Technology , Law and Voter Inclusion

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What we will be discussing today;

•The basic legal Framework applicable to Inclusive Elections
•Technology and Discrimination
•Technology and Women
•Technology and Disability
•Technology and Corruption
•Conclusions
•Time for questions and discussion

What I wont be doing;

•Selling you anything!

The Legal Framework

"Election Law" is an emerging area of law which draws on a wide variety of Sources-Domestic and International

- *Most significant sources are the UN Charter, The Universal Declaration of Human Rights (Art 21) , and the International Covenant on Civil and Political Rights (Art 25).*

- *Many States suffer from a fragmented system of laws evolved over many years-the UK Electoral Framework dates back to 1695-due for revision in 2020.*

- *The transition to an automated election system provides a real opportunity to support inclusive elections.*

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The Basic Legal Framework does not differentiate between Manual and Automated Forms of Election nor should it be expected to do so

The Basic Legal Framework does not differentiate between Manual and Automated Forms of Election

UDHR Art 21

(1) Everyone has the right to take part in the government of (his) country , directly or through freely chosen representatives

(2) Everyone has the right of equal access to public service

(3) The will of the people shall be expressed in periodic and genuine elections which shall be held by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

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The law can be traced to a series of Fundamental Treaty Based Obligations which were in place prior to the emergence of technology

The International Legal Framework is highly relevant

- *International Convention on the Elimination of all forms of Racial Discrimination-adopted in 1966 and which guarantees the enjoyment or exercise of political rights and fundamental freedoms "on an equal footing"*

- *The Convention on the Elimination of all forms of Discrimination against Women-adopted in 1979 and which guarantees equality (irrespective of marital status).*

- *International Convention on the Rights of Migrant workers and their families adopted in 1990 (not yet by the EU)*

- *UN Convention against Corruption , adopted in 2003*

- *Convention on the Rights of Persons with Disabilities adopted in 2006.*

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Technology – a facilitator of inclusion or a barrier-Racial Discrimination?

Technology – an obstacle or facilitator of inclusion?

Technology and Racial Discrimination/Migrant Workers

Well designed Voter Registration systems can deliver a secure, rolling programme of voter eligibility at Township, County or State Level based on simple non discriminatory factors not linked to ethnicity , gender or other forms of civic registration.

- *Voter Registration systems can be supported by targeted voter training and education, to ensure that the message to register is heard and understood-Australia*

- *Voter Registration can be live-real time and operate up to the day itself-Estonia.*

- *Early Voting will increase turnout among minority groups–USA (and ease congestion /intimidation on polling day).*

- *Overseas Voting will enfranchise displaced persons/diaspora –India/USA?*

Here is an example of how technology is being used to enfranchise indigenous populations in Ecuador

https://www.youtube.com/watch?v=CssNWUNMaF4

Technology – a facilitator of inclusion or a barrier-Technology and Women.

Technology – an obstacle or facilitator of change?

Technology and Women

- *Illiteracy and "public man/private woman" are still the biggest obstacles to female enfranchisement in many States*

- *In Brazil ,Voters vote using visual images of their candidate, DRE systems can provide voice and touch screen prompts to aid voting for illiterate voters.*

- *On-Line Voter Registration can be used to overcome problems of distance-often cited as a barrier for women*

- *Electronic Voting helps speed up the count-reducing the scope for violence and intimidation.*

- *But ….Technology cannot solve the requirement that a Husband or Father must support the request to Register.*

Technology – a facilitator of inclusion or a barrier-Corruption.

Technology – an obstacle or facilitator of change?

Technology and Corruption (1

- Often seen as the biggest barrier to adoption-

"you cannot trust the politicians so why should you trust technology?
"the existing system has served us well so far-why change it?"

- It starts with the procurement process
- …it continues with the technical evaluation and verification process- (sometimes for understandable reasons)
- …it is assisted by a lack of independent standards or technical competency
- …it is compounded by much publicized failures- from Florida in 2000 to Mexico in 2014.

- …and a failure on the part of Industry to work together on the problem- system security should not be a point of differentiation between vendors

Technology – an obstacle or facilitator of change?

Technology and Corruption (2)

Technology is actually the key to ensuring integrity in the election process but we need your help...

• Early EMB involvement in system design and configuration can help to identify specific areas of concern-something we actively welcome and encourage.

• Careful RFP design will help you to set the parameters for measurable performance indicators ; training standards ; ballot configuration ; transmission protocols ; tabulation and results announcement, and most important of all , synergy with your voter registration system – **all this ensures that as an EMB you only buy what you actually need**.

•Too often we see RFP's issued that are clearly designed to match a particular vendor –sometimes we see Procurement exercises that link the provision of Election Systems to Foreign Aid-that creates a recipe for failure .

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How can we work together to remove the
threat of corruption and build trust in the
integrity of the Voting System being deployed?

Technology – working together to build trust

Technology and Corruption (3)

"*A Corrupt Procurement System will deliver a Flawed and Corruptible Voting System*".

- Start Early-invite a variety of stakeholders to the table before committing to automation in the first place-Belgium/NL Example.
- Ensure that the Legal Framework fits with the core requirements for Voter Secrecy and Enfranchisement.
- Establish a clear and independent technical resource to recommend , and then audit the system you procure-with plenty of time for pilots and pre-election testing.
- Keep your technical resource separate from the Bidding and Awards Authority-and away from any contact with the vendors unless all are invited!
- Have a strong Chairman!
- Own the System, but please, **don't allow third parties to look under the hood-not all vendors have the technical capability that they claim**.

Technology – a facilitator of inclusion or a
barrier-Disability

Technology – an obstacle or facilitator of change?

Technology and Disability (1)

This is perhaps the biggest area in which Technology can be used to support Voter Inclusion

What is an inclusive society?

- Disabled people are treated equally
- Their positive contribution to society is recognised
- Their physical, hidden, and mental health conditions are not a barrier to participation
- They enjoy the freedom to vote on an independent basis-just like everyone else.

Technology – an obstacle or facilitator of change?

Technology and Disability (2)

- Well understood that Technology can support Independent Voting for those suffering a physical disability; Best source of Law in this area is the US "Help America Vote Act" which mandates provision for voters to cast their vote on an independent basis...BUT

- Mental Health is an increasing problem-in the UK some 700,000 Citizens have dementia 1.2 Million have a learning disability.

- Ballot Configuration can be complex-multiple events on the same ballot-**so make it look easy to read**

- The real problem is that often it will **be the carer** who determines whether or not the individual (s) in their care vote, and perhaps even , who they vote for.

- DRE Systems can be designed to deliver a ballot that takes account of the voters capacity-constructed in a way that guides, but does not steer the voter to an informed decision.

Conclusion

- *Despite a variety of International and Domestic Instruments issued by the most highly respected International Organisations , the democratic ambitions of Art 21 UNDHR , and Art 25 ICCPR remain unfulfilled in many States .*

- *Technology cannot solve the underlying Cultural Barriers , but if used well, technology can help to remove corruption , enfranchise minorities and displaced persons, and provide a basis for independent voting for those whose physical or mental capacity makes that too hard at the present time.*

Any questions?

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Smartmatic is the world's **leading** provider of Voting Technology and Services for Governments