



# International constitutional advising: Introducing a new dataset

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## Abstract

The article presents the first systematic comparative study on the growing involvement of international organizations in national constitution making around the world. Over the past three decades, the emerging field of international constitutional advising has undergone an intense process of institutionalization and professionalization, mirroring the increasing role constitution making is playing in both national and international politics. Despite the vast scope of the phenomenon, the involvement of foreign constitutional advisors in domestic constitution-drafting or constitutional reforms has received little scholarly attention. This article takes the first steps towards addressing this lacuna empirically, by introducing a new dataset on 46 international organizations involved in 730 constitutional advising projects in 145 countries between 1989 and 2017. We classified the organizations based on their type, their headquarters' location, the countries they target, the kind of advising activities they perform and the level of directness of the advising intervention. While generally, we find a significant correlation between more direct constitutional advising activities and larger relative changes in the quality of democracy and larger numbers of constitutional systems in a country, the article suggests avenues for more nuanced research to better understand constitutional advising's impact.

**Keywords** Constitution making · Constitutional advising · Democracy promotion · Intergovernmental organizations · International Nongovernmental Organizations · Data

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## 1 Introduction

Since the end of the Cold War, constitution making has become an essential political instrument for advancing both national and international goals, including regime change, conflict resolution, state building or various policy reforms. In the last three decades, over 100 countries worldwide have either written or re-written their formal constitutions, amounting to more than half of the world's existing constitutions (CIA World Factbook; Horowitz, 2021). In many of these cases, external advisors have been involved, intervening to varying degrees, from providing funding or background expert knowledge to proposing new constitutional provisions.

Individual external advisors have consulted on national constitutions since the days of Rousseau's involvement in 18th -century Poland and Corsica (Rousseau, 1985).<sup>1</sup> Yet the past decades have brought about a completely new phenomenon: a notable increase in the number of organizations and experts involved in the field of constitutional advising, which has undergone a significant process of professionalization and institutionalization (Ginsburg, 2017; Kendall, 2015; Williams, 2013). Dozens of organizations involved in democracy promotion have established new programs for constitutional advising, hired constitutional specialists and created full-time positions for constitutional advising officials.<sup>2</sup> Meanwhile a burgeoning number of professional reports about on-going constitution making processes, online guidelines, and manuals for constitution drafters is emerging on the internet.<sup>3</sup>

Surprisingly, despite the vast scope of the phenomenon, no systematic empirical study has explored the growing field of international constitutional advising and its impact on democratic constitution-making. Recent scholarship in comparative constitutionalism has begun to recognize the important role that international actors, institutions, and ideas play in national constitution making (Al-Ali, 2011; Benvenisti & Versteeg, 2018; Saunders, 2019; Shaffer et al., 2019; de Poorter et al., 2022). Most studies, however, tend to focus on specific issues such as post-conflict reconstruction (Bali &

<sup>1</sup> Other famous examples for foreign advisors include Ivor Jennings, who consulted more than 15 constitutions in post-British colonialism in Asia and Africa (Kumarasingham, 2014); or Frank Goodnow, the first president of the American Political Science Association, who advised the 1912 constitution of China (Kroncke, 2015). For overview of additional individual advisors see: Ginsburg, 2017.

<sup>2</sup> To mention only few illustrative examples: between 2012 and 2016 full-time jobs for global constitution-making experts have been created at UNDP, UNDP/PA and International IDEA, and in 2009 IDLO established a new initiative of constitutional consulting. Also in 2009, the UN published the General Secretary's Guidance Note on the United Nations Assistance to Constitution Making Processes, which was updated in 2020. <https://peacemaker.un.org/guidance-note-UN-constitutional-assistance-doc>. For additional overview of institutional and organizational initiatives in the field of international constitutional advising, see: Williams, 2013; Ginsburg, 2017; Sripari 2020.

<sup>3</sup> For a few examples, see: International IDEA's Constitution Building project: <https://www.constitutioonet.org/>; Interpeace's project on "Constitution Making for Peace": <https://www.interpeace.org/our-approach/constitution-making-for-peace/>; United States Institute of Peace's project on "Constitution Making, Peacebuilding and National Reconciliation" <http://www.usip.org/programs/initiatives/constitution-making-peacebuilding-and-national-reconciliation>; Comparative Constitutions Project: Informing Constitutional Design <https://comparativeconstitutionsproject.org/>.

Lerner, 2017; Bell, 2017; Benomar, 2004; Dann & Al-Ali, 2006), the migration of constitutional ideas (Choudhry, 2011; Dixon & Jackson, 2013; Elkins, 2010; Frankenberg, 2010; Hirschl, 2014; Nelson et al., 2020; Rosenfeld, 2009), constitutional imposition (Feldman, 2004), or women's rights (Murray & Wittke, 2017). By and large, this literature examines particular case-studies or focuses on a small set of cases, refraining from a broad comparative analysis of foreign consultation to constitutional drafting.

Similarly, as democracy promotion became a central component of Western countries' foreign policy (especially following the September 11, 2001 terrorist attack),<sup>4</sup> a new body of research began examining the impact of external influence on democratization (Brown, 2011, 240-1; Buxton, 2006; Carothers, 2006; Hill, 2011; De Lisle, 1999; Wright, 2009; Young, 2010). Recent studies tend to focus on the involvement of foreign organizations in specific aspects of democracy promotion, such as election monitoring or judicial reforms, with mixed results concerning measures of impact (e.g. Alkon, 2002; Ariotti et al., 2021; Dietrich & Wright, 2015; Finkel et al., 2007; Gibson et al., 2015; Jones & Tarp, 2016; Scott & Steele, 2005). Similarly, while this literature recognizes constitutional development as a central vehicle for advancing democracy (Carothers, 1999: 160–63), it has failed to investigate constitutional advising as a particular instrument of democracy assistance. Thus, for example, we know that Western states spend billions of dollars annually on democracy aid programs (Bush, 2015: 4) but we have no information on the allocation of assistance resources between projects involving constitution making and other policies and programs, such as support for ordinary legislation, monitoring elections, or funding opposition groups (Borzel & Lebanidze, 2017; Bush, 2015; Hyde, 2011; Young, 2010).

A parallel set of international relations scholarship concentrates on the role of third-party peacekeeping in reducing violence around the world (Matanock, 2017; Walter et al., 2021). Yet here too, although constitutions have played a growing role in processes of conflict mitigation, limited research has been conducted on the specific role of constitutional experts in such processes (Mubashir et al., 2021).

In sum, while constitutional advising has become a central practice of transnational politics, we have little systematic knowledge of who the foreign organizations consulting national drafting processes are, which specific activities they undertake, where they operate, how they interact with each other, what effect they have on the content of national constitutions and whether they have a long-term impact on democracy and governance.

This article takes the first steps towards addressing this gap. To begin with, we map, for the first time, the landscape of organizations involved in the business of international constitutional advising and propose classifications for further analysis. Drawing on primary and secondary sources as well as on interviews with nine

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<sup>4</sup> In the US alone, spending on democracy-assistance programs increased from 8% of the annual foreign-aid budget in 1990 to 16% in 2009 (Bush, 2015: 7).

leading international constitutional advisors, we have created our “International Constitutional Advising Organizations” (iCAO) dataset. The data features 46 organizations involved in 730 international constitutional advising projects in 145 countries between 1989 and 2017. We classified the organizations based on their type,<sup>5</sup> their headquarters’ location, the countries they target, the kinds of activities they perform and the level of directness of their advising activities, based on an original nine-category classification we developed.

The analysis of the data reveals some unexpected findings that shed new light on how external constitutional assistance operates. For example, we found that in most countries in the “iCAO” dataset, one to three external organizations have been involved to varying degrees in constitutional advising; ten countries, however, have had between ten and thirteen external organizations involved. Furthermore, and to our surprise, in over 40% of the countries, advising organizations provided direct assistance to domestic drafters at least once. Direct assistance requires close connection between the foreign advisor and local political actors, as opposed to indirect advising activities such as funding other organizations or providing written reports (often on other cases). We also found that while intergovernmental organizations (IGOs) and non-governmental organizations (NGOs) are the most active organizations in terms of volume of advising cases (90% of advising events were conducted by either NGOs or IGOs), governmental organizations (GOs) are performing the most *direct* type of advising activities.

We identified three constitutional advising hotspots, i.e., regions targeted by the largest number of projects, in Eastern Europe, the Greater Horn of Africa, and the Tibetan Plateau. Among these hotspots, we found that Africa is the leading region in terms of direct external intervention in constitution making and the number of international organizations present. By contrast, foreign interventions in Eastern European constitutional processes were conducted by a smaller number of organizations that carried out less direct advising activities.

This shows the enormous variation in the type of advising organizations and their activities, in the timeframe of advising interventions, and in the geo-political conditions under which advising projects occur. Our finding that more direct international constitutional advising is significantly associated with a larger relative increase in domestic quality of democracy between 1989 and 2017 underpins the need for a more nuanced inquiry concerning the influence of external actors on democratic constitution building.

The article is organized as follows. Section 2 describes data sources and limitations, and how we assessed the validity of the data, leveraging semi-structured interviews with international experts and leading practitioners. Section 3 presents the dataset and findings. Section 4 situates the discussion within existing literature in comparative constitution making and international relations, and presents avenues for further research, particularly concerning the question of impact. Section 5 provides some concluding remarks.

<sup>5</sup> I.e., governmental, intergovernmental, nongovernmental organizations, or academic centers.

## 2 Mapping the field: Data, methodology, and definitions

### 2.1 Definitions and sampling

The first stage of the data collection was designed to establish a list of organizations involved in international constitutional advising between 1989 and 2017. We began with a purposive sampling of organizations known for constitutional advising, such as International IDEA or the UN. We implemented an exploratory data collection protocol, canvassing the websites of these organizations to find constitutional advising related documents, and a multiple stage snowball sampling protocol to find further organizations involved in constitutional advising.<sup>6</sup>

We identified 46 organizations that played any type of role in advising constitution making in foreign countries, regardless of the scope of this mission within the organization (for list of organizations see Appendix A, available on the Review of International Organization's website).<sup>7</sup> While foreign consultants often collaborate with local political or civil society groups, our study focuses on cross-border interactions and hence we excluded from the dataset any type of domestic organizations that advises their own country's constitution making project. We limited the start date of our research to 1989, the year of the fall of communism, which is often considered the beginning of the "age of constitution making" (Hart, 2005; Horowitz, 2021). The end date was 2017, which is the year we began conducting our research.

By "constitution making" we refer to the formal drafting of new constitutions, the re-writing of existing constitutions, or the amendment of specific provisions within a formal constitution. While some scholars may view constitutional interpretation by courts as a continuous process of drafting (Dixon, 2017), for the purpose of clarity, we refrained from including in the study any type of advising to post-drafting constitutional implementation, including constitutional adjudication, ordinary legislation or parliamentary discussions that occurred after the enactment, or amendment of the formal constitution. By contrast, the start-date of the drafting process is more difficult to establish, as it is occasionally difficult to differentiate between the formal processes of writing the constitutional document and the political process that leads to the agreements underpinning it, often described in terms of "dialogue promotion," "conflict mediation," or "political facilitation." Such terminology was especially prevalent in advising organizations' reports in the 1990s (e.g., United Nations Department of Political Affairs [UNDPA]).<sup>8</sup> In many respects, the increasing

<sup>6</sup> The original data collection included an iterative process going back and forth between institutions and members of the network until reaching the point of theoretical saturation. In cases where only general information on an organization's involvement in constitution making but no evidence for specific advising activities was found (the EU, for example), the organization was not included in the data set.

<sup>7</sup> While some organizations may consider constitutional advising as a central part of their practice (e.g., International IDEA), others conceive of constitutional advising as a subsidiary activity (e.g., ICG). Furthermore, the focus on constitution making may vary within the same organization over time. Comparing the sizes of organizations thus requires a more nuanced measure than merely the number of employees or budget and should be developed in future research.

<sup>8</sup> The dual processes of political pre-drafting negotiations and formal drafting is often captured by the term "constitution building" (Bisarya, 2020).

reliance on more “technical” constitutional terminology reflects the growing professionalization and institutionalization of the field (Kendall, 2015).

Another challenge we faced while compiling the data stemmed from the political sensitivity underlying external constitutional interventions, which may involve background pressure on domestic political leaders. Consequentially, official reports sometimes refrain from explicitly mentioning such direct influence in constitution making. For example, many of our interviewees noted that formal peace talks and constitutional negotiations may be accompanied by informal talks — often facilitated by the same international organizations, and in recent years in collaboration with each other. Yet these processes may be difficult to detect in formal records of constitutional advising projects.<sup>9</sup>

Taking these complexities into account, we considered relevant for the dataset any external involvement in domestic formal constitution drafting/amending, even if it was not directly linked to specific constitutional provisions. This was the case, for example, when USIP reviewed the 2012 Provisional Constitution of Somalia. Together with PeaceTech Lab and local actors, USIP explored how technology could be used to make the national dialogue about the constitution more inclusive, participatory, and transparent.<sup>10</sup> We relied on the involved actors’ perceptions, who viewed this activity as an instance of foreign intervention that intended to help shape the process of constitutional reform.

## 2.2 Coding

Between 1989 and 2017, the 46 organizations in our data conducted constitutional advising projects in 145 countries (see Appendix B for a list of countries). In most countries, several organizations operated simultaneously, or the same organizations returned and advised domestic actors at different time periods. Our unit of observation is the organization-project. For example, in 2005 International IDEA’s experts wrote a report on the constitution of Chile, and then in 2015 the same organization provided technical assistance to the constitutional reform process. We counted these interventions as two different advising projects.

As we mapped the field of actors and their activities relating to constitutional advising, we found regularities in how these experts and organizations advise constitutional drafting. We conceptualized a scale based on the degree of intervention as a function of external advisors’ proximity to the constitutional draft or drafters. Our nine-point scale comprises the types of activities these experts and organizations may engage in, progressing from the least to the most direct (see Section 3.2 for further details).

## 2.3 Validation and limitations

Our data was obtained from official organizations’ websites, annual reports, newsletters, press releases, official statements, and specific project reports. We also relied

<sup>9</sup> Moreover, given under-reporting of constitution advising cases by few of the organizations under study, due to internal bureaucracy, our list of Advising Events might not be exhaustive.

<sup>10</sup> <https://www.usip.org/publications/2017/01/current-situation-somalia>.

on secondary literature in the field of comparative constitution making. To ensure the validity of our data and increase its reliability, we randomly verified each other's coding. Whenever there was doubt concerning the coding of a particular advising project, the entire research team discussed it until we agreed.

In addition, between June 2017 and March 2019 we conducted nine interviews with leading international constitutional advisors from the US, Europe, Africa, and the Middle East. Interviewees included headquarter officers, field officers and academics who acted as external advisors (see Appendix C.1 for the questionnaire, and C.2 for a list of the organizations represented by our sample of interviewees).<sup>11</sup> The semi-structured interviews were conducted in English or French through Skype, recorded and then transcribed. We also conducted several background and off-the-record conversations, mostly with independent academics who have advised on constitutional drafting processes. These interviews and conversations served in part as a validity check for our datasets and conceptualization of the activity types. For example, the interviews were crucial for clarifying the vague term of “technical assistance” which we consistently found in written documents throughout our data collection process. We also partly relied on our interviewees to verify our universe of cases, through follow-up email correspondence.

Overall, we were able to classify the type of advising activity conducted in 80.3% of the constitutional projects (579 out of 730 projects). For the remaining 19.7% of cases (151 projects) for which this was impossible, we found general indications of the organization's involvement (e.g. indications in annual reports) but not a specific description of the exact type of advising activity they conducted (see Appendix E for a summary of missing values in our dataset).<sup>12</sup> We were also able to identify the start year of 91% of the projects featured in our data. In only 65 projects (8.9%) we were unable to identify the exact start year.

### 3 Results

#### 3.1 International advising organizations: Who are they?

Among the 46 organizations in our dataset, all but two are headquartered in long-standing Western democracies. Topping the list are the US with twenty organization

<sup>11</sup> We began with purposive sampling of known constitutional advisors and continued with two further stages of snowball sampling. We asked our interviewees if there was someone else, they thought we should talk to. We also continued to identify potential interviewees based on our internet research. Names and transcripts are confidential, per interviewees' requests.

<sup>12</sup> Even though all interviewees were very supportive in this regard, validation was at times difficult, especially in larger and some of the more established organizations due to weak institutional memory. As one of our interviewees pointed out in response to our request for data validation for one of the organizations: “I started to put numbers on your table, thinking I would email you what I know. But what I realize is that even for the cases I'm fairly familiar with – I cannot know for sure the full range of activities that were undertaken on the ground. I might know some of what was done, but my level of knowledge is insufficient to say in all but a tiny handful of cases ‘this is the full extent to what [we] did.’ In the attached I have noted what I know.” Email sent by interviewee on 06/26/2019.

headquarters and Germany with seven. Whether the headquarters' location has any impact on the constitutional consulting process remains unclear. Table 1 shows the leading role taken by the US and Germany in the business of exporting constitutional ideas. Furthermore, the table demonstrates that, by and large, the institutionalization of constitutional advising mostly characterizes the English-speaking world.

We clustered the organizations into four types: Governmental Organizations (GOs, such as USAID and GIZ), Intergovernmental Organizations (IGOs, such as UNDP, International IDEA or the Forum of Federations), Non-governmental Organizations (NGOs, such as the Public International Law and Policy Group [PILPG] or Democracy Reporting International [DRI]), and Academic or Research Centers (such as the Peace Research Institute in Oslo or the Center for Constitutional Transitions at NYU).<sup>13</sup> Table 2 summarizes key characteristics per organization type, revealing the domination of IGOs and NGOs in the universe of constitutional advising. Together, these two types also constitute the largest share of advising projects. While comprising slightly less than a third of advising organizations, IGOs alone conducted 69.2% of all international advising projects in the research period. Conversely, academic and research centers represent a fourth of the advising organizations but were involved in less than 11% of the worlds' constitution-making projects during the period under study.

The geographical scope of the different types of organizations also varies considerably. As reflected in the number of projects, IGOs conducted projects in 129 countries, the largest scope of all organization types, and comprising 89% of all 145 countries covered in the dataset. NGOs operated in 84 different countries, corresponding to more than half of all countries in the data. Conversely, the interventions of GOs and research centers are limited to a smaller geographical area.

Finally, Table 2 illustrates the variation of the timing of project start dates. While, on average, IGOs, GOs and research centers began their projects between 2004 and 2005, the mean start date for advising projects led by NGOs is 2011. This suggests that NGOs are relatively "late comers" into the business of international constitutional advising, compared with all other types of organizations.

The number of documented projects in our data increased over the years, as illustrated in Fig. 1. This growth may signify a surge in the number of advising projects around the world. But this surge may also be the result of an improvement in the organizations' self-documentation, or greater accessibility to existing records; for example, thanks to more sophisticated websites or better online archival techniques that have evolved over the past three decades.

Yet a proper understanding of the influence of advising organizations calls for a finer analysis than simply aggregating case numbers per year, or organizational types, as not all organizations tend to perform the same kind of advising activities.

<sup>13</sup> The NGO category encompasses national and international nongovernmental organizations, non-profit organizations, and legal societies.



### 3.2 What does advising mean?

When claiming to provide constitutional advising, what exactly do the different organizations do? The range of activities that may be included under the umbrella of “constitutional advising” is broad (de Poorter et al., 2022). As mentioned above, we limited the scope of our study to advising on formal constitution writing or reform processes, including the drafting of new constitutions and the amendment of specific provisions in existing constitutional documents. Constitutional advising may address the content of the constitution (be it the general principles or the wording of specific provisions) or the design of the drafting process, including, for example, choices concerning the drafting body, by-laws of decision-making procedures, and the degree of public participation.

To understand better the extent of involvement in domestic constitution making by advising organizations, we created a nine-point ordinal scale, with higher categories indicating more direct interventions.

As depicted in Table 3, the least direct activity on our scale is cross-funding between different international advising organizations. For example, USIP provided grants for constitutional advising projects carried out by other organizations, such as the Comparative Constitutions Project (CCP), based at the Universities of Texas and Chicago.<sup>14</sup> GIZ funded the Max Planck Institute to assist with trainings in Yemen in 2013–14.<sup>15</sup> In such cases, no direct contact exists between the funding organization and domestic actors.

The next type of activity entails a more direct involvement, insofar as it involves providing funds for domestic actors that take part in the constitution-making process. Domestic actors may include legislatures, civil society organizations, local think tanks, etc. Funding may also be directed towards infrastructure related to the constitutional drafting process, such as the creation of office space for civil society groups, printing hard copies of relevant materials or of the draft constitution itself, etc. For example, in 2005, the Netherlands Institute for Multiparty Democracy distributed 60,000 copies of a “politically neutral fact sheet” in Kenya to better inform the Kenyans about the draft constitution.<sup>16</sup>

Third, many organizations have been engaged in recent years in the writing of detailed reports on specific processes of constitutional drafting while they are still in progress, or immediately after their completion. While such reports may be viewed as a backwards-looking ‘after-the-fact’ activity, in many cases they may provide helpful lessons to other processes operating under similar conditions or in some cases may even impact ongoing constitution-making processes. ICG, for example, published reports on the Nepalese constitutional process in 2005, 2007 and 2012. The new Constitution of Nepal was only promulgated in 2015.

Fourth, a more forward-looking activity involves the publication of guidebooks, websites, newsletters, and manuals that provide general information or tools for

<sup>14</sup> <https://www.constituteproject.org/content/about?lang=en>.

<sup>15</sup> <http://www.mpfpr.de/projects/country-based-projects/yemen/constitutional-training-and-consulting/>.

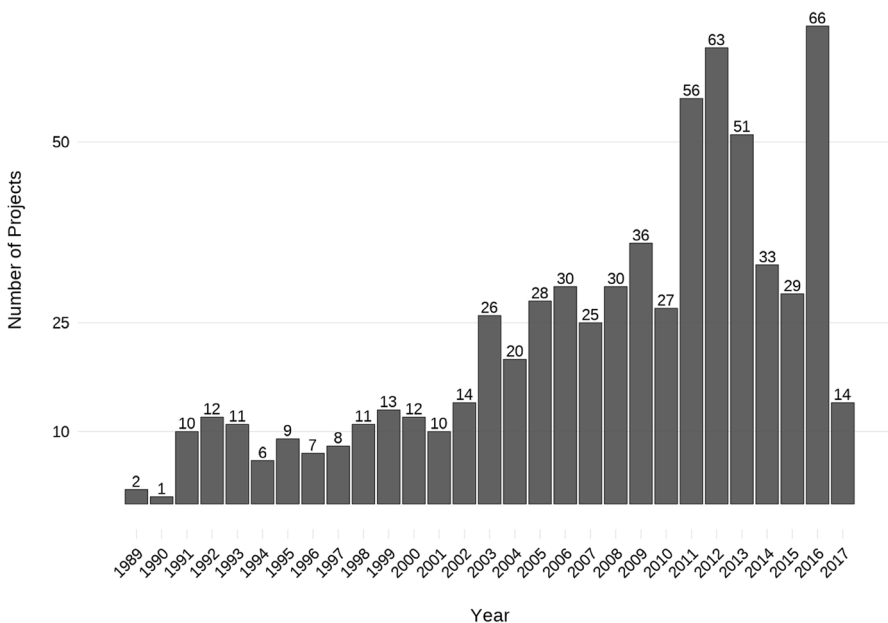
<sup>16</sup> NIMD, “NIMD Annual Report 2005,” p. 15.

**Table 1** Number of advising organizations per headquarter country

Country	Organizations count	Country	Organizations count
Austria	1	Norway	1
Belgium	1	Pakistan	1
Canada	2	Sweden	1
France	2	Switzerland	4
Germany	7	Tunisia	1
Italy	1	UK	2
Netherlands	1	United States	20
Total = 46			

**Table 2** Summary statistics per organization type

Organization type	Projects count (%)	Organizations count (%)	Countries count (%)	Project start year mean (SD)
Governmental	14 (2.9)	3 (6.5)	12 (8.3)	2004 (9.5)
Intergovernmental	505 (69.2)	15 (32.6)	129 (89.0)	2005 (8.9)
Non-Governmental	174 (24.1)	17 (37)	84 (56.0)	2011 (6.1)
Research	37 (10.7)	11 (23.9)	22 (15.2)	2005 (9.5)

**Fig. 1** Number of international constitutional advising projects being launched per year between 1989 and 2017

**Table 3** Classification of constitutional advising activities in terms of the directness of intervention

Code #	Activity name	Description
1	Cross-funding	Funding other international advising organizations.
2	Domestic funding	Providing funding for domestic actors (organizations/individuals), e.g., for subsidizing office space or for printing copies of the constitution.
3	Case study reports	Preparing reports on case studies of completed processes to provide general lessons.
4	Guidebooks	Publishing general guidebooks and toolkits for drafters (websites, policy papers, manuals).
5	Case info	Providing case-specific information/tools for practitioners, written to influence national constitutional processes.
6	Workshops	Workshops and trainings for domestic actors. Workshops may take place locally or in another country.
7	Technical assistance	Field work in collaboration and direct connection with domestic political actors, involving ongoing contact with domestic actors.
8	Draft provisions	Drafting of specific provisions to be discussed and voted on by domestic actors.
9	Complete drafts	Preparing a draft of complete constitution.

current or future constitution makers. In contrast to the specific case-study reports mentioned above, such constitution-making guidebooks aim at having a broader impact on any future or on-going constitution-making projects across the world. Examples may include the UNDC Guidance Note on Constitution Making,<sup>17</sup> the UN Women’s Constitutional Database<sup>18</sup> and UN-published constitutional newsletters,<sup>19</sup> Interpeace’s “Constitution-making and Reform” (Brandt et al., 2011), and IDEA’s “A Practical Guide to Constitution Building” (2011).

Fifth, organization may write specific, forward-looking reports, which include information and tools designed to assist practitioners in ongoing constitution-making projects. A typical example would be the variety of opinions issued by the Venice Commission, tailored to each constitutional drafting process, and including specific examples relevant to the constitutional case for which the report is written (Craig, 2019).

Sixth, international organizations that run various kinds of workshops, training programs, or study trips for domestic actors may exert greater influence on the constitution-drafting process. Such tailored workshops or programs could be local (for example, DRI organized a workshop on Constitutions and Human Rights in 2014 in Libya)<sup>20</sup> or take place in another host country. Such workshops allow domestic actors (either homogenous or more heterogenous groups, i.e., from different countries) to discuss relevant issues with academic experts or with foreign practitioners.

The seventh type of external advising activity is labelled “technical assistance.” While this term encapsulates a range of distinct activities by different organizations, it is generally understood as referring to field work conducted through ongoing collaboration and direct contact with domestic politicians or civil society actors involved in the constitution-making process. Practitioners often regard such assistance as the “heart of constitutional advising.”<sup>21</sup> Technical assistance regularly includes informal alongside formal activities. We have coded as “technical assistance” any advising activity that involved a specific connection between the advising organization and domestic individual actors (so not a general workshop, for example) and that included “feet on the ground” on the part of the advising organizations. Some organizations explicitly use the phrase “technical activities” to describe their own activities. Other organizations use a different terminology to describe a similar level of direct advising activities; for example, International IDEA reports on their activities in Chile in 2015 in terms of “in-person advice and substantial review of and input to documents.”<sup>22</sup>

The next level of directness in our scale involves writing specific provisions to be discussed by domestic drafters and potentially included in the final constitutional document. The International Development Law Organization (IDLO), for example, worked in Kenya during the constitution drafting process. According to the organization’s own description, the “IDLO’s legislative drafting expert assisted the COE [ ] in finalizing the text of the constitution ... [and the] Chair of the Supreme Court

<sup>17</sup> <http://www.onu.cl/es/wp-content/uploads/2016/06/Constitution-Making-Support-Guidance-Note.pdf>.

<sup>18</sup> <https://constitutions.unwomen.org/en/about>.

<sup>19</sup> <https://peacemaker.un.org/Constitutions/Newsletter>.

<sup>20</sup> [https://democracy-reporting.org/dri\\_publications/workshop-report-securing-human-rights-in-libyas-constitution/](https://democracy-reporting.org/dri_publications/workshop-report-securing-human-rights-in-libyas-constitution/).

<sup>21</sup> This description came up in several interviews and conversations with leading practitioners in the field.

<sup>22</sup> International IDEA “Annual Results Report 2015,” 2016a, p. 54.

tasked IDLO with reviewing and drafting articles on judicial independence and incorporated them in the new constitution.”<sup>23</sup>

Finally, the most direct and comprehensive involvement of external advisors on our scale refers to the preparation of a complete constitutional draft. We did not encounter any such instances during the period and in the countries under inquiry.<sup>24</sup> Figure 2 lists the 46 constitutional advising organizations and illustrates their range of activities based on our nine-point scale.

Figure 3 illustrates the number of observations per activity (in light gray) relative to the number of organizations involved in each activity category (in dark gray). We found that 25 organizations (54%) have provided cross— or domestic funding for constitutional advising activities. 33 organizations (71%) reported on past case studies (Activity 3), 35 organizations (76%) provided guidebooks (Activity 4), 29 (63%) provided general information and tools for practitioners (Activity 5) and 29 organizations (63%) organized workshops and training programs for drafters (Activity 6). Specifically, 24 organizations (52%) engaged in technical assistance (Activity 7), and although 7 organizations were reportedly directly involved in the drafting of specific provisions of constitutions (Activity 8), we only found specific case information for one such intervention by the International Development Law Organization. We did not find any reported cases for the provision of complete drafts (Activity 9).

Out of 46 organizations, 31 (67%) claim to perform technical assistance or draft constitutional provisions, yet we did not find specific case data for some of these organizations. Thus, in terms of verified interventions, Fig. 3 demonstrates that most organizations tended to perform activities that did not require ongoing field work. This is not surprising, given the costs involved in employing field officers and the extended time frame of such advising activities, which require nuanced knowledge of local politics and language.

While 29 organizations organized workshops and trainings (Activity 6, see Fig. 3 above), this type of activity is not the most frequent. Rather, we found that the most popular activity is that of “case info” (Activity 5), namely the writing of case-specific documents to provide information and tools for domestic actors involved in a particular project of constitution making or amendment.

Figure 4 illustrates how the number of observations per activity is distributed by organization type. Each of our four organization types engaged in Activities 3 to 7, with the main number of observations, being within this range. While IGOs reported the largest number of case-specific documents, workshops, and technical assistance (Activities 5 to 7), NGOs drafted most case reports (Activity 3). In addition, NGOs did not cross-fund projects (Activity 1) but provided domestic funding (Activity 2) more frequently than IGOs and GOs.

To unpack further the relationship between activities and organizations, Fig. 5 presents the proportions of activities conducted by each organization type. Figure 5 indicates that GOs engaged mostly in more direct advising activities, with 37% of

<sup>23</sup> IDLO “Annual Report 2010,” 2011, pp. 7–8.

<sup>24</sup> Bosnia’s 1996 constitutional drafting is not included in the study.

their cases involving technical assistance (Activity 7). Research organizations have the smallest range of activities: they did not provide any funding (Activity 1 and 2) and the development of guidebooks (Activity 4) accounted for 38% of their activities.

Note that the small number of observations in some categories, for instance the most direct Activities 8 and 9, but also Activities 1 and 2 pertaining to funding, may be underreported in our dataset, as domestic actors, or even the organizations themselves, may prefer to conceal the direct involvement of external drafters or funding details.

In this regard, the European Commission for Democracy through Law, known as the Venice Commission, presents a leading example for transparency, which had a significant impact on our data. As an independent advisory body to the Council of Europe (Craig, 2019), the Venice Commission provides comprehensive information on its activities, openly accessible online, making it the most detailed organization in our dataset. Our dataset features 238 projects (out of 730) from the Venice Commission alone, which mainly provides information materials on specific cases (Activity 5) and organizes workshops and trainings (Activity 6). It is thus evident that a large proportion of the observations for those activities is attributable to the Venice Commission. Figure 6 presents the proportion of activities conducted by organization type and the Venice Commission (separately, in black).

At the same time, almost every project implemented by the Venice Commission is related to constitutional advising, whereas other IGOs of comparable size and budget usually only dedicate a small percentage of activities specifically to constitution-making.

With this in mind, we can highlight some additional, cautious insights about the geographical distribution of advising projects.

### 3.3 Where do advising organizations operate?

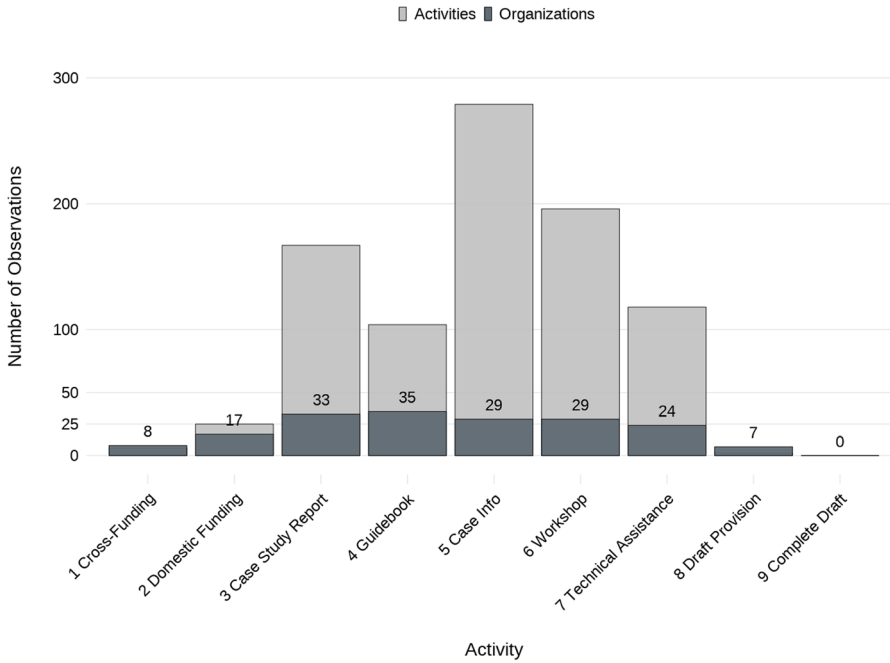
Altogether, our dataset yields a global average of approximately 5 ( $Mean=5.4$ ,  $SD=4.75$ ) constitutional advising projects in 145 countries featured in our data. Figure 7 maps international constitutional advising projects per country based on a three-category classification: Countries with 1–4 projects are classified as “below-average”, 6–12 projects are classified “above-average” (within one SD away from the mean), and “hotspots” (in black) are countries with 13 and more advising projects (more than two SD more than the average).

Eastern Europe continues to be a geographical hotspot for constitutional advising. Most international advising occurred in Georgia (26 projects), followed by three neighboring new republics, in particular Ukraine (24 projects), Moldova (19 projects), and Armenia (18 projects). Since the disintegration of the Soviet Union in 1989, this region has felt an urgent need for constitutional assistance, and especially advising by the Venice Commission, with a view to the EU integration of Georgia, Moldova, and Ukraine (Craig, 2019).

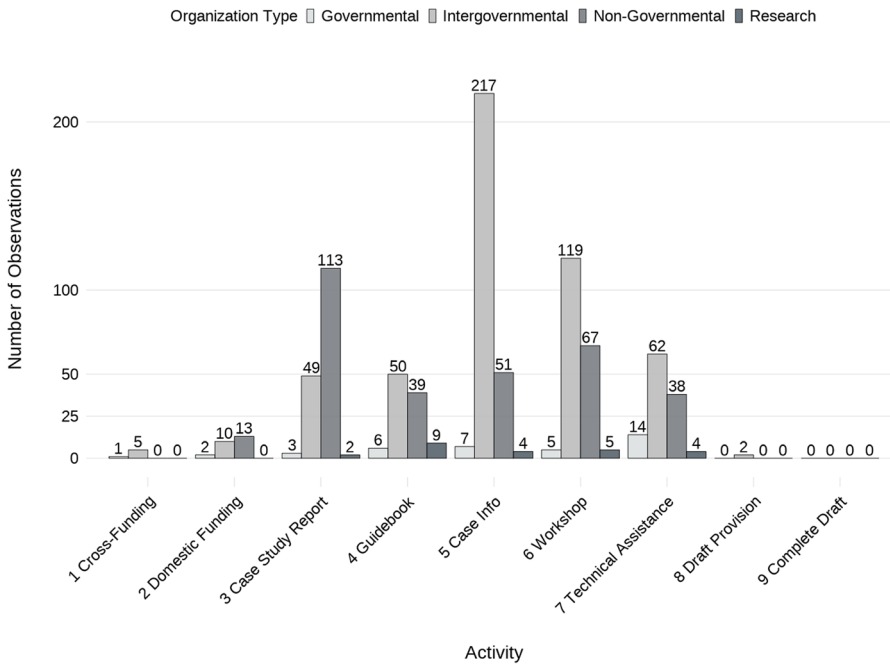
Figure 8 lists the 25 countries with the most constitutional advising projects (in light gray). In addition to Eastern Europe, there are at least two other



Fig. 2 Range of constitutional advising activities per organization



**Fig. 3** Number of international advising organizations performing each activity type (in dark gray), and number of observed advising activities (in light gray) for each activity type



**Fig. 4** Number of observed activities for each category of activity type, per organization type



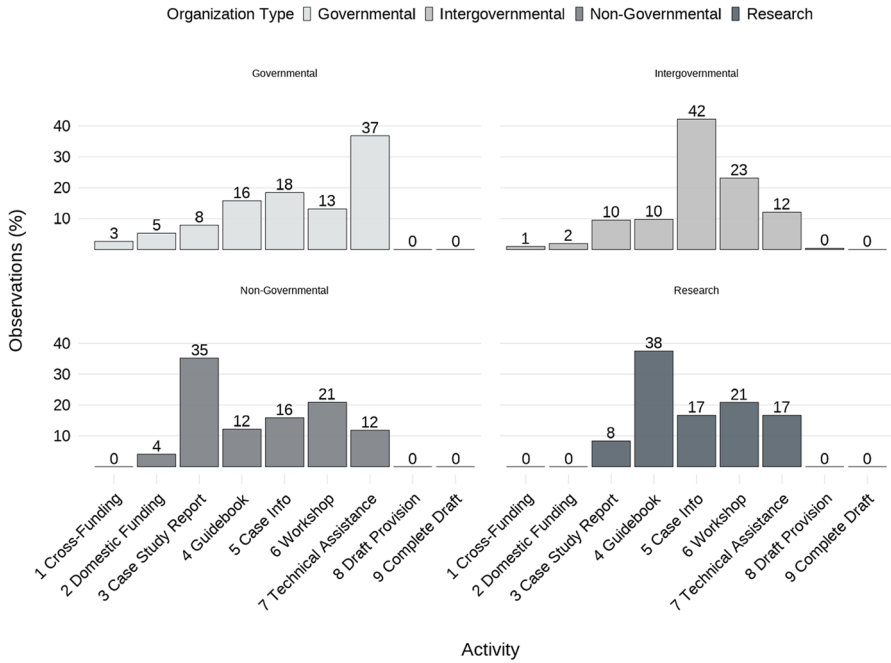


Fig. 5 Proportion of observed activities by organization type

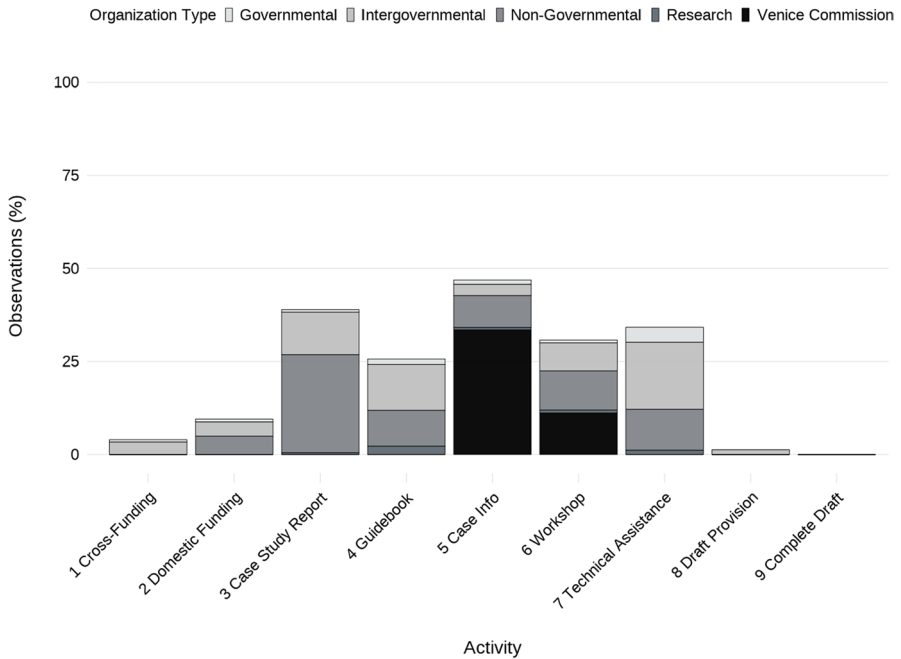
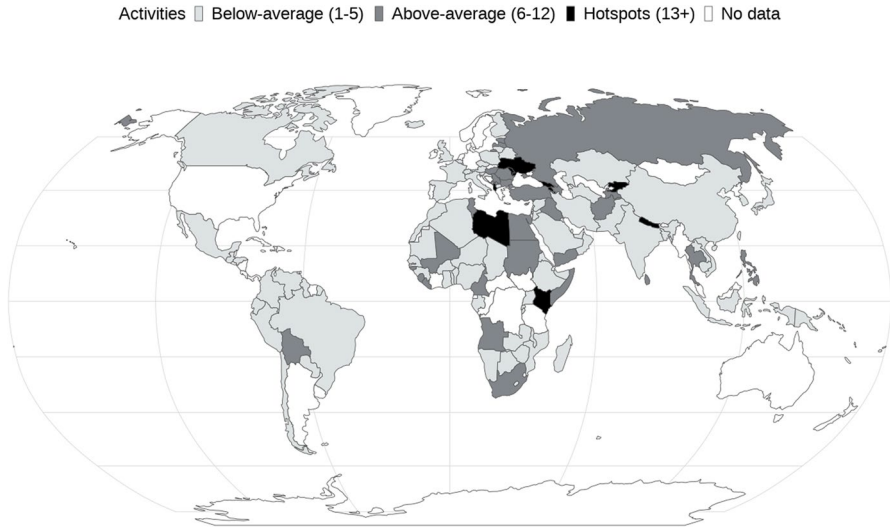
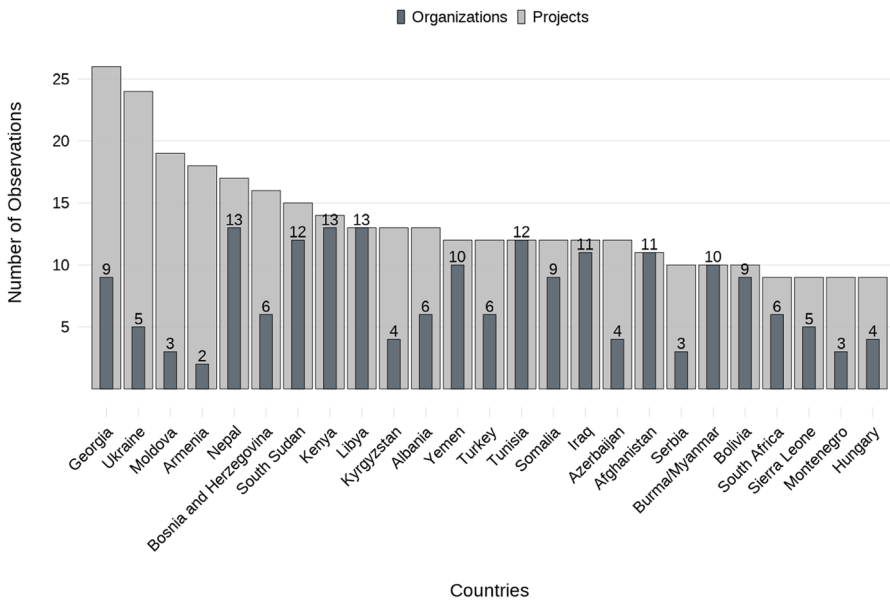


Fig. 6 Proportion of observed activities by organization type, with the Venice Commission in black



**Fig. 7** World map countries classified by the number of constitutional advising activities

geographical regions with a large number of constitution making projects over the nearly three decades between 1989-2017. First, the Tibetan Plateau, specifically Nepal with 17 and Kyrgyzstan with 13 reported advising projects. And second, the Greater Horn of Africa, in particular South Sudan (15 projects), Kenya (14 projects), Somalia (12 projects), and Sudan (9 projects).



**Fig. 8** 25 countries with the largest number of constitutional advising projects (in light gray) relative to the number of organizations active per country (in dark gray)

Figure 8 also illustrates the number of constitutional advising organizations (in dark gray) per country. The average number of advising organizations implementing at least one project per country was 3.41 ( $SD=2.92$ ). While in most countries only between one and three external organizations were active, in others, over ten different organizations were involved in constitutional advising, many of them operating simultaneously. As displayed, 11 organizations operated in Afghanistan and Yemen, 12 in Tunisia, and 13 in Kenya, Nepal, and Libya. Appendix B shows the complete list of countries and the number of projects and organizations that operated in them over the years.

While only a few countries attracted multiple advising organizations, we were surprised by the number of countries in which external advisors were directly involved in the drafting process. As illustrated in Fig. 9, in 54 out of 145 countries, external agents performed technical assistance at least once in the last three decades. Figure 9 also suggests that most countries have had at least one constitutional advising intervention on the higher side of our nine-category classification of direct constitutional advising (Activity 6 and upwards, all of which involve direct contact with domestic actors).

Figure 10 maps the most direct advising activity in each country. Again, we distinguish between “less direct” (Activities 1 to 6) and “more direct” interventions (Activities 7 and 8, namely technical assistance and draft provision). Comparing Fig. 10 to the three regions with the most advising projects (see Fig. 7), we point out the variation with regard to the type of activities conducted in each constitutional advising hotspot. While constitutional advising activities are “less direct” in Eastern and Central Europe, i.e. limited to the organization of workshops (Activity 6), external organizations provided technical assistance (Activity 7) or prepared draft provisions (Activity 8) in the Greater Horn of Africa and the Tibetan Plateau.

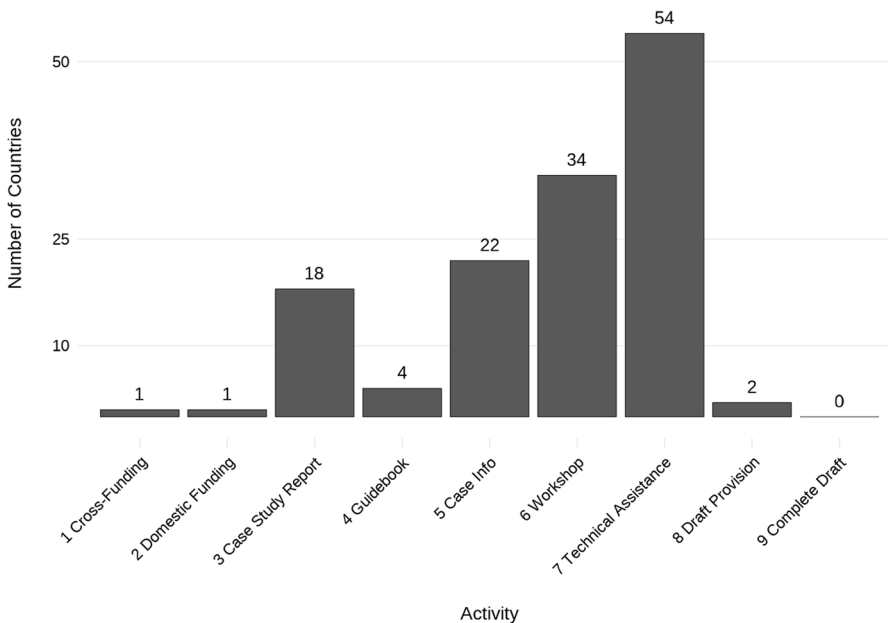
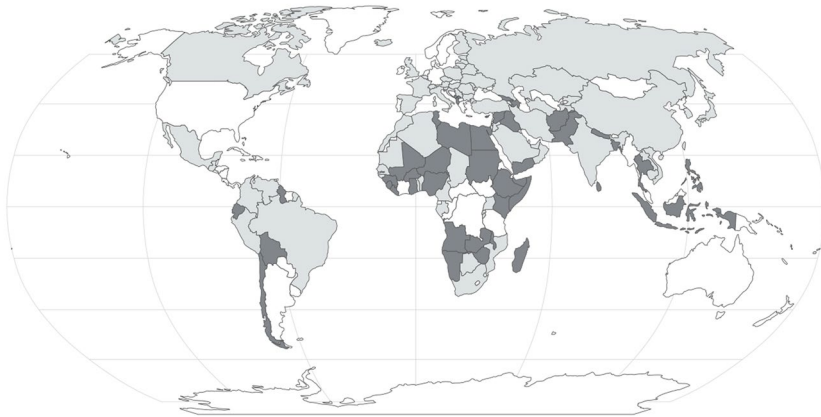


Fig. 9 Number of countries per most direct constitutional advising activity

Activities  Less direct (1 Cross-Funding - 6 Workshop)  More direct (7 Technical Assistance - 8 Draft Provision)  No data

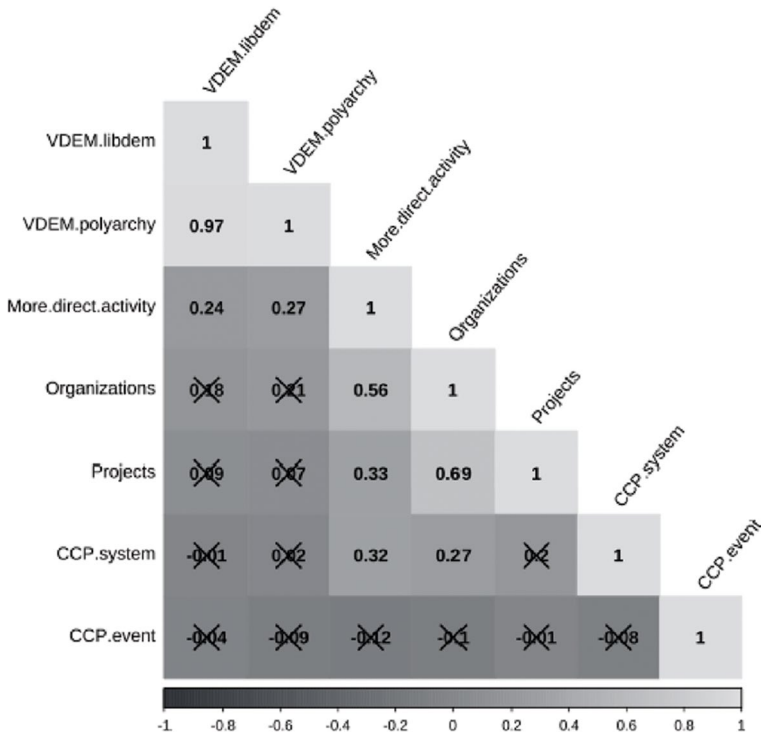


**Fig. 10** Map of 145 countries displaying the most direct constitutional advising activity conducted per country and grouped by more or less direct types of constitutional advising

Comparing the two maps (Figs. 7 and 10) raises questions concerning the correlation between the number of external advising projects and organizations involved in domestic constitutional drafting and the intervention's degree of directness. We expected a positive correlation between more direct advising activities and higher numbers of organizations and projects within a country. Figure 11 confirms that the same countries that attract a greater number of advising organizations and projects also invited more direct types of advising. For the period of 1989–2017, we found that more direct activities are moderately correlated with the number of projects [ $r(136)=0.32, p<.001$ ] and that the correlation between the number of organizations active in a country and more direct constitutional advising activities is higher [ $r(136)=0.56, p<.001$ ].

#### 4 Discussion: How to think about impact?

Promotion of democracy and rule of law is considered the most common goal of constitutional advising organizations (Saunders, 2019). Indeed, our empirical research, and particularly the interviews we conducted with professional advisors, revealed a shared set of core normative ideas underpinning the ecosystem of foreign constitutional advising, regardless of the advisors' personal background or institutional affiliation. These include: (A) A commitment to promote democratic norms and institutions through the constitution's content and its drafting



**Fig. 11** Spearman correlation between the number of constitutional advising organizations, projects and more direct activities and two impact measures: (1) V-DEM liberal and electoral democracy indices, and (2) number of national constitutional events and new constitutional systems, sourced from the CCP dataset. All correlation coefficients are significant ( $p < .001$ ) or crossed out

process;<sup>25</sup> (B) A commitment to promote some type of minority protection and principles of gender equality in the written constitution;<sup>26</sup> (C) A perception of local ownership as a condition for the success of a democratic constitution-making process, and consequentially, a perception of the advisor’s role as a mere

<sup>25</sup> E.g. Interview 1 (05/31/2017) “I think there are two very, very broad categories of goals. One might be the peace-building, democracy strengthening.”; Interview 2 (6/6/2017) “I think if someone put a gun to our head and forced us to think about some red lines, our red lines, our mandate is democracy. Democracy involves political equality as far as possible, with some inclusion and competition at the ballot box, right.”

<sup>26</sup> E.g. Interview 1 (05/31/2017) “You have some norms that are process-oriented and some norms that are substantive. Procedurally, we absolutely promote inclusion and participation and transparency and nations ownership and those things.... one of the substantive, normative inputs was a gender quote in the parliament.” Interview 2 (6/6/2017) “there is nothing in there that is particularly prescriptive against uh a particular system or belief, but you know, clearly we believe in gender equality, to us it is a fundamental part of democracy.”; Interview 5 (2/21/2018) “So I advised X in the making of the constitution of Y and both, and in the making of the transitional administrative law, and the making of the full constitution. My special responsibilities related to minority rights, human rights, executive design and the electoral system.”; Interview 6 (2/22/2018): “inclusion, participation, uh women’s engagement and things like that and, and I think X does walk that, the walk or walk the talk on those issues... I know in Somalia uh because there are no women at all involved in whatever processes are going on now, uh there’s a special effort to set up a women’s group.”

facilitator.<sup>27</sup> These three normative commitments suggest that democracy promotion is a key motivation behind the enterprise of international constitutional advising. Yet to what extent does constitutional advising indeed fulfil its goals and contributes to the diffusion of democratic norms and values across borders?

In recent years, critical observers have often doubted the ability of external experts to accelerate democratization processes by providing professional consultation at the constitutional drafting moment (Carothers, 1999; Horowitz, 2000). From an empirical perspective, comparative studies suggest that it is difficult to establish a strong causal connection between process and outcome in constitution making, partly because there are too many factors that influence the drafting process (Lerner & Landau, 2019; Lerner, 2022). We also now know that not all constitution making processes end up strengthening democracy and mitigating political conflict (Landau, 2013). Moreover, recent empirical research has revealed the complexities involved with constitutional compliance, which is contingent on various institutional, cultural and personal factors (Gutmann et al., 2023; Chilton & Versteeg, 2020; Law & Versteeg, 2013). Despite these challenges, the question of whether external constitutional advising matters is a pressing one, not least because of the growing magnitude of the field. The drafting of a new constitution is often considered a critical juncture in a country's institutional development (Capoccia & Kelemen, 2007). Illuminating the impact of external guidance on these critical moments is of crucial importance for our understanding of constitutional effectiveness. Measuring the influence of foreign actors on constitutional drafting or identifying the kind of external interventions which strengthen local design of democratic constitutions may shed light on the causes for compliance with democratic constitutional rules and principles.

For the entire period under study, we found no significant correlation between greater numbers of projects or organizations providing constitutional assistance in a country and increased quality of democracy (see Fig. 11). Yet, as Fig. 11 shows, more direct international constitutional advising is associated with a larger relative increase in domestic quality of liberal [  $r(136)=0.24, p<.001$ ] and electoral democracy [  $r(136)=0.27, p<.001$ ] between 1989 and 2017. Relative changes in the quality of democracy of a country are defined as the difference between V-DEM (Coppedge et al., 2023) scores for liberal (VDEM.libdem) and electoral (VDEM.polyarchy) democracy in 1989 and 2017, capturing relative change from the beginning to the end of our study period. For younger countries, we used their founding year as a baseline.

<sup>27</sup> E.g. Interview 4 (6/28/2017) “the policy decisions are made by the political masters and we essentially are the international civil servants who are in the room. Who are, you know because they don't have competent domestic uh domestic civil servants.”; Interview 9 (5/27/2019) “I think what people need to understand that the image of the foreign advisor sitting at the negotiating table drafting language is just wrong. It rarely happens. I think that, I actually think it's quite arrogant... Decision makers are often curious, they'll go, listen, they're curious about institutions, or they're curious about specific jurisdictions.”

As a complementary measure to relative changes in the national quality of democracy, we also assessed the correlation between advising project activities and number of national constitutional events and constitutional systems.<sup>28</sup> While there is no significant relationship between the number of national constitutional events and other variables used in this study, more direct international constitutional advising is, again, significantly associated with a larger number of new constitutional systems [ $r(136) = 0.32, p < .001$ ].

This brief analysis of two complementary measures of impact highlights the need for a nuanced understanding of the complexities surrounding the influence of international consulting on domestic constitutional processes. Such discussions should consider, for example, the great variation that exists among the types of advising organizations, the time frames of advising interventions, and the geo-political conditions under which they operate, among other factors. The rest of this section will briefly demonstrate some of the complexities involved in identifying appropriate variables for measuring the impact of constitutional advising on democracy, and will propose avenues for further research, on both empirical and conceptual levels.

First, we need more nuanced tools to adequately assess the impact of politically-leveraged versus less politically-leveraged organizations. Our interviews identified *access to domestic actors* as a key variable affecting constitutional processes. In the words of one interviewee, impact is directly linked to “face time with the national partners.”<sup>29</sup> Yet it is not clear what would be the best way to gain access to domestic actors, given the competition between the various organizations, and the myriad of conflicting interests underpinning the demand for, and supply of, constitutional advising. In contrast to the weak competitive environment attributed to international organizations in general (Frey, 2008), the field of international constitutional advising is often described as highly competitive in its nature (Ginsburg, 2017). At the same time, our interviews revealed that there is significant collaboration between various actors, especially at the headquarters level. In the words of one of our interviewees:

At a headquarters level we are less competitive because we are not competing over the same sources of funding, we are not competing for face time with national partners. In fact, we are competing over very little, if anything, you know.... [With few organizations] in particular we have tried to meet up at least once a year, just the people who are at headquarters level. I call it the “no

<sup>28</sup> Information on national constitutional events (ccp\_evt) and systems (ccp\_syst) are sourced from the Comparative Constitutions Project’s (CCP) “Characteristics of National Constitutions” dataset (Elkins & Ginsburg, 2022). The CCP dataset features 202 countries between 1989 and 2017, of which 189 recorded one or more constitutional events, i.e. amendment, interim, new reinstated, suspension amendment or suspension (see Elkins & Ginsburg, 2022 for additional details on coding), and 111 countries recorded at least one promulgation of a new constitutional system. A longitudinal comparison of constitutional advising activities in relation to constitutional events and constitutional systems, in particular in specific countries, is beyond the scope of this paper but we suggest this as a fruitful avenue for future research.

<sup>29</sup> Interview 2, 6/6/2017. One may suggest that this statement is misleading, given the self-interested positions of constitutional advisors. For the purpose of this discussion, we take this observation with a grain of salt. Indeed, our main argument in this section is that a much more detailed empirical investigation is required in order to confirm such observations concerning determinate factors facilitating impact.

ties no agenda meeting” where we can basically just get together as friends (interview 2, 6/6/2017).<sup>30</sup>

A more systematic study is thus required to map the dynamics of demand-and-supply in the field. For example, what motivates governmental and nongovernmental organizations to advise constitution making in foreign countries? And why would countries want to invite constitutional advisors to assist in delineating the fundamental principles of their political system?

Demand for constitutional advice may stem, for example, from the growing technicalization and professionalization of constitutional law and institutional design, and the perceived lack of inadequate local knowledge in comparative law and politics.<sup>31</sup> Moreover, foreign experts are often considered indifferent to local political controversies and hence invited to provide an impartial assessment of competing proposals, or a rational perspective, compared with the emotional or partisan approaches held by domestic drafter (Brown, 2008; Tushnet, 2015). International advising organizations may thus be viewed as better situated to serve as mediators, and to facilitate compromises, compared with local experts (Mubashir, 2021). Alternatively, advice-seeking may stem from strategic reasons. Local drafters may solicit external advising to confer domestic – or international – legitimacy (Tushnet, 2015: 852). In South Africa, for example, the government’s need to establish itself as a legitimate player in the international community in the post-Apartheid period led to massive involvement of foreign organizations and academic experts in constitutional advising (Klug, 2000). Similarly, after the fall of the Soviet Union, the attempt to gain EU membership led many Central and Eastern European countries to seek advice from European organizations such as the Venice Commission in the process of constitution re-writing (Lerner & Lupovici, 2019; de Visser, 2015). Conversely, domestic players opposing the constitution-drafting project might also use strategic reliance on external advising, to strengthen the legitimacy of their own criticism against the constitutional revisions proposed by the government (Dixon & Landau, 2021).

Given such geo-political considerations, one may argue that organizations such as the UN or the EU may have greater access to domestic drafters due to the political leverage these organizations hold over governments in developing or democratizing countries, compared with small NGOs.<sup>32</sup> Our data supports this presumption, indicating that governmental and intergovernmental organizations perform a more

<sup>30</sup> This is corroborated by interviewee 3 (06/27/2017), who also added that “There is of course a group of, I don’t know, 20 to 30 experts that typically go around the world... And they also, in different ways and more informally, provide a bit of basis for the community because they exchange and they come to these meetings. I think there is an ongoing conversation with the typical experts.”

<sup>31</sup> Interviewee 4 makes exactly this point. See above, fn 27.

<sup>32</sup> Similar preference for well-known foreign actors – such as the EU and UN - was recently reported in another field of democracy assistance, namely election monitoring. See for example: Nielson et al. 2019, 688. Interviewee 6, 2/22/18, for example, pointed out that: “getting back to your question, you know, I think sometimes the government was far more willing to talk to the UN than to X because X was seen as an NGO and in certain parts of the world, certainly in Asia, the word NGO is viewed negatively by governments, you know?”



direct type of constitutional advising compared to NGOs and Academic Centers (see Figs. 4 and 5). This finding suggests that given their political leverage, field officers in GOs and IGOs manage to work more closely with domestic drafters. As one of our interviewees from a smaller organization put it:

Now if X comes to your country and gives you a report, and somehow that report warns against the design option that you want to pursue for political purposes, why are you going to listen to X's report, you know? But on the other hand, if either the UN, which is providing money for your security, bankrolling your government, etcetera, etcetera, which is able to twist the arm of your president or other political leaders because they have all kinds of other leverage, or the Venice Commission, because you want to join the European Union because it is the largest free trade area in the world, and having a check mark from the Venice Commission helps you in showing that you meet European standards. Those organizations have much more leverage (Interview 2, 6/6/2017).

However, our data and interviews also point to an alternative hypothesis; namely, that political leverage stemming from extra-organizational geo-political conditions may weaken, rather than strengthen, external organizations' influence on constitutional drafting. Intense pro-democratic and pro-liberal efforts by Western-based organizations may create resentment by domestic actors in post-conflict or democratizing states, who may resist cooperation with external advisors or refrain from adopting their recommendations. Such backlash against foreign constitutional advising occurred in Egypt, and to some extent in Tunisia (Saati, 2018) as well as in parts of the Pacific Islands and Eastern Europe (Bisarya, 2020: 18–19). Indeed, several of our interviewees indicated that small, dynamic organizations may sometimes be able to facilitate assistance in more discrete and efficient ways than large, heavily bureaucratic organizations such as the UN.<sup>33</sup> Moreover, access to domestic actors does not merely rely on aligning interests but also on previous and even personal relations between local and external advisors. Thus, non-governmental organizations (or smaller intergovernmental organizations such as International IDEA) may often have better access to, and hence potentially greater influence on, domestic players involved in the constitutional drafting.

These conflicting hypotheses call for further research, which should take into account the nuanced political, economic and cultural context under which domestic players respond to external incentives or view foreign assistance as legitimate. Recent literature in international relations has likewise recognized the need to better understand the complex interplay between incentives, ideas and information underpinning the relationship between international organizations and domestic political processes (Konstantinidis & Karagiannis, 2020; Weyrauch & Steinert, 2022; Ariotti

<sup>33</sup> Interviewee 6, 2/22/18: "realize that sometimes, these organizations can do things that the UN can't do. The UN with its emphasis on working closely with the government, the UN with its huge, huge bureaucracy, uh with its difficulty in sometimes facilitating secret or, or quick uh meetings. So X had far more flexibility with respect to certain things."

et al., 2021). Further studies focusing on the two-level game in the area of constitutional advising may significantly contribute to this emerging discussion.

Another question that illustrates the need for a more nuanced consideration of impact concerns the issue of quantity versus efficacy. In light of recent setbacks to democracy-promoting measures and recurring backlash against foreign assistance organizations in Eastern Europe, the Middle East, and South Asia, the democracy promotion literature has had a lively debate on whether “more is better” (Bush, 2015; Cooley & Ron, 2002; Ziaja, 2020). In the context of constitution making, our preliminary examination revealed no positive correlation between the number of external advising organizations active in a particular country and its democracy scores. One way to explain this result may involve the problem of selection bias. Weaker states, which often lack local resources, may tend to invite a greater number of external advisors due to scarcity in local constitutional experts. Indeed, in our data, most countries with the highest number of advising organizations are considered weak or failed states (e.g., Libya, South Sudan, Afghanistan, and Yemen).

A central question is whether inter-organizational competitiveness leads to dysfunctionality or instead carries some advantages. On the one hand, selective evidence suggests that the involvement of multiple foreign organizations often leads to conflicting advice given to local actors by different advisors (Horowitz, 2000; O’Leary, 2019). As one of our interviewees noted, such a “surplus of advice” occurred in Nepal:

Nepal was just an absolute chaotic situation. One week the Germans would bring experts and think about German federalism, the next week it would be the Swiss, the week after it would be the Canadians, and you know the Nepalis were just left with their heads spinning, not knowing how to put it all together (Interview 9, 5/27/2019).

On the other hand, a recent study on democracy assistance suggests a positive effect of a large quantity of foreign organizations on democracy in recipient countries (Ziaja, 2020). According to Ziaja, the lack of a clear blueprint for democracy promotion provides a “marketplace for idea support” to a variety of domestic actors and thus improves democracy (Ziaja, 2020). Competitiveness between constitutional advisors may follow the same logic: the diversity of potential constitutional solutions may assist domestic actors to hone their own perceptions and pursue their own political interests through the constitutional drafting process, facilitating constitutional durability and democratic stability.

To address the complex effects of competitiveness, it may be helpful to distinguish between competitiveness on the level of ideas and competitiveness between actors. Within the latter category, another important distinction is between the relationship at the ground level, among field officers and individual advising experts, and the relationship at headquarters level. In addition to finding a shared normative commitment among our interviewees, we also found evidence for increasing collaboration at the headquarters level, suggesting a growing intensification and professionalization of the constitutional advising network.

## 5 Conclusion

This article presented the first systematic comparative study of the emerging field of international constitutional advising, which has undergone an intense process of institutionalization and professionalization over the past three decades. Additional research is required to more clearly identify the features that most effectively enhance democratic constitutions and advance the implementation of such constitutional texts in practice, including political leverage and quantity of active organizations, which have been discussed above. Other relevant intervening factors may include, for example, the timing and duration of the advising activities, the type of constitution-making body, or the influence of regional organizations compared with extra-regional advising bodies. More research is needed, either through empirical comparative studies with supplementary large-N data collection, or thorough small-N investigations of limited case studies. Given the inherent political, legal, and sociological complexities underpinning the field, a multi-methods approach would significantly contribute to our understanding of external influence on constitution making.

Ultimately, such research should also have practical implications, as the field is likely to remain on the international political stage in the coming years. While the past decade has been marked by a worldwide struggle over democratic values and increasing concerns about democratic stability in various parts of the globe, political leaders as well as the public still consider constitution making as a central tool for legitimacy enhancement, conflict resolution and policy reforms (Bisarya, 2020). However, not all constitution-making processes end up strengthening democracy or mitigating political conflict (Landau, 2013). A better understanding of where and how constitutional advice has been most effective would be helpful not only for promoting peace and democracy; it would likely also be helpful in restraining the abuse of constitution making as a masquerade for advancing pro-authoritarian reforms that could hinder and further weaken democracies around the world.

**Supplementary Information** The online version contains supplementary material available at <https://doi.org/10.1007/s11558-024-09530-x>.

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**Author contributions** The order of the authors reflects the significance of the authors' contributions. Author contributions to research design, conceptualization and writing: H.L. (60%), D.F.P. (20%), N.S. (20%). Statistical analysis: H.L. (30%), D.F.P. (35%), N.S. (35%).

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**Data availability** The full dataset used in the current study will be made available upon publication via the Harvard Dataverse, a FAIR compliant data repository: <https://doi.org/10.7910/DVN/VQBHGD>. Restrictions only apply to the availability of the expert interviews. To safeguard privacy of individuals, we provide a list of contributing organizations and anonymized individuals in the Appendix.

## Declarations

**Competing interests** No competing interests.

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