

Public Funding of Political Parties

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Foreword

This Booklet is source of information on the funding of political parties. It discusses the functions of political parties in society, the need and rationale for public funding of parties and the mechanisms for funding. The booklet is produced from workshop papers and proceedings held between 1999 and 2001. The workshops brought together key stakeholders in the political process including political parties, Members of Parliament, Scholars and civil society actors. A committee bringing together political parties was constituted early in the process and was instrumental in defining the parameters for the funding of political parties. These parameters are captured in the Political Parties bill (annex 1).

The Political Parties Bill seeks to empower political parties by providing basic financial support that can be used to establish the necessary infrastructure for the effective operation of parties. The finances would be used for such essential services as rent, telephones services, transport, secretariat remuneration and party elections.

The rationale for proposing the public funding of political parties is that political parties are public institutions that are essential for democratisation. Our constitution makes political parties an integral part of the electoral process. All candidates seeking office in presidential, parliamentary and local government elections are required to be nominated by political parties. Political parties are therefore the first sieve through which leadership emerges. Needless to say, defective parties produce defective candidates and ultimately defective leaders.

To ensure that public funds are not squandered by unscrupulous party leaders and managers, strict provisions for the management of the funds are designed. Sanctions to ensure compliance are also part of the proposed legislation. We hope that all those who desire to consolidate the country's young democracy will support the empowerment of political parties through the provision of financial support as proposed in the annexed Political Parties Bill, 2002.

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Executive Director
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April, 2002

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April, 2002

Introduction

Political parties may generally be described as associations or groups of people who are formally organised for the purposes of gaining governmental power by promoting their members to contest and win elections. They are therefore an integral part of democracy. Political parties perform many functions in a democracy, including:

- Providing a secular basis around which people can associate with the main purpose of trying to place some of their members in governmental positions and hence influence governmental decision-making;
- Providing a conducive environment for political competition as different interests and individuals seek positions of power;
- Carrying out the initial selection of the candidates to participate in the election, with each party fronting its best people to vie for leadership;
- Articulating clear policies simply presented to the electorate;
- Carrying out political communication and education, providing information on which the voters may base their selection of the candidates before them;
- Carrying out political mobilization and encouraging the public to cast their votes in elections;
- Developing the special legitimacy to continuously aggregate and represent people's problems and demands to the authorities;
- Uniting the diverse peoples who constitute their membership or who participate in debating party policies and ideas;
- Facilitating dialoguing between the authorities and the public; and
- Acting as instruments of reconciliation between diverse population groups and between the government and the groups.

These are social-political roles, which no other institution can adequately play.

The importance of political parties in the democratic process cannot be overemphasized. The agitation for the repeal of section 2A of the constitution, which prohibited the existence of parties other than KANU, was at the core of the struggle for democratisation, which preoccupied Kenyans in the 1980s. This struggle for the right to have many political parties was labelled the second liberation (the first being liberation from colonialism).

The period of single party rule is remembered with fear and loathing. Right thinking Kenyans have no desire to revert to single party rule.

Unfortunately nothing has been done to facilitate the development of viable and sustainable parties in order to consolidate multi-party politics. Although Kenya has more than 40 registered parties, majority exist in name only and little party activity takes place in Kenya due to the weaknesses of the parties. Several factors have inhibited the development and institutionalisation of parties. These include: lack of resources; personality cults; failure to effectively articulate and market their ideology and policies; lack of internal democracy; ineffective grassroots mobilisation; and poor party management. For parties to play their role in the democratisation process responsibly and effectively, they have to be able to organize adequately in order to develop convincing policies and inform the public about them. They must have properly working and strategically located offices. They should also have paid and voluntary staff who will implement the decisions of various levels of party hierarchy. Equally, for a party to claim to represent the democratic wishes and aspirations of the public, it must establish well-defined decision-making positions and have them filled democratically through free and fair elections. Finally, a party must be able to mobilize all available human, financial and physical resources in order to meet basic organizational costs.

Why do political parties need public funding?

As can be seen from the discussion above, the development and institutionalisation of political parties requires substantial resources. Such resources are not easily available to parties due to several factors. Some of the major factors constraining the financial viability and sustainability of parties in Kenya are:

- The widespread poverty in Kenya. With 56% of the population living below the poverty line of 1 dollar per day income, it is difficult for parties to raise funds from their supporters, who can barely meet their own basic needs;
- Cultural constraints. Kenyans have not yet developed the culture of supporting the parties of their choice. In fact rather than support the parties, they expect the parties to give them handouts to win or sustain their support;

- Lack of the necessary infrastructure for effective fund raising including viable secretariats, proper documentation and marketing strategies; and
- All the parties, with possibly the exception of KANU, are very young and have not yet established loyal supporters who can make substantial contributions to their finances.

What is the rationale for public funding of political parties?

Given the above constraints and the need to develop effective parties in order to secure multiparty democracy, it is imperative that political parties should receive public funding. Public funding is justified on the following grounds among others:

- It helps in safeguarding the various political parties against undue influence from private and foreign sponsors, since the interests of such sponsors often threaten the freedom and ability of the political parties to represent the will of the people. The phenomenon of rich people literally buying parties is well known.
- Availability of public finances ensures that diverse parties survive and defeats any moves towards single party authoritarianism through the use of financial muscle to obliterate parties that do not have rich financiers.
- Legal regulations governing public accountability for party funds discourage utilisation of other state resources by the party in power.
- Public party financing boosts the capacity of different parties to develop and articulate their policies, thereby promoting competitiveness and the quality of consultations between the power seekers and the electorate.

Public funding of political parties is not a new phenomenon. Several countries around the world fund political parties. Germany, South Africa and Tanzania are examples of such countries.

Participatory development of the Political Parties Fund Bill

The Political Parties Fund Bill is the product of extensive and intensive consultations between political parties. The first workshop on the funding of political parties took place in 1999. All the key stakeholders including political parties, members of Parliament, the Electoral Commission of Kenya and civil society organisations, attended it. Stakeholders in this workshop noted that

Parliament had passed four motions calling for legislation to facilitate the public funding of political parties since 1993 but no legislation had been enacted so far. They recommended the setting up of a committee to draft a Bill for the public funding of political parties and mandated two members of parliament Hon. Kiraitu Murungi and Hon. Musikari Kombo to convene the committee and urged CGD to facilitate it and disseminate information on the developments to the participants and parties represented.

Pursuant to this mandate, two subsequent workshops were convened in November 2000. The workshops brought together key stakeholders - including Members of Parliament, representatives of political parties, scholars and civil society actors- to further examine the issue of public funding of political parties and work out the modalities for an effective legislation. At the conclusion of the second workshop, a committee of representatives of the various participating political parties was constituted by stakeholders to work with the facilitator, Prof. Nick Wanjohi, to develop a legislative draft for the funding of political parties through the consolidated fund. The committee was also mandated to identify a draftsman to reduce the draft into a Bill.

The committee held several meetings and thoroughly discussed the various matters affecting the funding of political parties. Questions such as the qualifying criteria for accessing the fund, the elections to be used to determine qualification, misuse of the fund, affordability of the scheme and many others were addressed to the satisfaction of all concerned. A draft of the proposed framework was then developed and circulated to participating parties for comments. A workshop was also held for political parties to comment on the draft and develop consensus on it before it could be reduced to a Bill. Thereafter, the committee contracted Mr. Ndoria Gicheru a renowned draftsman who reduced the draft to a Bill in the present form (Annex 1).

The Political Parties Fund Bill, 2001: An overview

The objectives of the Act are:

- (1) to establish a Political Parties Fund in order to support multi-party democracy provided for in the Constitution;
- (2) To provide for public funding of political parties and for other forms of political party financing for purposes of proper operation of parties as

- institutional basis for multi-party democracy;
- (3) To strengthen institutional bases of political parties for effective contribution to the conduct of free, fair and democratic elections;
 - (4) To promote internal democracy among political parties; and
 - (5) To provide for other incidental or connected matters.

The Bill among other things:

- Sets up a political parties fund (s.10(1)) which will be managed and administered by the Electoral Commission of Kenya (s.10 (2) (a)). The moneys in the fund will be derived from Parliamentary appropriations at 1% of the national budget in the last financial year and from donations and contributions (s.11).
- Provides for the qualifications of parties for the purposes of access to the fund and also proportional funding of parties commensurate with their Parliamentary strength (s.13).
- Specifies the purposes for which the funds can be used (s.14) and provides sanctions for non-compliance (s.18).
- Has provisions that promote transparency and accountability in the management of party funds. It provides for the annual audit of party funds (s.17) and also for the audit of the Commission by the controller and auditor-general (s.19). The Act also encourages internal democracy through behavioural audit (s.15).
- Provides a dispute resolution mechanism to arbitrate between aggrieved parties and the electoral Commission of Kenya by setting up a cross-party committee(s.21).
- Gives power to the commission in consultation with political parties to make rules for the implementation of the Act (s.25).

Annex 1

THE POLITICAL PARTIES FUND BILL, 2001

A Bill for An Act of Parliament to provide for public funding of political parties and for purposes connected therewith

WHEREAS political parties, in one form or another, have become an integral part of modern political systems;

AND WHEREAS the Constitution of Kenya stipulates that the country shall be a multiparty democratic state, with political parties organizing and presenting choices to the voters;

AND WHEREAS political parties play a fundamental role in political recruitment, to wit, selection of political leadership, and ultimately formulation of public policy;

AND WHEREAS political parties facilitate mobilization and steering of public opinion, popular participation and communication between the governed and the governors;

AND WHEREAS, consequent upon the foregoing, the functions of political parties entail substantial capital and recurrent expenditure;

AND WHEREAS it is desirable that political parties are appropriately funded to ensure they are intimately and effectively involved in the democratic process at all levels, and to guarantee the minimum standards necessary to maintain the vitality of a representative democracy;

AND WHEREAS a sound regulatory framework in the funding of political parties, which first and foremost promotes public confidence in the political process, must be underpinned by the principle of openness (which informs the financial affairs of the parties); the principle of equality of political participation (which assures fair representation of all major interests); and the principle of equality of electoral opportunity (wherein candidates for political office have a fair opportunity);

NOW THEREFORE BE IT ENACTED by the Parliament of Kenya as follows:

PART 1 - PRELIMINARY

1. This Act may be cited as the Political Parties Fund Act, 2001.
2. In this Act, unless the context otherwise requires:
 - “allocation”, in relation to a qualifying party, means allocation of moneys from the Fund and its grammatical variations and cognate expressions shall be construed accordingly;
 - “Commission” means the Electoral Commission established by section 41 (1) of the Constitution;
 - “Committee” means the Disputes Resolution Committee established by section 21;
 - “election” means a parliamentary election, a presidential election or a local government election;
 - “Fund” means the Political Parties Fund established by section 10 (1);
 - “general election” has the meaning assigned to it by section 58 (3) of the Constitution;
 - “local government election” means the election of one or more elected members of the local authority or government;
 - “Minister” means the Minister for the time being responsible for matters relating to elections;
 - “parliamentary election” means the election of one or more elected members of the National Assembly;
 - “parliamentary party” means a party represented by one or more of its own elected members in the National Assembly;
 - “party” means a political party;

- “ political party” has the meaning assigned to it by section 123 (1) of the Constitution;
- “ presidential election” means an election of a President in accordance with section 5 of the Constitution;
- “qualifying party” means a party that is entitled to receive an allocation from the Fund by virtue of section 13(2).

PART 11 - SOURCE AND PURPOSE OF PARTY FINANCES

3. A party shall derive its finances from -
 - (a) membership fees;
 - (b) voluntary contributions from fund - raising or harambee events;
 - (c) proceeds of any investment project or undertaking in which the party has an interest;
 - (d) allocation from the Political Parties Fund established by section 10 (1); and
 - (e) donations (as hereinafter provided).
4. The finances of a political party may be applied:
 - (a) to inspire and further political education and public information delivery;
 - (b) to influence political trends;
 - (c) to ensure continuous linkage between the people and governmental organs;
 - (d) to promote active participation by individual citizens in political life;
 - (e) notwithstanding the generality of the preceding paragraphs, to promote public awareness of -
 - (i) electoral systems and matters;
 - (ii) systems of local and national government;
 - (iii) institutions of the East African Community and the African Union;
 - (f) to foster any other purpose or activity that is consistent with the consolidation and advancement of the aims and objectives of a multiparty democracy.

PART 111 - DONATIONS

5. (1) Subject to sections 7 and 8, the following shall constitute donations for the purposes of section 3 (e):
 - (a) any gift to the party of money or other property;
 - (b) any subscription or other fee paid for affiliation to, or membership of, the party;
 - (c) any money spent (otherwise than by the party or a person acting on its behalf) in paying any expenses incurred directly or indirectly by the party;
 - (d) any money lent to the party otherwise than on commercial terms;
 - (e) the provision otherwise than on commercial terms of any property, services or facilities for the use or benefit of the party (including the services of any person);
 - (f) the provision of any sponsorship in relation to the party.
- (2) Any money or other property which is transferred to a party for a consideration which is less than the value of the money or (as the case may be) the market value of the property shall be regarded as constituting a gift to the party.
- (3) Anything given or transferred to any officer, member or agent of a party in his or her capacity as such (and not for his or her own use or benefit) shall be regarded as given or transferred to the party (and references to donations received by a party accordingly include donations so given or transferred).
- (4) In this section-
 - (a) any reference to anything being given or transferred to a party or any person is a reference to its being so given or transferred either directly or indirectly through any third person;
 - (b) “gift” includes bequest; and
 - (c) “ market value”, in relation to any property, means the price which that property might be expected to fetch on sale in the open market.
6. None of the following shall be regarded as a donation-
 - (a) the transmission or publication by a broadcaster or a publisher, free of charge, of a party political broadcast or publication;
 - (b) any facility provided in pursuance of any right conferred on candidates or a party at an election by any written law;
 - (c) the provision by any individual of his or her own services which he or she provides voluntarily and free of charge (even if they fall within the course of his or her normal work);
 - (d) any donation whose value is less than Kenya shillings five hundred.

7. (1) A donation offered to a party shall not be accepted by the party if -
 - (a) it is offered by a person who is not, at the time of its receipt by the party, a permissible donor; or
 - (b) the identity of the person offering the donation is not apparent.
- (2) For the purposes of this section the following are permissible donors-
 - (a) an individual registered in an electoral register;
 - (b) a company -
 - (i) registered under the Companies Act (Cap. 486);
 - (ii) incorporated within the East African Community, which carries on business in Kenya;
 - (c) a registered party;
 - (d) a trade union registered under the Trade Unions Act (Cap. 233);
 - (e) any other unincorporated association of two or more persons which carries on business or other activities wholly or mainly in Kenya and whose main office is there;
 - (f) any international organization of which Kenya is a member.
8. (1) A party shall maintain a register of all donations received and shall, where such donations exceed Kenya shillings fifty thousand in respect of a financial year, prepare a report thereon and submit it to the Commission within three months after the end of the year.
- (2) The Commission shall maintain a register of all donations reported to it under subsection (1) in such form as the Commission may determine and such report shall contain, among other things, in the case of each donation-
 - (a) the amount or value of the donation;
 - (b) the details of the donor; and
 - (c) the date of the donation.
- (3) The Commission shall make the register available for public inspection during ordinary office hours, either at the Commission's offices or at some convenient place appointed by it.
9. (1) A person commits an offence if he or she alters or causes to be altered any accounting record of a party with the intention of falsifying the record or enabling the party to evade any of the provisions of this Part.
- (2) If a person holding an office in a party is requested by the accounting officer of the party to supply him or her with any information which he or she reasonably requires for the purposes of any of the provisions of this Part, the person commits an offence if-
 - (a) without reasonable excuse, he or she fails to supply the accounting officer with that information as soon as is reasonably practicable; or
 - (b) in purporting to comply with the request, he or she knowingly supplies the accounting officer with any information which is false in a material particular.
- (3) A person commits an offence if, with intent to deceive, he or she withholds from the accounting officer of a party any information required by the accounting officer for the purposes of any of the provisions of this Part.

PART IV - THE POLITICAL PARTIES FUND

10. (1) There is hereby established a Fund to be known as the Political Parties Fund.
- (2) (a) The management and administration of the Fund shall be vested in the Commission.
- (b) The chief executive officer of the Commission shall be the accounting officer of the Fund.
11. (1) The Fund shall derive its finances from -
 - (a) moneys appropriated by Parliament; and
 - (b) contributions and donations from other sources.
- (2) The moneys appropriated by Parliament in accordance with subsection (1) (a) shall be one per cent of the national budget for the last financial year.
12. (1) The Commission shall open a banking account into which all moneys received by the Fund shall be paid in the first instance and out of which all allocations made by the Commission pursuant to section 13 (2) shall be made.
- (2) Any moneys of the Fund that are not immediately required for the purposes of section (13) (2) may be placed in a deposit or savings account of the Fund.
- (3) The financial year of the Fund shall be the period of twelve months ending on the 30th day of June in each year:

Provided that the first financial year of the Fund shall commence on the day that this Act comes into operation and end on the 30th day of June next following.
13. (1) The Fund shall be used for the purpose of funding political parties that participate (by sponsoring their own candidates) in parliamentary, presidential and local government elections and that meet the criteria set forth in this section.

- (2) A party (hereinafter referred to as a "qualifying party") shall be entitled to be allocated moneys from the Fund -
 - (a) if it received a minimum of five per cent of the aggregate of the votes validly cast for the parties that participated in the last parliamentary and presidential elections (whether or not the presidential election was held otherwise than in a general election);
 - (b) if it is a parliamentary party.
 - (3) The allocation under subsection (2) shall be made in accordance with a prescribed formula based -
 - (a) on the principle of equity to ensure equal allocation of party sustenance moneys which -
 - (i) shall constitute fifty per cent of all the moneys paid from the Fund annually;
 - (ii) shall be used in accordance with section 14 (1) (a); and
 - (b) on the principle of proportionality to ensure proportional allocation of electoral support moneys which -
 - (i) shall constitute fifty per cent of all the moneys paid from the Fund annually;
 - (ii) shall take into account the number of votes received by a qualifying party in both the parliamentary and the presidential election;
 - (iii) shall be used in accordance with section 14 (1) (b).
 - (4) The allocation shall be made quarterly in equal amounts and at such time within the quarter as may be determined by the Commission after consultation with the qualifying parties.
 - (5) The information and particulars necessary for the application of the prescribed formula in relation to any qualifying party shall be ascertained from the relevant facts at the time the allocation is due.
14. (1) The moneys allocated to a qualifying party shall be used for purposes compatible with its functioning as a political party in a modern multiparty democracy, that is to say-
- (a) party sustenance, including -
 - (i) hire and maintenance of party headquarters and branch offices, procurement of office equipment and supplies and payment of headquarters and branch staff;
 - (ii) membership recruitment and maintenance of membership register and other records;
 - (iii) carrying out internal party elections in accordance with the party constitution;
 - (b) election expenses, including -
 - (i) preparation and dissemination of party policy blueprints, manifestoes and party programmes;
 - (ii) paying for parliamentary, presidential and local government elections, particularly the hiring of election agents, printing and dissemination of election campaign materials and hiring of campaign-related public address equipment;
 - (c) development of policies for inclusion in the manifesto on the basis of which candidates nominated by the party shall seek to be elected; and
 - (d) any other purpose that is compatible with the promotion of multiparty democracy and which has been prescribed as such by the Commission after consultation with the qualifying parties.
- (2) The moneys allocated may not be used -
- (a) for the purpose of paying, directly or indirectly, any remuneration, fee, reward, perquisite or other benefit to any person representing the party in the National Assembly or any local government authority or who holds any other public office of profit;
 - (b) for any other purpose that may be prescribed by the Commission as incompatible with the promotion of a multiparty democracy.
- (3) A qualifying party may use fifty per cent of its quarterly allocation toward party sustenance and holding of internal elections while fifty per cent thereof shall be reserved for use toward parliamentary, presidential and local government elections.
 - (4) A qualifying party may carry forward any balance of the moneys allocated for any financial year to the following financial year provided that any such balance shall not be taken into account in determining the allocation to the party for the financial year to which the balance was carried forward.

PART V - BEHAVIOURAL AND FINANCIAL AUDIT OF THE FUND

15. A qualifying party that has received an allocation shall within three months of the end of each financial year submit to the Commission -
- (a) a list of all its paid up -members;
 - (b) evidence of compliance with its own constitution regarding party meetings and elections;
 - (c) annual returns showing the positions and names of office bearers of the party at national and branch levels in terms of the party constitution;

- (d) evidence of provision or furtherance of political education and public information activities by the party; and
 - (e) evidence of compliance with the purposes prescribed under section 14 (1) (c) .
16. (1) Where any moneys allocated to a qualifying party have been spent in contravention of this Act -
- (a) the accounting officer of the party, appointed under section 17 (1)(b), shall be liable to repay the Commission the moneys that were irregularly spent; and
 - (b) the party may be suspended from receiving further allocations for a period of one year in accordance with section 18 (a);
- (2) Any moneys recovered in accordance with subsection (1) (a) shall be paid into the Fund.
- (3) The Commission, represented by its chief executive officer, shall recover the moneys irregularly spent, and may do so by -
- (a) instituting civil proceedings against the accounting officer of the political party concerned; or
 - (b) setting off the amount concerned against any allocation that may become payable to the party.
17. (1) A qualifying party that has received an allocation shall -
- (a) keep a separate banking account into which all the moneys allocated shall be deposited;
 - (b) appoint one of its office bearers as an accounting officer in respect of all the moneys allocated.
- (2) The accounting officer of a qualifying party shall ensure that proper and separate books and records of account are kept in respect of the moneys allocated and that the relevant provisions of this Act are complied with.
- (3) Within three months after the end of each financial year for which moneys have been allocated, the accounting officer of a qualifying party shall -
- (a) prepare a separate statement of accounts showing all the moneys received that year and the purposes to which they were applied;
 - (b) cause the statement of accounts and corresponding books and records of account to be audited by an auditor who is qualified under the Accountants Act (Cap 531);
 - (c) submit the auditor's report and statement of accounts to the Commission.
- (4) The auditor shall, in his or her report, express an opinion whether the moneys allocated were spent for the purposes authorized by the Act.
- (5) A qualifying party shall, through its accounting officer, produce and lay before the auditor all books and records of account relating to the moneys allocated, with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the auditor shall be entitled to require from all members, officers, employees and agents of the party such information and explanation as he or she may consider necessary for the performance of his or her duties as auditor.
- (6) Notwithstanding subsection (3) (b), the Controller and Auditor General may at any time audit the statement of accounts and corresponding books and records of account of any qualifying party in respect of the moneys allocated.
18. (1) The Commission -
- (a) may suspend allocation of moneys to a qualifying party for one year if satisfied on reasonable grounds that the party has failed to comply with any requirement of this Act; and
 - (b) shall terminate the suspension if satisfied, in the light of the party's subsequent conduct, that the suspension is no longer justified.
- (2) The suspension of allocation of moneys to a qualifying party in accordance with subsection 1(a) may only be effected after the Commission -
- (a) has notified the party in writing of the proposed suspension and the reasons therefor ; and
 - (b) has called on the party to show cause, within thirty days of the notification, why its allocation should not be suspended.
19. (1) Within six months after the end of a financial year, the Commission shall cause to be prepared in respect of that year-
- (a) a report on its management and administration of the Fund;
 - (b) financial statements in respect of the Fund, showing-
 - (i) the amounts received by and accrued to the Fund;
 - (ii) the allocations made from the Fund to the respective qualifying parties;
 - (iii) the amounts spent by each party in connexion with the purposes authorized by or under this Act; and
 - (iv) the balance of the Fund and any amounts owing to or by the Fund.
- (2) The Commission shall submit the report and the financial statements, together with the books and records of account of the Commission relating to the Fund, to the Controller and Auditor General for audit and report.
- (3) The Controller and Auditor General shall submit his or her report under subsection (2) to the Commission.
- (4) Within thirty days after receipt of the Controller and Auditor General's report, the Commission shall submit the report

to the Minister who shall, not later than seven days after he National Assembly first meets after he has received the report, lay it before the Assembly.

20. (1) All moneys standing to the credit of the Fund at the end of a financial year shall be carried forward to the next financial year as a credit balance.
- (2) Whenever Parliament is dissolved, a qualifying party that has been allocated moneys shall close its books and records of account, relating to the allocation, not less than seven days before the date set for the ensuing general election and within thirty days thereafter submit to the Commission a statement of accounts in respect of the books and records of account audited, mutatis mutandis, in accordance with section 17.
- (3) A qualifying party shall, at least one day before the date set for the general election as aforesaid, repay to the Commission the unspent balances, as of the date when the books and records of account were closed, of all moneys allocated to it.

PART VII - MISCELLANEOUS

21. (1) The Minister shall, after every general election and by order published in the Gazette, establish a Disputes Resolution Committee which shall consist of members nominated one each by the qualifying parties and appointed by him.
- (2) The Committee shall elect a chairman and a vice-chairman from among its own members.
- (3) The Commission shall convene the first meeting of the Committee within three months after a general election: Provided that for the purposes of this Act the first meeting of the Committee shall be convened by the Commission within one month after the Act comes into operation.
- (4) Any party aggrieved by the decisions of the Commission under the provisions of this Act may lodge a complaint with the Committee in writing.
- (5) All matters before the Committee shall, in the event of a difference of opinion, be decided by the votes of a majority of the members thereof.
- (6) Subject to this Part, the Committee -
 - (a) shall, in the exercise of its functions under this Act or any other written law, not be subject to the direction or control of any other person or authority;
 - (b) may by rules or otherwise regulate its own procedure;
 - (c) may, subject to its rules of procedure, act notwithstanding a vacancy in its membership or the absence of a member and its proceedings shall not be invalidated by the presence or participation of a person not entitled to be present or to participate in those proceedings.
22. (1) In the hearing of a complaint, the Committee shall have all the powers of a subordinate court of the first class to summon witnesses, to take evidence upon oath or affirmation and to call for the production of books and other documents.
- (2) Where the Committee considers it desirable for the purpose of avoiding expense or delay or any other special reason so to do, it may receive evidence by affidavit and administer interrogatories and require the person to whom the interrogatories are administered to make a full and true reply to the interrogatories within the time specified by the Committee.
- (3) In the determination of any matter, the Committee may take into consideration any evidence which it considers relevant to the subject of the complaint before it, notwithstanding that the evidence would not otherwise be admissible under the law relating to admissibility of evidence.
- (4) All summonses, notices or other documents issued under the hand of the chairman of the Committee shall be deemed to be issued by the Committee.
- (5) Any interested party may be represented before the Committee by an advocate or by any other person whom the Committee may, in its discretion, admit to be heard on behalf of the party.
- (6) The decision of the Committee in relation to any complaint shall be conclusive and shall not be questioned in any court.
23. Any person summoned by the Committee to attend and give evidence or to produce any records, books of account, statements or other documents, or required to answer interrogatories and who, without sufficient cause -
 - (a) refuses or fails to attend at the time and place mentioned in the summons served on him; or
 - (b) refuses or fails to answer, fully and satisfactorily, to the best of his or her knowledge and belief, all questions lawfully put him or her by or with the concurrence of the Committee: or
 - (c) refuses or fails to produce any records, books of account, statements or other documents which are in his or her possession or under his or her control or mentioned or referred to in any summons served on him or her, commits an

offence and shall be liable, on conviction, to fine not exceeding ten thousand shillings, or to imprisonment for a term not exceeding six months or to both.

24. Any person who commits an offence under this Act and for which no special penalty is provided shall be liable to a fine not exceeding ten thousand shillings or to imprisonment for a period not exceeding six months.
25. The Commission may, after consultation with the parties, make rules generally for the better carrying out of the purposes and provisions of this Act, and without prejudice to the foregoing generality, any such rules may provide for-
 - (a) the forms which may be used for carrying out the provisions of this Act;
 - (b) the submission to the Commission of books and records of account;
 - (c) the information and particulars to be furnished to the Commission by political parties with a view to ensuring proper and effective application and administration of and compliance with this Act; and
 - (d) anything which is required or necessary or desirable for the better giving effect to this Act.
26. If this Act comes into operation before the Eighth Parliament is dissolved, any party that is a parliamentary party before the dissolution shall be deemed to be a qualifying party, for the purposes of section 13 (2), and the provisions of the Act shall apply accordingly.

MEMORANDUM OF OBJECTS AND REASONS

The main object of the Bill is to provide for public funding of political parties in the holding of democratic elections in a multiparty democracy.

The principles and objectives of the Bill are encapsulated in the Bill's preamble which should be read as one with this memorandum. Both recognize and underscore that political parties are essential to modern democracy; that they conduce to peaceful and orderly change in the social fabric; that the functions they perform are expensive; that they contribute substantially to the making of public policy; that they offer the electorate alternative policies and candidates from which to choose; that they facilitate the conduct of effective representative government; and that they are the principal means through which ordinary citizens can participate in the democratic process. Hence, the need to subsidize and strengthen them as the institutional basis for multiparty democracy and as viable vehicles for stability and progress.

The following definition of a political party is a distillate of a definitional matrix in political science and is provided as a general guide and without prejudice to, though in amplification of, the legal definition in subclause 2 of the Bill:

"political party" means a group of persons pursuing clearly articulated ideals, objectives and strategies, as contained in its manifesto; demonstrating at both national and local levels a determination to influence, capture and exercise the decision-making political power, singly or in association with others; and evincing a commitment to seek and mobilize popular support.

Part II of the Bill provides for the sources of party finances and the general purposes to which the finances may be applied.

Part III deals with the definition of "donation" and control of donations to political parties.

Part IV establishes a Political Parties Fund and provides for its management, its sources of finance and the general and specific purposes for which the Fund may be used.

Part V contains provisions for assessing the general conduct and performance of the qualifying parties and for accounting for the moneys allocated to them.

Part VI establishes a Disputes Resolution Committee to settle complaints by aggrieved (political) parties in relation to the implementation of the proposed Act.

The enactment of this Bill will result in expenditure of public funds which will be provided for through the estimates.

MUSIKARI KOMBO
Member of Parliament