

# Secretariat to a Constitution-Making Body

An efficient and effective Secretariat to the Constitution-Making Body (CMB) is a critical support structure for any constitution-making process. CMBs have established different types of administrative/technical support bodies/organizations with varying degrees of success. This page outlines the *what* and *how* of establishing and running a CMB Secretariat, drawing on good practice and lessons learned from previous efforts.

This paper discusses the following topics:

1. Establishing a CMB Secretariat
2. Functions of a CMB Secretariat
3. Leadership of a CMB Secretariat
4. Units the CMB Secretariat
5. Recruitment into a CMB Secretariat

## 1 ESTABLISHING A CMB SECRETARIAT

Once a decision has been made regarding [what type of CMB\(s\)](#) will be responsible for guiding the constitution-making process, it will be necessary to consider how the CMB will be supported. Where an existing legislature will be responsible for the process, the existing Secretariat should be able to provide support. That said, in many countries, such Secretariats are often under-capacitated and under-resourced, such that there may still need to be an additional injection of personnel, resources and capacity development support to ensure the Secretariat can provide timely and proper support services to the CMB. In particular, experience has shown that extra resources will be needed to support [civic education](#) and [public consultations](#). For example, in Tunisia and South Africa, the Constituent Assemblies also operated as legislatures and new Secretariats were established to service the respective constitution-making mandates.

Where a new CMB is being established, it is typically necessary to establish an entirely new Secretariat. For example, in Sierra Leone and Liberia, new Secretariats were established to support their Constitutional Review Commissions. In Yemen, a new Secretariat was set up to support the National Dialogue Conference and it was maintained, in a slightly changed form, to support the Constitutional Drafting Commission and the National Body appointed to endorse the constitution.

## 2 FUNCTIONS OF A CMB SECRETARIAT

Secretariats need to be designed to respond to the specific needs of the CMB they are supporting. Some variables that will inform the specifications of the Secretariat include: (a) the size of the CMB, including the number of working committees; (b) the scope of the mandate of

the CMB; and (c) the size and nature of the public engagement ([civic education](#) and [consultation](#)) process.

Regardless, experience has shown that there are usually four key areas of work which need to be addressed by a Secretariat:

- **Secretarial services** to CMB Members and Thematic Committees to ensure that the Constitution is drafted on the basis of good legal practice, quality analysis and high quality drafting inputs.
- **Communication services** for the CMB itself, to manage media relations and ensure that the public knows what the CMB is doing and are kept updated through a transparent and inclusive process.
- **Education and outreach services** to undertake broad-based [civic education](#) and [public consultation](#) to inform the public on issues and gather inputs to ensure that the final Constitution is informed by public priorities.
- **Administration services** to ensure that the delivery of Secretariat services is timely, efficient and accountable.

A fuller list of the activities and tasks typically undertaken by administrative constitution making bodies can be found at pages 149-150 of the [Interpeace handbook](#).

The organigram below depicts a typical Secretariat structure. Again, great variation is possible. Some countries (Kenya, for example) have had Secretariat local offices, to profile the CMB throughout the country and to enable better engagement with the public and stakeholders outside the capital city. In such a case, the organigram will need to clarify how such satellite offices are managed and report back to the central Secretariat and processes put in place to ensure effective information sharing and coordination of efforts.



### 3 LEADERSHIP OF A CMB

A CMB Secretariat is usually headed by an individual administrator. Terminology ranges with this person being called a Clerk, Secretary General or Chief Executive Officer). Common to all of these positions is that the head of the Secretariat is responsible for ensuring the efficient provision of services by the CMB Secretariat in support of the overall CMB mandate or [CMB Strategy](#).

Appointment of the Secretariat Head can be a complex issue. In some circumstances, especially where the CMB is also the legislature, there will be legislation setting out the appointment process. For example the Clerk of Parliament is commonly appointed by the Public Service Commission or Parliamentary Service Commission as a merit-based, non-partisan civic servant. Where a CMB is being set up from scratch, however, there is greater variation – the Secretariat Head may be appointed through the CMB law or decree, a separate law or decree, or may be appointed by the CMB Chairperson or by a CMB Business Committee.

It is important that the Secretariat Head be appointed in a manner that allows for a positive working relationship between the Secretariat and the CMB, that the CMB has confidence in the person, and that he/she is answerable to the CMB. In some processes a body other than the CMB has appointed the Secretariat Head, either for political reasons or to save time and get the Secretariat up and running before or while the CMB is being formed (eg, Kenya Committee of Experts Secretariat Head). In such a case, mechanisms should be put in place to ensure that the CMB nonetheless has appropriate authority over the Secretariat through its head. In partisan CMBs (a Constituent Assembly or legislature, for example,) a committee of constitution-makers might collectively agree on a Secretariat Head to avoid the reality or perception that the Secretariat Head favors one faction of the CMB.

For the purpose of the public service, the Secretariat Head is usually legally the Chief Executive and Accounting Officer and thus accountable for managing public servants in the Secretariat and public funds. The Secretariat Head may be directly accountable to the CMB Chairperson, a CMB Business Committee or some other selected group of CMB Members.

### 4 UNITS IN THE CMB SECRETARIAT

There are four logically separate areas in the organizational structure of a Secretariat. For this reason, it is suggested that the Secretariat Head has four deputies to deal with each of the specialist areas. Three of the four pillars (Secretarial Services, Education and Outreach, and Communications) support the CMB, while Administration supports the Secretariat itself.

#### 4.1 Secretarial Services

This set of services is crucial to ensuring that CMB Members can access technical advice and services that will enable the CMB to draft a Constitution. Regardless of how the organigram of the Secretariat is eventually devised, it is important that the following services are available:

- **Research services:** Research is an area where the CMB is likely to need substantial support, including comparative constitutional research. Sometimes, a CMB may consider outsourcing some of these services, for example, research may be done by local universities and legislative services may be provided by international partners or private sector lawyers. It will be critical that either the Secretariat can provide a strong research function or at the very least have a core staff to at least manage and provide quality assurance for outsourced research services.
- **Secretarial support:** CMBs require secretarial support, including note-taking, minute-taking, agenda management and report writing. Such staff will also need to engage with: Legal and Research Staff, who can provide technical advice to Committee Members; with Logistics Staff, who can assist with organizing public hearings; and with the Stakeholder Management Staff, who can assist with identifying experts and others who can

participate in public hearings. Some but not all CMBs divide into Thematic Committees to deal with specific constitutional topics or committees that undertake expert and/or public hearings. These committees will each require dedicated secretarial staff.

- **Information Management services:** Managing the multitude of documents produced by the CMB, its Committees, and the various Secretariat teams is essential. It requires staff capable of setting up the social media, database systems and computer networks necessary to manage a range of inputs as well as information management experts who can design a system of record-keeping and archiving.
- **Legal services:** The Secretariat needs to be able to provide Members with legal analysis and legislative drafting support, to help them analyze their options and design provisions which meet their needs.

#### 4.2 Education & Outreach Services

A core part of the CMB's work will be engaging with stakeholders and members of the public. This can be a complex task, and experience has shown that even Secretariats to existing legislatures often require supplementation of this capacity. Regardless of what organizational structure is decided upon for the Secretariat, the following services are often needed:

- **Stakeholder management:** It will be important to have staff with the capacity to identify key experts and organizations that should be consulted on the constitution-making process, with particular emphasis on identifying political elites (government officials, legislators, political parties, etc.) and marginalized groups. Staff should be tasked with proactively and regularly engaging with such people and groups, to make sure their support is maintained and they are a meaningful part of the process.
- **Public participation:** Facilitating the engagement of the public in the constitution-making process is a core task. It will be important to dedicate sufficient staff able to undertake both [civic education](#) and [public consultations](#). This will require staff that understand adult education techniques and have expertise in developing educational materials. Some staff should also know how to develop innovative consultation approaches. In this context, staff should work with the Communications Services Team to ensure consistent messaging and to develop public information materials, and could usefully tap the Social Media Staff to maximize their public outreach activities. The Stakeholder Management Staff will also help manage relationships with civil society organizations that are often used to implement/support CMB public participation programmes. Another core function of public participation is ensuring that public feedback (on drafts of feedback more generally) is captured and presented to drafters in an organized and useable manner so that it may be reflected in the final draft and [report\(s\) of the CMB](#).
- **Training:** In support of the civic education and public consultation activities of the CMB, as well as capacity development support for members and awareness raising work more generally, it is common for a CMB Secretariat to include dedicated training staff that can design and manage the implementation of training programmes.

#### 4.3 [Communication Services](#)

In addition to the proactive outreach and education that the CMB needs to engage in, the CMB also needs to operate transparently by communicating regularly about what the CMB is doing and why. Regardless of the structure of the Secretariat, the following services are often needed:

- **Media Liaison:** At a minimum, the CMB needs to engage a Spokesperson who is empowered to speak to the media and answer their questions. Staff should also have the capacity to draft press releases and packages, talking points, and to organize press conferences. This team can also liaise with the Stakeholder Management Team to ensure consistent messaging.
- **Publications:** The CMB Secretariat will likely want to produce publications in addition to civic education material, such as brochures on the CMB, regular reports on the progress, and [reports on constitutional drafts](#).
- **Social media:** With the advent of new technologies, the CMB Secretariat would do well to invest in online technologies to get their message out. In this context, it is important to

have staff capable of designing/managing a CMB website, as well as maintaining and producing social media content on platforms such as Facebook and Twitter.

#### 4.4 Administrative Services

Any CMB Secretariat will be required to provide basic administrative services to ensure that the CMB has the staff and funds to deliver on its mandate. Regardless of the structure of the Secretariat, the following services are needed:

- **Human Resources:** A basic core of staff will need to be engaged to manage the recruitment and performance of CMB Secretariat staff, as well as short-term consultants and the like.
- **Finance:** CMBs often deal with considerable amounts of money, whether government funds or donor assistance. This requires staff with strong accounting, budgeting, financial record-keeping and audit expertise, with knowledge of the Government's financial management and procurement regulations. Ideally, some staff will have fundraising and donor relations experience.
- **Logistics:** Staff will be needed to undertake basic logistics activities, including bringing people from far away for meetings and arranging accommodation; procurement of transportation, equipment, supplies, and services; security, including making policies and procedures and implementing them; refurbishing or securing buildings and maintaining equipment; conference management and catering; and translation and interpretation services.

## 5 RECRUITMENT INTO A CMB

Recruitment of staff into the CMB Secretariat can be a complicated process, depending on how the Secretariat is set up legally. There is no common practice in this regard but the following issues may need to be considered:

- Will staff be newly recruited and if so, would they be given civil servant contracts? This would mean that the CMB Secretariat could draw on existing TORs, terms and conditions and government recruitment processes. Undertaking a new recruitment process should enable the CMB to have more control over who they choose and their skills set, but using government systems may call into question their allegiance to the CMB.
- Will staff be seconded from existing ministries? For example, human resources staff could be seconded from a ministry concerned with human resources in public administration, finance staff could be seconded from the ministry responsible for finance, legal staff could be seconded from the Ministry of Justice/Attorney General, and communications staff could be seconded from the Ministry of Information. This would enable speedier filling of positions within the Secretariat, but at the same time the CMB might be concerned at the independence/neutrality of existing government staff.
- Will staff be employed as short-term consultants/contractors, and if so, will the CMB have sufficient legal status to engage in such contracts directly? In such a case, who will set the terms and conditions for these staff?
- Will the staff be employed using quick-impact, donor funding and if so, will some other form of contract be used and/or will the donor themselves be responsible for engaging staff as contractors? This sometimes happens where UN trust funds or basket funds are used to support constitutional processes. In such circumstances, it will be important to be clear in the TORs who such staff report to within the CMB and whether there are also reporting lines to the donor.

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