

## **AN OUTLINE OF A PROJECTED PAPER TITLED:**

### **" THE MEDIA AND PARLIAMENT IN KENYA: AN ASSESSMENT OF THEIR NEXUS AND ROLES IN THE DEMOCRATISATION PROCESS"**

#### **1. A Conceptual Overview**

The Media and Parliament have a very special place in social engineering and hence are indispensable in the healthy development of a Democratic Political culture and constitutionalism.

Today we are talking of the arrival of the global village, a coinage of that media guru, Herbert Marshall McLuhan on account of the great advances made in communications and technology. This phenomenal progression, ushering in the digitisation of data and the internet is something which of all of us, including such institutions as Parliament, have to reckon with.

Both institutions have their origins in the search for democratic space, so that they have been active actors in the democratic space.

Parliament, whose formal origins in the modern sense can be traced to Althing, the bicameral of Iceland and in the world, is today seen, whatever the form of the body politic, as the watchdog of the Constitution, a forum for dialogue and the symbolism of the sovereignty of a nation - state.

The word Parliamentum as meaning a deliberative body was first used in England in 1247.

The appellation Fourth Estate has stuck since it was coined by Edmund Burke, the British Whig statesman, in the 18th century.

He is credited with first referring to the reporters gallery in the House of Commons as the fourth estate. What he meant was that the power of the Press was comparable to that of the three estates of the British Parliament, namely, the clergy or Lords Spiritual; the barons or peers, or Lords Temporal, and the commons.

It is also interesting to look at the potency of the Press from the "four freedoms" as expounded by President F.D. Roosevelt ( the author of the " New Deal" in the United States and who had the distinct accomplishment of being elected four times as the president of that country) in a message to Congress urging support for the Lend Lease Bill during World War II. The four aspects of freedom mentioned in the declaration of objectives by the 32nd president of the U.S were: freedom from want, freedom of worship, freedom of speech and expression, and freedom from fear.

Freedom of the press, one of the major civil liberties of our time had a perilous beginning in England from which we have inherited parliamentary practice and procedures) with stringent government controls in the form of licensing of books and newspapers as well as censorship. Government interference with the Press (which was at the time basically print media) diminished in the eighteenth century though there was an outburst of prosecutions in the early 19th century, and there was a vigorous pamphlet war, the government

sometimes subsidising pro-government papers. In this period also begun the reporting of debates in Parliament, initially in journals, such as the Gentleman's Magazine and the London Magazine. The House of Commons reaffirmed in 1738 that it was a breach of privilege to print without permission the proceedings of either House, but this did not stop unauthorised reports and a final and unsuccessful attempt to assert the privilege was made in 1771. The last special restriction on newspapers, the Stamp Duty, was abolished in 1855.

The liberty of the press has always been restricted by the general law of sedition and libel, the law of contempt of Parliament and of the courts, by the Official Secrets Act and, in wartime by special temporary censorship. But these apart, it has been competent to publish whatever the editor wills.

Freedom of the Press has another side, in that it may be abused by intrusive investigations, sensational or inaccurate reporting, refusal or failure to publish explanations, and publication of material better ignored. It is here that the importance of responsible self-regulation on the part of the Press is critically important.

2. **A Brief Survey of the Historical Progression of the Two Institutions in Kenya (i.e.. " The Emergence of the Media and the Legislature in Kenya.")**

This will be a brief overview of the taking root of both the Media ( print and electronic) and Parliament, the historical antecedents stretching as far back as the turn of this century.

3. **Allies in Democracy: The Role of the Press vis - a - vis Parliament.**

- a) To undertake impartial and independent coverage of the proceedings of Parliament;
- b) To enlighten the people ( citizens) on the role of Parliament as the watchdog of the Constitution and as the supreme law making body in the country;
- c) To monitor the activities and the overall performance of Parliament with a view to establishing whether the overall assessment accords to expectations;
- d) To serve as a check on excesses of Parliament in the exercise of its powers and privileges. In this regard should ideally suggest ways and means of how to make Parliamentary a more effective and efficacious institution;
- e) To forge cordial working relationship with the National Assembly, including the various Parliament Committees.

4. **Allies in Democracy: The Role of Parliament vis - a - vis the Press.**

- a) Offering accessibility to Parliamentary records of the sittings of the National Assembly and its various committees. (Needless to state, this information is absolutely privileged as regards the law of defamation);
- b) Encouraging the holding of informal meetings between the Government Ministers, the Whips of the various political parties as well as the Office of the Official Leader of the Opposition, and the press corps ( especially the parliamentary correspondents assigned to Parliament by the various media houses) whereby journalists are made



privity to confidential bits of information - on the condition that they do not use the information so proffered, or that alternatively they can divulge some of the information ( or all of it ) but without attributing the source. ( This system has worked quite satisfactorily in Britain and can also be emulated here in our country).

- c) Establishing a Press Office to supply general information to the Press, and the members of the public at large. ( Live radio and television coverage of proceedings to be encouraged).
- d) According a conducive constitutional, legal and political environment for the Press to perform its work effectively.

### 5. Over Ninety Years of Co-existence: Collaboration or Hostility.

This will be an examination of the nature of the relationship between the media and the legislature in this country since the beginning of this century - clearly delineating the dynamics, nuances and political currents which have welded or created fissures in the long - standing symbiotic nexus between the two institutions.

Judging from the historical experience in Britain, there has been over the years, a whiff of hostilities between the two institutions, a pattern which has since been reversed to a significant degree.

In Britain, both Houses of Parliament possess power to imprison or to banish members or outsiders from their precincts. The House of Lords has power to fine. Trial by contempt of Parliament ( publications which bring the House into odium, contempt or ridicule or lower its authority" can constitute contempt) involves a total lack of procedural guidelines, judgment by a partial tribunal and no right of appeal to the courts. In the past the powers have been used against newspapers which criticized the conduct of MPs. However, the offences have fallen into disuse and no one has been imprisoned since 1880. If they were to be revived and any serious punishment imposed, it is doubtful whether they would withstand scrutiny by the European Court of Human Rights.

The same tradition, i.e. with respect to contempt of Parliament, has been adopted in this country as per the National Assembly ( Powers and Privileges) Act, although it does not seem to have been resorted to. However, there have been occasions when the Speaker of the National Assembly had to warn the Press of the consequences of distorted reporting of the proceedings of the august House.

Contrast the British tradition with what obtains in other democracies. The US Congress has an implied contempt power that " rests upon the right of self-preservation, that is, the right to prevent acts which ... inherently obstruct ... the discharge of legislative duty ..." Congress apparently has used this power only to punish the refusal to provide evidence it has demanded. It has not used this power to punish the disclosure of confidential information.

In Sweden, whereas general sessions of Parliament are open to the public, Parliamentary Committee sessions are not. Committees can withhold documents from the public while they are at work, but must open their files when they present their proposals. Parliament can only withhold information protected by the Secrecy Act. There are no restrictions, such as contempt of Parliament, on reporting about Parliamentary matters).

(NB. For comparative purposes, the South African experience offers an additional case study with regard to the working links between the media and the legislature. The other possible candidate is Tanzania).

6. **The Role of the Media and Parliament in the Promotion of a Democratic Political Culture and Constitutionalism**

It has to be stated straightaway that the idea is not to merge the Media and Parliament as one entity: this is neither possible, nor desirable. After all, the Media is part of the Civil Society whereas Parliament is in fact an organ of government within the context of Montesquieu's separation of powers into three broad categories - the legislature, the executive and the judiciary.

But clearly the two bodies can contribute a great deal to the democratisation process, and more immediately, in the unfolding constitution making process - that is, independently and collectively. The coverage of divergent views is of critical importance. It also behoves the Press to give honest and balanced coverage to the protagonists in an electoral process.

With the emergence of more cohesive East African Community, the envisaged East African Assembly will also be charged with a specific role in promoting human rights, democracy and the rule of law in the region. The Press will be further challenged in offering a Pan - African coverage of the legislative body's proceedings and activities.

7. **The Strengthening of Parliament and the Fourth Estate in Kenya in the Third Millennium - A Prognosis and Prospects.**

**Christopher Mulei.**

**20th June, 1998.**



## **ORIENTATION TOPICS AND POSSIBLE CONSULTANTS**

- 1. The Constitution: Controversies on Its Amendment**  
**Prof Okoth Ogendo**
- 2. The Presiding Officer: Guardian of the Constitution**  
**CPA Consultant**
- 3. The Presiding Officer: Guardian of Parliaments Rights and Privileges**  
**CPA Consultant**
- 4. Parliament: The Administration of Parliament**  
**CPA Consultant/Clerk**
- 5. Parliament: The Party in Parliament**  
**CPA Consultant**
- 6. Parliament: Powers, Privileges and Immunities.**  
**CPA Consultant**
- 7. Parliament: Critical Aspects of Debate in the House and in Committee**  
**CPA Consultant/Clerk**
- 8. Parliament: Power of the Purse**  
**CPA Consultant**
- 9. Representation: MPs Local Level Planning and Development Roles**  
**Prof. G-C. M. Mutiso**
- 10. Representation: Role of Parties in Policy Development**  
**David Ndi**
- 11. Representation : Parties versus Pressure Groups in Democratisation**  
**Bertha Amisi**
- 12. Structure of Politics: Global and Macroeconomic Environments**  
**M. Cheserem**
- 13. Structure of Politics: Regional and National Long Range Planning.**  
**Sam Mwale**

14. **Structure of Politics: Long Range : Multipartism or Retribalisation?**  
**Ngunyi Mutahi**
15. **Structure of Politics: The Demographic Bomb**  
**Population Council**
16. **Structure of Politics: Conflict in the Region**  
**Dr. Makumi Mwangiru**
16. **The Production Crisis: Land, Water and Agriculture**  
**Mutsembi Manundu**
17. **The Production Crisis: Environment, Energy and Industrialisation**  
**Gerishon Ikihara/F. M. Muthuuri/ Kimuyu**
18. **The Production Crisis: Changing Families and Urbanisation**  
**Prof. Mbula Bahemuka**
19. **The Production Crisis: Corruption and Poverty**  
**John Mukui**
20. **The Administration Crisis: The Bloated Non-Productive Public Service**  
**Prof. Ngethe Njuguna**

## STRATEGIC PLANNING : BUDGET INDICATORS

<b>Consultants:</b>	<b>Prof. G-C. M. Mutiso</b>	
	<b>W. Njuru</b>	
<b>Consulting Time Budget:</b>	<b>Preparation</b>	<b>20 person days</b>
	<b>Training</b>	<b>60 person days</b>
	<b>Report Production</b>	<b>10 person days</b>
<b>Consulting Rate:</b>	<b>Person Day</b>	<b>USD 300</b>
<b>Report Production:</b>	<b>Taping</b>	<b>?</b>
	<b>Reproduction</b>	<b>?</b>
	<b>Editing</b>	<b>?</b>
<b>Conference Costs:</b>	<b>Accommodation</b>	<b>?</b>
	<b>Transport</b>	<b>?</b>
	<b>Conference Materials</b>	<b>?</b>
	<b>Allowances</b>	<b>?</b>
	<b>Secretariat</b>	<b>?</b>
	<b>Background Materials Preparation</b>	<b>?</b>

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## **ORIENTATION SEMINAR: MEMBERS OF EIGHTH PARLIAMENT**

Over the recent past, it has been considered useful to hold an orientation seminar for members of Parliament for significant numbers are new to Parliament. Members who attended the Orientation Seminar of the Seventh Parliament were extremely supportive of the idea. They claimed to have benefited tremendously from participating in the seminar. It was not just the new parliamentarians. Old parliamentarians appreciated being involved for the environment within which Parliament is to function has changed tremendously. The key changes are multipartism, demographics, the macroeconomic environment, increase in poverty, and social change.

It is therefore proposed that the Orientation Seminar for the Eighth Parliament be for a period of a five days, preferably outside Nairobi. The key topics are:

1. The Constitution: Modalities of Its Ammendment
2. The Presiding Officer: Guardian of the Constitution
3. The Presiding Officer: Guardian of Parliaments Rights and Privileges
4. Parliament: Guardian of Individual Rights and Priviledges
5. Parliament: The Party versus Parliament
6. Parliament: Powers, Privileges and Immunities.
7. Parliament: Critical Aspects of Debate in the House and in Committee
8. Parliament: Power of the Purse and Financial Accountability
9. Parliament: Precedents, Procedures and Representation
10. Parliament: Relastions with Executive and Judiciary (Separation of Powers)
11. Parliament: Members Relations with Parliament/ Public Officers
12. Representation: MPs in Local and National Long Range Development
13. Representation : Parties versus Pressure Groups in Democratisation
14. Representation: Ethnicisation, Multipartism and Fragmentation
15. Structure of Politics: Global and Macroeconomic Environments
16. Structure of Politics: The Demographic Bomb: Urban Versus Rural
17. The Production Crisis: Land, Water and Agriculture
18. The Production Crisis: Environment, Energy and Industrialisation
19. The Production Crisis: Corruption and Poverty

Costing each paper 5days @ USD 300per day= 1500

Coordinator Prep 5+ Conf. 5 + Rep 5 days= 15 @ USD 300= 4500

## TERMS OF REFERENCE FOR THE STAFF WORKSHOP AND MEMBERS SEMINAR CONSULTANCY

The role of the consultant will be to assist participants learning and to ensure that they achieve the objectives of the seminars. He/She will be expected to:

- Assistant with the preparation of both the workshop and the seminar including identification of potential resource persons and preparation of seminar papers and ensuring they are of the highest standards in terms of content, relevancy and professionalism.
- Management of process of learning during the workshop and seminar to ensure that participants have clearly understood objectives and group tasks, manage the flow of the workshop and seminar including maintaining the momentum and focus, ensure all the participants participate effectively in the proceedings and group discussions and to summarize key points of learning and issues that need follow-up.
- Monitor the learning process and ensure it moves participants towards expected outcomes through formal and informal assessment techniques and instruments.
- Participate in debriefing meetings with the workshop and seminar sponsors and the client throughout the training and recommend adjustments to the workshop and seminar programmes if necessary.
- Participate in and/or facilitate writing, editing and discussion of the workshop and seminar reports.





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30/04/98

Ms. Susan Kavanagh  
Deputy Resident Representative  
UNDP  
Box 30218  
Nairobi.

Dear Ms Kavanagh,

Re: Consultancy to National Assembly: Your Ref. Ken/95/110 of 27/04/98

Further to your referenced, please find our workplans for Parliament's Staff Seminar and the members Parliamentarians Seminar. The fes for are USD 11,400 and USD 6,000 respectively.

Since the National Assembly, in discussion with you, is yet to establish where the training will take place, it is assumed that the costs of travel, hotels and subsistence will be discussed later. The practice is to charge AA Rates for travel and the UNDP DSA.

We assume that the usual practice of 50% down payment and 50% on completion will be the contracting norm.

We look forward to collaborating in your work.

Yours sincerely,  
Muticon

Prof. G-C. M. Mutiso  
Managing Director

cc.  
Mr. Luke Wasonga  
ARR, UNDP

Mr. K. Mukiira  
Component Co-ordinator  
National Assembly