



The 12th Parliament Legacy Scorecard

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The curtains, on Tuesday evening, came down on the 12th Parliament following the conclusion of Senate's business that saw the debt ceiling revised to Ksh. 10 trillion and passage of the Lifestyle Audit Bill that has been marred with controversy. An analysis of this House – the second bicameral Parliament since the enactment of the 2010 Constitution – shows a mixed legacy of a high level of legislative performance clouded by failure to be Wanjiku's defender as anticipated by the Constitution.

This August House weathered political tensions at the onset of its term that were shortly followed by the famous Handshake and resultant fallouts and new alliances which would shift and influence its work.

The Houses transacted several issues. In the [National Assembly](#), 3893 Papers were laid, 761 Motions sponsored, 2148 Questions sought, 304 Petitions presented and 362 Bills introduced. Out of these, 140 Bills were passed and 114 assented to by the President, the report states. [Senators](#), on the other hand, considered 137 Bills, sponsored 360 motions, presented 362 petitions, tabled 1703 Papers and sought 838 statements that were referred to the relevant committees for consideration.

The National Assembly conducted several approvals as stipulated under the Public Appointments (Parliamentary Approval) Act which is a critical oversight role in upholding integrity in public appointment where it managed to reject the appointment of Ben Chumo as the proposed Chairperson of the Salaries and Remuneration Commission.

The 12th Parliament also witnessed certain firsts, including institutionalizing Kiswahili in its proceedings. In November 2020, President Uhuru Kenyatta launched the Kiswahili and Bilingual versions of the Standing Orders of the National Assembly. Under these Standing Orders, members were expected to conduct debate in Kiswahili on all Thursday sittings in a bid to promote the national language. Prior to this, Nyalı MP Hon. Mohamed Ali made history in 2019 by sponsoring a Motion in Swahili.

In another historic moment, the President of the Republic of Tanzania, Her Excellency Samia Suluhu addressed a joint sitting of Parliament in Kiswahili on 5th May 2021, during her maiden visit to the country since occupying the office.

The House would also find itself in the difficult position of being the first to legislate during a pandemic. The Covid-19 pandemic that hit Kenya in March 2020 almost brought to a halt the operations of Parliament. Initially, MPs resolved to halt all Parliamentary proceedings (both plenary and committee) to lower the risk of infection among Parliamentarians and Parliament staff. Despite this unprecedented occurrence, the House, would after consultations, amend the Standing Orders to accommodate virtual attendance of members. Parliament equally utilized the virtual sittings to facilitate public participation on Bills that were considered during that time. Although the pandemic limited the in-person participation of those over the age of

2 55 years or with pre-existing conditions due to the higher risk they faced with the virus, the initial challenges were overcome, and the legislative agenda met.

Other key highlights included the enactment of the Data Protection Act, 2019 that established the office of the Data Protection Commissioner, passage of the HELB Bill, Employment (Amendment) Bill and the Mental Health Bill most of which were sponsored by young, first-time MPs. "It was encouraging to see young members of Parliament develop legislation that responded to some pressing needs of the youth. It speaks to the power of representation of special interest groups in Parliament." Caroline Gaita, Mzalendo Trust Executive Director says.

According to Ms. Gaita, it is however the failure to live up to public expectations agenda on certain pertinent issues that will define the legacy of the 12th Parliament. "The Twelfth House had an opportunity to fix several issues Kenyans have been grappling with including corruption, public participation, the two-thirds gender rule and inclusion of youth and women through the various legislative proposals initiated. Unfortunately, the Bills did not see the light of day as some were lost in various stages and others have lapsed after Parliament adjourned Sine Die." She says.

Some of these key legislations include the Anti-Corruption and Economic Crimes (Amendment) Bill by Hon. Ndidi Nyoro which sought to double the fines for those found culpable of corruption charges, the Public Participation Bill, 2018 by Sen. Amos Wako which aimed to provide a framework for public participation, the Statute Law (Miscellaneous Amendments) Bill, 2019 which sought to bring lawyers into the disclosures under the Proceeds and Crimes and Anti Money Laundering Act (POCAMLA) and the Appointments (Parliamentary Approval) (Amendment) Bill which sought to ensure the loopholes on vetting public officers were sealed, championed by Hon. Shakeel Shabir.

On the role of Committees, whilst Parliament has powers to conduct inquiries through questions, committee summons and probes, several probes conducted within the 12th House failed to meet public expectations. Amongst them, the Investigation into the Crisis facing the Sugar Industry conducted by the joint Departmental Committees on Agriculture, Livestock and Trade, Industry and Cooperatives to look into allegations of illegal sugar importation delivered a weak report, that was dismissed by the House and left Kenyans with more questions than answers. It was also marred with allegations of bribery and external influence.

This was not the only inquiry that was done in futility. Other cases include the Covid-19 fund misuse probe by both Senate and National Assembly committees, Solai Dam probe by the Senate Committee on Land, Environmental and Natural Resources and Managed Medical Equipment Services (MES) that was investigated for over a year by an ad-hoc Senate Committee.

On its conduct, the House was not insulated from the sibling rivalry between the National Assembly and the Senate that marred the 11th Parliament, and they would find themselves in Court over 23 disputed Bills, further limiting its legislative impact. The Revenue Allocation Bill debate in 2021 also proved to be a source of conflict between the two Houses.

Outside the precincts of Parliament, the August House also butted heads with the Executive on matters to do with the Equitable Share. On the other hand, the Judiciary through an advisory by the former Chief Justice David Maraga, proposed the dissolution of the 12th Parliament on the basis of its unconstitutionality with regards to the two-thirds gender rule. 3

The impact of the Handshake on the 12th House was also eminent, with the Executive seemingly having its way in the passage of legislation. Most notable on this was the

Constitutional Amendment Bill (popularly known as the BBI Bill), 2019; the Small Claims Court (Amendment) Bill, 2020; and the Political Parties (Amendment) Bill, 2021. Other instances include the increase of the debt ceiling from Ksh 6 trillion to Ksh 9 trillion in 2019 and from Ksh. 9 trillion to Ksh. 10 trillion, recently, the increase of VAT from 14 to 16 per cent and the vetting of appointees to key positions, which with a few exceptions, sailed through with little or no opposition.

The flexing of Executive power was also witnessed in the leadership purge of 2020 that saw the House and Committee leadership replaced with members considered loyal to the Parties. Evidently, the 12th Parliament also placed a lot of focus on legislating to realize the President's legacy - the Big 4 Agenda.

Overall, the 12th Parliament should have done more towards securing its legacy. The onus is now heavily on the 13th Parliament to proceed with speed, especially in the enactment of key pending legislation, addressing the issue of public debt, passing campaign financing Regulations and addressing issues affecting the citizens, including the high cost of living.

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About Mzalendo Trust

[Mzalendo](#) ('Patriot' in Swahili) Trust is a Kenyan non-partisan Parliamentary Monitoring Organization started in 2005 and whose mission is to promote '*open, inclusive, and accountable Parliaments in Kenya.*' We do so by creating and managing civic tech tools, producing evidence-based research, and leading and facilitating advocacy and partnerships with Parliaments, citizens and other relevant stakeholders. We believe that success in our work will build more effective and responsive legislation and political processes that ultimately support Kenya's national development goals. Our work is currently anchored on our 5-Year strategic plan, under three broad pillars of openness, inclusion and accountability.