Internet Enhancement of the Role of Civil Society in Promoting the Rule of Law in Transitional States

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Abstract. The Internet has the potential to play a key role in the way civil society organizations promote the rule of law in transitional states. In many states several barriers stand in the way of utilizing the Internet for this purpose. Challenges that arise include technological deficits and poor infrastructure, socio-economic barriers, government hostility to open information, and civil society organizations unable to reach populations. With the development of new technologies, and increased openness of information, civil society organizations will be better positioned to embrace the use of the Internet to promote the rule of law by helping citizens receive information, and facilitating communication between citizens and government.

1. Introduction

Researchers have argued that the Internet and information technology has "turned the world into an information-intensive society and … is the nerve of growth that can tremendously transform the economic, political, cultural, and social conditions in many developing countries." (Touray, 2013) In addition to the personal and economic uses, Internet access has played a key role in promoting the rule of law in transitional countries by communicating with citizens, and empowering civil society organizations on their behalf. This communication can be as simple as a passive one-way communication of information, such as providing access to constitutions, judicial and administrative decisions, and laws and regulations. On the

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other hand, it can be as dynamic as an interactive exchange of views and delivery of government services to citizens, creating the means for citizens to respond to or participate in their formulation. (Warf, 2013) This access has empowered civil society organizations to more fully and effectively engage with governments in both promoting and contesting all aspects of the uses of law.

The benefit of the Internet in transitional countries, however, is not without challenges. The resistance of governments to expanding information that is available, reluctance or inability of governments to encourage effective public participation, and the significant inequalities in capacity among civil society organizations seriously reduce the positive impact of this growing access on the rule of law. Recognizing these challenges, certain opportunities emerge for civil society organizations to use the Internet to enhance the rule of law in transitional states.

2. Role of the Internet in Enhancing the Rule of Law

By enhancing the public's access to information and facilitating public participation in government decision-making, the Internet has geometrically expanded the scope and reach of the rule of law. For the Internet to be effective, however, governments have to enact access to information laws[1] that permit citizen-government interaction. Access to information laws alone though, will not guarantee that online information will enhance the rule of law. Civil society organizations have a significant role to play not only aiding the dissemination of information, but facilitating public participation in government.

2.1. ACCESS TO INFORMATION AND THE RULE OF LAW

The concept of access to information is essential in a democratic society, and core to the rule of law. Indeed, several of the core pillars of democracy are access, transparency, and accountability. In order to establish the rule of law in a democratic system, citizens must have access, at the very

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1 Access to information laws and freedom of information laws are used here interchangeably.

minimum, to laws of a government. Beyond this, citizens should also have access to the legislative and administrative processes, and transparency should be promoted through providing information of all government activity. In this sense, transparency "broadly refers to a concept that encompasses the disclosure of actions taken by public actors and institutions." (Peixoto, 2013) Transparency in government and accessibility of laws is a precondition to having accountability of government, where citizens have ready access to the information and the capacity to use it. In such a system, there is less room for individual discretion to make extra-legal decisions, participate in corruption, or otherwise fail to serve one's constituents. The Council of Europe emphasizes this in the Preamble to the Convention on Access to Official Documents, providing:

> Considering the importance in a pluralistic, democratic society of transparency of public authorities;
>
> Considering that exercise of a right to access official documents:
>
> i. Provides a source of information to the public;
> ii. Helps the public to form an opinion on the state of society and on public authorities;
> iii. Fosters the integrity, efficiency, effectiveness and accountability of public authorities, so helping affirm their legitimacy. (Council, 2009).

The core idea of the access to information in government rests "on the necessity for some citizens to pay attention at least some of the time . . . in order to identify and correct occasional or even frequent instances of incompetence, dishonesty or ignorance in governments." (Darch, 2010) Citizens, however, must have something to pay attention to in order to hold a government accountable. To this end, technology can more easily and capably put this information into the hands of users.

Access to government information has two components. The first, and generally most prominent and controversial, is the obligation of the government to respond to requests for specific pieces of information. The

second and far more useful is the positive obligation to make public whole categories of government information. (Council, 2009; Chabrava, 2012) It is this latter type of information that can most usefully and effectively benefit from the Internet and ICT. While the request and transmittal of individually requested information can be expedited by the technology, it is not nearly as critical for its distribution.

The benefits of open government information are well documented. It has been linked to ending corruption and promoting economic development in addition to its fundamental effects. One statement from the World Bank noted that accountability, transparency, and the freedom of the press are inextricably linked to development, and therefore necessary for economic growth and stability. (Darch, 2010) Accessible electronic databases and responses to requests can expand and accelerate this process in ways unimagined by the drafters of the original access to information laws. Notwithstanding this progress, barriers to necessary further expansion of this access remain, and will be discussed below.

2.2. PUBLIC PARTICIPATION, CIVIL SOCIETY ORGANIZATIONS AND THE RULE OF LAW

Having access to information about the laws and practices of government, for those other than the news media, is simply an academic exercise without the means and procedures to respond in a meaningful way. Accountability through public participation, therefore, requires some meaningful interaction between the public and government. (Peixoto, 2013) This can be achieved through the following series of events:

> (1) Governmental information is disclosed; (2) The disclosed information reaches its intended public; (3) Members of the public are able to process the disclosed information and react to it; and (4) Public officials respond to the public's reaction or are sanctioned by the public through institutional means. (Piexoto, 2013)

Thus the completion of the information circuit is the participation of the public in the decision-making of the government, utilizing the information

that is available from the government. While the United States is often regarded as the original promoter of formal public participation through its "notice and comment" rulemaking procedures contained in the 1948 Administrative Procedure Act, the concept has spread throughout the world. (Aarhaus, 1998) The voices of individual citizens in the process of formulating rules and regulations have some value, but it is primarily through civil society organizations (CSOs) that the public makes its views known to the government on the legal and policy issues of the day. (Oyediran, 2013)

The Internet has dramatically expanded the ability of governments to solicit and collect input from the public to inform their decision-making. The notion of e-government now has broad appeal, and has led to a myriad of structures and platforms for citizen access to government information, services, and participation in the governing process. (United Nations, 2007) This participation provides the accountability that goes along with the transparency that the Internet has so enhanced. The electronic portals to the government, while broadly available, are still most effectively accessed by organizations. Commercial entities take full advantage of this access, while public interest input is most commonly made through civil society organizations. (Oyediran, 2013) Where these organizations reflect broad the views of broad memberships, they provide an effective means of bringing public voices in to the process. The Internet has significantly expanded the ability of these CSOs to attract members, stay in communication with them, and transmit their views to the government. But, as will be discussed below, the nature and scale of CSOs as well as the processes for public participation present obstacles for the meaningful expansion of e-participation.

3. Challenges to Embedding and Expanding the Internet in the Rule of Law

It is undeniable that the Internet has exponentially expanded the availability of government information and the ability of the public to communicate their views to the government, enhancing the role the rule of law plays in modern governments. In all of its manifestations however, the Internet is

constrained by the reach of technology and the ability of the public to use it. Broadly speaking, these challenges to providing equal access to the Internet are referred to as the "Digital Divide." (Robison, 2010)

While countries continue to explore ways of connecting to constituents with information technology, there is a startling lack of access. In June 2012, 34.3% of the world's population, or more than 2.4 billion people, used the Internet. While Internet penetration rates were relatively high in places like North America (78.6%) and Europe (63.2%), other regions in the world struggle to connect their citizens to online information. In the Middle East and Latin America, Internet penetration is only between 40% and 42% of the population. Countries in Asia only report Internet penetration at 27.5%, and in Africa only 15.6% of the population of countries reported had access to the Internet. (de Argaez, 2013). There are several reasons for this lack of access, from technological and infrastructure barriers, to socio-economic factors, and will be discussed below.

3.1. Overcoming the Digital Divide: Providing Equal Access to the Internet

Perhaps the greatest challenge for improving the rule of law through the use of the Internet is this lack of Internet availability throughout the world, especially the more remote regions and isolated groups within transitional states. Remote areas have the lowest connection rates, but perhaps the greatest need for connectivity, as it would facilitate the ability of less established groups to become aware of and address issues important to their constituents.

Despite the recognition of the importance of the Internet for the communication of information, its development between and within states has not been equal. Divisions of access between individuals can be found in gender, geography, age, and income level. Within countries these divisions are generally manifested by social and geographic gaps within society. Between countries, differences in development, state economies, and infrastructure lead to dramatic differences in connectivity. The digital divide has been described, even in developed states, as something that "disproportionately disenfranchises certain segments of society and runs counter to the notion that inclusiveness and opportunity build strong

communities and countries." (Jassem, 2010) Indeed, since its development the Internet has "reflect[ed] all of the inequalities and social divisions that permeate the non-virtual world." (Warf, 2013) While its use around the world has grown exponentially in the past decade, there are many who still lack access. (de Argaez, 2013).

The digital divide remains a central concern with the adoption of e-government services, and the use of the Internet to share government information. Inequalities in Internet access are common within states; and, for a significant share of the population—such as the poor, the elderly, those who are uneducated and undereducated, and ethnic minorities—access to the Internet is not tenable. (Warf, 2013) Professor Jane Fountain noted this socio-economic inequality in terms of wealth and information literacy:

> An increasingly digital government favors those with access to a computer and the Internet and the skills to use these sophisticated tools competently. Text-based service delivery over the Internet assumes literacy . . . . Moreover, the complexity and enormous volume of government information on the Web requires people who use it to develop the skills needed to search for information and evaluate the output of search tools. (Fountain, 2001)

In developing and transitional states, there is an even larger divide between those with access and those without, exacerbating this problem. The question for civil society organizations, therefore, is how to reach those undeserved populations with Internet connectivity. Several challenges have plagued current efforts to provide Internet connectivity, from creating the necessary infrastructure for Internet access to socio-economic barriers to access.

3.1.1. *Challenges Creating ICT Infrastructure*
Technological infrastructure is the backbone to using the Internet, and therefore necessary to enhance the rule of law in transitional states. In developing and transitional states, however, access to the Internet is often times low because of a lack of this infrastructure. With Internet availability

and access rates low in developing and transitional states, successful use of the Internet to promote the rule of law requires a commitment to building the infrastructure, or supporting other technologies, to connect citizens to the Internet. Historically, traditional systems of information management infrastructure have been cost-prohibitive in developing and transitional states.

The development in reliable physical technological infrastructure in developing states has always been a problem. In 1994, the entire African continent only had four countries with Internet access. (Afullo, 2000) At a 1995 conference on global information, it was noted that "[t]here are more telephone lines in New York City than in the whole of the African continent." (Afullo, 2000) In response to this global deficiency, privatization of technology was pursued. For instance, in the 1990s nearly a dozen countries in Central and South America turned to privatization of the telecommunications sector, which led to faster development of information systems. (Afullo, 2000) Nonetheless, developing states still lagged far behind those with greater resources and more established technological infrastructures. Before fibre optic connectivity reached countries in Africa, Internet connectivity was poor, unreliable, scarce, and prohibitively expensive. (Mapulanga, 2012)

Today, satellite and fibre optic lines have become the primary technologies for the global telecommunications industry to connect people to the Internet. (Warf, 2013) These generally reflect the historical cost structure of telecommunication development – high fixed costs for development, and barriers to entry and low marginal costs. (Warf, 2013) High development costs, however, are often shifted to the consumer, and in developing and transitional states where Internet connections do exist they are therefore often cost-prohibitive. For example, one study noted that while a 2Mbs DSL line in the United States costs on average $40 USD per month, the same service costs upwards of $400 USD per month in Pakistan. (Touray, 2013)

This is not to say that wired Internet access is not possible, or even practical in developing and transitional states. In Rwanda, for example, work was

completed in 2011 that ran 2,300 kilometers of fibre optic cable across the country, linking it with undersea cables along the east African coast. (Reuters, 2011) But, while this level of connectivity may be possible in a small geographical location, the same type of coverage would be impractical or even impossible in larger territories. The result is low Internet penetration rates in these countries, where infrastructures are costly, and slow to develop. For example, a 2013 study of ICT and e-government initiatives in Venezuela noted that despite "significant investment" in infrastructure, rural connectivity remains a challenge, and thus a barrier to participation in organized community governance. (Puerta Riera and Osio, 2013)

In addition to fibre optic and other wired Internet access, wireless Internet connections have emerged as a potential solution to connectivity. Wireless connectivity, or Wi-Fi, emerged in the late 1990s as a way to provide a more convenient and broader range of connectivity to more people, (Economist 2004) and is now pervasive in the developed world. A growing number of metropolitan areas started to offer free Wi-Fi connections, (Jassem, 2010) and even commercial air carriers have gotten on board offering the service. (Economist, 2013) In developing and transitional states, however, there is far less connectivity. Wireless Internet is sometimes available in business centers, government ministries, and some residences, but not as widely available as urban areas in developed states, and seldom found in rural areas.

There has been some effort recently to increase Wi-Fi connectivity in developing states. In 2013 Google, Inc. announced plans to team up with telecommunications companies in Sub-Saharan Africa and Southeast Asia to provide wireless connectivity to rural areas in those countries. [2] (Efrati, 2013) Google is also working to persuade governments in Sub-Saharan Africa and Southeast Asia to create or change regulations to create new

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[2] Of course, Google's motives are not so pure as to want to connect those in rural areas to information alone – the plan is such that it will allow greater exposure to Google's search engine, apps, and advertising partners.

wireless network connections using existing, but restricted, connections. (Efrati, 2013)

Despite these efforts, however, there has been no significant development of wireless connectivity as the time of this article. Furthermore, if a wireless Internet connection is available, there are still major barriers to access, including cost, and access to technology to use the Internet. (Touray, 2013) For example, ownership rates of computers in Ghana have been reported as .52 per 100 residents – not taking into account other geographical or socio-economic limitations. (Schuppan, 2009) Wireless connectivity also provides an especially unique challenge in rural areas where electricity is not available, or only available for a few hours each day. (Schuppan, 2009)

3.1.2. *Social and Economic Challenges*
In addition to the barriers related to creating technological infrastructure, other socio-economic conditions exist in developing and transitional states that create challenges to the use of the Internet to broadly promote the rule of law. Disparity between urban and rural areas, cultural traditions limiting gender roles, and great disparity of wealth all play a factor to limiting the reach of the Internet.
Perhaps the most significant correlation related to lack of connectivity comes from a disparity of access between urban and rural communities. One study of Internet access in 25 countries found that public access venues for the Internet are largely found in urban, rather than rural venues. (Gomez, 2011) In some countries, for instance, as many as 91% of all Internet access centers are located in urban areas. (Gomez, 2011) Additionally, several studies show that there is an "extreme urban prominence of public access initiatives." (Gomez, 2011) In order to make a significant difference with the use of online information, therefore, rural populations must be better served by public access programs in developing and transitional states.

In developing and transitional states, rural areas also have predominantly less wealth then their urban counterparts. Poverty and illiteracy rates are higher, and infrastructure such as roads and electricity tend to be less

developed than in urban areas. (Schuppan, 2009; Mtega, 2013) This is significant, as individuals with low to moderate incomes use public Internet access venues, typically found in urban areas, far more than those with higher incomes. (Gomez, 2009) A 2011 study noted:

> The most salient divide [in online access] is not based on gender, age, education, or income, but based on geographic location: public access venues are predominantly located in urban centers, while non-urban areas are dramatically underserved with very few exceptions. Reaching rural populations with public access to ICT is a far more difficult and costly task than reaching urban populations, but it is a task that governments, development agencies, and donors will have to address if they are to make further progress in overcoming further inequities in access to ICT. (Gomez, 2009)

Lack of individual wealth, also common in rural areas, is another significant factor when Internet access is not provided for free. In one study of Internet connectivity in The Gambia, the CEO of one Internet company noted the high cost of access as a barrier to all countries in Africa, by noting:

> [The] high cost of Internet in Africa as a whole depend[s] on the lack of continental, regional, cross-border and local IXPs. In Europe, America [as well as in] other developing countries, every state, city and town has an IXP. This is missing in Africa and until this happens, the cost of Internet will never be affordable. (Touray, 2013)

Another study in 2007 noted that the cost of Internet connectivity in Africa was "over 20 times what American and European households" pay. (Mapulanga, 2012) A 2010 United Nations report found that the level of e-government services in a country is "by and large consistent with the level of economic development in a country." (Zhao, 2011) In a country like India, for example, providing Internet access alone may not be sufficient to bridge the digital divide, where rural society is "plagued by illiteracy,

exploitative market forces, [and] caste and class cleavages." (Subramanian, 2012) Therefore, while a country's GDP remains low, with large poor rural populations, expanded use of the Internet will remain a significant challenge.

There have been some positive efforts to bridge this gap. In addition to Rwanda's expanded Internet connectivity noted above, one study of Internet connectivity in university libraries in Malawi found that the introduction of the fibre optic network in to the country both increased bandwidth and reduced costs. (Mapulanga, 2012) Continued infrastructure development like this will make using the Internet to promote the rule of law more affordable, and in turn more effective. At present, however, the economic barriers in developing and transitional states prove to be real barriers to the use of the Internet.

Even in societies where there is Internet connectivity, however, other inequalities remain. In many countries traditional gender roles serve as a barrier to access. In Malawi, younger educated males tend to use the Internet with much more frequency than their female counterparts. (Schuppan, 2009) One study on the use of telecenters in rural Tanzania found that those most likely to use Internet services were young educated males, who accessed Internet services in the evenings when women typically participate in preparing meals and other household chores. (Mtega, 2013) In addition to gender inequality, other social divides limit the effectiveness of the Internet as a tool to promote the rule of law. Scarcity of technical personnel, high illiteracy rates, a lack of ICT skills, and a lack of research and development all contribute to the digital divide, and create barriers to access within society. (Touray, 2013) The use of the Internet to promote the rule of law, therefore, must seek to overcome these institutionalized social inequalities, as well as the technical barriers noted above.

3.2. GOVERNMENTAL AND INSTITUTIONAL BARRIERS

Since the 1990s access to information legislation has grown rapidly throughout the world. One researcher reported that by 2006 seventy countries had already passed FOIA laws, and another fifty had legislation pending. (Darch, 2010) Two years later, eighty countries reportedly had

FOIA legislation enacted. (Darch, 2010) In 2009 the Council of Europe adopted the first multi-national mandate for adoption of access to information laws for its members. (Council, 2009) The scope and effect of these laws varies as some legislatures simply published decrees, while others had more detailed statutes. (Darch, 2010) More importantly however, the commitment of the governments to observe and comply with these laws varies as much as the texts or format. Also, access to information laws adopted because of international donor pressure or financing conditionalities may not be embraced by the governments on which they are imposed.

Providing electronic access or delivery of government information provides transparency and accountability only so far as the content of that information permits. Thus, separate and apart from technological and socio-economic barriers discussed above, legal and political barriers exist that constrain the full positive effects of electronically disseminated information. First, every access to information law provides for exceptions generally related to national security, international relations, investigations, individual privacy, commercial or proprietary information, monetary policies and others. (Council, 2009; Chabvra, 2012) These can be narrow or broad depending on the skepticism of the drafters about public disclosure. Concerns over the abuse of these exceptions, and particularly the national security exception, have recently lead twenty-two partner organizations (CSOs) and rapporteurs from the United Nations, African Commission on Human and Peoples' Rights, Organization of American States and the Organization for Security and Cooperation in Europe, under the auspices of the Open Society Justice Initiative, to adopt Global Principles on National Security and the Right to Information ("The Tshwane Principles"). (Tshwane, 2013) While these Principles restate the fundamental right to information, including the "affirmative obligation to publish proactively certain information of public interest," the emphasis is on restraining the government from broadly applying the exceptions to the laws, and particularly the national security exceptions. (Tshwane, 2013) This action highlights the concerns that organizations actively engaged in seeking information from governments have about the broad applications of the exceptions all of the statutes carve out.

Since it is the government entities in possession of the information that must make the initial decision to make broadly public information or respond to specific requests, the natural tendencies of government officials to avoid disclosure act to inhibit the release of information that would be useful to the public. Virtually every access to information law provides some means to appeal a negative decision in response to a request, either within the government entity, to the courts, or both, but this does not guarantee access. The "Background and Rationale" to the Tshwane Principles notes that "[s]triking the right balance is made all the more challenging by the fact that courts in many countries demonstrate the least independence and greatest deference to the claims of government when national security is invoked." (Tshwane, 2013) However, the Preamble notes "…that access to information held by the state is a right of every person, and therefore that this right should be protected by laws drafted with precision, and with narrowly drawn exceptions, and for oversight of the right by independent courts, parliamentary oversight bodies, and other independent institutions." (Tshwane, 2013) The length and detail of these Principles suggests that in practice this statement in the Preamble remains largely aspirational.

3.3. CIVIL SOCIETY OPPORTUNITIES AND LIMITATIONS

With the growth of the information society in the 1990s came a movement to promote the access to knowledge or access to information. (Darch, 2010) International organizations such as the UNDP, World Bank, and UNESCO have cited the principle of access to information as central to development policy. (Darch, 2010) One commentator has noted that one of the "prime engines of growth" of the access to information movement and access to information has been a group of specialist international organizations. (Darch, 2010) Concepts of access to information, for example, have been strongly advocated by organizations such as Transparency International, Article XIX, the Media Institute of South Arica, the Open Society Institute, Statewatch, and Privacy International. (Darch, 2010) These large and influential international organizations have a significant advantage over other civil society organizations – funding. This advantage allows them to participate on the global stage, engaging with international organizations

and governments on broad policy matters and pushing important initiatives, such as the Tshwane Principles.

Indigenous or national civil society organizations, however, play the most critical role in the use of the Internet to enhance the rule of law in transitional and developing states. For example, a study of the impact of the Internet in four Muslim countries (Egypt, Saudi Arabia, Indonesia, and Pakistan) found civil society organizations, including small local groups, empowered to significantly engage with the government. Particularly in Indonesia, Egypt, and Pakistan, CSOs were found to have much greater ability to connect with citizens, raise funds, build networks, and mobilize supporters due to ITC. (Howard & Hussain, 2010) These organizations serve two key functions: disseminating information and facilitating public participation.

First, CSOs assist in making certain information actually gets to the people. The World Bank recognizes the role of civil society to promote the rule of law, including promoting transparency in governance. (Krever, 2011) While legal information is published and released by governments, getting it in the hands of the citizenry is necessary to actually achieve transparency in government. There is more to this than simply making information available however. One commentator noted that "[e]ven if opening data lowers the barriers for third parties to access and reuse it, the capacity to process data in machine-readable formats depends on a specific set of technical skills." (Peixoto, 2013) More than technical skills, many in transitional and developing countries lack basic capacities such as reading comprehension, let alone understanding sometimes complex government information. A free press and online information help to create transparency by making information available, (Peixoto, 2013) but CSOs can go one step further, and help get this information into the hands of the public, especially those in rural and hard to reach areas where there is less Internet penetration, and less wealth.

The second role CSOs play in facilitating the use of the Internet to promote democracy and the rule of law is encouraging accountability. Civil society organizations help achieve this by assisting citizens to access and understand information, and then to interact with the government once they

have done so. This requires, at times, an intermediary to assist with not only comprehending information, but communicating appropriate reactions to relevant government authorities. This is the promise that CSOs offer in transitional countries, often promoted as the key to bringing the public in to engagement with the government. (Kairu, 2012)

Indigenous civil society organizations are not a panacea for the delivery of information and driving public participation through use of the Internet, however. CSOs differ widely in their resources, their capacity to manage ICT, and their reach within their own countries. International donors tend to favor well-established CSOs with professional staff located in the capital or other major cities. (Mercer, 2002) These organizations then use these resources to develop their ICT capacity, including hardware, software and training. Thus, they have the ability to obtain information and engage with the government, representing the views of their members, or possibly merely the views of the paid managers of the organization. But they often lack the relationships with the outlying regions that would enable them to widely disseminate information or bring remote participants in to the process. (Mercer, 2002) CSOs that are not favored by international donors because of their narrow focus, geographic isolation, lack of professional staff, or other reasons must rely on usually scarce funding from local sources. While these organizations may be in closer touch with citizens who could benefit from access to information and active participation with the government, they lack the ICT capacity to engage electronically. One study of ICT use for public participation in government in Kenya and Rwanda noted that at time the use of ICT crowds out local participation and centralizes rents at the top of the political structure. (Mann and Graham, 2013)

These factors represent challenges to the role civil society organizations can play in bringing the benefits of the Internet, e-government, and e-participation to the citizenry. As was noted in the report by the Ad Hoc Expert Group of the United Nation's Department of Economic and Social Affairs on e-government and e-participation:

> Social inclusion and participatory governance is possible
> only if political, economic, technological and social

barriers are removed and access to opportunities for ICTs is equitably distributed. The reach of ICTs to facilitate greater participation by citizens to influence the democratic decision-making process is just as important as the nature of the participatory process itself. (United Nations, 2007).

CSOs provide a logical vehicle to expand the reach of ICT, but they face their own barriers.

4. Prospects for the Future

Many countries see a desire for technological connectivity to government. One study of e-government initiatives in Indonesia, for example, found that 93 percent of those surveyed had an intention of using e-government service if offered in the future. (Rokhman, 2010) To better connect users with online information two uses of technology are proposed: telecenters and mobile devices. Expansion of the use of telecenters will show continued success to connect users in urban and rural communities to the Internet. Mobile devices have the potential to overcome many barriers of cost and infrastructure, and put more information in the hands of users. In addition to advances in technology, governments and CSOs have expanded roles to play. Increased of access to information will change the ability for citizens to participate in government. Also, embracing this change, CSOs can serve broader populations in more ways to promote the rule of law.

4.1. EXPANDED USE OF EXISTING TECHNOLOGY: TELECENTERS

Telecenters are generally understood to be places where the public can access information and communication technology, particularly the Internet. (Proenza, 2001) They offer a unique way to provide information via Internet service to citizens at a low personal cost, and have already seen some success in developing and transitional states. These are very important, as one commentator noted, "[b]ecause personal computer ownership rates are relatively low in much of the developing world, and because Internet Service Provider (ISP) individual access charges are often high, many users rely upon privately owned Internet cafés for access rather than individual ISP accounts." (Warf, 2013)

Telecenters in rural areas can also better serve the information needs of their constituents knowing their unique situations. For example, citizens in rural areas often have specific information needs different from those in urban areas, and rural telecenters can be critical to fulfill this information need. (Mtega, 2013) In rural India, for example, access to non-electronic government information or public services often requires long commutes and multiple trips. (Subramanian, 2012) To combat this problem, there has been some success at the state level in India with public-private partnerships and CSOs to create rural telecenters, brining ICT to marginalized populations. (Subramanian, 2012) Other countries have also seen success with telecenters designed to provide access to historically marginalized citizens. (Warf, 2013)

In Africa, some governments have promoted, and even subsidized cybercafés and telecenters to promote Internet accessibility to all. In South Africa, for example, the government promoted the growth of telecenters in urban slums near Cape Town. (Warf, 2013) Non-profit organizations and CSOs in South Africa and Ghana have also made strides to create neighborhood telecenters to promote community development. (Warf, 2013) Government-subsidized telecenters in Tanzania have succeeded in providing access to those typically would not have access. (Warf, 2013) CSOs have also assisted in the creation of telecenters in Latin American Countries, also serving a positive role in community development. (Warf, 2013) Recently, Pakistan has created a network of rural telecenters with the effort to "spur rural development in its 50,000 villages." (Warf, 2013)

There is a clear benefit to telecenters, and good cause to promote their expansion in developing and transitional states to enhance the rule of law. Where telecenters have appeared, areas served by them have shown an "identifiable change in the skills and capacities of the people and institutions." (Mahnood, 2005) In the early 2000s several countries in Latin America reported successful telecenter projects sponsored by CSOs to establish Internet access in certain urban and rural communities, to deliver Internet services to underserved populations. (Proenza, 2001) As such, telecenters should be promoted and used to the full extent possible to provide internet access to those citizens traditionally without access in transitional and developing states.

4.2. THE PROMISE OF EMERGING TECHNOLOGY: MOBILE CONNECTIVITY

In addition to telecenters, mobile technology provides another significant opportunity for using the Internet to enhance the rule of law. In developing and transitional states where wired connectivity and computer use is low, mobile penetration is often high, and mobile phones provide the potential for valuable interaction between governments and citizens. (Hellström, 2012) For instance, in 2011, global penetration for mobile subscriptions were reported to be at 87% of all people, compared to only one-third of global households having Internet access. (Campbell, 2013) Of those, more than three-quarter of all mobile phone subscriptions were based in developing countries. (Pearce, 2013) In some African countries, mobile phone penetration rates rose from as low as 2% in 2000 to more than 90% ten years later. (Bornman, 2012) In sub-Saharan Africa, the mobile phone has now become the "key entry point for Internet adoption on the continent." (Stork, 2012) With this growth in use, there are already cases of successful implementation of mobile governance solutions in developing and transitional countries. (Hellström, 2012)

Mobile connectivity, combined with the use of social media, has had profound political effects in the past few years. With prolific use of mobile devices to organize citizens, entire uprisings took place across the Middle East and North Africa from 2011 to 2012. (Tufekci, 2012) Political uprisings following Iran's 2009 election are yet another example. (Tufekci, 2012)

Johan Hellström offers several compelling reasons why mobile technology is perhaps the only viable option for public outreach through technology and the Internet:

1. *Access and reach.* Penetration rate is ever increasing and even more have access through shared usage and ownership. Due to its mobility and network infrastructure, mobiles reach areas where there are infrastructure constraints and no other means to offer public services. Related to access is that mobile phones add the dimension 'anywhere and any time': due to their mobility and that

mobile phones are switched on most of the time, meaning that public services offered via mobile phones are accessible everywhere and at all times.

2. *Adoption*. As mobile phones become an integral part of people's lives, mobile solutions will be a normal way to interact with government institutions which will lead to an increased public demand for easy accessible and personalized services.

3. *Interaction*. Mobile phones make it possible for real-time, two-way dialogue as opposed to TV, radio, brochures, posters, etc.

4. *Affordability*. The relatively low cost of mobile phone ownership has lowered the entry barriers for poor people. Affordability is still a concern though – somebody needs to pay for the infrastructure, communication and services.

5. *Efficiency*. Due to high access, its reach, good adoption and real-time interaction mobile phones offer efficient solutions to governments communication challenges.

6. *No other option?* In developing regions with poor infrastructure, going mobile may be the only viable option. (Hellström, 2012)

In the past decade, several countries in East Africa have been actively using mobile devices and applications for governance and information purposes. Kenya has promoted voter registration via mobile device, distributed local community news, emergency dispatching, roadway reporting, and applications for citizen communication to government. (Hellström, 2012) The Government of Rwanda has experimented with mobile platforms for delivery of health information, national exam scores for students, and commodity pricing indexes. (Hellström, 2012) Tanzania has created a public alert system via SMS for the government to communicate emergency information via mobile devices. (Hellström, 2012) Several other countries, including China, Malta, the Philippines, and Singapore have begun to use mobile technology to deliver government services. (United Nations, 2007)

As a result of this success, mobile devices have become the most likely technological solution to use the Internet to promote the rule of law in developing and transitional states. However, as with all technological advances, governments not fully committed to citizen participation may still find a way to use this technology to interfere with the ability to communicate freely. Recent criticism of Chinese telecommunication company Huawei suggests that part of its motivation for building an infrastructure network on the African continent may be to allow or even promote government surveillance. (Reed, 2013) One analyst claims that several African governments, including those of Zambia, Ethiopia, and Zimbabwe, have all sought Chinese assistance to monitor digital communication networks. (Reed, 2013) Though these are disputed claims, they highlight the vulnerability and limitation of technological solutions alone, and demonstrate the need for political will to allow the use of ICT to open political and civil society. In order to be successful, therefore, ICT infrastructure should be free from state control. (Howard and Hussein, 2010).

4.3. EXPANDING ACCESS TO INFORMATION

Greater penetration of the Internet to citizens throughout a country, be it through telecenters, mobile connectivity or other forms of ICT, will significantly increase the number of people who can access government data. Governments committed to making the greatest amount of information available will enhance the electronic accessibility of their databases and facilitate the electronic process for receiving and responding to individual requests for information. It is noteworthy, however, that neither the Council of Europe Convention nor the Tshwane Principles make any reference to technology in their otherwise comprehensive treatment of the process of government disclosure of information. Thus there is no emerging international consensus on requiring governments to make information available in manageable and accessible electronic formats. While the movement towards e-government by some countries may include initiatives to do this, there is a disconnection between the information made accessible for e-government and the broad ranges of general information held by the government that is available under most access to information

laws. What are the prospects then for expanding the universe of available information? A number of emerging trends suggest that the prospects are at least promising.

First, by expanding the number of people with access to the Internet and the means to contact the government from the remotest parts of the country, the number of requests is likely to rise, and to rise perhaps substantially. This places pressure on the governments as almost all access to information laws impose a time limit for responding. (Mendel, 2008) Repeated requests for certain data encourages the government to make that information generally available, thus reducing the number of individual requests and the need for the government to search for and respond with the information. (Landsbergen, 2004). Thus to some extent the increase in access to technology by citizens pushes the government to expand the amount of information it makes available.

Second, with the increase in the role of e-government in many transitional countries, more and more information is being digitized. (Paroški, 2013) While broader public accessibility may not be an objective of the change to electronic format, making this information available to the general public in that format is relatively simple. Factors that drive different functions of government towards the Internet result in the creation of databases that can then accessed by general users, not just those engage in an e-transaction with the government.

Third, by expanding access to non-government sources of news and information over the Internet the public becomes more aware of what the government is doing and is motivated to make additional requests for information.

4.4. THE OPPORTUNITIES FOR CIVIL SOCIETY ORGANIZATIONS

Because of the various challenges associated with the expansion of Internet resources and e-government in developing and transitional states, civil society organizations have a critical role to play in their use and development. The ability of CSOs at all levels and throughout all regions to educate their members about accessing information and interacting with the government is dramatically enhanced by the greater penetration of the

Internet. This includes inexpensive access for both the CSO and its members or constituents, enhanced opportunities for education and training of citizens in how to access and use information, and expanded means of communicating back to the government. The nature of the expanded Internet availability will affect how great an enhancement this can be. With mobile connectivity offering the greatest rewards, regardless of the type of mobile device, any significant expansion will be beneficial.

The most important benefit expanded Internet penetration provides is offering CSOs throughout the country a greater opportunity to engage. By creating inexpensive access through mobile devices or increased number of telecenters, local organizations can develop their own skills in dealing with government offices and databases. This increased capacity levels the playing field with national, donor-supported groups operating in urban areas, and at least as to electronic interaction with the government gives these regional or local groups a voice. (Mercer, 2002)

The second benefit is the increased ability of CSOs to communicate with and educate their members or constituent groups about how to interact with the government as these individuals now have enhanced access. Training individuals to access government offices, databases, and other available sites can raise the level of awareness of these citizens of what their government is doing and encourage them to engage directly. The ability to communicate easily via the Internet with members and constituents can also enhance the effectiveness of the CSO in mobilizing input on particular issues.

There is already some evidence of rural CSOs taking advantage of ICT to not only communicate with constituents, but also facilitate government communication. In Indonesia, for example, a recent study of ICT use by rural CSOs indicates that use of the Internet significantly improved internal management of organizations and developed more focus in organizational goals. (Nugroho, 2008) Also, there was a measurable expansion in increasing organizational networks and greater influence on governmental policy through the use of ICT. (Nugroho, 2008) In Egypt and Pakistan, CSOs have used the Internet to reach out to foreign and domestic populations, associate with like-minded groups, and also critique

government action and offer alternative policy solutions. (Howard and Hussain, 2010).

5. Conclusion

The Internet and its accompanying information explosion have revolutionized the way most of us conduct our lives. It has also revolutionized the way our institutions, private and public, religious and secular, commercial and charitable, conduct their affairs. Yet there are countries and regions where the impact of the Internet is barely felt and the benefits and problems associated with it have barely intruded on the rhythms of their lives. Among the mixed blessings of the Internet is the opportunity it presents to strengthen the rule of law through expanding awareness of laws and actions of the government and providing the opportunity to interact with public offices.

As the Internet continues its inevitable penetration in to those countries and regions not yet fully served, it offers the opportunity to enhance, or in some cases introduce, the rule of law. By widely disseminating information about laws and rights and empowering civil society organizations whose missions are promoting transparency and accountability, the Internet can be a catalyst for positive change. It falls to these organizations to seize the opportunity the technology presents and use it to forge a stronger role for the rule of law in their societies.

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