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History of The Parliament of Kenya

1.0 Background

Legislation in Kenya dates back to the colonial era when a Legislative Council (LegCo) was created by East African Order-in-Council in 1906 and held its first sitting on 16th August, 1907 (**at a building in the White House Road today Haile Selassie Avenue**). The main purpose of the LegCo was to safe guide the interests of the white settlers. The Legco served as a legislature for the East Africa Protectorate.

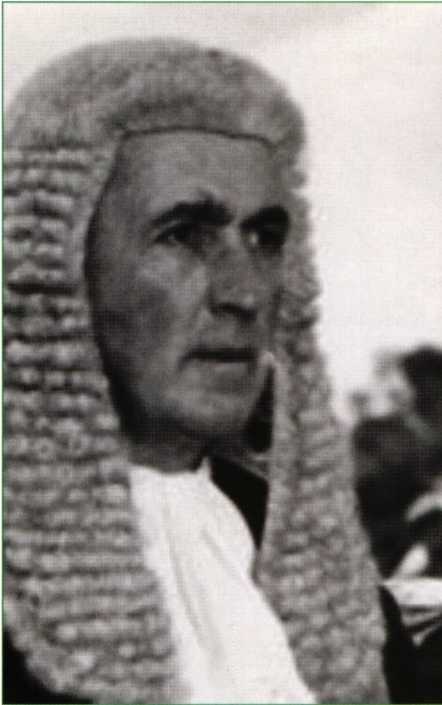
The first Bill brought before it was the Abolition of the Legal Status of Slavery throughout the East African Protectorate. The LegCo had seven members all of whom were Europeans. The composition of the members included: Governor who was the Chairperson and six other members, four of whom were civil servants (**ex officio**) and two were nominated (**un-officio**) by the Governor.

The LegCo was anchored on the Westminster Parliamentary Model (**the structure of the legislative building, the decorum, etiquette, dress code of the speaker and that of the members, the procedure of the House replicating those of the House of Commons**) with a Clerk appointed by the Governor while the rest of the staff were civil servants.

1.1 The Chronology of Evolution of Parliament and its Representation in Kenya

1906: LegCo was established following the promulgation of the East African Order in Council.

1907: The LegCo held its first sitting on 17th August, 1907. LegCo was a



Sir. Humphrey Slade, the first Speaker of the National Assembly (1907 -)



The first sitting of the Legislative Council inaugurated on August 17, 1907 Seated L to R - Lord Delamere, H.A.F. Currie, C.C. Bowring, C.W. Hobley, Sir James Hayes Sadler, Col. J. Montgomery, R.M. Combe, Col. J. Will, J.H. Wilson. Standing behind Montgomery is R.K. Granville the Clerk

Unicameral Parliament (arap Kirui & Murkomen, 2011). The first sitting of the colonial Legislative Council (LegCo) held on 17th August, 1907 was an all-whites affair. However, after much agitation a non-European, Allibhai Mullah Jeevanjee, an Indian was nominated in LegCo in 1909.

1911: The question of the election of Unofficial Members was first brought up by resolution of the Convention of Associations, but a petition to the British Secretary of State, forwarded in November of that year, elicited the reply that he was not prepared at that stage in the development of the Protectorate to accede to the request.

1913: The subject was again pressed by further memorial.

1917: In view of the delay in responding to this memorial, the Nominated Members resigned their seats in Council but as a result of a favourable reply from the Colonial Office they resumed their places and with the cessation of hostilities in the first world war, steps were taken to introduce legislation to provide for the election of 11 European Members. ***This Ordinance was passed in 1919 and the first election was held in 1920.***

1919: The composition of the LegCo was altered to comprise 17 official members among them eleven European members elected by European residents with very limited local representation.

1920: Considerations was given to the possibility of providing for the representation of other races. As a result the Royal Instructions were amended to make possible the passage of the legislative Council (Amendment), Ordinance, 1924. This Ordinance provided that in addition to the European

Elected Members, there should be 5 Indians Members Elected to represent the Indian Community in the Colony and one Arab Member elected to represent the interests of the Arab community.

1924: The first Arab Elected Member took his seat. At the same time a European Unofficial Member, Rev. J.W. Arthur was nominated by the Governor to represent African interests. The provision was made for elected representation to include Indians and Arabs and for nominated representation of Africans in the LegCo. ***The Indians, however, abstained from putting forward candidates for election in the same year and only a few registered themselves for elections.***

1927: One Indian Member was elected to the LegCo. and four other were nominated.

1933: Five Indians sat as elected members.

1934: A second European was nominated to represent African interests.

1944: The first African, Mr. Eliud Mathu, was nominated by the governor to represent the majority Africans.

1946: The second African, Benaiah A. Ohanga was nominated.

1947: Fanuel W. Odede replaced L. J. Beecher who retired as African representative.

1948: Jeremiah J. Nyaga and J.J. Chamallan were nominated to LegCo.

1948: The Governor who had been presiding over the LegCo appointed a Speaker to take his place for the first time (Slade, 1975).

1952: As a result of additional Royal Instructions issued in 1951, further legislations were enacted whereby provision was made for the election of 14 Europeans, six Asian and one Arab. In addition, six African Members and one Arab Representative Member were nominated by the Governor, making the total of non-Government Members 28 against 26 Government Members (***eight ex officio and 18 Nominated Members***)

1954: A major change with the **Lyttelton Constitution** coming in force. A Council of Ministers was set up with six official Members drawn from Civil Service, two nominated Members appointed by the Governor and six unofficial Members also appointed by the Governor. Theses six were all appointed from elected and representative Members, three being European, two Asian and one African. The African was Mr. B.A. Ohanga, who was the first African Minister.

1957: The first election of African representatives (***under the Lyttelton Constitution***) to the LegCo was held and the number of Africans were increased from six to eight elected Africans (They included: ***Hon. Bernard Mate, Central Province; Hon. Ronald Ngala, Coast Province; Hon. Tom Mboya, Nairobi; Hon. Oginga Odinga, Nyanza Central; Hon. Masinde***

Muliro, Nyanza North; Hon. Lawrence Oguda, Nyanza South; Hon. Daniel arap Moi, Rift Valley; and James Muimi, Southern/ Ukambani) joined the LegCo representing eight electoral areas (Slade, 1975).

1958: The LegCo was expanded (**under the Lennox Boyd Constitution**) to consist of 14 African members, 14 Europeans, 3 Asians and 3 Arabs.

1960: As a result of the first Lancaster House Conference, certain changes were made to the Lennox Boyd Constitution. The Council of Ministers was not to be more than 16 of whom not less than 4 were Civil Servants. The Council of Ministers formed after Lancaster House made provisions for 4 African Ministers, 3 European Ministers and 1 Asian (**all of them from unofficial ranks**). The Council itself consisted of the Speaker, ex officio Members and 3 Ministers or temporary Ministers who would otherwise not normally be Members of Council, 53 Constituency elected Members of whom 33 were Africans, 10 European, 8 Asian, 2 Arab and 12 National Members, elected by Council sitting as an Electoral College.

1961: A General Election was held to implement the first Lancaster House Agreement. Of the 53 seats held by Constituency Members, the Constitution required that primary elections be held by the 10 European, 8 Asian and 2 Arab candidates, among the electors of their representative communities, in order to ensure that the candidates commanded the effective and genuine support of their own constituents.

1962: LegCo was succeeded by a Bicameral Legislature called the National Assembly consisting of the Senate and the House of Representatives. It comprised of 41 Senators (**representing 40 Administrative Districts and Nairobi**) 117 House of Representatives Constituency members; 12 specially elected Members and the Attorney General as an ex officio member. The LegCo was succeeded by a Bicameral Parliament pursuant to the Lancaster Constitution of 1962. The Bicameral Parliament consisted of the Senate and the House of Representatives. The National Assembly held its first sitting on 11th June, 1963.

1966: The Upper House (**The Senate**) was abolished and both houses were amalgamated into a single chamber. Kenya reverted to a unicameral system of Parliament.

1970: 6th January, Hon. Fredrick Mbiti G. Mati became the first African Speaker of the National Assembly and Hon. Grace Onyango became the first woman elected member into the House.

1970: Hon Grace Onyango was elected as the first woman Member of Parliament.

1974: Three women were elected to Parliament. These were: Hon. Grace Onyango who was now serving her second term, Hon. Dr. Julia Auma Ojiambo (Busia Central) and the Hon. Philomena Chelagat Mutai (Eldoret North).

1979: On 20th September, Kenyans of European and Asian origin were elected into the House (***That is, Philip Leakey, post-independence first Kenyan of European was elected MP for Lang'ata Constituency, while Krishan Chander Gautama, an Asian, won the Parklands seat***).

1988: The numbers of parliamentary seats were increased from 158 to 188 elected members, 12 nominated members and 2 ex-officio members totalling to 202 members. The representation of women during the 6th Parliament (***1988-1992***) remained dismal with only two women elected and a third nominated. Hon. Grace Ogot, Gem who had served in the fifth Parliament, Hon. Agnes Ndeti, the then MP elected for Kibwezi and Hon. Nyiva Mwendwa later nominated by President Moi.

1992: Kenya transitioned from single party to multi-party politics following the repealing of Section 2 (A) of the Constitution in 1992.

2007: The number of women Members of Parliament increased to 21 with 15 elected and 6 nominated members.

2013: In August, a new constitutional dispensation created a bi-cameral parliament; re-established the Senate and increased the size of the National Assembly to 350 seats (290 elected members representing constituencies, 47 County Women Representative, 12 nominated members and the speaker who is an ex-officio member). The Senate consists of the 68 members (***that is 47 elected senators representing each of the 47 counties, 16 nominated women members and 4 members representing youth, women and persons with disabilities and the Speaker who is an ex-officio member***). For the first time ever, 4 independent Members formed part of the 11th Parliament as provided for under Article 85 of the Constitution.

2017: The number of elected single constituency women Members of Parliament rose to 23 while the independent Members of Parliament rose to 14.

1.1.1 Multiparty System and its Significance to Kenya's Democracy

In the run-up to Kenyan independence two major political parties emerged, the Kenyan African Democratic Union (KADU) and the Kenyan African National Union (KANU). KADU was led by Ronald Ngala, Masinde Muliro and Daniel Arap Moi and driven by Kenya's smaller communities whose leaders advocated a federal constitutional setup (***Majimboism***) in order to contain a perceived dominance by larger ethnic groups.

Kenya's two largest communities were represented in KANU and led by Jomo Kenyatta, Tom Mboya and Oginga Odinga (Ajulu 2002). However, KADU dissolved itself at the end of 1964, leaving KANU as the sole party until 1966, when its Vice-President, Oginga Odinga, resigned and established the Kenya People's Union (KPU).



Hon. Martin Shikuku



Hon. Jean-Marie Seroney

The second multi-party system lasted until

1969, when KPU was banned, making Kenya a defacto one-party state and extremely difficult for competitive politics to flourish.

For instance, in 1975, after Hon. Martin Shikuku had alleged that some powerful individuals were seeking to emasculate Parliament along the lines that had virtually destroyed KANU, and after the Deputy Speaker, Jean-Marie Seroney, had said in response to a governmental challenge that there was no need to substantiate what was obvious, both men were arrested two days later and detained.

The 1986 and 1988 Constitutional Amendments were made for the removal of security of tenure of the Attorney General, the Controller and Auditor General, the judges of the High Court and the Court of Appeal. Parliament, which at this time was under the control of the executive arm of the government, did not resist these amendments.

Multipartyism returned when the Government of President Daniel Moi agreed to repeal Section 2A of the Constitution which had made Kenya a de jure one-party state. This decision paved the way for the formation of political parties, namely FORD (Forum for Restoration of Democracy) led by the opposition veteran, Oginga Odinga, and the Democratic Party of Kenya (DP) under Mwai Kibaki.

In the build-up to the 1997 elections, opposition pressure in favour of constitutional reforms to ensure free and fair elections were negotiated through an inter-party forum known as the Inter Parties Parliamentary Group (IPPG). It made recommendations to Parliament and some laws were changed.

1997: Parliamentary seats were increased from 188 to 210 members giving Kenyans more representation in Parliament and national politics.

2010: The Constitution was promulgated on 27th August, 2010 and

provided for a Bicameral Parliament within a Presidential System of governance (KNA, 2013).

1.1.2 Bicameralism in Kenya's 1963 Constitution.

The framework of the 1962 Lancaster Constitution consisted of a Bicameral Parliament consisting of the Senate and the House of Representatives.

The Senate

The Senate was composed of 41 members, drawn from each of the 40 districts in the country and one from Nairobi area and the Speaker. The first Senate met on June 7, 1963 and Hon. Timothy Chitasi Muinga Chokwe served as the first Senate Speaker.

The idea of a second chamber for Kenya was originally proposed by the Kenya African Democratic Union (KADU) as part of its plan to provide protection for the smaller tribes, which that party represented, against the danger of domination by the larger and more advanced Kikuyu and Luo groups, which supported the Kenya African National Union (KANU) (Proctor, 1965).

The Senate was also expected to safeguard the autonomy of the regions (**Majimbo**) and to protect the interests of the people of the various regions. It was further to safeguard the 1962 Constitution in that no constitutional amendments would take place without involving the Senate (Kenya Year Book 2013/14, 2013)

“Bicameralism was also supported by Asian merchants and European settlers in Kenya as a means of providing some checks against hasty, ill-advised, or discriminatory action” (Proctor, 1965).

1966: The Constitution of Kenya (Amendment) Act No 19 of 1966 abolished the Senate and its membership was combined with that of the House of Representatives to form a unicameral legislature, the National Assembly.

Different reasons have been given for the disbandment of the Senate. Among the reasons advanced include the following:-

- i. The KANU government which controlled the House of Representatives had a very negative attitude towards the Senate. They saw Senate as a waste of resources and skewed in representation.
- ii. The absence of political notables or politically powerful people, who would assert its authority and perform its assigned functions (Proctor Jr, 1964);
- iii. The presence of docile government majority who never opposed actions that could undermine its operations might also have led to the senate's disbandment.
- iv. The Senate's power to keep the Executive under check was weakened by KANU's propaganda machine which depicted the house as an



Hon. Timothy Chokwe Speaker Senate 1963- 1967 (Left) & Hon. William Horne the first appointed Speaker of the legislative Council 1948-1955 (Right)

organ of tribalist minority groups; v. The Executive also preferred the House of Representatives rather than the Senate in major parliamentary functions which starved the Senate of the necessary resources to facilitate its work (Kirui & Murkomen, 2011).

2010: The Constitution of Kenya 2010, re-introduced

the Senate as one of the Chambers of the Bicameral Parliament as established under Article 93 of the Constitution. The Senate under the new Constitutional dispensation, has its mandate clearly defined and firmly anchored in Article 96 of the Constitution. It's important to note that, the mandate of the Senate is anchored on devolution, which is a key principal of the Constitution.

1.2 The Independence of Parliament in Kenya

The journey towards the independence and autonomy of the Parliament of Kenya predates the attainment of Kenya's independence. In the run-up to independence, the predecessor to the present day Parliament, the LegCo, was chaired by the Colonial Governor until 1948 when the first speaker was appointed. No inhabitant of the Country, other than civil servants had any constitutional right whatsoever to share in the making of laws (Slade, 1975). The chronology of events outlined below informed the path to the independence of Parliament in Kenya.



Hon. Peter Oloo Aringo

1963: Kenya attained independence but remained a dominion within the British Commonwealth with the Governor-General representing the Queen and a Government headed by the Prime Minister who was the leader of the Government business in Parliament.

1964: Kenya became a Republic; Prime Minister Mzee Jomo Kenyatta became the first president and the head of state and head of the Government. This introduced a Presidential System of Governance.

1966: The Bicameral Parliamentary System was abolished leading to monopolisation of power by the ruling party and centralisation of power around the executive.

1968: The Constitution of Kenya (Amendment) (No.2) Act No. 16 of 1968 altered the method of electing the president. Initially, the House of Representatives had a responsibility in the election of the president, as an electoral college. This amendment provided that henceforth, the president would be elected directly by the people. (Gertzel, 1971).

1983: The Constitution was amended to enact the one party *de-jure* status. Subsequent Parliament (1983 – 1988) was under complete control of the Centralised Executive.

1999: The Constitutional Amendment No. 3 of 1999 created the Parliamentary Service Commission strengthening the independence of Parliament and enhanced oversight, representation and law making capacity.

On 11th November 1999, the National Assembly passed the Constitution Amendment No. 3 Act of 1999 that marked a turning point on the journey towards anchoring the independence of Parliament in the Constitution. On 19th November 2019, the Bill that had been assented by the President on 17th November 1999, came into force, effectively establishing the Parliamentary Service Commission. This milestone was a culmination of efforts that dated as early as 20th March 1970 when the Hon. Jean Marie Seroney introduced a Motion seeking a resolution of Parliament to grant Parliament autonomy from the executive.

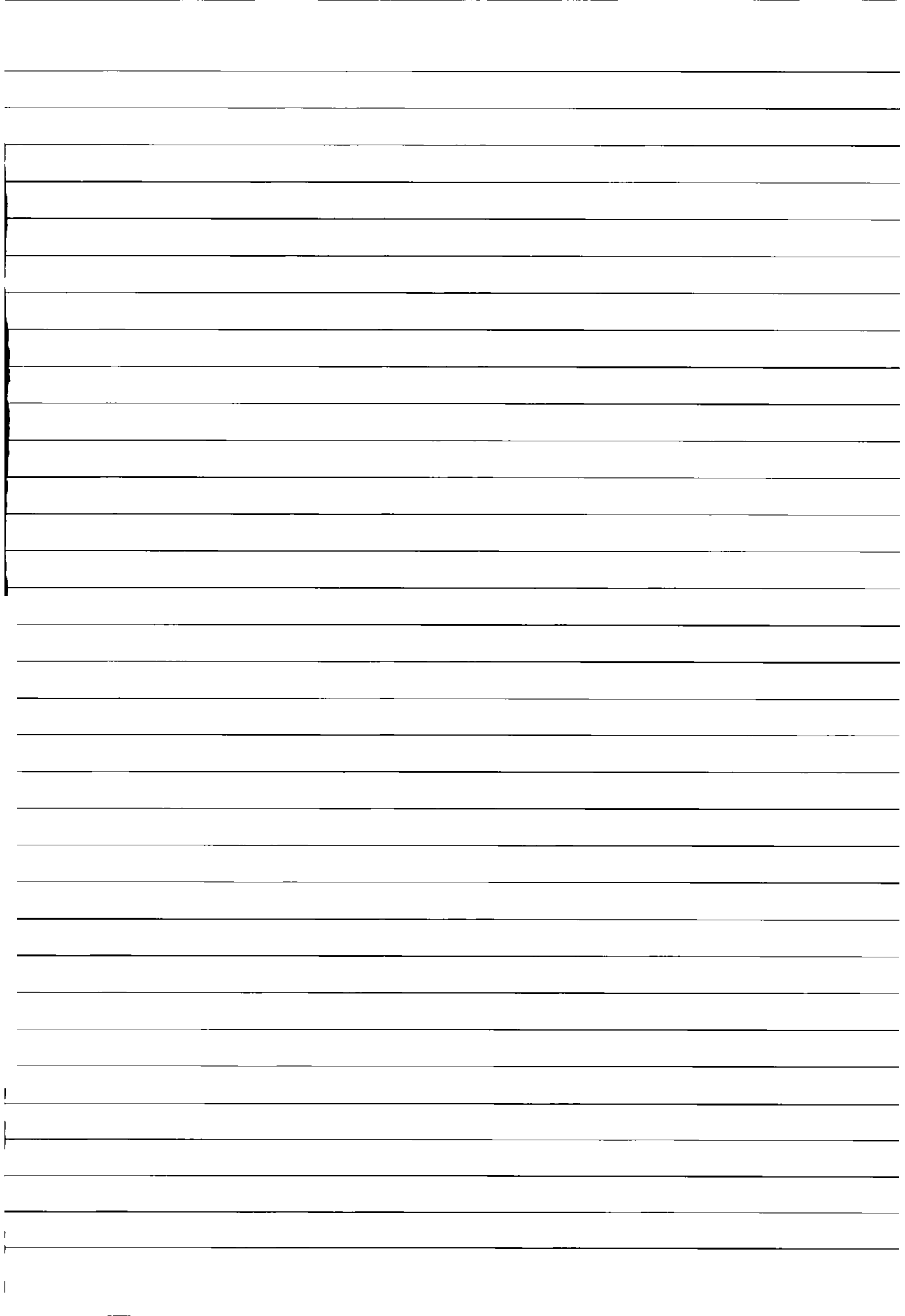
2000: The Parliamentary Service Act that was enacted on 28th November 2000 gave Parliament the autonomy by establishing the Parliamentary Service Commission and Parliamentary Service, independent of the Presidency and the Public Service Commission, respectively. This Act was instrumental as it gave Parliament autonomy and authority over the management of its own affairs, budget, facilities, staffing, welfare and other matters related to Parliament. Since establishment, the Parliamentary Service Commission has initiated a lot of parliamentary reform programs. It is worth noting that the Hon. Peter Oloo Aringo contributed to most of the initial reforms during his tenure as Member of Parliament between 2000 and 2007 and a member of the Parliamentary Service Commission.

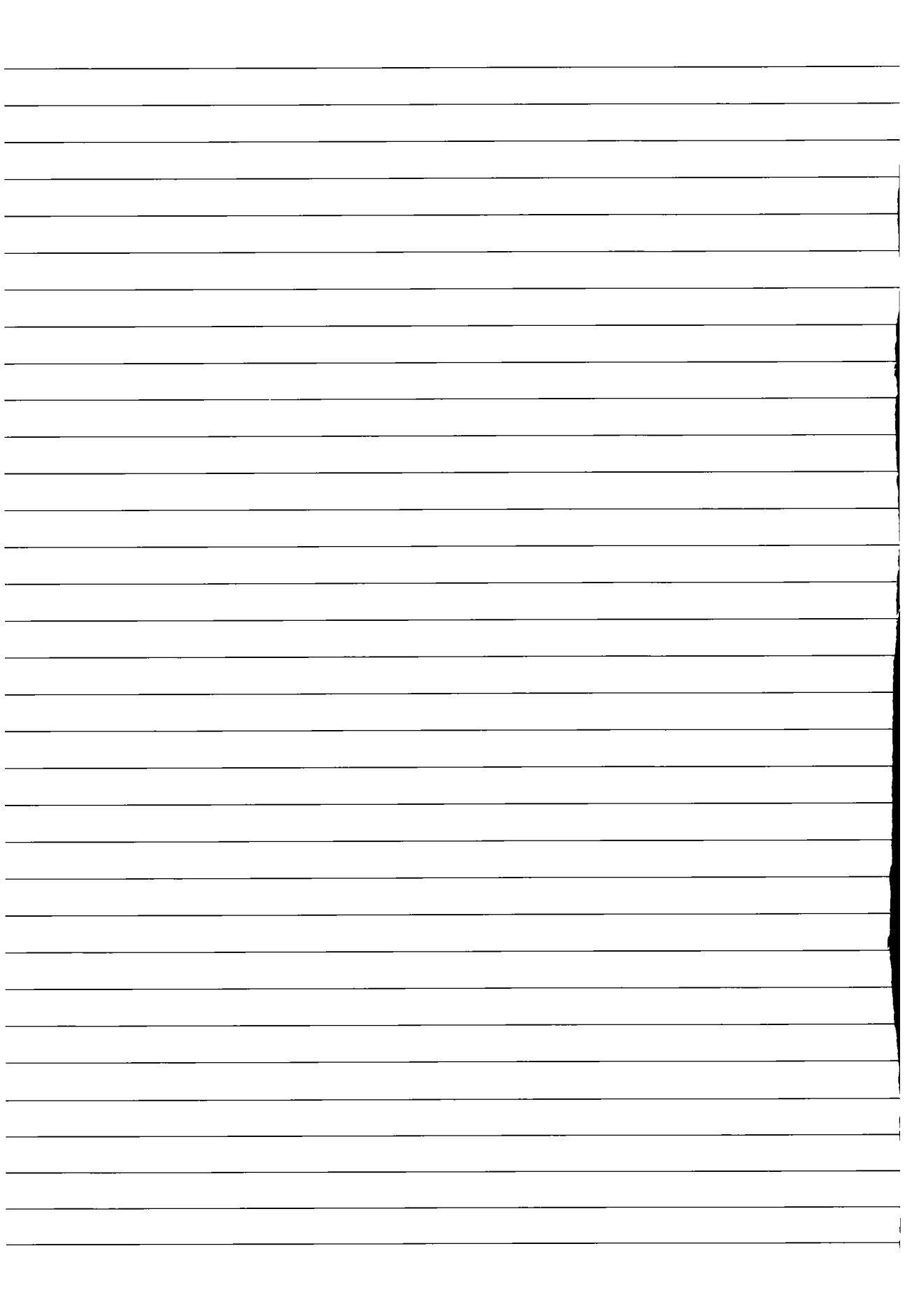
2010: The Promulgation of the Constitution of Kenya in August 2010 led to a new constitutional dispensation with further complete separation of powers guaranteeing parliament's independence. This is given impetus by the constitutional provision of the Parliamentary Service Commission as one of the independent commissions and further strengthened by the shift to presidential system of Parliament.

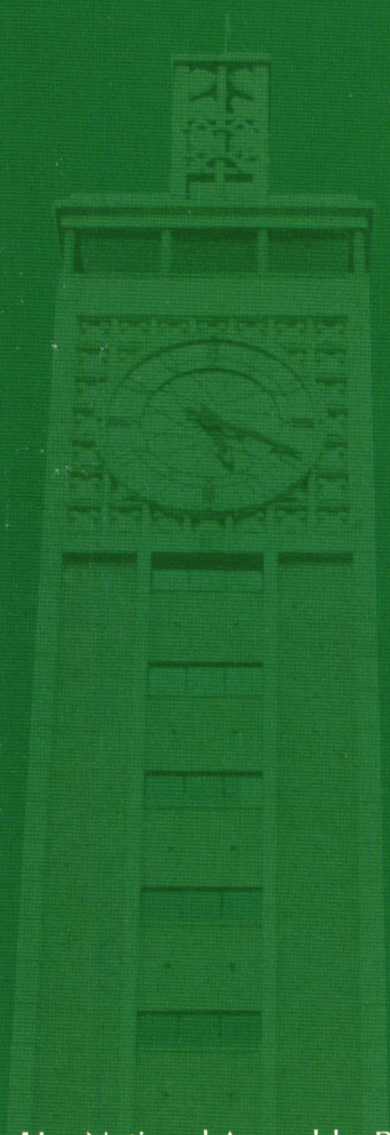
The Commission has continuously initiated programmes aimed at building parliamentary capacity through training, strengthening management structures, expanding infrastructural facilities and provision of adequate and skilled staff to support legislative work.

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