



Conflict | Law | Peace
Innovations for Rule of Law Promotion and Transitional Justice

Impulse Paper No. 1:

**Apps, Open Source and Data Security:
The Opportunities and Challenges of Digitalisation**

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Contents

- I. Introduction
- II. Conceptual approach
- III. Modes of application
- IV. Challenges
- V. Contributors

I. Introduction

RSF Hub's first impulse paper sheds light on the potential use of information and communications technology (ICT) in support of rule of law promotion and transitional justice in acute crises and post-war environments. So far, ICT solutions such as mobile phone apps have been introduced in such contexts only in few, isolated cases. The range of possibilities is much broader. However, if users share information, data security is of utmost importance. Effective approaches place the needs and interests of users in the centre from the beginning.

II. Conceptual approach

The promotion of the rule of law and support to transitional justice have become important instruments in international peacebuilding. Numerous donors fund activities of governmental as well as non-governmental organisations that aim at fostering peace and stability in countries and societies in and after conflict. Meanwhile, technology is set to transform the way governments interact with their partners and citizens. From voting, to healthcare, welfare, security, urban planning and traffic management, a wave of digital innovations is pointing the way for smarter government around the

globe. The rise of GovTech – i.e. technologies applied to public services that aim to improve the operational efficiency of governments – and of CivicTech – i.e. technologies that aim to improve interactions between citizens and their government – are driving this change.

That also counts for the promotion of the rule of law and transitional justice: Digitalisation constitutes a new sphere that offers innovative modes of engagement in this area. For instance, the use of digital tools could provide possibilities to reach larger target groups and interact with them in flexible ways. It could also enable more transparent and accountable provision of government services.

Interaction between citizens, courts and governments, however, can be far from easy. As customer goods and services became smarter and more tailored to the individual, citizens began already to expect individualized standards also from their governments. Especially the use of mobile phones leveraged that development of individualisation of services. Therefore, in order to generate useful, relevant tools that will fill actual gaps, a user-centred approach accompanied by demand-driven engagement is vital. Paying attention to the genuine needs of target groups prior to the conception and launch of a digital tool will in turn enhance its relevance as well as its sustainability and ownership. Potential users of digital tools should be engaged at all stages, i.e. its conception, trial, implementation, adaptation, evaluation. However, the question of how to identify and include future users particularly can be difficult to answer. Experience from Afghanistan indicates that there is a risk of mistaking the views of non-representative, educated, urban classes for those of the entire population. Working with developers from countries of the Global South could be a way to circumvent these methodological problems and, as a side effect, strengthen young entrepreneurs who make efforts to establish tech companies even in fragile countries like Iraq or Myanmar.

A user-centred approach to the application of digital technologies in rule of law promotion and transitional justice will not be limited to ensuring that the needs of target groups are understood and met. Availability and accessibility of the tools must also be ensured, as well as accountability of those institutions and organisations that introduce and run them.

As the success of digital technologies massively depends on the trust that users place in them, cyber security and data security pose vital challenges for their application in countries in crisis. Oftentimes, the confidence of citizens in their own governments and administrations is already low due to the lack of adequate infrastructure and competent personnel, corruption and the abuse of power. A risk-sensitive approach is important not only to gain popular confidence but also to avoid undesired negative effects. In some cases, the leaking of specific information has already resulted in threats or even attacks against individuals. Data protection is particularly key, and extraordinarily difficult, in these environments. It is worth further discussing which standards should be applied – those of the donor countries funding the introduction of digital technologies, or those of the countries where they are applied.

Finally, the term ICT covers a broad range of technologies of which algorithms, blockchain, artificial intelligence (AI) and data-driven applications are only examples. This is due to the state of the art in digital technologies as such. Most of the more complex technologies are either not yet operational or have only been applied for different purposes. This is particularly true for blockchain, which does not seem to fulfil all of the high expectations that have been placed in it recently. Others have been successfully introduced in countries of the Global North where they serve to facilitate management and communications of law firms and courts, and their interaction with customers (Legal Tech). More

radical approaches, such as chatbots, even aim to replace lawyers. However, they cannot be easily transferred to fragile contexts. To this end, even simple technologies need to be fully developed and tested before they can be applied without causing any harm.

Digitalization in rule of law promotion and transitional justice has an enormous potential of benefits, as the modes of application indicate (see below). They can help reach and communicate with large target groups, enable improved provision of government services, reduce costs and even enhance the rule of law. However, they must be properly designed, implemented and supervised. Recent studies indicate that not all GovTech and CivicTech tools used in the Global North live up to these ideals. Some of them undermine governance standards such as transparency, accountability, and the consistency of administrative decisions. Some even violate fundamental rights such as equality before the law. These flaws should not be exported to fragile contexts.

III. Modes of application

In the present context two categories of digital tools can be distinguished. While some allow for unidirectional (linear) communication, and thus only provide information to users without reply options, others enable bidirectional communication where users can actively engage by, for instance, starting communication by uploading information.



Illustration: unidirectional and bidirectional communication.

Fields of application for unidirectional digital tools encompass the following examples:

- Open source provision of information (e.g. law wikis, blogs, online dictionaries);
- Increasing transparency and decreasing corruption in the public sector through openly accessible information (open government, e.g. Rwanda's G2C or government to citizen online services).
- Educating specific target groups (e.g. Geneva Call's "Fighter Not Killer" App, informing combatants about which acts comply with international humanitarian law, and which do not);

Fields of application for bidirectional digital tools include the following examples:

- E-learning programs (e.g. for law students or justice officials based in inaccessible or insecure areas);
- Smart citizenship (enabling citizens to interact with state entities, e.g. file complaints online or give input to planning processes);
- Increasing the effectiveness and accountability of law enforcement agencies in fragile environments (e.g. through electronic case management systems);
- Crowd-based identification of human rights violations (e.g. "Ushahidi" software, mapping post-election violence);

- Crowd-based forensics aiming to gather (admissible) evidence in international investigations or legal proceedings (e.g. tools developed by Bellingcat, Inventus IT Solutions, Kroll); (
- Creating communication channels in order to reach particular target groups such as conflict parties.

This list is neither exhaustive, nor does it systematically cover all potential areas of application. It aims to exemplify the possible use of ICT in fragile contexts by mentioning some of those that do already exist.

IV. Challenges

The opportunities of digital approaches to the promotion of rule of law and transitional justice in fragile contexts correspond with challenges, some of which are highlighted here with regard to both unidirectional and bidirectional digital tools.

1. Unidirectional digital tools:

- Adapting digital tools to specific local contexts. For instance, bearing in mind illiteracy rates amongst potential users, digital tools could also use imagery and visualizations:
- Ensuring that digital tools do not create societal “bottle necks” or “digital divides” but rather reduce them (equal access);
- Engaging potential users of digital tools at various stages (conception, trial, implementation, adaptation and evaluation of a tool) in the genuine pursuit of a user-centred approach.

2. Bidirectional digital tools:

- Doing no harm, especially by ensuring effective data protection for the users of digital tools by applying high protection standards;
- Verifying the genuine nature and origin of information that is digitally processed; taking anti-corruption measures against those who benefit from entering false information;
- Noticing filters and biases, to which the source of information may be susceptible (e.g. the use of incomplete media reports to map instances of cross-border violence in India and Pakistan);
- Preventing the abuse of digital tools for deliberate attempts at misinformation (e.g. “deep fakes”);
- Preventing the emergence of a culture of denunciation with the increased use of crowd-based forensics.

V. Contributors

This paper is based on a talk among experts who convened at the German Federal Foreign Office on 5 October 2018 for an open exchange of ideas. On behalf of RSF Hub, Tilmann J. Röder (moderation), Anna Pröhl and Viktoria Vogt participated. RSF Hub is grateful to all scholars and practitioners who contributed to this paper:

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About RSF Hub

RSF Hub is a project-based think tank funded by the German Federal Foreign Office fostering knowledge transfer between politics, academia and field practice in the area of rule of law promotion and related topics such as transitional justice. RSF Hub organises, in collaboration with various partners, expert talks and round tables. Team members teach at universities and train ministry staff, speak at events, contribute to blogs and publish academically. For more information on the Hub's activities see <http://www.fu-berlin.de/rsf-hub>.

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