

Introduction, Structure and Functions of the Government of Kenya

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THE FORMATION OF GOVERNMENT

- It is provided for in chapter two, part one section 5 (3) of the Kenyan constitution.
- The process starts with the dissolution of parliament and the convening of general elections.
- After the dissolution of parliament, the president and cabinet together with the rest of the MPs continue to run the government until the new government is formed. This is to ensure that there is no power vacuum
- The electoral commission organizes for fresh elections
- After the elections, a new government is formed
- The president is sworn in by the chief justice
- Cabinet members also take the oath of office.

Stages of the Electoral Process

1. Dissolution of parliament to pave way for elections
2. Voter registration
3. Nominations of candidates by political parties for parliamentary and civic seats
4. Presentation of nomination papers to the Independent Electoral and boundary Commission of Kenya (IEBC)
5. Countrywide campaigns guided by the electoral code of conduct
6. Polling - voters are given a chance to vote for the candidates of their choice
7. Counting of votes
8. Announcing of the results
9. Publishing the winners in the Kenya gazette by the IEBC.

Electoral Regulations

Elections are governed by laws passed in parliament. Such include:-

1. The Kenyan constitution which stipulates that
2. Kenya is a sovereign republic and a multi party democratic state
3. The National Assembly and Presidential Elections Act
4. The Election Offences Act.

PURPOSE OF ELECTIONS

1) It's a constitutional requirement that Kenyans hold general elections after every 5 years
2) Giving Kenyans the democratic right of electing leaders of their choice
3) Enabling Kenyans to keep leaders who are serving them
4) Dissatisfying representatives can be voted out by Kenyans
5) Enabling Kenyans to elect representatives from different political parties.

THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

This is an autonomous body created by the constitution for the purposes of overseeing the electoral process.

COMPOSITION.

- Consists of a maximum of nine members headed by the chairperson. All commissioners are appointed by parliament with approval of the National Assembly for a single term of six years.

FUNCTIONS.

Its mandate includes:

1. Registration of voters and maintenance of the voters' roll.
2. Delimitation of constituencies and wards.
3. Regulation of the nomination process
4. Voter education.

5. Registration of candidates for elections.
6. Settlement of election disputes from nomination but excluding petitions after declaration of results.
7. Development of a code of conduct for candidates and parties contesting the elections.
8. Regulation of funds that may be spent by or on a candidate or party in respect to any election.
9. Supervision of the actual election day by facilitating observation, monitoring, transportation of materials, evaluation and announcing the results.
10. Allocation to political parties nominated seats in proportion to total number of seats won.

ELECTORAL UNITS

- These include constituencies, counties and wards.

- The IEBC has the mandate to review at regular intervals the constituency and ward boundaries taking into consideration population, geographical features, means of communication and community interests and cultural ties.

THE ELECTORAL PROCESS.

The stages of the electoral process include:

Voter registration.

This is an ongoing process. For one to qualify as a voter one must be:

1. An adult citizen i.e. 18 years at date of registration.
2. Of sound mind
3. A citizen of Kenya
4. Not having been convicted of an election offence.

Civic education.

This is carried out by the IEBC to familiarize the voter on the voting process e.g. balloting, symbols, registration, etc.

Nomination.

The parliament is yet to pass legislation on the process of nomination. Qualifications for the various candidates include:

QUALIFICATIONS FOR A VOTER

1. Kenyan citizen
2. Aged 18 years and above
3. Have documentary evidence of registration e.g. original national ID or passport
4. Have resided in Kenya for at least one year prior to the application for registration, for at least 4 years in the last 8 years

5. Has lived, carried out business, been employed or owned land in the constituency one is applying for registration for at least 5 months in the last one year prior to the elections
6. Not bankrupt
7. Of sound mind
8. Must not have been sentenced to death or serving a prison sentence of more than 12 months
9. Has not been convicted of election offences.

National Government.

Presidential

1) Kenyan citizen by birth.
2) Qualified to stand as a member of parliament.
3) Is nominated by a political party or an independent candidate
4) Nominated by at least 2000 voters from each of the majority of the counties.

DISQUALIFICATIONS.

1. Is a public or State officer with the exception of the offices of the president, deputy president or a member of parliament.
2. Owes allegiance to a foreign state.
3. The office of the president shall become vacant if the holder of the office-Dies
4. Resigns in writing to the Speaker of the National Assembly
5. Found to be physically or mentally incapable of performing the functions of office by the National assembly.
6. Is removed from office if an impeachment charge is upheld against him/ herby members of the senate.

MEMBERS OF PARLIAMENT.

Qualifications

1. A registered voter.
2. A citizen for at least 10 years preceding election.
3. Satisfies any educational, moral and ethical requirement as prescribed by an act of parliament.
4. Is nominated by a political party or an independent candidate
5. Nominated by 100 registered voters in the constituency for those vying for the National assembly and 2000 registered voters in the county for those vying for Senate.

DISQUALIFICATIONS.

1) Holder of a public or State office other than that of a member of parliament
2) Found to be of unsound mind
3) Has been declared bankrupt
4) Subject to a sentence of at least six months at date of registration as a candidate or at date of election.
5) Found to have misused or abused state office.
6) Held office as a member of the IEBC within five years immediately preceding the date of election.

The Governor and county assembly

Qualifications

I. Registered as a voter
II. A citizen for at least 10 years preceding election.
III. Satisfies any educational, moral and ethical requirement as prescribed by an act of parliament.
IV. Is nominated by a political party or an independent candidate
V. Be a member of the county assembly
VI. Must be nominated by at least 500 registered voters in the ward.

Disqualifications

VII. Holder of a public or State office other than the county Assembly.

VIII. Has been declared bankrupt

IX. Is sentenced for six months by a court of law.

X. Found to have abused or misused public office.

Vacation of office.

Member of the county assembly

Same as for a member of parliament.

- Holder of a public or State office other than the county Assembly.
- Has been declared bankrupt
- Is sentenced for six months by a court of law.
- Found to have abused or misused public office.

Governor

1. Death
2. Convicted of an offence punishable by imprisonment for at least twelve months.
3. Removed from office due to gross misconduct.
4. Found to be mentally or physically incapable of performing the functions of the office.

Campaigns.

Polling.

- On the actual polling day registered voters vote for presidential, parliamentary and county candidate at polling stations where they are registered. Voting is by secret ballot.
- Results are announced by officials of the IEBC and are considered final.

GROUNDS FOR DISQUALIFICATION OF A PROSPECTIVE CANDIDATE:-

1) Is of unsound mind
2) Is bankrupt
3) Sentenced to death or a jail term of at least 6 months
4) Convicted of an election offence
5) Holds a public office or a member of the armed forces.

CONDITIONS NECESSARY FOR A PRESIDENTIAL CANDIDATE

1. Kenyan citizen by birth
2. 35 years of age and above
3. Not have been declared bankrupt by a court of law
4. Not have been imprisoned for over 6 months
5. Registered in a constituency as a voter for parliamentary elections
6. Supported by at least 1000 registered voters

7. Be a parliamentary candidate
8. Member of a registered political party and nominated by the party as its presidential candidate
9. Get at least 25% of the votes cast in any 5 of the 8 provinces in kenya
10. Not have served 2 consecutive terms as president
11. Of sound mind.

CIRCUMSTANCES THAT NECESSITATE THE HOLDING OF A BY-ELECTION

1. Death of a sitting Member of Parliament (MP)
2. If the sitting MP ceases to be a Kenyan citizen
3. If the sitting MP is given a jail term exceeding 6 months or a death penalty by a court of law
4. If the sitting MP resigns from the party that sponsored him/her to parliament
5. If the sitting MP is found to have committed an election offence and the results are nullified by the High Court of Kenya
6. If the sitting MP resigns from parliament
7. If the sitting MP fails to attend 8 consecutive parliamentary sessions without a valid reason
8. If the sitting MP is declared bankrupt by a court of law
9. If the sitting MP defects from his/her party to another.

Election officials

1) District election coordinators
2) Registration officers
3) Returning officers
4) Presiding officers
5) Polling clerks
6) Security personnel
7) Counting clerks
8) Party agents
9) Observers.

FUNCTIONS OF THE INDEPENDENT ELECTORAL AND BOUNDARY COMMISSION OF KENYA

Its mandate includes:

1. Registration of voters and maintenance of the voters' roll.
2. Delimitation of constituencies and wards.
3. Regulation of the nomination process
4. Voter education.
5. Registration of candidates for elections.
6. Settlement of election disputes from nomination but excluding petitions after declaration of results.

7. Development of a code of conduct for candidates and parties contesting the elections.
8. Regulation of funds that may be spent by or on a candidate or party in respect to any election.
9. Supervision of the actual election day by facilitating observation, monitoring, transportation of materials, evaluation and announcing the results.
10. Allocation to political parties nominated seats in proportion to total number of seats won.

FACTORS THAT INTERFERE WITH FREE AND FAIR ELECTIONS

1) Inadequate civic education
2) Ethnic and party loyalties
3) Harassment of voters
4) Biased election officials
5) Incompetent election officials
6) Inaccessibility of polling stations owing to transport and communication difficulties or due to extreme weather conditions

7) Illiteracy of voters
8) Election rigging
9) Corruption in elections e.g. impersonation, cheating or bribery
10) Use of negative propaganda by parties in an attempt to outwit one another
11) Gender insensitivity
12) Misuse of the mass media
13) Election violence and consequent chaos can mar elections
14) Poor distribution of election materials.

FACTORS THAT CAN PROMOTE FREE AND FAIR ELECTIONS

1. Organizing for adequate security during election exercise
2. Educating the voters and sensitizing them on their rights
3. Discouraging rigging and bribery
4. Inviting local and international observers to monitor the elections
5. Training election officials to handle their duties competently.

PARLIAMENT (LEGISLATURE)

It consists of the National Assembly and the Senate.

National Assembly

Composition

1. 290 members, each selected by voters of single member constituencies,
2. 47 women each from every county,
3. 12 nominated members by parliamentary political parties according to their proportion of members of the National Assembly and
4. an ex-officio member who is the speaker.

THE ROLE OF THE NATIONAL ASSEMBLY:

1) It represents the people of the constituencies and special interests in the National Assembly
2) It deliberates and resolves issues of concern to the people.
3) It enacts legislation.
4) It determines the allocation of national revenue between levels of government.

Role of the Speaker

1) Swearing in mps
2) Organizing and determining the business to be conducted in the house during parliamentary sessions
3) Presiding over debates in parliament
4) Enforcing the rules of the House, and particularly the standing orders
5) Disciplining the MPs who violate the standing orders of the house
6) Keeping watch over the attendance of MPs in parliament

7) Adjourning sittings incase of lack of quorum in the House
8) Chairperson of the Parliamentary Service Commission that hires parliamentary staff and remunerates MPs
9) Chairs the speaker's committee, the committee of powers and privileges and standing orders committee
10) In charge of visitors to parliament
11) Representing parliament in relation to other countries
12) Declaring parliamentary seats vacant
13) Issuing writs for general and by-elections
14) Receiving letters of resignation from MPS
15) In charge of general administration and welfare of the National Assembly
16) Preventing personal attacks in parliament and ensures a conducive atmosphere during debates
17) Ensuring that only relevant issues are discussed.

FUNCTIONS OF THE LEGISLATURE

I. Legislation - makes and amends laws
II. Financial control - by controlling government revenue and expenditure
III. Deliberative or critical function - through motions leading to debates and questions
IV. Terminative role - can terminate the life of a government through a two thirds majority vote
V. Substantive role - by checking on the activities of individual MPs through a vote of no confidence forcing a member to resign

VI. Protective role - protecting the rights and freedoms of the citizens against abuse and excesses by the executive
VII. Linkage role - acts as a link between the people and government
VIII. Establishment of statutory bodies - through act of parliament
IX. Unifying role - by developing and maintaining the sense of national unity.

Composition

- 47 members elected from each county,
- 16 women nominated by political parties according to their proportion of members of the senate,
  - 2 special members representing the youth (one woman and one man) and
  - an ex-officio member-the Speaker.

THE ROLE OF THE SENATE:

1) To protect the interest of the county and the interest of their governments.
2) Legislation- considering, debating and approving bills concerning counties.
3) It determines the allocation of National Revenue among counties and exercises oversight over National Revenue allocated to the county governments.
4) It participates in the oversight of state officers by considering and determining any resolution to remove the President or Deputy President from office.

6) It appropriates funds for expenditure by national government and other national state organs.
7) It exercises oversight over national revenue and its expenditure.
8) It controls the state organs- it reviews the conduct in the office of the President, the Deputy President and state officers and it initiates the process of removing them.
9) It approves the declaration of a war and the extension of a state of emergency.

Sources of Kenyan Laws

Laws may emanate from:-

a) suggestions from common citizens through their MPs
b) public opinion
c) the civil service
d) government ministers.

Process of Preparing a Bill

1. Getting the suggestions and proposals
2. Forwarding the suggestions to the Attorney General chambers for drafting
3. Preparing a draft proposal of the intended law by the Attorney General
4. The Attorney General notifies the MPs in advance to give them time to research on the bill and to prepare it for debate
5. The bill is presented to parliament for debate

STAGES OF LAW MAKING

1. **First reading**

   The drafted bill is introduced to the relevant house by a member of the house or a secretary of the docket under which the bill falls. The members of the house acquaint themselves with the bill.

2. **Second reading**

   The bill is debated upon and amendments are suggested if it has majority support it passes on to the next stage.

3. **Committee stage.**

   The house forms a committee, who scrutinizes and analyzes the bill and incorporate recommendations made by members. It then reports to the house with the revised bill.

4. **Report Stage.**

The committee reports its findings to the house. The members are afforded the opportunity to conform that their recommendations have been incorporated.

5. **Third reading.**

- The bill is further debated on and additional amendments may be made. It is voted on and if it passes, it is referred by the speaker of the originating house to the Speaker of the other house to be debated on and passed.
- If the second house passes the bill it is referred to the president for assent
- If the second house passes the bill with amendments, it is referred back to the originating House for reconsideration where it is either passed as amended or rejected,
- If the bill is rejected by either house, a mediation committee is appointed consisting of equal numbers of members of each house, who are appointed by the speakers. Their mandate is to develop a version of the Bill that both houses will pass.

- If the mediation committee agrees on a version of the Bill, each house shall vote to reject or approve that version of the bill.
- If it is rejected by both or either house the bill is defeated.
- If it is passed then it goes on to the final stage.

6. Presidential Assent

- The speaker refers the bill to the president within seven days for assent. Within 14 days after receiving the bill the president
  a) assents the bill, or
  b) refers the bill back to parliament for reconsideration. Parliament may amend the bill or not.
- The bill is then re-submitted to the president who shall assent to it within seven days. If the president fails to assent the bill is taken to be assented on expiry of that period.
- The Bill is then published in the Kenya Gazette as an act of parliament and comes into force on the fourteen day after publication in the Gazette.

Ways through which the Kenyan Parliament exercises its supremacy

1. Through legislation - making, amending and . repealing laws
2. Terminative role - by passing a vote of no confidence in the government of the day
3. Critical function - exercised through debates
4. Parliamentary immunity - where members of parliament are immune to prosecution for whatever they discuss in parliament in the course of the debates
5. Financial control: -
    a. Sanctioning of government expenditure
    b. Legislative approval of the budget
    c. Execution of the budget
    d. Treasury management of finances
    e. Imposing taxes
6. Control over the executive - ministers have e answer questions in parliament on the operation of their ministries.

PARLIAMENT











FEATURES OF THE NEW PARLIAMENT CHAMBER



THE EXECUTIVE

1. It consists of the President, Deputy President and the Cabinet.
2. The President
3. He/ she serve for a maximum of two terms, is the Head of State and Government, is the Commander-in-Chief of the Defense forces, is the Chairperson of the National Security Council and is a symbol of national unity.

FUNCTIONS OF THE PRESIDENT

He/ she:

1. Opens newly elected parliament
2. Reports, in an address to the nation on all the measures taken and progress achieved in the realization of the national values at least once a year
3. Nominates, appoints and dismisses all senior public officers- but with the approval of the National Assembly
4. Chairs cabinet meetings

5. Directs and coordinates the functions of ministries and government departments and assigns responsibility for the implementation and administration of any act of parliament to a cabinet secretary
6. Declares a state of emergency
7. Receives foreign diplomatic and consular representatives
8. Declares war but with the approval of parliament
9. Represents the country in international forums
10. Gives assent to bills

POWERS OF THE PRESIDENT

He/ she:

1. Grant a free or conditional pardon to a person convicted of an offence but in accordance with the advice of the advisory committee
2. Postpone the carrying out of a punishment either for a specified or indefinite period
3. Substitute a less severe form of punishment or remitting all or part of a punishment
4. Prorogues Parliament
5. Confer honors in the name of the people and the republic
6. Nomination and appointment of judges and other senior officials

THE DEPUTY PRESIDENT

He/ she is the principal assistant of the president and deputize for the President in the execution of the Presidents functions. The Deputy President performs the functions conferred to him by the constitution and any other of the Presidents as the President may assign.

The Cabinet

- The cabinet consists of the President, Deputy President, A.G and not fewer than 14 and not more than 22 cabinet secretaries.
- The President nominates the cabinet secretaries but with the approval of the National Assembly.
- Cabinet secretaries are not members of parliament.

Functions of Cabinet Secretaries

1. Initiate government bills
2. Make policies
3. Advice the President
4. Defend and implement Government policy
5. Represents the president in both local and international functions

PRINCIPAL SECRETARIES

1. Each state department is under the administration of a principal secretary nominated by the President but recommended by Public Service Commission and approved by the National Assembly.
2. They are responsible for the smooth running of the Ministries
3. They are the chief accounting officers in the Ministries
4. They supervise the work of the rest of the civil servants to ensure efficiency
5. They are the chief advisors to their respective ministries on matters of policy

THE ATTORNEY GENERAL

1. He/ she is nominated by the President but with the approval of the National Assembly.
2. He/ she is the principal legal advisor to the government.
3. He/ she represent the national government in court or any other legal proceedings to which the national government is a party.
4. The Attorney General protects and upholds the rule of law and defends public interests.

DIRECTOR OF PUBLIC PROSECUTION

He/ she is appointed by the President but with the approval of the National Assembly.

He/ she:

1. Has the power to direct the Inspector General of the National Police Service to investigate any information or allegation.
2. Institutes and undertakes criminal proceedings commenced in any court (other than court martial) that have been instituted by another person with the permission of the person.
3. Has the power to discontinue, at any stage before judgment is delivered, any criminal proceedings instituted by the DPP or taken over by the DPP.
4. Safeguards public interest, the interest of the administration of justice and the need to prevent and avoid abuse of the legal process.

Composition of the Civil Service

- The civil service is a section of the executive arm of government which comprises all the government ministries with the exception of the judiciary, local authorities, parastatals and the armed forces.
- It is headed by the permanent secretary in the office of the president who is also the secretary to the cabinet.
- It includes permanent secretaries of all ministries and other civilians working as government servants.

Functions

1. Implement policies and programmes of the government
2. Explain and interpret government policies to the people
3. Advice ministers on policy matters
4. Ensure continuity in government since the civil service is permanent unlike political leaders who come and go
5. They maintain government records
6. Participate in the drawing up and preparation of the budget
7. Maintain law and order e.g. DCs,
8. Offer direct services e.g. lawyers, doctor's e.t.c.
9. Problems that hinder the Effective Performance of Civil Servants

10. Government bureaucracy (causing delays in task performance)
11. Shortage of funds
12. Poor terms of service
13. Job insecurity e.g. retrenchment
14. Political interference in their work.
15. Role of the Permanent Secretary in a Ministry
16. Smooth and efficient running of the ministry
17. Chief accounting officer of the ministry/safeguards public money
18. Supervises and controls civil servants in the ministries
19. Chief advisers to the relevant minister on mat ters of policy.

FUNCTIONS OF THE DC

1) Represents the president in the district
2) Maintains law and order
3) Supervises and coordinates all administration in the district
4) Coordinates development activities
5) Represents the president in the district celebra tions
6) Administer marriages on behalf of the state
7) Interprets and explains government policies to the people
8) Monitors the implementation of government polices
9) Issues licenses for public meetings

10. Chairperson of the Liquor Licensing Board in the District
11. Chairperson of the District Trade Licensing Board
12. Administers district revenue
13. Coordinates the operations of government ministries and activities of NGOs
14. Ensures that county councils carry out their duties effectively (member of District County Council).

Functions of the DO

15. Works at the divisional level
16. Duties are similar to those of a DC.

FUNCTIONS AND DUTIES OF THE CHIEF

1. Maintains law and order
2. Explains government policies to the people
3. Encourages development projects
4. Maintains peace
5. Issues permits for private and public functions
6. Controls the use of dangerous drugs and arrests culprits
7. Link between people of his/her location and the Government
8. Settles minor disputes

9. Member of the Divisional Land Control Board
10. Chairperson of the Locational Development Committee
11. Mobilizes Wananchi to participate in public works
12. Controls pollution of water
13. Controls the spread of human and animal dis eases
14. Makes arrangements for distribution of food in times of famine
15. Can loan or restrict the manufacture and consumption of locally brewed beers
16. Identifies and recommends cases for govern ment assistance e.g. land, Bursary.

FUNCTIONS AND DUTIES OF THE ASSISTANT CHIEF

1. Maintenance of law and order
2. Issuing permits for private and public functions
3. Explains government policies to the people through barazas
4. Maintains peace in the sub-location
5. Reports births and deaths
6. Mobilizes people to initiate and participate in projects
7. Arrests people engaged in illegal activities e.g. brewing of illicit drinks, drug trafficking
8. Reports the outbreak of infectious diseases
9. Settles minor disputes.

DUTIES OF THE VILLAGE ELDERS

1. Mobilizing local people for communal work e.g. soil conservation
2. Educating people about government policies
3. Assisting in the maintenance of law and order
4. Ensuring village cleanliness
5. Encouraging villagers to attend chief's barazas
6. Convening meetings of village residents to discuss matters affecting the villagers

COMPOSITION AND FUNCTIONS OF NATIONAL SECURITY ORGANS

1. Kenya Defense Force
2. National Intelligence Service
3. National Police Service
4. Correctional Services

NB:

National Police Service will be headed by Inspector General as opposed to Police Commissioner.

KENYA DEFENSE FORCES

KENYA ARMY











KENYA AIRFORCE



















KENYA NAVY



















THE FUNCTIONS OF KDF

1. Defend Kenya from external aggression by
2. Acting as a deterrent to would be invaders
3. Resisting actual invasion
4. The Kenya navy patrols Kenya's territorial waters and
5. Defends Kenya against seaborne invasions
6. Deals with illegal landings and departures
7. Deals with unauthorized fishing by foreign vessels in Kenyan waters
8. The Kenya Air Force protects Kenyan airspace against potential enemies

9. Assisting in emergencies by helping the police in maintaining law and order within the country e.g. to quell riots and other civil disturbances which cannot be handled by the Kenya police
10. Engage in non-military exercises i.e.
11. Road and bridge construction
12. Locust control
13. Evacuation of the civilian population during floods and other natural calamities
14. Extinguishing uncontrollable fires in forest and urban areas
15. Have contributed to the maintenance of inter national peace and security through involvement in the UN sponsored peace-keeping forces in war torn countries like Sierra Leone
16. Entertaining the public during national holidays.

Challenges facing Kenya Defence Forces

1. Cases of indiscipline among members of the forces
2. Involvement of officers in corruption
3. Piracy, militia attacks and raids at Kenyan borders
4. Social ills such as tribalism nepotism etc.
5. Terror groups e.g Al shabaab
6. Inadequate opportunities for further education and sell improvement
7. Allegations on violation of human rights by members of the forces.

THE KENYA POLICE













Specialized units of the Kenya police

1. Regular police - concerned with general maintenance of law and order
2. Criminal Investigation Department (CID) - investigates crimes
3. National Security Intelligence Service(NSIS) -concerned with state security
4. Police Air Wing –
   - Undertake aerial search of criminals, poachers, drug dealers, carjackers e.t.c
   - Transport police in remote areas or in urgent cases

5. General Service Unit (GSU) deals with civil disorder
6. Traffic Police - Patrol Kenyan roads
7. Enforce traffic rules
8. Arrest those who contravene them
9. Administration Police (APs) – under the National Police Service
10. Police Reserve - officers who have experience in police work but are not in active service

11. Assigned duties in case of emergencies
12. Anti-Stock Theft Unit - operate in areas where pastoralism is practiced to track down cattle rustlers
13. Anti-Narcotics Unit - based at airports and boarders
14. Alleviate drug trafficking
15. Flying Squad - liaise with the CID to investigate crimes and track down suspects.

FUNCTIONS OF THE POLICE FORCE

1. Maintain law and order
2. Investigate crimes
3. Arrest and prosecute suspected criminals
4. Mount a guard of honour for local and international dignitaries
5. Provide security within Kenya
6. Enforce traffic rules
7. Conduct driving tests to aspiring drivers
8. Control and direct traffic on Kenyan roads
9. Their presence deters people from committing crimes

10. *Vet incoming and outgoing traffic at border posts*
11. *Inspect vehicles to ensure that they are road worthy*
12. *Provide emergency relief services in time of national disaster*
13. *Control and entertain crowds during national public functions*
14. *Curb cattle rustling*
15. *Liaise with Interpol to combat international crime*
16. *Protect life and property*
17. *Protect prominent personalities in the country e.g. the president, government ministers and members of parliament.*

Actions taken by police officers from the time an offence is committed up to the time judgment is passed

1. Arrest the suspect
2. Take and confine them at the police station
3. Ensure their safety while at the station
4. Investigate the offence
5. Bring the suspect to court
6. Prosecute the suspect
7. If innocent, acquit and release them
8. If convicted, hand them over to prison authorities.

Challenges facing the Police Force

1. Poor transport and communication facilities
2. Poor remuneration
3. Unfavourable working and living conditions
4. Lack of funds and hence inadequate working facilities to effectively combat crime e.g. lack of vehicles, fuel, stationery and radios
5. Some police officer engage in corrupt prac tices
6. Inadequate personnel to counter the increasing crime

7. Lack of modern technology to cope with sophisticated crime
8. Fear and insecurity in the police force due to acquisition of dangerous arms by criminals
9. Incompetent officers
10. Political interference in police work by prominent personalities
11. Poor methods of investigation and manhandling e.g. torture and trickery, harassment and maiming of suspects

12. Terrorist activities have overwhelmed police forces
13. Ill-informed prosecution officers who affect the dispensation of justice
14. Emergence of slums which act as hide-outs to hard core criminals
15. Increased disease incidence among the police workforce.

Measures to improve Police Operations

1) Acquisition of modern vehicles and communication equipment
2) Introduction of professional training programs
3) Recruitment of qualified personnel
4) Introduction of community policing placing police booths in strategic areas, hotlines and suggestion boxes
5) Improved terms and conditions of service
6) Adoption of a five-year master plan in order to reshape and revamp the police force.

National Security Intelligence service

- Its concerned with the security interests of Kenya and safeguarding its citizens from threats such as terrorism.
- Its mandate is to identify threats against the security of Kenya, collect and analyse the information and inform the government accordingly through appropriate intelligence reports.
- As a professional intelligence agency, it deals with the early warning on matters of national interest particularly security, terrorism and corruption.

Functions of the National Intelligence Service

1. It is responsible for security intelligence and counter intelligence to enhance national security in accordance with the Constitution.
2. It performs any other functions prescribed by national legislation.
3. It liaises with the Kenya Police Criminal Investigation Department (CID) to investigate some of the threats that have criminal implications, e.g. terrorism, and lay the appropriate criminal charges.
4. The NIS is very sensitive to, and protects human rights issues and the individual freedoms guaranteed by the Constitution of Kenya and other statutes.
5. Security intelligence is information from both open sources and confidential NSIS sources. This information is specially processed and formulated to assist the government in decision-making.

Challenges facing the National Intelligence Service

1. Lack of trust from Kenyan citizens makes them reluctant to provide information to the NSIS.
2. Concern has been raised over the financial credibility and political independence of the NSIS. Since the body handles sensitive confidential issues, questions have been asked regarding the accountability of its operations and the extent to which the body is neutral.
3. Lack of a clear distinction between accountability and necessary secrecy has brewed a lot of tension. Since taxpayers money is allocated to the security agency for its operations, it is necessary it is audited like other government organizations.

4. The growing volume and complexity communications presents a security challenge for national intelligence and government that seek to intercept, process, and analyze it.
5. The intelligence agency is threatened by internal and external forces e.g. illegal immigrants, forces such as Al-Shabaab militia from Somalia, Merille warriors from Ethiopia, and the impending attacks from Al-Qaeda
6. The complexity of the task requires continuous capacity measures that remain a challenge. Regular training is necessary to prepare the personnel to carry out these manifold responsibilities that need urgent attention.

7. Political interference.
8. Limited financial and human resources.
9. Due to the covert nature of the intelligence operations all over the world, Kenyans have no idea of the operations of the NIS, including the advice the organ gives to the government.
10. Lack of powers to follow-up on implementation of the advice given. Whereas intelligence agencies in Uganda, Sudan and Ethiopia have powers either to implement the advice themselves or follow-up on its compliance, the Kenyan intelligence service lacks such powers.

The Correctional Services
Aims of Prison Sentences

1. Punish offenders
2. Rehabilitate offenders
3. Deter those who might be thinking of committing crimes
4. Protect the orderly society from those want to disrupt it.

PRISONS IN KENYA



















CATEGORIES OF KENYAN PRISONS

1. Principal institutions *e.g. Kamiti* in Nairobi *King'ong'o in Nyeri and Naivasha* Maximum *Prison*
   - ✓ District I prisons
   - ✓ District II Prisons
2. *Detention camps for* Vagrants
3. Rural immigrants convicted of petty offences '
4. Youth institutions for young offenders between 15 and 21 years. They are of two types

5. Borstal institutions cater for delinquents between 15-17 years e.g. Shikusa in Western Province, Shimo la Tewa in Coast Province
6. Youth corrective training centres - cater for offenders between 17 and 21 years
7. Extra mural penal employment camps
   - ✓ Caters for petty offenders
   - ✓ Use a community based approach to involve offenders in communal government activities e.g. building rural access roads, afforestation e.t.c.

REASONS WHY CORRECTIONAL SERVICES ARE CLASSIFIED INTO VARIOUS CATEGORIES

1. Prevent contamination of minor offenders by the worse ones e.g. serious offenders are sent to long term maximum security prisons while minor offenders are sent to short term medium security prisons
2. Provide training for offenders who are likely to benefit from it
3. Group inmates according to their age e.g. youth institutions.

FUNCTIONS OF THE CORRECTIONAL SERVICES IN KENYA

1) Confine convicted criminals
2) Rehabilitate prisoners through counseling to enable them change from their criminal activities
3) Train prisoners in various skills e.g. carpentry, painting, quarrying, tailoring e.t.c to enable them become useful members of the society once they complete their jail terms
4) Initiating income-generating projects e.g. furniture making and crop farming

5) It executes court orders (caning, hanging)
6) Provides for the welfare of inmates e.g. spiritual welfare, medical attention
7) Keeping watch over suspected criminals whose cases are still pending in the law courts
8) Confining dissidents who may be a threat to state security

CHALLENGES FACING THE CORRECTIONAL SERVICES

1) Overcrowding in prisons and the consequent poor living conditions
2) Increased disease incidence in prisons e.g. Typhoid, Malaria, Cholera
3) Inadequate rehabilitation of convicts
4) Shortage of funds to maintain the prisons.
5) Inadequate medical facilities, food shortage and poor clothing of prisoners

6) Prison wardens are brutal and torture and mistreat inmates
7) Immorality in prisons e.g. homosexual practices among inmates
8) Poor remuneration for wardens
9) Poor housing for wardens. They live in dilapidated houses
10) Corruption in prisons
11) Poor transport.

REFORMS UNDERTAKEN TO IMPROVE THE CONDITIONS OF PRISONS AND THE PRISONERS

1. Improved diet
2. Living and sanitary conditions have been improved
3. Improved medical services
4. Provision of clothing and bedding
5. Purchase of new vehicles to ease the transport problem
6. Visits by spouses among married prisoners
7. Provision of distance learning to prisoners

8. Disseminating computer knowledge to prisoners
9. Allowing prisoners to watch, read and listen to news
10. Giving a higher allowance for work done by inmates
11. Direct government involvement in prison matters
12. Easing of congestion in prisons by:-
13. Releasing of death-row inmates
14. Ensuring that those in remand have their cases heard in good time.

The police will be hired by the National Police Service Commission. The Commission consists of:

i. A person who qualifies to be a judge of the High Court
ii. 2 retired police officers
iii. 3 persons with integrity
iv. The Inspector General
v. The Deputy General of the National Police Service

FUNCTIONS OF THE NATIONAL POLICE SERVICE COMMISSION

1. Recruit and appoint persons to hold office
2. Confirm appointments
3. Determine promotions and transfers
4. Exercise disciplinary control over and remove persons holding or acting in offices within the service

THE JUDICIARY
FUNCTIONS OF THE JUDICIARY

a) Interpreting the law
b) Settling disputes
c) Protecting the constitutional rights and freedoms of the individual
d) Administering justice i.e. punishing criminals
e) Guardian of the constitution

THE JUDICIARY













FUNCTIONS OF THE CHIEF JUSTICE

1) Head of the judiciary
2) Chairperson Commission
3) Swears in the president and other senior gov ernment members
4) Prescribes fees to be charged by courts
5) Exercises a wide range of discretionary powers conferred by the constitution e.g. the Judicature Act, the Advocates Act
6) Swears in newly qualified advocates of the High Court
7) Hears cases in the High Court and Court of Appeal

8) Can set up a tribunal to determine whether a president is unable to perform the duties of his office due to physical or mental incapacity
9) Liaises with the chief Kadhi to determine the establishment of Kadhi courts
10) Formulates rules to be followed in the hearing of election petitions
11) Supervises the lower courts
12) Appoints judges to be members of the rules committee (Draws rules to be followed in courts).

The Supreme Court

- Supreme Court is the highest court in the judicial System

Consists of the:

A. The Chief Justice (President of the Court)
B. Deputy Chief Justice (Vice President of the Court)
C. 5 other judges
D. The Supreme Court is properly constituted to hear cases when it’s composed of 5 judges.

FUNCTIONS OF THE SUPREME COURT

1. It has exclusive original jurisdiction to hear and determine disputes relating to the election to the office of the President.
2. It has an appellate jurisdiction thus hears and determines appeals from the court of appeal and any other court or tribunal
3. To review a case that its judgment has been passed by the court of appeal and it can be affirmed, varied or overturned.
4. May give an advisory opinion at the request of the National Government, any State Organ or any County Government with respect to any matter concerning the County Government

Court of appeal

a) Consists of judges not fewer than 12
b) President of the Court of Appeal who is elected by the judges of the Court of Appeal from amongst themselves.

Functions

1. It has an appellate jurisdiction to hear appeals from the High Court and any other Court or Tribunal.

FUNCTIONS OF THE ATTORNEY GENERAL

1. Chief legal advisor to the government
2. Drafts government bills
3. Has authority to continue or discontinue court proceedings by issuing a written 'nolle prosequi'
4. Interprets the Kenyan laws
5. Ex-officio member of parliament
6. Responsible for all government litigation (chief litigation counsel)
7. Member of the Judicial Service Commission.

It is headed by a Principal judge of the High Court elected by the judges from among themselves.

Functions of the High Court

1) Has unlimited original jurisdiction in both civil and criminal cases
2) Tries cases involving any amount of money or crime of any seriousness throughout the coun try
3) It is a constitutional court and thus interprets the constitution to determine whether or not the issue at hand is constitutional

4) Hears cases from all over Kenya
5) Has original jurisdiction over land cases
6) Hears appeals from Resident Magistrates Courts
7) Acts as an appellate court for the Rent Restriction Tribunal and Business Premises Rent Tribunal
8) Hears appeals from professional disciplinary tribunals e.g. the law society of Kenya
9) Hears appeals from Court Martials

10) Has revisionary powers and thus it corrects irregularities or mistakes made in decisions by the subordinate courts

a. Subordinate courts
b. The Magistrates courts
c. The Kadhis' court
d. The Court Martial
e. Local tribunals

SPECIAL COURTS AND TRIBUNALS

1. Rent Restriction Tribunal.
2. Business Premises Rent Tribunal.
3. Industrial Court.
4. Professional Associations e.g. LSK
5. Court Martials.
6. Juvenile Courts.

Importance of the Independence of the Judiciary

1. Enables judges and magistrate to dispense justice without fear or favour.
2. It protects the judiciary from interference by the other organs of government.
3. Ensures that judges have security of tenure of office. They cannot be dismissed at will.
4. Enables judges and magistrates to make impartial judgments as they are not answerable to *the* executive.

HOW JUDICIAL INDEPENDENCE IS GUARANTEED

1. The judiciary is headed by the chief justice whereas other government departments fall under the PSC
2. Appointments in the judiciary are done' by the Judicial Service Commission
3. The Judicature Act protects judges and magistrates from molestation and victimization
4. Judges and magistrates make impartial judgments as they are not answerable to the executive
5. Judges have security of tenure of office
6. Salaries and allowances for judges are fixed by statutes and not subject to debate in parliament
7. They take an oath of allegiance to perform their duties without fear or favour.

Composition

1. Chief Justice
2. Supreme Court judge
3. Elected by a Supreme Court judges
4. Court of appeal judge elected by court of appeal judges
5. One High court judge
6. one magistrate
7. one man and one woman elected by the members of a statutory body responsible for the professional regulation of advocates.
8. One person nominated by the Public Service Commission
9. One woman to represent the public
10. The Chief Registrar of the Judiciary being the secretary of the Commission

FUNCTIONS OF THE JUDICIAL SERVICE COMMISSION

1) Recommend to the president persons to be appointed as judges
2) Review and make recommendations on the conditions of service of judges and judicial officers and the staff of the judiciary.
3) Appoint, receive complaints against, investigate and remove from office or discipline registrars, magistrates, other judicial officers and other staff of the judiciary.
4) Prepare and implements programs for the continuing education and training of judges and judicial officers.
5) Advice the National government on improving the efficiency of the administration of justice.

6) A bill may be introduced by any member of the relevant house of parliament. A money bill can only be introduced in the National assembly. A money bill is any bill that deals with taxes, appropriation and investment of public money, raising or guaranteeing government loan, etc.

7) Before drafting a bill consultation takes place to ascertain the validity of the bill. The suggested legislation is then channeled through the Attorney General's office where it is drafted. The A.G then notifies the members of parliament and the general public of intent to introduce the bill. This is to enable them to familiarize themselves with the bill. The bill is then tabled in parliament for consideration and debate.

THE RULE OF LAW

1) All Kenyans are subject to and governed by the same law irrespective of their status, colour or religion
2) No person is above the law
3) Matters pertaining to law are dealt with in accordance to the law
4) A person is presumed innocent until proved guilty in a court of law
5) Everyone must obey the law and face the consequences of violation of the law
6) Lawbreakers should be judged through the established judicial process.

IN WHAT WAYS DOES THE KENYA GOVERNMENT UPHOLD THE RULE OF LAW?

1) Guaranteeing the independence of the judi ciary
2) Trying suspects in a court of law
3) Those found guilty can appeal for a retrial
4) Arresting suspected criminals
5) All Kenyans are subject to and governed by the same law
6) Accused persons are entitled to legal representation
7) By empowering parliament to control the excesses of the executive arm of government.

THE CONCEPT OF NATURAL JUSTICE

1) Giving the accused person the right to **a far** and impartial trial
2) Suspected persons are presumed **innocent until** proved guilty in a court of law
3) This concept discourages mob justice. It is illegal and one is liable to prosecution
4) An accused person is entitled to legal representation

5) A suspect is also given a chance to defend himself/herself in a court of law and call witnesses if need be
6) Judges and magistrates carry out their duties without interference on their decisions and operations
7) Accused persons are notified well in advance of their impending trial and charges that a suspect is facing
8) If a judge or a magistrate has an interest in a case, they must disqualify themselves prior to the hearing

8) Justice should be done and be seen to be done
9) All judicial decisions are based on law
10) Suspects have a right to a fair hearing
11) On reaching a decision, the accused person should be informed of the decision and reason for the decision
12) A judge cannot judge himself/herself.

Factors that hinder the Administration of Justice in Kenya

1) Corruption in the judiciary
2) Due to shortage of finances, some accused people are not able to hire the services of professional lawyers
3) The general public are not aware of their rights and legal procedures
4) Political interference
5) Escalating crime incidence and consequent delays in hearing of cases.

6) Some members of the public are reluctant to provide useful information or act as witnesses
7) Use of outdated laws
8) Inadequate personnel
9) Poor investigative techniques, leading to inadequate evidence on cases

KCSE SAMPLE QUESTIONS



LAST TOPIC FORM THREE
THE END