

FACTSHEET

19



PARLIAMENT OF KENYA
THE NATIONAL ASSEMBLY

History of The Parliament of Kenya

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HISTORY OF THE PARLIAMENT OF KENYA

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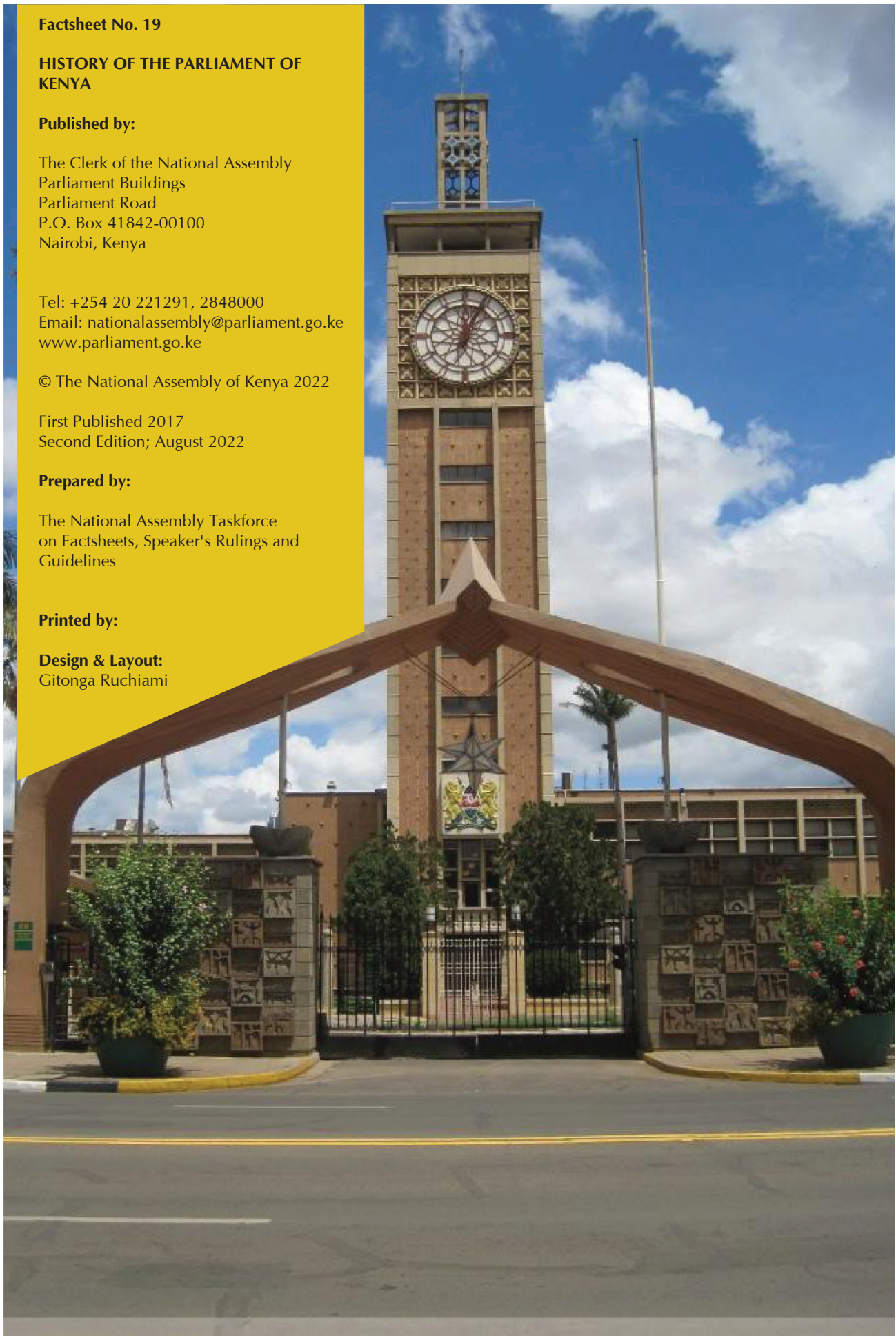
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Purpose and Acknowledgement

This Factsheet is part of the Kenya National Assembly Factsheets Series that has been developed to enhance public understanding and awareness, and to build knowledge on the work of the Assembly, and its operations. It is intended to serve as a guide for ready reference by Members of Parliament, staff and the public. The information contained here is not exhaustive and readers are advised to refer to the original sources for further information.

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FACTSHEET NO.19

History of The Parliament of Kenya



The first sitting of the Legislative Council on August 16th 1907.

1.0 Background

The inception of the Legislative Assembly in Kenya dates back to the colonial era when the Legislative Council (LegCo) was constituted through the issuance of the East African Order-in-Council in 1906. The LegCo held its first sitting on 16th August, 1907 at a building along the White House Road (today's Haile Selassie Avenue), following its gazettment on 7th August, 1907. (It was through the same gazette that the Members of the Council would be referred to as "The Honourable"). The main purpose of setting up the LegCo was to safeguard the interests of the white settlers and formulate laws of local application. Later 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 and etiquette, dress code of the Speaker and that of the members, the procedure of the House replicated those of the House of Commons. The Clerk was appointed by the Governor while the rest of the staff were civil servants.



ABOVE: The Westminster Parliament building (The architecture of the Kenya Parliament building is based on the Westminster architectural design) BELOW: Inside The House of Commons (Westminster House - UK Parliament)



1.1 The chronology of evolution of the legislature

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

1907: The LegCo held its first sitting on 16th August, 1907. LegCo was a unicameral all-whites House. However, after much agitation a non-European, Allibhai Mullah Jeevanjee, an Indian was nominated to the 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 1911 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.



Allibhai Mullah Jeevanjee

1917: In view of the delay in responding to this memorial, the Nominated Members resigned their seats in the 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 eleven (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: Consideration 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 Indian 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



Rev. J.W. Arthur

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 others 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 Mr. Benaiah A. Ohanga was nominated.

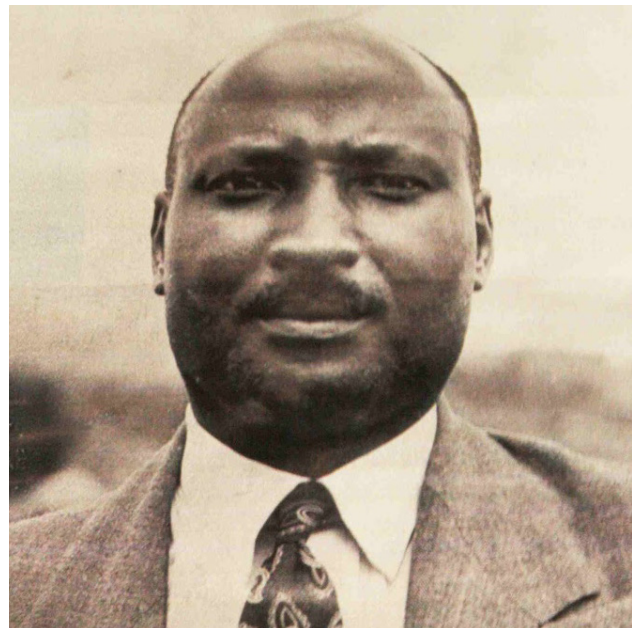
1947: Mr. Fanuel W. Odede replaced L. J. Beecher who retired as African representative.

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)

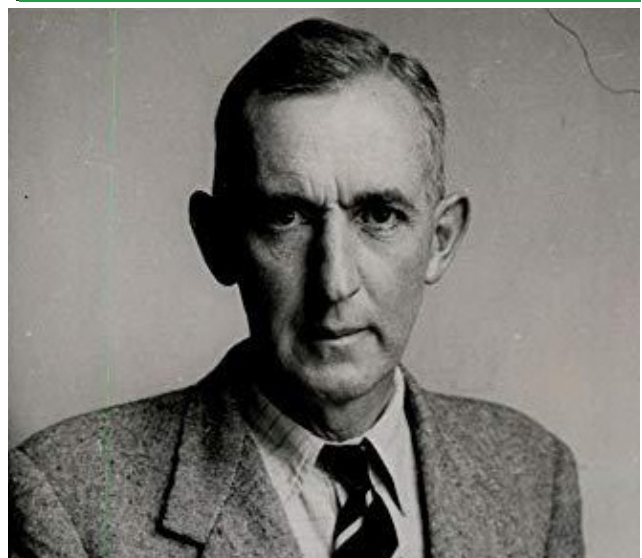
1954: A major change with the **Lyttelton Constitution** coming in force. A Council of Ministers was set up with six official Members drawn from Civil Service, two nominated Members appointed by the Governor and six unofficial Members also appointed



Mr. Eliud Mathu, first African to join the legislative council in 1944.



Jeremiah J. Nyaga



Hon. Sir Humphrey Slade

by the Governor. These 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.

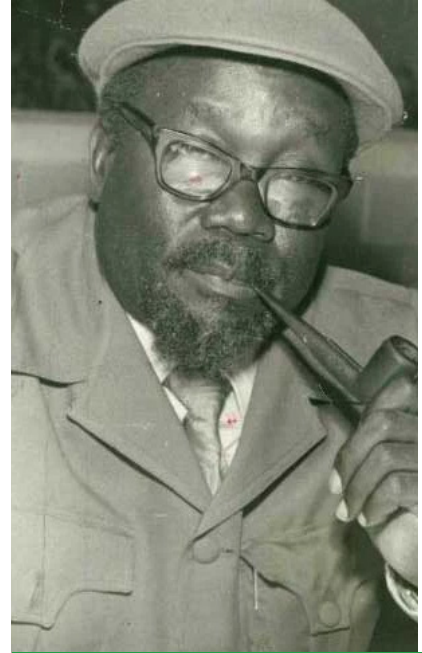
1957: The first election of African representatives under the Lyttelton Constitution to the LegCo was held and the number of Africans were increased from six to eight elected Africans, who joined the LegCo representing eight electoral areas. They included Hon. Bernard Mate, Central Province; Hon. Ronald 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. (Slade, 1975).



Hon. Tom Mboya



Hon. Bernard Mate



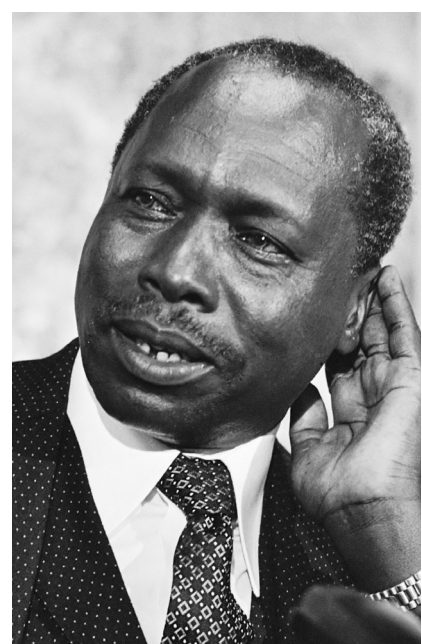
Hon. Masinde Muliro



Hon. Ronald Ngala



Hon. Oginga Odinga



Hon. Daniel arap Moi

1958: Under the Lennox Boyd Constitution, the LegCo was expanded 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 Europeans Ministers and 1 Asians, 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 the 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: Lancaster Parliament

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

LegCo was succeeded by a Bicameral Legislature pursuant to the Lancaster Constitution of 1962 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 National Assembly held its first sitting on 11th June 1963.

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 communities, 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 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 (arap Kirui & Murkomen, 2011).

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: On 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.

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. Hon. Philip Leakey, post-independence first Kenyan of European decent was elected



Hon. Grace Onyango
(The first woman elected as a Member of
The National Assembly)

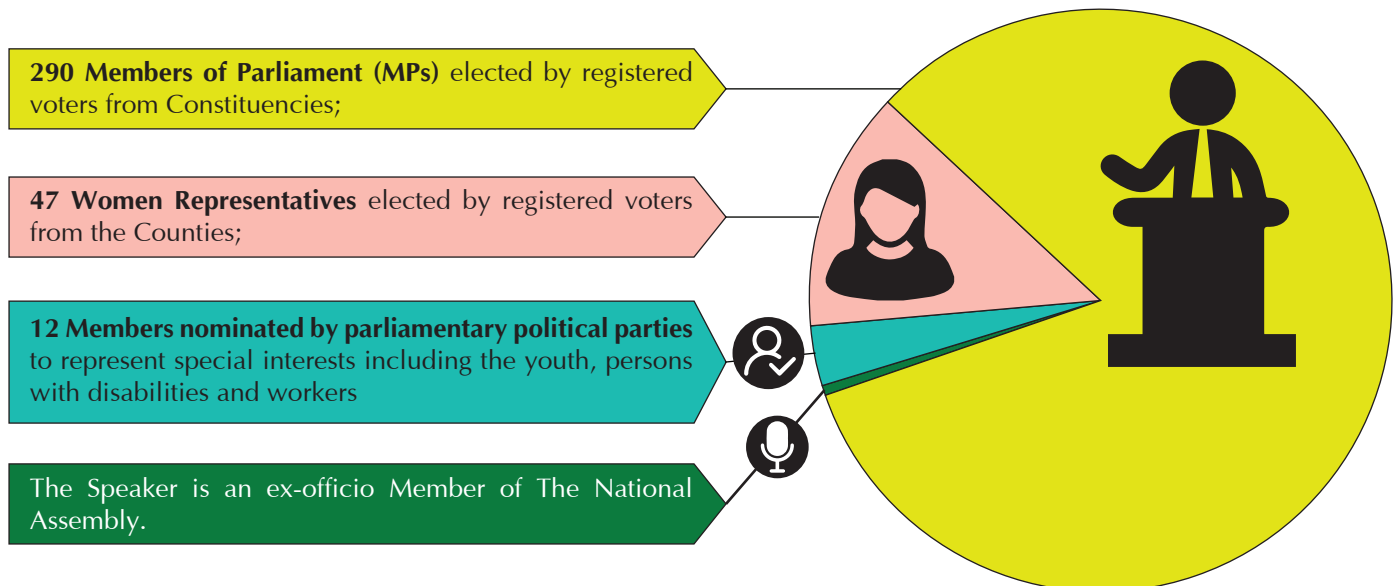
MP for Lang'ata Constituency, while Krishan Chander Gautama, an Asian, won the Parklands seat.

- 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.
- 1997:** Parliamentary seats were increased from 188 to 210 members giving Kenyans more representation in Parliament and national politics.
- 2007:** The number of women Members of Parliament increased to 21 with 15 elected and 6 nominated members.
- 2010:** The Constitution was promulgated on 27th August, 2010 and provided for a Bicameral Parliament within a Presidential System of governance (KNA, 2013).



The 4th President of Kenya HE Mwai Kibaki holds up a copy of the 2010 Constitution of Kenya during the promulgation ceremony held on 27th August 2010. Looking on is the former Attorney General Hon. Amos Wako.

2010: 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 consisted of 68 members (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).



The Independence of Parliament in Kenya

In the run-up to independence, 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.

- 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 Head of State and Head of 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.

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 PSC as one of the independent commissions and further strengthened by the shift to presidential system of government.

Establishment of the Parliamentary Service Commission



A major achievement of the 8th Parliament which emerged from the 1997 general election was the establishment of the Parliamentary Service Commission. This was an initiative sponsored by the former member for Alego Usonga the Hon. Peter Oloo Aringo. Parliament's ability to exercise its representation, law-making and oversight functions hence effectively rested on its managerial and technical capacity. (John K Johnson 2005).

The Eighth Parliament took definite practical steps aimed at implementing resolutions and the law to attain an autonomous and independent status. Steps to take definite legal measures began with the introduction and subsequent enactment of the Constitution of Kenya (Amendment) Act on 11th November, 1999 which was assented by the President on 17th November, 1999 and came into effect on 19th November, 1999.

This move was followed by the introduction and enactment of the Parliamentary Service Act on 28th November, 2000. This concluded the planting of the embryo of the autonomy of Parliament which had begun on 20th March, 1970 when a motion for a resolution by Parliament to give such autonomy was brought to the House for debate by the Hon. Jean Marie Seroney.

The amendments formally separated Legislative and Executive powers through establishment of the Parliamentary Service and the Parliamentary Service Commission, giving Parliament authority over its own budget and staffing, and over virtually all matters related to its management.

This change was fundamental as it delinked Parliament from the control of the President and the Parliamentary Service from the control of the Public Service Commission. This change brought about budgetary autonomy which allowed Parliament to engage in the development of the institution of Parliament.

The Parliamentary Service Commission has made efforts towards building parliamentary capacity, strengthening management, infrastructural development and expanding the number and improving the quality of service of the Kenyan Parliament.

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