
Kenya's Constitution:
An Instrument for Change

CONTENTS

The Promise of the Constitution

The National Anthem

The Preamble of the Constitution

Part 1: Abuse of the State in Kenya, and the new beginning ----- 1

Chapter 1: Background to 2010 ----- 3

Relates briefly Kenya's constitutional history, emphasising why it was thought necessary to have a new Constitution

- What is a Constitution? ----- 3
- Politics and Constitutions ----- 4
- Colonialism and the Constitution ----- 5
- Negotiating the Independence constitution ----- 7
- The 1963 Constitution ----- 8
- Dismantling the Constitution ----- 9
- Lessons from our constitutional history ----- 12
- Questions to think about ----- 14

Chapter 2: Overview of the Constitution ----- 15

A brief summary of the Constitution

- People-centred constitution ----- 16
- Chart: Contents of the Constitution ----- 17
- Why is the Constitution so long? ----- 19
- Values and Principles ----- 20
- The Structure of Government: an outline ----- 21
- Devolution: county government ----- 26
- Implementation: the official tasks and the role of citizens ----- 26
- How can the Constitution be changed? ----- 28
- Some questions to think about ----- 29
- Box: Some important constitutional ideas ----- 30

Part 2: Building the Nation -----	32
Chapter 3: Nation, People and Values in the Constitution -----	33
<i>Who are the people of Kenya, what is citizenship, what does the Constitution say about citizenship, what are the values it includes? Including introduction to the idea of human rights</i>	
• Values and principles -----	33
• Human Rights-----	34
• Citizenship: defining ourselves -----	36
• Some questions to think about-----	38
Chapter 4: Unity, Diversity, Equality and Fairness I: Groups -----	40
<i>Discusses how Kenya has been divided, especially by politicians, along ethnic lines, and because of inequalities, and how the Constitution tries to make everyone part of the nation, and to feel part of it, focusing here on rights of particular interest to groups, including affirmative action</i>	
• Diversity, Divisiveness and Inequality -----	39
• The Constitution: attacking divisiveness -----	41
• Equality -----	44
• Minorities, “marginalised groups” and marginalised communities” -----	46
• Some questions to think about-----	48
Chapter 5: Unity, Diversity, Equality and Fairness II: Individuals -----	49
<i>Focuses more on the rights of individuals, including issues of representation</i>	
• Gender -----	49
• LGBT -----	57
• Disability -----	57
• Children-----	59
• Youth and age-----	60
• Other “unpopular” groups-----	61
• Some questions to think about-----	63
Chapter 6: A Satisfying Quality of Life for all Kenyans -----	65
<i>Deals with the issues that for most people are necessary for life to seem worthwhile</i>	
<i>Introduction</i>	
• The value of “equality”-----	66
• Education, health, food, water, and housing -----	66
• Work-----	71
• Poverty – and development -----	73
• Environment -----	74
• Land-----	76

• Culture -----	79
• Security -----	84
• Who is responsible – the national government or the county? -----	87
• Some questions to think about-----	88
Part 3: Building the State-----	90
Chapter 7: The Executive and the Legislature -----	91
<i>Describes the system of government with a focus on the executive and the legislature (mostly at the national level)</i>	
• Why do you need to know about how the state works?-----	92
• Main features of the Kenyan State -----	92
• Structures of government-----	93
- National Executive-----	94
- Table: comparing the old and the new style of president in Kenya -----	97
- National Legislature -----	100
• Box: Political parties-----	104
- How will this new presidential system work? -----	105
• Some questions to think about-----	107
Chapter 8: Other Institutions and Processes -----	108
<i>Deals with the courts, commissions, the way the constitution is designed to end impunity, the place of the public service and security services</i>	
• Judicial and legal system -----	108
• Public services -----	111
• Independent commissions and offices -----	114
• Finance-----	116
• Conclusion -----	116
• Some questions to think about-----	117
Chapter 9: Devolution: Self-government and Local Responsibility -----	118
<i>Describes and analyses the whole system of county government, the powers of counties, the structure of the system, relationships between the various levels of government</i>	
• Objectives of devolution -----	118
• Powers of county government -----	120
• Resources of counties-----	122
• Structure of county government-----	126
• Relationship between the county and the national governments-----	130
• Assessment of the system -----	134
• Process-----	137
• Box: What could counties do?-----	137

• Some questions to think about-----	138
• Some important words connected to devolution -----	139
Chapter 10: Integrity, Transparency and Accountability -----	140
<i>On the provisions for ensuring that the holders of public office are really accountable to the people, how their integrity and honesty is supposed to be ensured, the qualifications for public office, and the control of public finance</i>	
• Qualifications -----	141
• Appointments process -----	141
• Conduct -----	142
• Transparency -----	144
• Enforcement and penalties -----	145
• Public finance -----	146
• Some questions to think about-----	150
Part 4: Using the Constitution -----	153
Chapter 11: Electoral Democracy-----	155
<i>Deal with how the people can use the constitution through the electoral system</i>	
• Right to vote -----	156
• Who runs elections?-----	157
• The right to stand -----	158
• Who will represent you (in Parliament)?-----	159
• Recall -----	161
• Voting for the President-----	162
• Political parties (and politicians) -----	162
• Conclusion -----	163
• Some questions to think about-----	164
Chapter 12: Participating, Complaining and Monitoring -----	165
<i>Discusses how an active, involved citizen can participate, apart from voting</i>	
• The Constitution on participation -----	165
• Human rights and participation-----	168
• Negotiating -----	171
• Pressurising and publicising -----	171
• Organise -----	172
• “We are watching you” -----	172
• Litigate – go to court-----	173
• Use the international human rights machinery -----	174
• Some questions to think about-----	175
Fulfilling the Promise of the Constitution -----	176