



THE WEST AFRICA
CITIZEN THINK TANK



WHAT KIND OF CONSTITUTION DO WEST
AFRICAN COUNTRIES NEED TODAY?

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September–October 2016

Introductory note

WHAT KIND OF CONSTITUTION DO WEST AFRICAN COUNTRIES NEED TODAY?

1. Why this theme?

- **Because** the type, organization and functioning of the political institutions are crucial in all the countries and regions around the world, for peace, security, social cohesion, economic progress, environmental protection, for all the main determinants of the present and future collective well-being of populations.
- **Because** most of the constitutions of countries in the region (ECOWAS plus Cameroon, Chad and Mauritania) do not seem capable of efficiently regulating the actual functioning of the States and the political actors' practices.
- **Because** institutional innovations, inspired or not by foreign models, seem urgent and necessary to enrich the democratic ideal, make the States serve general interest, improve the processes whereby citizens choose rulers and control public action.
- **Because** debates on constitutional revisions have multiplied in several countries of the region and remain topical: after Senegal, where a referendum was organized in March 2016, Benin, Burkina Faso, Ivory Coast, Liberia, Mali, Togo, Guinea Bissau are contemplating significant changes in their respective fundamental laws.
- **Because** national debates on political and institutional reforms should be open to every citizen, not to law experts and political actors only. The participative nature of the process of drafting constitutional amendments may be as important as the texts resulting from them.

- **Because** the constitutional revisions have often been used as a tool to perpetuate those in power at the expense of the people who wish to see changes in the political and economic governance of countries. Even when the processes used to make constitutional amendments are legal, they're not always legitimate as far as general interest is concerned, and they lead to conflict and divide of the people or link breaking within the population
- **Because** we should redesign the constitutions to fit them to the economic, cultural and social realities of the countries and even more so to the future generations' need and the type of societies we aspire for. Most of the constitutions are copied from the former colonizing countries and are hardly considered endogenous and representative of the aspirations of the people supposed to comply with them.

2. What are the main topics to be explored?

2.1 Mode of election and the powers of presidents

- Is the election of the president by universal suffrage the best guarantee of democracy?
- What are the advantages and limits of the presidential election by universal suffrage in West African countries?
- What institutional reforms could increase the chances for presidential elections to produce "good presidents"?
- Do the political experiences of African countries over the last five decades speak in favor of constitutions which attribute too much power to heads of states, or on the contrary, in favor of the control of presidential power by institutions acting as checks and balances ?
- Which presidential powers should particularly be reduced or controlled?
- What term should presidents serve? Do their terms have to be reduced to achieve the best political, social, and economic results in a country?
- Is a single term for presidents a good solution to do away with constitutional revisions aiming at establishing or eliminating term limits and the excesses linked to a search for reelection? Or is it a bad idea?
- What counterpowers for the control of presidential power should be put in place or strengthened to support the States in their capacity to preserve general interest?

2.2 Role of parliaments in the democratic functioning?

- Does the national assembly possess strong tools to control government action?

- What reforms should be implemented to strengthen the capacity of the national assembly to control the executive?
- Does the mode of election of deputies reinforce the independence of the legislative power from the executive?
- Should we consider changing the mode of election of deputies to strengthen the link between citizens and those they elected to represent them at the national assembly or senate?
- What reforms should be considered to allow deputies from the opposition to play a more significant and constructive role within the National Assembly? Should the presidency of important committees (finance, laws) be entrusted to members of the opposition to strengthen the democratic nature of the parliament?
- Should the role and prerogatives of the opposition leader be included in the constitution to strengthen democratic dialogue? What countries in the region have implemented the status of opposition leader and what was the outcome?
- Do the countries of the region need a Senate or another parliamentary institution in addition to the National Assembly?

2.3 The judicial power, its role, organization, and independence

- Is the judiciary really independent in the countries of the region?
- What mechanisms can be established in the countries of the region to ensure the effectiveness and independence of justice from the executive and legislative powers?
- Should constitutions specify in detail the procedures for judges' appointment and procedures designed to ensure their independence and integrity?
- Do models of Supreme Council of the judiciary Supreme Court found in some francophone countries really contribute in the integrity, effectiveness and independence of the judiciary?
- What is the specific place of Courts or Supreme courts in the institutional system of protection of democracy and liberties?
- In what countries does the institution responsible for interpreting the constitution play effectively its role of guardian of the text and the spirit of the basic law and shows a real independence from political power?

2.4 The regulation of political activities and public administration

- When we look at the recent political history of the countries of the region, what are the determining elements of the trajectory of political actors who became presidents and other prominent political figures?

- Do current constitutions provide the most effective mechanisms for a good selection of senior public officials?
- Should we separate political functions from the highest administrative functions? How can we reduce the politicization of all public institutions?
- What is the role of political parties as defined by national constitutions and what role do they actually play in the national political activities?
- Is the use of public funds to finance political parties the best solution to the lack of transparency in the funding sources of political activities, which exposes the countries of the region to the intrusion of the money from crime networks in the highest government circles?
- Is the number of political parties in most of the countries of the region a sign of democratic vitality or rather a symptom of sick democracies? How to better regulate the activities of political parties in order to foster the emergence of credible, useful and structured parties?
- What countries in the region stand out thanks to the quality of their political governance and the strength of their institutions over a fairly long period? Do they owe it to the organization of their institutions as defined by their constitutions or do they owe it to favorable historical circumstances?
- In the countries of the region, are there, institutions dedicated to civic education and the strengthening of citizenship and democratic learning? Do we need to provide for such institutions in the constitutions in order to contribute to making a democratic culture deeply rooted in society?

2.5 The organization of elections

- What countries of the region have bodies, supposed to be independent or autonomous, in charge of the organization of elections?
- What are the composition, mode of selection of members, mandates and competences of electoral management bodies?
- What role do governments (usually Ministries of the Interior or Territorial Administration) play in the organization of elections?
- What mechanisms should be put in place to ensure the credibility of the identification of voters and the updating of electoral lists? Which institution should be in charge of the updating of electoral lists?
- What mechanisms should be put in place to ensure the independence and integrity of the members of the institution in charge of organizing the elections?

- Should we make the electoral management bodies, constitutional institutions and clarify the principles of their organization in the fundamental laws?
- Should we consider making the electoral management bodies, bodies that regulate political activities and supervise political parties?

2.6 The control of public accounts and the fight against corruption

- What do the constitutions of the region provide for in terms of principles and institutions to ensure the democratic control of public resources management?
- Are the composition, organization and functioning of the institutions to control public accounts specified in the constitutions? Should they be?
- Should constitutions provide national institutions dedicated to the fight against corruption and establish the principles of their composition, their organization and their functioning?
- What are the major differences between the institutions of control of public accounts and anti-corruption institutions provided for in the constitutions of the French-speaking, English-speaking and Portuguese-speaking countries of the region? Can we identify in the region institutional models that are more effective than others?

2.7 The management of ethnic and religious diversity and the possibilities of a constitutional convergence in Africa

- What countries in the region have original constitutional provisions specifically designed to reflect the desire to preserve the wealth and diversity of their political, social, and cultural heritage?
- Do some countries in the region need constitutional institutions dedicated to the management of the diversity of their populations and the protection of minority social and cultural groups?
- Should we recognize both the individual rights and duties of individuals and those of communities? How to recognize and organize the relationship between ethnic communities without encouraging isolationism?
- How to deal with the issue of religion in the constitution? Should we include the principle of secularism in the constitutions or organize the relationship between the political and religious entities in society on the basis of other principles?
- What are ways to make the constitutional principles effective tools for preventing conflict and preserving peace in the region in the medium and long term?

- Can we and should we consider the convergence of the constitutions of all countries of the ECOWAS and even other regions in Africa? Should we encourage the African Union to promote the convergence of the constitutional models of all African countries?

3. How to participate in the debate?

- Contributions by experts in the issues discussed are welcome. So are observations, accounts, opinions, and recommendations from all citizens.
- We particularly welcome articles that refer to one or more specific countries, are based on concrete examples and include recommendations for action and reform.
- You can submit short articles (500–1000 words) or longer ones (1500–2000 words). Although the maximum length of a contribution is 2000 words, short articles are more likely to be selected and published by WATHI. All articles must be accessible to the general public, well written and structured.
- Without having to write a structured article, you can send your comments, observations, and recommendations to infowathi@wathi.org. The most relevant contributions will be published on the website.
- You can also submit a short audio or video recording to share your experiences and concrete reform proposals.
- We invite you to send your article with a 50–word biography and preferably a good picture of yourself.

CONTACTS

www.wathi.org

Please send your articles and contributions at: infowathi@wathi.org

The debate is also taking place on WATHI's Facebook and Twitter accounts:

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