

Glossary for Constitution Building Training Programme

Constitution Building Processes Programme
International IDEA

Introduction

During the past 25 years, half of the national constitutions in existence have been written or re-written. The significant increase in constitutional activity has served to reignite the debate on constitution making. It has also revealed that the process of constitution building can be as important as the content of the final document. This is because participatory constitutional development processes provide the ability to build inclusive political institutions which allow societies to move from conflict situations towards democracy.

It is important to remember that constitutions are legal texts and must be written in a style that is objective, clear and precise. To reflect the true intentions of the law makers, drafters of constitutions and other laws must understand the full meaning of legal terms and the implications that the words used will have and then use the clearest words and formulations consistently. As legal texts are reference documents and normative guides, the words and formulations used in legal texts must be chosen with care, knowing that they will be subject to review and interpretation overtime. It is also important to try and use language that can be understood by ordinary people and not only by select groups of judges and lawyers.

Many legal terms, initially developed through Latin-based languages, literally get lost or mangled in translation, or are defined by varied users in different contexts, creating ambiguity and confusion. The Constitution Building Processes Programme at International IDEA seeks, through its constitution building training programme, to support constitutional processes in post-conflict contexts. The following glossary of constitutional terms is one instrument in helping to achieve this aim and will be provided to participants in the training programme. We hope that this glossary will be useful to drafters, lawyers, translators and those interested in the constitution and its writing.

Accession: The act of coming into the possession of a right, title, office, etc.[1]

Accountability: A requirement to offer explanation for an action; responsibility for one's action (implies that there is someone to whom one is responsible).[2]

Ad hoc: For particular purpose only: 'an ad hoc committee'.[3]

Administration: The function of a political state in exercising its governmental duties.[4]

African Charter on Human and People's Rights: African Charter on Human and People's Rights is also known as the "Banjul charter". It is an international human rights instrument that is intended to promote and protect human rights on the African continent. The charter came into effect on October 21st 1986. The African Commission of Human and People's Rights which was set up in 1987 in Banjul, Ghana, is responsible for oversight and interpretation of the charter.[5]

African Charter on the Rights and Welfare of the Child: The African Charter on the Rights and Welfare of the Child, also known as the "Child Charter" and ACRWC, was adopted by the Organization of African Unity (which became the African Union in 2001) in 1990 and came into force in 1999. The charter is a wide-ranging instrument and defines universal principles and norms for the status of children. The ACRWC defines a "child" as a human being below the age of 18 years. It recognises the child's unique and privileged place in African society and that African children need protection and special care. It also acknowledges that children are entitled to the enjoyment of freedom of expression, association, peaceful assembly, thought, religion, and conscience.[6]

Affirmation: Asserting something strongly; more likely in constitutions to mean the equivalent of an oath but involving no religious element.[7]

Agency: An entity or organization providing specified service or having certain responsibilities: 'governing agency'.[8]

Aggregation: The act of gathering together (for example the act of states gathering to make a federation).[9]

Amend: To alter, modify, rephrase, or add to or subtract from (a motion, bill, constitution, etc.) by formal procedure.[10]

Amendment: Change or addition to a document or legal provisions: 'constitutional amendment'.[11]

Amnesty: A general pardon for offenses, esp. political offenses, against a government, often granted before any trial or conviction.[12]

Ancestral: Relating to ancestors (family forbears): 'ancestral home'.[13]

Annexure: An extra part of a document (added after the main part).[14]

Appropriation: The act of allocating public money to a purpose.[15]

Arab Charter on Human Rights: The Arab Charter on Human Rights was adopted by the Council of the League of Arab States on May 22nd 2004. The Charter affirms the principles contained in the UN Charter, the Universal Declaration of Human Rights, the International Covenants on Human Rights and the Cairo Declaration on Human Rights in Islam. The Arab Charter on Human Rights has been in force since March 15th 2008.[16]

Arbitrary: Subject to individual will or judgment without restriction; contingent solely upon one's discretion.[17]

Article: The main element of a constitution. A separate clause or provision of a statue (separate clauses in the constitution).[18]

Asian Human Rights Charter: On the occasion of the 50th anniversary of the Universal Declaration of Human Rights, the Asia Human Rights Charter was adopted. The charter was launched by NGO's in Asia and demonstrates the determination of the human rights movement in the Asia-Pacific region. The Asia Human Rights Charter (AHRC) affirms the universality of all human rights. Drawing upon a broad spectrum of civil society across the region, it shows that human rights, far from being an alien or foreign concept, are the legitimate aspiration and demand of people throughout Asia and the Pacific. It shows how these universal principles can be articulated powerfully from an Asian cultural, religious and philosophical perspective.[19]

Assimilation: The process by which minority groups adopt characteristics of larger groups, including language, religion, beliefs and identity. It can be either voluntary or coerced.[20]

Autonomous region: A region having certain independent governing powers.[21]

Autonomy: The condition of being autonomous; self-government or the right of self-government. A self-governing (to a certain extent) community.[22]

Authenticated: Officially validated (of document).[23]

Authorities: Officials or bodies with official powers. A person or body of persons in whom authority is vested, for example a governmental agency.[24]

Ballot: The method of secret voting by means of printed or written ballots or by means of voting machines.[25]

Bicameral: Having two branches, chambers, or houses, as a legislative body.[26]

Bill: Draft law presented to the legislature for enactment.[27]

Bill of Rights: Fundamental rights and privileges guaranteed to a people against violation by the government incorporated in the constitution. Whether or not a country should include a bill of rights in its constitution must be decided upon by the people, or representatives of the people, of that country. However, most nations today do in fact have a bill of rights incorporated in their constitutions.[28]

Bodies: Legal or constitutional entities created for a special purpose.[29]

Boundaries: Boundary, border, frontier share the sense of that which divides one entity or political unit from another. Boundary, in reference to a country, city, state, territory, or the like, most often designates a line on a map. Occasionally, it also refers to a physical feature that marks the agreed-upon line separating two political units.[30]

Breach: Breaking an understanding, agreement or law.[31]

By-law: Rule made by a local body or council under authority of a statue.[32]

Cabinet: usually a synonym for "Council of Ministers".[33]

Cairo Declaration on Human Rights: The Cairo Declaration of Human Rights (CDHRI) was adopted on August 5th 1990 by the member states of The Organization of the Islamic Conference. The declaration provides an overview of the Islamic perspective on human rights. The purpose of the declaration is to serve as a general guidance for member states of the Organization of the Islamic Conference in the field of human rights.[34]

Charter of Fundamental Rights of the European Union: The European Union Charter of Fundamental Rights sets out in a single text, for the first time in the European Union's history, the whole range of civil, political, economic and social rights of European citizens and all persons resident in the EU. These rights are divided into six sections; dignity; freedoms; equality; solidarity; citizens rights; justice. The charter was signed and proclaimed by the Presidents of the European Parliament, the Council and the Commission at the European Council meeting in Nice on 7 December 2000.[35]

Civil society: the aggregate of non-governmental organizations and institutions that manifest interests and will of citizens; individuals and organizations in a society which are independent of the government.[36]

Citizen: A person possessing citizenship/nationality.[37]

Citizenship: Nationality; the state of being a citizen.[38]

Civic nationalism: Civic nationalism conceives of the nation state and one's membership in and loyalty to it in terms if citizenship, common laws, and political participation regardless of ethnicity and lineage.[39]

Collective bargaining: Negotiation between employer and trade union.[40]

Commission: Authority to perform an act or exercise power: 'a military commission' means conferring the rank of an officer; a body of persons charged with some specific functions. For example a constitutional commission.[41]

Committee: A body of persons appointed or elected for performing specified tasks; may be small group within a larger body.[42]

Common law: A legal system based in British traditions whereby the courts rule on cases and build up judicial rulings on precedent and long-held practices. It has been dispersed

throughout commonwealth countries and English-speaking parts of the world. Common law systems are complemented by constitutional, statutory and regulatory law.[43]
Community: A group of people living in a particular local area; a group of people having a common ethnic or cultural or religious characteristic. Can be used to refer to a nation as a whole; 'the community'; the 'international community'; a formal grouping of nations: the 'European Community'.[44]

Compact: A voluntary agreement that binds people pursuing shared goals and values.[45]

Concurrent power: Powers that are shared by federal and constituent governments under a federal constitution. Where laws in an area of concurrency conflict, the federal law is normally paramount. For example, education and health are areas where union government and state governments in India hold concurrent powers.[46]

Conditional grants: Funds transferred by the federal government to constituent units for specific purposes and with limits on its spending that are monitored by the grantor.[47]

Confederation: A group of nations or states, or a government encompassing several states or political divisions, in which the component states retain considerable independence. The members of a confederation often delegate only a few powers to the central authority.[48]

Consensus: General agreement or accord. For example; government by consensus.[49]

Consensual democracy: The type of democracy that prevents the winners (majority party) from taking all power and provides the minorities scope for power-sharing in governance. In this system most decisions are made on the basis of the participation and consent of most parties concerned rather than on the will of the majority. Switzerland has practiced consensual democracy.[50]

Consociational democracy: A system of governance based on recognized national ethnic, linguistic or religious communities, which provides for some autonomy for these communities as well as for some joint decision-making, including the right of each community to veto unacceptable decisions. This system is often established formally or by convention and not fully recognized constitutionally. Both unitary and federal governments can have consociational features.[51]

Consolidated: Brought together to a single whole. Bodies or laws merged together.[52]

Constituency: A unit (geographical or otherwise) that elects one or more members to the legislature or other bodies.[53]

Constituent Assembly: A Constituent Assembly is a body set up to make a new, or amend the existing, constitution. Members of the Assembly are usually elected, though some may be chosen through other methods. Constituent assemblies have sometimes been very like a Parliament; in fact sometimes a nation's parliament has acted as its Constituent Assembly (like South Africa), or the Constituent Assembly has had the functions of Parliament also (like India). The Constituent Assembly exists only to make the constitution.[54]

Constituent unit: A constitutionally recognized member units of a federation which may be labelled states, provinces, cantons, Länder, etc. In a federation the constitution divides sovereign powers between a federal authority and the constituent units.[55]

Constitution: A constitution is the fundamental law, the basic law, of a country. The constitution determines the fundamental political principles of the government, rules of procedure of that government, rights and obligations of the citizenry and also sets forth methods to ensure accountability of governmental branches.[56]

Constitutional: Power or action in compliance with the provision of the constitution; related to the constitution.[57]

Constitutional bodies: Entities created by the constitution for specified tasks.[58]

Constitutional convention: A Constitutional Convention is yet another mechanism/body that can be used during a constitution building process. There is a distinction between what is called a 'general constitutional convention' and an 'unlimited constitutional convention'. Among the two, a general Constitutional Convention is employed when a country that has never before had or written a constitution embarks on this process, or if the country in question wishes to revise the entire old constitution. An unlimited Constitutional Convention aims to revise an existing constitution to the extent that it deems to be proper, whereas a limited Constitutional Convention only concerns itself with reforming, revising and/or make amendments to part of the constitution that the existing constitution allows for it to reform. Constitutional conventions have also been used by separate geographical districts in federal states in order to create, replace or revise their own constitutions.[59]

Constitutional Council: A special body of persons created by the constitution for the appointment of authorities; constitutional bodies.[60]

Constitutional Court: A constitutional court is one that has the final say in interpreting the constitution and also in deciding whether or not other national laws are in harmony with the constitution or are unconstitutional. A constitutional court is a specialised court that will not occupy itself with other types of cases that are not directly related to the constitution. Not all countries have separate constitutional courts.

Constitutional Entrenchment of Fundamental Rights: The incorporation of fundamental rights in the constitution. Amendments to these constitutional provisions normally require more than a simple, legislative majority.[61]

Constitutional Monarchy: Monarchy which derives its powers from the constitution and not from divine right (also implies that the power of the monarchy is limited).[62]

Constitutional order: Constitutional orders are political orders organized around agreed-upon legal and political institutions that operate to allocate rights and limit the exercise of power. In a constitutional order, power is "tamed" by making it less consequential. The stakes in political struggles are reduced by the creation of institutionalized processes of participation and decision making that specifies rules, rights, and limits power holders.[63]

Constitutionalism: A practice or philosophy of adherence to constitutional principles involving limits on the power of the government put by those constitutional principles and words of the constitution.[64]

Constitutionality: Conformity with the constitution. Constitutionality is a status of legality given to a law, statue, act, rules, procedures or administrative actions depending upon their conformity to constitutional provisions.[65]

Convention against torture: The United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is an international human rights instrument that aims to prevent torture around the world. The Convention requires states to take effective measures to prevent torture within their borders, and forbids states to return people to their home country if there is reason to believe they will be tortured. On February 4, 1985, the Convention was opened for signature at United Nations Headquarters in New York. At that time, representatives of the following countries signed it: Afghanistan, Argentina, Belgium, Bolivia, Costa Rica, Denmark, Dominican Republic, Finland, France, Greece, Iceland, Italy, Netherlands, Norway, Portugal, Senegal, Spain, Sweden, Switzerland and Uruguay. Subsequently, signatures were received from Venezuela on February 15, from Luxembourg and Panama on February 22, from Austria on March 14, and from the United Kingdom on March 15, 1985.[66]

Convention on the elimination of all forms of discrimination against women: Equality of rights for women is a basic principle of the United Nations. The Preamble to the Charter of the United Nations sets as one of the Organization's central goals the reaffirmation of "faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women". Originally established in 1946 as a sub-commission of the Commission on Human Rights, but quickly granted the status of full commission as a result of the pressure exerted by women's activists, the mandate of the Commission on the Status of Women (CSW) included the preparation of recommendations relating to urgent problems requiring immediate attention in the field of women's rights with the object of implementing the principle that men and women should have equal rights, and the development of proposals to give effect to such recommendations. The text of the Convention on the Elimination of All Forms of Discrimination against Women was prepared by working groups within the Commission during 1976 and extensive deliberations by a working group of the Third Committee of the General Assembly from 1977 to 1979. The Convention entered into force on September 3rd 1981and has 98 signatories.[67]

Convention on the Rights of the Child: On November 20th 1989 the UN adopted the Convention of the Rights of the Child. The Convention is the most widely ratified international human rights treaty in history, the 54 provisions of the convention, its Optional protocols, articulate the full complement of civil, political, cultural, social and economic rights for all children, based on four core principles: non-discrimination; actions taken in the best interests of the child; the right to life, survival and development; and respect for the views of the child in accordance with age and maturity. Signed by every country in the world, and currently ratified into law by all but two, the Convention and its principles have taken root in national and local legislatures, motivating governments worldwide to place children's rights and development at the forefront of their legislative agendas. Since 1990, more than 70 countries have incorporated children's codes into national legislation as part of law reform efforts based on the Convention's provisions.[68]

Convention relating to the status of refugees: The 1951 UN Convention relating to the Status of Refugees is the key legal document in defining who is a refugee, their rights and the legal obligations of states. The 1967 Protocol removed geographical and temporal restrictions from the Convention. The Convention clearly spells out who is a refugee and the kind of legal protection, other assistance and social rights he or she should receive from the states that have signed up to it. The Convention also defines a refugee's obligations to host governments and certain categories of people such as war criminals, who do not qualify for refugee status. Initially the 1951 Convention was more or less limited to protecting European refugees in the aftermath of World War II, but a 1967 Protocol expanded its scope as the problem of displacement spread around the world. Together, they have also helped inspire important regional instruments such as the 1969 OAU Refugee Convention in Africa and the 1984 Latin American Cartagena Declaration.[69]

Corruption: Use of bribery and other practices that tend to pervert behaviour, especially of officials. In order to strengthen accountability of elected officials, constitutions may take measures so that those in power do not unfairly appropriate public goods. Traditionally, laws' dealing with anti-corruption measures have been left to ordinary legislation, but as it has become an acknowledged problem that those whom benefit from corruption are the same people in charge of legislating against corruption – integrating instruments in the constitution that reach beyond current politicians' term in office are more effective in dealing with the issues. In modern constitutions, as for example the constitution of Afghanistan, it is not uncommon to include paragraphs that aim to contribute to transparency, accountability, to establish independent tribunals and other institutions where those who have committed official corruption may be prosecuted.[70]

Declaration: Formal statement: 'declaration of war'. Can also mean a document embodying or displaying an announcement or proclamation.[71]

Decentralization: A process of governance where constituent units exercise administrative, legislative and/or fiscal authority. The process is also defined in the transfer of authority from central government to lower levels of government in political, administrative and territorial hierarchy.[72]

Delegated Jurisdiction and Responsibilities: Governmental powers constitutionally assigned to one level of government which has transferred the authority to another level of government, subject to the condition that the transfer is revocable by that delegating authority.[73]

Delegated Legislation: Legislation promulgated by an authority on the basis of power conferred on that body by the legislative authority having competence over the subject matter. For instance, legislature normally delegates authority to the executive to make regulations or other detailed laws, usually within the framework of a larger piece of legislation. As well, some federations permit delegated legislation between orders of government.[74]

Delegated Powers: Powers that are assigned by one level of government to another on a revocable basis.[75]

Democracy: A system of government by and for the people. Literally means 'rule by the people'. "Democracy" is inherently difficult to define and many scholars have attempted to provide a useful and broadly accepted definition. However, at a minimum democracy

requires: 1) universal, adult suffrage; 2) recurring, free, competitive, and fair elections; 3) more than one serious political party; and 4) alternative sources of information.[76]

Devolution: A process by which administrative, executive, legislative and fiscal powers are given to constituent units. Devolution differs from federalism in that the devolved powers may be repealed, that is taken back to the centre by the central government by ordinary legislation. It is different from decentralization in the sense that devolution involves transfer of political powers whereas decentralization is usually the transfer of administrative or fiscal powers.[77]

Direct Democracy: A form of governance in which direct participation of ordinary citizens in decision-making on specific issues of national or regional importance is assured. Use of referendums to validate important decisions in representative democracies or plebiscites in a presidential system of government is a form of direct democracy. Its use is popular in Switzerland.[78]

Disability: The state of being physically or mentally disabled (lack of ability to work, etc.); absence of legal capacity to perform certain acts: child is under legal disability for example.[79]

Disadvantaged: Deprived of social, economical and political opportunities.

Discriminate: To make distinctions on the basis of class or category without regard to individual merit; show preference or prejudice.[80]

Diversity: The existence of distinct political, economical, social, cultural and demographic differences within a society.[81]

Election: The process of selecting a person of choice through voting.[82]

Election Commission: A constitutional body with responsibility for conducting elections.[83]

Electoral system: The method of converting votes into seats in an elected body.[84]

Enabling legislation: Legislation that gives specified officials the authority to implement or enforce a law.[85]

Enact: To make, or pass a law.[86]

Enshrined: Written into a document, including a constitution: 'freedom of speech is enshrined in the constitution'.[87]

Entitlement: A constitutional provision, government policy or program that guarantees and provides benefits to a particular group.[88]

Entrenched: The presence or lack of entrenchment is a fundamental feature of constitutions. Entrenchment refers to whether the constitution is legally protected from modification without a procedure of constitutional amendment. Entrenchment is an inherent feature in most written constitutions. The US constitution is an example of an entrenched constitution, and the UK constitution is an example of a constitution that is not entrenched.

Equality: The state of being equal in status and rights.[89]

Equal representation: May apply to individuals or groups. Representation proportional to the size of groups is essentially based on equal representation for individuals (representation by population). It can also apply to electoral systems, where political parties are given representation proportional to their share of the popular vote (proportional representation). Finally, in some federations, the principle is applied to groups and particularly to constituent units where each unit gets equal representation of some kind in some federal institutions, most notably the upper house of the central legislature.[90]

Equalization: Redistribution of revenues within a federation to provide a minimum equitable standard of resources for constituent units and thus to ensure citizens have a comparable level of government services regardless of their place of residence. It is typically based on a formula that takes into account either/or both the recipient government's own source revenue capacity and/or its expenditure requirements. Whatever the precise formula, such programs usually bring poorer constituent units close to a national average or national mean standard across the federation.[91]

Equalization payments: Revenue transfers from the federal government, and sometimes from richer constituent units, to offset differences in revenue-raising capacity and sometimes expenditure needs of constituent units.[92]

Ethnic diaspora: Ethnic diaspora communities are found in foreign countries and are mainly caused by population migrations, induced either by oppression in their home state or by the attraction of better economic prospects and opportunities.[93]

Ethnicity: A term used to identify specific communities on the basis of traditions, culture or language.[94]

Ethnic group: An ethnic group or ethnic community can be defined as a large or small group of people, in either traditional or advanced societies, who are united by a common inherited culture (including language, music, food, dress, and customs and practices), racial similarity, common religion, and belief in common history and ancestry and who exhibit a strong physiological sentiment of belonging to the group.[95]

Ethnoreligious conflict: A clash of cultures rooted in both objective and psychological factors that fuse lineage with religious belief-system.[96]

Ethnoreligious group: An ethnoreligious can be defined as one where ethnic and religious identities are inseparable in the making of community.[97]

Executive bargains: There are instances where neither elected bodies nor broadly representative national conferences play a formal role in the development of a new constitution. It might be that a committee appointed by the executive develops an initial for approval either by the central committee of the ruling party, in a single-party system, or by the head of state and his cabinet. Bargains in the executive are not uncommon. To bargain is to engage in communication for the purpose of forcing or inducing the opponent to accept the claim that is being put forward. To achieve this end, actors engaged in bargaining rely on threats and promises that will have to be executed outside of the assembly itself (be it in an informal setting or within a formal institution such as a Constituent Assembly or a National

Conference). Bargaining power does not derive from the power of the better argument, but from material resources, political resources, manpower, perceived legitimacy and the like. Statements that are put forward during a process of bargaining are made with a claim of being credible, meaning that the actors must express their promises and/or threats in a manner which convinces the opponents that these indeed will be carried out. However, bargaining is as many other things during the constitution building process, a careful balance act. If a final agreement is to be reached that in addition optimally should be perceived as a legitimate agreement by all parties, bargaining needs to be conducted in a manner that is constructive. The added value of such interactions might also be that former adversaries are brought together through discussions and by identifying potential common interests.[98]

Executive/Executive Power: Having power to put decisions, laws, etc. into effect (power conferred on the executive).[99] In some federations, the federal executive has extensive independent authority to make laws by decree or in circumstances of a national emergency.[100]

Exclusive competence: Power assigned exclusively to one order of government rather than being exercised concurrently in a federation.

Expert commission/committee: One of the institutions that can be used during the constitution building process is the practice of 'expert commissions', sometimes also called 'expert committees'. The commission consists of various experts in their related fields, and usually includes constitutional lawyers, political scientists, economists and attorneys. The task of the commission is to review an already existing constitution and perhaps make recommendations for amendments or to create an entirely new constitution. Whether or not the expert commission is the sole institution responsible for this task will vary from one constitution building experience to another, but it is common that institutions and mechanisms co-exist side by side. If a democratic constitution building process is sought after which means significant elements of public participation throughout the process, the expert commission is very likely to work side by side with another institutional body that holds representatives of the people. This may be in a body that constitutes democratically elected representatives of the people or a body that is actually populated by a very large number of the citizenry.

Even if the expert commission is indeed the only institution responsible for drafting the new constitution it can be composed in such a manner that it reflects the social/ethnic/religious composition of the country. The rationale underlying such an approach is to assure at least a minimum degree of representativeness. Mirroring the composition of the expert commission to that of the society in whole is of course also a method that can be chosen even if the commission works side by side with a broader representative body – as a National Conference. The approach of trying to obtain representativeness in all formal and informal for that matter, bodies during the constitution building process whether they work side by side or succeed each other might in general be considered a good idea as it is likely that a sense of mutual understanding and cooperation develops between the institutions rather than antagonism and obstruction. [101]

Extra constitutional: Something that is not provided for in the constitution, for example an extra-constitutional power. Extra-constitutional does not necessarily mean unconstitutional, that is, in violation of the constitution.[102]

Extra judicial: A measure undertaken without proper judicial authorization and contrary to the law. For example, an extra-judicial execution.[103]

Federacy: A term which refers to political arrangements where a smaller unit or units are linked to a larger unitary or federal polity, but the smaller unit or units retain considerable autonomy except over foreign affairs and defence, have a minimum role in the management of the larger one, and the relationship can be dissolved only by mutual agreement. Examples include Puerto Rico and the Northern Marianas in relation to the United States of America.[104]

Federal Constitutional Court: The final court of appeal with decisive power of resolving constitutional issues. In some federations, constitutional issues are judges by the country's Supreme Court.[105]

Federal Democracies: A federation of democratic constituent units with a democratic federal government, each with powers and authority assigned by a supreme constitution.[106]

Federal Government: The central government of a federal state. A federal government may be named in different ways such as national government in South Africa, Commonwealth government in Australia, Union government in India, and federal government in the United States of America.[107]

Federal Loyalty: Denotes loyalty of governments – federal and constituent units – toward the federal system of government. It also implies solidarity of government towards one another.[108]

Federalism: Federalism refers to a broad category of political systems in which, by contract with the single central source of political and legal authority in unitary systems, there are two or more constitutionally established orders of government, each directly elected, and each order having some autonomy from the other in terms of the powers assigned to it. The system combines elements of shared rule (collaborative partnership) through a common government and regional self-rule (constituent unit autonomy) for the governments of the constituent units.[109]

Federalism by Aggregation: The creation of a federation by joining previously independent units under a common entity.[110]

Federalism by Disaggregation: A federal system formed when a unitary state transforms itself into a federation by forming autonomous constituent units.[111]

Fiscal constitution: The constitutional division of powers among different orders of government on revenue raising responsibilities and spending powers and provisions governing intergovernmental transfers and fiscal discipline. Federations differ regarding how many of these issues, especially relating to transfers, are set down in the constitution.[112]

First-Past-the-Post system: An electoral system in which the one who receives more votes than any other candidate gets elected.[113]

Freedom of opinion and expression: Right of the people to express their ideas. Constitutionally guaranteed.[114]

Fundamental: A basic rule or principle; an essential part.[115]

Gender: Traditionally, *gender* has been used primarily to refer to categories of "masculine," "feminine," and "neuter," but in recent years the word has become well established in its use to refer to sex-based categories, as in phrases such as *gender gap* and *the politics of gender.* This usage is supported by the practice of many anthropologists, who reserve *sex* for reference to biological categories, while using *gender* to refer to social or cultural categories.[116]

Good governance: The act of governing well; exercising authority according to the rule of law.[117]

Governance: The act of governing; exercising power.[118]

Government: The governing body of a state; often same as the 'executive', but also used to cover the legislature and judiciary; 'three branches of government'.[119]

Government, cooperative: A concept used, in for example South African constitution, to refer to the nature of the relationship between different organs or levels of government.[120]

Government, local: A system of government administered by locally elected bodies; government at the local level; not used of government at level of units in a federation.[121]

High Court: It is generally the court of appeal. In India it is the highest court at the level of a constituent state. The high court may also be endowed with extraordinary jurisdiction to enforce fundamental rights and judicial review.[122]

Hierarchy of norms: A hierarchy between different categories of legal acts and how the relate to each other; which acts have precedence over other acts and during what circumstances.[123]

Homeland: Widely used in different geographical contexts to refer to the territory in which an ethnic group has a long history, a deep cultural association and strong ties in terms of identity with a country in which a particular national identity began.[124]

House of Representatives: Directly elected house of national legislature.

Human rights: "All human beings are born free and equal in dignity and peace" are the opening words of the United Nations Universal Declaration of Human Rights. Formally adopted by the United Nations on December 10, 1948, it is the most universal human rights document in existence, delineating the 30 fundamental rights that form the basis for a democratic society. The Declaration is a living document that has now been accepted as a contract between a government and its people throughout the world. [125]

Human rights are the rights individuals have because they are human. All human beings have them. However, this is not a scientific proposition rather it is a moral proposition which some might deny. What is more important from a practical point of view is that people might disagree as to the nature of these human rights. Historically these concepts are modern. Generally, however, people would accept that people have a right to security and some basic level of economic well-being. There is also a general presumption that they have a right to liberty, though many would argue that this comes after the other two because liberty is meaningless without some basic economic well-being.[126]

Human security: Human security is a multifaceted concept. It can be summarized in three categorizes: *1) Freedom from want;* Extreme poverty together with the associated

vulnerability to disease and child mortality, poses immediate, critical threats to the safety of nearly on-sixth of the world's population*; 2) Freedom from fear;* Terrorism, nuclear, chemical and biological threats, war and the risk of new wars top the agenda of human security advocates. Terrorism requires a comprehensive strategy that includes the need for a new international convention to coordinate and harmonize international reaction to these threats. Progress towards the elimination of weapons of mass destruction has taken on new urgency with the upsurge in transnational terrorism, with the risk that terrorists would use such weapons against innocent populations. Finally, war-to-democracy transitions are essential because historically, where civil wars have recurred after several years, this has usually been because underlying grievances, including economic relationships, are unresolved; 3*) Freedom to live in dignity;* Living in dignity means enjoying fundamental human rights, to include the right to democratic participation, living under the rule of law, and freedom to practice religion, express views, and live in a society that is guided by principles of tolerance. Essential to the pursuit of living in dignity is the state's 'responsibility to protect' groups and individuals in society which are the most vulnerable to violation of their human rights. [127]

Impeachment: Process under which charges are brought in Parliament against a high constitutional authority, public official or judge.[128]

Impunity: Exemption from punishment which ought to be imposed often used to refer to the failure of government to take serious steps against crime.[129]

Indigenous People: The people originating in and possessing characteristics of a particular region or country. Generally used in the international context, "indigenous" refers to peoples who are original to a particular territory.[130]

Individual Autonomy: Refers to the idea to live one's life according to reasons and motives that are taken as one's own and are not the product of manipulative or distorting external forces.[131]

Institution: There are formal as well as informal institutions. Formal institutions can be described as particular organizations established for social, educational, religious or governmental purposes, etc. Informal institutions are well-established and structured patterns of behaviour or of relationships that are accepted as a fundamental part of a culture, as marriage: the institution of the family.[132]

Integration: A process by which people of different races and ethnicities are incorporated into the national community. It is a two way process through which both members of a majority and minority groups agree to peacefully accommodate their differences.[133]

Interest Group: Also referred to as a pressure or advocacy group, it exercises influence on political institutions and the broader public in order to secure decisions favourable to it. An interest group is different from a lobby group as it not only tries to influence legislative and executive decisions but also seeks to inform and influence the broader public with regard to certain issues.[134]

Interim constitutional arrangements: Provisional constitutional arrangements which are temporarily in place. They serve as the law providing the basic structure of government until the adoption of a final constitution.[135]

Internal self-determination: International law recognizes a right to self-determination for 'peoples' who are essentially the inhabitants of a distinct country or colony; such a right includes the right to a sovereign country. This right to self-determination does not normally extend to populations within a country or colony except in cases of extreme human right abuses towards that population. Otherwise, groups or populations within a country have what is called the right to participate fully in the political life of their country. The right to internal self-determination does not include a right to secede from a State; it requires a people to express its aspirations through the national political system.[136]

International convention on the elimination of all forms of racial discrimination: The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) is a United Nations convention. A second-generation human rights instrument, the Convention commits its members to the elimination of racial discrimination and the promotion of understanding among all races. The Convention also includes an individual complaints mechanism, effectively making it enforceable against its parties. This has led to the development of a limited jurisprudence on the interpretation and implementation of the Convention. The convention was adopted and opened for signature by the United Nations General Assembly on December 21, 1965, and entered into force on January 4, 1969. As of October 2009, it had 85 signatories and 173 parties. The Convention is monitored by the Committee on the Elimination of Racial Discrimination (CERD).[137]

International covenant on civil and political rights: The International Covenant on Civil and Political Rights (ICCPR) is a multilateral treaty adopted by the United Nations General Assembly on December 16, 1966. The treaty came into force on March 23rd 1976. It commits its parties to respect the civil and political rights of individuals, including the right to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights and rights to due process and a fair trial. The ICCPR is part of the International Bill of Human Rights, along with the Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). ICCPR is monitored by the Human Rights Committee with permanent standing, to consider periodic reports submitted by member States on their compliance with the treaty. Members of the Human Rights Committee are elected by member states, but do not represent any State.[138]

International covenant on economic, social and cultural rights: The International Covenant on Economic, Social and Cultural Rights (ICESCR) is a multilateral treaty adopted by the United Nations General Assembly on December 16, 1966. The treaty entered in to forcw on January 3rd 1976. It commits its parties to work toward the granting of economic, social, and cultural rights to individuals, including labour rights and rights to health, education, and an adequate standard of living. The ICESCR is part of the International Bill of Human Rights, along with the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). The Covenant is monitored by the UN Committee on Economic, Social and Cultural Rights.[139]

Inviolable: Secure from violation; something that can not be violated.[140]

Joint governance: A federal governance system characterized by shared jurisdiction between central and constituent unit levels of government.[141]

Judicial interpretation: The method by which courts establish the meaning of constitutional provisions or legislative acts.[142]

Judicial review: Powers of the courts to decide upon the constitutionality of a legislative or an executive act and invalidate that act if it is determined to be contrary to constitutional provisions or principles.[143]

Judiciary: The branch of government that is endowed with the authority to interpret the law, adjudicates legal disputes, and otherwise administers justice. "Judiciary" is also used to refer to judges of a court considered as a group.[144]

Jurisdiction: The territorial or legislative fields over which an order of government, including the judiciary, has the authority to make laws.[145]

Justice: A public official authorized to decide questions brought before a court of justice; the quality of being just or fair; what courts, etc. dispense: 'the administration of justice'.[146]

Language community: It is a community which shares a common language.[147]

Legislation: The process of making enacted law; the body of enacted laws (note: an individual law is not 'a legislation' but a 'piece of legislation' or 'a statue').[148]

Legislature: A body of people with the power to make and change laws.[149]

Legitimacy: The state of quality of being accepted as legitimate, lawful or right. It can refer to a system being accepted as legitimate by the population, or have a narrow meaning of legal legitimacy as recognized by the courts.[150]

Liability: Legal responsibility.[151]

Liberties/Freedoms: Liberty is a state of being free to enjoy various social, political or economical rights and privileges. The concept of liberty forms the core of all democratic principles. The meaning of liberty includes an individual's right to freedom from coercion and freedom to act. In the plural case, liberties incorporate fundamental freedoms guaranteed by the constitution.[152]

Local government: Government of a village, city, county, parish, township, municipality, borough, board, district, or other general purpose political subdivision of a state at the local level.[153]

Local self-government: Government of an area smaller than the territory of a federation or a constituent unit of a federation. This may be called a village, town, city, county, district or region. True self-government implies a democratically elected body representing the local inhabitants with sufficient autonomy and resources to pursue locally determined priorities.[154]

Majoritarianism: The view that a numerical majority (sometimes categorized by religion, language, or some other identifying factor) of the population is entitled to make decisions that affect the whole of society. The danger this poses to minorities of various types has been invoked to justify constraints on what a majority can do, especially through bills of

fundamental rights, language protections, special decision rules on sensitive issues or through devolution of powers to constituent units in a federation.[155]

Majority: Either 'more than half' or 'the largest number'; the number by which votes for one are more than those for another; 'a majority of 3'.[156]

Majority, absolute: Complete majority – (that is of more than half, not just the largest number of votes).[157]
Majority community: A group constituting more than one half of the total population within a given territory.[158]

Marginalized groups: Groups within society and a state that have been traditionally excluded from meaningful participation in society and deprived of opportunities for realization of their potential.[159]

Mechanism: An institution for doing something: 'an act…must provide for appropriate mechanisms and procedures to facilitate settlement of disputes'.[160]

Metropolitan region: An urban administrative or developmental region consisting of at least one large city, its suburbs, periphery and influence are which may be considered as one unit for the purpose of planning.[161]

Minority community: A sub-group within a larger population, which may live on a given territory, which does not form either a majority or a plurality. Definitions of a minority group sometimes refer to a group that is disadvantaged in relation to a dominant group in terms of its social status, education, employment, health and political power, whatever its numerical size.[162]

Mixed electoral system: A combined electoral system of first-past-the-post and the proportional list system.[163]

Monarchy: A form of government in which a monarch, usually a single person, is the hereditary head of the state. In most monarchies, a monarch holds his/her position for life. The position may be largely symbolic or powerful.[164]

Mother tongue: One's native language.[165]

Multiculturalism: The practice of acknowledging and respecting the equality of various cultures, religions, races and ethnicities within a country or a territory.[166]

Multiethnic: Country or society characterized by having many ethnic groups.[167]

Multilingual: Country or society speaking or using many languages.[168]

Multinational state: A state which incorporates more than one nation. Some federations are composed of a single nation but others are multinational. A nation-state is a state composed of one nation.[169]

Multiparty: Political system or state having more than one party.[170]

Municipal Organic Charters: Cities and counties are sometimes accorded the right to draft and adopt charters. These instruments of local self-government are called municipal organic charters.[171]

Municipality: A local government often centered in a town or a city.[172]

Nation: A community of people who share a common identity and who decide or want to decide about their destiny through concerted political action. Such action is directed at gaining, preserving, or strengthening statehood. "Nation" may also be understood in its ethnic sense when the term refers to a form of self-defined cultural and social community which shares a common history, language, distinctive lifestyle and a homeland.[173]

National Assembly: It is either a legislature, or the lower house of bicameral legislature in some countries. In federations it usually refers to a legislative house of the federal government, but sometimes the title is used for a provincial legislature such as that of Canada's province of Quebec.[174]

National community: Refers to the group of people forming a nation. Sometimes it also denotes the population of a state. In many nation-states, the national community refers to all of its people.[175]

National Conference: A National Conference, or a "National Convention", usually includes a much larger number of delegates than a Constituent Assembly or other formal legislative bodies that can be employed in the constitution building process. In a National Conference a certain number of seats are set a side for delegates from political groups, civil society organizations, economic organizations, human rights organizations, community group organization, religious organizations, women organizations, trade unions, labour organizations, etc. A broadly representative organizing committee is responsible for deciding how the seats are allocated among these various organizations, political parties and communities of interest. The various sectors decide among themselves how to elect their members to the National Conference. The model of a National Conference is most commonly used in countries that are emerging from one-party rule or military governments. In these instances there are not, and probably has not been for quite some time, a sufficient number of political parties that are able to represent the broader public which is why it would not be democratically legitimate to only include members from the political elite in the formal body ultimately chosen to guide the constitution building process. Thus, a broad National Conference might be a better option from a democratic point of view. The most common way to proceed is that the conference agrees on constitutional principles that are immutable and then elects a transitional legislature that is tasked to transform those principles into a text, deliberate about proposed provisions (by the conference) and send a final draft to a national referendum.[176]

National Language: Sometimes used to mean the 'official language'; sometimes just a recognition that other languages are as significant to the country.[177]

National ownership: The effective exercise of a government's authority over development policies and activities, including those that rely – entirely or partially – on external resources. For governments, this means articulating the national development agenda and establishing authoritative policies and strategies.[178]

Nationality: Membership in the community of a particular nation. In nation-states, nationality and citizenship are sometimes used interchangeably and the term depicts the relationship between a person and their state of origin, culture, association, affiliation, and/or loyalty. When used differently, nationality is an ethnic marker of identification while citizenship affords the state jurisdiction over the person, and affords the person the protection of the State.[179]

Nationhood: The quality of being a nation; sometimes also the fact of achieving national independence or autonomy.[180]

Native community: The original inhabitants in a specified territory of a state who are bonded by common language, culture and tradition.[181]

Naturalized Citizenship: A citizen originally from another nationality but made a citizen by a specified legal process which requires the person to make a choice/application and may well involve a discretion on the part of the authorities.[182]

Natural resources: Resources supplied by nature. These are commonly sub-divided into non-renewable resources, such as minerals and fossil fuels, and renewable (when properly managed) natural resources, including water, wind, fisheries, and agricultural land.[183]

Non-discrimination: Treating persons equally without taking account of irrelevant differences.[184]

Non-territorial federalism: Creates governing structure linked to ethno-linguistic communities, rather than the territories in a federation. It may apply when minorities are spread out in different parts of the territory of the same state, yet feel a common identity. In a non-territorial federation the persons belonging to a particular community regardless of their geographical place of residence form an entity of a federation and enjoy identity, autonomy and representation. In Belgium the linguistic communities are accorded such a status for certain powers, while territorial communities have other powers. Therefore, Belgium is regarded as having a certain degree of non-territorial federalism. This is an unusual arrangement.[185]

Norms: Standards and patterns of social behaviour of a group; in constitutions more likely to refer to standards laid down by international laws as something that ought to be obeyed rather than a mere description.[186]

Obligation: A duty – legal or other.[187]

Official language: Language used in government, business and communications.[188]

Oligarchy: A form of government where political power effectively rests with a small elite segment of society (whether distinguished by wealth, family, military powers or spiritual hegemony). The word *oligarchy* is translated into 'rule by few'. It needs to be understood in contrast to democracy.[189]

Ombudsman: A Swedish word meaning 'spokesperson' but referring to an official receiving complaints from the public and able to inquire into them, usually relating to behaviour of officials.[190]

Opposition: The state or act of opposing; (more likely in constitution), the members of the main house of the legislature who are not supporting the government.[191]

Orders of government: The vertical division within a system of federal government; typically one overarching central government, several broad regional governments that are the constituent units, and a multitude of local governments, notably municipalities.[192]

Ordinances: Provisional law made by the executive under the authority of the constitution and not of another statue.[193]

Original states: Those constituent units of a federation that pre-existed the union and were instrumental in its formation.[194]

Overlapping jurisdiction: A subject matter where two or more orders of government are constitutionally permitted to act. [195]

Paragraph: In constitutions, usually refers to a part of the constitution or a schedule.[196]

Parliament: A legislature that formulates laws, adopts the budget and forms the government in a parliamentary system of governance. It also plays the role of making the executive of the government (cabinet) accountable and scrutinizes government policies and programs.[197]

Parliamentary organs (as a constitution building mechanism): Not all countries that have initiated constitution building processes, be it constitutional reform or drafting an entirely new constitution, have chosen to install specific legal bodies for the sake of the procedure. The common approach, if formal bodies are not opted for, is to task the national legislature with the main charge of deliberating and revising/drafting the constitution. When a parliamentary organ is chosen to be the main force and driver behind the process the chief difference in its working procedure is that the voting rules, normally, change – requiring higher majorities. Instead of using specially appointed commissions or sub-commissions as is common procedure if a Constituent Assembly is involved in the procedure, constitutional drafting in a 'parliamentary organ' approach is most frequently made by the executive branch. The executive branch may, or may not, prepare the text in consultation with members of society. Sometimes the largest political party drafts the first draft of the constitutional text after which it is handed by the executive to the legislature for discussion before approval. On occasion, when this specific model for drafting is employed, the legislature itself prepares the first draft of the text and public hearing may subsequently be organized. By and large, democratic legitimacy is not secured to the same degree in this model of constitution building as when using a Constituent Assembly or a National Conference as specific bodies in the process.[198]

Parliamentary sovereignty: A constitutional concept in some parliamentary democracies where parliament has unlimited power to make laws. Its power extends to changing constitutional rules, judicial precedents, legislative acts and executive decisions. When parliamentary sovereignty prevails, the judiciary has no right to invalidate the acts passed by the parliament. It can only interpret the laws passed by the parliament. Instances of parliamentary sovereignty exist in the United Kingdom, Israel and New Zealand.[199]

Parliamentary system: A system of government in which the executive is composed of a select group of members of Parliament, called the cabinet, which is accountable to Parliament.

The executive is dependent on direct or indirect support of the legislative (often termed the parliament), frequently expressed through a vote of confidence. Also known as parliamentarism; examples include the United Kingdom and India.[200]

Participatory democracy: Democracy that does not limit citizen's participations to elections but creates opportunities for citizens' direct participation in decision making without the intermediary of elected or appointed representatives.[201]

Partisan: Showing too much support for one person, group or cause.[202]

Party: A political organization whose members have the same aim and belief; side in an argument or court case.[203]

Pending: Waiting to be decided or settled: 'pending case'.[204]

Petition: A formal written request appealing to somebody in authority (sometimes specifically to Parliament); a formal application made to a court of law.[205]

Plural society: A society in which two or more distinct cultural, religious or social groups co-exist.[206]

Pluralism: A system or philosophy, which in the name of respect for diversity, acknowledges the existence of different political opinions, moral and religious beliefs, and cultural and social behaviour.[207]

Pluralistic values: These are values based on diverse religious and/or political beliefs and views of the world.[208]

Plurinational identities: An individual has plural national identities when he or she belongs to, or self-affiliates with, more than one nation. For example, Scots have plural national identities – Scottish and British.[209]

Plurinational state: It is a state in which the population consists of two or more nationalities – a multinational state. In prescriptive terms, a state that respects and encourages the socio-cultural diversity of the population is considered to be a plurinational state.[210]

Policy: A plan of action, statement of ideas, etc. proposed or adopted.[211]

Political bargaining: Political negotiation or agreement.[212]

Political plurality: Free operation of a full range of interests and expression in a political system.[213]

Pooling station: A place where voters cast votes.[214]

Popular initiative: Constitutional building processes, primarily reforms proposals, can be instigated through popular initiative. This is however still rather uncommon – actually, the only country specific examples where this approach/mechanism have been applied is in Switzerland and in the State of California. Switzerland, perhaps, since it is one of few nations in the world where mandatory referendums are required on all constitutional issues. The

approach of making all constitutional matters compulsory for referendums by the citizenry may actually stimulate the population of the country in question to actively engage in constitutional issues and bring new reform proposals to the forefront of discussions – spurring and keeping the constitution building exercise a truly live and vibrant process. A country that allows popular initiatives for constitutional reform, meaning that it in its constitution in fact has a specific provision stating the right of the public to initiate revisions to parts of or the entire constitution, has taken the vision of participatory constitution building and made it to a reality. Usually, the clause that defines popular initiative as an option for constitutional reform or revision also states the number of signatures required for such a process to be initiated. One can imagine that people who live in a country where such a policy is exercised are not only well acquainted with their constitution but also constantly evaluate that constitution on the basis of their understanding of the nation and also the world. Where popular initiatives are allowed and constitutionally supported the constitution building exercise is a constant process allowing the constitution to evolve and indeed be a document "of its time" as the population may very well be inspired to initiate reform proposals that resonate with the current values of their time. Allowing popular initiatives to reform parts of or the entire constitution also brings more stakeholders to the constitution building "circle" so to speak. When using a 'popular initiative' approach civil society organizations, individuals, labour organizations, trade unions, etc. know that they themselves can initiate a constitutional reform process without having to wait for a constitutional assembly, a national parliament, a national conference or the government to do this. In other words, popular initiatives, as the word already makes clear – makes the people the prime initiators behind constitutional reform and/or revision which in turn brings an entirely different dimension to the issue of legitimacy of the final document.[215]

Positive discrimination: Refers to the idea that marginalized social groups should be provided special privileges and opportunities to compensate them for past injustices as measures of retribution.[216]

Power: The right, ability or authority to perform an act. It also refers to legal capacity to do something: for example, legislative power means power to make laws.[217]

Power-sharing: This term is used to describe a system of governance in which all or some groups of society, usually defined along territorial, ethnic, racial, linguistic or religious lines, are guaranteed a permanent share of power. Power-sharing arrangements include guaranteed political representation in public institutions, protection of minority rights or group rights, federalism or consociationalism. It also implies sharing of power by various political parties in a parliamentary system. In federal structures, horizontal power-sharing refers to division of power between different components of a federal system while vertical power-sharing is the division of power between different levels of government.[218]

Preamble: The preamble is the introductory part of the constitution that normally sets out some, or all, of the following: the history of the constitution, the values and aspirations of the people, the nature of the state and the authority under which the constitution is made. The preamble is still one of the oldest and most common ways of incorporating values and may also hold great symbolic significance.[219]

Prejudicial: Affecting somebody unfavourably: 'prejudicial publicity'.[220]

Premier: The head of government, especially at a level below the national government.[221]

Prescribed: Authoritatively required: 'prescribed by law' means law requires that it be done.[222]

President: The executive head in a presidential system of government who serves as head of state, and in some cases, head of government. In some parliamentary systems, like India, the president is the only head of state, which is a largely ceremonial function. In some cases, such as the United States and Latin American federations, the President serves as the elected head of government as well as head of state.[223]

Presidential system: A system of governance in which the office of the head of state and head of government is combined and usually referred to as a president; and the president is directly elected by the people for a fixed term.[224]

Prime Minister: The head of government chairing the council of ministers (used in the parliamentary system of government) – and in federal parliamentary systems refer to the head of government at the national level.[225]

Principles: Guiding rules or a system of moral behaviour.[226]

Procedure: The rules and methods of a legal process or those of parliament or other body.[227]

Proceedings: On-going activity of a body such as a court, legislature or conference.[228]

Process: A particular course of action intended to achieve a result (may be a prosecution process, legislative process, budgetary process, etc.)[229]

Proclamation: A formal public statement.[230]

Procurement: The act of getting possession of something (in constitutions usually the process by which the government decides on and acquires services, goods, etc.)[231]

Progressive: Moving forward: 'progressive realization of rights; 'progressive taxation'; 'progressive person' (having modern ideas).[232]

Promulgate: Put a law into effect by a formal proclamation.[233]

Proportional electoral system: A family of electoral systems based on the principle that the proportion of seats won by a party should correspond to its share of the overall votes.[234]

Proportional representation: A system of electing members of the legislature, in which the number of seats allocated to a particular party, is determined by the percentage of the popular vote won by that party. This system is used in many countries, including most European countries.[235]

Protection of minorities: Involves constitutional and statutory principles for guaranteeing fundamental freedoms of minority groups. It also involves the representation of linguistic, cultural or other minorities in the various levels of governance, the meaning of protection of minorities also extends to ensuring constitutional measures of self-governance to minority groups.[236]

Protocol on the rights of women in Africa: On 26 October 2005, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa received its 15th ratification, meaning the Protocol entered into force on 25 November 2005. This marked a milestone in the protection and promotion of women's rights in Africa, creating new rights for women in terms of international standards. This groundbreaking Protocol, for the first time in international law, explicitly sets forth the reproductive right of women to medical abortion when pregnancy results from rape or incest or when the continuation of pregnancy endangers the health or life of the mother. In another first, the Protocol explicitly calls for the legal prohibition of female genital mutilation, and prohibits the abuse of women in advertising and pornography. The Protocol sets forth a broad range of economic and social welfare rights for women. The rights of particularly vulnerable groups of women, including widows, elderly women, disabled women and "women in distress," which includes poor women, women from marginalized populations groups, and pregnant or nursing women in detention are specifically recognized.[237]

Province/Provincial: A term to disrobe a territorial constituent unit within a federation.[238]

Provincial equality: The term is used in the context of symmetric federalism to point to the equal status of constituent units in federations. In economics the term refers to the ideal of a federal system seeking to equalize standards in all provinces through measures of equalization payments.[239]

Provision: A stipulation or qualification, especially a clause in a document or agreement: 'the provisions of this constitution'; 'the provision of services'.[240]

Public: Not private; open to; concerning the people as a whole.[241]

Quorum: The minimum number of members of an organization (e.g. Parliament) needed to conduct business.[242]

Quota: An assigned share, for example of parliamentary seats, assigned to a specific group of people (ethnic group, women, religious group, linguistic group, etc.).

Race: A category of people distinguished from others on the basis of visible characteristics (e.g. skin colour or hair type) or self-identification.[243]

Ratification: Making something valid by formally approving or confirming it: 'a referendum may ratify a constitution'; 'Parliament may ratify a treaty'.[244]

Reconciliation: Re-establishing cordial relations.[245]

Re-enact: In constitutions means to repeat the process of turning a document into law (because it has expired).[246]

Referendum: A popular vote by the electorate to decide an issue, not to choose people.[247]

Referral of power: Constitutional provision allowing one level of government to transfer or delegate authority to act to another level of government over a stipulated subject matter of jurisdiction.[248]

Region: An area having some characteristics that distinguish it from other areas. It can also be used to denote territorial, administrative or political boundaries of constituent units of a federation.[249]

Religion: Belief in and reverence for a supernatural power or powers regarded as creator and governor of the universe; a particular system of faith and worship based in religious belief.[250]

Representation: Acting on behalf of another (e.g. legal representation): 'the function of a member of Parliament is the representation of his constituency'.[251]

Representative government: A system of government where the legislative and executive bodies are filled, directly or indirectly, through a process of regular elections.[252]

Republic: A state in which power is held by the people and their elected representatives and which has an elected president as head of state rather than a monarch.[253]

Reservation: A process of positive discrimination to ensure adequate representation of marginalized groups in legislative and executive positions.[254]

Reserved powers: Reserved powers are the powers that are neither delegated to the federal government nor prohibited from being assigned to the constituent units. They are reserved to the people, or to the constituent units. The Reserved Powers under the Tenth Amendment to the U.S. constitution is an example.[255]

Residual powers: Those unidentified powers that are left by a federal constitution either implicitly or explicitly to a particular order of government in contrast to explicitly assigned enumerated powers. In the United States such powers are reserved to the people or to the state.[256]

Resolution: A formal decision made by a body like Parliament; determining a matter of dispute: 'resolution of a dispute'.[257]

Responsiveness: The ability and readiness of a government to respond rapidly to societal changes, to take into account the expectations of civil society in identifying the general public interest and to critically examine its actions and policies.[258]

Revenue sharing: Arrangements for sharing revenue between orders of government, usually from the federal government to its constituent units according to an established formula or practice.[259]

Rule of law: It is a doctrine that holds that no individual is above the law and everyone regardless of their social status is equal before law. It is a condition in which every member of society including its ruler accepts the authority of the law. This carries the implication that this applies equally to all levels of government.[260]

Secret ballot: A system of voting in which one's choice of candidate is kept secret.[261]

Secular state: A secular state is a state or a country that is officially neutral in matters of religion, neither supporting nor opposing any particular religious system. This belief of keeping state affairs free from religion arises out of ideology of secularism.[262]

Secularism: An ideology according to which religion or religious beliefs should be excluded from certain human activities and decisions, especially those pertaining to public and political affairs.[263]

Self-determination: In modern international law, a collective "people's right" to govern their affairs. This may not equate to a right to nationhood, but at a minimum ensures the right of a people to preserve its language and heritage. The United Nation's Charter and Convention 169 of the International Labour Organization elaborate on the conditions under which a people may have some politically autonomous rights where its rights would otherwise be restricted.[264]

Self-executing: Used of treaty that has legal effect without any need for national legislation (literally means it needs nothing else to be legally effective).[265]

Self-government: The ability of peoples to govern themselves according to their values, cultures and traditions. In its wider sense, this also refers to institutions of local government in a federal or unitary system.[266]

Semi-direct democracy: A system of representative democracy in which use of plebiscite is sometimes made to legitimize decisions.[267]

Senate: The name given to a second chamber or upper house of a bicameral federal legislature in several federations including Argentina, Brazil, Canada, Mexico, Nigeria, Spain and the United States.[268]

Separation of powers: Refers to the allocation of powers amongst the branches of a government (whether federal or constituent unit). In the United States of America and Latin American federations, the term "separation of powers" applies to the separation in the federal government between the Presidency, Supreme Court and Congress. It relates to the concept of checks and balances.[269]

Sexual orientation: Preference in sexual relations; attraction to people of the opposite sex, same sex or both.[270]

Shared revenues: Revenues that are shared between two or more orders of government. Typically the federal government collects shared revenues. Constituent units normally receive their portion without conditions regarding their use.[271]

Society: The totality of social relationships among humans; a group of humans broadly distinguished from other groups by mutual interests, participation in characteristic relationships, shared institutions and a common culture.[272]

Sovereign: A person with the highest power in a country, especially a king or a queen.[273]

Sovereignty: The principle that the state exercises absolute power over its territory and population. It also includes the freedom of a state to determine its foreign relations with other states and be a member of international organizations.[274]

Special autonomous area: Special arrangement for an ethnic minority community's self-administration within the constituent unit of a federation so that the community has some measure of self-government in relation to its culture, language, custom and traditions.[275]

State: A political association with sovereign control over a geographic area. It may be a nation state, or a multinational state. A state usually includes the set of institutions that claim the authority to make the rules that govern the exercise of coercive power for the people on the society in that territory. Its status as a state in international law depends in part on being recognized as such by a number of other states.[276]

State of emergency: Situation officially declared in a country due to certain conditions whereby certain extra powers are given to the executive.[277]

Sub-constitutional: Rules and institutional arrangements that may have the force of law but of ordinary (legislative acts) rather than constitutional law.[278]

Submissions: Documents/arguments formally presented.[279]

Subsidiarity: The principle that powers should be exercised at the lowest level of government at which they can efficiently be exercised. Some countries adopt this principle through devolution of power.[280]

Supremacy clause: Under the supremacy clause of the United States constitution, Congress can enact legislation that may supersede state authority and pre-empt state legislation.[281]

Supreme Court: In most cases, the highest court within the legal system. It is the highest appellate court for all other courts in the state. Also, the highest court for constitutional and other laws in Canada, India, Mexico, Nigeria and the United States.[282]

Territorial autonomy: A measure of self-government for the people living in a territorial unit within the larger state.[283]

Territorial federalism: The conventional division of the federal system into geographically defined constituent units rather than linguistic, cultural, ethnic, occupational or other bases of identity.[284]

Territory: The geographical area under the jurisdiction of a sovereign state; a region marked off for administrative or other purposes; also refers to he area of constituent units in territorial federalism.[285]

Tier of government: Level of government.[286]

Transition: The process or period of changing from one state or condition to another ('transitional provisions' in a constitution cover the move from one constitution to another).[287]

Transitional government: A government in office, usually after major political change in a country, for a temporary period until a duly elected government assumes the office after adopting a new constitution.[288]

Transparency: The state or quality of being transparent; in constitutions usually used of government processes being open to public scrutiny.[289]

Unconstitutional: Contrary to the provisions of the constitution.[290]

Unicameral: Legislature composed of one chamber.[291]

Union: The term is used to describe the association of nation states such as the European Union; it also refers to unitary governments, such as the United Kingdom, and to federations, such as the Union of India. Thus, the term can refer to a federation as a whole, or to the national order of governance; in the case of India, Union is the official term for the federation and its central government.[292]

Universal declaration of human rights: In 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights as a bulwark against oppression and discrimination. In the wake of a devastating world war, which had witnessed some of the most barbarous crimes in human history, the Universal Declaration marked the first time that the rights and freedoms of individuals were set forth in such detail. It also represented the first international recognition that human rights and fundamental freedoms are applicable to every person, everywhere. In this sense, the Universal Declaration was a landmark achievement in world history. Today, it continues to affect people's lives and inspire human rights activism and legislation all over the world. The Universal Declaration is remarkable in two fundamental aspects. In 1948, the then 58 Member States of the United Nations represented a range of ideologies, political systems and religious and cultural backgrounds, as well as different stages of economic development. The authors of the Declaration, themselves from different regions of the world, sought to ensure that the draft text would reflect these different cultural traditions and incorporate common values inherent in the world's principal legal systems and religious and philosophical traditions. Most important, the Universal Declaration was to be a common statement of mutual aspirations -- a shared vision of a more equitable and just world. The success of their endeavour is demonstrated by the virtually universal acceptance of the Declaration. Today, the Universal Declaration, translated into nearly 250 national and local languages, is the best known and most cited human rights document in the world. The foundation of international human rights law, the Universal Declaration serves as a model for numerous international treaties and declarations and is incorporated in the constitutions and laws of many countries.[293]

Wealth sharing: Sharing of wealth by different levels of government in a federal system by an agreed formula or principles. The wealth of a federation is often defined broadly to include natural resources, human resources, historical and cultural assets and financial assets, including public institutions. The definition of wealth extends to the means, institutions, policies and opportunities that affect the creation and distribution of wealth in addition to a territory's physical resources and government revenues. A key dimension of wealth is fair participation in decision-making that affects the generation of wealth and allocation of resources.[294]

Vest: To place legal power or right in a person or body (e.g. Parliament is vested with the power of making laws, or property is vested in a person, or 'executive power is vested in tge head of state', etc.). Note: most often seen in the form 'vested'.[295]

Veto: Valid power that one can exercise to block a decision (e.g. the power that a head of state has to reject a bill passed by the legislature).[296]

Xenophobia: An unreasonable fear or hatred of foreigners or strangers or of that which is foreign or strange.[297]

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