LEGISLATIVE DRAFTING IN LAW MAKING: AN ANALYSIS OF CHALLENGES IN
LIGHT OF THE CONSTITUTION OF KENYA 2010

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ABSTRACT

The Constitution of Kenya 2010 was promulgated on 27th August 2010 ushering in a new dispensation in Kenya’s social, political and economic order. The new Constitution significantly restructured and redesigned government institutions and established new systems of governance. Kenyans clamors for the new Constitution was to address a number of Constitutional and governance problems associated with Kenya’s previous governments. Among the constitutional and governance problems which needed to be fixed is the reassertion of the correct relationship between the three arms of government and reforming of state institutions.

Kenya is in the third year of implementing the new Constitution. Among the changes in the new dispensation is how the Government will undertake its legislative agenda. The Constitution requires both legislative and policy reform in order to achieve the intended outcome.

This study therefore examines three pertinent issues, first is the extent to which the 2010 Constitution has re-organized and redesigned the legal and institutional framework on the legislative drafting process. Second is the adequacy of the redesigned legal and institutional framework in the quest of drafting quality and effective legislation. Third is policy formulation in the context of legislative drafting in the restructured and redesigned legal and institutional framework. The study also examines if the new Constitution addresses the inherent challenges which affect the quality of legislation. Thereafter the study concludes and proposes recommendations on measures aimed at streamlining the legislative drafting process in Kenya.