

## African Experience In Constitution Building Processes

### **Introduction:**

The aim of this proposal is to document and learn from the lessons of the recent rich constitutional experiences throughout the countries of the region, develop a body of practical and informed experiences, identifying key issues that can help stimulate future constitutional development, evolve African standards in constitution making in the light of the need for peace and security and the common commitment to the African Union.

African states have some of the world's finest and most expertly crafted constitutions. The complexity and diversity of African countries, and the often traumatic and divisive events that preceded their achieving independence or constitutional rule, have presented enormous challenges to their people and political leaders. In many cases, this has contributed to very elaborate constitutions which enter into great detail in specifying the structure of government, powers, duties and rights. Few African countries enjoy the level of stability, continuity and trust in the political system to enable them to function with either 'unwritten constitution' or a relatively simple European-style document, open to interpretation by an independent high court. Instead, most African constitutions embody in great detail the aspirations of people and the negotiated sharing of power that has enabled—or should enable—peace and security to be established.

A major set of challenges for Africa is how these elaborately written documents are to be translated into a living reality. The provisions of a constitution need to be implemented, and the citizens of a country need to feel that their national constitution is a true reflection of their aspirations and a genuine protector of their rights, bringing about, in turn, democratic accountability of regimes to their people, helping promote regional peace and security.

The goal of this proposal is to design effective constitution making and implementation processes for sustainable democratization through three core activities: Research, geared mainly to relevant country context; Education, which will feature production of informative, educational and guiding materials relevant to the various stages in constitution building, and geared to a variety of audiences such as practitioners, policy makers, civil society organizations, governmental and non-governmental bodies, teachers, students and the general public; and, Consultations, workshops and dialogue, which will encompass consultations on research findings, involving the sharing of experiences, facilitation of dialogue, and conflict prevention and resolution. It also aims to build a knowledge and expertise network on making and implementing constitutions, offer policy guidelines and develop human resources appropriate to constitution building processes.

South-South communications will be organized to exchange experiences, learn from accumulated knowledge on selected issues and jointly develop lessons learned on making and implementing constitutions in the global South.

The international community may be called upon to provide ongoing, appropriate and systematic support for the programme and activities of the African Union in this regard.

## Result

The work of these core programme components will result in:

1. Documentation of African experiences in processes of constitution making, implementation, and problems encountered and challenges faced; recommend necessary actions to be taken to further consolidate and strengthen constitutional and democratic rule in Africa.
2. Developing principles and strategies for constitution building, production of an African "best practice" in constitution building, which will aim to provide guidelines for examining the principal issues in the country and the region, and develop tools that can be applied to evaluate constitutional building processes in the continent. The African best practice finding can also provide and facilitate development of additional capacity building tools and modules for various stages of the constitution building – participation and inclusivity, adoption, implementation. Institutional and organizational frameworks will also be identified.
3. The creation of a network (or strengthening and utilizing existing networks) and coordination group on constitution building and "good governance" at a regional and continental level. This will consist of a small but influential group in each country that will actively advise governments, help identify issues and develop methods for research; forge partnership, collaborate with and help strengthen institutions and individuals for maximum impact within and outside of their countries. This group will, in addition, explore and evaluate the state of the respective countries' constitutions under consideration, the pace and diligence of constitution building, and discuss common challenges and offer constructive advice and expertise.
4. Maintaining a forum in which African civil society organizations can meet with the AU and regional organizations to dialogue on issues of mutual concern including constitutionalism, the rule of law and regional peace and security.
5. Fostering dialogue among African organizations on some of the most pressing issues facing the African continent to enable them to engage more effectively with interested (donor) governments and international institutions.
6. Stimulate new thinking and approaches to threats to peace and security in the region.

7. A series of issue papers presented for consultations/workshops that reflect a range of experiences and viewpoints, and that facilitate growing, ongoing production of ever more practical and stimulating issue papers on constitution building.
8. A compilation of the issue papers from the consultations, suitably revised, to be produced as one or more books which will be important focal point for future debate on constitution making and a tool for training and awareness building.
9. Create effective South-South mechanism for sharing of experiences and developing cooperative and effective engagement for democratic transformations.