Constitution-making

The constitution-making process usually includes the following elements:

- **High-level negotiation between key constituencies leading to an agreement on how constitution-making is to proceed** (establishing a structure and blueprint for the process, including who will be involved in preparing a draft, how they will be selected, how consensus will be built, how the constitution will be adopted, what the timeline will be, and how disputes will be resolved).

- **Establishment of a representative body** (e.g. constitutional commission) to lead public education and consultation campaigns, and to prepare a draft of the Constitution.

- **Establishment of a secretariat or other body to support the mandate of the constitutional bodies**, in particular with the logistics involved in carrying out public education and consultation campaigns.

- **A public information and civic education campaign** on the constitution-making process, and the role and implications of the draft constitution.

- **A public consultation process** led by the drafting body to gather views and ensure input of the public on the draft constitution.

- **Submission of the draft constitution to a representative forum** (e.g. constituent assembly, constitutional convention, parliament) to debate it and make any amendments.

- **Final adoption procedures** (e.g., qualified majority in the representative forum, referendum).

- **Post constitution-making education on the newly adopted constitution and development of a strategy for its implementation.**
At various stages throughout this process national authorities may choose to engage international assistance, both in terms of the process and on substantive constitutional law.

**UN Support to Constitution-making**
The kind of assistance the UN provides is not limited to high-level political facilitation or technical legal expertise, and includes political and strategic, legal and human rights, capacity building and institution development, and financial, logistic and administrative support. The UN's engagement in constitution-making is guided by the following principles:

1. **Seize the opportunity for peace building**
The UN gives priority attention to situations in which its assistance will likely strengthen the rule of law and democratic institutions and practices.

2. **Encourage compliance with international standards**
The UN advocates the standards it has helped to develop. In particular, the Organization addresses the rights that have been established under international law for groups that may be subjected to marginalization and discrimination in the country, including women, children, minorities, indigenous peoples, refugees, and stateless and displaced persons.

3. **Ensure national ownership**
Constitution-making is a sovereign national process, and to be successful, the process must be nationally owned and led. National ownership should include official actors, political parties, civil society and the general public. Any assistance provided by the UN will need to stem from national and transitional authorities’ requests.

4. **Support inclusivity, participation and transparency**
Inclusive and participatory processes are more likely to engender consensus around a constitutional framework agreeable to all. The UN must encourage outreach to all groups in society, and support public education and consultation campaigns.

5. **Mobilize and coordinate a wide range of expertise**
Best practice can contribute to expanding national actors’ knowledge of options and help them explore solutions that are technically sound and likely conducive to long-term stability. While national authorities should play the main coordination role, the UN encourages partnerships with national and international actors, regional organizations and other expert networks.

6. **Promote adequate follow-up**
Follow-up can include outreach and education on the adopted constitution, development of subsidiary legislation, and the full range of capacity building and institutional development. Where adequate implementation of new constitutional provisions is lacking, it can undermine the achievements of the constitution-making process.