



What kind of constitution do West African countries need today?

WATHI 5

WATHI's recommendations following the debate on Institutional reforms. Follow this link
to the page dedicated to this debate: <http://bit.ly/2o5ApIO>

COURSE OF ACTION

- 1** Adopt processes for constitutional revisions or for creating new constitutions, which are led by independent commissions presided over by persons of indisputable moral authority, involving all categories of the population at each stage, and ensuring public debates in the country's main languages and a reasonable duration of at least twelve months before any validation of a constitutional text by parliamentary or referendum vote.
- 2** Increase the country's ability to bring about political actors with integrity and concerned with the public good through a reform of political party regulation that is intended to reinforce their role in training of future political leaders, to reduce their personalization around individual leaders by implementing a incentive-based public financing mechanism for political parties and activities to adopt democratic practices and creating an independent institution responsible for enforcing political parties' constitutional, operational, and financial regulations.
- 3** Increase the country's ability to equip itself with elected political leaders who effectively represent their citizens' choices through detailed and stable constitutional provisions regarding electoral processes, notably by adopting a model for an independent and permanent electoral commission with financial autonomy that is sanctified by the constitution, composed of leaders and experts who will be subject to a demanding and transparent appointment process; and which will be responsible for organizing all stages of the electoral process, including updating voter registration lists.
- 4** Change the relationship between the government and the governed by establishing the principle of public hearings and confirmation votes by the parliament for all nominations proposed by the president of the republic for the most senior roles in the civil and military administration; by strengthening the institutions dedicated to controlling the use of public resources; by strengthening parliament through a training program for young public servants in parliamentary assistance and administration; and by creating a public service commission responsible for ensuring political neutrality in public administration and for carrying out an annual evaluation on their performance and contribution to reducing regional inequality.
- 5** Change the relationship between the government and the governed by reforming appointment methods and the length of tenure for members of the constitutional courts in order to increase their independence; by providing the opportunity for all citizens to petition the constitutional court in cases of a violation of constitutional provisions; by creating a High Authority responsible for strengthening democracy as an independent institution with the mandate to conduct civic education campaigns, organize debates on the main areas of public action, and produce an public annual report on the state of democratic governance; and by creating a Higher Education Authority responsible for proposing fundamental and long-lasting guidelines for policies in education, training, and research.

What kind of constitution do West African countries need today?

The recurring constitutional changes and attempted changes in West Africa testify to the difficulty in making institutional choices that are not guided by rulers' short-term interests.

WATHI invited the citizens of the region's countries, of all generations, to examine the existing political systems, to propose reforms likely to bring about legitimate and effective institutions that respond to the collective aspirations of today's West African societies and to the need to create a better future for coming generations. WATHI5 is the version dedicated to the recommendations from the Mataki document, the analytical summary of WATHI's debate.

The recommendations presented below take into account the analysis of political, administrative, economic, and socio-cultural practices in West African countries as well as the theoretical critiques of modern democratic institutions formulated by academics and thinkers. This signifies that these courses of action, which pave the way for further work, could be very useful in all African and non-African countries where the manifestation of democratic disillusionment and a rejection of the political class are also evident.

1. Adopting substantial constitutional revision processes or the development of new constitutions that are led by independent commissions presided over by persons of undeniable moral authority, involving all categories of the population at each stage as much as possible, providing decentralized public debates in the country's main languages on the key points of the draft constitution and providing, therefore, a reasonable timeframe of at least twelve months before any validation of a constitutional text by parliamentary vote or by referendum, specifically by:

- Putting in place an independent commission charged with leading the constitutional development or revision process headed by a nonpartisan leader with a strong moral authority. This commission should be given sufficient financial and logistical resources to organize consultations throughout the territory and to obtain recommendations before creating the draft constitution.

- Allowing citizens to participate in the process of drafting the constitution across different channels (forums, university conferences, public meetings, television and radio programs). This dialogue should be led at the national level and bring together all the nation's constituencies. Preliminary consultations and debates for drafting of the constitution must include representatives from all ethnic, religious, cultural, and professional groups as well as all political parties. This inclusive approach aims to make a durable constitution that is the result of interaction among all actors in the political and civil societies.
- Asking the population during the consultations phase about what values must be integrated into the constitution in order to build the foundation of an organized, cohesive society and carry themselves into the future with the will to bequeath later generations a state, a nation, natural resources, and material and immaterial resources, allowing them to live even better. In the context of African multicultural societies, the values sanctified in the constitution should foster the consolidation of a sense of national belonging while consecrating the preservation of the countries' internal diversity in all the forms it takes.
- Defining an appropriate timeframe to allow the citizens to fully engage themselves in the new provisions in the preliminary draft constitution, to debate them and to eventually propose amendments to the commission in charge of the exercise.

2. Increasing the ability of the countries to raise up upstanding political actors, concerned with the public good and prepared to govern, through a major reform of the regulation of political parties that is intended to reinforce their role in training of future political leaders, to reduce their personalization around individual leaders, and to make them transparent institutions useful for strengthening democracy and society as a whole; specifically by:

- Explicitly identifying the values, principles, and practices in the constitution that should guide the political parties' functions, including transparency in their financial sources, the parties' presence on a national scale, internal democracy, actively promoting of equal access to leadership roles for men and women, proposing alternative societal projects and government programs, civic training for party organizers, and the complete ban of political mobilization based on discriminatory rhetoric and actions against ethnic or religious groups.

- Implementing an incentive-based public financing mechanism for parties and political activities to encourage and reward the parties who adopt practices corresponding to democratic values and principles, and to sanction those that do not. The allocation of public resources for the parties should therefore not depend solely on electoral results or the number of elected representatives in parliament, but also on an annual evaluation of their contribution to the strengthening of democracy based on precise criteria determined in advance.
- Creating or reinforcing an independent constitutional institution charged with enforcing the political parties' constitutional regulations, functioning, termination and financing for political activities; conducting annual evaluations of the parties' contributions to the strengthening of democracy; receiving and publishing essential biographical information on the parties' leadership and all political candidates in presidential, legislative, regional, and local elections.

3. Increasing the ability of the country to equip itself with elected political leaders who effectively represent their citizens' choices through detailed and stable constitutional provisions regarding the management of electoral processes; specifically by:

- Adopting and establishing in the constitution an electoral commission which is nonpartisan, independent, and permanent. The commission should be composed of members with integrity, who are trusted by all political actors, and who should be result from a demanding and transparent appointment process. The electoral commission should be responsible for organizing all stages of electoral processes, from registering and updating voters lists to the announcement of provisional results.
- Adopting and establishing in the constitution those principles regarding the composition, organization, and operating rules of the few African electoral commissions that, over a long period of time, have demonstrated their capacity to organize credible elections and to meet deadlines for announcing the results after the elections. The electoral commissions of Ghana and Cape Verde in West Africa or of those in South Africa and Botswana in southern Africa could serve as inspiration.
- Defining and establishing rules that guarantee the commission members' stability and protection from being removed from the commission during their tenure except under exceptional circumstances that are duly specified and established; and rules that promote stability for the commission's administrative and technical personnel.

- Explicitly providing for a mechanism that ensures secure and predictable financing for the electoral commission as well as effective financial autonomy in relation to the executive branch.
- Including in the commission members' mandate, the initiation and facilitation of a framework for open exchange about the electoral processes that brings together political parties, relevant civil society organizations, the media, and security forces in order to build up and maintain an atmosphere for trust between the actors.
- Establishing in the constitution principles that guide voter registration, regular and cost-effective updates to voter registration lists, the exclusive responsibility of the independent electoral commission for this voter registration, and the access for political parties, civil society organizations and citizens to all information regarding the voter registration's procedures.

4. Changing the relationship between the government and the governed through constitutional changes limiting the discretionary powers of the heads of state and of government, in particular, the power to nominate members of the government and senior civil and military leaders; through measures to reinforce all institutions that provide checks and balance and through reforms to de-politicize public administration; specifically by:

- Establishing the principle of public hearings and confirmation votes, by a dedicated commission of the National Assembly, for nominations proposed by the President of the Republic for ministerial roles and for the highest levels of the civil and military administration.
- Strengthening all the institutions dedicated to controlling the use of public resources, such as the Office of the Auditor General and similar organs (in accordance with the country), in order to guarantee their members autonomy of action, effective independence and access of citizens to all official reports on the management of all institutions and agencies that use public resources, including funds allocated to the presidential institution.
- Significantly strengthening Parliament's capacity to carry out its role in overseeing government action and proposing laws, particularly in providing adequate human, financial and material resources for the parliamentary administration, including those resources regarding information and communications systems, and by implementing a publicly-financed permanent training program for young public servants assisting parliament.

- Creating a public service commission to ensure respect for the fundamental principles of public service, to define the rules governing recruitment, remuneration, promotions and sanctions in the administration, to ensure the political neutrality in public administration. This commission would annually report on the public service's performance, the efforts undertaken to improve it and to reduce regional inequalities in access to public services.

5. Changing the relationship between the government and the governed through strengthening all institutions essential to maintaining a balance of power; strengthening citizens' participation in developing public policy, and increasing protections of fundamental rights by the institution responsible for ensuring compliance with the constitution; specifically by:

- Establishing a method of appointing members to the highest court in constitutional matters (Constitutional Court, Constitutional Council, Supreme Court, in accordance with the country) aimed at creating the conditions for true independence in the institution, emphasizing a non-renewable and long-term tenure and explicit qualifications of personal integrity and relevant professional experience. The models of the Constitutional Courts of Benin, Ghana and especially South Africa can serve as inspiration, with improvements and changes corresponding to each country's specific context and lessons from its political and institutional history.
- Granting all citizens the right to refer violations of a fundamental right or for any violation of a constitutional provision to constitutional courts. For example in the case of Benin, any citizen can appeal a law's constitutionality to the Constitutional Court either directly or in any case concerning him before a court by invoking a procedure for an unconstitutional exception.
- Clarifying in the constitution the principle according to which the decisions of the constitutional jurisdiction are not subject to any appeal and are binding for the public authorities and for all the civil, military and jurisdictional authorities.
- Creating a High Authority in charge of the strengthening of democracy, as an independent constitutional institution whose mandate would be to conduct civic education campaigns for the population, to organize annual citizens' debates on the main areas of public policy (education, health, security, economic policy, social policy, cultural policy, environmental protection, foreign policy) and to produce an annual public report on the state of democratic governance with recommendations.

- Creating a Higher Education Authority, with constitutional status, composed of independent leaders and experts given a long-term mandate, charged with proposing the fundamental policies of education, training and research, and with ensuring citizens' effective participation in the development of educational policies, together with the High Authority in charge of strengthening democracy.
- Integrating into the constitution the right to petition as a means to encourage participatory democracy. The objective is to allow very large groups of citizens— exceeding a minimum threshold to be determined according to each country's population of voting age — to propose legislative initiatives which must be examined by a dedicated committee within the parliament and may result in a law.

The collective reflection proposed by WATHI on constitutions in West Africa and beyond involves examining the different countries' current political systems, methods of political and social organization, but also the fundamental values and principles meant to be reflected in institutional choices. The extremely broad theme of this debate is crucial for all countries' futures individually and for a large part of the continent because political institutions are essential for peace, security, and for economic, social, and cultural progress. As always, the points of view, analysis, and courses of action proposed in Mataki do not put an end to the debate. The goal is to bring new ideas in the public arena and revitalizing the debate.

You can send your comments, reactions, recommendations to refine the proposals and the means to implement them to the following address: ledebat@wathi.org

WATHI

WATHI, the West Africa citizen think tank, is a participative and multidisciplinary think tank which aims to contribute to the sharing of knowledge and the production of ideas on the crucial political, economic, social and cultural issues for the present and the future of the countries of West Africa.

The geographical area of WATHI includes 15 countries of the Economic Community of West African States (ECOWAS) as well as Cameroon, Chad and Mauritania. Freely inspired by «waati», which means «time» in Bamanankan language of Mali, WATHI expresses both the urgency of a collective mobilization and the need for long-term commitment.



CONTACT US

General inquiries:
infowathi@wathi.org

Le débat de WATHI:
ledebat@wathi.org

Support WATHI :
donate@wathi.org

The WATHI initiative "Le débat" has received financial support from the Open Society Initiative for West Africa (OSIWA).