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PARLIAMENTARY SERVICE COMMISSION



Report of the Tribunal appointed by the
Parliamentary Service Commission to
Review and make recommendations
on the terms and conditions of
Service for Members of
Parliament



Chairman:
Chief Justice (Rtd) A. M. Cockar, EGH

Presented to:
The Hon. Francis Xavier ole Kaparo, EGH, MP
Speaker of the National Assembly
of Kenya
Tuesday 3rd September, 2002

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LETTER OF TRANSMITTAL

The Hon. Francis ole Kaparo, EGH, M.P.,
Speaker of the National Assembly and
Chairman of the Parliamentary Service Commission,
Parliament Buildings,
NAIROBI.

Mr. Speaker Sir,

On behalf of the Parliamentary Service Commission, you appointed us on 11th February, 2002 through Gazette Notice No.791 to review and make recommendations on the terms and conditions of service for Members of Parliament, including their salaries, allowances and benefits in addition to the facilities available for their use both in Parliament Buildings and in their constituencies. We were given two months to submit our Report to you but midstream, our mandate was expanded to include the following:

- Review of salaries and allowances for members of staff;
- Review of salaries, allowances and retirement benefits for the following:-
 - The President
 - The Vice President; and
 - The Speaker

Consequently, you extended our assignment by a further fifty one working days through Gazette Notice No.3997 of 28th June, 2002.

We would like to commend you and the Commission for launching the commencement of the work of the Tribunal on 26th February, 2002 at a press conference held in Parliament Buildings. In the course of doing our work, we found out that you had given us very sound and relevant advise at the launching ceremony. The people have spoken loud and clear: while they appreciate the difficulties our Members of Parliament face when discharging their duty for which they would like them to be well remunerated, they want to have a

say on what Members should be paid. Their remuneration and the facilities to be placed at their disposal both in Nairobi and in their constituencies must be commensurate with their output and the ability of the national economy to afford. As you correctly observed during the launching of our work, and we quote:

"..... the public should have a say in these resources because we do not think Members of Parliament should live and work in opulent surroundings when the public they represent live in a squalid and physically deprived environment."

We have now completed the task you assigned us to do and have the honour to submit our Report which has tried to strike an objective balance between enabling the Members of Parliament to effectively discharge their constitutional obligations, social responsibilities and family commitments and the availability of meagre national resources which are also required for other equally pressing priorities and essential public services.

The Report of the Tribunal was compiled after holding very useful and in-depth discussions with the persons listed in Appendix 1, a study of the various documents listed in Appendix II, and travels both within Kenya and abroad.

We humbly take this unique opportunity, Mr Speaker, Sir, to thank you and all the members of the Parliamentary Service Commission, for the trust and honour you bestowed on us. We would also like to express our utmost gratitude for the resources and facilities you put at our disposal which enabled us carry out our work in a conducive environment.

Finally, Mr Speaker, Sir, we want to assure you of our faith in the ability of the Kenyan Parliament to offer national leadership to our people by conducting mature and honest debates on issues that affect *wananchi*. Our Parliament is capable of holding the Government to account by reducing waste in the management of public resources through appropriate legislation. Any perceived

criticism of Parliament and particularly of the Members, in this Report, has been done with the best of intentions and in the belief that in order to strengthen our institutions, especially Parliament, we must critically examine how they discharge their mandate. We believe that this Report will ultimately lead to the improvement in the performance of our national institutions. We have tried faithfully to convey the feelings and aspirations of the people.

We are, Mr Speaker, Sir,

Justice A. M. Cockar, E.G.H.	-	Chairman
Munyua Waiyaki (Dr), E.G.H.	-	Member
James Denis Akumu	-	Member
Gaylord Avedi, E.B.S.	-	Member
Bethuel A. Kiplagat, E.B.S.	-	Member
Samuel W. Ndindiri	-	Secretary

Dated this Fifth day of November, 2002

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ACKNOWLEDGEMENT

We owe gratitude to all those who contributed to the successful accomplishment of our assignment, particularly members of the public who appeared in their official or private capacities to present their views to the Tribunal.

In particular, we wish to thank the Permanent Secretary for Provincial Administration and Internal Security in the Office of the President for coordinating the efforts of Provincial Commissioners in every Province to facilitate our meetings with the public at Provincial and District Headquarters where the District Commissioners played a vital role in ensuring the success of these consultative meetings. The Provincial tours have enriched our Report as several issues did emerge during these visits, which we would not have been able to appreciate had we confined our hearings only in Nairobi.

We also owe a great debt of gratitude to His Excellency the Vice President and Minister for Home Affairs and Leader of Government Business, Prof. the Hon. George Saitoti, EGH, MP, Ministers of State, Office of the President, the Hon. Joseph Nyagah, EGH, MP and the Hon. Julius ole Sunkuli, EGH, MP; and the Attorney General, Hon. Amos S. Wako, EGH, M.P. for availing themselves to present their views to the Tribunal. We further acknowledge and thank the following for the candid and inspiring discussions we had with them over this matter:-

The Leader of the Official Opposition Party and member of the Parliamentary Service Commission, the Hon. Mwai Kibaki, EGH, MP; the Vice Chairman, Parliamentary Service Commission, the Hon. Peter Oloo Aringo, EGH, MP; the Deputy Speaker, the Hon. J. H. O. Omino, MP and the following Members of Parliament – the Hon. David Musila MP; the Hon. Simeon M. Mkalla, MP; the Hon. Norman Nyagah, MP; the Hon. Lawrence Sifuna, MP; the Hon. John Mutua Katuku, MP; the Hon. George Owino Achola, MP; the Hon. Charles Kirui, MP, the Hon. Henry Obwocha, MP; the Hon. Kiraitu Murungi, MP; the Hon. Martha Karua, MP; the Hon. Gitobu Imanyara, MP; the Hon. Mathias Keah,

MP; the Hon. Muthusi Kitonga, MP; the Hon. Gerald Kajwang', MP; the Hon. Josephine Sinyo, MP; the Hon, Sulleman Kamolleh, MP; Prof. the Hon. Anyan'g Nyong'o, MP and the Hon. Jimmy Angwenyi, MP;

The Catholic Archbishop of Nairobi, the Most Reverend Raphael S. Ndingi Mwana a' Nzeki; the Archbishop of the Anglican Church of Kenya, the Right Reverend Dr. David Gitari; the Secretary-General, Central Organization of Trade Unions, Mr. Francis Atwoli; the Chairman, Hindu Council of Kenya, Mr. Prabhudas D. Pattni; the Chairman, Electoral Commission of Kenya, Mr. Samuel Kivuitu; the National Chairman, Matatu Welfare Association, Mr. Dickson Mbugua; the Secretary, Constitution of Kenya Review Commission, Mr. P.L.O. Lumumba; the Chairman, Law Society of Kenya, Ms. Raychelle Omamo and the Executive Director, Federation of Kenya Employers, Mr. Tom Owuor.

The Permanent Secretary/Director, Directorate of Personnel Management, Office of the President, Mr. James E. O. Ongwae, EBS; the Permanent Secretary, Ministry of Labour and Human Resource Development, Ambassador Joshua Terer, EBS; the Chairman, Public Service Commission of Kenya, Eng. Abdullahi Sharawe, EBS and the Economic Secretary, Treasury, Mr. Peter Gakunu.

Our Report was further enriched by the visits to and discussions we had with various officials who went out of their way to ensure that our visits were a success. These individuals were:- The Kenya High Commissioner to the Republic of India, His Excellency Mr. Lazarus O. Amayo; the Secretary General, LOK SABHA Secretariat, India, Mr. G.C. Malhotra; the Clerk of Parliament of Singapore, Mr. P. O. Ram; the Secretary, Union Parliament – South Africa, Mr. Sindiso Mfenyana; the Deputy Speaker, Gauteng Provincial Legislature, Johannesburg – South Africa, Ms Lindiwe Maseko; the Kenya High Commissioner to Uganda, Her Excellency, Magdalene J. Wambua; the Clerk of the National Assembly of Zambia, Mr. N. M. Chibesakunda; the Permanent Secretary, Civil Service Department – Tanzania, Mr. Rugumyamheto; the Clerk of the National Assembly of Tanzania, Mr. Kipenka M. Mussa; and the Clerk of the Parliament of Uganda, Mr. A.

However, during its 36th meeting held on Tuesday 28th May, 2002, the Parliamentary Service Commission resolved to add new assignment to the Tribunal as already explained above. This resulted in the publication of Gazette Notice No. 3997 of 28th June 2002 whose contents are appended here below:

GAZETTE NOTICE NO. 3997

THE PARLIAMENTARY SERVICE ACT

(No. 10 of 2000)

EXTENSION

IN EXERCISE of the powers conferred by section 23 of the Parliamentary Service Act, the Chairman of the Commission, on behalf of the Parliamentary Service Commission extends the period of the Tribunal stipulated in Gazette Notice No. 791 of 2002, to four (4) months. The Tribunal shall submit its report by 22nd August, 2002.

Dated the 26th June, 2002

F.X.K. OLE KAPARO
Chairman,
Parliamentary Service Commission

CHAPTER 1

HISTORICAL EVOLUTION OF THE PARLIAMENT OF KENYA

1. From colonial autocracy and despotism to post – independence one party political monolithism to the present multipartyism, a study in the historical development of Kenya’s Parliament is a study of the struggle by the Kenyan people to determine the way they would like to be governed. The system of governance in a country affects the composition of the Legislature, the calibre of its membership, powers and privileges and the remuneration and facilities given and made available to its Members.
2. The historical evolution begins from 1907 when the British colonial Administration in Kenya established a Legislative Council consisting of the Governor as Chairman, and six other Members, four of whom were civil servants and two unofficials nominated by the Governor – all Europeans! It may be important to add at this point that the views of the indigenous Africans were not sought.
3. The composition of the Legislative Council was altered in 1919 to comprise 17 European Official Members (Public Servants) and three unofficial members (2 Indians and one Arab) nominated by the Governor. In addition, there were, for the first time, eleven European Members elected by European residents in Kenya. The first African, Mr. Eliud Mathu from Central Kenya, was nominated to the Legislative Council in 1944 and by 1952, the number of Africans had increased to six. The other five Members were: Messrs B.A. Ohanga (Central Nyanza), W.W.W. Awori (North Nyanza), J. Jeremiah (Coast), M. Gikonyo (Nairobi City) and J.M. ole Tameno (Rift Valley).
4. In 1957, the six African nominated Members were replaced by eight African elected Members. They were: Messrs Tom Mboya (Nairobi), Daniel arap Moi (Rift Valley), J. Nzau (Ukambani), Ronald Ngala (Coast), Jaramogi Oginga Odinga (Central

Nyanza), Masinde Muliro (North Nyanza), Lawrence Oguda (South Nyanza) and Bernard Mate (Central). This number was increased to fourteen in 1958. By 1961, in anticipation of independence, constituencies were created on racial lines as follows: African-33; European-10; Asian-8; and Arab-2.

5. In the last Lancaster House Conference held in 1962 just before the formation of self-Government, the Legislative Council became the National Assembly comprising the Senate (with 41 Senators) and the House of Representatives (with 117 Constituency Members and 12 Specially Elected Members). This was the "Majimbo" (federal) constitutional dispensation where each Senator represented one administrative District and every Province had a Regional Assembly.
6. However, in December, 1966 both Houses of the same original National Assembly merged into one House upon a Constitutional (Amendment) Act No.4 of 1966. Thus 41 new constituencies were created to accommodate the former 41 Senators. All the Regional Assemblies were also dissolved. The total membership of the one House was 170 excluding the Speaker and the Attorney General who is the legal adviser to the Government and from that time has also represented the interest of the Judiciary in the Legislature after the abolition of the Ministry of Justice and Constitutional Affairs. The 170 included the 12 Specially Elected Members.
7. The next time the constituency boundaries were reviewed was in 1988 when 30 new constituencies were created. The third and last constituency boundaries review was in 1997. At the moment, therefore, there is a total of 222 Members out of whom 210 are elected and the remaining 12 are nominated, six by the ruling party and the other six by Opposition parties on proportional basis, i.e., according to the number of seats each one of them holds in the House. The Speaker and the Attorney General are ex-officio Members whose inclusion increases the total membership of the House to 224.

8. A factor which has influenced the remuneration of Members and the facilities available for their use is the number of political parties that compete during the General Elections to capture parliamentary seats. This is because the multi-party Parliament has created more Committees with special responsibilities to certain Members whose remuneration should therefore be enhanced. One party Legislature tends to be more amenable to the wishes of the Executive and the need for extra facilities is unlikely to arise. Bills are drafted by the Executive and the debates on them in the House are mere routine. Bullying the Legislature is much easier under one party system since Parliament is taken for granted as a mere creation of the Executive because the latter determines, when it desires through manipulated elections, who becomes a Member. Members who insist on exercising their right to question the Government can also be intimidated through harassment and detention. This is the fate that befell the Hon. J.M. Seroney and the Hon. J.M. Shikuku in 1975 when they were arrested within the precincts of Parliament Buildings and subsequently detained without trial, apparently for speeches they had made in the House. Legislating Kenya African National Union (K.A.N.U.) to be the only legal party in 1982 and the removal of security of tenure for the Judges of the High Court and the Attorney-General in 1987 were achieved without much ado. But the suppression of political parties that threaten the Establishment has a long history in Kenya.
9. In 1944, the Kenya African Union (K.A.U.) was formed as the first colony-wide African political party. The Mau Mau rebellion against the colonialists which broke out in 1952 led to the declaration of the state of Emergency and the subsequent unfortunate banning of K.A.U. This ban was partially lifted in 1955 when African political parties were allowed to function only upto District or Provincial level.
10. In 1960, this ban was completely lifted and immediately K.A.N.U. was formed soon to be followed by the Kenya African Democratic Union (K.A.D.U.), African People's Party (A.P.P.)

and other smaller parties. K.A.N.U. and K.A.D.U. were the major parties that fought for elections in 1963 to form self-Government and the former won. In December, 1964, the two opposition parties, i.e., K.A.D.U. and A.P.P., voluntarily dissolved and joined K.A.N.U., thus making the country *a de facto* one party state.

11. The late Jaramogi Oginga Odinga who, until 1966 was the Vice President, formed an Opposition party known as the Kenya People's Union which lasted upto 1969 when the party was proscribed and some of its supporters and main leaders, including most of its Members of Parliament, were locked up.

12. From 1969 to 1982, Kenya was a *de facto* one party state. In June, 1982, a constitutional amendment was passed which made the ruling party K.A.N.U. to be the only legal political party in the country. Political dissent was frowned upon and a number of people were detained without trial on extremely flimsy grounds. Expelling errant members from the ruling party meant the end of one's political career. The party machinery tightly controlled the electoral process which culminated in designing queue voting during the General Elections in 1988 to nominate the two candidates with the highest votes to fight it out at the polls if none of them secured 70% of the total votes cast. Any candidate with 70% or more votes in all their queues combined would be declared an automatic winner and there would be no need to go for secret balloting. There was a lot of hue and cry as allegations were made to the effect that some popular candidates who were not liked by the top party officials were rigged out at the queue voting stage. There was significant dissatisfaction and frustration with the one party status and a few lawyers, clergymen and politicians who had lost in the 1988 General Elections began to campaign for a return to multipartyism. Serious riots broke out in Nairobi and other urban centres between 1990 and 1991 which forced the Government to ultimately amend the Constitution and revert to multipartyism.

13. The first five years of multipartyism were a very difficult period in the history of Kenya. The political divide in the House was so irreconcilable that sometimes the transaction of parliamentary business became almost impossible. There was a penchant for disregard of the rules of procedure, debates were at times marred with name-calling, jeering and cheering only found in a market place and hitting the opponent "below the belt" became common.
14. Prior to the 1997 General Elections, the Inter-Parties Parliamentary Group was formed to work on minimum constitutional amendments to create a more level playing field during the elections. The most remarkable constitutional amendment that took place was the introduction of a new Section 1A which states thus, and we quote;

"The Republic of Kenya shall be a multiparty democratic state."

16. This new section in the Constitution was important for the Opposition who had maintained that the Government was a reluctant reformer and at heart was deeply opposed to multiparty political arrangement in the country and therefore was determined to undermine it, frustrate its smooth development and fulfill this mission in total to prove that multipartyism is unworkable in Kenya since it was a conspiracy by foreigners to mess up Africans.
17. When the Eighth Parliament convened in early 1998, the Opposition began to engage the Government in some fruitful dialogue. Several K.A.N.U. backbenchers were more accommodating to the Opposition. This could have been partly due to the small margin of four seats that separated KANU from the joint total number of seats the Opposition held. The National Development Party of Kenya, which was the second largest Opposition Party, struck some partnership with KANU which by March, 2002 was to result into a merger. It was therefore not surprising that in November, 1999, the House

amended Section 45 of the Constitution to create the Parliamentary Service Commission with the Speaker as Chairman and the Leader of Government Business and the Leader of the Official Opposition Party in the House as Members of the Commission. There were seven more Members appointed from the backbench, four of whom came from the Government side and the remaining three from the Opposition. All the staff in the National Assembly were immediately de-linked from the mainstream Civil Service and instead became employees of the Parliamentary Service Commission which could now hire and fire them on terms that were to be determined by the Commission. Thereafter the House passed into law the Parliamentary Service Act (No. 10 of 2000). This Tribunal was appointed under the provisions of section 23 of this Act to review and make recommendations on:

- The terms and conditions of service for Members of Parliament: their salaries, allowances and other benefits; and
- The facilities available for their use both in Parliament Buildings and in their constituencies.

18. The said section 23 of the Act stipulates that, and we quote:

- **“(1) The Commission shall, from time to time, appoint an independent body of experts to review the terms and conditions of service of Members and employees of the National Assembly.**
- **“(2) The Commission shall upon receipt of the report of experts appointed under subsection (1), transmit the report together with its comments thereon, if any, to the National Assembly.”**

19. The appointment of this Tribunal, as the Speaker so aptly remarked when launching it, was significant for two main reasons: It was the first time in the history of independent

Kenya that this appointment was not made by the President. Secondly, it was the first time a Tribunal of this nature was given the added mandate to look into the facilities available for Members' use both in the Parliament Buildings and in the constituencies.

20. The Tribunal was initially given a period of 60 days to complete its work, but due to the additional assignments relating to review of salaries and allowances for staff and also the salaries, allowances and retirement benefits for the President, Vice-President and the Speaker, the period was extended by 51 working days to expire on 22nd August, 2002.
21. It is therefore unequivocally clear that from its inception in 1907 as Legislative Council, the following features have characterized and dominated the operations of the Parliament of Kenya:
 - It was established to serve the interest of Europeans who had settled in Kenya and had converted themselves into the ruling class without any slight reference to the indigenous people.
 - The majority of European Members of the Legislative Council never saw themselves as full time politicians including those Members who were elected. First, for a long time, majority of the Members were either top civil servants or appointees of the Governor. Second, most of the European Elected Members were settlers whose main interest was farming. When they came to Nairobi, they spent very little time in the Legislative Council after the end of the proceedings. Hence, the lack of justification to establish the requisite facilities for Members in Parliament Buildings.
 - It was an instrument designed and used by the Executive to pass laws it required to govern the country.

22. Membership of the Legislative Council was seen as a part time job and not to monitor and probe the work of Government on behalf of the people. There was therefore no need to set up a legislative institution with investigative capability to bring Government to account for its actions and policies. The current Parliament Building was put up in 1954 and expanded in 1965. In 1995, County Hall was acquired and became part of Parliament. The Parliament of Kenya is still in dire need of more office accommodation both for Members and staff. This problem should therefore be addressed urgently. The acquisition of Continental House for use by Members is a step in the right direction. The demands of a multi-party Parliament are quite heavy and expensive. The people of Kenya have discovered the vital role the Legislature plays in their daily lives, especially in the process of governance. A Member of Parliament today must have at his/her disposal well researched information to assist him/her probe Government's proposed legislations and Government actions. In order to do this, the National Assembly ought to employ highly qualified and competent officers who are dedicated and loyal to the institution of Parliament. These officers must be well paid so that they are not distracted to undertake other activities to earn extra money in order to make a living and to compensate them for lack of upward mobility. Parliament is a closed shop where chances for promotion are limited.
23. A multi-party Parliament should also take into account various facilities needed by Members who perform special duties for the smooth running of the House. First, in this category, is the **Leader of Government Business**. This office should be properly facilitated in terms of staff and equipment so that its occupant can discharge his/her mandate with a degree of efficiency and effectiveness that is required of a Parliament that anchors the legitimacy of Government. Second, is the **Leader of the Official Opposition Party** who should be nearly equal in status to the Leader of Government Business in so far as running Parliamentary business is concerned. Closely following these two officers of the House are: the **Deputy Speaker** and

Members of the Chairmen's Panel; the **Chief Whip** and the other **Whips;** and the **Chairmen of the Departmental Committees.** These Members do extra work for the smooth running of the House and for that reason, their package and the facilities and personnel that go with it should be examined. This is not to forget to mention **Members of the Parliamentary Service Commission** who do extra work to ensure that the Parliament as a national institution is well funded, properly staffed, appropriately administered and adequately facilitated to discharge its constitutional mandate.

24. During the visits of the Tribunal to the Provinces, the public spoke with one voice on the issue of the role of a Member of Parliament at the constituency. The people want Members to have offices in their constituencies. In fact, some people told the Tribunal that priority of giving Members offices should have been in the constituencies and not in Nairobi. They argued that a Member sources his/her mandate from the voters, majority of whom reside in the constituency. They further argued that they are constrained to go to see Members in their homes. A constituency office would make Members more effective because the voters would know where to go and see their Member when they want him/her. Democracy is not cost-free and the public are aware that strengthening Parliament will consume additional public resources.
25. However, the public are not without criticism of the Parliamentarians. They charge that some of them do not visit their constituencies as regularly as they should yet they dutifully draw their weekly Mileage Allowance meant to finance their trips to the constituencies. They, indeed, posed the question: how come the Constitution allows a Member's seat to be declared vacant if he/she misses eight consecutive sittings and yet a Member may fail to visit his/her constituency for even three or six months and no action is taken? People are angry about the reported frequent lack of quorum in the House. They wonder what else Members do in Nairobi if they cannot attend the proceedings in the House. They are bitter that two years

ago, Members of Parliament unilaterally increased their Transport Allowance from Kshs.118,000/= to Kshs.336,000/= per month and some even retorted cynically that this Tribunal had been formed to give a report that would bestow legitimacy on this allowance increase. The public are critical of the petty issues that are sometimes debated in Parliament and the low quality of debates.

CHAPTER 2

ECONOMIC BACKGROUND

INTRODUCTION

26. In this chapter, an attempt has been made to review Kenya's future economic outlook. This is necessary because the proposals and recommendations on the Terms and Conditions of Service for Members of Parliament, retirement package for the President, the Vice President, and the Speaker of the National Assembly have to be consistent with the current and projected resources of the Kenyan economy.
27. Another reason why a scrutiny of economic performance is necessary arises from the fact that any changes in the current pay structure of the salaries and allowances are likely to have an impact on the rest of the economy given the negative and erroneous media publicity that has been associated with this exercise.

INTERNATIONAL SCENE

28. The global output in 2001 is estimated to have recorded the lowest growth against a background of declining equity process, lagged impact of the earlier rise in oil prices, constriction of world trade and fall in consumer and business confidence. Virtually all member countries of Organization for Economic Co-operation and Development (OECD) recorded slower growths in 2001 compared to 2000.
29. The state of insecurity caused by the terrorist attacks on 11th September, 2001 in the USA, substantially disrupted the production and demand particularly for air travel, tourism and financial services across economies.
30. China was an exception to the widespread slowdown in economic performance. On account of the weak world

economy, low coffee prices in Colombia, foot and mouth disease in Uruguay, energy crisis in Brazil and economic difficulties in Argentina worsened the economic performance in South America.

31. In Africa, political uncertainties and instability, high levels of external debt, poor governance, insecurity and the HIV/AIDS scourge were among the major concerns. Governments in Africa have embarked on a New Partnership for African Development (NEPAD) to enable them respond to these challenges.

OVERVIEW OF KENYA'S ECONOMIC PERFORMANCE

32. The domestic economy made a recovery from a revised growth of negative 0.2 percent in the year 2000 to register minimal growth of 1.2 percent in 2001. Factors attributable to this improvement include favourable weather conditions which impacted positively on agricultural growth and power generation; increased demand for information communication services, favourable tax reforms, and expanded market outlets through the Africa Growth and Opportunity Act (AGOA), the Common Market of Eastern and Southern Africa (COMESA), the European Union (EU) and the East African Community (EAC).
33. On the other hand, full economic recovery was and has continued to be hampered by the decline in domestic savings to finance capital formation, dilapidated infrastructure, subdued credit expansion, low prices for the main export commodities (tea and coffee) and lack of donor funding which has affected investor confidence. There was also disruption in the other sectors of agriculture such as sugar, maize, milk, rice, coconut, cotton and finally endemic corruption and poor governance.
34. It has been noted that the agriculture and manufacturing sectors, which contribute one third of the GDP, grew by 1.2 percent and 0.8 percent respectively in 2001. The transport, storage and communications sectors registered a higher growth

of 3.1 percent while the building and construction sector had a negative growth of 0.3 percent.

The Government continued to pursue tight fiscal policy to control expenditures. Despite these efforts, the growth rate of the current receipts in the year was slower than that of current expenditure. As a result, current deficit stood at Kshs. 2,152.0 million in 2001/02 compared to a surplus of Kshs. 10,186.7 million last financial year.

PUBLIC FINANCE

35. It is noted that during the 2001/02 financial year, the total Government expenditure stood at Kshs. 313,550.8 million compared to Kshs. 270,068.2 million in 2000/01. The recurrent and development expenditures rose by 13.9 percent and 31.8 percent respectively. The current deficit was estimated at Kshs. 2,152.01 million in 2001/02 compared to a surplus of Kshs. 10,186.7 million in the previous fiscal year. The growth in current revenue was slower than that of current expenditure, increasing the deficit in the same period.

UNEMPLOYMENT AND POVERTY LEVELS

36. The Tribunal noted that the low economic growth rates registered over the recent decades and rapid population growth have contributed to the decline in real per capita income growth and resulted in increased unemployment and unprecedented poverty in all the Provinces it visited.
37. The Tribunal further took cognizance of the fact that of the 15.9 million Kenyans aged 15-64 years, 12.3 million are economically active representing 77.4 per cent. The employed population stands at 10.5 million with the rural areas accounting for 70.8 per cent. Those who were in paid-employment, earned an average of Kshs. 7,766.00 per month. The total unemployed population is estimated at 1.8 million with the urban areas accounting for 57.1 per cent. It is noted

that the overall unemployment rate stands at 14.6 per cent. The urban unemployment rate was 9.4 percent. The labour participation rate was found to increase with higher levels of education.

AGRICULTURE

38. Agriculture Sector's Gross Domestic Product (GDP) growth improved from a revised negative 2.1 per cent recorded in 2000 to positive 1.2 percent in 2001. The improved performance of the sector was largely due to good weather experienced during the year.

ENVIRONMENT AND NATURAL RESOURCES

39. The forest plantation area decreased from 147.2 thousand hectares to 120 thousand hectares signifying increasing deforestation. Fish landed increased by 5.3 percent from 202,276 tones in 2000 to 212,948 tonnes during the period under review. The quality of mineral production declined by 13.1 percent while the quantity increased by 31.4 percent from Kshs.3,600 million in 2000 to Kshs.4,800 million in 2002.

TOURISM

40. The global recession experienced in the year 2001 coupled with the aftermath of the September 11th terrorist attacks on the U.S.A. did not augur well for the tourism industry. The industry experienced mixed performance in 2001 when compared to 2000. However, despite a drop in the average length of stay, tourism earnings went up from Ksh.21,553 million in 2000 to Kshs. 24,239 million in 2001. The rise in earnings has partly been attributed to aggressive marketing by the Kenya Tourism Board (KTB) and trade-fairs held abroad.

ENERGY

41. The world's crude oil prices were maintained at low levels as a result of increase in production. Sales of petroleum products in the domestic market declined marginally by 2.6 per cent from 2,448.1 thousand tonnes in 2000 to 2,385.2 thousand tones in 2001. The total energy imports continued to dominate the total energy consumed in the country in 2001. Domestically produced energy increased by 16.4 per cent.

Total electricity generation went up from 4,178.9 Gwtt in 2000 to 4,338.4 Gwtt in 2001, an increase attributed mainly to improved weather conditions, which resulted in improved water levels in hydro-electric dams.

CONCLUSION

42. The Tribunal's scrutiny of the economy shows that during the years 1997 – 2001, the performance was not good. However, due to improved weather conditions and resurgence in tourism, there is hope that the modest growth already realized will be accelerated.
43. During the period under review, the purchasing power of the workers, Civil Servants, teachers and the Public at large was eroded drastically. This loss of purchasing power has played a significant role in lowering the morale of teachers, councillors and civil servants amongst many others. The Tribunal hopes that urgent measures will be taken to address this problem.
44. The Tribunal, therefore, was of the view that in order to meet the challenges that face the nation in the transition period, Members of Parliament who are law makers, representatives of the people and who are also keeping oversight on public expenditure and are expected to perform their duties effectively, should be facilitated to manage Parliament well, and be provided with office equipment to enable them be in a position to meet the enormous challenges facing them.

CHAPTER 3

METHODOLOGY AND APPROACH

45. Determining of emoluments is a complex undertaking. Establishing an appropriate level of compensation for Members of Parliament is therefore more complex because of the unique nature of their job. The heavy responsibilities and expectations the public place on Members of Parliament and the intense scrutiny they are subjected to exerts insurmountable pressure on them.
46. Given the challenging nature of the Tribunal's assignment, it was considered necessary to determine a systematic approach which would enable the Tribunal obtain the required information and data to facilitate its work. The Tribunal wrote letters to some individuals, private institutions, organized groups, Religious Organizations, Non-governmental Organizations, and published advertisement in the daily newspapers inviting them to submit written or oral presentations.
47. Cognizant of the need to give the people at the grassroots level the opportunity to present their views on the remuneration of their Members of Parliament, the Tribunal visited all the Provinces and held public hearings and interviews. Prior to the visits, notices were given through the print media notifying the public of the Tribunal's appointment and terms of reference and inviting members of the public and organizations to present their views at the designated venues or submit memoranda. A time table of the scheduled visits to the Provinces was included as part of the notices. The Provincial and District Headquarters visited were Machakos (2/4/2002), Kisumu (3/4/2002), Kakamega (4/4/2002), Nakuru (7/4/2002), Lodwar (8/4/2002), Mombasa (15/4/2002), Lamu (16/4/2002), Hola (17/4/2002), Nyeri (22/4/2002), Isiolo (23/4/2002), Embu (24/4/2002), and Garissa (1/7/2002).

48. After concluding the provincial visits and in between hearing sessions in Nairobi, the Tribunal undertook visits to selected foreign countries to familiarize itself with the criteria and procedures used in determining remuneration of Members of Parliament. The Tribunal took this opportunity to see some of the facilities placed at the disposal of Members of Parliament. Visits were made to India, Singapore, South Africa, Uganda and Tanzania. Documentation was received from Zambia and Canada on request, although the two countries were not visited. The Tribunal also received documentation and literature from the Commonwealth Parliamentary Association. This exposure greatly enriched the Tribunal's scope to authoritatively make comparative analyses of various levels of remuneration vis- a-vis the prevailing economic situations in the countries visited.
49. The Tribunal further undertook a systematic Literature Review of Reports of past Commissions on the salaries and allowances of Members of Parliament and the staff as well as the civil service. These reports were:-
- The D. N. Ndegwa Commission Report (1970 – 1971)
 - The Humphrey Slade Committee Report (1981)
 - The Omolo Okero Committee Report (1986)
 - The Julia Ojiambo Committee Report (1991 – 1992)
 - The William Odongo Omamo Committee Report (1994 - 1995)
 - The P.M. Munene Commission Report (1996 - 1997)
 - The Nyakiamo Committee Report (1996 – 1997)
 - The Benjamin Kipkulei Commission Report (July 1998 – September 1999)
50. The Tribunal also made reference to the following documents:-
- The Constitution of Kenya
 - National Assembly Standing Orders
 - The National Assembly Remuneration (Amendment) Act, 1994

- The current emoluments of Members of Parliament
- The current grading and salary structure for members of staff in the National Assembly
- The National Assembly (Powers and Privileges) Act
- The Parliamentary Pensions (Amendment) Act 1999
- The Parliamentary Service Act (No 10 of 2000)

51. On the basis of the interpretation of the terms of reference, visits and interviews in Kenya and abroad as well as extensive discussions among members of the Tribunal, a general conceptual framework and principles of remuneration for Members of Parliament and staff were arrived at and these have been used as focal points of reference in this Report.

CHAPTER 4

A CRITIQUE OF PAST COMMITTEE FINDINGS VIS-À-VIS THE TERMS OF REFERENCE OF THE TRIBUNAL

52. The Tribunal appointed on 11th February, 2002 by the Speaker, on behalf of the Parliamentary Service Commission, was charged with the mandate to review and make recommendations on the following:
- the terms and conditions of service of Members of Parliament:
 - the salaries, allowances and benefits paid to Members of Parliament:
 - the facilities available for the use of Members of Parliament in Parliament Buildings and in their constituencies.
53. In the middle of conducting the review and making the recommendations, the Parliamentary Service Commission gave the Tribunal additional assignments which, perforce, caused the extension of the period within which the Tribunal was to hand in its Report. The additional assignments were:
- to review salaries and allowances for members of staff;
 - to review salaries, allowances and retirement benefits for the following:
 - the President
 - the Vice President
 - the Speaker
54. The Tribunal considered the above terms of reference and found them extremely broad. An appropriate questionnaire was therefore developed after quickly going through some basic relevant literature on the past Review Committee Reports and several other documents such as the Constitution of Kenya, the National Assembly Remuneration (Amendment) Act, Cap. 5,

(Laws of Kenya), the Parliamentary Service Act (No.10 of 2000), the Standing Orders, etc.

55. Prior to 1981 when the Slade Committee was appointed, the salary, allowances and benefits of Members of Parliament had always been reviewed in-house. The appointment of Sir Humphrey Slade, who was the Speaker of the National Assembly between 1963 and 1969, marked the beginning of a trend where ex-Members of Parliament would be appointed to chair Committees to review salaries and allowances for Members of Parliament (1986 – the Omolo Okero led Committee, 1992 – the Julia Ojiambo led Committee and 1994 – the Odongo Omamo led Committee). This was thought to be the best way forward in that an ex-Member would have the advantage of personal experience of having served in the House while at the same time not recommending a package that would benefit him/her personally. Both Sir Humphrey and Mr. Omolo Okero had retired from active politics at the time of their appointments while Dr. Julia Ojiambo and Dr. Odongo Omamo are still active in elective politics.
56. One dominant issue which appeared to feature wherever the Tribunal went to take views is the issue of harmonizing salaries, allowances and benefits paid to public officers. This issue has appeared in all the past reviews of salaries, allowances and benefits paid to civil servants, parastatal employees and Members of Parliament.
57. Paragraph 33 of the Omolo Okero Committee Report emphasized that, and we quote:

“We wish to reiterate the need to have the salaries and allowances of Members of Parliament including Ministers and Assistant Ministers reviewed at regular intervals. This is important so that remuneration can be related to the changes in the cost of living. In paragraph (43) of the Slade Committee Report, it was recommended that future reviews be conducted at

regular intervals of two and half years. Waruhiu Report recommended salary reviews for Civil Servants at regular intervals of two years and that of Members of Parliament to be once every two and half years. We earnestly think that the two reviews should be carried out more or less at the same time. We recommend that reviews of salaries and allowances for Members of Parliament be done every two years."

58. Paragraph 24 of the Julia Ojiambo Committee Report noted that, and we quote:

"The Committee has also considered the current practice in Westminster, in the United Kingdom, where salaries and allowances of Members of Parliament are linked to some specified grade in the Home Civil Service. As a result of this juxtaposition, every time the Civil Servants are awarded a pay rise, the Members' salaries rise by the same margin. This Committee deliberated at length on the same procedure, in particular because the current practice in this country is very different from that at Westminster. The Committee concluded that the current practice where a Committee is appointed periodically to review Members' salaries and allowances should remain, and that where economic circumstances allow, review should be carried out every two years."

59. The Odongo Omamo Committee reported that, and we quote:

"The Committee observed that it has been a practice that whenever an ad hoc Committee is appointed to review terms and conditions of service for the Civil Service, a similar arrangement is put in place with regard to terms and conditions of service of Members of Parliament. Almost every person who appeared before our Committee or sent memoranda put a strong case for the establishment of a permanent mechanism for

determining terms and conditions of service of Members on regular basis instead of the current practice of appointing ad hoc committees. The arguments presented to the Committee invariably pointed towards the establishment of a Parliamentary Remuneration Review Committee."

Indeed, the Odongo Omamo Committee noted the **"unique constitutional relationship"** between Members of Parliament and civil servants with regard to a systematic review of their terms and conditions of service. It further noted that **"the machinery for determining Members' remuneration has all along followed soon after similar reviews for the Civil Service. It was not a coincidence, therefore, that the Waruhiu Commission of 1980 was soon followed by the Slade Committee of 1981; the Ramtu Commission of 1985 was followed by the Omolo Okero Committee of 1986; and the Mbithi Commission of 1991 was followed by the Julia Ojiambo Committee of 1992."**

60. In fact, the Mbithi Commission Report said in paragraph 17 that, and we quote:

"While the Committee understands and appreciates the economic circumstances and constraints of the period, it is our view that frequent salary review be undertaken in future so that the impact of the rising cost of living is reduced."

61. When multi-partyism set in, things changed. The Odongo Omamo Committee, which was appointed in 1994, was followed by this Tribunal appointed in 2002 - eight years later! These eight years have been the most difficult period for the national economy since independence.
62. For the civil servants, the Mbithi Commission was followed by the Munene Commission of 1996/97 and the Kipkulei Commission of 1998/99. The Munene and Kipkulei

Commissions traced the causes of economic decline in Kenya from the 1973 *Yom Kippur* War that gave rise to the oil crisis, to the Desert Storm (the Gulf War of 1991), the Structural Adjustment Programme imposed upon Kenya by the Bretton-Woods institutions which forced the Government to liberalise the economy thereby exposing Kenya's products to competition from the international markets leading to the closure of several factories, high inflation, mass unemployment and decline in agricultural incomes due to importation of cheap food stuffs and agricultural produce; tribal clashes and the process of adaptation to multi-party politics; the freeze on all donor aid to Kenya due to alleged poor governance, corruption and unacceptable human rights record, etc.

63. The Commissions called for sound management of the economy by strictly controlling Government expenditure while broadening the tax base and strengthening tax administration in order to increase revenue and thus balancing the national budget. They noted that it would be foolhardy for the Government to take measures to improve standards of living of public servants but fail to take commensurate measures to improve the economy. The Commissions argued that salary increase misses the point if it is only adjusted to cover or compensate the erosion caused by inflation on the workers' income.
64. Salary increase should neither be based on one's life style nor on the officer's personal responsibility. This is more so because the basis for employing a public officer including a Member of Parliament is to provide service to the public and not to create personal enrichment. It is the services these officers render to the public that create productivity in the economy. Productivity increases wealth creation and therefore will cause salaries to go up. If we consume everything we produce and lack the surplus to invest, the public workforce would become a big economic liability and unsustainable.
65. The Kipkulei Commission further noted that, and we quote:

"The Commission received overwhelming representation regarding the establishment of a mechanism that will be able to review and harmonise remuneration in the entire Public Service on a regular basis. The Commission therefore recommended that:

- **"A permanent Public Service Pay Review Board be established to be reviewing Public Service remuneration annually; and**
- **"This body should be independent of the proposed Public Service Authority (PSA), as discussed in Chapter 10, Parliamentary Service Commission and the Judicial Service Commission."**

66. The Kipkulei Commission Report further stated in paragraph 554 that, and we quote:

"The Commission's inquiry revealed that public sector organizations comprise the Civil Service, Teaching Service, State Corporations, Disciplined Services, Judiciary and Local Authorities. These are organizations which are primarily rendering services to the public and are financed and/or were developed through government funds. The Commission noted that although the name Public Service exists, the organizations under it are largely independent and diverse in terms of service."

67. The need to harmonise salaries paid to public officers is necessitated by the fact that all these salaries are paid from public funds. Members of Parliament, in this regard, are also public officers. There must be some meeting point of reviewing salaries, allowances and other benefits paid to public officers notwithstanding the stipulation of section 23 of the Parliamentary Service Act under which this Tribunal was appointed. This is because there is the issue of affordability

and sustainability of every salary increment in the Public Service and the issue of equity of treatment and pay benefits to all public officers so as to avoid dissatisfaction and discord.

68. For the public to feel satisfied that it is they who "authorize" the salaries that Members of Parliament earn and the types of allowances they are paid, it is vitally important for the various allowances paid to Members to be clear, definite and easy to understand. The Tribunal was keen to find out the rationale for each allowance paid to a Member of Parliament by probing into the origin of each allowance and how it has been handled by each of the past review Committees. The Tribunal came to the conclusion that it is not possible for an average member of the public to understand clearly the meaning of each allowance paid to Members. This is particularly true of the Transport Allowance and the Mileage Allowance. The situation has been made worse by the fact that at the moment, there are two Acts of Parliament which deal with salaries and allowances of Members of Parliament. As if that is not enough, Treasury has traditionally negotiated with Parliament over the years with regard to Mileage Allowance and Transport Allowance as evidenced by the following review Reports:

69. Paragraph 25 of the 1986 Omolo Okero Committee Report stated that, and we quote:

"Mileage Allowance rates for Members of Parliament have in the past been authorized by Treasury..... We find this basis of awarding mileage allowance sound and we recommended it continues to be used."

70. The same Report added in paragraph 27 that, and we quote:

In accordance with the National Assembly Remuneration (Amendment) Act, Cap.5 Rev.1982, **"transport allowance" is defined as "an allowance at the same rate as the transport allowance for the time being applicable to Government officers or, if there is no rate applicable" to**

75. The next paragraph, after the above one in the Odongo Omamo Committee Report, talked about **"Travelling Mileage Allowance for Members"** as being low and does not reflect the escalating maintenance costs. The rates are based on the engine capacity of the car per kilometre covered and also take into account the road conditions in various parts of the country... **"However, the payment of this allowance is not provided for in Cap. 5 but it is nevertheless regularly reviewed by the Sessional Committee when the need arises..... The Committee recommends that the current arrangement of reviewing the allowance by the Sessional Committee continues"**.
76. This raises the question as to the role of the Sessional (or House Business) Committee established under Standing Order No.145. Its function is **"to consider such matters as may from time to time arise in connection with the business of the House."** Would allowances paid to Members of Parliament constitute the business of the House? This can only be done if it is contained in a Bill to amend Capt 5 of the National Assembly Remuneration (Amendment) Act, 1994.
77. However, the Speaker's Committee established under the provisions of Standing Order 150(2) has very wide powers, and we quote:

"The Speaker's Committee shall consider, advise, and report on all matters connected with the welfare of Members of the National Assembly and its staff"

This truncated authority to look into the Members' welfare and their salaries, allowances and benefits is fraught with danger. The country can ill-afford a situation where the Speaker's Committee, the House Business Committee, Treasury and the Parliamentary Service Commission, through various Standing Orders and Acts of Parliament, all seem to have some role to play in the adjustment of salaries and allowances of Members of Parliament without co-ordination or consultation. When a

fluid situation arises, like it did in July, 2000 in connection with the sharp and dramatic increment effected on Transport Allowance, nobody was prepared to accept responsibility.

78. The Tribunal noted the difference between House Allowance and Accommodation Allowance and the reasons why the Vice President, the Speaker, Ministers, Assistant Ministers and Deputy Speaker are paid the former while the Backbenchers are paid the latter. The Accommodation Allowance for Backbenchers was created by the Omolo Okero Committee at the rate of Kshs.3,000/= per month. Both the Julia Ojiambo and Odongo Omamo Committees upheld the differentiation between the two types of allowances. The Tribunal received some evidence in the Provinces to the effect that Members of Parliament were not sent to Nairobi to stay there. Their homes must continue to be in the constituencies and therefore they should not be encouraged to settle in Nairobi.
79. Nevertheless, the nature of a multi-party Parliament has created and generated a lot more business for Backbenchers. They chair and attend various Committee meetings even when the House is on recess. The Members' Housing Mortgage Scheme Fund was gazetted while the Tribunal was still compiling this Report. There is no doubt that this issue has to be reviewed in the light of the present busy schedule that most Members of Parliament have in attending Committee meetings and travelling across the country and abroad. Members of Parliament should be remunerated so as to access secure and appropriate accommodation in the city of Nairobi since the volume and types of violent crimes have greatly increased.
80. To sum up on the issue of salaries and allowances for Members of Parliament, all the immediate past four Review Committee Reports are both eloquent and unequivocal about it. The job of a Member of Parliament is a selfless job for which no amount of money would be enough to compensate for the inconvenience, the risks and the bother the job entails. After analyzing the role of a Member, the Slade Committee Report concluded that

to be a Member of Parliament is more of a calling, that they **"should serve with dedication, and part of their reward should lie in the honour and interest of that service."** The Omolo Okero Committee Report added **"when one therefore analyses the totality of the situation within which the Member of Parliament operates, no amount of remuneration can adequately reward or compensate him for the responsibilities he is expected to shoulder"**. The Julia Ojiambo Committee Report maintained that **"...remuneration *per se*, however large, would never be enough to make up for all that must be undertaken in carrying out and accomplishing the duties of the office of a Member of Parliament."** The Report concluded by recommending that there is **"the need to develop a standard basis for the remuneration of the Members ... It is our considered opinion that any attempt to design such a standard should address itself squarely to the compensatory element rather than to that of reward."** This would aim **"at creating an environment in which the recipient of the pay package would be able to live in a manner commensurate with the status that the particular job offers"**. The Report went ahead to warn that this **"should not place the Member in a position where he must run down his personal resources in order to fulfill his public duties"**.

81. The Odongo Omamo Committee Report **"noted that Members are not necessarily motivated by financial or material rewards when they seek elective positions. Rather, they are motivated by patriotic zeal to serve their people and country Any remuneration given to Members of Parliament is therefore more of a token of appreciation of their contribution in nation building than compensation for their work."**
82. The Tribunal therefore took great and keen interest in interpreting the meaning of terms of service for Members of Parliament. In doing so, the Tribunal took into account the

traditional roles assigned to each of the three branches of Government which is enshrined in the Constitution of any democratic country.

83. The role of the Legislature *inter alia*, is to make laws, deliberate on public policies, debate and pass the budget and to represent the people. In doing all this, it is an accepted democratic practice that Parliament must therefore hold Government to account. It must bring to the attention of the Executive the citizens' grievances against it through Questions, Motions, Bills and literally any debates that take place in the House. Parliament is the representative of the people and the Executive is accountable to the public through Parliament. It is for this reason that when Parliament loses confidence in the Government, that Government must pack up and go back to the voters to seek fresh mandate.
84. Arising from the above observations regarding the constitutional role of the Legislature, it is apparent that the main occupation of every Member of Parliament should be to ensure that Parliament enacts good laws that uphold the dignity of the people. On their election to Parliament, Members take an oath before the Speaker promising to protect and defend the Constitution of Kenya. The Constitution of Kenya gives Parliament the custody of public funds in that the Executive cannot withdraw even a single cent from the Consolidated Fund without parliamentary approval. Members of Parliament must therefore check the insatiable appetite of the Government for more money, which in some cases is not in public interest.
85. It is therefore unfortunate that in Kenya today, a Member of Parliament is sometimes seen as a "mobile bank". The voters go to their Members when they run short of school fees, when they do not have enough money to bury their dead or hold pompous weddings. When a roof of a classroom is blown off by wind, the public rush to their Members of Parliament. A Member's car is sometimes used as an ambulance. The public

has therefore aided in subverting the constitutional role of Members and this was abetted almost by all the past four Reports on Members' pay.

86. For example, the Omolo Okero Committee Report said that, and we quote:

"At the beginning, Members of Parliament were seen as warriors who had fought for independence. At the time of independence, the role of Members of Parliament changed to that of development agents. This change in the role of Members of Parliament has meant a greater expectation of services by the members of the electorate from their Members of Parliament. A Member of Parliament has to initiate and monitor implementation of development projects; contribute substantially in Harambee funds drives; participate fully in District Development Committee meetings; and attend to people's individual problems among other functions."

87. The Julia Ojiambo Committee Report acknowledged in paragraph 27 the **"Government's wish to have closer administration"** which had **"resulted into substantial enlargement of Government establishment. Similarly, we have noted that, coupled with that enlargement has been the introduction and implementation of the District Focus for Rural Development Strategy. The inevitable consequence of these two developmental approaches has been the increase in the responsibility of Members in the initiation, planning, implementation and monitoring of development projects. We have examined this item of Members' remuneration and find that it should be increased to compensate Members for the cost of meeting their extra responsibilities."**

88. The Odongo Omamo Report, while commenting on Responsibility Allowance, remarked that **"To enable the**

Members to support the needy and also initiate, plan, implement and monitor development projects in their constituencies, the Committee felt that the current level of this allowance need boosting to relieve the financial burden of Members."

89. The Tribunal asked members of the public who appeared before it their views about the role of Harambees especially the ones conducted by the President, Ministers, Assistant Ministers, Members of Parliament and other officers in the Public Service. All agreed that the Harambee spirit has been abused, commercialized, politicized and subverted. Although it should not be abolished, there must be codified conduct that would guide the role of those involved in conducting Harambee fund drives. The Tribunal was informed that sometimes, especially on Thursdays, Members of Parliament are forced to desert their legislative responsibilities in Parliament Buildings to "raid" friend's offices in the city soliciting for Harambee contributions. The Tribunal was informed that the Harambee fund drives have placed a very heavy financial burden on Members of Parliament and many of them are of the view that something should be done about it.
90. The Tribunal noted the previous Reports which bestowed upon Members of Parliament the responsibility of initiating development, providing services and implementing projects in their constituencies. These functions appropriately belong to the Executive. Taxes are raised by and paid to the Government to enable it provide the services required by the public. The correct constitutional position so far has been that each Member of Parliament should monitor development projects in his/her constituency and in the whole country with a view to ensuring that the funds voted by Parliament to run these projects are not misappropriated or outrightly embezzled. That is what they are paid to do.
91. The Tribunal also looked at the issues of Pension Scheme and Medical Insurance Scheme for Members of Parliament. There

were some serious inconsistencies and problems facing the implementation of the Members' Pension Scheme but the Tribunal is happy to report that on their own initiative, Members convened an informal meeting outside the Chamber and sorted out all these issues. An appropriate amendment was therefore drafted in the Statute Law (Miscellaneous) Amendment Bill which sailed smoothly in the House while the Tribunal was still compiling this Report.

92. Regarding Medical Insurance Scheme and Group Personal Accident Insurance Cover, the Tribunal noted that the two Schemes were contributory since 2000 and there is no contribution from the public funds and yet out there, the media had created the impression that all this has been awarded to Members of Parliament using public funds. A strong representation was made to the Tribunal that these costs should be met from public funds because Members of Parliament are public officers whose health should be a matter of concern to the tax payers.
93. Finally, the Tribunal was impressed by the comment of previous review Committee Reports on the facilities available for Members' use both in Nairobi and in the constituencies. The rationale for going into the Provinces was to hear from the public what they thought about this issue. Paragraph 17 of the Omolo Okero Committee Report was on Constituency Allowance. It noted that, and we quote:

"Numerous views and opinions have been expressed in support of an increase of this allowance. We are aware that Members of Parliament are expected to operate mainly from their constituencies. We are equally aware that for them to operate efficiently and effectively, they need to establish offices in their constituencies, man and equip them as well as travel a lot within their constituencies. We have information that many Members of Parliament do not have Constituency offices.

This situation cannot be explained entirely on the cost involved in establishing a constituency office."

94. The same Report proceeded to state in paragraph 18 that **"a serious and dedicated Member of Parliament would need a Constituency Office, properly manned and equipped. Since the running expenses should be borne by the Member himself/herself from the Constituency Allowance..... it is recommended that Constituency Allowance..... be increased by 48%..... It is our strong hope that with the increase in the Constituency Allowance, all Members of Parliamentwill open constituency offices as well as travel adequately within the constituency to justify this increase in the allowance".**

95. Paragraph 34 of the Julia Ojiambo Committee Report is on Constituency Allowance. It stated that, and we quote:

"This Committee has been informed that it is now necessary for the Member of Parliament to have an office in his Constituency in order to enable him/her carry out work in an efficient manner. This Committee is of the opinion that the cost of building such an office should appropriately be borne by the Party, so that it remains a Public Office to be used by whoever happens to be serving the Constituency as the Member of Parliament at any particular time. Consequently, pursuant to our state acknowledgement of the increased duties and responsibilities of Members in their constituencies and home districts, this Committee recommends an increase in their Constituency Allowance of 20%".

96. However, the Odongo Omamo Committee looked at the Constituency Allowance from a different angle. It noted that, and we quote:

"After considering all the views expressed by the Members of Parliament and other prominent personalities who appeared before our Committee, we have formed the opinion that Members should be assisted financially in order to be able to make more extensive tours of their constituencies, to review development projects as well as to listen to the problems of the electorate and also to consult them on how best to represent their views and wishes in Parliament. The Committee, therefore, feels that a modest increase of 20% in the present rate of this allowance will be adequate to assist Members in improving their services to the electorate."

97. The question is: was this allowance intended to assist Members open and run their offices in the constituencies or was it intended to assist them tour their constituencies? The Tribunal expressed great concern about the lack of clarity on the various allowances paid to Members of Parliament and it took it upon itself to come up with a Report that would not leave anybody in doubt as to what each allowance paid to a Member of Parliament is supposed to cater for. Allowances should be definite, distinctive and clear. The Kipkulei Commission Report noted in paragraph 116 that, and we quote:

"Our findings indicated that there was a trend of uncontrolled proliferation of allowances given to employees especially at the levels of Chief Executive and Senior Management. Cases were cited where remunerative allowances alone were a very high proportion of basic salary, in a number of cases exceeding the basic salary....."

"We were informed that the proliferation of these allowances was sparked off by the fact that basic salaries remained low and were not reviewed to cope with inflationary trends. The allowances were therefore,

revised to compensate employees where basic salaries had failed to do so.....".

98. Regarding facilities for Members' use in Nairobi, the Julia Ojiambo Committee Report was quite explicit. Her Committee noted that, and we quote:

"There is no doubt in the Committee's mind that facilities and services in the form of Office Accommodation, Telephone, Research facilities and a Library have become part and parcel of the requirements of an effective Legislature and Legislators.

"The Committee was informed that in order to provide these facilities and services, there were plans to augment the accommodation within Parliament Buildings. These plans included the arrangement for the acquisition of the Nairobi City Commission's County Hall In addition to that, the two plots adjacent to County Hall had been acquired for future expansion of office accommodation. The Committee was informed that these plans have been lagging behind since 1981 while other plans to erect buildings on the two adjacent plots were still far from implementation."

99. The Committee further noted that, and we quote:

"It was very clear that for Members of the National Assembly to make effective contributions to the increasingly complex matters arising in the House, they needed to be fully informed.

"Therefore adequate research facilities are regarded as a necessity"

100. It further noted that, and we quote:

"The Committee was informed that accommodation in the present Library was insufficient even for cursory use by the current population of Members and staff. Previous plans to expand the Library by putting up a Humphrey Slade Parliamentary Memorial Library do not seem to have materialised."

101. On the use and access of telephones, the Julia Ojiambo Committee Report in paragraph 45 recommended that **"each Member to be limited to Kshs.1,000/= per month of telephone use at Government expenses; and any extra cost to be borne by the Member."** The Odongo Omamo Committee noted that, and we quote:

"The Committee was happy to learn that the National Assembly has already acquired the County Hall.... The Committee was informed that once the offices are ready for occupation, Members will be considered for limited office accommodation and secretarial services on shared basis. We consider this to be a step forward in the right direction and we look forward to the time when all our legislators will have an office and support staff in Nairobi.

"The Committee was informed that provision of office accommodation for Members will not be an end in itself unless it is complemented with appropriate support staff to assist Members in their endeavours to provide services to the electorate. It was pointed out that the schedule of a Member of Parliament is very hectic and he cannot handle it alone. Views were expressed that in order to be able to organise the activities of Members at constituency level when they are attending Parliamentary Sessions in Nairobi, there was genuine need for a Constituency office to have a typist and a research clerk (assistant). In addition, Members also requested for personal drivers since most of them drive

long distances between constituencies and Nairobi which posed serious dangers to their lives due to fatigue.

"The Committee is sympathetic with views expressed by the Members and has accordingly taken them into consideration in its various recommendations. The Committee would like to urge the Members to devote part of the increased allowances to hire their own staff."

102. As already mentioned above, the mandate of the Tribunal was expanded midstream. On review of salaries and allowances for members of staff, the Tribunal interpreted its mandate on this to include looking at the structure of staffing and the attendant relationship with new offices that are to be created. There was also plenty of literature on the subject from the Odongo Omamo Committee Report which stated that, and we quote:

"The Committee was further asked to address itself to the plight of staff of the National Assembly who have to put up long hours of work to ensure that the legislative process is carried out smoothly and without any impediments. The Committee received strong representations that the duties of the staff of National Assembly cannot be equated or even compared with those of their counterparts in the other departments of the Civil Service. It was the feeling of those who spoke on this issue that these special circumstances of the members of staff of the National Assembly ought to be recognized in their terms and conditions of service. It was pointed out that the only way in which this special status could be recognised is through the establishment of an independent Parliamentary Service Commission, along the lines of the Public Service Commission and the Judicial Service Commission, to determine the terms and conditions of service of the members of staff."

103. The Tribunal is satisfied that the inquiry it conducted on staff matters more than responded to the issues which were raised by the Odongo Omamo Committee.
104. Regarding the salaries, allowances and retirement benefits to be paid to the President, Vice President and the Speaker, the Tribunal once again found these issues had been addressed by almost all the previous review Committees, especially with regard to the President. Both the Slade and Omolo Okero Committee Reports had urged Parliament to expeditiously review the President's salary and allowances. This was done in 1986. The Julia Ojiambo Committee felt extremely concerned that there was no pension scheme for the President. Consequently, it **"recommended that the Government should urgently work out a Pension Scheme for the President; and further that the pension scheme be backdated to cover the heirs of our first President. Also, it is our considered opinion that future reviews of the President's salary and allowances be carried out at intervals as recommended for Members of the National Assembly."**
105. The Odongo Omamo Committee came up with the same ideas about the President's salary, allowances and retirement benefits except that it went further to quote the provisions of section 9 of the Constitution which, in brief, limit the President to hold office for only two terms of five years each and forbid him/her from holding any other office for profit; and section 13 which vests the power of determining his/her salary, pension, gratuity and other allowances, in the National Assembly.
106. The Tribunal went further to ask the respondents who appeared before it to give views about the life style and the decorum they would like to see a retired President live.
107. In conclusion, the Tribunal found out that while the Government had implemented some recommendations of past review Committee Reports, other far reaching recommendations made

on several occasions including by Civil Service Review Commission Reports like harmonisation of pay for public officers, etc, had not been implemented. The Tribunal is also of the considered opinion that a decision has to be made whether a Member of Parliament will be equated to a chief executive of, say, a corporation so that his/her pay could be commensurate with the pay of people who occupy such similar positions.

CHAPTER 5

CRUCIAL ISSUES ARISING OUT OF THE TRIBUNAL'S VISITS TO PROVINCES AND OVERSEAS

PROVINCES:

108. During the provincial visits, the Tribunal came across a general sense of hostility from members of the public towards Parliamentarians' salaries. This was mainly due to the hefty Transport Allowance they had awarded themselves without invoking Section 23 of the Parliamentary Service Act. (No. 10 of 2000). Other reasons for this hostility include:

- Failure by Parliamentarians to take cognizance of the prevailing economic situation before awarding themselves the increase, despite the fact that GDP had been less than 1% for the previous three (3) years. The total package received by a Member of Parliament which in 1995 was Kshs. 177,033.30 increased to Kshs. 395,033.30 in the year 2000.
- They had awarded themselves hefty Transport Allowance while ignoring the feelings and predicament of the teachers, nurses, civil servants and the general public.
- Failure by some Members of Parliament to visit their constituencies as often as expected to justify their pay.
- Lack of serious commitment resulting in a few number of Bills being passed compared to other Parliaments in the region. For example, in the year 2001, Kenya Parliament passed only 11 Bills compared to 58 by Tanzania; 60 by Zambia and 38 by Uganda. It was, however, pointed out that the reason for this was partly due to the drafting process in the Attorney General's Chambers and frequent lack of quorum which was again attributed to lack of commitment by some Members including Ministers.

OVERSEAS TRIPS

109. **INDIA - Thursday, May 16th 2002 - Friday, 17th May, 2002**

The Tribunal toured India on the above dates and met the Secretary-General of LOK SABHA among others. During the discussions, the following issues emerged:-

Bureau of Parliamentary Studies and Training

Activities:

- Organizing orientation programmes, refresher courses and seminars for Members of Parliament and State Legislatures and their staff.
- Organizing training attachments and study tours for Presiding Officers, Members and Officers of Foreign Parliaments.

Constituency Development Fund - Members of Parliament initiate the projects to be funded but have no physical control over the money allocated for the projects.

Educational Standard: No basic educational requirement as long as the candidate is sane, 25 years old and is a citizen of India.

EMOLUMENTS AND FACILITIES FOR MEMBERS OF PARLIAMENT

- **Salary** - Rupees 12,000 per month
- **Daily allowance** - Rs 500 per day on actual attendance.
- **Constituency allowance** - Rs 10,000 per month

- **Office Expenses** - Rs 14,000 per month for stationery, postage and hire of secretarial services.
- **Travelling Allowance** - For attending Parliamentary Sessions, Committees or other related functions as follows:-
 - By rail - one first class and one second class fare ticket.
 - By road - eight rupees per Kilometer
 - Air journey - 32 single air journeys during a year (with spouse or relatives)
 - **Railway pass** - one free, non transferable, first class air conditioned or executive class by any railway in India.
- **Telephone** - 2 free telephones (one at Delhi residence and one at constituency residence), 50,000 free local calls per year on each of the telephones (i.e. 100,000 calls a year)
- **Accommodation** - free flat (living quarters) during the Parliamentary term.

Note: 1 rupee = Ksh.1.50. (approx.)

110. **SINGAPORE: (Sunday 19th May - Tuesday 20th May, 2002**

The Tribunal visited Singapore from Sunday, 19th May 2002 to Tuesday 20th May, 2002 and met the Clerk of the National Assembly. During the discussions, the following issues emerged.

Emoluments for Members of Parliament: Salary - Singapore dollars \$10,730.81 per month (Taxable)

Other Benefits:

- Mid year bonus.
- Non-pensionable annual allowance.
- Medical facilities for self and family.
- Travel business class or economy.
- Singapore dollars \$350 per month for hire of Legislative Assistant and Singapore dollars \$1000 per month for hire of secretarial staff.

Note: 1 Singapore dollar \$ = Kshs.40.00 (approx.)

111. **SOUTH AFRICA (Tuesday, 28th May, 2002 - Saturday 1st June, 2002)**

The Tribunal toured South Africa from Tuesday, 28th May, 2002 to Saturday 1st June, 2002. We had a meeting with Clerk of the Union Parliament in Capetown, toured Parliament Buildings and we were privileged to have been invited to attend a special session of Parliament where His Excellency President Thabo Mbeki, answered questions from Members.

The Tribunal also visited Gauteng Provincial Legislature on Friday, May 31st, 2002 and held fruitful discussions with the Deputy Speaker, Members of the Legislative Assembly and also toured Legislative Assembly Buildings. During our discussions, the following issues emerged:-

- A Member of Parliament's work is a full time job.
- Deliberate Affirmative Action and hence inclusion of women at all levels of governance - 1/3 of all representation is women. The Speaker and Deputy Speaker are both women.
- The Parliament of the Republic of South Africa has established a Constituency Development Fund which is paid directly to and administered by political parties.

- It was further noted that for a Member of Parliament to be a Director in any organization, he/she has to clear with the Speaker for approval.
- Disclosure of personal interest including business interests of the Member's spouse is mandatory.

EMOLUMENTS:

Three tier system of Parliament, i.e., the National Council of Provinces, the Union Parliament and the Provincial Legislatures. Salaries and allowances are therefore different and are also determined by the number of years served.

112. **UGANDA - (Sunday 16th June, 2002 - 18th June, 2002)**

The Tribunal visited Uganda between Sunday 16th June, 2002 to 18th June, 2002 and had a meeting with the Speaker, Deputy Speaker and Parliamentary Service Commissioners. The following issues arose during the said meeting:-

- The Parliamentary Service Commission has established Parliamentary Professional Development Office whose functions are:
 - To co-ordinate all donor assistance to Parliament
 - To conduct training and capacity building programmes for Members of Parliament and staff.

BUDGET OFFICE:

The Parliamentary Service Commission has established a Budget Office whose functions are: -

- Advising Parliamentarians on economic policy issues.
- Scrutinizing the budget.
- Analyzing proposed Government programmes and their financial implications.

PARLIAMENTARY REPRESENTATION

Parliament is composed of 214 elected Members. Out of this number, 12 are women.

AFFIRMATIVE ACTION

Special Interests

Another ninety one (91) seats are distributed as follows to take care of special interest groups:

- 56 District women representatives, one elected from each District
- 5 youth representatives
- 5 workers' representatives
- 5 persons with disabilities
- 10 representatives from the army
- 10 ex-officio Members

POWER OF RECALL

A Member of Parliament can be recalled if he/she is mentally unsound. In all other cases, the aggrieved parties have to collect signatures of $\frac{2}{3}$ of all registered voters to warrant an investigation and eventually if found guilty, he/she is recalled and thereafter, a by-election follows.

EMOLUMENTS FOR MEMBERS OF PARLIAMENT

- Salary - Ushs.1,461,000/- per month.
- Gratuity - 30% of the annual salary and 40% payable to Ministers on retirement.
- Mileage - Ushs.1042/- per kilometre on murrum and Ushs. 868/- per km on tarmac.

- Subsistence Allowance - Ushs. 104,000/- per day when Parliament is sitting.
- Constituency Mobilization Allowance;
 - . Ushs. 150,000/- per month
 - . Ushs. 200,000/- per month for Members representing special interest groups.
- Sitting Allowance for Committee meetings;

Chairman	- Ushs.15,000/- per sitting
Vice-Chairman	- Ushs.12,500/- per sitting
Members	- Ushs.10,000/- per sitting

No sitting allowance is paid in respect of attending proceedings of the House.

- Members of staff in Parliament are better remunerated than civil servants. However, there is a move to harmonize the pay structure.
- Parliamentary work is a full time job.
- Senior appointments are proposed by the President but Parliament vets the appointees.

Other perks are as follows:-

- Ushs. 20 million as Government contribution to each Members' Transport Facilitation Scheme.
- Ushs. 3.12 million per month consolidated subsistence allowance paid to Ministers.
- Ushs. 3.43 million and Ushs. 2.85 million taxable consolidated monthly salaries paid to the Speaker and

Deputy Speaker respectively attracting an annual gratuity of 40%.

- Ushs. 3.12 million per month paid to the Speaker and Deputy Speaker as consolidated subsistence allowance.
- Medical Allowance - Ushs. 2.4 million per year (taxable)

Note: Exchange rate is 1 Ksh = 22 Ugandan shillings (approx.)

113. TANZANIA (Wednesday 19th June, 2002 to Saturday 2nd June, 2002)

Affirmative Action:

There is deliberate affirmative action with 24% of all parliamentary seats allocated to women through their respective political parties. Women hold key ministerial positions in the Government.

- **Parliamentary Calendar** - This is determined by the House Business Committee which is chaired by the Speaker.
- **Role of the Prime Minister** - The Prime Minister, who is the Leader of Government Business is always present to answer questions in the House.
- **Speaker** - The Speaker is elected by Parliament and is number three in the national hierarchy of rank coming after the President and the Vice-President.

EMOLUMENTS FOR MEMBERS OF PARLIAMENT

- **Salary:** Tshs.500,000/- per month.
- **Constituency Allowance:** Tshs. 500,000/- per month
- **Members of Parliament without constituencies:**

Tshs.170,000/- per month

- **Jimbo Allowance (Fuel and repairs within the Constituency) :** Tshs.25,000/- per month.
- **Sitting Allowance:** Tshs. 20,000/- per day.
- **Subsistence Allowance:** Tshs. 40,000/- per day.
- **Car Scheme:** Tshs.24 million - half of it is Government grant.

LEADER OF OFFICIAL OPPOSITION:

Emoluments: Same as the other Members of Parliament.

BENEFITS:

- **Housing:** A furnished rest house in Dodoma with security provided.
- **Telephone Allowance:** Tshs. 65,000/- when Parliament is in session.
- **Electricity Allowance:** Tshs. 100,000/- when Parliament is in session.
- **Chauffeur driven car**
- **Office and all the required facilities therein.**

RETIREMENT BENEFITS FOR THE PRESIDENT

A retired President is entitled to the following: -

- **Pension:** 80% of the salary of the incumbent President.
- **Gratuity:** 50% of the total sum received by him/her as salaries when he/she was in office.
- **Winding Up Allowance:** Equal to the amount that would be received as salary in 24 months by the incumbent President.
- Diplomatic passport for him/her and spouse.
- Health Insurance Policy for medical treatment within the country.
- Two motor vehicles to be provided by the Government.

- A furnished house (with not less than 4 bedrooms).
- First class air ticket for self, spouse and two assistants when on official Government missions.
- Monthly maintenance allowance equal to 80% of the salary granted to the incumbent President.
- Security and protection for him/her and immediate family.
- One personal assistant, one secretary, one office attendant, cook, laundry man, domestic servant, gardener, two drivers, and use of VIP lounge.

QUORUM - The location of Parliament in Dodoma has contributed to almost 90% attendance by Members of Parliament because Dodoma has less outside attractions.

**COMMENTS BY THE PRIME MINISTER OF TANZANIA -
THE HON. FREDRICK SUMAYE, M.P.**

- The Prime Minister commented that the Kenya Parliament has set a precedent in salary hikes and as a result there is a lot of pressure from the Tanzanian Parliamentarians for similar consideration, which their economy cannot sustain.
- The salaries of Members of Parliament for the three East African countries should be harmonized before the formation of the East African Federation.

Note: 1 Kshs. = 12 Tanzanian shillings (approx.).

COUNCILLORS

114. At this stage we feel constrained to bring to the notice of Parliament the financial plight of the councillors in a majority of the areas we visited. We are aware that we are laying ourselves so obviously open to the accusation of having stepped outside the confines of our terms of reference - perhaps an outrageous act of imprudence. But once in a while, an occasion of pathos does arise that will render a Tribunal like ours helpless and make it do what it certainly never would have done otherwise. **At most of our provincial meetings, we found the councillors bemoaning their poverty because the revenue obtained from their only source of allowance which was the cess imposed by the local authority, was so inadequate that most of the time, the councillors received only a part of their monthly allowance and sometimes not even that. The members of the public supported them in this complaint.**
115. Both the councillors and the members of the public everywhere drew attention to the fact that between a Parliamentarian and a councillor, the latter in his/her particular area was the one who, as an elected representative, was not only closer to the voters at grass-root level, but also better placed to sense the need for, then to plan the initial steps and eventually supervise at first hand the execution of a needed community project. These functions were complementary to those of a Member of Parliament. Like a Member of Parliament, a councillor is also under intensive financial pressure for assistance in social problems such as funerals, school fees, medical bills, harambees, etc. A fact which every Parliamentarian is well aware of is that without the support of councillors in his/her constituency, entry into the House in certain cases for him/her would ever remain a dream. It was a moving plea from councillors everywhere that the deplorable amount of pittance that they receive by way of allowances needed urgently to be increased and further that the Government should take over the responsibility for the payment thereof or at least make up

for any short-fall in the amount of allowance on account of insufficient revenue collected from the cess. We once again stress that it was not even for a moment our intention to make any recommendation on this topic and we do not make any. It was only on account of the pathetic financial state of this category of people's elected representatives that was forcefully brought to our notice at almost every meeting that we have ventured merely to bring the same to the notice of Parliament.

CHAPTER 6

HARAMBEE/CONSTITUENCY DEVELOPMENT FUND

116. The spirit of Harambee is a phenomenon that is unique to Kenya. At least it was neither known in any of the Commonwealth countries that we visited, nor is it mentioned anywhere in any of the literature that was received on our request from other Commonwealth countries such as Canada or Zambia.
117. This unique phenomenon came into being with the advent of independence and with blessings from the late President Kenyatta and flourished over the decades. The self-help projects that were born out of the spirit of Harambee such as building of schools, clinics and cattle dips, etc. at first augmented immensely the obligatory efforts of the Government to provide services to the people. Members of Parliament were the prominent players who naturally benefited from the lime-light.
118. Gradually, the noble ideals that had given rise to, and on which Harambee had thrived so well, receded into the background giving way to manipulation and abuse by politicians. There is a unanimous view in the public, and some Members of Parliament agree, that either the institution of Harambee be done away with completely or that some drastic measures be taken to regulate it so that it is not open to abuse or corruption as it is at the moment. Complaints included disappearance or non-accountability of funds collected for or at Harambee, donation of large sums of money (most likely ill-gotten) with either a political expectation or an expectation of favour from the Administration, and (this is what concerns us most) the pressure that Harambee was exerting on the minds and pockets of Members of Parliament. We are informed that this constant drain on the financial resources of Members of Parliament was the reason why many of them avoided visiting their constituencies. There were also serious complaints of

coercion by the Provincial Administration for donations either in cash or in kind for Harambees. Consequently, people have suffered greatly at the loss of their properties, thereby generating hatred against the Provincial Administration and by extension, the Government.

119. Not within our terms of reference but a corollary of Harambee that was brought to our notice, which at this stage we deem obliged to convey to the Parliament, was the feeling that Harambee had caused the Government to abdicate its obligations to provide the necessary services to the citizens.
120. The public, Members of Parliament and the Administration were generous in their acknowledgement of the immense benefits that Harambee had brought about but they were adamant that in its present form, it had to go. The Harambee spirit was all right in so far as it was directed towards provision of services to the community as a whole. No one had any objection to Harambee being used in cases where individuals needed financial assistance such as to educate a child or to meet hospital bills or such other compassionate needs.
121. We revert to what concerns us and that is the stress that a Member of Parliament has to undergo when a prick of conscience reminds him/her of his/her obligation to visit his/her constituency. He/she dreads to satisfy the long over-due obligation. In consequence, we now will endeavour to devise a way whereby the short-fall in finances for development of communal projects that will naturally be caused if Harambee is drastically curtailed, is made up by Government.

The Tribunal, therefore, recommends the establishment of a Constituency Development Fund to be created by an Act of Parliament.

CONSTITUENCY DEVELOPMENT FUND

122. It is imperative that the Member of Parliament must visit his /her constituency on a regular basis in order to be able to do justice to his/her constituents. His/her absence for long periods can have a very damaging effect on development programmes in his/her constituency. He/she is the major means of communication through which visions and plans of constituency and national importance are conveyed from the constituents to Parliament. If Harambee is to be absolutely done away with, for at least as far as its use for communal projects is concerned, then where is the alternative source of funds for this purpose to be found?
123. Both in India and South Africa, a mandatory annual budgetary provision is made under the name of **Constituency Development Fund**. This Fund, if converted into our Kenya currency will amount to millions of shillings per constituency which will be an obligation for our Parliament to approve annually. Without any intention of casting aspersions* on our Parliamentarians, this Fund, if we observe the procedure followed both in India and South Africa, would not be allowed to be handled personally by a Member of Parliament. In South Africa, the whole sum is paid to political parties in the constituency annually. This procedure, in our view, on account of the peculiar conditions prevailing in Kenya, clearly is not a suitable way of disbursing funds of such a nature. We found the method adopted in India of disbursing **Constituency Development Fund** to a properly constituted committee of the constituents to be more suitable and acceptable to our conditions. The Member of Parliament will be a member of this committee. He/she will be among the initiators of projects and development activities.
124. What is envisioned in this scheme is that, after the councillors and other stake-holders of the constituency with (and not under) the guidance of their Member have identified the project/s needed to be funded or at least initiated during the

financial year, it would be the responsibility of the Member to convince the Committee on the viability of that particular project. He/she should be the driving force to ensure the implementation of the accepted projects.

125. Through the **Constituency Development Fund**, the required funds will be channelled to the Constituency Committee through the Local Authority who will also supervise and check for any emerging evidence or lurking inclination to misuse of funds, and to ensure that the same are applied to the intended project. The Constituency Committee will, of course, be made up of councillors and other stake- holders of the community such as religious leaders, women groups, youth groups, members from different political parties, etc. Although the Member of Parliament will also be part of that committee, his/her functions will be more of an observer and adviser without any authority to handle or deal with any part of the funds.
126. The Tribunal is confident that this scheme which has been outlined in a brief skeleton form, when completed with full details required for its implementation, would go a long way towards relieving the Member of Parliament of the constant pressure that is at present being exerted on him/her mentally and financially on account of the massive abuse of Harambee. It is hoped that this debilitating fear will be reduced and leave him/her with a freer mind to do full justice to his/her role in shaping the socio-economic life of his/her constituency thereby uplifting the living standards of the constituents. The Tribunal envisages that this will be an important vehicle for equitable distribution of national resources and thereby enhancing unity among the people of the constituency.

RECOMMENDATION

To begin with, the Tribunal recommends that each constituency be allocated a humble annual sum of Kshs.20 million for the Constituency Development Fund.

CHAPTER 7

ROLE OF A MEMBER OF PARLIAMENT

127. Before we embark on the question of emoluments of and facilities for a Member of Parliament, we feel that in fairness to both the Members and the public, the role of a Member in development and/or modulating or shaping the political and social structure of the country is properly appreciated. This has become necessary on account of the degree of sensitivity that the question of a Parliamentarian's emoluments has aroused, apparently in the minds of the public.
128. Principally, the function of a Member of Parliament is to be involved in legislation. Legislation is not born out of a vacuum. It is born out of the needs of a civilized society. A Member of Parliament must not only have an ability to sense what the needs (short term and long term) of the society and the country at large are, but must also have the power of persuasiveness and determination to see the needed legislation enacted into law in a manner that is acceptable to a majority of Members of Parliament and the citizens as being of benefit to them and the country. This is a very heavy responsibility.
129. As a representative of his/her constituency, a Member has always to be alert to the needs of his/her constituents and to convey the same to the House. He acts as a conduit between his/her constituency and the House and by extension, to the Government. Being always in focus, a Member of Parliament is expected to conduct himself/herself with decorum and with a certain degree of decency as a role model in society. Apart from his/her legislative duties, a Member of Parliament has not only to study and make intelligent contributions during the proceedings in the House but has also to oversee the implementation of the wishes of Parliament by the Executive.
130. However, the heaviest burden that a Member has to bear throughout his/her career as a Parliamentarian is in the shape

of a voter. The voter may need a contribution to a fund to enable his/her child go for further studies, or his/her medical treatment in an urban hospital, non-receipt of his/her pension, unfair treatment by a chief or an Administrative Officer in a petty boundary dispute with a neighbour, or cattle rustling, to name but only a few. The needs of a voter are innumerable and generally go with an expectation of some monetary hand out from the Member to help overcome immediate financial problem.

131. A Member of Parliament who ignores such personal needs of his/her voters does so at the risk of being ousted in the next election. The effort to deal with any such particular need has to be made in such a manner that it is seen, appreciated and talked about in the whole of the constituency. He/she has to display initiative in the planning of "local development projects" and in collection of funds, which is expected to include a substantial donation from the Member himself/herself and friends.
132. The above attempt is not, nor is It supposed to be, an exhaustive exposition of duties and work of a Member of Parliament. It is a mere glimpse of some of the factors that cause a Member to undergo untold mental, physical and financial stress throughout his/her political tenure. Clearly, an adequate remuneration is the only way not only to compensate for the stress that honourable Members have to undergo but also for out of pocket deficits incurred by him/her to meet the demands of his/her voter.

CHAPTER 8

FACTORS TO BE CONSIDERED IN ASSESSMENT OF EMOLUMENTS OF A MEMBER OF PARLIAMENT

133. The role of a Member of Parliament as a factor in the smooth development of our Parliament into a competent legislative body which is capable of over-seeing the way the Executive conducts itself in the implementation of the budgetary allocations and passage of Bills cannot be over emphasized. We have already highlighted the incessant demands that are made both on the time and pocket of a Member throughout his/her term. To the great credit of our Parliamentarians, we must concede that democracy which we in Kenya cherish and enjoy could not have flourished without the tireless but normally thankless chores that a Member is sometimes constrained to perform in order to survive in his/her political career. However, having reached a stage where we have finally to assess a Member's emoluments commensurate with the dignity of and respect for his/her office and his/her place in society, and to compensate him/her adequately for the toils, trials and tribulations that he/she has to undergo, we now find ourselves faced with a situation the underlying gravity of which cannot be ignored.
134. An undisputed fact to which our attention was constantly drawn is the poor state of the national economy, which cannot sustain hefty emoluments. We have already given a detailed account of this unfortunate state of affairs of which the people are well aware **in Chapter Two dealing with Economic Background**. They cannot be taken for granted any more.
135. It cannot be denied that what the economy of the country can sustain has to be shared equitably among all the departments of the Government including the Parliament. It was an unfriendly and at times, emotionally charged public which would question the ethics of a revision of a Parliamentarian's salary after a hefty self-voted increase only about a couple of

years earlier, while at the same time, equally hard-working public servants such as Teachers had, in their view, so callously been ignored for over four years. They cited the cases of disgruntled Nurses, Air Traffic Controllers, the highly qualified and highly valuable Doctors and the lower echelons of the civil service, all of whom, they forcefully maintained, had been under-paid for so long.

136. Almost at every station we visited, we would at first manage to earn a reluctant nod of favour when, to appease the public hostility, we disclosed that the total earnings of a Parliamentarian made up of his/her Salary, House Allowance, Constituency Allowance, Sitting Allowance and Responsibility Allowance amounted to Ksh.59,033.30. The public reacted with disbelief when they learnt that Members of Parliament earn a salary of Kshs.10,000/- per month only which attracts negligible tax. They wanted the salary to be raised so that a Member could pay tax like everybody else. But what aroused emotions was the **Transport Allowance of Kshs. 336,000/= Per Month**. This was taken into consideration when working out figures of the final emoluments. Members of the public who struck us as being fair and capable of assessing the situation intelligently, almost unanimously approved provision of a suitable car to a Parliamentarian, but payment of this huge sum every month for five years by way of Transport Allowance was totally unacceptable. In our task, we had, therefore, to keep in mind the following factors:-

- The pivotal role that our Parliamentarians have played in establishing the supremacy of Parliament thereby making it possible for every Kenyan to appreciate and enjoy what real democracy is;
- The extremely fragile economic state of the country at present;
- The need for us to prepare and present a structure of total monthly emoluments of a Member which will also be

acceptable to the public whose important role in this exercise is both voters and taxpayers should not be ignored.

CHAPTER 9

EMOLUMENTS OF MEMBERS OF PARLIAMENT

137. Before we embark on the exercise of working out the actual emoluments, it will be appropriate to remind ourselves of the details of the current emoluments of a Member of Parliament.
138. The total take-away package that Members of Parliament currently earn is made up of the following:-

	<u>Kshs. Per month</u>
Salary	10,000.00 per month (Taxable)
Sitting Allowance	3,000.00 " " (not taxable)
Constituency Allowance	5,200.00 " " (not taxable)
Responsibility Allowance	7,500.00 " " (not taxable)
House Allowance	33,333.30 " " (not taxable)
Transport Allowance	<u>336,000.00</u> " " (not taxable)
TOTAL	<u>395,033.30</u> per month

139. The stark imbalance in the sums being paid by way of salary on the one hand and the allowances on the other is so strikingly unnatural that an impartial observer is irresistibly drawn to the conclusion that the imbalance was manipulated out of a deep sense of frustration at some impenetrable obstruction to an over-due review of emoluments, which had given rise to an ugly determination to "grab" by any means, be they fair or foul. This view is confirmed by an unmistakably remorseful attitude of some Members of Parliament who gave us their views and clearly felt embarrassed at the fact that the salary had been kept so low in order to avoid tax.
140. Perhaps the root cause of this imbalance in the emolument figures is the provision in the **Constitutional Offices (Remuneration) Act, Cap 423, (Laws of Kenya)**, which, has prescribed an exemption from tax in respect of every type of allowance that is paid to an officer covered in this Act (which, inter alia, includes Members of Parliament). The

Tribunal, therefore, has to keep the effects of this Act on the total package that may be worked out, in order to ensure that the amount allowed by way of allowances as against the salary is not bloated up the way it now is. Of the six items of emoluments set out above, legitimacy of the first five items cannot be disputed except for the amount awarded in respect of each. The total of the salary and the remaining four items (all allowances) comes to a paltry sum of Kshs. 59,033.30 per month, clearly a laughable figure when considered against the importance of a Parliamentarian's work in the development of the nation. The public, when informed of this figure, were unanimous that this amount must be increased to befit the work and dignity of a constituency leader and representative. However, the sum of Kshs. 336,000/= to be paid every month by way of **Transport Allowance** during the whole length of a term of 5 years was unforgivable and absolutely unacceptable. The Tribunal's task, therefore, is two-fold. The first is to increase the package made up of salary and allowances to a figure which will give no cause to a Member of Parliament to reject or to a member of public not to accept.

141. The second task, of course, is to delete the figure of Kshs. 336,000/= together with the ostensible term "**Transport Allowance**" used to describe it, and to substitute the same with a revised figure and a term that will give legitimacy to this item.

SALARY

142. Dealing first with the package we will start with the salary of Kshs.10,000/= per month of a Member of Parliament which perhaps is what a public servant in the lowest grade earns. As we said earlier, the Members felt embarrassed at this salary because it so obviously was a crude ploy used to dodge tax. Before us there was a sincere expression of a desire by all the Members who made representations that they should not be deprived of their duty of paying a tax commensurate with their rank. Members of Parliament and the public had a figure,

which we have kept in mind. **We propose a salary of Ksh.200,000/= per month for a Member which will be taxable.**

CONSTITUENCY ALLOWANCE

143. As regards the present **Constituency Allowance** of Kshs.5,200/= per month the general view was that this was inadequate. A Member of Parliament is not only a leader and a representative but one who has to serve his/her constituents. He/she has to go round the constituency to visit them and to listen to their problems and needs. He/she is expected very often to offer a helping hand, even financial assistance, to solve an immediate problem. **It was felt, and the Tribunal agrees and proposes a Constituency Allowance of Kshs. 50,000/- per month.**

EXTRANEOUS Duty ALLOWANCE (RESPONSIBILITY ALLOWANCE)

144. The reaction of members of the public to the present **Responsibility Allowance** was generally unsympathetic. The argument was that an aspiring Member of Parliament knows the extent and weight of responsibilities that will fall on him/her on being elected. **Responsibility Allowance** must therefore be considered as a part of the salary and not as a separate item. We entirely agree with that view. On the other hand a Member has perforce, generally to please individual constituents, to perform tasks which truly are not within the province of a representative of a constituency. Yet refusing or neglecting to give satisfaction in respect of these extraneous tasks on this excuse will be a sure recipe for his/her unpopularity which can prove fatal to his/her chances for re-election. **The Tribunal's proposal, therefore, is to delete the Responsibility Allowance and replace it with a new type of allowance and call it Extraneous Duty Allowance which will be Kshs. 30,000/= per month.**

HOUSE ALLOWANCE

145. On the question of **House Allowance**, the views expressed by the lower strata of the public, was that the present sum of Kshs. 33,333.30 being paid as **House Allowance** was adequate. However, those from the educated strata and particularly from professionals and representatives of professional bodies all wanted the **House Allowance** to be increased so as to be commensurate with the status of a Member of Parliament in society. No one among them thought of accommodation for a Member in posh areas where a normal rent would be above Kshs. 100,000/=. We were told that a rent of about Kshs. 60,000/= per month would be enough to secure suitable accommodation for a Member. **Keeping in view the rent that we have in mind for a Minister and an Assistant Minister and to maintain a check on an unreasonable disparity from creeping in, we propose a sum of Kshs. 70,000/= per month by way of House Allowance.**

SITTING ALLOWANCE

146. Like the salary of Kshs. 10,000/= per month, the **Sitting Allowance** of Kshs. 3,000/= per month that is paid to a Member at present is ludicrous. Members of the public did not have any kind words for the Members over the prevalence of lack of quorum in the House. However, they felt that one way of curing this "disease" was to tie the payment of **Sitting Allowance** to the actual attendance of a Member in the House. Moreover, they argued that whereas employees in the public and private sectors work for 40 hours per week, a Member of Parliament is required to attend Parliament when in session for fifteen hours only per week. This, in their view, is a highly unsatisfactory state of affairs. The members of the public strongly urged that the Parliamentarians should be required to attend the House for a much longer period.

147. The Tribunal is in entire agreement with the sentiments of the public on this issue and feels that not only the **Sitting Allowance** must be tied to the actual attendance by Members in the House but the work of a Member should also be so programmed as to make it a full time job. In South Africa, Canada and India to become an elected representative of a constituency means that the person so elected has taken up a full time job and is thereafter debarred during the period of his/her term from doing any other wage-earning job. Our Members of Parliament who appeared before us were not averse to this idea that after being elected they should not be allowed to engage in any other income or wage-earning activity. **We, therefore, propose that the Sitting Allowance be increased to Kshs. 5,000/= per sitting and to become payable only on actual attendance of a total minimum of 4 hours per day, and that Parliament should sit for three full days per week, that is on Tuesday, Wednesday and Thursday. The daily sitting of the House should be on double-session basis to be in line with what prevails in public and private sectors.**

ENTERTAINMENT ALLOWANCE

148. At the first glance of the allowances that Members of Parliament are at present being paid, the Tribunal was surprised that there was no provision therein for out-of-pocket expenses very often incurred by a Member of Parliament in the course of performing what we feel is an important corollary of his/her duties. A Member is not necessarily a gregarious creature, though being talented in that direction is an advantage in his/her profession. Be that as it may a Member has to meet a large number of people drawn from different walks of life like, to name a few, his/her constituents, individually or in groups, who have come to see him/her in Nairobi over constituency matters, politicians, friends or acquaintances, visiting from outside countries with some official purpose, groups of industrialists or businessmen coming to discuss feasibility studies or starting of any contemplated new

enterprise. The list can grow ad infinitum. It is not the Member who will be entertained to the normal refreshments that appear on the table at such meetings. Instead it is the Member who will bear the cost of such refreshments. It will be wrong to argue that any of the present allowances given to the Members, that is, **House Allowance, Transport Allowance, Responsibility Allowance, Constituency Allowance or Sitting Allowance, or Extraneous Allowance that in our present proposal is to replace the Responsibility Allowance**, was or is expected to include this particular heavy item of expenditure.

149. Members of Parliament have, with one voice, complained of being constantly short of money on account of such expensive commitments and we do not have any compunctions in awarding the Members a new allowance titled **Entertainment Allowance. We therefore propose this allowance to be Ksh. 60,000.00 per month to be paid to every Member of Parliament.**

TRANSPORT ALLOWANCE

150. The contentious item which had made the Tribunal the target of a hostile reception is the **Transport Allowance** of Kshs.336,000/= per month for each Member. The almost belligerent attitude of the public to this single item has already been highlighted earlier and it is now our unenviable duty to deal with and bring the offending item to an acceptable conclusion.
151. Members of the public were almost unanimously in favour of a Member being given a car to enable him/her perform his/her duties properly. Those representing rural constituencies in particular, and they constitute the majority of Members, are by nature of their work involved in a great deal of motoring most of which is done over rough country roads. The vehicle of a Member, therefore, has to be one of robust qualities capable of taking the 'beating' that it is bound to suffer on our rural roads.

It is not fair by any means to equip a Member with a vehicle which very likely, after only a couple of months' use on rough roads, will leave him/her stranded in the middle of wilderness of Kenya (and quite possibly in the middle of the night) with a broken wheel axle or a blown up or overheated engine or some such immobilizing damage. Undeniably, the Member has to be equipped with a vehicle which will have the qualities to withstand the stress and punishment normally meted out to vehicles by our rural roads, so that he/she should be able to undertake every trip to and fro, and within, his/her constituency with confidence and comfort. **With these considerations in mind, the Tribunal proposes that at the beginning of a parliamentary term, every Member should be paid a lump sum of Ksh. 3.3. million to enable him/her buy a vehicle of his/her choice and suitable to our rural roads. This vehicle will belong to the Member as his/her property and it shall be his/her duty to fuel and maintain it through a proposed allowance.**

CAR MAINTENANCE ALLOWANCE

152. The Tribunal is fully alive to the fact that a vehicle which is destined to spend its life on rough roads in the way a Member's vehicle is expected will need frequent attention in the garage more often than a vehicle driven in urban areas on tarmac roads, for maintenance purposes such as normal servicing, repairs or replacement of spares particularly those relating to suspension, etc. For the purposes of maintenance, as distinct from the normal Mileage Allowance, the Member needs to be compensated with a reasonable sum to keep the vehicle always in a serviceable condition. Some members of the public expressed misgivings and even strong reluctance on any disbursement for this purpose, but by and large there was a consensus on a Member being compensated for the exceptionally rough treatment that his/her vehicle was expected to undergo on the dirt and often unmade roads in the countryside. **The Tribunal is also of the same view and it is, therefore, proposed that a sum of Kshs. 75,000/=**

per month be paid to every Member for this purpose as Car Maintenance Allowance.

153. The consequences of the proposed scheme are beneficial in a way as to give a three-way satisfaction that is to the Government, the public and the Member of Parliament. Under the existing arrangement whereby every Member is paid a colossal sum of Kshs. 336,000/= per month for the whole term of five years, the budget has to provide a sum of Kshs. 20,100,000/= per Member for the full term of five years. A mind-boggling scenario. Under the scheme proposed by the Tribunal the budget will have to provide a sum of Kshs. 4,500,000/= per Member for the normal term of five years. This is exclusive of the initial disbursement of Kshs. 3.3. million per Member. We will explain the reason later. So there will be a saving of Kshs. 15,660,000/= over the period of five years of the normal term or a saving of Kshs.1,305,000/= per Member per year. Worked out for a total of over 220 Members who are affected by this scheme the saving per year to the Government would surpass a sum of Kshs. 260 million. **We propose that this money be used towards the proposed Constituency Development Fund which is discussed elsewhere in this report. This will ease the pressure on the demand for harambees currently placed on the Members of Parliament.**
154. Both the public and the Government must feel satisfied with this saving on this one item. With provision of a robust vehicle and a generous **Car Maintenance Allowance**, we see no reason why a Member of Parliament should also not feel a delighted beneficiary.
155. Apropos at this stage is the need for a detailed explanation regarding the payment of Kshs. 3.3 million in a lump sum to every Member. In our proposed scheme, this is an interest-free advance payment of a part of a Member's emoluments calculated at a rate of Kshs. 55,000/= per month. We had planned the actual emoluments of a Member exclusive of the

Sitting Allowance to be Kshs...540,000/= per month. To make provision for a lump sum of Kshs. 3.3. million to pay a Member to buy a vehicle, the Tribunal thought it best to make a deduction @ Kshs. 55,000/= per month for a period of five years which is the normal life of a term, from his/her emoluments. The total sum so deducted works out at Kshs. 3.3 million for a full term. This sum is in actual fact a part of a Member's emoluments which, however, will not be reflected in his/her pay packet. It will not, therefore, constitute an extra burden on the Parliamentary budget. The benefit that the Member derives is that the huge sum is an interest free advance made to him/her from his/her own emoluments. Further he/she will enjoy the satisfaction from the fact that the vehicle well and truly is his/her personal property. This proposal compares very favourably with what pertains in Uganda and Tanzania.

156. This proposal has the added advantage of enabling Members of Parliament to get interest free and tax free advance on car loan and it will cut down administration costs.

On a final note on this issue, we propose that Air or Railway facilities should be made use of where available and feasible - travel by Rail to be First Class and by Air, Domestic and Overseas, Business Class.

We further propose the salary/emoluments for Members to be as follows:-

MEMBERS OF PARLIAMENT

	Kshs.
Salary	200,000/= p.m. (Taxable)
Car Maintenance Allowance	75,000/= (per month)
House Allowance	70,000/= " "
Extraneous Duty Allowance	30,000/= " "
Entertainment Allowance	60,000/= " "
Constituency Allowance	50,000/= " "
TOTAL	<u>485,000/= (per month)</u>

MILEAGE CLAIM

157. Apart from the Maintenance Allowance, every office holder except the Speaker, when using his/her personal car and every Member shall be entitled to claim Mileage Allowance at AA rates for **actual trips** to the constituency and back to Nairobi. The Mileage Allowance is not really an allowance but a reimbursement. That is why it is more correct to call it Mileage Claim. False Mileage Claims, if discovered, should not go unsanctioned. **The Tribunal recommends that the Parliamentary Service Commission should decide on the number of such trips per year to which every Member or Office Holder shall be entitled.**

CHAPTER 10

EMOLUMENTS OF OFFICE HOLDERS:

158. Each one of the Office holders is an elected Member of Parliament except a couple or so who are appointed or nominated from the public by the President, acting under his/her prerogative. **Each Office-holder is, therefore, entitled to the salary and allowances that the Tribunal has awarded to a Member of Parliament particularly in respect of Salary, Constituency Allowances, Car Maintenance Allowance and the lump sum of Kshs. 3.3 million to enable purchase of a vehicle, which shall be his/her property.** But by the nature of the extra duties that each Office Holder is called upon to perform and the additional responsibility entailed in consequence thereof together with a higher status that an Office Holder acquires on being appointed to the post, the Tribunal has no hesitation in concluding that there is justification for an increase in an Office-Holder's emoluments.

CABINET MINISTERS

159. If and when an elected Member is appointed as a **Cabinet Minister** he/she, thereafter, virtually becomes a top policy maker of his/her Ministry for the duration he/she holds the post. His/her emoluments, therefore, logically should be commensurate with the heavy responsibility that he/she carries.
160. As the Head of his/her Ministry, it is his/her responsibility to set out the policy framework in accordance with the Government's plans relating to development projects and charting out the programmes for the current and coming financial year. This, of course, he/she does in conjunction with and on advice from the Permanent Secretary and his/her officers.

161. On completion of the preparation of development projects and the estimates of expenditure for inclusion in the budget, it is the Minister who has then to persuade the Finance Minister and, at a later stage, the Parliament for approval of the vote for his/her Ministry. Obtaining approval for any project or of its siting in a particular district or area cannot be earned cheaply on a mere snap of fingers. Every Cabinet Minister is responsible for the vote of his/her Ministry. It is his/her duty to be interested also in the overall National Budget. The Budget becomes a joint responsibility of the Cabinet.

162. It is, however, in Parliament that the work of a Cabinet Minister is put to real test. Members of Parliament, with the help of researchers and library facilities, are now generally much better informed on issues relevant to any particular item in the Votes than their predecessors were a couple of decades ago. A Minister has to be capable of standing up to defend in the House the various items of expenditure of his/her Ministry. He/she can only do this if he/she is well-versed with the reasons and their validity for the inclusion in the estimates of items of expenditure of his/her Ministry. The Minister's task is rendered more difficult because he/she has not only to convey but also to justify to the critical Members the reasons that had prompted his/her officers to plan the development expenditure that way.

163. Approval of his/her Ministry's Vote is not the end of a Minister's labours. Although his/her Permanent Secretary is the Accounting Officer of the Ministry, in the event of any embezzlement, or misuse of funds such as payment for shoddy work or acceptance of a manipulated completion certificate for payment to be made for work still far from completion, or acceptance of tenders through shady means, it is the Minister and not the Permanent Secretary who has to face the jarring and hostile music in Parliament. In order to avoid being a target of disparaging comments on his/her ministerial capabilities from Members which the media always prefer to highlight in a manner as to reduce his/her Ministerial rank to

that of a contemptible misfit, a Cabinet Minister has to exercise virtual personal control over activities involving major financial commitments so that the Ministry is able to offer a scandal-free and a clean bill of complete implementation of projects in the Ministry.

164. The ministerial duties referred to hereinabove are a few of the tasks which a Minister has to perform over and above his/her normal duties. These are duties of great responsibility. The success of a major national development project depends on a sound feasibility study conducted by the officers concerned in the Ministry in line with the Government policy that is conveyed by the Minister, the planning of its implementation with details of estimated expenditure for inclusion in the budgetary estimates, approval by the Cabinet and the Parliament which is obtained through efforts of the Minister, culminating with a step by step execution of the whole development project under his/her watchful eyes. The Minister, therefore, is the vital instrument through which the Parliament influences the Government policy and thereafter exercises control over its implementation by the Executive. The Minister has a pivotal role carrying a high degree of responsibility. He/she clearly deserves an enhanced emolument.

We therefore, propose that a Minister's emoluments be as follows;

	<u>Kshs.</u>
Salary	200,000/= p.m. (taxable)
Car Maintenance Allowance	75,000/= (per month)
House Allowance	100,000/= " "
Extraneous Duty Allowance	80,000/= " "
Entertainment Allowance	80,000/= " "
Constituency Allowance	50,000/= " "
TOTAL	585,000/= (Per month)

ASSISTANT MINISTERS

166. What is given above is a mere outline of the arduous tasks that a Minister is expected to undertake when he/she is appointed to this honourable position. But the burden and the volume of the actual work that is involved is great and beyond the capacity of a single person and calls for assistants capable of an equivalent sense of responsibility. So **Assistant Ministers** are appointed to all the Ministries to share the responsibilities of the Ministry. Their emoluments logically will be assessed at a level lower than that of the Minister. On the other hand, it has to be on a higher level than that of a Member of Parliament.

We, therefore, propose that emoluments for an Assistant Minister be as follows: -

	<u>Kshs.</u>
Salary	200,000/ = p.m.(Taxable)
Car Maintenance Allowance	75,000/ = (per month)
House Allowance	80,000/ = " "
Extraneous Duty Allowance	50,000/ = " "
Entertainment Allowance	70,000/ = " "
Constituency Allowance	50,000/ = " "
TOTAL	<u>525,000/ = (Per month)</u>

LEADER OF THE OFFICIAL OPPOSITION PARTY

167. A position of importance and responsibility that is entitled to its due recognition is that of the Leader of the Official Opposition Party. Alternatively, he/she is not burdened with the onerous responsibility of a Ministry and may not be as actively involved in guidance of administrative posers of different nature such as overseeing disbursement of state funds, etc, as a Minister is, but he/she has the unenviable job of being the leader of a "pack" of generally vociferous Members of the Official Opposition Party and Leader of the Alternate Government. Apart from that the Leader of the Official Opposition is generally one who has the sagacity, the temperament and

knowledge to enable him/her do an accurate and a critical appraisal of flaws in the policy relating to or scandals arising during implementation of any development project of a Ministry. It is his/her primary function to bring such shortcomings to the notice of the Government and the public at large, and to keep the Ministers and their officers ever on their toes. Both members of the public and the Members of Parliament who made representations to us favoured a package of emoluments which would mirror the respect which the Leader of the Official Opposition Party will always hold in any Government which observes tenets of democracy. **We therefore propose for the Leader of the Official Opposition Party a scale of salary and allowances which are at par in every respect with that of a Minister enumerated as follows: -**

	<u>Kshs.</u>
Salary	200,000/= p.m(taxable)
Car Maintenance Allowance	75,000/= (per month)
House Allowance	100,000/= " "
Extraneous Duty Allowance	80,000/= " "
Entertainment Allowance	80,000/= " "
Constituency Allowance	50,000/= " "
TOTAL	<u>585,000/= (per month)</u>

WHIPS

168. The two most important Whips in the Parliament are the Government Chief Whip and the Opposition Whip who, apart from their normal functions of a Member of Parliament, have the additional responsibility such as to ensure the Members from their respective governing and opposition parties are not engaged in playing truant at the time when voting on a contentious issue is about to take place, that they vote as expected by the party and numerous other such duties. The consensus among the Members of Parliament who appeared before us was that whereas all the recognized Whips should be

paid a little more than a Member of Parliament the Government Chief Whip and the Official Opposition Party Whip should be paid emoluments in line with what is paid to Assistant Ministers. The Tribunal is also of the same view. **We, therefore, propose that emoluments for the Chief Whip and Opposition Whip be as follows: -**

	Kshs.
Salary	200,000/= p.m.(taxable)
Car Maintenance Allowance	75,000/= (per month)
House Allowance	80,000/= " "
Extraneous Duty Allowance	50,000/= " "
Entertainment Allowance	70,000/= " "
Constituency Allowance	<u>50,000/=</u> " "
TOTAL	<u>525,000/=</u> (Per month)

There are other recognized Whips who do similar duties as the Chief Whip but on a lower level on behalf of other smaller parties. In our view their salary and allowances should be the same as that of a Member of Parliament's but, for the added responsibility of Whip, **we propose to give them an increased Extraneous Duty Allowance of Kshs. 50,000.00.** We further propose that the Standing Orders should be amended to create officially such posts for the other Whips.

OTHER RECOGNISED WHIPS

	Kshs.
Salary	200,000/= p.m. (Taxable)
Car Maintenance Allowance	75,000/= (per month)
House Allowance	70,000/= " "
Extraneous Duty Allowance	50,000/= " "
Entertainment Allowance	60,000/= " "
Constituency Allowance	<u>50,000/=</u> " "
TOTAL	<u>505,000/=</u> (per month)

CHAIRMEN OF PARLIAMENTARY COMMITTEES

169. Finally, we have to consider the Chairmen of the various Parliamentary Committees especially who chair the Committees to which Bills are referred after being read a First time in the House. These Committees take evidence on the Bills before them and finally compile a report which is tabled in the House to assist Members understand and appreciate the ramifications of a Bill. A Chairman of a Committee is therefore subjected work-wise to a much harder stress than an ordinary Member and he/she fully deserves additional emoluments. Furthermore, Parliamentary Committees are an extension of the proceedings of the House. The Chairmen must therefore use their leadership skills and persuasive language to obtain unanimity of the Members of their Committees over the issues that come before them for consideration.

The Tribunal, therefore, recommends that Chairpersons of Parliamentary Committees shall be paid Sitting Allowance of Kshs. 8,000/= per day and Members be paid Kshs. 5,000/= per day provided that no two payments shall be made for any single day.

PARLIAMENTARY SERVICE COMMISSIONERS

170. With the amendment of Section 45 of the Constitution, the Parliamentary Service Commission came into being. The Commission consists of ten Members who form the Government of Parliament. The Commissioners therefore meet at least once a month to look into the welfare of Members and staff and to ensure that Parliament is effectively and efficiently managed. **The Tribunal recommends that for each meeting, the Chairman should be paid Kshs. 20,000/=; Vice-Chairman Kshs. 15,000/=; Committee of the Commission Chairmen Kshs. 12,500/= and Commissioner Kshs. 10,000/= as Sitting Allowance.**

CHAPTER 11

SALARY/ALLOWANCES AND BENEFITS FOR PRESIDENT

PREAMBLE

171. In most countries of the world, the **Presidency** is the highest institution. The occupant is bestowed with enormous responsibilities; he/she rules and governs the country with the consent and support of the populace. This position symbolizes the unity of the nation and, therefore, the holder deserves to be treated with respect while in office and in retirement.
172. The holder of this office carries the title during his/her incumbency and in retirement. He/she cannot divorce himself/herself completely from the affairs of the nation in retirement since from time to time, he/she may be consulted on matters of State both locally and internationally notwithstanding the fact that he/she may on his/her own be involved in social welfare activities such as creating a Charitable Foundation in areas related to peace, environment, etc, and on account of this, he/she may be called upon to give his/her time for the sake of the nation. He may have to deny himself/herself social enjoyment and relaxation because of the nature of his/her position as former President. For instance, he/she cannot socialize freely. This unique situation needs to be recognized, upheld, respected and rewarded.
173. The trend in most African countries to offer generous retirement packages to retiring Presidents is a recent phenomenon. In the past, not many Presidents retired peacefully from office. **In view of these facts, the Tribunal recommends that a serving President be paid salaries/allowances and retirement benefits commensurate with his/her work in office and status in retirement as follows: -**

EMOLUMENTS OF A SERVING PRESIDENT

The Tribunal makes the following recommendations in respect of a serving President:-

	<u>Kshs.</u>
Salary	700,000/ = per month
House Allowance	400,000/ = per month
Extraneous Duty Allowance	400,000/ = per month
Entertainment Allowance	400,000/ = per month
Constituency Allowance	<u>100,000/ = per month</u>
TOTAL	<u>2 million Per Month</u>

All the above emoluments shall be tax-free.

PACKAGE FOR A RETIRING PRESIDENT

The Tribunal makes the following recommendations in respect of a retiring President:-

- **Pension:**

- . 80% of the salary of the incumbent which amounts to Kshs. 560,000/= per month.

- **Winding Up Allowance:**

- . One year's salary amounting to Kshs. 8.4 million per term, subject to a maximum of two terms making a total of Kshs.16.8 million.

- **House Allowance:**

- . One Rural and one Urban house
- . Rural - Kshs. 100,000/- per month
- . Urban - Kshs. 200,000/- per month

- **Entertainment Allowance:**

- Kshs. 200,000/- per month.

- **Transport:**

- Two Mercedes Benz cars of 2800cc, one 'E' Class and one 'S' Class.
 - 2 four wheel drive vehicles of 3400cc.
 - Kshs. 200,000/- per month for fuel.
 - The state should maintain the cars and value them after every three years.
 - Four drivers paid for by the State.

- **Security:**

To be provided with adequate security of his own choice from the General Service Unit (G.S.U.) or the regular police. Twenty four hour armed security guards for both rural and urban houses. There should be a minimum of six armed security guards including bodyguards.

- **Office Accommodation:**

Offices in both homes with office equipment, two personal assistants, four secretaries, four messengers all to be provided and paid for by the State.

- **Telephone, Electricity, Water:**

To be provided and paid for by the State upto a maximum of Kshs.300,000/- per month subject to review by Parliament.

- **Household Staff:**

2 cooks, 2 waiters, 2 gardeners, 2 house keepers, 2 laundry men, 4 house cleaners all paid for by the State.

- **Health:**

- . Full medical cover for both local and overseas treatment for him/her and the spouse.
- . Full medical cover through a reputable Health Insurance Company.

- **Travel:**

- . Four overseas trips per year of his/her choice with or without spouse by first class air ticket. If need be, a personal assistant and security detail will be provided on request to accompany him/her on foreign travels. For official overseas trips, the State shall pay for both travel and full subsistence allowance.
- . Diplomatic passports for the retiring President and spouse to be provided.
- . Unlimited internal travel.

Note:

- **In case of death, the spouse shall be entitled to 50% of the total package for life.**
- **Immunity for the retired President to be decided by the Constitution of Kenya Review Commission.**
- **It is hoped that a retired President would be a statesman who should be above partisan politics and, therefore, should not hold any political office. In the event of a retiring President continuing to hold any political office, then the above package shall not apply.**
- **All the above retirement benefits are non-taxable.**

SALARY, ALLOWANCES AND BENEFITS FOR THE VICE PRESIDENT

174. The office of the Vice President is provided for in the Constitution and Section 15 (2) of the Constitution states that, and we quote:-

“The President shall appoint the Vice President from among the Ministers who are elected Members of the National Assembly; provided that no appointment to the office of the Vice President shall be made at any time when the functions of the President are being exercised by any other person other than the President”.

175. The Constitution also stipulates that the Vice President is the principal assistant to the President. During his/her tenure of office, the Vice President shall not hold any other office of profit except that of Vice President, Minister and Member of the National Assembly.

176. According to our Parliamentary practices, traditions and conventions, the Vice President is the Leader of Government Business and ipso facto, the Chairman of the House Business Committee which charts out the order of transacting Government business and the Legislative Programmes of the House in collaboration with the Government. It is the duty of the Leader of Government Business to move Procedural Motions relating to the Business of the House as set out in the Standing Orders. He/she advises the House on difficult issues and he/she is often called upon by the Speaker to respond to issues on behalf of the Government in the spirit of collective responsibility.

EMOLUMENTS OF A SERVING VICE-PRESIDENT

The Tribunal therefore recommends that emoluments of a Vice-President be as follows:-

	Kshs.
Salary	300,000/- (taxable) per month
Parliamentary Responsibility Allowance	200,000/- per month
House Allowance	300,000/- per month
Extraneous Duty Allowance	200,000/- per month
Entertainment Allowance	200,000/- per month
Constituency Allowance	<u>100,000/- per month</u>
TOTAL	<u>1.3 million per month</u>

PACKAGE FOR A RETIRING VICE-PRESIDENT

The Tribunal makes the following recommendations in respect of a retiring Vice-President:-

- **Pension:**

- . 80% of the salary of the incumbent which works out at Kshs. 240,000/- per month (tax free).
- . This Pension will be applicable after serving for one term as a Vice-President.

- **Winding Up Allowance:**

- . One year's salary Kshs. 3.6 million (non taxable) payable per term subject to a maximum of two terms totalling Kshs. 7.2 million.

- **House Allowance**

- . Kshs. 200,000/- per month.

- **Security**

- . 2 armed security guards on request.

- **Transport:**

- . One Mercedes Benz - E240 or a vehicle of equivalent value.
One utility car.
- . The State should maintain the cars and value them after every three years.
- . Petrol allowance of Kshs. 50,000/- per month.
- . Two drivers to be paid by the State.

- **Health:**

- . Full medical cover for both local and overseas treatment for him/her and spouse.
- . Full medical cover through a reputable Health Insurance Company.

- **Travel:**

- . Diplomatic passports for a retiring Vice-President and spouse to be provided.
- In case of death, the spouse shall be entitled to 50% of the total package for life.
- If the office holder is in the office for less than one term, then he/she will be entitled to only a gratuity equivalent to one year's salary and a Winding Up Allowance proportional to the period served as Vice President.

Note:

- **In case he/she is re-elected, all the above retirement benefits will be suspended except the winding up allowance which shall be paid.**
- **All the above retirement benefits shall be tax free even though specifically not so stated.**

SALARY, ALLOWANCES AND BENEFITS FOR THE SPEAKER

177. The office and role of the **Speaker** evolved in the British House of Commons over several centuries. Originally, the **Speaker** was a loyal servant of the Crown whose main duty was to ensure that the wishes of the Monarch prevailed in the House. When Parliament began to assert its authority as the people's representative, the **Speaker** emerged as the defender of the rights and privileges of its Members.
178. The manner in which the British House of Commons currently elects the **Speaker** ensures that he/she is completely insulated against partisan interests and machinations that are admittedly part and parcel of any country's politics. A senior Government Backbencher proposes a Member who has earlier been scouted to be seconded by a senior Member in the main opposition party so as to signify and emphasize the cross-party support for the choice being made. The intention here is to achieve unanimity on the choice made in order to enhance authority and prestige for the person elected.
179. Although the institution of the Office of the **Speaker** in Kenya is yet to evolve elaborate traditions as is the case in the British House of Commons, the **Speaker** of the National Assembly in this country is a highly regarded person. According to the protocol in all State functions, the **Speaker** is ranked number three after **the President** and the **Vice President**.

According to Erskine May, "**he is the representative of the House**". So important is his position that before the post is filled through an election, the House cannot transact any business.

Standing Order 4(1) provides that, and we quote:-

"A Speaker shall be elected when the House first meets after any General Election and before the House proceeds with the dispatch of any other business".

180. It is important to note that a candidate for the post of Speaker need not necessarily be a Member of Parliament. According to section 37(1) of the Constitution of Kenya, and we quote:-

"There shall be a Speaker of the National Assembly, who shall be elected by the Assembly in accordance with the Standing Orders, from among persons who are members of the Assembly or who are qualified to be elected as such members other than the President, the Vice President, Ministers, Assistant Ministers and the Attorney General".

181. The advent of multiparty democracy has put into focus the pivotal role of the Office of the **Speaker**. The **Speaker** presides over the proceedings of the House and enforces its Rules (Standing Orders) to ensure orderly conduct of parliamentary business.

182. In order to maintain balance and impartiality in the House, whose Members have diverse political and social inclinations, the **Speaker** has to delicately moderate the flow and tempo of transactions of business in the House. He/she decides on who should have the floor. Members look up to the Chair for guidance on matters of procedure, many of which require the Chair's ruling. The Speaker has the onerous duty to protect the rights and privileges of the Members of Parliament.

Apart from the above legislative functions, the **Speaker** is also the Chairperson of the **Parliamentary Service Commission**, the **Speaker's Committee** and the **Power's and Privileges Committee**.

In view of the heavy responsibility bestowed on the **Speaker**, we propose a total package as detailed herebelow:-

EMOLUMENTS OF A SERVING SPEAKER

	<u>Kshs.</u>
Salary	300,000/=(taxable) p.m.
Parliamentary Responsibility Allowance	300,000/=(per month)
House Allowance	200,000/=(per month)
Entertainment Allowance	200,000/=(per month)
Extraneous Duty Allowance	200,000/=(per month)
Total	<u>1.2 million</u>

THE SPEAKER'S RETIREMENT PACKAGE

183. The Tribunal makes the following recommendations for a retiring Speaker:-

- Pension:

80% of the salary of the incumbent totalling Kshs.240,000/= per month (**tax free**)

- Winding up Allowance

One year's salary amounting to Kshs.3.6 million (**non taxable**) payable per term subject to a maximum of two terms totalling Kshs.7.2 million.

- **House Allowance**

- . Kshs.200,000/= per month

- **Security**

- . 2 armed guards on request

- **Transport Allowance:**

- . One car: Mercedes Benz E240 or a vehicle of equivalent value maintained by the State which shall be valued after every three years.

- . Petrol allowance of Kshs.25,000/= per month.

- . One driver to be paid by the State.

Travel:

- . Diplomatic passports for a retiring Speaker and spouse to be provided.

- **Health:**

- . Full medical cover for both local and overseas treatment for him/her and spouse.

- . Full medical cover through a reputable Health Insurance Company.

Note:

- **To qualify for pensionable benefits the office-holder should have served for one term.**

- **In case of death, the spouse should be entitled to 50% of the total package for life.**

- If he/she is in the office for less than one term then he/she qualifies for a lump sum gratuity equivalent to one year's salary only and a Winding Up Allowance proportional to the period served as Speaker.

DEPUTY SPEAKER/MEMBERS OF THE CHAIRMEN'S PANEL

184. Similarly, the **Deputy Speaker** is elected by the Members. His/her main functions are to assist the Speaker. **The importance of this post requires a pay package equivalent to that of a Minister, that is, a total package of Kshs.585,000/=.** In addition to the **Deputy Speaker**, there are **Members of the Chairmen's Panel**. These office holders are not elected by the Members but are chosen by the Speaker. Their functions are to assist the Speaker but not as often as the **Deputy Speaker** is called upon to do.

We propose that their total emoluments should be at par with that of the Assistant Ministers, that is, Kshs.525,000/= per month.

DEPUTY SPEAKER

	Ksh.
Salary	200,000/=per month(taxable)
Constituency Allowance	50,000/= per month
House Allowance	100,000/= per month
Extraneous Duty Allowance	80,000/= per month
Car Maintenance Allowance	75,000/= per month
Entertainment Allowance	<u>80,000/=</u> per month
Total	<u>585,000/=</u> per month

MEMBERS OF THE CHAIRMEN'S PANEL

	Ksh.
Salary	200,000/=per month(taxable)
Constituency Allowance	50,000/= per month
House Allowance	80,000/= per month
Extraneous Duty Allowance	50,000/= per month
Car Maintenance Allowance	75,000/= per month
Entertainment Allowance	<u>70,000/=</u> per month
Total	<u>525,000/=</u> per month

185 **PROPOSALS ON SALARIES AND ALLOWANCES FOR MEMBERS OF PARLIAMENT**

Office Held	Salary Kshs. Per month	Parliamentary Responsibility Allowance Kshs. Per month	Constituency Allowance Kshs. Per month	House Allowance Kshs. Per month	Extraneous Duty Allowance Kshs Per month	Car Maintenance Allowance Kshs. Per month	Entertainment Allowance Kshs. Per month	Total in Kshs. Per month
The President	700,000/=	-	100,000/=	400,000/=	400,000/=	-	400,000/=	2 million
The Vice President	300,000/=	200,000/=	100,000/=	300,000/=	200,000/=	-	200,000/=	1.3 million
The Speaker	300,000/=	300,000/=	-	200,000/=	200,000/=	-	200,000/=	1.2 million
The Deputy Speaker	200,000/=	-	50,000/=	100,000/=	80,000/=	75,000/=	80,000/=	585,000/=
Minister	200,000/=	-	50,000/=	100,000/=	80,000/=	75,000/=	80,000/=	585,000/=
Leader of the Official Opposition	200,000/=	-	50,000/=	100,000/=	80,000/=	75,000/=	80,000/=	585,000/=
Assistant Minister	200,000/=	-	50,000/=	80,000/=	50,000/=	75,000/=	70,000/=	525,000/=
Member of Parliament	200,000/=	-	50,000/=	70,000/=	30,000/=	75,000/=	60,000/=	485,000/=
Government Chief Whip	200,000/=	-	50,000/=	80,000/=	50,000/=	75,000/=	70,000/=	525,000/=
Opposition Whips	200,000/=	-	50,000/=	80,000/=	50,000/=	75,000/=	70,000/=	525,000/=
Member of Chairman's Panel	200,000/=	-	50,000/=	80,000/=	50,000/=	75,000/=	70,000/=	525,000/=
Other recognized Whips	200,000/=	-	50,000/=	70,000/=	50,000/=	75,000/=	60,000/=	505,000/=

DATE OF COMMENCEMENT

186. The Tribunal recommends 1st July, 2002 as the commencement date for the implementation of the salaries and allowances proposed in this Report.

CHAPTER 12

ADDITIONAL RECOMMENDATIONS

MATERNITY LEAVE

187. The Tribunal received representations from the public to the effect that young ladies of child bearing age are likely to join Parliament and that there would be need for granting Maternity Leave. **In this regard, the Tribunal recommends that;**

- **Female Members of Parliament who give birth should be granted three months-maternity leave.**

188. The Tribunal further noted that Muslim women who are widowed or divorced are required to remain secluded for a period of four months and ten days.

The Tribunal strongly recommends granting of leave to Muslim female Members of Parliament in such circumstances.

SPECIAL FACILITIES FOR MEMBERS WITH PHYSICAL DISABILITIES:

189. Representations were made by both Members of Parliament with physical disabilities and members of the public to the effect that special facilities for such Members be provided for in Parliament as there is likelihood that Members who are physically challenged such as the blind, the dumb, and the physically disabled may be elected.

The Tribunal recommends that the following special facilities be provided to enable such Members to perform effectively.

- **Special toilets**

- **Braille**
- **Ramps**
- **Personal Assistants should be employed to assist such Members**
- **Sign language interpreters be employed.**
- **Special computers and other necessary or appropriate equipment.**
- **The physically challenged should be allowed to use crutches, guide dogs, and wheel chairs inside the premises of Parliament, e.t.c.**
- **Prosthesis such as Jaipur foot should be provided for the physically disabled who need them.**

RECOGNITION OF OFFICES OF PARLIAMENT:

190. The Tribunal received representations to the effect that the underlisted Offices of Parliament be accorded special recognition and such Office holders be remunerated adequately due to the unique nature of responsibilities they hold.

- **The President**
- **The Vice-President (the Leader of Government Business)**
- **The Speaker**
- **The Deputy Speaker**
- **Ministers and Assistant Ministers**
- **Parliamentary Service Commissioners**
- **Leader of the Official Opposition Party**
- **The Whips**
- **Chairmen of Committees**
- **Members of Committees**
- **Members of the Chairmen's Panel**

191. The Tribunal, therefore, recommends that since the above-listed offices are very important for the management of Parliamentary Business, there is need to recognize and enhance the allowances paid and

adequate facilities such as office accommodation, staff and office equipment provided to their occupants.

PROVISION OF SECURITY FOR MEMBERS:

192. The Tribunal received representations for and against the provision of personal security to Members. Some Members and a section of the public wanted armed guards for Members of Parliament. **The Tribunal considered these views and recommends that security should only be provided on request. Otherwise by the nature of their duties, the following officers require personal security; the Vice President, the Speaker, the Deputy Speaker, and the Leader of Official Opposition. The prevailing security situation in the country does not warrant provision of security detail to every Member.**

MEDICAL AND ACCIDENT INSURANCE COVERS:

193. The Tribunal noted that there is a Group Personal Insurance Scheme covering all Members of Parliament in case of death or disablement. However, **the Tribunal recommends that there is a strong case for a non-Contributory Comprehensive Medical Scheme to cover Members of Parliament and their families against illnesses, treatment overseas and flying doctors service.**

194. The Tribunal notes that there is no basic medical facility within the precincts of Parliament Buildings. **The Tribunal recommends that basic medical facilities be provided within Parliament Buildings and a clinical officer, a nurse and a doctor on call be provided. Members of staff should also have access to these facilities.**

EDUCATIONAL STANDARD FOR MEMBERS:

195. The Tribunal noted that the public at large are concerned about the quality of debate in the House, levels of contribution, and

the technicality which is inherent in certain issues being debated in the House such as the Budget, some Bills, e.t.c. There was a general feeling that Parliamentarians should be graduates. However, **the Tribunal recommends that Members of Parliament should attain;**

- **At least Form Four level of education**
- **Be literate and able to express themselves proficiently in Kiswahili and English.**

The Tribunal is of the view that pegging educational standard to attainment of degrees would deprive voters of the right to choose the representatives they prefer especially in areas where graduates are scarce.

IMMUNITY:

196. Proposals were made to the Tribunal to the effect that immunity of Members within the precincts of Parliament and its annexes has been abused in the past. **The Tribunal recommends that immunity from arrest within the precincts of Parliament and its annexes be strictly adhered to.**

LIVE COVERAGE OF PARLIAMENTARY PROCEEDINGS:

197. The Tribunal received representations from the public to the effect that they want to monitor the performance of Members and to keep them alert so that they could improve the quality of debate as well as see improvement in the attendance of Members in the House.

The Tribunal recommends that a determined effort be made to introduce live coverage of Plenary Sessions and Committee sittings through the print and electronic media. Members of the public and interested groups should also be allowed to attend these sessions to

demystify plenary and Committee debates and hearings.

PUBLIC HEARINGS:

198. The Tribunal noted that there are groups with special interests who would like to attend Committee sittings and also give evidence before these Committees. **The Tribunal therefore recommends that Parliament should open up Committee hearings to the public. Parliament should also work out modalities for lobby groups who wish to attend these sessions.**

INDUCTION AND IN-SERVICE TRAINING:

199. The Tribunal noted that there is need to strengthen the induction programmes for the newly elected Members so that they may grasp quickly parliamentary procedures, the Standing Orders, use of the available facilities, skills in debating the budget, drafting and debating of Bills, the processes through which a Bill goes before becoming law, e.t.c. In-service programmes should be a continuous process. **The Tribunal recommends that a Training and Research Unit be established in Parliament for this purpose.**

HOUSING MORTGAGE SCHEME:

200. The Tribunal noted that the rules of the proposed Parliamentary Mortgage Scheme Fund had been gazetted through the Kenya Gazette Supplement No. 59 of 28th June, 2002. **The Tribunal considers the proposals adequate.**

EX-GRATIA PAYMENT TO FORMER MEMBERS OF PARLIAMENT

201. The Tribunal noted that whereas it is generally appreciated that former Members of Parliament who served between 1963 and 1983 played an important role in fighting for independence and

representing the electorate during the infancy stage of Parliament, they had not been compensated adequately.

202. It was further noted that considering them for payment of a pension would require consulting an actuary and bringing the enabling legislation to Parliament. **The Tribunal is well aware of the fact that this matter is not within its terms of reference and therefore it can only make an observation.** The plight of some of the former Members of Parliament came to the notice of the Tribunal and it strongly feels that Parliament should take a sympathetic view of their plight and find a way of helping them financially through **an ex-gratia payment of between Kshs. 500,000/= to Kshs. 1,000,000/= or whatever figure Parliament may decide.** The Tribunal reiterates that this matter is strictly not within its terms of reference but has put it before Parliament purely on compassionate grounds. Keeping in mind other Commonwealth Parliamentary practices and traditions, former Members should have access to facilities such as library, dining room and use of the Commonwealth Parliamentary Association Office.

HARMONIZATION OF SALARIES AND ALLOWANCES:

203. The Tribunal noted that even though the three arms of Government, namely, the Executive, the Judiciary and the Legislature are independent, over the years, each arm of the Government has awarded itself salary and allowances without regard to what the other arms are paying. This has caused disparity in the levels of emoluments thereby creating discontent amongst public servants. Attempts to harmonize terms and conditions of service in the past have not been successful on account of resistance from some sectors enjoying better terms who see harmonization as aiming at equalization rather than rationalization of terms.

Since all payments are made from the public coffers, the Tribunal recommends that a co-ordinating body

should be established to harmonize salaries/allowances paid to all public servants. The Tribunal also noted that past attempts had been made by the Ndegwa Commission (1970/71), the Munene Commission (1996/97), the Kipkulei Commission on Harmonization of terms and conditions of service for public servants (1998/1999) to deal with this issue in greater depth.

JOB EVALUATION:

204. The Tribunal received representations from members of the public to the effect that a mechanism needs to be put in place for evaluating the performance of Members in Parliament and in attending to constituency matters including the power to recall non-performing Members. They also complained that some Members never visit their constituencies regularly despite making their weekly Mileage Claims. **Proposals were made to the effect that Members of Parliament should visit the constituencies at least twice a month and only make Mileage Claims when they actually visit their constituencies.**

CONSTITUENCY OFFICE:

205. Members of the public were unanimous in proposing that Members of Parliament should be facilitated to have office accommodation both in Nairobi and in the constituency. They proposed that both Offices should be adequately equipped and staffed.

206. With regard to constituency offices, suggestions were made to the effect that Parliamentary Service Commission should either provide funds for their construction or alternatively facilitate Members financially to rent and staff them. The Constituency Office would offer Members and their constituents an official place to meet and exchange ideas and information vital to the carrying out of the representative functions of an elected Member.

207. The other reason why members of the public supported the need for a constituency office was the facts that as of now, constituents meet Members of Parliament in their residences, which is quite inconvenient. The Tribunal noted with appreciation that the National Assembly had already acquired the Continental House, renovated and refurbished it, and that it is ready for occupation by Members. The Tribunal further noted that the constituency office will act as an outreach office to receive and disseminate information on the theory and practice of a democratic and responsible Government, including provision of copies of the Hansard Report, especially targeting the Member's personal contributions in the House. What better way for the voters to monitor the performance of their Members! In view of the above, **the Tribunal recommends that the constituency office should be situated at a central place preferably at the divisional headquarters and be staffed and equipped by the Parliamentary Service Commission. The staff should be identified by the Member and will leave on the expiry of the Member's tenure.**

SETTING UP OF A PUBLIC RELATIONS OFFICE:

208. On the Tribunal's visit to the Provinces and Districts, it noticed that the majority of Kenyans were not well informed of the activities of the Parliament and the role of Members in society. We felt that there is great need for people to be educated and given the correct information on the events taking place in Parliament.

209. The Tribunal also felt that it would help the image of Parliament if the Speaker and Members visited the Provinces and Districts to appreciate for themselves the prevailing conditions and to articulate the role of Parliament in nation building.

The Tribunal, therefore, recommends that a Public Relations Office be set up to disseminate information concerning Parliament.

CHAPTER 13

APPENDIX I

210. **LIST OF PERSONS WHO APPEARED BEFORE THE TRIBUNAL**

MEMBERS OF PARLIAMENT

1. Prof. the Hon. George Saitoti, EGH, MP -Vice President and Minister for Home Affairs/Leader of Government Business.
2. The Hon. Joseph Nyagah, EGH, MP - a Minister of State, Office of the President
3. The Hon. Amos S. Wako, EGH, MP -Attorney General
4. The Hon. Julius Sunkuli, EGH, MP -a Minister of State, Office of the President
5. The Hon. Mwai Kibaki, E.GH, MP -Member of the Parliamentary Service Commission/ Leader of the Official Opposition Party
6. The Hon. J.H.O. Omino, MP -Deputy Speaker, National Assembly
7. The Hon. Peter Oloo Aringo, EGH, MP -Vice Chairman, Parliamentary Service Commission
8. The Hon. David Musila, MP -Member of the Parliamentary Service Commission
9. The Hon. Simeon M. Mkalla, MP -Government Chief Whip
10. The Hon. Norman Nyagah, MP -Opposition Whip
11. The Hon. Lawrence Sifuna, MP -Ford Kenya Party Whip
12. The Hon. John Mutua Katuku, MP -Social Democratic Party Whip
13. The Hon. George Owino Achola, MP -*National Development Party Whip
14. The Hon. Charles Kirui, MP -Assistant Minister – Ministry of Finance
15. The Hon. Henry Obwocha, MP -Member of Parliament for West Mugirango
16. The Hon. Kiraitu Murungi, MP -Member of Parliament for Imenti South
17. The Hon. Martha Karua, MP -Member of Parliament for Gichugu
18. The Hon. Gitobu Imanyara, MP -Member of Parliament for Imenti Central
19. The Hon. Mathias Keah, MP -Assistant Minister for Transport & Communications
20. The Hon. Muthusi Kitonga, MP -Member of Parliament for Mutito
21. The Hon. Gerald Kajwang', MP -Member of Parliament for Mbita
22. The Hon. Josephine Sinyo, MP -Nominated Member of Parliament

- 23. The Hon. Sulleman Kamolleh, MP -Member of Parliament for Matuga
- 24. Prof. the Hon. Anyan'g Nyong'o, MP -Nominated Member of Parliament
- 25. The Hon. Jimmy Angwenyi, MP -Member of Parliament for Kitutu Chache

- **Note:** The National Development Party (NDP) merged with KANU, on 18th March, 2002 and therefore no longer exists.

PUBLIC SERVICE INSTITUTIONS

- 26. Eng. Abdullahi Sharawe, EBS - Chairman, Public Service Commission
- 27. Mr. Elly Oganga - Commissioner, Public Service Commission
- 28. Mr. James E.O. Ongwae, EBS - Permanent Secretary/Director, Directorate of Personnel Management
- 29. Mrs. Alice Muita - Senior Asst. Director (DPM)
- 30. Amb. Joshua Terer, EBS - Permanent Secretary, Ministry of Labour and Human Resource Development
- 31. Mr. Abisai Ambenge - Commissioner of Labour
- 32. Mr. Peter Gakunu - Economic Secretary, Ministry of Finance

PROFESSIONAL BODIES

Architectural Association of Kenya (AAK):

- 33. Mr. Sylvester C.M. Wafula - Chairman

Kenya Union of Journalists (KUJ)

- 34. Mr. Tervil Okoko - Chairman

Kenya National Union of Teachers (KNUT)

- 35. Mr. John Katumanga - National Chairman
- 36. Mr. Francis Ng'ang'a - Secretary General

37. Mr. Peter Mtulu - National Treasurer

Central Organisation of Trade Unions (COTU):

38. Mr. Peter Muthee - Chairman General
39. Mr. Francis Atwoli - Secretary General
40. Mr. Ogutu Nyang'un - Treasurer General
41. Mr. Rajab Mwondi - First Vice Chairman General
42. Mr. John Chumo - Executive Board Member
43. Mr. Francis O' Lore - Executive Board Member
44. Mr. John K'ombewa - Secretary General - Kenya Union
of Domestic, Hotel, Educational
Institutions and Hospital Workers.

Institute of Public Accountants of Kenya (ICPAK):

45. Mr. Michael Waweru - Chairman
46. Mr. John Nj'iraini - Chief Executive

Kenya Institute of Management (KIM):

47. Mr. Mwangi Ngumo.

Retirement Benefits Authority (RBA)

48. Mr. David Nyakundi - Head of Compliance
49. Mr. Nzomo Mutuku - Head of Research and Policy
Analysis

Association of Local Authorities of Kenya (ALGAK):

50. Mr. Josiah Magut -Chairman, ALGAK-Mayor,
Eldoret Town
51. Mr. Augustine M. R. Odipo -Secretary General, ALGAK

The Law Society of Kenya (LSK):

52. Ms Raychelle Omamo - Chairperson

53. Mr. George Kiboro - Secretary

The Matatu Association of Kenya:

54. Mr. Dickson Mbugua - Chairman
55. Mr. Henry Ireri - National Organizing Secretary
56. Mr. Paul Njoroge - Deputy Treasurer
57. Ms. Sally Nyakara - Assistant Secretary General
58. Mr. Samson Obachi - Trustee

Federation of Kenya Employers

59. Mr. Tom Owuor – Executive Director

The Electoral Commission of Kenya:

60. Mr. Samuel Kivuitu - Chairman
61. Mr. Abuya Abuya - Commissioner

Former Parliamentarians Association

62. Mr. Muruthi Mureithi - Secretary

Clerk of the National Assembly of Zambia:

63. Mr. N.M. Chibesakunda

RELIGIOUS ORGANIZATIONS

The Catholic Church of Kenya :

64. The Most Reverend Raphael Ndingi Mwana a' Nzeki, Archbishop of Nairobi.

The Hindu Council of Kenya:

65. Mr. Prabhudas D. Pattni - Chairman

- 66. Mr. Muljibhai L. Pindolia - immediate former Chairman
- 67. Mr. Rashmin Chitnis - National General Secretary
- 68. Mr. Sashi K. Raval - Trustee

The Supreme Council of Kenya Muslims (SUPKEM):

- 69. Yusuf Murigu - Vice-Chairman

The Anglican Church of Kenya (ACK):

- 70. The Most Reverend Archbishop Dr. David Gitari
- 71. Mr. Tom Onyango - Lawyer

INDIVIDUALS

- 72. Mr. P.L.O. Lumumba - Secretary- Constitution of Kenya Review Commission
- 73. Mr. J.M. Ogede - Management Consultant
- 74. Mr. Wachira Gikonyo - Civil Servant
- 75. Mr. Jack Barasa - Retired Teacher
- 76. Mr. Njoroge Waweru - Sociologist (Unemployed)
- 77. Mr. Joel Arap Kirui - Economist(working in the U.K.)
- 78. Mr. Raphael Raini - Accountant
- 79. Mr. Kipkemboi Arap Kirui- Lawyer
- 80. Mr. Samuel Odala Obiero- Accountant
- 81. Mr. Abraham Kiptanui - Former Comptroller/Secretary, State House
- 82. Mr. Oduor Ogwen - Chairman - NGO Council
- 83. Mr. Ndung'u Gathinji - Nairobi Stock Exchange
- 84. Mr. Joseph O. Nyong'o - Social Party for Advancement of Reform (SPARK)

211. PROVINCIAL HEARINGS

EASTERN PROVINCE

MACHAKOS

NAME

- | | | |
|--------------------------|---|---------------------------------|
| 85. Mrs. Anne R. Ngetich | - | District Commissioner, Machakos |
| 86. Mr. Donald Mutua | - | Mayor- Machakos Town |
| 87. Mr. Francis Ngariuki | - | Civil Servants Welfare Union |
| 88. Mrs. Mary Kivulu | - | Councillor |
| 89. Mr. Alfonse Musyoki | - | Former Member of Parliament |
| 90. Mr. Fredrick Kimuyu | - | Retired Civil Servant |
| 91. Mr. Daniel Nzioka | - | Civil Servant |
| 92. Mr. Fedelis Munyao | - | Farmer |
| 93. Mr. Stanley Ndiku | - | Councillor |

ISIOLO

NAME

- | | | |
|----------------------------|---|--|
| 94. Mr. J.M. Chege | - | District Commissioner – Isiolo |
| 95. Mr. Reuben Oyaini | - | Retired Teacher |
| 96. Mr. Osman Hapi | - | Elder |
| 97. Mr. Daudi Abdi Jillo | - | Chief |
| 98. Ms Sofia Salim | - | Employee-Islamic Centre
Children's Home |
| 99. Mr. Osman Ali | - | Civil Servant |
| 100. Mrs. Anne Kimaita | - | Agricultural Officer |
| 101. Ms Agnes Ruigi | - | Adult Education Teacher |
| 102. Mr. Jarson Halo | - | Student (Egerton University) |
| 103. Mr. David Kitunguu | - | Civil Servant |
| 104. Mr. Danson Mwangi | - | Civil Servant |
| 105. Mr. Gufu Kola | - | Elder |
| 106. Ms. Gladys Mungania | - | Civil Servant |
| 107. Mr. Abdi Haji Galgalo | - | Elder |
| 108. Mr. Dabaso Halkano | - | Chairman, Isiolo County Council |

109. Ms. Anifa Shaaban - Kenya National Union of Teachers
- Treasurer, Isiolo Branch

EMBU

110. Mrs. Philomena Koech - Provincial Commissioner
(Eastern Province)
111. Mr. Solomon Ouko - District Commissioner - Embu
112. Mrs. Lydia Kimani - Chairperson - Maendeleo ya
Wanawake - Embu Branch
113. Mr. Hamisi Mboko - Clerk, Runyenjes Municipal Council
114. Mrs. Sofia Juma - District Women Leader, Supkem
115. Mr. Alphan Nyaga - Retired Educationist and former
Director, Cooperative Insurance
Services
116. Mr. Salesius Ireri - Councillor
117. Mr. Livingstone Njiru - Councillor, Runyenjes
118. Mr. Councillor Nthiga - Mayor, Runjenjes
119. Mr. Nelson Rintari - Councillor, Embu Municipal
Council
120. Mr. John Gitari Munyi - Executive Secretary KNUT Embu
Branch
121. Ms. Mary Muraa - Councillor, Embu County Council

CENTRAL PROVINCE

NYERI

122. Mr. Zachary Ogongo - Provincial Commissioner -
Central Province
123. Mr. Kingori Mbogo - Representing Association of
War Veterans
124. Mr. Gregory Mohoro Kiruki - Civil Servant
125. Mr. Kamau Waithaka - Representing Kenya National
Farmers Union
126. Mr. David Nderitu - Provincial Accountant
127. Dr. Ongwenyi - Provincial Veterinary
Surgeon
128. Mr. Ngatuni Kathuni - Provincial Fisheries Officer

- | | | |
|-------------------------------|---|---|
| 129. Mr. E. N. Njeru | - | Provincial Executive Officer |
| 130. Mr. Peter Mwangi Mwaniki | - | Personnel Officer |
| 131. Mr. John Gichire | - | Provincial Planning Officer |
| 132. Mrs. Emilio Mugo | - | Provincial Forest Officer |
| 133. Mr. Kenneth M. Njuguna | - | Civil Servant |
| 134. Ms. Beatrice Njeri | - | Rep. Provincial Co-op Officer |
| 135. R.N. Gichuki (Mrs.) | - | Rep. Provincial Director of Education |
| 136. Mr. P.N. Ngure | - | Representative - Provincial Director of Agriculture |
| 137. W.W. Mathimi (Mrs.) | - | Civil Servant |
| 138. Mr. J.W. Mahinda | - | Representing Provincial Probation Officer |
| 139. Mr. J.N. Njue | - | District fisheries Officer |
| 140. Mr. Kinyumu Kigondu | - | Representing Provincial Medical Officer |

COAST PROVINCE

MOMBASA

- | | | |
|-----------------------------|---|--|
| 141. Mr. John Egesa | - | Deputy Provincial Commissioner- Coast Province |
| 142. Councillor Liyai | - | Shimanzi Ward |
| 143. Mr. Hamisi Mwindani | - | Councillor, Mtongwe Ward |
| 144. Ms. Margaret Olan'g | - | Councillor, Ganjoni Ward |
| 145. Councillor Abdulla | - | Bondeni Ward |
| 146. Mr. Manoa Obat | - | Nominated Councillor |
| 147. Mr. David Gaithuma | - | Councillor Kongowea Ward |
| 148. Mr. Aaron Mutele | - | Councillor, Changamwe Ward |
| 149. Ms. Hilda Yackson | - | Nominated Councillor |
| 150. Mr. Mohamed Bashir | - | Councillor Port Reitz Ward |
| 151. Mr. Athman Said | - | Coordinator, Society for the Disabled |
| 152. Mr. Philip Manthi | - | Civil Servant |
| 153. Mr. Shariff Saggaf | - | Retired Teacher |
| 154. Mr. Livingstone Bebora | - | Civil Servant |

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|------------------------------|---|-----------------------|
| 155. Mr. Sulleiman Ali | - | Local Elder |
| 156. Mr. Ali Swaleh | - | Businessman |
| 157. Ms. Msengezi Barak | - | Retired Civil Servant |
| 158. Mr. Samuel S. Ndoro | - | Mwakirunge Ward |
| 159. Mr. Kombo Juma | - | Mikindani Ward |
| 160. Mr. Brek S. Kalama | - | King'olani Ward |
| 161. Mr. Adan H.B. Kushe | - | Kizingo Ward |
| 162. Mr. Abubakar M. Kibwana | - | Mjiwakale Ward |
| 163. Mr. Khamis Salim | - | Majengo Ward |
| 164. Mr. Mohamed M. Mwandugu | - | Kisauni Ward |

LAMU

- | | | |
|--------------------------------|---|--|
| 165. Mr. Gideon Sirai | - | District Officer I, Lamu |
| 166. Mr. Sheikh Abdulla Babati | - | Councillor |
| 167. Mr. Francis Njeru Chege | - | Councillor, Mpeketoni Ward |
| 168. Mr. Abdul Issa Twahir | - | Councillor |
| 169. Mr. Famau Ahmed | - | Councillor, Lamu County
Council |
| 170. Mr. Waleed Muhaji | - | Councillor, Lamu East |
| 171. Mr. Ali Athmanlari | - | Councillor, Longon |
| 172. Mr. Abdul Twali | - | Public Relations Director |
| 173. Mr. Hussein Sudi | - | Chairman of Elders |
| 174. Mr. Julius Macharia | - | Councillor |
| 175. Ms. Rukia Lali | - | Chairperson, Maendeleo ya
Wanawake, Lamu Branch |

TANA RIVER

HOLA

- | | | |
|------------------------|---|--|
| 176. Mr. James Waweru | - | District Commissioner, Tana
River District |
| 177. Mr. Awadh Doyo | - | Councillor |
| 178. Mr. Ochieng Aseno | - | Civil Servant |
| 179. Mr. Omar Dado | - | District Co-ordinator,
Constitution of Kenya
Review Commission |

- | | | |
|-------------------------------|---|------------------------------|
| 180. Mr. Yusuf Adan Haji | - | Civil Servant |
| 181. Mr. Jalla Swabi | - | Councillor |
| 182. Mr. Hamisi Jillo Dado | - | Councillor |
| 183. Mr. Simba Arte Dido | - | Councillor |
| 184. Mr. Ahmed Sheikh Mohamed | - | Civil Society Representative |
| 185. Mr. Frank Daido | - | Teacher |
| 186. Mr. Abdalla Balala | - | Civil Servant |
| 187. Ms. Rachel Galan | - | Women Leader |

RIFT VALLEY PROVINCE

NAKURU

- | | | |
|----------------------------------|---|--|
| 188. Mr. Benjamin Rotich | - | Personal Assistant to the
Provincial Commissioner -
Rift Valley Province |
| 189. Mr. Omar Abdi | - | Clerk to County Council,
Nakuru |
| 190. Mr. Geofery Karuku | - | Civil Servant |
| 191. Mr. Vitalis Kabita | - | Civil Servant |
| 192. Mr. James Momanyi | - | Retired Army Officer |
| 193. Mr. Samuel Mureithi | - | Retired Army Officer |
| 194. Mr. Bathlomew Miheso | - | Retired Industrialist |
| 195. Ms. Lorna Gathua | - | Civil Servant |
| 196. Mr. Willy Theuri | - | Retired Civil Servant |
| 197. Mr. Andrea Makanga Lukaziba | - | Retired Civil Servant |
| 198. Mr. Joseph Mukangu | - | Retired Teacher |
| 199. Mr. Ngali Mbalai | - | Retired Civil Servant |
| 200. Mr. Andrew Owino | - | Civil Servant |
| 201. Mr. Mark Mwithaga | - | Former Member of
Parliament |
| 202. Mr. Kisavuli | - | Civil Servant |
| 203. Ms. Margaret Ngugi | - | Business Woman |
| 204. Mr. Edward Maina | - | Retired Computer Specialist |
| 205. Mr. John Ateka Busii | - | Businessman |
| 206. Mr. Peter Maina Migwi | - | Farmer |
| 207. Mr. Karachi Gikunga | - | Kenya Elders Peace Support
Union |

- 208. Mr. Charles Olari Chebet - Councillor
- 209. Mr. Maina Geoffrey Mageni - Councillor
- 210. Mr. John Ogot Oyugi - Councillor
- 211. Mr. Geoffrey Mutahi Ndegwa - Councillor
- 212. Mr. Daniel Nkurui - District Officer I, Nakuru
- 213. Mr. Joram Muthee - Retired Civil Servant
- 214. Mr. Kiogora Murithi - Post graduate student,
Egerton University

LODWAR

- 215. Mr. Zephania Onyieko - District Development Officer
- 216. Mr. Japhet Ekidor - Former Member of
Parliament
- 217. Mr. Komen Silas - Principal Medical Training
College
- 218. Ms. Margaret Nabuiri - Chairperson Maendeleo ya
Wanawake Turkana Branch
- 219. Mr. Christopher Ajele - District Personnel Officer
- 220. Mr. Ayub Warega - Civil Servant
- 221. Mr. Samuel Wang'ang'a - Programme Manager World
Vision

NYANZA PROVINCE

KISUMU

- 222. Mr. John Nandasaba - Provincial Commissioner-Nyanza
Province
- 223. Mr. Ahmed Shabir Shakeel - Mayor of Kisumu City
- 224. Mr. Nyangila - Civil Servant
- 225. Mr. Mohamed Rana - Councillor, Kisumu Municipality
- 226. Mr. Richard Abura - Civil Servant
- 227. Mr. Akoyo - Civil Servant
- 228. Mr. Okumu - Civil Servant
- 229. Mr. Nyakinya Owanga - Councillor
- 230. Mr. Omondi - Economist
- 231. Mr. George Okara - Journalist
- 232. Mr. Ibrahim Ogola - Accountant

233. Mr. Fredrick Asola Odoje - Representing Local Government Workers Union
234. Mr. John Owiti Ogolo - Councillor
235. Mr. Damiano Oloo - Clerk to the County Council (Kisumu)
236. Mr. Samson Watoyi - Civil Servant
237. Mr. S.M. Omondi - Retired Civil Servant
238. Mr. Aloyce Obondo - Kanu Chairman
239. Mr. Maragia - Civil Servant
240. Mr. Ben Adul - Civil Servant
241. Mr. James Osoro - Teacher
242. Mr. Owiti - Councillor
243. Mrs. Asenath Bole Odaga - Representing Kenya Women Political Caucus
244. Ms. Doreen Akinyi - Representing Gender Development Centre
245. Ms. Ann Otieno Ombewa - Representing Gender Development Centre
246. Moses Daula - Sociologist
247. Mr. Isa Ogada - Chief
248. Dr. Argwings Kodhek - Consultant
249. Mr. Dennis Aol - Farmer

WESTERN PROVINCE

KAKAMEGA

250. Mr. Peter Kiilu - Provincial Commissioner - Western Province
251. Mr. Paul Yatich - District Commissioner, Kakamega
252. Mr. John Mogaka - Personal Asst. to the Provincial Commissioner, Western Province
253. Mr. Silvano Otiende - Mayor, Kakamega
254. Mr. Maurice Makhanu - Former Member of Parliament
255. Mr. J.D. Otiende - Former Cabinet Minister
256. Mr. Johnson Adambi Musungu - Chairman, Kakamega County Council
257. Mr. Musoma - Civil Servant

- | | |
|---------------------------|-------------------------|
| 258. Mr. Michael Odhiambo | - Civil Servant |
| 259. Mr. Enock Wasidia | - Retired Civil Servant |
| 260. Carol Mugwe | - Civil Servant |
| 261. Naomi Mbogoria | - Civil Servant |
| 262. Ms. Julia Manjiji | - Civil Servant |
| 263. Mr. Kassim Boso | - District Officer |
| 264. Mr. Gilbert Nato | - Councillor |

NORTH EASTERN PROVINCE

GARISSA

- | | |
|------------------------------|---|
| 265. Mr. Harun Opuka | - Personal Assistant to the
Provincial Commissioner,
North Eastern Province |
| 266. Mr. Bashir Dahir | - Councillor |
| 267. Mr. Abdi Absalla | - Councillor |
| 268. Mr. Hussein Adam | - Vice Chairman - Garissa
County
Council |
| 269. Mr. Abdi Ali Khil | - Councillor |
| 270. Mr. Farah Buddu | - Association for the Disabled |
| 271. Mr. Aden Hassan | - Chairman, Association for
the disabled |
| 272. Mr. Abdi R. Mohamed Ali | - Member of a Community
Based Organization (CBO) |
| 273. Ms Halima Sadia Abdi | - Businesswoman |
| 274. Mr. Abdi Aden Mohammed | - Elder |
| 275. Mr. Hassan Musee | - Elder |
| 276. Mr. Omar Abdullahi | - Elder |
| 277. Mr. Hassan Hussein | - Councillor |
| 278. Mr. Hassan Dagana | - Trade Unionism |

OVERSEAS TRIPS

INDIA

KENYA HIGH COMMISSION:

279. H. E. Mr. Lazarus O. Amayo - Kenya High Commissioner to India
280. Mrs. Josephine W. Gaita - Political Counsellor/Head of Chancery
281. Mr. M.B. Muchina - First Secretary
282. Mr. Ali Bashir - Second Secretary
283. Ms. Pamela Otenyo - Immigration Attaché
284. Ms Bosire - Education Attaché

Lok Sabha and Bureau of Parliamentary Studies & Training:

285. Mr. Malhotra - Secretary General, Lok Sabha
286. Mr. P.K. Misra - Joint Executive Director, Bureau of Parliamentary Studies & Training
287. Mr. Pulin Bhutia - Executive Officer, Bureau of Parliamentary Studies & Training
288. Mr. Maushad Alam - Executive Officer, Bureau of Parliamentary Studies & Training

SINGAPORE

289. Mr. P.O. Ram - Clerk of Parliament
290. Ms Mahesrawi Kannusamy - Manager Administration & Finance
291. Rizal Rahaman - Manager, Estate and Facilities
292. Mr. Chia Kin Chong - Administrative and Personnel Officer
293. Kassim Rai - Serjeant At Arms
294. Ms Khan Khalil - Assistant Clerk
295. Mr. Lan Ping Sum - Executive Director, People Action Party
296. Mr. Othman Haron Eusofe - Mayor (Chairman, South East Community Development Centre)

SOUTH AFRICA

KENYA HIGH COMMISSION

297. H.E. Prof. Ciarunji Chesaina(Mrs) - The Kenya High
Commissioner to South
Africa
298. Mr. Christopher Chika - First Secretary
299. Mr. Mathew Njue - Administrative Attaché

Union Parliament (Capetown)

300. Mr. Sindiso Mfenyana - Clerk of Parliament
301. Mr. Allan Smith - Manager, Finance
302. Mrs. D. Iliffe - Claims Department
303. Mr. Mtutu Masiza - Manager, International
Relations
304. Mr. Ishaam R. Moorad - Human Resources
Manager

Gauteng Provincial Legislature

305. Ms Lindiwe Maseko - Deputy Speaker,
Gauteng Legislature
306. Mr. Richard Mdakane - ANC Chief Whip
307. Faith Mazibuko - ANC Whip
308. Hope Papo - ANC Deputy Chief
Whip
309. Lydia Meshoe - African Christian
Democratic Party
(ACDP) Leader,
Gauteng Caucus
310. Mr. Jack Bloom - Democratic Alliance –
Chief Whip
311. Mr. Kabus Bosman - Federal Alliance
Leader, Gauteng
Caucus

UGANDA

KENYA HIGH COMMISSION

312. H.E. Mrs. Magdalene J. Wambua - The Kenya High
Commissioner to Uganda
313. Lt. Colonel Machanga Willy - Defence Advisor
314. Mr. John Chesoni - Third Secretary
315. Mr. Wesley Keter - Administrative Attaché

Parliament of Uganda

316. Hon. Edward Kiwanuka Ssekandi - Speaker of the Parliament
of Uganda
317. Hon. Rebecca Kadaga, - Deputy Speaker
318. Hon. Ben Wacha, MP
319. Hon. Major John Kazooro, M.P.
320. Hon. (Mrs.) Margaret Zziwa, M.P. } Members of Parliamentary
Service Commission
321. Mr. Manuel Pinto - Director of Parliamentary
Professional Development
322. Mr. Paul Wamalwa - Director/Finance and
Administration
323. Mr. Waiswa Henry Yoweri - Senior Assistant Secretary

TANZANIA

KENYA HIGH COMMISSION

324. Mr. Ali Abbas Ali - Counsellor – (Acting
Kenyan High Commissioner
to Tanzania)

Parliament of Tanzania

325. Hon. Fredrick Sumaye, MP - Prime Minister of Tanzania
326. Dr. the Hon. Kaburu, MP - Leader of Official Opposition

- 327. Mr. J.A. Rugumyamheto - Permanent Secretary, Civil Service Department
- 328. Mr. Kipenka M. Mussa - Clerk of Parliament
- 329. Mr. Demetrius Mgalami - Senior Assistant Clerk (Protocol)
- 330. Mr. Japhet Kamara - Director of Personnel and Administration
- 331. Mr. Lukago Madulu - Senior Administrative Officer
- 332. Mr. Shayo - Senior Clerk Asst.
- 333. Mr. Cletus Ponella - Principal Information Officer
- 334. Mr. George Duyambezi - Director, Policy Development
- 335. Mr. Godwin Yana Cheti - Mayor of Dodoma

APPENDIX II

211. DOCUMENTS/MEMORANDA PRESENTED TO THE TRIBUNAL

1. Document presented by Members of the Cabinet, Hon. Joseph Nyagah, EGH, Hon. Sunkuli, EGH and Hon. Amos Wako, EGH.
2. Document presented by Mr. James Ongwae, EBS, the Permanent Secretary/Director, Directorate of Personnel Management.
3. Document presented by Eng. A. M. H Sharawe, EBS, Chairman, Public Service Commission.
4. Document presented by Amb. Joshua Terer, EBS, Permanent Secretary, Ministry of Labour and Human Resource Development.
5. Document presented by the Municipal Council of Runyenjes.
6. Document presented by Mr. Abraham Kiptanui, Former Comptroller of State House.
7. Document presented by the Maendeleo ya Wanawake (Embu Branch).
8. Document presented by the Kenya National Union of Teachers (Embu Branch).
9. Documents from the House of Commons - Canada.
10. Documents on salary and allowances payable to Members and staff of Parliament and equivalent salary scales for civil servants as well as disciplinary code of conduct from the Clerk of the National Assembly of Zambia.

11. Documents presented by the Hon. Oloo Aringo Aringo, Vice Chairman - Parliamentary Service Commission.
12. Document presented by Mr. Samuel Obiero - Accountant.
13. Document presented jointly by the Parliamentary Party Whips.
14. Document presented by Mr. Joseph Owuor Nyon'go - Salesman.
15. Document presented by the Architectural Association of Kenya.
16. Document presented by Mr. Joel Kirui - Economist.
17. Document presented by the Most Reverend Raphael Ndingi Mwana 'a Nzeki- Archbishop of Nairobi.
18. Document presented by the Institute of Certified Public Accountants of Kenya.
19. Document presented by Mr. E.J.G. Wasidia of WEFA Communication Centre.
20. Document presented by Mr. J.M. Ogode - Management Consultant.
21. Document presented by the Kenya Union of Journalists.
22. Document presented by Mr. Peter N. Kiilu, Provincial Commissioner, Western Province.
23. Document presented by Mr. Nyangena - Public Servant.
24. Document presented by the Central Organization of Trade Unions. (COTU)
25. Document presented by the Kenya Institute of Management (KIM).

26. Document presented by the Hon. Henry Obwocha, Member of Parliament for West Mugirango.
27. Document presented by the Kenya National Union of Teachers. (KNUT)
28. Document presented by Mrs. Carol Mugwe, Association of Professional Women of Western Province.
29. Document presented by Mr. Newton Maungu - Quantity Surveyor.
30. Document presented by the Hon. Sulleiman Kamolleh, Member of Parliament for Matuga.
31. Document presented by Mr. S.W.O. Ogessa - Members of the public.
32. Document presented by Mr. Wachira Gikonyo - Civil Servant.
33. Document presented by the Hindu Council of Kenya.
34. Document presented by Mr. Oduor Ong'wen - Chairperson, National Council of Non-governmental Organizations of Kenya.
35. Documents from the Parliament of India and the Bureau of Parliamentary Studies.
36. Documents from the Parliament of Singapore and the People Action Party (Singapore Ruling party).
37. Documents from the Parliament of South Africa and Gauteng Provincial Legislature.
38. Documents from the Parliament of Uganda.
39. Documents from the Parliament of Tanzania.

40. Documents from the Commonwealth Parliamentary Association (CPA) London Headquarters on salaries and allowances for Members of Parliament from various Commonwealth countries.
41. Document presented by the Retirement Benefits Authority.
42. Document presented by Former Parliamentarians Association of Kenya.

