

# THE CASE AGAINST THE MEMBERS OF THE 9<sup>th</sup> PARLIAMENT



## A critique of THE 9<sup>TH</sup> PARLIAMENT OF KENYA

(2003 – 2007)

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## A CRITIQUE OF THE NINTH PARLIAMENT, ITS LIMITATION ON WORK OUTPUT AND ITS PRE-OCCUPATION WITH MONEY FOR ITS MEMBERS.

**Honourable** means reputable, acclaimed, celebrated, chivalrous, conscientious, dependable, distinguished, eminent, esteemed, ethical, faithful, forthright, high-principled, honest, honoured, illustrious, just, knightly, law-abiding, noble, notable, of good repute, on the up-and-up, principled, reliable, respectable, righteous, sincere, sterling, straightforward, trustworthy, truthful, unstained, upright and virtuous.

**Honourable** means not disposed to cheat or defraud.



## 1.0

### Executive Summary:

On October 22<sup>nd</sup> 2007, the third President of Kenya, Mwai Kibaki, signed 11 bills into law and in exercise of his powers under section 59(2) of the Constitution of Kenya dissolved the 9<sup>th</sup> Parliament with immediate effect.

This report seeks to provide an assessment of the record of the 9<sup>th</sup> Parliament of the Republic of Kenya during the period 2003 – 2007.

At the outset it is our contention that the 9<sup>th</sup> Parliament has acted dishonourably on many accounts, and indeed our assessment results in a negative finding. Considering its legislative record, the 9<sup>th</sup> Parliament disappointed many especially as it became the most expensive Parliament in Kenya's history – its annual budget now stands at around Ksh 4 billion (USD 57.14 million). Much of this disappointment arises from the high hopes for change following the humiliating 2002 election defeat of the second President of Kenya, Daniel Arap Moi's chosen successor, Uhuru Kenyatta, and the ending of 39 years of uninterrupted rule by his political party KANU – a rule characterise by grand corruption, gross human rights violations, and a ten-year period of *de jure* one party rule.

The 9<sup>th</sup> Parliament, the third Parliament since the reintroduction in 1992 of multi-party democracy in Kenya, was widely expected to play a central role in the fight against corruption and to facilitate economic recovery after the decades of misrule of Moi and KANU. As Kenyans go to the polls to elect a 10<sup>th</sup> Parliament in December 2007 many are of the view that the 9<sup>th</sup> Parliament has abandoned the national interest and converted its legislative authority and goodwill to the private interests of Members of Parliament as a whole.

Since it first sat on January 9<sup>th</sup> 2003 for its Members swearing in, the 9<sup>th</sup> Parliament has made several amendments to existing legislation which cumulatively have increased its cost to the public. This report chronicles the legislative record of the 9<sup>th</sup> Parliament with special focus on the fight against grand corruption in Kenya.

Towards the end of this report there is brief examination of the qualities of good Members of Parliament. These qualities are suggested as criteria for voters as they elect 210 men and women to serve as Members of the 10<sup>th</sup> Parliament of Kenya in the forthcoming General Election.

## 1.1 The Most Expensive Parliament in History:

As the 9<sup>th</sup> Parliament approaches the expiry of its 5-year term, Kenyans are bound to ask whether they have received their money's worth from its Members. In terms of financial cost the 9<sup>th</sup> Parliament is the most expensive to the taxpayer since Independence on December 12<sup>th</sup> 1963. One such question is, has Parliament whose budget passed the Ksh 4 billion mark (USD 57.14 million) during the 2006/2007 Financial Year, delivered in terms of work output? If it has not, what lessons can the Kenyan voter and taxpayer learn to ensure that those elected in future do the work they are meant to do under the Constitution and the Standing Orders?

After Members of Parliament were sworn-in on January 9<sup>th</sup> 2003, the 9<sup>th</sup> Parliament's very first piece of legislative work was to move, in March 2003, an amendment to the National Assembly Remuneration Act (Act No 9 of 1975) by introducing the National Assembly Remuneration (Amendment) Act (No.2 of 2003), for the purpose of enhancing the salaries and allowances of all Members of Parliament about threefold on average from the hitherto existing levels.

The National Assembly Remuneration (Amendment) Act (No.2 of 2003) in its short title declared its purpose as follows:-

*"an Act of Parliament to increase the salaries and allowances paid under the National Assembly Remuneration Act."*

The amendments went through all four legislative stages in under a month and were assented to by President Mwai Kibaki on April 16<sup>th</sup> 2003.

### Irregular Back Dating of Salaries and Allowances:

Right from the beginning Parliament cut corners. For example, the effective date of the new salaries and allowances was stated to be January 1<sup>st</sup> 2003; 8 days before the Members of Parliament were sworn in, and became eligible for allowances and salaries at all. The effect of this retrospective act was to defraud the taxpayer of 8 days of salaries and allowances in respect of all of the 224 elected, nominated and *ex-officio* Members of Parliament. With monthly emoluments, at that time, running to about Ksh 877,000 per month, this meant that a total of Ksh 52,386,136 (USD 748,373) was paid by Treasury to persons who according to the Constitution of Kenya were not Members of Parliament. The Constitution is clear that the term of a Member of Parliament, and for that matter the President, runs from the date of swearing-in and not the date of election (Section 9 (1) Kenya Constitution.)

### A Huge Pay Hike and New Allowances:

The National Assembly Remuneration (Amendment) Act (No.2 of 2003) introduced a new First Schedule to the National Assembly Remuneration Act, which raised the salary, parliamentary responsibility allowance, constituency allowance, mileage allowance and house allowance by



various proportions. It also introduced a so-called extraneous allowance, an entertainment allowance and an attendance allowance as brand new heads of payment to Members of Parliament bringing their total individual emoluments to just below Ksh 900,000 per month (USD 12,875) for backbenchers. By way of contrast, the Members of the 8<sup>th</sup> Parliament (1997-2002) had to make do with total individual emoluments of Ksh 336,000 (USD 4,800), still a princely sum in a country where the annual per capita income is about Ksh 25,000 (USD 360).

The Members of the 9<sup>th</sup> Parliament also voted themselves each a new car purchase grant of Kshs 3.3 million and a car maintenance allowance of Ksh 900,000 per year under Part II of the same schedule. We will see later how 4 years later in 2007, Parliament again controversially amended the same National Assembly Remuneration Act, to give every elected and *ex officio* Member what has variously been called a “winding-up allowance,” “*ex gratia*,” “gratuity” and “severance allowance.”

## 2.0

### Learned Members of Parliament:

It is a widely acknowledged fact that head to head; the members of the 9<sup>th</sup> Parliament are better educated than their predecessors. In theory the better formal education background of many MPs ought to have translated into better law-making, oversight and representation. Better educated MPs are able to understand and negotiate complex issues for the best interests of the public and the country. Learning facilitates the building of common ground, consensus and collaboration among parliamentarians. In short, it enables each Member of Parliament to do his or her job, and to do it well. But what is the job of a Member of Parliament?

## 2.1

### Job Description - What the Law Says:

While the Constitution in section 34 and 35 outlines the basic qualification and disqualification of a Member of Parliament, it does not give the actual job description or work requirements of an MP so as to be qualified to carry out their constitutional duties, which are specified in the Constitution. However, it is possible to discern a job description from the law.

#### 1. Law Making:

Obviously, law making is one of the things Members of Parliament are meant to be able to participate in. Chapter III of the Constitution (Section 30-59) vests all national legislative power in the institution of Parliament. We quote Section 30



*“The Legislative power of the Republic shall vest in the Parliament of Kenya which shall consist of the President and the National Assembly.”*

This means that every Member of Parliament must be able to participate in the making of new legislation and understand why existing laws should be reviewed and/or repealed from time to time. Note, MPs need not be lawyers, and there is no evidence that suggests legal training makes a good parliamentarian.

## 2.2

### 2. Public Financial Management - oversight

Another important duty of an MP is to be able to understand national finance in that Chapter VII of the Constitution deals with this aspect. We quote Section 99 in part:

*“All revenues or other moneys raised or received for the purpose of the Government of Kenya shall be paid into and form a Consolidated Fund from which no money shall be withdrawn except as may be authorized by this Constitution or by an Act of Parliament (including an Appropriation Act) or by a vote on account passed by the National Assembly under Section 101.”*

Every individual Member of Parliament must therefore have good working knowledge of public finance, its processes and procedures and be able to know when the system is not working and what should be done to remedy this. The Executive branch (Government) is meant to create the right atmosphere for work and production. This then leads to taxation and spending of the tax revenues and living to the maxim. “No taxation without representation.” The corollary is that all tax revenue must be spent for the public good.

However, during the 2003-2007 Parliament revelations of grand corruption and misappropriation of public funds continued unabated, and Parliament took no action to prevent illegal charges on the Consolidated Fund. The epitome of this state of affairs was the Anglo Leasing scandal in which the Controller and Auditor General informed the 9<sup>th</sup> Parliament that close to 40 billion shillings was paid out by the Treasury on 18 bogus security related contracts without Parliamentary approval between 1997 and 2004. To date none of the public officers and companies involved have faced the law for the manipulation of Kenya’s External Public Debt Register in breach of the Constitution of Kenya. Although the Parliamentary Accounts Committee made two reports on the Anglo Leasing scandal (2004 and 2006), no further action was taken on them and it appears they were abandoned by the 9<sup>th</sup> Parliament. A second example of an illegal charge on the Consolidated Fund and Parliamentary laxity involves an alleged loan of over Ksh 4 billion owed to an Austrian bank for the Ken Ren Fertiliser factory which has not been built since first conception in the 1970s. Despite civil society statements of objection to this fraud, Parliament took no action to establish why loan repayments for this phantom project were being made in 2007.

### 3. National Affairs

Though most of the duties of an MP are to be found within Parliament, the rest of the MPs work is situated in the MP’s constituency and, to a lesser extent, in all the other constituencies in the country. An effective member has to know in close detail what is happening in the rest of the country. This is imperative for establishing good rapport and working relationship with the other parliamentarians, whom an MP needs to support his or her work in Parliament.

## 2.3

### 4. Foreign Affairs:

Kenya is not an island, so to speak, and an effective MP would have to keep his or her eyes well beyond the boundaries of Kenya on the foreign affairs front. Many developments internationally have municipal implications in Kenya. For example, new rules or laws abroad related to immigration,



product safety and public health can impact on Kenyan trade, investment, goods, crops and services. Regional and international geo-political events can impact on Kenyan security, while international conventions can impose legislative obligations on the country and its Government. Global menaces such as terrorism can impact on income earning businesses such as tourism, and spawn constitutional dilemmas. An MP who cannot keep track of legislation, public finance, and lacks a working knowledge of foreign affairs in a globalising world is a liability not only to his electors and colleagues in Parliament but also to the country.

### 3.0

#### Working Day and Night - The Calendar of Parliament

The annual calendar of Kenya's Parliament amounts to a working period of about 27 weeks, with parliamentary session running from March to December. Under sections 57 and 58 of the Constitution of Kenya, the President controls the calendar of Parliament, summoning and proroguing (adjourning) Parliament at his total discretion. This has been viewed as unsatisfactory, and we will shortly see how Parliament has tried to wrestle control of its calendar from the executive control of the President.

Under the Standing Orders of Parliament (Rule Book of Parliament), there are four sittings each week. Government business is conducted in Parliament on Tuesday, Wednesday and Thursday afternoons 2.30 pm to 6.30 pm. On Wednesday mornings the Parliament sits between 9.00 am and 12.30 pm for what is called private members business (i.e. to address issues brought by back bench MPs. By way of example, until it was extended in order to deal with pending legislation that had gone unattended and was causing public disquiet, the Sixth Session of the 9<sup>th</sup> Parliament which runs between March and November 2007 was meant to have Parliament sitting during the following periods:

From	To	Duration
March 20 <sup>th</sup>	May 24 <sup>th</sup>	10 weeks
June 5 <sup>th</sup>	August 2 <sup>nd</sup>	9 weeks
October 2 <sup>nd</sup>	November 29 <sup>th</sup>	8 weeks
	<b>Total</b>	<b>27 weeks</b>

The rest of the year 2007 was marked as breaks or committees sitting sessions.

### 3.1

We referred above to the extension of the June – August session. On July 26<sup>th</sup> 2007, Parliament rejected a motion of adjournment by the Leader Government Business, Moody Awori to adjourn for two months and return on 2<sup>nd</sup> October 2007. As the 9<sup>th</sup> Parliament was not on a break, it is presumed that the intervening period counted as one where committees were in session.



## The 9<sup>th</sup> Parliament and the Never-Ending Story of a new Constitution for Kenya

### 4.0

The 9<sup>th</sup> Parliament stands as the only Parliament of the Republic of Kenya which completed its 5 year term without any Constitutional input of any kind, whether positive or negative. Worse still it kept at least one constitutional amendment on hold for its entire 5 year term.

#### **1. The failed attempt to wrest control of the Parliamentary Calendar from the President:**

When it was sworn in on January 9<sup>th</sup> 2003, the 9<sup>th</sup> Parliament inherited from the Eighth Parliament the Constitution of Kenya (Amendment) Bill 2002 which has previously been a private members bill proposed by the former MP for Alego Usonga Peter Oloo-Aringo. The bill proposed to amend Section 58 and 59 of the Constitution, which gives control of the parliamentary calendar to the President, and enable Parliament to control it, by introducing various fixed dates for certain political events and activities. It also provided for the processes and procedures for the swearing-in of high political officers and departure from high political offices.

The bill was inherited by the MP for Belgut, Charles Keter and even though it was frequently listed on the Order Paper for debate, the last time being in 2006, it was never brought to the floor for unexplained reasons and is now doomed. Perhaps it will be taken up by the 10<sup>th</sup> Parliament.

### 4.1

#### **2. Constitution of Kenya Review Act:**

The 9<sup>th</sup> Parliament also inherited duties under the Constitution of Kenya Review Act, which provided for the completion of the new Constitution for Kenya. Each Member of Parliament, upon being elected, automatically became a member of the constitutional conference which assembled at the Bomas of Kenya in 2003 to write the New Constitution of Kenya. The conference was convened by the Constitution of Kenya Review Commission (CKRC). The MPs joined other Kenyans from the 210 constituencies, the civil society, professional bodies and faith or religious groups, to constitute the 700 or so delegates of the Bomas Constitution Conference.

MPs attendance at the Bomas Conference was lacklustre and in some instances divisive, as for example when MPs torpedoed discussion of a clause that sought to enable constituents to recall delinquent MPs. The 9<sup>th</sup> Parliament failed to rise up to the occasion or guide the delegates, they being the most informed part of the participants. The Bomas draft was subsequently subjected to changes and alternations in various post Bomas meetings in Naivasha, Kilifi and by the Attorney General. When the draft was put to the Kenyans in a referendum whose basis in law was questioned, it was rejected by a majority of over 1 million voters. The total cost of the exercise was just under Ksh 5 billion. Thus another charge based on this failed enterprise can be laid at the feet of the 9<sup>th</sup> Parliament, particularly because it failed to show leadership in the aftermath of the November 2005 Referendum on the Draft Constitution.



## 4.2

With the rejection of the Bomas Draft, a movement for minimum constitutional reforms to be carried out before the General Elections quickly evolved in 2006. There was consensus that it was important to carry out essential reforms to the current constitution to level the electoral playing field and to ensure the conditions for free and fair elections which would result in a representative and democratic Parliament and Government of Kenya. Since 2006, this minimum reform agenda has been in the hands of the Ministry for Justice and Constitutional Affairs and the Parliamentary Committee on Justice and Legal Affairs. The movement for minimum constitutional reforms eventually ground to a halt, because of political manoeuvring, and no amendments will be introduced to the Constitution before the December General Elections. The failure to enact a new Constitution is a sore point, and even President Kibaki referred to it as he dissolved Parliament when he said “Parliament and the country spent a lot of time and resources on the constitutional review process. The business however remains uncompleted.”

## 4.3

### 3. Electoral Boundary Review

At present, in Kenya there are 210 electoral constituencies each represented by a single Member in Parliament. Under the Constitution, Parliament has a duty to review the number of Constituencies Kenya is divided into once every 8 to 10 years. The last review was done in 1996. The relevant constitutional provisions (Section 42(2) and 42(4) state as follows:

*“(2) Parliament may prescribe the minimum number of Constituencies into which Kenya shall be divided (which shall not be less than 188) or the maximum number of Constituencies (which shall exceed the minimum number by at least twenty) and until Parliament has so prescribed the minimum number of Constituencies shall be 188 and the maximum shall be 210”*

*“(4) At intervals of not less than eight and not more than ten years and whenever directed by Act of Parliament, the Commission shall review the number, the boundaries and the names of the Constituencies into which Kenya is divided and may by order alter the number the boundaries or the names subject to and in accordance with this section to the extent that it consists desirable in the light of the review.”*

In the 4<sup>th</sup> year of the 9<sup>th</sup> Parliament (and a year late), Martha Karua, Minister for Justice and Constitutional Affairs introduced in August 2007 the Constitution of Kenya Amendment Bill to authorize the review of the constituency boundaries and also create special seats for women representation. The bill fell on its face and was rejected by the House because most MPs considered that the issue of representation of women should have been bundled together with the minimum constitutional reform package discussed above. Blame must be shared between the 9<sup>th</sup> Parliament and the Ministry of Justice and Constitutional Affairs for the extraordinary result that follows: Kenya will go into the General Elections without having conducted the mandatory constituency review, in breach of the Constitution of Kenya. The controversial issue of women representation with the proposed creation of 50 Special Seats played a big part in the fiasco but does not mitigate the unconstitutionality of the outcome.



## 4.4

### The History of Electoral Boundary Reviews:

At independence in 1963, there were 117 constituencies in Kenya. Only 3 electoral boundary reviews have been done since then within the purview of the criteria set out in Section 41 of the Constitution as shown below:-

#### Review of Constituency Boundaries in Kenya and Creation of New Constituencies by Province 1966-1997

Province	1966	1988	1997	Provincial Increase
Nairobi	1	0	0	1
Central	6	4	4	14
Eastern	6	5	4	15
North Eastern	3	2	1	6
Nyanza	3	5	4	12
Rift Valley	13	7	5	25
Western	3	5	3	11
Total increase	41	30	22	93
<b>Parliamentary Total</b>	<b>158</b>	<b>188</b>	<b>210</b>	

The progression in the increase in the number of constituencies, coupled by the increase in population means that had the 9<sup>th</sup> Parliament authorised a review, the number of constituencies, would most likely have been increased, and in all likelihood there would have been a re-drawing of many constituency boundaries.

Had the 9<sup>th</sup> Parliament not torpedoed it, such a review would have been done based on the last available (1999) population census results. Having missed the opportunity in 2006/7, it is probable that the next boundary review will have to await the next census expected to take place in 2009. Assuming a one year lead for data analysis and results, Kenyans should only expect new constituency delimitation to be completed in the 3<sup>rd</sup> year of the 10<sup>th</sup> Parliament in 2011.

## 4.5

The failure of the 9<sup>th</sup> Parliament to legislate the boundary review impacts negatively on democratic representation. By its own reckoning, the Electoral Commission of Kenya (ECK) Kenya needs at least 40 new constituencies to assure democratic representation, along the lines of one-man-one-vote. Following the inertia in Parliament, the ECK proceeded in August 2007 to institute an administrative constituency boundary review; limited to constituency boundary re-alignment especially in cases of conflict with administrative boundaries. There has also been some renaming of constituencies, but this falls short of increasing the number. The lack of review by the 9<sup>th</sup> Parliament is bound to negatively impact on the democratic representation of Kenyans in the 10<sup>th</sup> Parliament following the December 2007 General Elections.



## The Legislative Record of the 9th Parliament

### 5.0

#### Law Making Power of Parliament:

As we have seen above, the Constitution of Kenya confers on Parliament the primary duty of making law through legislation. The procedure of making law is laid out in the Constitution and also the Standing Orders of Parliament. Section 56 of the Constitution gives Parliament the power to regulate its own procedure and states how to process public and private member's bills into law. By the time it was dissolved on October 22<sup>nd</sup> 2007, the 9<sup>th</sup> Parliament had passed 67 laws, an average of 13 laws per year. To make less than 14 statutes per year is dismal by today standards. It is clear that many MPs are not doing the most important work they are elected to do. Some parliaments like the South Africa Parliament are known to make over 40 statutes in one year.

### 5.1

#### How a Bill becomes Law:

The standard procedure for bills to become law is for the bill to pass through three readings in the House, and the Committee Stage, which is sandwiched between the second and the third readings. After the first reading, under Standing Order No. 100 the bill is referred by the relevant Minister, to the relevant Departmental Committee under Standing Order No. 101A. The Committee then presents its report to the House within seven days of such committal. After the bill's return, it is read a second time, on such a day as the designated Minister shall appoint. The bill is read a second time under Standing Order No. 102 when debate ensues. It is after this that the bill is committed to a committee of the whole House under Standing Order No. 103. During the Committee Stage Members can introduce amendments.

According to Standing Order No. 104, the amendments which are introduced by members, are required to fall within the purview of the title of the Bill. The amendments are proposed by the members, through the Office of the Clerk under Standing Order No. 106(2). When the bill is amended as necessary in the Committee Stage, it is returned back to the floor of the House for the chairman of the committee to report to the Speaker on what happened in committee, before the bill goes to the final Third Reading according to Standing Order No. 112. This procedure, a tradition of Westminster style legislatures especially in the British Commonwealth, is necessarily elaborate to ensure the making of good law. However, the 9<sup>th</sup> Parliament has not used the procedure correctly and has passed very few laws during its 2003-2007 term.



## 5.2

### Legislative Achievements of the 9th Parliament:

In 2003, 25 bills were proposed before Parliament but only 11 bills went the full stretch to become law. The self-serving National Assembly Remuneration (Amendment) Act 2003 was the very first one to be given Presidential assent on 16<sup>th</sup> April 2003 together with the Supplementary Appropriation Act 2003. The year saw the Constituency Development Fund Act passed which created a fund into which 2.5% of the national budget was directed for disbursement at constituency level. The CDF proved popular for a while with MPs and constituents alike, however by 2007 misappropriation of CDF had become an election nightmare for many MPs.

## 5.3

The year 2004 was not any better, legislatively speaking; 25 bills were published and went through the easy First Readings. 3 bills went through the parliamentary process but were denied Presidential assent. Among these was an important bill seeking to provide poor Kenyans with universal national health insurance, discussed below. Curiously, there is no evidence that any of the three bills refused Presidential Assent were returned back to Parliament for reconsideration as required by section 46 of the Constitution of Kenya. Making law is supposed to answer a public need and should never be an exercise in futility. That three bills could just disappear is a gross waste of time and public resources. The statutes, which were not given presidential assent, were:-

- (i) The National Social Health Insurance Fund Bill 2004. This was a bill steered through by Charity Ngilu, MP for Kitui Central, and former Minister of Health.
- (ii) The Banking (Amendment) Act 2004 which was returned to the Ministry of Finance.
- (iii) The Wildlife (Conservation) Act 2004. A Private Member's Bill which was proposed by G.G. Kariuki, MP for Laikipia West constituency.

## 5.4

2005 was the worst year for law making in Kenyan history, even by the dismal standards of the 9<sup>th</sup> Parliament. Of the 17 bills published at the beginning of the session in March 2005, only the Supplementary Appropriation bill 2005 went up to the 3<sup>rd</sup> reading. In terms of legislation, this was a lost year and no law was made.



## 5.5

23 Bills were published in 2006, of which 6 were Private Members Bills. Of the Private Members Bills, 3 became law with one of them being the Sexual Offences Act by Njoki Ndung'u. This law, though enacted and given presidential assent has not become part of the law used by the Kenya Police to fight rising sexual offences. Charges are still being preferred against suspects under the Penal Code and none has been prosecuted under the Act.

## 5.6

On the day he dissolved the 9<sup>th</sup> Parliament, President Kibaki gave his assent to 11 laws; namely:

**The Appropriation Bill** (an annual authorisation for spending from the Consolidated Fund); **The Finance Bill** (tax authorisation); **The Constituencies Development Fund (Amendment) Bill** (creating the Constituency Development Fund Board); **The Work Injury Benefits Bill** (replacing the Workman's Compensation Act); **The Labour Relations Bill** (which replaces the trade Unions Act and the Trade Disputes Act and consolidates the law relating to trade unions and trade disputes); **The Employment Bill** (which repeals the Employment Act); **The Labour Institutions Bill** (establishing the Industrial Court); **The Occupational Safety and Health Bill**; **The Nutritionists and Dieticians Bill** (legislating the training, registration and licensing of nutritionists and dieticians); and **The Supplies Practitioners Management Bill** (which legislates the training, registration and licensing of supplies practitioners).

In 2007, the last year of the 9<sup>th</sup> Parliament's term, most of the bills published were carried over from 2006. Among these was the controversial "Media Bill" which passed with only 27 members in attendance (3 members short of quorum) but was eventually refused assent by the President on September 4<sup>th</sup> 2007 and sent back to Parliament with a recommendation that clauses which threatened confidential sources be deleted. Throughout August 2007, Parliament was picketed and petitioned on the Media Bill by a mass movement led by media practitioners and civil society organisations.

### Money for Nothing - the 2007 Gratuity Bill:

We turn to briefly discuss the 2007 Gratuity Bill, one of the last legislative actions of the 9<sup>th</sup> Parliament embedded in the Statute Law (Miscellaneous Amendment) Act, which amended the National Assembly Remuneration Act 1975. As we have seen above, the amendment has made provision for the payment of a Ksh 1.5 million gratuity to each MP and to the ex officio Members of the 9<sup>th</sup> Parliament, including the Attorney General, a constitutional officer with security of tenure.



The Gratuity Bill was opposed by civil society and the wider public resulting in street demonstrations, primarily on 3 grounds. The first objection to the Gratuity Bill, expressed by civil society organisations, was that the gratuity was unwarranted and undeserved in view of the 9<sup>th</sup> Parliament's poor work record as described above. The second objection related to the question of whether a gratuity can be paid under Kenyan law to MPs who are on pensionable terms. The third objection

went to the priority MP's gratuities were given over other pressing socio-economic laws which established funds for disadvantaged groups such as the Disability Fund which years after receiving presidential assent had yet to be established leaving millions of disabled Kenyans unprotected by law.

All these objections notwithstanding, the process of making the law under which the gratuity would be paid is an example of bad law making on several grounds. For example, when the Statute Law (Miscellaneous Amendments) Bill 2007 was published by the Attorney General, on May 27<sup>th</sup> 2007, it did not indicate that the National Assembly Remuneration Act (cap 5) was one of the statutes whose provisions would be amended. Accordingly the proposed amendments were not carried in the bill as published. Similarly, the memorandum of reasons and objects for the various amendments which were to be introduced in the existing acts omitted any notice of amendments to the National Assembly Remuneration Act 1975.

By allowing the un-procedural introduction of the Gratuity Bill, MPs of the 9<sup>th</sup> Parliament changed an existing Kenyan law and introduction of a new one without giving the requisite notice in Parliament and more substantially without the Gratuity Bill going thorough the process described in the Constitution of Kenya. The Gratuity Bill did not go through the First and Second Reading stages.

Further the 9<sup>th</sup> Parliament voted on unprocedural and unconstitutional amendments that would occasion expenditure of public funds to the amount of Ksh 333 million, without having first obtained the consent of the President as required by Section 48 of the Constitution and Standing Order No. 132 which are similarly worded. We quote Section 48:

*Except upon the recommendation of the President signified by a Minister, the National Assembly shall not -*

*(a) proceed upon a Bill including an amendment to a Bill that, in the opinion of the person presiding, makes provision for any of the following purposes*

*(i) imposition of taxation or the alteration of taxation otherwise than by reduction; or*

*(ii) the imposition of a charge on the Consolidated Fund or any other fund of the Government of Kenya or the alteration of any such charge otherwise than by reduction; or...*

This procedure was not followed for the Gratuity Bill. Its provisions were inserted into the Statute Law (Miscellaneous Amendments) Bill 2007 by a Notice of Motion in the Order Paper of July 26<sup>th</sup> 2007. This was done at the Committee Stage (after the First and Second Reading) and its amendments, were unprocedurally and surreptitiously inserted in the National Assembly Remuneration Act.



## Conclusion on the Legislative Record of the 9<sup>th</sup> Parliament:

1. In terms of law-making, the 9<sup>th</sup> Parliament has operated well below legitimate expectations and certainly well below par with other comparable Parliaments. That it enacted only 67 statutes in five years is hard and irrefutable evidence that the 9<sup>th</sup> Parliament has failed to deliver on its most important constitutional duty, that is law making. It will suffice to add that some of the statutes, which were made during the second session, namely, the Anti-corruption and Economic Crime Act 2003 and the Public Officers Ethics Act 2003, were recently returned to the floor for amendments to be made
2. Further to “legislate” 5 bad statutes in 2005 as confirmed by the completed yet rejected “acts” is confirmation that legislative know-how and leadership was lacking in respect of both the private member’s and the public bills in Kenya’s most expensive Parliament in history.

## 6.0

### The 9<sup>th</sup> Parliament and the Management of Public Finances:

As we have seen above management of the public finance is a most important duty for every Member of Parliament. Every year the Minister of Finance presents budgetary proposals on taxation, which state how the Government intends to tax and spend on two main categories – recurrent expenditure and development expenditure. Some Acts of Parliament, called appropriation acts, permit direct access by the Government to funds held in the Consolidated Fund established under the Constitution of Kenya. Some Constitutional offices are direct charges on the Fund and Parliament has no direct control on their expenditures. Public debts, both local and foreign, are also a direct charge on the Consolidated Fund services in terms of the payment of the principal and interests thereon.

## 6.1

### 9<sup>th</sup> Parliament’s use of the Guillotine:

The parliamentary debates arising from the presentation of the budget (also called the Financial Statement) traditionally runs between mid June and the end of October each year. Invariably, there are budget items which have been undebated by the end of October so Parliament is permitted to halt debate (guillotine) and vote on all outstanding budget items at one go. Once the guillotine is called, Members of Parliament cannot amend the budgetary proposals beyond decreasing the budget item by a maximum of 1 Kenya Pound (Ksh 20).

When this happens it is considered a censure move on the Minister concerned, even though it is of no financial consequence on the vote.

There are votes which have been frequently subjected to the “guillotine” procedure and have not been debated on the floor. The guillotine is a process where several votes are lumped together in the Committee of Supply and disposed of without debate. The guillotine process should be abolished as it defeats the purpose of having a budget and leaves a gapping loophole to spend without accounting.



In 2007, 36 votes were subjected to the Guillotine Procedure in the Committee of supply on 11<sup>th</sup> September 2007 under Standing Order No. 142(7). The votes related to 36 ministries, departments or institutions of Government, which had already received half their votes. The total amounts involved were slightly over Ksh 110 billion. Among the ministries, which received their money without debate or scrutiny, was the Ministry of Finance, which had compiled the whole budget and knew all along that there would be a guillotine procedure at the end of the debates. The Finance Ministry received Ksh 38.4 billion; the Ministry of Defence received Ksh 19.1 billion and the National Intelligence Security Service received an unscrutinised allocation of Ksh 3.4 billion.

It now looks clear that the budget debate has become so routine that some key ministries do not expect their votes to become the subject of parliamentary debates and scrutiny; in such cases the executive spends public money without control by the legislature..

## 6.2

### The 9<sup>th</sup> Parliament and Fiscal Management:

The Fiscal Management Bill, which recently found its way to the floor of the House, is a private members bill proposed by Peter Oloo-Aringo. The bill is in its second reading and proposes to set up a fiscal and budgetary management office in Parliament. If this is done, it will enable members to access budget making during the formative stages when they can make interventions, which can be incorporated in the budget. This would impact more effectively and especially influence the non-recurrent part of the budget.

However, the executive has not been in favour of relinquishing its control over budget making to Parliament. Instead it prefers the Medium Term Expending Framework (MTEF), which it claims would open up space for non-governmental actors and economic experts to contribute to budget making. The ability of the sector working groups to make meaningful inputs this way has been doubted and some observers have not seen any difference in budget formulation from the situation existing before.

The Government has not enhanced budget transparency during the term of the 9<sup>th</sup> Parliament. The last two budgets in June 2006 and June 2007 have seen aggregation of ministerial allocations increase – without breaking down respective budget components. This has tended to leave members in the dark about the specific allocations and has made evaluation of what is being allocated more difficult

In 2007 the government indicated that it would be draft a Budget Bill, which it says would provide transparency and accountability to the budget making process. There should be no problem with providing more opportunities to all parties, including members of the public, who are the real owners of the money and want to influence how it will be spent. Whichever method is eventually adopted Treasury should not exclude the centrality of Parliament in budget making, as public finance and taxation is one of its primary duties.

It is now clear that the Fiscal Management Bill will not be enacted by the ninth Parliament, thereby losing a golden opportunity to introduce much needed reform of parliamentary business management. Passage of this bill is a matter of urgent attention by the 10<sup>th</sup> Parliament of Kenya.



## 6.3

### The 9<sup>th</sup> Parliament as a Watchdog:

The parliamentary watchdog roles on expenditure and public accounts are done by the Public Accounts Committee (PAC) under Standing Order No. 147 and by the Public Investment Committee (PIC) in respect of public owned or funded institution under Standing Order No. 148. The work of PAC, according to Standing Order No. 147 is:-

*"...for the examination of the accounts showing the appropriation of the sum voted by the House to meet the public expenditure and of such other accounts laid before the House as the Committee may think fit."*

And the work of PIC under Standing Order No. 148 is:-

*"...the examination of the working of the public investments."*

For various reasons going back more than 10 years, the examination of both PAC and PIC accounts have fallen behind schedule by at least 4 years. It is a big handicap to examine public accounts which are four years late because records, exhibits, officers, offices, circumstances become outdated quickly and evidence might be lost, destroyed or rendered unavailable making the examination an exercise in futility and of no consequence. This scenario fuels corruption and a culture of impunity among the corrupt public managers who are well aware about this state of affairs.

The recommendations of the two committees are hardly acted upon and public officials who have been found involved in malpractices and corruption, remain in office as if nothing happened. Some move on at their pleasure and even seek elective public office, which leads to the propagation of corruption in public affairs. The need to bring public accounts up to date as soon as possible cannot be understated. If this is done it will lead to time saving in parliament, by reducing the time allocated to budget debate, which could be allocated to more beneficial legislative enterprises.

## 7.0

### Private Members' Motions

Private members motion are usually debated on Wednesday morning and are intended to prepare the ground for the formulation of national policy or the introduction of a private member's bill. The introduction of such bills has been rare and far between because many members do not have legal drafting skills and Parliament has not itself provided the necessary technical backup.



## 8.0

### The 9th Parliament and its use of Question time as a check on Executive power

Every sitting of Parliament commences with question time when backbenchers ask question of the front bench and Government Ministers. SO 35-39 deal with the nature and content of the question and their regulation to ensure that “question are not made a pretext for debate.” SO 35(i) reads:-

*“Question may be put to a Minister relating to public affairs with which he is officially connected, to proceedings in the House or to any other matter of administration for which he is responsible.”*

Asking questions of government ministers is a constitutional means of control of the Executive by the Legislature. It gives publicity to acts of commission or omission by the government which fail to meet expected standards. On average, the Parliamentary Order Paper contains 15 questions, some of them new while others are brought back for answers because of being deferred by the Speaker for various reasons. Often questions are deferred either because the MP is not present to ask the question and it is not desirable to drop the question, or the Minister is not there to answer or because the answer given in the circumstances of the case is evasive, inadequate or unsatisfactory. The circumstances of deferment of a question coming on the floor are not closed

The Speaker vets questions before they are asked. Many of them are asked on routine administrative matters. On average, about 700 questions are dealt with during one Session of Parliament. During the tenure of the 9<sup>th</sup> Parliament very little benefits have followed from question time and Ministers have increasingly seen questions as unwelcome check on their executive power. It is also apparent that many public matters of urgent national concern and importance especially dealing with insecurity, eg the Mungiki phenomenon have not found their way to the floor of the House leading to complaints of abandonment of constituents against some Members of Parliament.

## 9.0

### Defections and the Failure to enforce the Standing Orders and the Constitution

Following the 2002 General Elections, the National Rainbow Coalition Party (NARC) was elected to power. A number of political parties had entered into a pre-election pact and won power but soon after the government was formed by President Kibaki the coalition began to unravel especially in Parliament. According to the Kenya Constitution and also the Standing Orders, MPs who are elected under the sponsorship of a party, cannot resign or leave their parties without losing their parliamentary seats. Equally, members of the opposition parties belonging to non-governmental parties can not leave their parties and become part of Government.



Section 40 of the Constitution states:-

*“A member of the National Assembly who, having stood at his election as an elected member with the support of or as a supporter of a political party, or having accepted appointment as a nominated member as a supporter of a political party, either –*

- (a) resigns from that party at a time when that party is a Parliament party: or*
- (b) having, after the dissolution of that party, been a member of another Parliamentary party, resigns from that other party at a time when that other party is a Parliamentary party, shall vacate his seat forthwith unless in the meantime that party of which he was last a member has ceased to exist as a Parliamentary party or he resigned his seat.”*

The purge that followed the government’s defeat at the referendum of November 2005 destroyed what was left of the National Rainbow Coalition (NARC) which won the 2002 elections. By the date of dissolution of Parliament, only 1 out of the 125 MPs who were elected under NARC party still claimed to be in NARC and not to have abandoned the party. Political realignments outside Parliament reduced the tradition of parliamentary parties to a convenient fiction, with many MPs occupying party positions in several political parties at a time. All the party-hopping notwithstanding, the Speaker did not declare any of the seats defecting MPs held vacant.

For example, according to the Registrar of Societies records President Kibaki is simultaneously the Chairman of the Democratic Party (DP) and the Party of National Unity (PNU), an alliance party that during its launch in September 2007 did not include DP. There are also non-NARC members who have crossed over from their parties (including KANU, FORD-People and Safina) and accepted appointment as Ministers and Assistant Ministers in the Kibaki Administration yet their parties are in the opposition. The problem appears to arise from the fact that the Speaker cannot under any Standing Orders take judicial or other notice of defections, and can only act on signed resignation letters delivered to him by the resigning MP. This precedent was set in the 8<sup>th</sup> Parliament when the Speaker refused to take cognisance of the purported resignation in writing of the MP for Gatanga constituency. The net result of the failure to curb party-hopping is to fundamentally undermine the loyalty of MPs to sponsoring parties enforced through the party-whip; and indeed to the practice of multi-party democracy in Kenya’s Parliament, for example with respect to membership in watchdog committees.

### **Party-Hopping and the Watch Dog Function of the 9th Parliament:**

The appointment of MPs to sit on various watchdogs committees like House Business Committee (HBC), PAC and PIC has also been undermined because the Standing Orders regard members as being either on Government side or in the Opposition. Accordingly, the representation of the government and the opposition parties in the committees has become uncertain leaving people fearful that the government might just do its own accounts. This eventuality came to pass with the endorsement of the President’s re-election, by the Leader of the Official Opposition. A dangerous precedent has been set; one which could in turn lead to a *de facto* return to one party rule in spite of the constitutional safeguards in Section 1A that Kenya is a multi-party democratic state.



## 9.1

In the minds of many Kenyans, the current Parliament has failed to live up to its promise of being open, transparent and accountable. Some have said that its haphazard behaviour calls for the introduction of a Code of Conduct for MPs, which could hold them down to certain basic standards of good conduct and values like honesty, integrity, transparency, accountability and good leadership. In fact such a code exists as part of the Public Officer Ethics Act 2003. Enforcement of the Code however is non-existent.

There is need to enforce the existing code and to further and to raise the standards of engagement for MPs including by the introduction of a job description of a kind, which could be studied widely across the country and be very well known to the voters. By increasing civic education and awareness about what an MP's work is about, at least some of the many unworthy candidates who stand for elections will become unelectable. This will go a long way to improving the quality of MPs and constituent's representation by permitting an assessment of whether or not MPs have done their respective jobs under the law and the Constitution of Kenya.

## 10.0

### The 9<sup>th</sup> Parliament and Quorum of the House and its Committees

During the 9<sup>th</sup> Parliament there were occasions when laws were passed while quorum had not been raised – most infamously the Media Bill 2007. The issue of quorum of the house has increasingly come to the fore during the tenure of the 9<sup>th</sup> Parliament especially as the public became more aware that parliamentary attendance had hit an all time low in the face of a powerless Speaker. The fault lies in the procedure to be followed in raising the issue of lack of quorum by a Member of Parliament. Section 51 of the Constitution of Kenya provides as follows:-

*"If any member of the National Assembly who is present takes objection that less than thirty members of the Assembly besides the person presiding are present in the Assembly and, after such interval as may be prescribed in the Standing Order of the Assembly, the person presiding is certain that there are still less than thirty members of the Assembly present, the person presiding shall thereby adjourn the Assembly."*

Standing Order No. 24 also declares the quorum of the House and a Committee of the Whole House to be 30 members excluding the person presiding. Standing Order No. 25 outlines the procedure to be followed, if a member stands on a point of order and informs the Speaker or Chairman of the Committee of the Whole House that there is no quorum because fewer than 30 MPs are present. The procedure is intended to make the process of adjourning the House as transparent as possible and leaves the Speaker to act as a guarantor that, if indeed there was no quorum, every possible effort was made to achieve quorum signified in the Commonwealth tradition of ringing the quorum bell. In the event that quorum cannot be raised, then the House should be adjourned to the next sitting.

It is not unimaginable, especially if the Speaker was left to instigate the process alone, that there is a potential for abuse, where the Speaker could commence the process, decide if



there was a quorum or not and then proceed to adjourn the House under controversial circumstances, where some members could well be left claiming that there was indeed a quorum and the adjournment had been taken because of other reasons, like to avoid a vote where a favoured side might have lost.

## 10.1

As stated above quorum is 30 members excluding the person presiding. This position has not changed since independence, even though the size of Parliament has been increased from 117 members in 1963; 158 members in 1967; 188 members in 1988 to the current 210 members in 1997.

The quorum of PAC and PIC Committees under Standing Order No. 147 (4) and Standing Order No.148 (3) is in each case the chairman and 4 members. In spite of the *de facto* decline in quorum through the years, it has become increasingly difficult in the 9<sup>th</sup> Parliament to raise it, and some bills, like the Media Bill in July 2007, were passed when there was no quorum. This is what the authoritative Erskine May says about the issue of quorum in the House of Commons, which has 640 members.

*“Forty Members, including the Speaker, form the quorum of the House; but the absence of quorum does not entail the termination of a sitting, it being provided by Standing Order No. 41 that the House shall not be counted at any time.*

*Standing Order No. 41 provides, however that if at any time it appears, on a division, that fewer than 40 members (including the occupant of the Chair and the Tellers) have taken part, the business under consideration stands over until the next sitting of the House and the next business is taken.”*

It would be reasonable to expect that parliamentary attendance allowances of Ksh 5,000 per day introduced in 2003 would ensure that lack of quorum would become less frequent, but this has not been the case.

## 10.2

The Powers and Privileges Committee of the 8<sup>th</sup> Parliament (1997-2002) in its August 2002 report recommended that quorum should be worked out as 20% of the Members of Parliament, excluding the ex-official members. With the current composition of Parliament; this works out to 44.4 members. Maybe 44 members would do, maybe 45. The actual number needs clarification and it should be declared that rounding up of any fraction should always be upwards.

It is thoroughly undesirable that the Parliament could conduct public business when it is understaffed. The business of the Parliament is too important to the Nation for it to be left to the management of the less than the stipulated minimum. It is also worth noting that the PAC and PIC Committees are also too important to be left to a quorum of only 4 members. The committees' reports to the house are sometimes debated and adopted and usually not altered. It is undesirable that very important money matters of state some involving billions of shillings are left to 4 members out of 224 members to decide. It is our view that the PAC and PIC Committees should be staffed by as many members as are required to manage a Committee of the Whole House – that is 30 members.



## A Suggestion on Quorum:

To ensure that motions, laws and resolutions of the house, are not passed without quorum, it would be good practice that a count of members present before a vote is taken is made mandatory and recorded. It is a practice in a constitutional vote on the floor that a count of the members present is taken before the vote is taken. A vote on a bill should not be taken if the house does not have quorum. Instead the quorum bell should ring and after the requisite 10 minutes, Parliament should adjourn if it can't raise it. It is now estimated by observers that up to 15% of the assigned parliamentary time is lost because of lack of quorum, with the matter becoming more acute with the approach of the end of a session or General Election

## 11.0

### PARLIAMENTARY REFORM SUGGESTIONS

#### 11.1 Standing Orders

Standing Order No. 17 sets out the working hours of Parliament as previously observed. On a few occasions, the working hours can be increased, for example, on an "Allotted Day" when under Standing Order No 17 (2) the House adjourns at 7pm in the evening. Sitting hours can also be increased on a motion moved by the Leader of Government Business.

One wonders what would happen, if the quorum of the house could be raised from the present level to say 45 or if Parliament were to work an additional day in a week or was required to do an extra week or weeks of work at the end of the calendar time. There are parliaments, which frequently work late into the night when there are important matters of state to be dwelt with. Frequent lack of quorum, during the current 15 working hours per week makes the suggestion of increasing the working hours likely to be unwelcome. As matters stand today, it is estimated that Parliament loses up to 10% of its working time every week because of the frequent lack of quorum.

#### 11.2 The 9<sup>th</sup> Parliament and the treatment of watchdog committee reports and Private Members Motions:

By law, the Treasury must respond to PAC or PIC Reports by a written Memorandum indicating remedial or other action taken to address findings and queries of PAC/ PIC or the Controller and Auditor General. Where this does not happen the PAC/ PIC Reports become exercises in futility as was the case during the Moi regime. During the 9<sup>th</sup> Parliament many PAC and PIC reports have not lead to any action against named persons or to address corrupt practices and fraud.

Preliminary findings should lead to some action or action by fraud investigators. Alleged perpetrators of fraud, corruption or loss of public assets should be made to answer and the culture of no action and impunity brought to an end as it only encourages more looting. The deliberations of all the Select Committees of the house should be opened up to the public and to the television, as proposed by the 8<sup>th</sup> Parliament in 2002.



The establishment of an implementation committee, for the purpose of tracking recommendations of the watchdog committees and private member's motions, is long overdue. Such a committee would work closely with the Executive, having bi-partisan membership and a clear mandate to correct the problem of non-implementation.

### 11.3 Live Television and Radio coverage

Live television broadcasts of the work of Parliament is an immediate priority and the poor performance of the 9<sup>th</sup> Parliament justifies taking all necessary measures to allow constituents and the wider public to see Parliament at work. It should be accompanied by serious upgrading of the Parliament website to provide for daily Hansard and Order Papers as is the case in Tanzania. A resolution in 2002 provided that Parliamentary Committees and House proceedings should be televised and broadcast live. No budgetary allocation has been made to give effect to this in the 5 years since the resolution.

Live broadcasts will assist in forcing members to prepare better for their presentations, promote public awareness and debate of issue of concern, and also by implication, expose members who are supposed to represent their constituents but have nothing to say absolutely during their tenure of five years in the house. Live radio broadcasts, because of their reach would increase public awareness and education.

### 11.4 Modernising House activities

Transparent and accountable parliament practice requires that constituents, interest groups and the wider public can have their viewpoint heard and or addressed. Indeed this is the very purpose of the Parliamentary Petition procedure. Unfortunately the 9<sup>th</sup> Parliament operated as a closed club excluding the voice of Kenyans. We would propose a more open 10<sup>th</sup> Parliament. For example, members of public who would wish to give evidence on a matter under investigation should be allowed to do.

Other modernisation suggestions include an upgrading of the Parliament buildings to include changes in the seating design and arrangements to make parliament's chambers more amenable to debate and consensus building. Voting procedure also requires modernisation. The current voting procedure (prescribed by Standing Orders 53 through 61) is, according to former parliamentarians lengthy, tedious and frustrating. Upgrading and modernisation of the physical facilities of Parliament would make divisions and voting a lot easier and faster by introducing electronic voting as opposed to the current head count system.

The budgetary process in Parliament is fundamentally flawed and the House has been left to carry out ineffectual debates, which do not input into the budget or change anything at the end of the contributions. Parliament by its very nature should have the power to persuade or be persuaded and change the votes as necessary early enough. Some of the votes in the budget, which are routinely debated annually, are the "standard" budgets whose bulk of allocations and expenditure comprise of recurrent expenditure. Instead the votes which should be debated and scrutinised are:-

- (i) Those which have never been debated or have rarely been examined in the past.
- (ii) Those which are of discretionary nature and which fall into the category of development funds where directions on use and expenditure is mainly in the hands of bureaucrats in the Treasury.



For example votes dealing with purchase of security equipment and also votes in respect of government investments.

## 12.0

### SO WHAT QUALITIES SHOULD YOUR NEXT MP HAVE?

In light of the assessment above, we are now ready to give the job description of an MP and also the basic qualifications of a person who can do the job of an MP. The work the MP is expected to do is as specified in the law, the Constitution and the Standing Order of Parliament.

1. He or she should have a good understanding of the Kenya Constitution the general law and the work and practice of government, its ministries and institution.
2. He or she should know and understand the law making process in Parliament from the drafting of a bill the introduction of the bill in Parliament and the process the bill has to go through to become law.
3. The potential member should understand public finance and especially public taxation, Appropriations-in-Aid and the expenditure process, so that he or she can promote a culture of best spending of public revenue to achieve the greatest benefit for the people.
4. He or she should be averse to public corruption and should be able to see and recognize corruption in its various modes, guises and manifestations and be sworn to fight it without compromise.
5. He or she should be able to oversee the control and management of several devolved public funds: -the Constituency Development Funds (CDF) Constituency Bursary Funds (CBF), HIV/AIDS Funds, District Roads Committee Funds (DRC), etc are well managed by the Committee which are involved in the work and the public is getting its money's worth in a potentially corrupting atmosphere.  
Returns of public money should be made on time; leading by example is the best way of speaking to the Constituents and the public at large.
6. He or she should be driven by the highest instincts of patriotism hard work and be resigned to the reality that the most effective and diligent of members are those who work longest on the floor of the house and in its Committee know the house procedures well and justify their salary and allowances through hard work and relentless vigilance especially of the executive.
7. He or she should declare his private property and have it registered in the Register of Member's Interest while accepting that the same should be available for public scrutiny to assist in the promotion of open government.



8. All politics is local but the mind should not be too local. A member should be able to put up and keep up with developments in his constituency and country. This might involve frequent travel and operating on many assignments, which are not necessary part of his constituency work or official work.
9. Be able to also juggle his personal and family life along side his public life. This involves personal spiritual and material development, academic pursuits and learning, and opening up the member's life to critical examination by the good and badly intentioned.

It is therefore fair to conclude that a good effective and durable MP is the one who combines all these aspects and is relentless in his pursuit of freedom, justice and equality among all.

Kenyan voters are reminded that in democratic societies, voters get the representatives they deserve. They have the constitutional right to determine for themselves who to elect by a secret ballot, a right which cannot be taken away from them even by the Government of the day. It is their patriotic duty and responsibility to only elect men and women who are effective and true representatives of their constituents and Kenya as a whole. Public work is too serious and urgent for the 10<sup>th</sup> Parliament to look and behave as the 9<sup>th</sup> Parliament has done. The forthcoming elections are the only real opportunity to change the way the Parliament of Kenya works. Failure to effect this change will mean 5 more years of morass, stagnation, abuse of power and grand corruption.



## List of The Members of 9<sup>th</sup> Parliament

NAME	PARTY	CONSTITUENCY
Abdullahi, Dahir Sheik	KANU	Lagdera
Abongotum, Kamama Asman	Ford - P	Baringo East
Abu, Mohamed	KANU	Lamu East
Akaranga, Moses (Rev.)	FORD - K	Sabatia
Angwenyi, Jimmy Nuru Ondieki	Ford - P	Kitutu Chache
Arungah, J.O	NARC	Khwisero
Awiti, Paul Adhu (Dr.)	LDP	Karachuoonyo
Awori, Arthur 'Moody' Mudeyi	NARC-K	Funyula
Ayacko, Ochilo Mbogo George	LDP	Rongo
Bahari, Abdul Ali	KANU	Isiolo South
Balala, Najib	LDP	Mvita
Biwott, Nicholas Kipyator	KANU	Keiyo South
Boit, William	KANU	Baringo North
Cheboi, Moses Kipketiboi	KANU	Kuresoi
Chelaite, Alicen Jematia	NARC	Rongai
Cheruiyot, Sammy Koech	Ford - P	Konoin
Choge, Jimmy	KANU	Aldai
Dzoro, Morris Mwachondo	NARC	Kaloleni
Ethuro, David Ethwee	NARC	Turkana Central
Ewoton, Francis Achuka	KANU	Turkana South
Gachagua, Nderitu James	NARC	Mathira
Gachara, Geoffrey Muchiri	NARC	Ndaragwa
Galgalo, Wario Malla	KANU	Moyale
Githae, Njeru Robinson	NARC	Ndia
Gitura, Kembi	NARC	Kiharu
Gumo, Frederick	LDP	Westlands
Haji, Yusuf	KANU	Ijara
Hassan, Ali Abdirahman	KANU	Wajir South
Hussein, Mohammed	KANU	Dujis
Ibrahim, Ali Abdullahi	KANU	Wajir North
Ivuti, Patrice Ezekiel Mwangu	NARC	Kitui South
Kabogo, William Gitau	SISI	Juja
Kagwe, Mutahi	NARC-K	Mukurweni
Kagwima, Francis Nyamu		Tharaka
Kaindi, Peter Kyalo	NARC	Kathiani
Kajembe, Ramadhan Seif	NARC	Changamwe
Kajwang', Otieno Gerald	LDP	Mbita
Kamanda, Maina	NARC-K	Starehe
Kamotho, Joseph John	LDP	Mathioya
Karaba, Daniel Dickson	NARC	Kerugoya Kutus
Kariuki, G.G	NARC	Laikipia West
Karua, Martha	NARC-K	Gichugu
Karue, Muriuki	NARC	Oi' Kalou
Karume, Njenga J	NARC	Kiambaa
Katuku, Mutua John	NARC	Mwala
Kenneth, Peter	NARC	Gatanga
Kenyatta, Uhuru Muigai	KANU	Gatundu South
Kerrow, Billow	KANU	Mandera Central

Keter, Charles	KANU	Belgut
Khalif, Ahmad Muhammad	KANU	Wajir West
Khalwale, Bonny (Dr.)	FORD - K	Ikolomani
Khamasi, Daniel Lyula	NARC	Shinyalu
Khamisi, Joseph	LDP	Bahari
Khaniri, George Munyasia	LDP	Hamisi
Kibaki, Mwai Emilio	NARC	Othaya
Kibunguchy, Enoch (Dr.)	NARC	Lugari
Kibwana Kivutha (Prof.)	NARC-K	Makueni
Kiema, Kilonzo	Ford - P	Mutito
Kihara, Jayne	NARC	Naivasha
Kilimo, Linah Jebii	NARC	Marakwet East
Kilonzo, Charles	LDP	Yatta
Kimathi, Viscount	KANU	Lari
Kimetto, Anthony	KANU	Sotik
Kimunya, Amos	NARC	Kipipiri
Kingi, Joseph Kahindi	NARC	Ganze
Kipkaptor, Joseph Korir	KANU	Mogotio
Kipkorir, Sang Marisin	KANU	Bureti
Kipkosgei, Lucas Chepkitony	KANU	Keiyo North
Kirwa, Kipruto Rono	Ford-Kenya	Cherengani
Kituyi, Mukhisa (Dr.)	FORD - K	Kimilili
Kiunjuri, Mwangi Festus	NARC-K	Laikipia East
Koech, John Kipsang	KANU	Chepalungu
Kombe, Harrison	Shirikisho	
Kombo, Musikari	FORD - K	Webuye
Konchellah, Gideon Sitelu	NARC-K	Kilgoris
Koros, David Kiptanui	KANU	Eldoret South
Kosgey, Henry Kiprono	KANU	Tinderet
Kulundu, Newton (Dr.)	FORD - K	Lurambi
Kuria, Kanyingi Simeon	KANU	Limuru
Kuti, Mohammed Abdi (Dr.)	KANU	Isiolo North
Lagat, Joseph Kipchumba	KANU	Eldoret East
Lekuton, Joseph	KANU	Laisamis
Leshore, Sammy Pirisa	KANU	Samburu East
Lesirma, Simon S.	KANU	Samburu West
Ligale, Andrew N. N.	LDP	Vihiga
M'Mukindia, Kirugi	NARC	Imenti Central
Manduku Hezron	Ford-P	Nyaribari Masaba
Maathai, Wangari (Prof.)	NARC	Tetu
Machage, Wilfred (Dr.)	NARC	Kuria
Macharia, Mukiri	Ford - P	Molo
Madoka, Marsden Herman	KANU	Mwatate
Magara, Omingo James	Ford - P	South Mugirango
Magugu, Arthur	NARC	Githunguri
Maitha, Lucas	LDP	Malindi
Maitha, Moffat Muia	SISI	Kangundo
Mango, Christine (Prof.)	KANU	Butula
Maore, Maoka Richard	KANU	Ntonyiri
Marende, Kenneth Otiato	LDP	Emuhaya
Masanya, Godfrey Okeri	Ford - P	North Mugirango
Mbai, Benson Itwiku	NARC	Masinga
Mbau, Elias Peter	NARC	Maragua
Mganga, Boniface	KANU	Voi
Mgangha, Mwandawiro	Ford - P	Wundanyi

Michuki, John Njoroge	NARC	Kangema
Midiwo, Jakoyo Washington	LDP	Gem
Mirugi, Kariuki William	NARC-K	Nakuru Town
Mohamed, Abdi Haji Mohamed	KANU	Mandera West
Mohammed, A M	KANU	Wajir East
Moi, Gideon	KANU	Baringo Central
Manoti, Stephen K	Ford - P	Bobasi
Moroto, Samuel Chumel	KANU	Kapenguria
Mugo, Beth Wambui	NARC-K	Dagoretti
Muiruri, Patrick	KANU	Gatundu North
Muite, Paul	SAFINA	Kabete
Mungatana, Danson	NARC-K	Garsen
Munya, Peter	NARC	Tigania East
Munyao, Joseph Kanzolo	NARC	Mbooni
Munyes, John Kiyonga	FORD - K	Turkana North
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Muriungi, Raphael	NARC	Igembe
Murungaru, Christopher Ndarathi	NARC	Kieni
Murungi, Kiraitu	NARC	South Imenti
Musila, David	LDP	Mwingi South
Musyoka, Kalonzo Stephen	LDP	Mwingi North
Mutiso, Mutinda	NARC	Kilome
Muturi, Justin	KANU	Siakago
Mwaboza, Anania	NARC-K	Kisauni
Mwakwere, Ali Chirau	NARC	Matuga
Mwangi, Onesmus	NARC	Kigumo
Mwanzia, Daudi	NARC	Machakos Town
Mwendwa, Nyiva	LDP	Kitui West
Mwenje, David	NARC-K	Embakasi
Mwiraria, David	NARC	North Imenti
Mwiria, Kilemi	NARC-K	Tigania West
Nakitare, Davis	FORD - K	Saboti
Ndambuki, Gideon Musyoka	NARC	Kaiti
Nderitu, Alfred Mwangi	NARC	Mwea
Ndile, Kalembe Richard N.	NARC-K	Kibwezi
Ndolo, Reuben	LDP	Makadara
Ndwiga, Njeru Peter	NARC	Manyatta
Ngilu, Charity Kaluki Mwendwa	NPK	Kitui Central
Ngozi, Abdallah	NARC	Msambweni
Nkaissery, Joseph	KANU	Kajiado Central
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Nyaga, Wambora Martin	NARC	Runyenjes
Nyagah, Joseph William	NARC	Gachoka
Nyagah, Norman	NARC	Kamukunji
Nyagudi, Ken (Rev.)	LDP	Kisumu Town West
Nyamunga, Eric Opon	NARC	Nyando
Nyang'au, Samson Okioma	Ford - P	Kitutu Masaba
Nyong'o, Anyang' Peter (Prof.)	LDP	Kisumi Rural
Obwocha, Henry	Ford - P	West Mugirango
Odhiambo, Herman Omamba	NARC	Uriri
Odinga, Oburu Ngona	LDP	Bondo
Odinga, Raila Amolo	LDP	Langata
Odoyo, Peter Ochieng'	LDP	Nyakach
Ogur, Tobias Ochola	NARC	Nyatike
Ojaamong, Sospeter Odeke	LDP	Amagoro

Ojodeh, Joshua Orwa	LDP	Ndhiwa
Okemo, Chrisanthus	KANU	Nambale
Okundi, Philip	LDP	Rangwe
Ole Metito, Katoo	NARC	Kajiado South
Ole Ntimama, William R	LDP	Narok North
Ole Ntutu, Stephen K.	KANU	Narok South
Olweny, Patrick (Prof.)	NARC	Muhoroni
Omondi, William	LDP	Kasarani
Ondiek, Stephen	LDP	Ugenya
Onyancha, Joel	Ford - P	Bomachoge
Oparanya, Wycliffe	Ford - P	Butere
Osundwa, Wycliffe Wilson	NARC	Mumias
Owino, Likowa	NARC	Migori
M'Nkiria, Petkay S. Miriti	NARC	Nithi
Poghisio, Samuel Losuron	KANU	Kachileba
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Sambu, John Kipkorir	KANU	Mosop
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Shitanda, Soita Peter	FORD - K	Malava
Sirma, Musa	KANU	Eldama Ravine
Sudi, David Kiprono Sutter	KANU	Marakwet West
Sugow, Aden	KANU	Fafi
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Syon'goh, Zaddock Madiri	NARC	Gwassii
Tarus, Stephen Kipkiyeny	NARC	Emgwen
Tola, Kofa Mugava	KANU	Galole
Too (Arap), Noah	KANU	Ainamoi
Toro, Joshua Ngugi	NARC	Kandara
Tuju, Raphael	NARC-K	Rarieda
Twaha, Fahim	KANU	Lamu West
Waithaka, Mwangi Kirika	NARC	Kinangop
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Wamunyinyi, Wafula, A.M	FORD - K	Kanduyi
Wamwere, Koigi	NARC	Subukia
Wanjala, Raphael	FORD - K	Budalangi
Wario, Ali	KANU	Bura
Wekesa, Noah (Dr.)	FORD - K	Kwanza
Were, David Aoko	NARC	Matungu
Wetangula, Moses Masika	FORD - K	Sirisia
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Zebedeo, John Opore	Ford - P	Bonchari
Ali, Amina Abdalla	KANU	
Aringo, Oloo Peter	LDP	
Bett, Franklin Kipn'getich	LDP	

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Kones, Kipkalya K.	Ford - P
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Ojiambo, Julia	NARC
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Oniang'o, Ruth (Prof.)	KANU
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Wako, Amos	[None]



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