

Kenyan Constitutional Law Notes

This book makes a significant contribution to the ongoing global conversations on the various understandings of equality. It illuminates the many ways in which diverse equality guarantees clash, or are interrelated. It also sets out principled approaches on how they can be coherently interpreted to address the myriad inequalities in Kenya. Taking a comparative approach, the book considers how other jurisdictions including the United States, United Kingdom, Canada, South Africa, India and Botswana have approached the conceptualisation, interpretation and application of various equality concepts. The book focuses on important issues such as: - transformative constitutionalism in relation to the interpretation of Kenya's 2010 Constitution; - expanding the list of enumerated grounds for non-discrimination; - affirmative action; - accommodating religious and cultural diversity versus gender equality; - the interrelation between socio-economic rights and status-based equality.

Constitutional litigation in general attracts two distinct types of conflict: disputes of a highly politicized or culturally controversial nature and requests from citizens claiming a violation of a fundamental constitutional right. The side-by-side comparison between the U.S. Supreme Court and the German Federal Constitutional Court provides a novel socio-legal approach in studying constitutional litigation, focusing on conditions of mobilisation, decision-making and implementation. This updated and revised second edition includes a number of new contributions on the political status of the courts in their democratic political cultures.

Constitutional Amendments: Making, Breaking, and Changing Constitutions is both a roadmap for navigating the intellectual universe of constitutional amendments and a blueprint for building and improving the rules of constitutional change. Drawing from dozens of constitutions in every region of the world, this book blends theory with practice to answer two all-important questions: what is an amendment and how should constitutional designers structure the procedures of constitutional change? The first matters now more than ever. Reformers are exploiting the rules of constitutional amendment, testing the limits of legal constraint, undermining the norms of democratic government, and flouting the constitution as written to create entirely new constitutions that masquerade as ordinary amendments. The second question is central to the performance and endurance of constitutions. Constitutional designers today have virtually no resources to guide them in constructing the rules of amendment, and scholars do not have a clear portrait of the significance of amendment rules in the project of constitutionalism. This book shows that no part of a constitution is more important than the procedures we use change it. Amendment rules open a window into the soul of a constitution, exposing its deepest vulnerabilities and revealing its greatest strengths. The codification of amendment rules often at the end of the text proves that last is not always least.

The US Supreme Court and the German Federal Constitutional Court

Constitutional and Administrative Law

The Foundations and Traditions of Constitutional Amendment

The Emergence of Domestic Human Rights Instruments in Britain's Overseas Territories

A Study of the Legal Framework of Government from Colonial Times to the Present

The Right to Development in Africa

This text is an in-depth analysis of what is considered by some as one of the most significant changes to the Law of Property Act since its inception.

"This publication is designed to assist United Nations staff who provide human rights advice to States, which undertake to amend an existing constitution or write a new one. It should also be of use to States that undertake constitutional reform, including political leaders, policymakers, legislators and those entrusted to draft constitutional amendments or a new constitution. Further this publication should also facilitate advocacy efforts by civil society to ensure that human rights are properly reflected in constitutional amendments or new constitutions. Finally, this publication, along with the international human rights instruments, should not only provide a standard to measure whether constitutional amendments or a new constitution has appropriately reflected human rights and fundamental freedoms, but also assist in evaluating whether the processes used in constitutional reform are consistent with international procedural norms"--Introduction, page 1.

Examines the regulatory rules on public procurement in selected African countries and provides a comparative analysis of key regulatory issues.

An Introductory Commentary

Community Paralegals and the Pursuit of Justice

Separation of Powers in African Constitutionalism

Engendering Human Rights

East African Community Law

Taming Leviathan

The new series Stellenbosch Handbooks in African Constitutional Law will engage with contemporary issues of constitutionalism in Africa, filling a notable gap in African comparative constitutional law. Separation of Powers in African Constitutionalism is the first in the series, examining one of the critical measures introduced by African constitutional designers in their attempts to entrench an ethos of constitutionalism on the continent. Taking a critical look at the different ways in which attempts have been made to separate the different branches of government, the Handbook examines the impact this is having on transparent and accountable governance. Beginning with an overview of constitutionalism in Africa and the different influences on modern African constitutional developments, it looks at the relationship between the legislature and the executive as well as the relationship between the judiciary and the political branches. Despite differences in approaches between the different constitutional cultures that have influenced developments in Africa, there remain common problems. One of these problems is the constant friction in the relationship between the three branches and the resurgent threats of authoritarianism which clearly suggest that there remain serious problems in both constitutional design and implementation. The book also studies the increasing role being played by independent constitutional institutions and how they complement the checks and balances associated with the traditional three branches of government.

Kenya has a long and complex history that began thousands of years ago. Indeed, some archaeologists contend that the country was the "cradle of mankind" or, at the very least, one of the places that was home to the earliest hominids. In later centuries, Kenya's strategic location astride the Indian Ocean and the East African littoral attracted numerous foreign peoples, some of the most significant of which have been the Americans, Arabs, British, Chinese, French, Germans, and Portuguese. Additionally, Africans from throughout the subcontinent have settled in Kenya to escape conflict or political persecution, while others wanted an opportunity to begin a new life. As a result of being a gateway to the world, the country traditionally has been one of the most important business, cultural, diplomatic, and political centers in Africa. Although it has maintained this reputation during the post-independence period, Kenya, like most African countries, has been plagued by an increasing array of complex economic, political, and social problems. This third edition of Historical Dictionary of Kenya provides a starting point for those interested in any of the phases of Kenya's historical evolution. This is done through a chronology, an introductory essay, appendixes, and an extensive bibliography. The dictionary section has 500 cross-referenced entries on important personalities, politics, economy, foreign relations, religion, and culture. This book is an excellent access point for students, researchers, and anyone wanting to know more about Kenya.

Engendering Human Rights brings together distinguished scholars and feminist activists in a collection of essays on human rights in Africa. Contributors explore the formulating, monitoring, reporting, and implementation of human rights in Africa and the African Diaspora. The individual chapters examine how human rights frameworks and practices differ in various political, economic, social, cultural, racial and gendered contexts througout Africa.

Constitutional Courts in Comparison

A Practical Manual Intended Principally for the Use of Trustees

Unconstitutional Constitutional Amendments

Making, Breaking, and Changing Constitutions

The Constitution of Kenya, 2010

THE IMPLEMENTATION OF MODERN AFRICAN CONSTITUTIONS: Challenges and Prospects

Course Notes is designed to help you succeed in your law examinations and assessments. Each guide supports revision of an undergraduate and conversion GDL/CPE law degree module by demonstrating good practice in creating and maintaining ideal notes. Course Notes will support you in actively and effectively learning the material by guiding you through the demands of compiling the information you need. Written by expert lecturers who understand your needs with examination requirements in mind Covers key cases, legislation and principles clearly and concisely so you can recall information confidently Contains numerous diagrams, definition boxes, workpoints, and other features to help you understand difficult concepts Provides opportunities throughout for you to check your understanding Additional online revision guidance such as sample essay plans, interactive quizzes and a glossary of legal terms at www.unlockingthelaw.co.uk The golden thread that cuts across the various chapters of the book is the emphasis that good constitutions anchor certain tenets that have garnered recognition as hallmarks of democratic dispensation. These hallmarks include the concept of separation of powers; the doctrine of the rule of law; constitutionalism and human rights. These attributes have largely been secured by the 2010 Constitution. Thus, this book is expected to contribute to this new promise by making knowledge on the Constitution accessible through breaking down and contextualising its provisions. It is certain to be useful to law and government students, lawyers, researchers and other persons who seek to understand the new constitutional order.

Tracing the trajectory of postcolonial politics, Makau Mutua maps the political forces that have shaped contemporary Kenya. He also critically explores efforts on the part of both civil society and the political opposition to reform the state. Analyzing the tortuous efforts since independence to create a sustainable, democratic state, he uses the struggle over constitutional reform as a window for understanding the larger struggles confronting Kenyan society.

Kenya's Quest for Democracy

An Introduction to the Study of the Law of the Constitution

Competition Law in Kenya

Text with Materials

Notes on the Rule of Law and Justice and the Constitutional Propriety of Some Recent Developments in the Kenyan Government

International Legal Materials

The Legal Department and the Institute of the IMF held their ninth biennial seminar for legal advisors of IMF member countries' central banks, and the papers published in this volume are based on presentations made by officials attending this seminar. The seminar covered a broad range of topics, including sovereign debt restructuring, money laundering and the financing of terrorism, financial system and banking supervision, conflicts of interest and market discipline in the financial sector, insolvency, and other issues related to central banking.

Written by leading experts in EAC and EU law, including the President of the EACJ, East African Community Law is the first comprehensive and open-access text book on EAC law which also provides a systemic comparison with the EU.

The Constitutional State provides an original analytical account of the state and its associated constitutional phenomena. It presents the state as a form of social group, consisting of people, territory and institutions bound together by rules. The institutions of the state make a distinctive and characteristic claim over the people of the state, who, in turn, have a distinctive and characteristic relationship with these institutions. This account reveals the importance of at least two forms of pluralism - legal and constitutional. It also casts light on some of the more difficult questions faced by writers on constitutions - such as the possibility of states undertaking actions and forming intentions, the moral significance of these actions for the people of the state, and the capacity of the state to carry responsibility for acts between generations.

The Kenyan Experience and Comparative State Practice on Amicus Curiae

Bills of Rights and Decolonization

Customary Law and Traditional Knowledge

Understanding the Competing and Interrelated Conceptions

Constitution-making from the Middle

Current Developments in Monetary and Financial Law, Vol. 4

Kenya's Independence Constitution: Constitution-Making and End of Empire is a narrative of the evolution of the constitution that was put into effect as Kenya's history as a colonial possession came to an end. It details the attempts of the colony's political elite and the British Colonial Office to find a constitutional means to move Kenya to the status of independent state. As this process moved forward, political ethnicity assumed central significance. This produced an environment in which demands for a federal constitution, popularly termed majimbo, came to dominate constitutional discourse. Deep disagreement among Kenya's political elite over this issue marked the remainder of the colonial period. That elite, now represented by the Kenya African National Union (KANU) and the Kenya African Democratic Union (KADU), advocated different constitutional paths to independence. KADU's demands for a majimbo constitution dominated discourse during 1962 and early 1963, but deep disagreement characterized the constitutional negotiations. This resulted in a constitution for self-government (introduced on June 1, 1963) that was regional in character but fell short of a federal system. Almost as soon as it came into existence, this constitution faced pressure for substantial change from KANU, the party that won the 1963 general election. As a result, the British government was forced to make alterations in what became the independence constitution. The latter proved a prelude to the destruction of majimbo a year later. Kenya's Independence Constitution provides the first in-depth description of the final stage of colonial Kenya's constitutional evolution. This book not only provides a detailed account of the process of constitution-making, including definitive treatments of the final two constitutional conferences of 1962 and 1963. Utilizing British and Kenya cabinet papers and secret intelligence reports never featured in earlier accounts, the narrative also destroys many of the myt

This Brief explores the issues concerning customary law, traditional knowledge and intellectual property.

There is growing interest in constitutional amendment from a comparative perspective. Comparative constitutional amendment is the study of how constitutions change through formal and informal means, including alteration, revision, evolution, interpretation, replacement and revolution. The field invites scholars to draw insights about constitutional change across borders and cultures, to uncover the motivations behind constitutional change, to theorise best practices, and to identify the theoretical underpinnings of constitutional change. This volume is designed to guide the emergence of comparative constitutional amendment as a distinct field of study in public law. Much of the recent scholarship in the field has been written by the scholars assembled in this volume. This book, like the field it hopes to shape, is not comparative alone; it is also doctrinal, historical and theoretical, and therefore offers a multiplicity of perspectives on a subject about which much remains to be written. This book aspires to be the first to address comprehensively the new dimensions of the study of constitutional amendment, and will become a reference point for all scholars working on the subject. The volume covers all of the topics where innovative work is being done, such as the notion of the people, the trend of empirical quantitative approaches to constitutional change, unamendability, sunrise clauses, constitutional referenda, the conventional divide between constituent and constituted powers, among other important subjects. It creates a dialogue that cuts through these innovative conceptualisations and highlights scholarly disagreement and, in so doing, puts ideas to the test. The volume therefore captures the fierce ongoing debates on the relevant topics, it reveals the current trends and contested issues, and it offers a variety of arguments elaborated by prominent experts in the field. It will open the way for further dialogue.

African Customary Law

The Constitutional State

Comparative Constitutional Law

Kenyan Perspectives

Course Notes: Constitutional and Administrative Law

The Limits of Amendment Powers

The fourth edition of Constitutional and Administrative Law: Text with Materials provides a wealth of essential materials drawn from a wide range of sources and integrated with lively commentary. It enables students to gain a full understanding of public law by explaining the context of its historical development and current political climate.

In *The Right to Development in Africa*, Carol Chi Ngang provides a conceptual analysis of the human right to development with a decolonial critique of the requirement to have recourse to development cooperation as a mechanism for its realisation.

The United Nations estimates that four billion people worldwide live outside the protection of the law. These people can be driven from their land, intimidated by violence, and excluded from society. This book is about community paralegals - sometimes called barefoot lawyers - who demystify law and empower people to advocate for themselves. These paralegals date back to 1950s South Africa and are active today in many countries, but their role has largely been ignored by researchers. Community Paralegals and the Pursuit of Justice is the first book on the subject. Focusing on paralegal movements in six countries, Vivek Maru, Varun Gauri, and their coauthors have collected rich, vivid stories of paralegals helping people to take on injustice, from domestic violence to unlawful mining to denial of wages. From these stories emerges evidence of what works and how. The insights in the book will be of immense value in the global fight for universal justice. This title is also available as Open Access.

Devolution in Kenya

Human Rights and Constitution Making

Kenya's Independence Constitution

Civil Society and Transition Politics in Kenya, 1992-1997

Principles, Government and Human Rights

Ensure Public Participation

Customary laws and traditional institutions in Africa constitute comprehensive legal systems that regulate the entire spectrum of activities from birth to death. Once the sole source of law, customary rules now exist in the context of pluralist legal systems with competing bodies of domestic constitutional law, statutory law, common law and international human rights treaties. This book promotes discussion and understanding of customary law and explores its continued relevance in sub-Saharan Africa. The volume considers the characteristics of customary law and efforts to ascertain and codify customary law, and how this body of law differs in content, form and status from legislation and common law. It also addresses a number of substantive areas of customary law including the role and power of traditional authorities; customary criminal law; customary land tenure, property rights and intestate succession; and the relationship between customary law, human rights and gender equality.

This landmark volume of specially commissioned, original contributions by top international scholars organizes the issues and controversies of the rich and rapidly maturing field of comparative constitutional law. Divided into sections on constitutional design and redesign, identity, structure, individual rights and state duties, courts and constitutional interpretation, this comprehensive volume covers over 100 countries as well as a range of approaches to the boundaries of constitutional law. While some chapters reference the text of legal instruments expressly labeled constitutional, others focus on the idea of entrenchment or take a more functional approach. Challenging the current boundaries of the field, the contributors offer diverse perspectives – cultural, historical and institutional – as well as suggestions for future research. A unique and enlightening volume, Comparative Constitutional Law is an essential resource for students and scholars of the subject.

Can constitutional amendments be unconstitutional? The problem of 'unconstitutional constitutional amendments' has become one of the most widely debated issues in comparative constitutional theory, constitutional design, and constitutional adjudication. This book describes and analyses the increasing tendency in global constitutionalism substantively to limit formal changes to constitutions. The challenges of constitutional unamendability to constitutional theory become even more complex when constitutional courts enforce such limitations through substantive judicial review of amendments, often resulting in the declaration that these constitutional amendments are 'unconstitutional'. Combining historical comparisons, constitutional theory, and a wide comparative study, Yaniv Roznai sets out to explain what the nature of amendment power is, what its limitations are, and what the role of constitutional courts is and should be when enforcing limitations on constitutional amendments.

Constitutional Amendments

The Future of African Customary Law

Cultural and Socio-Economic Realities in Africa

Institutional, Substantive and Comparative Eu Aspects

Friend of the Court & the 2010 Constitution

Constitution-making and End of Empire

Introduction -- The nature of African customary law -- Nature, characteristics, limits -- Praxis of customary law -- The use of customary law in other systems -- Constitutional analysis of customary law -- Genesis and upheavals of customary law -- Quest for integrated system -- Quest for African jurisprudence -- Determining the future -- Critique

-- Protagonist in the primitive law -- Summary and conclusion.

This book analyzes the British Government's radical change in policy during the late 1950s on the use of bills of rights in colonial territories nearing independence. It explores the political dimensions of securing the protection of human rights at the point of gaining independence, and the peaceful transfer of power through constitutional means.

A starting point for the study of the English Constitution and comparative constitutional law, The Law of the Constitution elucidates the guiding principles of the modern constitution of England: the legislative sovereignty of Parliament, the rule of law, and the binding force of unwritten conventions.

Equality in Kenya's 2010 Constitution

Public Procurement Regulation in Africa

New Constitutional Law of Kenya

A Commentary

A Guide to the Trusts of Land and Appointment of Trustees Act 1996

Ethnicity, Nationhood, and Pluralism

Derived from the renowned multi-volume International Encyclopaedia of Laws, this practical analysis of competition law and its interpretation in the Kenya covers every aspect of the subject – the various forms of restrictive agreements and abuse of dominance prohibited by law and the rules on merger control; tests of illegality; filing obligations; administrative investigation and enforcement procedures; civil remedies and criminal penalties; and raising challenges to administrative decisions. Lawyers who handle transnational commercial transactions will appreciate the explanation of fundamental differences in procedure from one legal system to another, as well as the international aspects of competition law. Throughout the book, the treatment emphasizes enforcement, with relevant cases analysed where appropriate. An informative introductory chapter provides detailed information on the economic, legal, and historical background, including national and international sources, scope of application, an overview of substantive provisions and main notions, and a comprehensive description of the enforcement system including private enforcement. The book proceeds to a detailed analysis of substantive prohibitions, including cartels and other horizontal agreements, vertical restraints, the various types of abusive conduct by the dominant firms and the appraisal of concentrations, and then goes on to the administrative enforcement of competition law, with a focus on the antitrust authorities' powers of investigation and the right of defence of suspected companies. This part also covers voluntary merger notifications and clearance decisions, as well as a description of the judicial review of administrative decisions. Its succinct yet scholarly nature, as well as the practical quality of the information it provides, make this book a valuable time-saving tool for business and legal professionals alike. Lawyers representing parties with interests in the Kenya will welcome this very useful guide, and academics and researchers will appreciate its value in the study of international and comparative competition law.

An Introduction

Deeds of Arrangement

Public Law and Political Change in Kenya

The Constitution of Kenya

Historical Dictionary of Kenya