is a limit to the knowledge you should have. Lack of knowledge has assisted human beings to develop to the stage where we are.

I also want to agree that for many years, dissemination of information in this country has been shrouded in secrecy which has led to dictatorship. It is time we ensured that unless the information held by a public office is classified, the public has a right to know. Let it know the correct information. Let us not, as a Government, pass what we call piecemeal information to the public, because this will lead to rumour mongering. At the end of the day, those who want to malign the Government, will use that information for propaganda purposes.

Mr. Temporary Deputy Speaker, Sir, I agree with the Mover of this particular Motion that freedom of information calls for accountability on the part of the Government. I know, from the contributions by some of my colleagues, that because of the information about the Constituencies Development Fund (CDF) which is out there, the public does not complain so much about how the money is being used. But when you look at the Local Authorities Transfer Fund (LATF) where information is shrouded in secrecy, nobody knows how the money is spent. I want to confess that I also do not know what the LATF does in my constituency, because I do not see any project which is coming up. Whenever one wants to access any document within the councils, the Town Clerks have become a hinderance. I think this is the kind of information that we require, because I do not think whether there is any Act or provision anywhere that says a Member of Parliament has no right to access information regarding the LATF, Local Authorities Service Delivery Action Plan (LASDAP) or any other devolved fund within a particular constituency.

Mr. Temporary Deputy Speaker, Sir, I want to emphasize the issue of information being

key to making decisions. It is true that without proper information you cannot make any key decision. It is easier as a leader to lead an informed society as opposed to an ignorant one. An ignorant society can easily be misled. I have seen it happen. Since I took over as the Member of Parliament for Mt. Elgon, I have tried as much as possible to pass information to my electorate. Currently, it is easier for me to address any rally, because I now talk to people who have information.

Mr. Temporary Deputy Speaker, Sir, we have had so many fora either in Mombasa or outside the country attending conferences. The purpose of all these fora is information. If we sit in boardrooms and workshops to get information, I think it is high time we revisited the Secrets Act, as my colleagues have proposed, and see what to reveal within it. This is because I believe some of what is being referred to as classified information in the Secrets Act is currently not so. The officers who work in the Government should not refuse to pass information to the people, just because they believe it is still classified. The Mover gave a good example - the Occurrence Book. An Occurrence Book is a record of events that take place on a daily basis. I agree with the Mover when he asks: "What is so secretive about who has been arrested, over what crime and where he has been taken? Has he or she been released on bond?" Why is the public being denied that information? If there are any officers who are still doing that, I think it is for ulterior motives. That, I believe, is corruption. If the Minister of State for Administration and National Security is hearing this, that information should be made public at any time in any police station.

Mr. Temporary Deputy Speaker, Sir, regarding information to do with public or national security--- National security is paramount to all of us. I believe that when a Bill for freedom of information is brought to this House, we should be able to sit down, as leaders, and see what we want to put in that particular Bill. What should become public information and what should not. I say that because the oath of office is based on information flow. We take oath for purposes of information. Our credibility is gauged by how much of the information that we receive is passed on to the public. How much is passed and how much is not. Information is what is used by the electorate to gauge what kind of leadership you can give to your people. So, I look at information as a key to our life, development, what we are and what we will be in future.

With those few remarks, I want to thank the Mover of this particular Motion and say that, once it is passed, he should bring a Bill as soon as possible

I support.

Mr. Chepkitony: Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity to contribute to this very important Motion. This Motion is long overdue. It is progressive and it is welcome. The public has to know what is happening. They ought to be informed. The Government belongs to the public. Information on it, should reach the public so that they can contribute and participate from an informed position. It is also a human right. It is an individual right to know what your Government is doing, because you voted for it. Therefore, you should know what it is doing, so that you can make a decision whether to re-elect it or not. All the information pertaining to Government budgets must be accessible to the public and should be free, just the way the information in the Bible is free to everybody. Everything happening in the Government must be accessible to the public.

Mr. Temporary Deputy Speaker, Sir, it is true that certain information should not be made available to everyone. That includes the intelligence information meant for the police. However, it should be mentioned in the Bill, the process through which one can get such information. The Bill should also define the period after which classified information can be made public. Information concerning scientific research and discoveries should be available through scientific journals. The information should also be available in Government research institutions. If the information can be exploited in a commercial manner to benefit the country, then it should be used, but according to the law. However, certain information concerning our security should be made accessible to the public in a cautious way. If it reaches members of the public in an objective way, people would

operate from an informed point of view.

We should guard against misuse of information. Certain people or organisations may use some information for propaganda purposes to achieve selfish gains. That should be taken care of in the Bill. We cannot rule out the fact that some people would obtain certain information and use it to misinform the public. They can use it to pass the wrong message and not to give out the right information.

It is true that we have freedom of the Press as a right. The Press can publish what it thinks is right, and plays an important role in enhancing democracy and informing the public. However, it should not misinform. That should be taken care of by the Bill, so that if a section of the media publishes information which is injurious, the affected party or parties can have an avenue to address the issue. We have court processes which are avenues for addressing such issues. So, that means that when we make information free to people, it will not always be used to injure other people. It will be assisting in enhancing democracy, the rule of law, good governance, allow the public to be aware of what is good for them and what is happening around them.

I would like to congratulate hon. Anyang'-Nyong'o for bringing this Motion. Many countries have freedom of information and we should not lag behind the others. It is a welcome Motion and I look forward to its passing and implementation.

With those remarks, I beg to support.

Mr. Wamunyinyi: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this very important Motion. I want to state that I also join my colleagues in supporting this Motion which, obviously, is for the good of this country.

I am supporting this Motion because the manner in which information in this country and the manner in which both public and private officers have conducted themselves in terms of handling of information has been very disappointing. You cannot over-emphasise the fact that even our own servants in this country at all the levels in the Ministries have withheld information which would otherwise have been used to prevent looting of public property and resources.

Even members of the public service who have appeared before Parliamentary Committees for purposes of giving information have withheld information even to our own National Assembly. For instance, there are those who have appeared before the Public Accounts Committee and Public Investments Committee, about the management of public funds. They have lied to this Parliament. They have deliberately withheld information which, if properly released in time, would prevent looting of public property. I even know that when officers plan and collude with other members of the public to steal from Government, it happens at procurement level at the initial stages. Usually, the officers have the information. They always know that certain things are happening, and if this can be said early enough, we can prevent looting of public funds.

Mr. Temporary Deputy Speaker, Sir, I am also aware that records held in public offices are supposed to be public, unless very specifically stated that they are classified. Information in police stations, public offices, district and chiefs' offices, district commissioners offices and so on, should be easily accessed by members of the public any time they feel like.

Mr. Temporary Deputy Speaker, Sir, it is also important that this Bill should put in place elaborately an enabling---

The Temporary Deputy Speaker (Mr. Sungu): Order, Mr. Wamunyinyi! I am sorry your time is up. There was some bit of confusion with regard to time and the Government has to respond.

Mr. Wamunyinyi: With those remarks, I beg to support.

The Assistant Minister for Information and Communications (Mr. Wamwere): Bw. Naibu Spika wa Muda, ningeomba kutoa dakika mbili kwa Mhe. Onyancha halafu nitaendelea na kujibu.

The Assistant Minister for Gender, Sports, Culture and Social Services (Mr. Onyancha): Mr. Temporary Deputy Speaker, Sir, I want to support this Motion and insist that

freedom of information is a human right and that access to and free flow of information is something that every citizen should enjoy. However, when the Bill comes into force, certain issues should be considered. Just like in Parliament here, where unsubstantiated allegations do not pass the test, we would expect that even as the media or any other person makes certain allegations, the Bill should require that such a person takes responsibility. That can only be done by asking that these unsubstantiated allegations are proved. As we know, no amount of reprieve in the form of damages can really equal or assuage the fact that somebody's reputation has been damaged. So, I want to appeal that when this Bill comes, such considerations should also be taken into account so that people do not just come up with information that they cannot substantiate in the form of "our anonymous sources" or "sources close to us", or "a member who requested anonymity said this and that". I think this should also be taken care of.

With those few remarks, I beg to support.

The Assistant Minister for Information and Communications (Mr. Wamwere): Bw. Naibu Spika wa Muda, kwanza, ningetaka kumpongeza Prof. Anyang'-Nyong'o kwa kuleta Hoja hii ambayo tunaomba kuunga mkono.

Tunataka katika enzi ya giza; kule ambako mambo mengi sana yalifichwa. Tunaelekea kule ambako tunaamini kutakuwa na mwangaza. Kwa sababu hiyo, itakuwa vigumu sana Mbunge yeyote kupinga Hoja ya aina hii. Kusema kweli, Wizara imetayarisha Mswada kuhusu uhuru wa habari. Mswada huu utakuwa tayari hivi karibuni. Mara tu utakapokuwa tayari, tutauwasilisha hapa Bungeni ili Wabunge waweze kuujadili na, ninatumai, kuupitisha.

Hata hivyo, Bw. Naibu Spika wa Muda, nimezungumza na Prof. Anyang'-Nyong'o humu ndani kwa muda wa dakika chache na tumekubaliana ya kwamba lengo lake na lengo la Serikali au Wizara, kusema kweli, ni sawa. Hamna ugomvi na tunatafuta kitu kimoja. Kwa sababu hiyo, baada ya kupitisha Hoja hii, kwa sababu naamini ya kwamba Bunge litaipitisha, tutatafuta wakati na kuketi na Prof. Anyang'-Nyong'o, pamoja na wadau wengine ili, tusome kwa pamoja Mswada yote; ule wa kwake na ule wa Wizara, ili tuafikiane juu ya Mswada ambao hatimaye tutaleta hapa Bungeni. Kwa hivyo, nadhani, tuko pamoja kabisa; hamna tofauti. Huu ndio ushirikiano, nadhani ambao utasaidia nchi yetu kupiga hatua badala ya kuja hapa kulumbana na kupigana bure tu. Wakati mwingine malengo hata ya Upinzani na Serikali yanakuwa ni sawa, lakini tunapokuja hapa ni kama tunakuja na imani ya kwamba ni malumbano tu ambayo yanaweza kuendeleza malengo yetu ya kisiasa. Nadhani kuna zaidi ya malengo ya kisiasa. Lazima wakati mwingine tulenge kuendeleza nchi kuliko kujiendeleza.

Bw. Naibu Spika wa Muda, Hoja hii kama nilivyosema ni ngumu kupinga. Hata katika nchi zingine, sheria kama hizi zimepitishwa. Waingereza wanayo, ijapokuwa hawana sifa ya kutoa habari ambazo ni kinyume na masilahi yao kwa uhuru kama ule ambao wangetaka tuamini wanatoa nao. Nchi ya Australia ina sheria kama hii. Nchi za India, Afrika Kusini na Mexico pia zina sheria kama hii. Kwa hivyo, kupitisha Hoja hii, kusema kweli, ni kwenda na wakati. Haipingiki!

Ninaamini ya kwamba Hoja hii itatilia nguvu mambo yanayohusu maisha yetu ya sasa na pia itasaidia kutuondolea matatizo mengine ya kihistoria.

Wakati huu kuna mjadala ambao unaendelea katika vyombo vya habari kuhusu kesi ambayo imewasilishwa katika mahakama ya Uingereza. Mashujaa wa vita vya Mau Mau wameishtaki Serikali ya Uingereza juu ya mateso waliyoyapata wakati wa harakati za kupigania Uhuru wetu. Ninamini ya kwamba wakati tulipopata Uhuru, tungefunuliwa siri zote kuhusu utawala wa ukoloni hapa nchini. Tungetaka kujua, kwa mfano, kwa nini Waingereza wakaja hapa? Walichuma nini walipokuwa hapa? Waliendeleza vita vyao dhidi ya watu wetu kwa namna gani? Walitumia mbinu gani? Waliwaua watu wangapi? Waliwatesa watu wetu kwa namna gani?

Ni aibu kubwa kwamba habari kuhusu vita vya Mau Mau bado ni ndoto kwetu. Ni mapenzi yangu kwamba hatutapitisha tu Hoja hii, lakini tutaitumia kuwafunulia watu wetu siri kuhusu vita dhidi ya Mau Mau na unyama wa utawala wa ukoloni. Hatimaye, tutatumia Uhuru huu kudai fidia

dhidi ya hasara tuliyopata kutoka kwa Waingereza. Isiwe ni mashujaa wa vita vya Mau Mau ambao wanadai fidia pekee, bali iwe ni nchi yote kwa jumla. Hii ni kwa sababu ni nchi yote iliyoteswa na kuathiriwa na ukoloni. Tunataka haki hii itekelezwe wakati huu. Kwa hivyo, Hoja hii itasaidia sisi kama taifa la Kenya.

Bw. Naibu Spika wa Muda, kwa bahati mbaya, Bw. Raila ameondoka hapa Bungeni. Ningependa awe hapa ndio ajue hakuna wakati mimi nimesimama pahali pengine, isipokuwa pale palipo na haki. Wengine wetu, kama alivyosema Bw. Raila, tuliteswa sana tukipigania uhuru wa pili. Tungetaka kujua waliotutesa kwa sababu walipokuwa wanatutesa, walikuwa wanatumia majina ya bandia. Kama mtu alijulikana kama Bw. Kamau, alikuwa akijiita Bw. Omondi. Tungetaka kujua kama kweli ni Bw. Omondi aliyetutesa au ni Bw. Kamau.

Tulipata mateso mengi katika Jumba la Nyayo. Taarifa kuhusu mateso hayo imehifadhiwa katika kumbukumbu za

Serikali. Huu ndio wakati wa kutueleza ukweli wa mambo. Tusipotoa ukweli huu, wengi wa wale waliokuwa "mashetani" enzi hizo, watajigeuza kuwa malaika. Hii si haki. Ukweli ndio utakaotuokoa. Hatuwezi kuupata ukweli ikiwa hatutatumia nguvu za sheria ya uhuru wa habari.

Bw. Naibu Spika wa Muda, hatutaki watawala wa mabavu wavalie makoti ya kidemokrasia na hata kutaka kushauri viongozi wa vyama juu ya namna wanavyofikiria nchi hii inaweza kutawaliwa bora zaidi. Ikiwa tungekuwa na sheria hii, ingetusaidia kufunua unyama wa watu hawa. Majuzi, tulimuona Prof. Anyang'-Nyong'o akienda kupata ushauri kutoka kwa mmoja wa wale unaoweza kuwaita mafundi wakuu wa utawala wa mabavu. Mtu yeyote hawezi kwenda kwa Bw. Njonjo kuomba ushauri wowote kuhusu utawala wa kidemokrasia. Alitutesa sana na wewe unajua hivyo. Alisimamia mfumo wa kidikteta katika nchi. Hawezi kuwa na mema ya kutushauri, lakini sasa, kwa vile hatuna sheria hii, hawa watu, bado wanaonekana wasafi. Wengine wetu tutakwenda kwa Njonjo. Wengine watakwenda kwa Moi. Wengine watakwenda kwa yule mwingine, na haya mabadiliko yote ambayo tumekuwa tunatafuta yatakuwa yamekuwa kitu bure.

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

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

Bw. Naibu Spika wa Muda, Hoja hii ni muhimu sana. Hatuwezi tukashinda vita vya kupigana na ufisadi bila uhuru wa habari. Ufisadi ni kufichua wizi na huwezi kufichua wizi, bila habari. Sheria hii itatusaidia kupigana na uongo tunaosoma katika vyombo vya habari. Uhuru huu ukiwepo, na kama watu wataweza kupewa habari zilizo sahihi, basi mtu akipatikana anasema uongo itakuwa ni haki mtu huyo kuchukuliwa hatua. Kwa hivyo, naamini sheria hii itatusaidia kuondoa uongo wakati wa kupatia watu wetu habari, yaani upotoshaji wa habari. Unakwenda kwa mkutano na unasema moja, lakini ukiangalia magazeti keshoye, habari ni tofauti kabisa hata huwezi kutambua yale yaliyomo kwa magazeti kama ndio uliyosema mkutanoni.

The Temporary Deputy Speaker (Mr. Khamasi): Your time is up!

The Assistant Minister for Information and Communications (Mr. Wamwere): Bw. Naibu Spika wa Muda, niliangalia na nikapata nilikuwa na dakika 20.

Bw. Naibu Spika wa Muda, hata hivyo, ninaunga mkono Hoja hii lakini ninatumai ni habari sahihi---

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Wamwere! Could the Mover respond?

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I will donate one minute of my time to hon. Lucas Maitha.

Mr. L. Maitha: Bw. Naibu Spika wa Muda, nashukuru sana kwa sababu sina faida ya

kuzungumza katika muda wangu.

Bw. Naibu Spika wa Muda, ningetaka kumpongeza mhe. Mbunge kwa kuleta Hoja hii na kwamba uwazi wa habari utatusaidia kwa mambo mengi sana. Ufichaji wa mali za umma umeletwa na siri nyingi za Serikali ya Kenyatta, Moi na mpaka ya sasa. Ni Wakenya wangapi hivi sasa wanajua mali ya taifa ni nini na iko wapi?

Kwa hivyo, nakuunga mkono kwa kuleta Hoja hii na nikimalizia, kwa sababu dakika yangu ni moja, nasema kilele cha uwazi wa habari ni kiongozi wa nchi mwenyewe aweze kupata nafasi kuja hapa kila wakati kujibu maswala muhimu ya taifa. Mambo mengi yanafanyika na Serikali inadanganya kupitia kwa Mawaziri, kwa sababu Waziri anaweza kudanganya na akaponyoka, lakini kiongozi wa taifa hawezi kudanganya kwa sababu analosema Wakenya wote wameona na lazima alifuatilie.

Bw. Naibu Spika wa Muda, kwa hivyo, naunga mkono Hoja hii na kwamba ni lazima kiongozi wetu awe na uwazi wa [Mr. L. Maitha] kutuambia mambo muhimu na si kupitia kwa Mawaziri ambao mara nyingine wanatudanganya!

Asante.

Mr. Sungu: Mr. Temporary Deputy Speaker, Sir, the Mover of the Motion has donated to me one minute of his time.

The Temporary Deputy Speaker (Mr. Khamasi): What type of arrangement is this?

Mr. Sungu: Mr. Temporary Deputy Speaker, Sir, it is his own arrangement.

The Temporary Deputy Speaker (Mr. Khamasi): Okay! Go ahead!

Mr. Sungu: Thank you, Mr. Temporary Deputy Speaker, Sir.

Mr. Temporary Deputy Speaker, Sir, I would like to say that this is a Motion whose time has come. We note that there is now an office of the Government Spokesman but remember that in Germany there was somebody called Joseph Goebbels who was employed as a propaganda machine. We want to urge this Government to ensure that the office of the Government Spokesman does not become the "office of the Government Propagandist".

Mr. Temporary Deputy Speaker, Sir, I also want to advise the Government that we employ civil servants to serve the people. This is their Government and so when a civil servant like Ambassador. Muthaura says that he cannot release information and any civil servant who releases information will be put to task, then I will ask: Whose information is this? Whose Government is this, and who put it in place? It is the people of this country, and they deserve that information.

With those few remarks, I beg to support.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I would like to thank all hon. Members, including my friend, Mr. Wamwere. But I would also like to remind him that, although Zachaeus was a tax collector, he went to eat with Jesus in his home. Nicodemus, too, went by night to see Jesus. So, I think we are in a free society. We can associate, knowing fully well that we have all our shortcomings and good deeds.

I would also like to remind my friend, the hon. *Daktari*, that, in deed, the Bill, as we are going to present it, will have exemptions. To have freedom of information is not to have a licence. Exemptions will deal with the security of the Republic, or its relations with a foreign state or an international organisation. It will cover the central financial policy like the monetary foreign exchange policy and so on. Those are usually not open to public scrutiny for good reasons. It will also deal with inspection control of other supervisory activities and bodies. Once you give a body like the Kenya Anti-Corruption Commission (KACC) the constitutional responsibility of doing something, it is with good reasons that those things are not necessarily open. It is in the public interest that they do so. But that has to be prescribed by the law. So, I think we are in safe grounds in doing so.

Mr. Temporary Deputy Speaker, Sir, I want to spend a few minutes to address the issue of the media. The media is that organ that works in public interest, to promote and defend freedom of information. I want to pay tribute to the people in the media world who, in the past, have really

suffered for defending the freedom of information. They are people like my friend, Salim Lone, the Editor of *Eve Magazine* at one time; my friend Odhiambo Okite; the Editor of *Target*; my friend Bob Isaac Mwamuto, who ran a very popular programme in the Kenya Broadcasting Corporation (KBC) - *Maishani ni Afya*. But that programme was not very popular with the authorities.

Others include my friend, Ramogi Achieng' Oneko, who pioneered journalism in this country as the Editor of *Ramogi*; Philip Ochieng', during his days in the *Sunday Nation*; Rev. Andrew Hake, who pioneered *Rock Magazine* in this country; Gitobu Manyara, the former Editor of *Nairobi Law Monthly*; Paul Amina, who was mentioned by my friend, Mr. Raila; Rev. John Henry Okullu, who edited *Target* in the dark days; George Githii, who wrote for the *Nation* for many years and worked as an editor and, of course, Bedan Mbugua of *Beyond*. Those are people who have used their pens to spread freedom and defend democracy in this country. They also suffered for it. I know that my friend, Mr. Lawford Imunde, was sent to detention simply for recording certain things in his diary for posterity.

Mr. Temporary Deputy Speaker, Sir, I would like to remind the Fourth Estate that they should go by certain principles in defending the freedom of information. First, do unto others as you would like others to do unto you. Secondly, do not use the pen as an instrument of tyranny and fear mongering. Use the pen as an instrument of liberation, promotion and defence of human dignity and democracy. Thirdly, do not speak through the wires to spread dogma. Speak through the wires to inform, enlighten and entertain. Do not use the electronic media to spread dogma! Use it to inform, enlighten and entertain. Fourthly, let us all speak with frankness and openness, with all the information available in the formal sector. The formalisation of information in what is called the "Gutter Press" is detrimental to the media fraternity as a whole.

Mr. Temporary Deputy Speaker, Sir, we have reached a very unfortunate period in our history. We seem to accept, as part of reality, that the Press must be divided into two. One is the formal Press which we respect, and the other is the informal Press which we call the "Gutter Press." Information is used in the Gutter Press without any responsibility or accountability. So long as we continue to have this phenomenon, the media fraternity, as a whole, will be hurt. Therefore, the formal media should not think that they are okay simply because they are respected, and that the so-called informal media continues with information that is, quite often, detrimental to society. The media fraternity, as a whole, is put to jeopardy in so far as we have the so-called informalisation of information in the Gutter Press. I, therefore, appeal to the media fraternity to approach this issue as one that concerns them all.

Finally, another principle by which the media should use the freedom of information is to understand that their treasures are piled up in heaven and not in this world.

The Assistant Minister for Gender, Sports, Culture and Social Services (Mr. Onyancha): On a point of order, Mr. Temporary Deputy Speaker, Sir. I hate to interrupt hon. Prof. Anyang'-Nyong'o, but it appears to me that the Government has been shortchanged here in terms of responding. The official responder was supposed to take 20 minutes, but apparently, he only took ten minutes. Could the Chair, please, facilitate--- It appears that hon. Wamwere did not quite exhaust his response.

The Temporary Deputy Speaker (Mr. Khamasi): Yes, I think you have discussed that with hon. Wamwere. However, it is common knowledge in this House that it is not the responsibility of the Chair to get the Ministers to ask to respond. Again, it is not mandatory.

When the Motion is on the Floor, it is the responsibility of the Government side to give notice that they would want to respond. That is actually provided for. However, when you come late, what do you expect the Chair to do? So, once the Mover is already replying, we cannot interrupt him.

The Assistant Minister for Information and Communications (Mr. Wamwere): On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Wamwere! I do not think

you want to create debate on this matter. It is only about simple rules. We will allow hon. Prof. Anyang'-Nyong'o to finish responding and then I will put the Question.

The Assistant Minister for Information and Communications (Mr. Wamwere): On a point of order, Mr. Temporary Deputy Speaker, Sir. I think it is not in order for the Chair to impute that the Government side did not indicate that we intended to respond to this Motion. On the contrary, we gave notice over the same. In any case, it is normal practice that the Government would respond to a Motion. We indicated to the Chair that we would respond to the Motion, and I was given the exact time when I would be responding. I prepared myself to talk for 20 minutes and when the Clerk-at-the-Table started curtailing my time, I pointed out to her that she was, indeed, giving me less time than I was entitled to.

Mr. Temporary Deputy Speaker, Sir, I think it is wrong for the Chair to allow one side in an argument more time than the other side. The only way the Chair can remedy this situation is actually to allow the Government its full time to make the points that we are entitled to make on the Floor of this House.

The Temporary Deputy Speaker (Mr. Khamasi): I have already made the ruling. Hon. Prof. Anyang'-Nyong'o will proceed to finish his reply for the reasons which I have already advanced. We cannot curtail the Mover of the Motion from replying. That is not the practice here.

The Assistant Minister for Information and Communications (Mr. Wamwere): On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Wamwere. You are not going to engage the Chair in this matter. I have explained the position. If you were late in being granted the time to respond, it is unfortunate. So, we cannot, at this stage, go back to say that you should be given more minutes to respond, when already, the Mover is replying. So, let us leave it at that.

Prof. Anyang'-Nyong'o: Let me just finish, Mr. Temporary Deputy Speaker, Sir.

The Assistant Minister for Information and Communications (Mr. Wamwere): On a point of order, Mr. Temporary Deputy Speaker, Sir. I believe that---

The Temporary Deputy Speaker (Mr. Khamasi): Order! Order! Order, Mr. Wamwere!

The Assistant Minister for Health (Dr. Machage): On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Khamasi): Not on the same issue, Dr. Machage.

The Assistant Minister for Health (Dr. Machage): Mr. Temporary Deputy Speaker, Sir, we do take note of your ruling and appreciate your wisdom. Would it not be in order for you to apologise to the Government side for denying it 10 minutes?

(Loud consultations)

The Temporary Deputy Speaker (Mr. Khamasi): Order, hon. Members!

Dr. Machage, there is nothing to apologise for. I have already set out the rules. Prof. Anyang'-Nyong'o is replying and there is no way we are going to curtail his contribution to give you more time to debate the Motion. So, let us leave it at that.

The Assistant Minister for Information and Communications (Mr. Wamwere): On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Khamasi): Mr. Wamwere, I do not think you want to continue arguing on this issue.

The Assistant Minister for Information and Communications (Mr. Wamwere): Mr. Temporary Deputy Speaker, Sir, I have a lot of respect for the Chair. But I believe that if there is no justice from the Chair, then, obviously, everything else this House attempts to do will amount to nothing. I do not think it is too much to ask for justice where it has been denied by the Chair. What democracy do we have when you allow the Mover enough time---

The Temporary Deputy Speaker (Mr. Khamasi): Order! Order!, Order, Mr. Wamwere!

(Mr. G.G. Kariuki stood up in his place)

What do you have to say Mr. G.G Kariuki?

Mr. G.G Kariuki: On a point of order, Mr. Temporary Deputy Speaker, Sir. I think this matter is a bit serious because it infringing our Standing Orders. It is important for the Chair to acknowledge that something went wrong somewhere, because Government officials were here on time. I think the mismanagement of time came from the Clerk-at-the Table. It will, therefore be fair for you to acknowledge that something went wrong somewhere.

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

The Temporary Deputy Speaker (Mr. Khamasi): I have to respond to hon. G.G Kariuki, but what do you have to say Mr. Sungu?

Mr. Sungu: Mr. Temporary Deputy Speaker, Sir, according to the Standing Orders, it is the responsibility of the Government Responder to stand and catch the eye of the Chair. I was on the Chair at that time, and the Chair is always right. Those on the Government side did not rise up. I actually reminded them to do that. Therefore, I do not think the Chair should be blamed for this. We should understand that this is a Motion that the Government agrees to and that a further discussion will take place on the Bill when it is brought to the Floor of the House. Government views will, probably, be taken care of at that stage. I do not think we should bleed the stone when the matter is concluded. I beg that the Government side understands that this is---

The Temporary Deputy Speaker (Mr. Khamasi): Order! Order, Mr. Sungu.

Well, I am caught up in it. I have already consulted the Clerk-at-the Table and she has given me her side of the story. If it was, indeed, the desire of the Government side to respond, and a Member rises up at the right time, a chance is always granted to it. There is no point in denying the Government a chance to respond. What I have said is that if there was mismanagement in time, then what the Clerk-at-the Table has told me contradicts what hon. Wamwere is saying. I would like to say that if there was a mistake, so we accept the responsibility as a House. So, at this stage, I do not think it is right to stop the Mover from replying and give the Government side more time. That will not be procedural. Let us accept what has happened.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, let me conclude---

The Assistant Minister for Information and Communications (Mr. Wamwere): On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Khamasi): Order! Order, Mr. Wamwere! We cannot go on and on forever on this matter! Please, let Prof. Anyang'-Nyong'o finish. We have already stated our position from the Chair.

The Assistant Minister for Information and Communications (Mr. Wamwere): Mr. Temporary Deputy Speaker, Sir, if I am disallowed, I am ready to go out but I want to point out one thing about---

The Temporary Deputy Speaker (Mr. Khamasi): Order! Order, Mr. Wamwere! You would do yourself some justice and honour if you sat down. This is a House, and once the Chair is on his feet, you do not stand. From the Chair, we have finished with this issue. We will let Prof. Anyang'-Nyong'o finish his response and then I will put the Question.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I was just going to say that--

The Assistant Minister for Information and Communications (Mr. Wamwere): Mr. Temporary Deputy Speaker, Sir, I just want to say my---

The Temporary Deputy Speaker (Mr. Khamasi): Order! Order! Mr. Wamwere, you are becoming disorderly!

The Assistant Minister for Information and Communications (Mr. Wamwere): Mr.

Temporary Deputy Speaker, Sir, allow me to say one thing.

The Temporary Deputy Speaker (Mr. Khamasi): Order! Order! You are becoming disorderly! Do you want to take charge of the House yourself? You cannot do it!

The Assistant Minister for Information and Communications (Mr. Wamwere): No, Sir. Just give me one chance.

The Temporary Deputy Speaker (Mr. Khamasi): Order! Order! I now order you to leave this House and its precincts.

(Mr. Wamwere resumed his seat)

Mr. Wamwere, you are too senior to do that. I would rather you abide by the ruling of the Chair.

(Mr. Wamwere withdrew from the Chamber)

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, let me conclude my submission. I agree that we will discuss this matter because the Government has also prepared a Bill. I have had this experience before. I prepared the Presidential Retirement Bill, but it was taken over by the Government. I prepared the Privatisation Bill, we discussed it with the Attorney-General and it was also taken over by the Government. I hope that this time round, the Government will let me through by giving me its side of the story and I will present it. So, it is mutually agreed. I hope that the Bill will come to the House.

Finally, I would like to appeal to the Press. I did mention the case at Karen Police Station. Please, go there and prove me right or wrong on whether or not Mr. Samuel Otieno Deya was denied his human rights at that police station, by the police refusing a Member of Parliament access to public information.

With those remarks, I beg to support.

(Question put and agreed to)

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

Mr. Syongo: On a point of order, Mr. Temporary Deputy Speaker, Sir. I wish to seek your guidance. Only five minutes are remaining before we adjourn. Would I be in order to request the Chair that I be allowed to move the Motion when I have the opportunity to present my idea completely, without being interrupted by the rules of the House, given that the House must rise by 12.30 p.m.?

The Temporary Deputy Speaker (Mr. Khamasi): Mr. Syongo, the House rises at 12.30 p.m. We still have five minutes left. So, you had better start moving your Motion. You will continue when debate on the same Motion resumes next Wednesday.

INTRODUCTION OF TRADE CO-ORDINATION AND PROMOTION BILL

Mr. Syongo: Much obliged. Mr. Temporary Deputy Speaker, Sir, I beg to move:-

THAT, aware that the Distributive Trade Sector and related services account for more than 20 per cent of the country's GDP and employment, and considering that this sector is the primary catalyst and facilitator of sustainable growth of the manufacturing, agricultural, livestock and fisheries sectors; concerned that in spite of its pivotal role in the economy, distributive trade is presently conducted haphazardly due to lack of structured institutional and legal framework, this House grants leave to introduce a Bill for an Act of Parliament entitled "The

Trade Co-ordination and Promotion Bill" to provide for the establishment of External Trade and Internal Trade Co-ordination and Promotion Authorities, the National Chamber of Commerce and Joint Trade Advisory Board and for their functions and related matters.

Mr. Temporary Deputy Speaker, Sir, as I move this Motion, two things have happened. The police have been fighting hawkers, who are essentially Kenyans who, because they cannot get jobs in the formal sector, have resorted to buying and selling various commodities to sustain themselves in a legal manner. If you look at Page 20 of today's *Daily Nation*, it is indicated that 20,000 jobs will be lost at Mlolongo Trading Centre, which was developed and is now a very vibrant trading centre, but was built without any co-ordination and reference being made to the various policy bodies, such as the Ministry of Local Government and the Ministry of Trade and Industry. As a result, a substantial amount of investment has to be lost because the trading premises at Mlolongo have to be pulled down.

On Page 7 of the same newspaper, it is indicated that the City Council intends to fine Kenyans who buy any goods from a hawker. A hawker is a small-scale trader. Any Kenyan who buys any commodity from a hawker shall be fined Kshs10,000 or made to serve a three-month imprisonment. Those two illustrations indicate clearly the complete lack of any policy whatsoever. There is no single authority of legal framework that enables Kenyan traders to do business, invest and create jobs for their fellow Kenyans.

Mr. Temporary Deputy Speaker, Sir, if this Motion is passed, it will give me and this House the opportunity to look at a Bill whose primary purpose will be to create four institutions. The first one will be the Kenya External Trade Authority, to co-ordinate policies on all matters relating to export trade in Kenya, both in agricultural and manufacturing sectors.

Secondly, if this House grants leave to introduce the Bill, the Bill will seek to create the Kenya Internal Trade Authority to co-ordinate all policies relating to internal trade. The Bill will also seek to create the legislative framework to enable all the parties concerned, namely, the Ministry of Local Government, the Ministry of Trade and Industry and the traders themselves to create space for Kenyan traders to develop appropriate premises in both residential areas in urban centres, as well as in trading centres in the rural areas, so that Kenyans can invest in legitimate trade and carry out their businesses in an orderly and economically viable manner.

Mr. Temporary Deputy Speaker, Sir, thirdly, it intends to give a statutory status to the Kenya Chamber of Commerce as the umbrella organisation of those who are involved in trade. We presently have the Kenya Chamber of Commerce and, indeed, the Government has given it certain functions. For example, this is the institution that provides the certificate of origin, which all those who import goods from Kenya need in order for them to buy goods from Kenya. However, the institution has no legal framework. The envisaged Bill will give the Kenya Chamber of Commerce a clear mandate on what it should do as the umbrella organisation of traders.

The Temporary Deputy Speaker (Mr. Khamasi): Order! Hon. Syongo, you will have 17 minutes when the debate on this Motion resumes.

An hon. Member: Let him conclude!

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Khamasi): Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until this afternoon, at 2.30 p.m.

The House rose at 12.30 p.m.