

CONSTITUTION-MAKING PRIMER

Selecting Constitution-Making Bodies

A key element of any constitutional process will include identifying the body or bodies. This menu page sets out an overview of the basic issues that should be considered when identifying the constitution-making body or bodies (CMB) that will be responsible for leading the process of reviewing and drafting/amending the constitution, and is complemented with links to more detailed pages that describe the most commonly utilized CMBs.

This paper discusses the following topics:

1. Guiding principles
2. Issues for consideration when choosing a CMB
 - Does the law already set out a constitutional review process – including CMB(s) – that is sufficient, appropriate, and legitimate under current circumstances?
 - If the existing process/CMB is not sufficient, appropriate, or legitimate, what type of new CMB could be utilized?
 - Would a referendum help to increase the legitimacy of the process?
3. Does there need to be more than one CMB?
4. How is the composition determined?
5. Does it matter if the CMB is elected or appointed?
 - Issues to consider with election
 - Issues to consider with appointment
6. Should members be expert or political?
7. Who decides on the process and form of CMB?

1. GUIDING PRINCIPLES

While there is no one-size-fits-all answer to constitution making process or institutional choices, a fundamental guiding principle that must be kept in mind when making process design and institutional choices is “legitimacy”:

“Which constitution-making body or bodies is likely to produce a result that is considered legitimate, both by key political stakeholders and by the public at large?”

Legitimacy is a touchstone for all other elements of the process. There is no perfect system, no perfect body – both appointed and elected bodies may work; both technical and political bodies may be suitable – the key is to reflect on the political, historical, social, cultural, economic and other local factors at play, and to determine what CMB and what process will be seen as most legitimate.

Questions that often affect the choices made include: (i) what has come before, ie. historically, is there good or bad practice from which the current actors could learn or draw from? (ii) Are existing institutions trusted, or are new or reformed bodies needed to enjoy legitimacy? In addition, those setting up the CMB/s are also likely to ask “what institution will best serve our purposes?”

No matter what the context, experience has shown that entrenching principles of “participation”, “transparency” and “inclusion” is important. Prioritizing these principles has been shown to result in CMBs and processes which are more widely trusted and therefore more likely to produce a constitutional text which will be owned and sustained over time.

2. ISSUES FOR CONSIDERATION

There is no formula or ideal constitution making body. Rather, the identification of the appropriate CMB will depend on a range of factors. At a technical level, there are some initial questions that can be considered to help identify options, including:

2.1 Does the [law](#) already set out a constitutional review process – including CMB(s) – that is sufficient, appropriate, and legitimate under current circumstances?

The existing Constitution will almost always set in place a process for constitutional revision. For example, commonly, the national legislature is tasked with undertaking a review and drafting amendments, following which a national referendum may be needed to endorse the proposed amendments. Alternatively, some countries require a regular review of their Constitution, for example through the establishment of a Constitutional Convention of delegates who will review and debate revisions.

If a process is already legally codified then the assumption is that it will be followed unless a compelling reason exists to depart from it. Commonly, the cases where departure may be necessary include countries where:

- Revolution or similar social/political upheaval demands a clean break from the past (including abrogation of the existing constitution) and the creation of new processes and institutions for legitimate constitutional reform. This was the case in Libya, Yemen, Egypt and Tunisia following the Arab Spring.
- Lack of confidence and support for existing institutions require new processes and bodies to create public confidence and support. For example, in Kenya, the original 1969 Constitution allowed for amendments upon a two-third majority vote by the legislature. In 1999 however, the legislature - under immense pressure due to civil society demands for a more inclusive process less dominated by politicians - enacted the Constitution of Kenya Review Act, which created a new technical Constitutional Review Commission and a National Conference to review the Constitution and propose amendments, which would then be submitted to the existing legislature for approval, and then referendum. Several Latin American countries (e.g. Venezuela in 1999 and Ecuador in 2008) have employed elected constituent assemblies to sidestep existing amendment procedures that utilized the legislature.
- Existing institutions enjoy some legitimacy but are not seen as sufficiently inclusive, non-partisan, or technically sound to conduct the constitutional review. For example, in 2013 Sierra Leone set up a Constitutional Review Commission (CRC) that was more inclusive of political and societal interests than the existing parliament, to review the Constitution through a participatory process. The CRC will then submit its proposed amendments and recommendations to the existing legislature, which already has the constitutional mandate to

amend the Constitution. In 2010, Kenya also established an expert Constitutional Review Commission to provide recommendations to the legislature.

2.2 If the existing process/CMB is not sufficient, appropriate, feasible or legitimate, what other CMB could be utilized?

When countries look beyond legally prescribed processes and bodies they very commonly draw on the past for guidance. A country's historical experience with constitutional reform may manifest itself positively – for example, referring back to institutions used during a time of relative peace and democracy. Or it can manifest itself negatively, by rejecting processes and bodies employed by a totalitarian regime.

Many different types of CMBs can be used to conduct constitutional reform and amendment processes. Among the most common forms of CMBs are:

- Existing legislatures/parliaments;
- Newly elected legislatures/parliaments – Tunisia (2011), Nepal (2008) and South Africa (1996) are all examples of newly elected legislatures mandated to draft a new constitution. In Latin America, particularly during transitions from authoritarian to democratic government, (e.g., Brazil in 1945 and 1986, Dominican Republic in 1966, Nicaragua in 1984, and Venezuela 1961) countries have elected new legislatures to conduct constitutional reform and then continue on in their normal legislative capacity for the normal legislative term (unlike the typical constituent assembly, which is replaced by a newly elected body shortly after the new constitution is adopted);
- Constituent Assemblies – directly elected bodies with constituent powers, such as Colombia (1991), Venezuela (1999), Afghanistan's Loya Jirga (2004), and Ecuador (1008 and 2008), that typically dissolve after adoption of the new constitution (but in some cases have transformed themselves into the new legislature, e.g., Cambodia, East Timor and Nambia). Note: newly elected bodies that both draft the constitution and serve as an ordinary legislature may sometimes referred to as Constituent Assemblies, for example, Tunisia's National Constituent Assembly;
- Constitution Review Commissions – a body formed to prepare a draft for consideration of another body, such as those used in Fiji in 1997, Kenya (2010), Sierra Leone (2013), and Liberia (2013) – Note: CRCs are more commonly utilized by Commonwealth countries;
- National Conferences - similar to constituent assemblies but typically not directly elected or perhaps partially elected and appointed; commonly used in Francophone Africa, including Benin; and sometimes employing another body, such as a commission, for actual drafting or passing along recommendations to a second body for the drafting, as in Yemen (2011); and
- National Roundtables – typically smaller unelected bodies that negotiate and draft the constitution – heavily used in post-communist Eastern Europe.

Additional and extensive characteristics and considerations for these bodies as well as narratives and case studies for each type of body are set forth in the [Interpeace handbook](#), pages 232-280.

2.3 Would a referendum help to increase the legitimacy of the process?

Sometimes, in addition to endorsement by a CMB or legislature, a revised or new constitution will require ratification through referendum. Considerations related to the use of referendum in constitutional reform are considered in the [tasks and timing page](#). See also pages 296-304 of the [Interpeace handbook](#) for more on referendums.

3. DOES THERE NEED TO BE MORE THAN ONE CMB?

Sometimes a single body negotiates, drafts and adopts the constitution (for example, the Constituent Assemblies of Tunisia (2011) and Colombia (1991) and South Africa's Constitutional Assembly (1996)) while other countries have used multiple bodies in a single process (for example, the 2000-2004 Kenya process included a constitutional review commission, national conference and the legislature; the 1989-1991 Poland process included a Round Table and the legislature; and the 2012 Fiji process included a constitutional review commission and Cabinet).

The following questions might help in considering whether a single body or multiple bodies are more appropriate in light of the social, economic and political context:

- Can a single body bring the technical expertise needed for researching and drafting as well as an inclusive and representative political lens necessary to reach final agreement? Or should/must these functions be separated between two bodies?
- Is a second body needed to educate and consult with the public?
- Is a second body necessary to increase inclusiveness, a sense of non-partisanship, or otherwise create sufficient trust and confidence in the public?
- Is a second body needed to elicit and deal with public submissions?

An analysis of the political context and existing institutions will help determine whether a second body will benefit or hinder the negotiating and drafting process, as challenges can arise between the different bodies. For example, a Constitutional Review Commission may consult with the people and produce a draft that purports to reflect public preferences, only to have that draft revised according to political preferences within the legislature or Constituent Assembly. This was the experience in Kenya (2000-2004), where the draft produced through the Kenya CRC and National Conference was altered by the legislature before being submitted to referendum (where it was rejected). When multiple bodies are used specifically to bring different voices and perspectives into the constitution-making process, competing agendas and other tensions between the bodies should be expected. There is no easy fix to this problem; it must be anticipated during the process design phase and sought to be mitigated during the process itself (for example, by including elite stakeholders in early consultation, negotiation, and drafting).

In addition to the above considerations, multiple bodies may be more costly and require a longer timeframe to complete the constitution making process. And, if multiple bodies are to be used it is critical that the mandates of each one are clearly spelled out in law to avoid disputes over roles and competencies.

4. HOW IS THE COMPOSITION OF THE CMB DETERMINED?

In addition to determining the number of CMB(s) that will be used during the constitution-making process, it is also necessary to decide on the composition of the CMB. The composition of the CMB will necessarily be informed by its function and purpose; constituent Assemblies will have significantly different considerations in composition than expert commissions. The composition of the CMB may be decided by an existing authority such as a President, government ministry or legislature, or sometimes will be decided by a group such as a Preparatory Committee. Such a committee may itself be established as a body that is representative of society, in order to ensure its decisions are perceived as legitimate.

Regardless of who determines the membership/composition of the CMB, it will be necessary to decide:

- The sectors or groups to be represented in the CMB: Political bodies (Constituent Assemblies, Legislatures, National Conferences, and Round Tables) should be as inclusive as possible, as excluded groups are likely to be unsupportive of the process and risk becoming ‘spoilers’. Marginalized groups, minorities, women and youth should receive special attention. Sectors or groups that need to be represented within the CMB might include, among others, political parties, civil society, regions, religious leaders, ethnic groups, minorities, professional associations (e.g. teachers), labour unions, student organizations, human rights groups, traditional leaders, women’s groups, farmer’s groups, and educational institutions. Representation of sub-national territorial units may also need to be considered. Expert bodies will also need to be representative, but considerations of experience (often in public life) and expertise typically dominate.
- Sub-categories in each constituency: In some cases, even the general sectors or groups may need to be separated into sub-categories. For example, does “political parties” include only parliamentary parties, or also new/extra-parliamentary parties? Where minorities are to be represented, will different categories of minority need to be included? For example, in Libya, 6 seats were reserved for minorities, with 2 seats allocated to 3 different minority groups. Which civil society groups should be included? To what extent can women be included as sub-categories of other sectors, such as political parties and CSOs?
- How groups/individuals will be accredited as belonging to a particular sector or group: Where different sectors or groups are being represented, it will be necessary to come to an agreement on how membership of those groups will be determined. In some cases, individuals or groups may even need to go through some form of accreditation or vetting process. Without agreeing ahead of time on the criteria for accreditation (eg. minimum period of existence, minimum number of members, etc.), organizations may be created simply in order to participate. A related but distinct accreditation issue that has arisen in Latin America is whether independent candidates, as opposed to candidates endorsed by existing political parties, should be able to compete in the election for delegates to the CMB.
- The allocation of CMB members per group: Usually the issue of how many seats will be allocated to each group is agreed as part of the negotiation over the total number of seats in the CMB.
- The number of members of the CMB: Usually, the number of members is decided nearer to the end of the design process, once it is clear how many different constituencies will need to be accommodated within the CMB. The size of CMBs varies greatly; for example, there are 60 members in Libya’s National Constituent Assembly, there were 488 members in Benin’s National Conference, 565 members in Yemen’s National Dialogue Conference, and more than 3000 members in Congo’s. Constituent Assemblies are typically designed to be large enough to be widely representative but small enough to be deliberative. National Conferences tend to be larger, perhaps because they often delegate the drafting to a second smaller body. Expert Commissions are typically smaller still (Fiji’s was 5 people, Liberia’s 6 people) under the assumption that expertise and not representation is the dominant consideration.

5. SHOULD MEMBERS OF THE CMB BE ELECTED OR APPOINTED?

Some CMBs, such as Constituent Assemblies or legislatures, are typically elected, while others, such as Round Tables and Constitutional Review Commissions are more commonly appointed. National conferences can be elected or appointed, and in some cases, national conferences are a

combination of elected and appointed or nominated members (as in Kenya, 2004). There are pros and cons to both elected bodies and appointed bodies.

	<i>Strengths</i>	<i>Weaknesses</i>
<i>Elected</i>	<ul style="list-style-type: none"> - Elections enable the public to have a say in who will represent them, thus typically bestowing greater legitimacy on the CMB - Elections are widely seen as a positive symbol of democratic transition 	<ul style="list-style-type: none"> - In conflict-affected countries it may be difficult to run a credible election, either making elections impossible or compromising the credibility of the elected body - Elections can be divisive and accompanied by violence - Can be more difficult to design electoral systems that ensure representation of minority groups and women, thus decreasing inclusiveness - Can be more difficult to ensure “appropriate” representation of each group
<i>Appointed</i>	<ul style="list-style-type: none"> - Easier to ensure the selection of technical experts - Easier to ensure the deliberate selection of people who represent specific sections of the community (eg. youth, women, minorities), making the CMB more inclusive and representative 	<ul style="list-style-type: none"> - Often the public view unelected bodies as unrepresentative of their interests and/or illegitimate - Easier for political elites to exclude their opposition and/or minority groups, if they choose to

5.1 Issues to consider with election of a CMB

If representation is to be based on elections rather than appointment, the electoral system should be chosen carefully since no electoral system is neutral and different electoral systems will result in a different balance of interests. Electoral systems that promote inclusivity, such as proportional representation, are generally preferred over systems that produce clear winners; stability in a government is not a concern (as with elections for a regular legislature in a parliamentary system), while ensuring all groups in society have representation is a key ingredient to a successful constitution making process. Different forms of proportional representation systems have different strengths and weaknesses.

Lower thresholds for winning seats and even special measures may be necessary to make the CMB inclusive of smaller minorities and previously marginalized groups. For example, in Libya, out of 60 seats in the Constituent Drafting Assembly, 6 seats were reserved for women, 6 seats were reserved for minorities (2 each from the 3 recognized minority groups). Colombia (1991) appointed 4 delegates from demobilized guerrilla groups to augment the 70 directly elected constituent assembly members. Again, the point is to create a body that will enjoy legitimacy throughout society and not one based on short term majoritarian politics. With this in mind, [civic education](#) may also be necessary to inform the public about the nature of the election and the body they are voting for.

5.2 Issues to consider with appointment of a CMB

If a CMB is to be appointed, most commonly they are appointed by an existing authority – such as the government/President or the legislature. Where a Round Table is to be set up the members of the Round Table are more often nominated by parties to the peace talks or transition.

In some recent cases, a Constituent Assembly or National Conference has been established through a combination of election and appointment or through a more complex process of nomination, vetting and appointment. In recent years, both Somalia and Afghanistan have formed Constituent Assemblies using a method of selection that included leaders of groups in societies (clans, tribes) while ensuring also inclusion of groups likely to be under-represented, in particular women. In Somalia, the selection process was followed by vetting through a Technical Review Committee to weed out warlords and pirates, and the members were then officially appointed by the President.

There are three types of selection and/or appointment process most commonly used:

- Appointment by the preparatory body, head of the executive, or the government, based on their own identification of people suitable to be CMB members or after [consultation](#) with relevant groups;
- Self-selection by each of the different constituencies that will have membership of the CMB. For example, civil society may select its own representatives to sit on a CMB. Sometimes, this selection process will be definitive, sometimes the constituencies will submit nominations to another body (eg. a preparatory committee) and that body will then appoint the final CMB members from those nominations;
- Less common, regional/local selection process through public gatherings.

The processes for selection and/or or appointment may be mixed and matched (e.g. Yemen combined self-selection and appointment, and Afghanistan combined appointments and regional selection). If the CBM is to be appointed by a preparatory body or authority, existing hierarchical structures may help in the identification of leaders and representatives. Transparency will contribute to managing expectations and strengthening the legitimacy of the process – the public should typically know which groups will select representatives, who is eligible to be selected, and how/when/where the nomination/selection will take place. A dispute resolution mechanism (courts or another independent body) may also be necessary.

6. SHOULD MEMBERS OF A CMB BE EXPERT OR POLITICAL?

In reality, all elements of a constitution-making process are highly political due to the very nature of constitutional change. At some point in the process, almost all constitution-making processes will have an explicitly political component/body to approve and adopt the final draft (eg. a constituent assembly, national conference, legislature, round table, or through the existing executive branch).

That said there is often a question of whether one part of the constitution-making process should be set up as primarily a technical body, where experts and individuals of high standing draft a new constitution (or review an existing one) and recommend changes based on their analysis, research, understanding of the needs of the country, etc. There is no right answer to this question and no one-size-fits-all best practice approach. Where it is decided to set up a technical body as part of a constitution-making process, this is most commonly done through a Constitutional Review Commission, such as the Constitutional Review Commissions established in Fiji (5 Member, appointed CRC), Liberia (6 Member, appointed CRC), and Yemen (17 members appointed by the President). The members are seen as professionals and experts and in many cases (but not all) are expected to render recommendations impartially. (Notably however, even in such cases, political issues still loom large. It is not easy to live in a country and be immune to the political currents.)

Most commonly such technical bodies submit their recommendations to a second politically-oriented body or to the Government itself. In Iceland (2011), for example, the 25-member Constitutional Council took five months to draft constitutional amendments, which were then submitted to Parliament. In Fiji (2012), the 5-member CRC had 6 months to undertake [consultations](#) and develop a draft Constitution before it submitted its draft to the Interim Government. The Government eventually rejected the CRC draft and developed their own, which was endorsed by the Interim President of Fiji. In Liberia, the 6-member CRC is currently working to produce a draft to the Government and then onwards to Parliament, both of which have powers to make whatever changes they choose. In Yemen the CRC will submit its draft to a “National Body” composed of representatives of geographic, political, and social constituencies to confirm that the CRC adhered to the outcomes of the National Dialogue.

CRCs might be comprised of experts but they may also be a mixture of expert members and representatives of different interest groups. This model may provide a compromise – but brings both the strengths and weaknesses of both options. For example, nominally technical CRC in Yemen was constituted to ensure it included representatives from different geographic and political interests. The Kenyan Commission appointed in 2000 was the result of long negotiations and was broadly representative of political interests and different ethnic groups.

	<i>Strengths</i>	<i>Weaknesses</i>
<i>Impartial/ Expert</i>	<ul style="list-style-type: none"> - Bring with them the necessary constitutional expertise and experience - Rise above the politics and polarization of the day - Tend to be smaller bodies, making consensus easier to reach - Might enjoy greater trust and legitimacy than politicians, if they are able to carry out their duties in an independent and transparent manner - Might be better positioned to elicit and deal with public submissions. 	<ul style="list-style-type: none"> - If too detached from the political context, the expert draft may not enjoy support from political leaders, even if it is technically strong and reflects citizen consultations - It may be very difficult to find experts who are considered “impartial,” or in some cases hard to find experts at all - An expert body likely requires a second (political) body to adopt the draft – increasing the cost and time for the process.
<i>Political/ Representative</i>	<ul style="list-style-type: none"> - The public may have more confidence in a body where they can point to a member who represents their identity or interest - Members may have stronger ties to political elite, increasing likelihood of support for outcomes - Political bodies may be able to undertake both tasks of drafting and adoption, decreasing the cost and time for the process. 	<ul style="list-style-type: none"> - Politicians may not have necessary constitutional expertise - Politicians may be mistrusted by public/more likely to make self-interested deals - A representative body increases the pressure to ensure all groups are explicitly included - Representative bodies may need to be larger, perhaps making consensus more difficult to reach

7. WHO DECIDES ON THE FORM OF CMB?

The process for agreeing on the form of the CMB(s) will vary, depending on the legal, political, social and security context prevailing at the time. In some conflict-affected countries, the constitutional review process will be agreed as part of a broader peace agreement process, whereas in more stable countries, the process may be guided by existing legislation and/or the decisions of an existing legislature. The important point is that negotiation over the process to draft the constitution can be as high stakes and contentious as the drafting of the constitution itself. It is therefore critical that the forum for these decisions be inclusive and representative of key stakeholders.

See table below which describes the types of CMBs, their composition, and their activities from various constitutional processes.

Constitution-Making Bodies¹

Country	Type of Body/Bodies	Composition/ Selection/ Appointment	Mandate/Activities
Spain (1978)	3 Committees of the sitting Cortes (legislature).	Committees were representative of various political factions. Process was result of legislative negotiations.	(i) Congressional constitutional subcommittee – produced first draft in Apr. 1978 Between May-June 1978, 36-members of the (ii) Congressional Committee on Constitutional Affairs and Public Liberties studied the prelim. draft reviewed proposed amendments, and came up with a second version. Thereafter, a (iii) joint Congress/Senate constitutional committee was formed to approve a final text.
Nicaragua (1987)	Legislature	96 members, popularly elected. Country was divided into 9 districts with 10 CA seats per district. Remaining 6 seats assigned to losing political parties.	Committee presents final draft to CA. CA then debates and adopts.
	Commission	CA selected 22 person commission	To produce first draft; Commission divided into three sub-committees.
	Committee	CA appoints 22 person committee	To review public inputs, prepare an advisory report, and write second draft.
Brazil (1988)	Sitting Congress	559 members. CA members divided themselves into 8 thematic committees. Each Committee had three sub-committees. Each sub-committee had 21 members.	Committees: collected public submissions and drafted their respective sections and then forwarded to the principle committee for integration. CA approved constitution.
Namibia (1990)	Constituent Assembly	Elected by citizens in Nov. 1989. (Became the National Assembly upon independence in March 1990.)	CA referred draft to the special constitutional committee for scrutiny, discussion, and a final draft. Then referred back to CA for adoption.
	Drafting Committee	3 person drafting committee appointed by CA; all three from South Africa.	Produced draft to Constitutional Committee/CA.

¹ The information in this table is derived from the United States Institute of Peace (USIP) 2010 publication *Framing the State in Times of Transition: Case Studies in Constitution Making*, which is available online at: <http://www.usip.org/publications/framing-the-state-in-times-transition>.

<i>Country</i>	<i>Type of Body/Bodies</i>	<i>Composition/ Selection/ Appointment</i>	<i>Mandate/Activities</i>
	Constitutional Committee	12 members; proportional based on election results.	Scrutinized and discussed the Drafting Committee's draft and prepared the final draft, which was then referred to CA for final deliberation and adoption.
Colombia (1991)	Constituent Assembly	70-member CA popularly elected nationally by means of electoral lists to assure representation of different political, social and regional groups. 2 seats were also reserved for guerilla groups.	CA elected 3-person presidency that represented major political trends; elected a Codification Committee of lawyers from the major political groups; CA organized 5 'commissions' (including one for codification).
Cambodia (1993)	Constituent Assembly	120 members elected by citizens, through a UN-run process. (Became the National Assembly thereafter.) CA formed 12 member drafting body from its membership.	Worked in secret, in accordance with the CA's rules, and then released draft for CA at large. CA adopted constitution, with Sihanouk's changes, in Sept. 1993.
Uganda (1995)	Constitutional Commission	Selected by Ministry of Constitutional Affairs on an ad hoc basis and in batches. Some members appointed by Minister of CA and some appointed by President.	Undertook public consultations and civic education. Produced draft constitution.
	Constituent Assembly	284 delegates (in fact): 214 delegates directly elected from the districts; 70 delegates appointed by political parties, labor unions, civil society, etc.	Deliberated for 29 months on Commission's draft constitution and eventually adopted in 1995.
South Africa (1996)	Legislature	400 members. Proportional representation using national and provincial candidate lists. 90 in Senate, 10 from each province, 7 parties).	Dual mandate: govern during interim period and draft and adopt permanent constitution.
	Constitutional Committee	44 members of legislature appointed by pol. parties on a proportional basis. Included (executive subcommittee, management committee (appointed a team of experts to produce first draft) and 6 themed committees (with sub-expert committees)	Main negotiators and drafters.
Poland (1997)	Round Table	Included a combination of existing (Communist) government and opposition party(ies).	Produced 1989 Round Table Agreement and April Amendment – various changes to political system; transitional constitution.

<i>Country</i>	<i>Type of Body/Bodies</i>	<i>Composition/ Selection/ Appointment</i>	<i>Mandate/Activities</i>
	Constitutional Committee of National Assembly	46 lower house and 10 senate members; representatives of president, cabinet and const. court also incl. but without right to vote. Subcommittees organized around substantive topics.	Received various draft constitutions/proposals from political parties. Conducted deliberations and produced a final draft for the National Assembly. National Assembly adopted then submitted to referendum.
Eritrea (1997)	Commission	Comprised of experts and "other citizens with proven ability to make a contribution to the process of constitution-making"; 50 members with 10-member executive committee. Appointed by National Assembly. 21 women, each of 9 ethnic groups represented, PFDJ (provisional govt.), business and professional communities represented. Was balanced between Christians/Muslims.	Mandate: To draft initial text by organizing and managing "a wide-ranging and all-embracing national debate and education through public seminars and lecture series on constitutional principles and practices. Had 4 ad hoc research committees and appointed advisory boards. Submitted progress reports and draft to NA.
	Constituent Assembly	Composed of 75 members of the National Assembly, 75 members of the 6 regional assemblies and 75 members elected by diaspora communities.	Discussed Commission's draft constitution for 3 days in May 1997, made a few minor changes and then ratified.
Albania (1998)	Commission	21-member parliamentary constitutional commission; Ministry of Institutional Reform was responsible for organizing the process.	Developed draft constitution. Contributed to development of the public participation program.
	Existing Parliament	-	Parliament reviewed and approved draft before referendum.
Venezuela (1999)	Constituent Assembly	Popularly elected. 131 members: 104 from regional constituencies, 24 from national constituency and 3 to representative indigenous groups.	Conducted its drafting work between Sept-Oct 1999; appointed (internal) 20 commissions to deal with sub-topics and a commission to integrate the isolated drafts.
Fiji (1999)	Commission	3 person Commission; Chair was foreigner (New Zealand); 1 Indo-Fijian; 1 Fijian	Commission did not re-write constitution, but instead gave concrete proposals on changes.
Zimbabwe (2000)	National Constitutional Assembly (NCA)	NGO-sponsored entity.	Conducted civic education and public consultation.

Country	Type of Body/Bodies	Composition/ Selection/ Appointment	Mandate/Activities
	Commission	Plenary made up of approx. 500 members. 9 thematic committees, each with about 43 people; plus a secretariat.	Coordinating Committee (25 Commissioners) did the substantive organization and management of the Commission's thematic work. Plenary adopted constitution.
East Timor (2002)	Constituent Assembly	88 elected members. 75 chosen on basis of proportional representation and 13 chosen by first-past-the-post in 13 districts. (Became parliament thereafter.)	Drafted and adopted constitution. The rules established a 42-member systemization and harmonization committee (SHC) to agree upon the structure of the constitution, establish thematic committees, and integrate the individual articles developed and approved by the committees into the body of constitution.
Afghanistan (2003)	2 Commissions	9 member const. drafting commission appointed by President of the transitional admin; later, a 35-member broader drafting commission established	First commission: releases doc. <i>The Constitution Making Process in Afghanistan</i> which outlines proposed activities and timeline for a new larger const. commission to produce a constitution. Second commission: delivered draft to loya jirga
	Loya Jirga	502 members: 346 elected at district level, 64 women elected by women at the district level, 42 elected by refugees, IDPs and minority communities, 50 men/women appointed by then Pres. Karzai	Debated, negotiated compromises, and eventually adopted. Established rules of procedure, had a chair, a secretariat, a library and subcommittees. Blocs of delegates formed.
Iraq (2005)	National Assembly (legislature)	275-member; elected in Jan. 2005, under terms of Mar. 2004 interim const. – elected by proportional representation.	Approved draft submitted by CDC and referred draft to national referendum.
	Constitution (drafting) Committee (CDC)	55 member; est. by National Assembly	thematic and functional sub-committees; did not adopt rules of procedure or a work plan; 6 member-ad hoc leadership council replaces committee in final stages

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