

**JARAMOGI OGINGA ODINGA UNIVERSITY OF SCIENCE AND  
TECHNOLOGY(JOOUST)  
SCHOOL OF HUMANITIES AND SOCIAL SCIENCES  
DEPARTMENT OF RELIGION, HISTORY AND PHILOSOPHY  
UNIVERSITY EXAMINATION  
AHI 303: CONSTITUTIONAL HISTORY OF KENYA**

**DATE:**

**TIME:**

**INSTRUCTION: Answer THREE (3) Questions and Question one is compulsory.**

1.
  - a. Why did Kenyans demand for constitutional change between 1992 to 2002(10marks)
  - b. Analyse the reform process between 2002 until the promulgation of the 2010 constitution (10marks)
  - c. Why did the implementation of the constitution 2010 become a challenge? (10marks)
  
2. Define the following terms, discuss what they address and their roles(20 marks):
  - a. Constitution
  - b. Constitutionalism
  - c. The rule of law
  
3. Discuss the key constitutional developments in colonial in Kenya.
  
4. “The Devonshire White Paper of 1923 was a land mark constitutional development in Kenya’s struggle for independence” Do you agree with this statement?
  
5. EITHER  
Examine the evolution of the Kenyan independence constitution between 1963 and 1982.  
OR  
How did the Kenyan independence constitution contribute to political repression between 1982 and 1992?

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**ZPH AHI 433: CONSTITUTIONAL HISTORY OF KENYA**

**Course Outline and Reading List September to December 2018**

**Contact Hours: 48**

**Lecture Hours: 48**

**Credit Hours: 3**

**Pre-requisites: NONE**

**Course Lecturer:** Prof. Mildred A. J. Ndeda

**Course Code and Title:** AHI 303: Constitutional history of Kenya

**Purpose of the course:** The goal of the course is to enable the students to understand the constitutional history of Kenya from the establishment of colonialism to the present.

**Course objectives: Course Objectives:** By the end of the course learners will be able to;

- i) Explain the constitution, constitutionalism and the rule of law.
- ii) Underscore the fundamental issues that have contributed to the development/evolution of the Kenyan constitution.

**Course description/Course content:**

- 1) Establishment of colonial state in Kenya- Executive, legislature and judiciary
- 2) The colonial Laws-Agrarian, Labour, Racial, Medical, Industrial, Educational,
- 3) Central and Local Government during the colonial period
- 4) Colonial racial conflicts and the Devonshire White Paper
- 5) Pre-independence constitutional changes-
- 6) The Independence constitution (Executive, Legislature, Judiciary)
- 7) Constitution as a tool of repression after independence
- 8) Democratization and Multipartism
- 9) Kenyan demand for constitutional change.
- 10) The reform process and the challenges of implementation
- 11) Human Rights and Civil Society

**Teaching methodologies;** A combination of Lectures; Tutorials; Class discussion, Group activities.

**Instructional materials/equipment:** Handouts; Chalk board, Textbooks, library

**Course assessment:** Continuous assessment tests, End of semester exam

**Grading**

Overall marks will be 100%. Marks will be divided as follows:

Assignment (2) essays)-30%

Exams - 70%

### Grading System:

|   |   |              |
|---|---|--------------|
| A | - | 70 and above |
| B | - | 60-69        |
| C | - | 50-49        |
| D | - | 40-49        |
| F | - | Below 40     |

### Course Procedures and Requirements

1. Students are required to attend all classes.
2. Reading assignments will be given to the students from time to time.
3. There will be periodic paper presentations, book reviews, and two term papers.
4. Plagiarism is forbidden.

The term papers must be submitted promptly two weeks before the final examination. The term papers must contain proper footnotes and bibliography.

**Course Methods:** The method of instruction will include Lectures, Assignments, Presentations and discussions.

**Assessment and evaluation:** CATs, Assignments and final University Examination.

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**Reading list** will regularly be revised and students must check with the librarian on the E-resources available.

1. Chazan, N. et al., **Politics and Society in Contemporary Africa**. 2nd ed. (Boulder Lynne Rienner Publishers, 1992)
2. Zartman, I. W., **Ripe for Resolution Conflict and Intervention in Africa** (New York: Oxford University Press, 1985).
3. Bienen Henry, **Kenya: The Politics of Participation and Control** (Princeton, New Jersey: Princeton University Press, 1974).
4. Gertzel, Clarry **The Politics of Independent Kenya** (Evanston: Northwestern University Press 1990)
5. Jackson, J. Roberty and Roseberg G. Carl, **Personal rule in black frica:Prince Autocrat, Prophet, Tyrant**. (Berkeley: University of California Press, 1982).
6. Schatzberg, M. (ed) **The Political Economy of Kenya** (New York: Praeger 1987).
7. Goran Hyden, Robert Jackson and John Okumu (eds) **Development Administration: The Kenyan experience** (Nairobi: OUP, 1970)
8. Anyang' Nyong'o, P. (ed) **Arms and Daggers in the Heart of Africa: studes in Internal Conflicts**, (Nairobi: Academy Science Publishers, 1993).
9. Gurr T.R., **Why men rebel** (Princeton, N.J.: Princetone University Press, 1970)

10. Doornbos, Martin "The African state in academic Debate: Retrospect and Prospect" **Journal of Modern African Studies**, vol. 28 no. 2 (1990).
11. Mutahi G. Ngunyi, "**Religious Institutions and Political liberalisation in Kenya**" in Gibbon P. (ed), 1995) op ci pp 121-177.
12. Karimi S. and Ochieng P., **The Kenyatta succession** (Nairobi: Trans-Africa Books, 1980)
13. Walter O. Oyugi "Ethnicity in the Electoral Process: The 1992 General Elections in Kenya" **African Journal of Political Science** Vol. 2 No. 1 (1997) pp. 41-69.
14. Africa Contemporary Record Colin Legum (editor), various issues
15. Piers, B., 2008. *Decline and fall of the British empire*. Vintage Books: London.
16. Throup, D., 1993. "Elections and political legitimacy in Kenya." in *Africa*, 63(2), pp. 371-396.
17. Mutua, M., 1994. "Human rights and state despotism in Kenya: Institutional problems." in *African Today*, 41.
18. Kimenyi, M. S. & Shughart, W. F., 2008. "The political economy of constitutional choice: A study of the 2005 Kenyan constitutional referendum." University of Connecticut Working Paper 2008-08.
19. 'Kenya struggle to draft a new constitution nears and end', in Public Law, October 2009, pp. 843-844.
20. Tom Maliti, 'Kenya gets new American-style constitution', Associated Press, 27 August 2010, <http://news.yahoo.com>.
- 21 The full text of the new constitution can be accessed at <http://kenya.rcbowen.com>.
- 22 BBC News. Kenya. 2011. Web. 22 Aug 2011. <<http://www.bbc.co.uk/news/world-africa-13681341>>.
- 23 Commission for the Implementation of the Constitution. Implementing Kenya's Constitution. <<http://tinyurl.com/mumncyq>>.
- 24 Committee of Experts on Constitutional Review. Final Report of the Committee of Experts on Constitutional Review. 11 October 2010. Web. 2013 July 25. <[http://www.mlgi.org.za/resources/local-government-database/by-country/kenya/commission-reports/CoE\\_final\\_report.pdf](http://www.mlgi.org.za/resources/local-government-database/by-country/kenya/commission-reports/CoE_final_report.pdf)>.
- 25 Grace Maingi. The Kenyan Constitutional Reform Process: A Case Study on the Work of FIDA Kenya in Securing Women's Rights. (available at: [http://agi.ac.za/sites/agi.ac.za/files/fa\\_15\\_case\\_study\\_grace\\_maingi.pdf](http://agi.ac.za/sites/agi.ac.za/files/fa_15_case_study_grace_maingi.pdf)).
- 26 The Kenya Weekly Post. Curtain falls for Committee of Experts on Kenyan Constitution. 10/10/2010. Web. 2013 July 25. <<http://tinyurl.com/kkkb2xv>>.
- 27 Media Development Association & Konrad Adenauer Foundation. History of Constitution Making in Kenya. (available at: [http://www.kas.de/wf/doc/kas\\_32994-1522-2-30.pdf?121206115057](http://www.kas.de/wf/doc/kas_32994-1522-2-30.pdf?121206115057)).
- 28 Prof Ben Sihanya. Constitutional Implementation in Kenya, 2010-2015: Challenges and Prospects. Friedrich Ebert Stiftung. 5/12/2012. (available at: <<http://library.fes.de/pdf-files/bueros/kenia/09857.pdf>>)
- 29 Richard Allen Greene. Kenya Churches Unite Against Draft Constitution. CNN. 8/4/2010. Web. 2013 July 25. <<http://tinyurl.com/mgwyvr7>>.

- 30 Tayuh Ngenge. Kenya's 2013 Elections: Reflections on the Supreme Court Ruling and the Role of the Judiciary in Democratization. International IDEA. 04/18/2013. Web. 2013 July 25. <<http://tinyurl.com/oxeyuap>>.
- 31 United States. CIA World Factbook: Kenya., 2013. Web. 2013 July 2013. <<https://www.cia.gov/library/publications/the-world-factbook/geos/ke.html>>.
- 32 United States Department of State. Background Note: Kenya, 2013. Web. 2013 July 25. <<http://www.state.gov/r/pa/ei/bgn/2962.htm>>.

Contact: Tel. 0721383139

Email [ndeda2002@yahoo.com](mailto:ndeda2002@yahoo.com)