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*Empowered lives.  
Resilient nations.*

# UNDP GUIDANCE NOTE ON CONSTITUTION-MAKING SUPPORT

## ACKNOWLEDGEMENTS

This UNDP Guidance Note brings together good practice experiences and lessons learned from across UNDP and is the result of contributions from UNDP's staff across the globe.

The Guidance Note was drafted and edited by a team from UNDP's Bureau for Policy and Programme Support (BPPS). The main contributors from BPPS included Charmaine Rodrigues, Shelley Inglis and Shaima Hussein. Additional feedback and input was provided by UNDP personnel at headquarters, regional offices and country offices: Naglaa Arafa, Rouba Beydoun, Gigi Bregadze, Vivek Divan, Rym Hazem, Irakli Kobakhidze, Niall McCann, Jonathan Murphy, Natia Natsvlshvili, Bui Phuong Tra, Olivier Pierre-Louveaux, Geoff Prewitt, Shireen Said, Adam Styp-Rekowski and Davaadulam Tsegmed. We are also grateful to Professor Larry Taman for his support in conceptualizing and drafting the Guidance Note. The Guidance Note was finalized under the overall guidance of Patrick Keuleers, Eugenia Piza-Lopez and Charles Chauvel.

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## FOREWORD



In 1985, fewer than half the world's countries were regarded as formal democracies. By 2011, that figure was nearly 90%.<sup>1</sup> The transitions at a national level reflected by these statistics indicate a consistent demand by people for better and more responsive, inclusive, accountable government.

Under what circumstances have such transitions been most likely to produce a foundation for peaceful, open and sustainable states? A growing body of evidence – as an increasing number of states have emerged from periods of conflict and social unrest – indicates a twofold requirement.

First, the process to support the making of a constitution must empower the participation of the diverse interests that comprise the nation. Inclusive constitution-making offers a decisive opportunity for people to shape their own democratic destiny, thereby reinforcing the stake they have in their own governance. Second, any new constitution must demonstrably take into account the results of the consultation that leads to its making. It must reliably embody the values of the nation, and reflect the social contract between the state and its citizens.

For the first time, the United Nations Development Programme has, in its 2014–2017 Strategic Plan, recognized the link between support to good constitution-making and sustainable human development. This support sits at the heart of UNDP's commitment to “ensure that citizen expectations for voice, development, the rule of law and accountability are met by stronger systems of democratic governance”.

This Guidance Note draws on UNDP's long experience in supporting national constitution-making processes to distill good practice and lessons learned for the benefit of UNDP staff across the world.

I encourage UNDP staff to read this Guidance Note carefully, and to apply it in ways that ensure we offer our partners well-informed, effective assistance. The aim should always be to enable governments and citizens alike to engage effectively with one another to harness the transformative capacity offered by inclusive national constitution-making processes.



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<sup>1</sup> “Menocal, Alina Rocha, “10 Things to Know about Elections and Democracy,” Overseas Development Institute, ODI: London, 2013. Available from <http://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/8477.pdf>



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## OVERVIEW

Support to constitution-making is not new to UNDP.<sup>2</sup> UNDP assistance to constitution-making is built on the recognition that constitutions are central to progress on sustainable human development as they comprise the overarching legal framework which sets out the basis of the social contract between a state and its people. Constitutions establish the institutions of government and their powers vis-à-vis each other and the people, affecting all aspects of policy and society.

Constitutional guarantees of human rights across the spectrum of civil, political, economic, social and cultural rights, and the mandating of courts and commissions to protect those rights, are vital steps in promoting a human rights culture. Support to constitution-making and reform of constitutions is thus a cornerstone of UNDP's support for democratic governance, rule of law and peacebuilding, and lies at the core of inclusive democratic transitions and post-conflict engagement.

UNDP's Strategic Plan (2014–2017) identifies support to constitutional reform as a key element in the support to peaceful and inclusive political processes and institutions that promote the rule of law, the protection of human rights and accountability, in order to help "countries achieve the simultaneous eradication of poverty and significant reduction of inequalities and exclusion." UNDP support to constitution-making takes place in line with the principles on constitution-making laid down by the United Nations Secretary-General.<sup>3</sup>

UNDP is committed to its role as a development knowledge leader in pursuit of the outcomes in the Strategic Plan, including by supporting knowledge production and information sharing among national partners and stakeholders, as well as between countries that are undergoing constitution-making processes across the global south and with the international community at the global level. A key role in this regard is to work with partners to capture examples and comparative experiences, and promote the development of practical guidance on key tenets and controversial or emerging issues in constitution-making.

This Guidance Note is a first step in developing a stronger knowledge platform to guide UNDP country offices on good-practice constitutional assistance approaches. It outlines the significance of constitution-making for UNDP and provides advice to UNDP practitioners who are designing and implementing support to constitution-making.

- Part I outlines why UNDP supports constitution-making, building on guidance from the Secretary-General.<sup>4</sup>
- Part II provides guidance on initial approaches to designing constitutional assistance, with special emphasis on developing strong partnerships with a range of counterparts and ensuring UNDP's own internal readiness to provide support.
- Part III focuses on the technical entry points for assistance, which UNDP country offices may wish to consider.
- Part IV provides a summary of key lessons learned in constitution-making support. The Annex provides resources and further reading.

<sup>2</sup> Brandt, Michele, *Report on UN Constitution-making Assistance*, Internal Report for the United Nations, 2012; Sripati, Vijayashri, "UN Constitutional Assistance: An Emergent Policy Institution," Social Science Research Network, 2009. Available from [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1483265](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1483265)

<sup>3</sup> United Nations Secretary-General, "Guidance Note of the Secretary-General : UN Assistance to Constitution-making Processes," United Nations, 2009. Available from [http://www.unrol.org/files/Guidance\\_Note\\_United\\_Nations\\_Assistance\\_to\\_Constitution-making\\_Processes\\_FINAL.pdf](http://www.unrol.org/files/Guidance_Note_United_Nations_Assistance_to_Constitution-making_Processes_FINAL.pdf)

<sup>4</sup> Ibid





*A Civic Education Forum in support of the constitutional review process in the Machakos area of Eastern Region in Kenya.*  
Photo: UNDP Kenya

With the increasing focus in the Strategic Plan on inclusive political processes – including constitution-making – UNDP will continue to develop tools, publications and partnerships to further the knowledge base on which UNDP country offices can draw. This is in order to ensure high

quality support to national counterparts, to better design, implement and measure the impact of programming and to systematically document lessons learned and good practice to ensure UNDP's knowledge from across the globe feeds into improving new programming.



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