

Record-Keeping & Information Management

Record-keeping refers to the making and maintenance of proper records of substantive and procedural aspects of a constitution-making process. A constitution-making process produces and receives a significant amount of written and other material, including public submissions, records of deliberations and decisions of [constitution-making bodies](#), press releases, [civic education](#) material, and various drafts of the constitution itself. Careful advance planning by constitution-making bodies, [secretariats](#) and, in some cases, international advisors is necessary for deciding which materials are to be retained, and in what manner and form they are to be recorded, organized and retained.

This paper discusses the following topics:

1. Why Record-Keeping is Important
2. Types/Forms of Record to be Kept
3. Guiding Principles and Issues to Consider

1 WHY RECORD-KEEPING IS IMPORTANT

Constitution-making processes are rare and often defining moments in a country's history and record-keeping can promote integrity for and pride in the process. There are several specific reasons for record-keeping:

- during the process itself, record-keeping allows quicker and easier access to documents that track discussion and decisions that have been made by the constitution-making body (typically meeting minutes) so that deliberations are more organized and issues are not unnecessarily revisited;
- it records the basis on and manner in which decisions were taken and consensus reached and why various ideas were either important or objectionable to decision-makers/stakeholders;
- it is a record of history and how the constitution was made, providing an explanation of what the country is moving away from and an indication of what its aspirations are;
- for records made available to the public, it increases transparency and can protect the reputation of the constitution-making body/bodies;

- the records can be used to educate and promote awareness of the constitution and constitutional rights and can be educational tools for future processes in that country and for other countries; and
- the records can be displayed in museums, archives or special exhibits on the constitution and the constitution-making process (eg, the United States' [National Constitution Center](#)), promoting education, ownership and national pride.

Moreover, in many legal systems (particularly in common law countries, such as the US and India) it is permissible to look at the record of constitution-making bodies as a guide to judicial interpretation of the constitutional text. A constitution itself may contain provisions about interpretation that have implications for record-keeping. For example, Article 24 of the 1975 constitution of Papua New Guinea provides that official records of debates and of votes and proceedings (and related reports/documents) of the pre-independence House of Assembly on the report of the Constitutional Planning Committee and the Constituent Assembly may be used as aids to constitutional interpretation. And Indian courts often look at the published debates of the constitutional founding (the debates of the "Constituent Assembly") as an aid to constitutional interpretation.

For more on record-keeping, see pages 165-168 of the [Interpeace handbook](#). See also [Hassen Ebrahim on records and record-keeping](#).

2 TYPES/FORMS OF RECORD TO BE KEPT

Depending on the context, it is typically important to keep and store the following records:

- agendas, attendance and voting records for all plenary and committee meetings;
- minutes and/or transcripts of meetings (of constitution-making bodies and other important organs, such as the [secretariats](#));
- financial records of constitution-making bodies and [secretariats](#);
- resolutions/decisions, agreements and other legal framework documents;
- submissions by political, technical, academic, and international advisors, and civil society and the public;
- research documents/papers;
- [civic education](#) and [public consultation](#) curricula and inputs/submissions;
- working documents and drafts of the constitution; and
- audio and visual records of important processes and events, and perhaps even physical artifacts.

In Latin America, it is common to find a partial record of constitution-making processes, especially the official gazettes, at the Library of Congress. In Colombia, for instance, the Central Bank's Library, [Biblioteca Luis Angel Arango](#) (BLAA), has a collection of documents and video-recordings from the Constituent Assembly of 1991.

3 GUIDING PRINCIPLES AND ISSUES TO CONSIDER

a) Personnel/Leadership

Tasking the constitution-making body [secretariat](#)/staff with record-keeping at the outset, throughout and following the process is critical to ensuring that adequate records are taken, managed and maintained. Chairpersons and other leaders can play an important role in ensuring that staff follows established record-keeping practices. For instance, during Pakistan's 2008 amendment process, the chairperson was careful to ensure that proper minutes were kept by the staff and that the day's proceedings did not commence until the prior day's minutes were approved.

b) Technology

Record-keeping can be resource and capacity intensive and may require specific technical equipment. It therefore needs to be included in budgets and operational planning. Typical equipment includes modern audio and video recording equipment, photo-copiers, scanning devices, web-cam and other streaming devices and appropriate software. In some countries, necessary equipment and skills may not be readily available. In such cases, outsourcing may be required, which may entail greater cost.

c) Storage/Organization

It is typically easier to keep files organized in digital format, especially given the large number of materials that a constitution-making process produces. In Kenya's 2008 process, the Commission's staff maintained a decentralized system of storage whereby records and documents were stored by each respective department (such as Finance and Administration). Within the Kenyan Commission, the hard copies of the data collected were kept in files stored in filing cabinets and the electronic data was stored in floppy disks, CDs and hard drives. It is wise to have several copies in different formats and physical locations, servers, etc. In South Africa, for instance, the [Constitutional Assembly Database Project](#) was lost due to a computer crash in 2000. It will also be necessary to keep the data technologically "up to date," as the information platforms themselves may become obsolete.

The storage of all records must be specifically designed for the long term. Establishing good filing systems in advance for submissions and other documentation is essential. Many countries have established online public archives that are indexed and searchable. Public repositories can give the public a sense of ownership of the records. To facilitate this, it is important that documents are organized and tagged while they are being collected. In Kenya (see page 163 of the [CKRC's Report on Working Methods](#)), the Commission's *Registry* (under the Research, Drafting and Technical Support Department) acted as the repository where records (such as letters, memoranda and other material information) were received, registered, serialized/coded and filed. Upon receipt, such materials were indexed for ease of retrieval when required. Five methods of filing were utilized: chronological, geographical, alphabetical, numerical and subject-wise. There may be existing national legislation relating to archiving, such as legislative archiving, that may be mandatory or informative for the constitutional process.

d) Confidentiality

In general, all records should be regarded as immediately accessible and transparent to the public, including minutes of meetings and records of resolutions. The circumstances under which certain documents will be kept confidential should be carefully considered early in the process and disclosed. Documents might be kept confidential on the basis of political sensitivity and/or political concerns. For example, in Afghanistan's 2003 process, the names of the individuals providing public submissions were omitted from the public record to protect the speakers. Maintaining the security of files is important, not least because of the dangers of sensitive issues being misunderstood or deliberately manipulated by opponents of the process, or simply by people seeking their own political advancement through a controversy arising from the process. Some participants may also be sensitive to verbatim transcription and/or audio/video recording. If a participant is worried about having their (potentially controversial) views on the record, this could stifle open/candid discussions.

In multi-lingual countries, translation of the most important documents should be conducted for all/major languages used by the population; however, there may be financial and practical constraints to translation.

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