



# THE STRUCTURE OF GOVERNMENT IN THE CONSTITUTION OF KENYA 2010



# INTRODUCTION



- \* Kenya – A Sovereign Republic (Art 4 (1))
- \* A multi-party democratic state (Art 4 (2))
- \* Two levels of government i.e. National Government and County Government
- \* The two levels of government are inter-dependent and distinct (Art 6 (2))
- \* Fourth schedule specifies functions of the National Government and those of the County Governments



# ARCHITECTURE OF GOVERNMENT



- \* Two tier Government that are distinctive and inter-dependent
- \* National Government and 47 County governments
- \* Separation of powers between the three arms of government and between the two levels
- \* Doctrine of mutual control and accountability
- \* Bicameral legislature
- \* National Judiciary



# ORGANS OF GOVERNMENT



- \* Kenya – A pure presidential system
- \* Not stated whether Kenya – Unitary or semi-federal
- \* Three Arms of Government
  - \* Executive
  - \* Legislature
  - \* Judiciary
- \* In addition you have independent Constitutional commissions
- \* Functions that are not devolved include
  - \* National Security
  - \* Education
  - \* National Assets



# EXECUTIVE



- \* The arm of government that implements Government Laws and Policies
- \* The executive exists at both the National Government and County Government levels
- \* The National Executive shall comprise of the President, the Deputy President, the A.G., Cabinet Secretaries, Principal Secretaries and the entire National Civil Service
- \* At the county level, it shall comprise of the Governor, Deputy Governor and the entire Public Service
- \* The cabinet size is limited for both National Government and County Government
- \* Executive distinct from the legislature
- \* Presidents power as Chief Executive limited and “checked”



# LEGISLATURE



- \* The Constitution of Kenya 2010 establishes a legislature that is fundamentally different (in terms of structure, membership and powers)
- \* The legislature exists at both the national and county level
- \* At the national level, there is established a two-chamber Parliament consisting of the National Assembly and the Senate
- \* Members of the Cabinet are now to be drawn from outside the legislature
- \* Significant increase in the total number of legislators
- \* Introduction of special seats for women, persons with disabilities and the youth
- \* Increased powers to approve key appointments to state offices
- \* The provision for the impeachment of the President
- \* New unencumbered role in legislation



# JUDICIARY



- \* The Judiciary is not devolved i.e. the County Governments do not have a distinct judiciary
- \* A four tier structure is created at the top of which is the Supreme Court
- \* A Judicial Service Commission has been created and is key to most judicial appointments
- \* Serving judicial officers are being vetted



# CONSTITUTIONAL COMMISSIONS AND INDEPENDENT OFFICES



- \* The Constitution of Kenya 2010 has established ten Constitutional Commissions and two independent offices (Art 248)
- \* Constitutional Commissions are independent bodies which are subject only to the Constitution and National Legislation and are independent and not subject to direction or control by any person or authority (Art 249)





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