



ABC

for a

Gender Sensitive Constitution

Handbook for engendering constitution-making



This project is funded by
The European Union



SWEDEN

Euromed Feminist Initiative IFE-EFI advocates for gender equality and women's universal human rights as inseparable from democracy building and citizenship, for political solutions to all conflicts, and for the right of peoples to self-determination.

ABC for a Gender Sensitive Constitution

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What is the ABC for a Gender Sensitive Constitution?

The **ABC for a Gender Sensitive Constitution** is a handbook aimed at guiding constitution-makers in their endeavor to draft or amend constitutions from a gender sensitive perspective and at educating the general public.

Who is the ABC addressed to?

The **ABC** is addressed to a wide professional and lay audience, including but not limited to:

- *Experts*: legal experts, politicians, and other professionals directly or indirectly involved in constitution making
- *Activists*: women's rights activists and human rights activists
- *Academics and students*, in particular law and politics students
- *Journalists and media representatives*
- *The general public*

A **gender sensitive constitution** combines the establishment of the rule of law, equality between women and men and respect for the human rights and dignity of both women and men alike. Such a constitution adopts a gender perspective and pays attention to how issues of gender are dealt with and how provisions of the constitution impact on gender. It adopts gender sensitive language and specific gender equality provisions. Although social, political and cultural contexts are different, a gender sensitive constitution is framed by norms and standards that are grounded in the universality and indivisibility of the human rights of women and men.

The **ABC** aims to be relevant to constitution-makers everywhere, with a special and more immediate emphasis on the Euro-Med region and the Syrian context.

How can the ABC be used?

The **ABC** can be used in several different ways:

- *As a comprehensive but practical constitution-making handbook*
The ABC is written in plain language and includes examples, best practice guidance and practice-based strategies.
- *As a concise guide to engendering constitution-making*
The text visually highlights the key lessons on each phase of the constitution-making process and includes checklists to monitor it.

- As a *reference document*

The **ABC** offers the reader an entry point into gender sensitive constitution-making, including a glossary of terms and suggestions for further reading.

What does the *ABC* contain?

The **ABC** contains six substantive chapters and an annex, each of which covers a different aspect of the constitution-making process:

1. Why Adopt a Gender Sensitive Constitution?

Engendering the constitution is a democratic requirement and can also yield important benefits to society as a whole.

Adopting a gender sensitive constitution will:

- Ensure the constitution is a democratic constitution
- Correct the historic and economic invisibility of women
- Provide the legal basis for women's empowerment
- Address the different interests of women
- Comply with the international obligations of States
- Be especially important in post-conflict and transitional contexts

2. Why Are States Legally Obligated to Engender their Constitutions?

Concrete and binding international obligations are already incumbent upon states to engender their constitutions.

Constitutional drafters can make specific reference to international law in the constitution as a guide to judicial interpretations of the constitution and as a baseline (or minimum standard) below which national rights protections should not fall.

3. What Must a Democratic Gender-Sensitive Constitution Contain?

There are specific provisions which a gender sensitive constitution should contain, both at the level of constitutional principles and at the level of individual rights and freedoms. It should also institute specialized human rights and women's rights bodies to enforce these rights.

A gender sensitive constitution will include clear provisions on:

- **Equality** between women and men,
- **Non-discrimination** on the basis of gender, including indirect discrimination
- **Affirmative action** measures as a temporary measure to achieve gender equality
- **Rights and freedoms**, including those which women have traditionally been denied
- The **supremacy of secular constitutional principles** over religious or traditional authorities and interpretations in the field of gender equality
- **Women's right to participate in public and political life**, including gender quotas

4. How to Engender Constitutional Language?

The actual language of the constitution should also be engendered, both as a symbolic act expressing society's values and to ensure that a gender sensitive constitutional text solidifies over time.

Drafters can use certain techniques when engendering constitutional language, such as:

- **Avoiding gender-specific terms** and finding alternatives
- Where pronouns are unavoidable, inserting **both female and male pronouns**
- **Correcting gendered assumptions** about holders of political office or certain institutions and practices such as marriage or family

Drafters should also aim to write **specific, clear, and coherent** constitutional provisions insofar as they enable greater protection of gender equality.

5. How to Ensure the Constitution is Enforced?

There are guarantees which can be adopted in the constitution so as to maximize the chances of the text being enforced and not deviated from.

Constitution-makers can ensure the constitution is enforced by:

- Restricting the possibility of interference from lawmakers and the executive, such as by preventing legislation which restricts rights and regulating states of emergency
- Enabling individuals' access to courts
- Guaranteeing judicial independence
- Guiding the future judicial interpretation of the constitution, such as by preambles and constitutional statements of purpose
- Limiting amendment of the constitution, such as by incorporating unamendable clauses or supermajority rules

6. How to Come about a Gender Sensitive Constitution?

Each step of the constitution-making process should be engendered, from before drafting until after ratification.

The constitution-making process should be engendered at every stage, including:

- **In preparation of drafting**, including when negotiating peace agreements, interim legal regimes, and timetables for future constitution-making
- **During drafting**, including by engendering the constitution drafting bodies, civic education and awareness raising campaigns, and public consultations
- **During and after ratification**, when vigilance remains necessary in order to monitor the enforcement of the constitution and adoption of implementing legislation

7. Strategies to Mobilize and Advocate for a Gender-sensitive Constitution

A separate annex in the **ABC** also describes concrete strategies which activists can pursue in their quest to engender constitution-making, including examples of where these strategies have been used successfully or less successfully.

Building Coalitions, Alliances, and Networks	Strategic Advocacy	Strategic Lobbying and Boycotts
Building broad-based and representative women’s coalitions already before constitutional drafting begins and having them influence the constitution making process both formally and informally	Advocating for women’s rights as democratic rights	Strategic lobbying of influential actors
Building local networks		
Building international solidarity and networks		
Building alliances with marginalised groups	Advocating for women’s rights as an international obligation of the state	Boycotts of elections, legislative sessions, public functions etc.
Building alliances with broader human rights groups, trade unions and other groups		

Constitution building is a fight, from the early phases of preparation, throughout drafting and ratification, and continuing during implementation. This struggle is worthwhile if the end result is adopting and enforcing a constitution which recognizes all citizens as having equal worth and being equal before the law and in law, which prohibits all forms of oppression, violence, and discrimination. Therefore, all democratic movements should keep gender equality considerations at the forefront of their action.

The ABC for a Gender Sensitive Constitution is the result of a fruitful collaboration between the Euromed Feminist Initiative IFE-EFI, researchers and activists from Syria, Europe and the Maghreb. The dialogue established in this frame was an asset and a shared source of experience and knowledge. The handbook combines academic research and constitutional expertise with a feminist theoretic approach, substantiated by the experiences of the women's rights activists in the Euro-Med region and examples from different constitutions and processes across the world.

This **ABC** does not only support future constitution building in transitional political processes and post-conflict situations, but also strives to inspire a critical review of existing constitutions, many of which still lack a genuine commitment to women's rights and gender equality.