ICTs and Constitution Building
Tech Fair

16 November 2015
National Constitution Center. Philadelphia, USA

Background

The making of a democratic Constitution is one of the most challenging processes a nation can embark on. As well as critical political hurdles of reaching agreement among disparate groups regarding the basic structure and vision for the country, there are a number of other challenges that must be overcome if the constitution making process is to succeed. These include access to information for the constitution making body, ensuring transparency in the process, encouraging public debate and receiving inputs from the public. Modern constitution makers are increasingly finding solutions to these challenges through the use of information and communications technologies (ICTs).

In the past five years alone, a number of innovative technology solutions have been developed and used by various constitution making processes around the world, but there is no effort to catalogue these products and practices such that new processes can learn from, and build upon, existing knowledge and experience.

To this end, International IDEA and the National Constitutional Center, together with Google Docs and Google Ideas, plan to host a "Constitution Building Tech Fair". This will provide an opportunity for technology entrepreneurs to present services, platforms and products that could help in a constitution making process, with explanations regarding how they have been used in practice – as well as discussions amongst leading experts and practitioners regarding currently unmet needs and challenges for which existing technologies could be adapted.

Participants will include technology entrepreneurs in the field of constitution building, public engagement, direct democracy, transparency in government, data visualization, mining and social media, international and national organizations working in the field of constitution making and individuals from past and current constitution making bodies.

Technology adoption and adaptation needs to be driven by intent and context. The tech fair will provide opportunities for participants to share what has worked where, why and how as well as provide a safe space for the discussion around failure and what might work in the future. The mere introduction of technology will not help a process of constitution building, since ICTs can also be used by spoilers and other disruptive elements in a constitution making process to stir up opposition, spread misinformation and disinformation, undermine public participation and confidence, leak sensitive information, whip up public tension to focus attention elsewhere or force constituent parties to harden their stance. On the other hand, ICTs as a strategic, focused, purpose-driven set of tools in the service of constitution making by those spearheading it as well as progressive civil society can aid the process, raise public awareness, encourage debate and ultimately anchor the process into the public consciousness, thereby raising its legitimacy and acceptance. In sum, if adopting and adapting ICTs brings with it attendant risks, then the same ICTs also offer solutions to mitigate these risks. The Tech Fair will interrogate some of these strategies

and related ICTs along three discussion tracks, reflective of three key areas that are central to a constitution making process in any context.

Hosting Organizations
- [National Constitution Centre](#)
- [International IDEA](#)

Curating Organizations
- [ICT4Peace Foundation](#)

In partnership with
- Google Ideas
- Google Docs
- Comparative Constitutions Project

Workshop Themes

Access to information on the process and substance
There is a central tension at the heart of constitution making, as an exercise in national sovereignty. On one hand, each constitution must be tailored to the specific political, cultural and historical context at hand. At the same time, individuals usually charged with drafting a Constitution are doing so for the first time – without much in the way of preparation (there is no country with formal training in constitutional design) and often with little familiarity with other constitutional systems except for their own.

In previous times, this involved long journeys abroad to consult with foreign experts about their systems of governance. For example, during the work of the Indian Constituent Assembly Dr. B.N. Rau a member of the drafting committee of the Assembly, made the arduous journey by steamship from India to the United States to gain more information about due process in the US Constitution. Now, a number of online tools and sites exist to provide constitution makers with access to comparative constitution design resources.

Today, almost ubiquitous access to the web and Internet, including through smartphones and tablets, open a world of information literally at one's fingertips. From cross-language translation including of the spoken word to knowledge resources, from experts on demand to the crowdsourcing of questions, from vast web based full text libraries to ways of thinking around complex challenges, the web and Internet today offer a diverse range of knowledge resources and information critical to a constitution making process. Can ICTs help create digital networks of learning and experience, so as to help constitution builders with options around not just process and substance, but also technology? Can geo-spatial distance be rendered irrelevant in a process of consultation with the advent of new tele-conferencing and other asynchronous remote working technologies, and how can this new paradigm of real time engagement as well as asynchronous interactions meaningfully help those spearheading a constitution making process? What role is there for 'digital samaritans', able to bridge technology tools with those who are more interested in and focused on substantive matters?

Transparency in the Process
The days of constitutions being written in closed, smoke-filled rooms far removed from the public gaze are long gone. In most modern democracies, good practice dictates that the constitution making process should be largely transparent and open to the public, such that they can observe the debates as they progress.

Previously, the most that could be done would be to allow the public and media to observe open sessions of the assembly, and to inform the public through traditional print media or television/radio. While these methods continue to be used – for example, Tunisian Constituent Assembly debates were televised – digital media has provided increased opportunity for ensuring an open constitution making process, allowing drafters more channels through which to open up debates to public input and scrutiny, and the general public more channels through which to oversee and inform the process.

Interpeace reports in 2011 that countries as diverse as Bolivia, Ecuador, Ghana, Kenya, Malawi, Nepal, Somalia and Zambia had all established websites for their constitution making bodies. In recent years, Fiji, Tunisia, Egypt, Yemen and Grenada have done likewise. The principal goal of each of these websites is to provide the public with information regarding who the constitution making body is, what their mandate is, how they plan to achieve that mandate and regular updates regarding their progress. In addition, NGOs such as Al-Bawsala in Tunisia have used digital media to provide a third-party source of updates on the process. Al-Bawsala attended each session of the National Constituent Assembly and tweeted live updates on debates and votes as they happened.

Can ICTs help in translating Track 1 or high-level processes to a broader public, not just in terms of language but also by communicating core concepts, issues and themes in a non-legalistic expression that also embraces infographics, trans-media storytelling and the ubiquity of modern day mobile communications apps and services? What is the tension between making a process of constitution building as transparent and participatory as possible, and at the same time robust enough to accommodate the necessary privacy and security to have sensitive discussions around key issues? Do ICTs that help with the former, by definition, undermine the latter? What impact does ICT have on the Chatham House Rule, a venerable cornerstone of Track 1 meetings?

Encouraging Public Debate and Engagement
A key part of modern-day democratic constitution building is a national conversation regarding the fundamental questions facing society. In particular, for countries recovering from protracted civil conflict, the airing of views and public debate can both help the constitution drafters identify common values and visions of society, and also help with the national reconciliation process. The challenge though of purposefully architecting debates around the constitution making process by strategically leveraging ICTs is a significant one - too much noise can stymie the process, allowing spoilers to run amok. On the other hand, not using ICTs at all is also clearly not an option anymore, if a constitution making process is to embrace public opinion, reach out to opinion makers and media and more generally be informed by public opinion over online fora as well as public meetings and rallies - all of which today are, to a great degree, conceptualized, framed, organized, recorded, perceived and disseminated through digital media.

How do constitution builders embrace these challenges and opportunities? In the past, public fora to debate constitutional dynamics have been physical meetings, very limited in size – for example even the national conferences of West African states numbered at their very largest a few thousand

citizens. Alternatively, public debate has consisted of communications through the press among the intellectual elite, as most famously captured in the federalist/anti-federalist debate prior to the promulgation of the US Constitution. Today, constitution making bodies and civil society are using digital media including online social media apps and fora to provide interactive and engaging spaces for large-scale public debate. Even in the United Kingdom, there are currently at least three separate efforts to host online public debates, while in Libya the NGO Lawyers for Justice in Libya recently opened a debate on Facebook.

Public debate, of course, has little value to the drafting of the Constitution unless those responsible for constitutional design choices take into account input from the public when making their decisions. In contradistinction to being framed or perceived as a process driven by elites, the term "crowd-sourced constitution" was popularized in Iceland where, following the 2011 process, a citizens' assembly used Facebook to solicit views on a new Constitution, with the intention of providing a completely citizen-drafted Constitution, without the involvement of political representatives. Since Iceland, many constitution making bodies have endeavored to use Facebook and other social media engines to collect public input. For example, the Liberian Constitution Review Commission maintains a Facebook page with regular updates regarding public input, while the Kenyan Committee of Experts for Review of the Constitution sought public comment on various drafts through their website.

A challenge in including public views is the translation of masses of data from public submissions, often on issues not directly on the topic of constitutional design, into an organized analysis which can feed into the debates taking place in the constitution making levels and body. The Constitution Select Committee (COPAC) in Zimbabwe developed bespoke data collection and analysis software for this task, while in Kenya the Committee of Experts adapted existing data management software.

What does 'radical transparency' mean for constitution making, and how can a process of (re)fashioning a constitution be facilitated by ICTs, without overwhelming it? Furthermore, how can technology help in creating safe spaces online for the discussion of highly divisive and emotive issues? What is the role of technology versus human curation around complex, sensitive issues? How does one manage something as complex as a public engagement over social media – what tools are out there to help with aggregation, curation, data mining, and data visualization? What is the state of the art in terms of machine translation? How can a constitution making process quash false rumors and present information, depending on the medium, audience and issue, in an easily digestible format that can go 'viral'?

Outcomes

The outcome of the Tech Fair will be two fold. In exploring cutting edge thinking and technology applications on the three tracks noted above, constitutional experts and those in charge of designing constitution making processes will be made aware of easily adaptable technologies that can help the process and their work. The presentation and discussions will also be anchored to the negative consequences and spoiler dynamics augmented by the adoption and adaptation of ICTs. Technologists who present and participate will be encouraged to engage over the longer term with the challenges and opportunities presented by constitution making processes. The two very different worlds of constitution making and technology will meet, engage with and learn from each other. The immediate outcome is a network more open to working together to develop technology responses to address real world needs. Over the longer term, and with more iterations of Tech

Fairs, a robust network of practice and practitioners will result in a support base that marries cutting-edge technologies with the substance and process of constitution making.

Proposed Outputs
- A catalogue of tech solutions for constitution building processes, including tools, programs etc, with descriptions of the use thereof.
- A network of individuals interested in pursuing discussions around the strategic and visionary use of ICTs in constitution making

Proposed Agenda

Time	Description
8.30 – 9.00am	Registration
9.00 - 9.20am	Introduction • Jeffrey Rosen, President and CEO, National Constitution Center • Sumit Bisarya, Head of the Constitution Building Programme, International IDEA
9.20 - 10.00am	Keynote speeches: • *Ekuru Aukot*, UNDP Advisor to the Liberian Constitution Review Commission and former Director of the Committee of Experts on the Review of the Kenyan Constitution - "Key challenges of constitution making today" • *Sanjana Hattotuwa*, Special Advisor ICT4Peace - "Public domain information for participatory processes around governance"
10.00 - 10.30am	Three ignite talks on 'Access to Information' (10 mins each)[1] • Code for Philly, by Dawn McDougall • Rooster Logic pvt., by Suman Shakya • Local Interventions Group, by Ravi Phuyal
10.30 - 10.45am	• Discussion and feedback
10.45 - 11.00am	Coffee break
11.00 - 11.30am	Three ignite talks on 'Transparency in the Process' (10 mins each) • Souktel Digital Solutions, by Maggie McDonough • ELVA, by Mark van Embden Andres • Al Bawsala, by Ons Ben Abdelkarim
11.30 - 11.45am	• Discussion and feedback
11.45 - 12.15pm	Three ignite talks on 'Encouraging Public Debate'(10 mins each) • Legislation Lab, by Tarik Nesh-Nash

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[1] Order of speakers in each of the three ignite talks panels subject to change.

	• DemocracyOS, by Felipe Muñoz • Manthri, by Asoka Obeyesekere
12.15 - 12.30pm	• Discussion and feedback
12.30 – 12.40pm	Three Reflections on Designing Constitutional Drafting Technology, by *Zach Elkins, Michael Bolognino, and Brett Permlutter*
12.40 - 1.10pm	Key opportunities and challenges moving forward. A wrap up of the three ignite talk sessions and presentation of challenges for tech community, by *Sanjana Hattotuwa*
1.10 - 2.00pm	Buffet lunch and Tech Booth Demonstrations (Booths set up where each product can be displayed, demonstrated and explained)
2.00 - 3.00pm	How can the Internet and social media be harnessed to promote meaningful participation in constitution making?, chaired by *Sean Deely, Tarik Nesh-Nash*
3.00 - 3.15pm	Keynote speech on embracing public domain information for constitution building, by *Malachy Browne*
3.15 - 3.30pm	Q&A
3.30 – 3.45pm	Concluding Remarks, by Sumit Bisarya
3.45 – 4.00pm	Coffee break
4.00 – 5.00pm	In parallel: 1. Tour of the venue 2. Constitute Demonstration with Google Docs (for constitutional lawyers and those involved in constitution making) – *starting 3.45pm*
5.00pm onwards	Cocktail reception