

Senate Finance and Public Administration Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
SUPPLEMENTARY BUDGET ESTIMATES 2014-15

Finance Portfolio

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Outcome/Program: 2/2.1

Topic: Open Government Partnership National Action Plan

Senator: Faulkner

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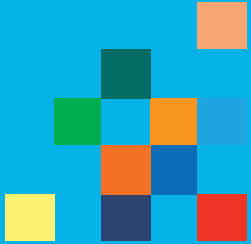
Question:

In relation the evidence of Secretary of the Department of Finance, Ms Halton (Thursday, 20 November p. 46), that "there are 162 particular recommendations on 19 different topics in relation to a possible OGP National Action Plan":

1. Could information regarding the topics and recommendations be provided?
2. Could any prioritisation by the Department of Finance of the topics and recommendations be provided?
3. Could any documentation from the OGP outlining the content of the topics and recommendations be tabled?

Answer:

1. The OGP Guide (attached) was considered as part of an internal analysis of Australian readiness according to OGP. The current version of the Guide is at <http://www.opengovguide.com>
2. Finance has done no prioritisation.
3. The guide is attached. Further information about OGP themes and requirements is available at <http://opengovpartnership.org>



OPEN GOVERNMENT GUIDE

Customised Report

www.opengovguide.com



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Introduction

At the heart of open government are the ideas of transparency, participation and accountability. As a working definition;

- **Transparency** means the public understands the workings of their government
- **Participation** means public can influence the workings of government by engaging with public policy processes and public service providers
- **Accountability** means the public can hold the government to account for its policy and service delivery performance

 More about definitions can be found at www.opengovguide.com/glossary

The Guide has been developed by the Transparency and Accountability Initiative (T/AI). It aims to support governments and civil society organisations to advance transparency, accountability and participation particularly as part of the Open Government Partnership. It highlights practical, measurable, specific and actionable steps that governments can, and are taking to advance open government.

The full guide covers a broad range of topics, and more are being developed.

Cross cutting topics	Focused topics
Assets disclosure and conflicts of interest	Aid
Budgets	Construction
Citizen engagement	Elections
Open government data	Environment
Public contracting	Extractive industry
Public services	Fisheries
Records management	Land
Right to information	Parliaments
Whistleblower protection	Police and public security
	Tax and Illicit flows

 A full index can be found at www.opengovguide.com/topics

Each Topic has been developed by an expert organisation and offers a flexible menu of 'illustrative commitments' which governments could adopt.

-  **Initial steps** – actions that a country can take starting from a relatively low baseline
-  **Intermediate steps** – actions that countries can take once they have already made moderate progress
-  **Advanced steps** – established best practice demonstrated by the most advance performers
-  **Innovative steps** – new approaches which countries are trying out

For each step the Guide lists.



Recommendations – detailed guidance from expert networks



Standards and guidance – key principles, guidance, reports, rankings and tools



Country examples – examples in practice from around the world

The levels of ambition do not imply that countries must work through the steps one by one, or that the country examples given in relation to a particular action implies an overall rating of national progress. Rather, it seeks to offer a flexible framework to support national dialogues about reforms in support of progress towards greater openness.

This document is a customised extract from the full online guide, which is a work in progress. Opengovguide.com is not just a static website. We hope that it will continue to grow with new case examples, resources and ideas. Contact info@opengovguide.com with comments and suggestions.

About T/AI

T/AI is a donor collaborative that aims to seize momentum and expand the impact breadth and coordination of funding and activity in the transparency and accountability field as well as to explore applications of this work in new areas. The collaborative includes the Ford Foundation, Hivos, the International Budget Partnership, the Omidyar Network, the Open Society Foundations (OSF), the Revenue Watch Institute, the UK Department for International Development and the William and Flora Hewlett Foundation

The contents of The Guide are attributable to the contributors for each Topic. The Transparency and Accountability Initiative members do not necessarily endorse the recommendations mentioned in the publication and website.

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Aid

 **Lead author:** [Publish What You Fund](#)

Introduction

For aid to be effective it depends on:

- Donors and recipient governments (and institutions) being mutually accountable for commitments and results;
- Recipient governments and institutions being accountable to their own citizens;
- Donor governments being accountable to their own citizens;
- Accountability between donors on commitments and coordination (Mulley, 2011).

Transparency underpins all of these forms of accountability. It is therefore important that donors provide information about the aid they give, and that they make this information publicly available in a comparable format and a way that people can easily understand. More and better information about aid will help to maximise the effectiveness of aid in reducing poverty because it helps partner countries and donor institutions plan and manage aid resources more effectively, parliaments and CSOs to hold governments to account for their use of aid resources and domestic taxpayers to see where their money is going, maintaining public support for development cooperation a time of financial stringency.

Without transparent aid information, countries that receive aid lack vital information to make decisions about domestic budgeting and spending, while donors are unable to judge where aid is most needed and how effective it is. Improving transparency and accountability in aid can also help to support the development of comprehensive and transparent national budgets which are crucial for citizens to hold their government to account in managing public money.

In 2005, under the Paris Declaration, donors committed to “provide timely, transparent and comprehensive information on aid flows so as to enable partner authorities to present comprehensive budget reports to their legislators and citizens”. At the Fourth High Level Forum on Aid Effectiveness in Busan in 2011, donors made their commitments more specific, agreeing to implement a **common, open standard** for publishing aid information, based on the OECD’s Creditor Reporting System (CRS) and the International Aid Transparency Initiative (IATI). Each organisation that endorsed Busan Partnership was expected to produce implementation schedules by December 2012 and aim to fully implement the common standard by December 2015.

References

Paris Declaration and Accra Agenda <http://www.oecd.org/dac/effectiveness/parisdeclarationandaccraagendaforaction.htm>

Fourth High Level Forum on Aid Effectiveness, 2011, Busan Partnership
<http://www.oecd.org/dac/effectiveness/busanpartnership.htm>

A-hoc group for the common standard, 2012, What is the common standard for aid information? Paris: OECD.

Mulley, S, 2011, Donor aid New frontiers in transparency and accountability, London: T/A I.

Expert Organisations

AidData <http://www.aiddata.org>

Aidinfo <http://www.aidinfo.org>

International Aid Transparency Initiative <http://www.aidtransparency.net>

Open Aid Partnership <http://www.openaidmap.org>

Publish What You Fund <http://www.PublishWhatYouFund.org>

Summary of illustrative commitments

Initial

- Join the International Aid Transparency Initiative (IATI)

Intermediate

- Begin publishing information to the IATI Registry (donors)
- Demand information from donors in line with the IATI standard (recipients)

Advanced

- Automate publication of comprehensive, timely, detailed and high quality information (donors)
- Integrate aid information into domestic budget planning (recipients)
- Publish more detailed information on aid flows including performance information, sub-national location, results and project documents (donors)

Innovative

- Encourage the development of tools to share and interpret aid data
- Engage the public in debates on development policy (donors)
- Promote access to and use aid information by all stakeholders

Detailed Recommendations

Initial Step: Join the International Aid Transparency Initiative (IATI)

Justification

Recipient governments require current and forward spending information for effective domestic planning. Often this information already exists in donors' systems, but in different places and different formats. More accessible, comprehensive, comparable and timely information is crucial to maximise aid effectiveness, promote accountability and reduce scope for corruption.

The International Aid Transparency Initiative (IATI) is a mechanism designed to help donors deliver on their commitments to make aid more predictable and to publish more timely aid information. IATI provides a comparable data format, meaning that information published in this format can be easily accessed and compared, regardless of which donor has published it. Using the approach of "publish once, use often", IATI provides a streamlined way for donors to publish detailed information which can be accessed by different stakeholders for different purposes.

Recommendations

1. Join IATI. IATI membership is open to any organisation that commits to the Initiative's [objectives and aims](#).
2. Develop and submit an implementation schedule detailing what information elements will be published and by when (Donors).
3. Continue to update the implementation schedule to reflect progress and system changes.

Standards & Guidance

- Aid Transparency Tracker <http://tracker.publishwhatyoufund.org/>
- IATI Standard <http://iatistandard.org/>
- IATI: Template for IATI implementation schedules <http://www.oecd.org/dac/aid-architecture/acommonstandard.htm>

Country Examples

- 15 donor countries and 22 recipient countries have signed up to IATI <http://www.opengovguide.com/country-examples/fifteen-donor-countries-have-signed-up-to-be-iati-representing-over-75-of-development-assistance/>

Intermediate Step: Begin publishing information to the IATI Registry (donors)

Justification

Aid agencies often publish a significant amount of information already, and collect even more. Getting started with publishing this information in the IATI format means "publishing what you can" and improving data quality and coverage in a step-based approach. Different bureaus or departments within agencies may be able to move at a faster pace than the pace set by the entire agency and should be encouraged to do so.

Recommendations

1. Conduct a detailed mapping of how existing data aligns with IATI and determine if changes can be made.
2. Consider what, if any, new processes will need to be developed to accommodate IATI compliance.
3. Establish a license and disclosure policy – including outlining exclusions, so that users understand what information is and is not being published, and how it can be used.
4. Start publishing data in IATI XML format. Donors with more than one agency responsible for administering or delivering their aid activities should begin publishing information for their highest spending agency and then expand to include other agencies.

Standards & Guidance

- Busan outcome document <http://www.publishwhatyoufund.org/files/Second-draft-busan-outcome-document.pdf>
- G8: Lough Erne Declaration <http://www.whitehouse.gov/the-press-office/2013/06/18/lough-erne-declaration>
- G8: Open Data Charter <http://www.publishwhatyoufund.org/index/2012-index/>
- IATI Standard <http://iatistandard.org/>
- PWYF: 2012 Aid Transparency Index <http://www.publishwhatyoufund.org/index/2012-index/>

Country Examples

- Canada has committed to implement the International Aid Transparency Initiative as part of its OGP Action Plan <http://www.opengovguide.com/country-examples/canada-has-committed-to-implement-the-international-aid-transparency-initiative-as-part-of-its-ogp-action-plan/>
- Denmark has launched a comprehensive aid transparency initiative as part of its OGP Action Plan <http://www.opengovguide.com/country-examples/denmark-has-launched-a-comprehensive-aid-transparency-initiative-as-part-of-its-ogp-action-plan/>
- Spain is implementing a system to ensure aid transparency in line with IATI <http://www.opengovguide.com/country-examples/through-spains-official-development-assistance-information-system-infood-spain-is-implementing-a-system-to-ensure-aid-transparency-in-line-with-iati/>
- Sweden has launched a web-based platform, Openaid.se to provide access to aid data in open format in line with IATI <http://www.opengovguide.com/country-examples/sweden-has-launched-a-web-based-platform-openaid-se-to-provide-access-to-aid-data-in-open-format-in-line-with-iati/>
- The UK has committed to publish aid information from all UK government departments who spend overseas development assistance <http://www.opengovguide.com/country-examples/the-uk-has-committed-to-publish-aid-information-from-all-uk-government-departments-who-spend-overseas-development-assistance/>

Intermediate Step: Demand information from donors in line with the IATI standard (recipients)

Justification

In order to facilitate the domestic budget and planning process, recipient governments should demand all aid information from all donors to be published in line with the IATI standard. Timely data in this common standard would not only allow for better coordination of resources but may also reduce the burden in recipient countries of aligning aid information to domestic spending.

IATI pilots are being conducted to better understand what the practicalities are for recipients using donors' IATI information. This provides an opportunity for recipient governments to inform donors of their information needs.

Recommendations

1. Engage in the ongoing discussions on shaping the IATI standard to meet partner countries needs.
2. Engage with donors and request that all aid spent in-country is published in line with the IATI standard and can be mapped against their own budget codes.
3. Participate in pilot projects where donor spending and domestic spending are mapped against each other using the recipient's budget codes.

Standards & Guidance

- Busan outcome document <http://www.publishwhatyoufund.org/files/Second-draft-busan-outcome-document.pdf>
- IATI Standard <http://iatistandard.org/>

Country Examples

- Bolivia endorsed the Open Aid Partnership <http://www.opengovguide.com/country-examples/bolivia-endorsed-the-open-aid-partnership/>
- IATI country pilots are being carried out or being planned for Colombia, DRC and Rwanda <http://www.opengovguide.com/country-examples/iati-country-pilots-are-being-carried-out-or-being-planned-for-colombia-drc-and-rwanda/>
- Rwanda has developed a Donor Performance Assessment Framework <http://www.opengovguide.com/country-examples/rwanda-dpaf/>
- Tanzania's OGP Action Plan includes a commitment to encourage donors to exercise greater transparency <http://www.opengovguide.com/country-examples/tanzanias-ogp-action-plan-includes-a-commitment-to-encourage-donors-to-exercise-greater-transparency-of-donor-funding-in-line-with-iati/>

Advanced Step: Automate publication of comprehensive, timely, detailed and high quality information (donors)

Justification

Due to the complexity of some donors' information management systems, it can take some effort to begin producing information in line with the IATI standard. This initial investment can be offset by building IATI directly into the donors' systems. This allows for all future aid information to be produced in the agreed structure and format, meaning it can be pulled from donors' systems as often as needed. It also reduces the need for manual data manipulation, which can jeopardise the integrity, granularity and hierarchy of the original data. This is particularly important for donors with multiple reporting requirements and encourages the principle of "publish once, use often". Raw IATI data is structured in a way that allows a wide range of stakeholders to use the data to meet different reporting requirements.

Recommendations

1. Agencies should include building the IATI standard into their next scheduled IT systems upgrade. The specifications

should include allowing the information to be produced directly from agencies' systems, in line with the IATI standard and for it to be automatically structured so the information is as high quality and detailed as possible. The information needs to include project/activity level information, disaggregated disbursements (transaction level) and link each project to its corresponding performance data.

2. The upgrades need to be made in all systems the donor uses for publishing its aid information. This may include both headquarters and country IT systems, meaning the information can be published from any office within the agency.

Standards & Guidance

- IATI Standard <http://iatistandard.org/>

Advanced Step: Integrate aid information into domestic budget planning (recipients)

Justification

The integration of aid information in country budgets is a key factor in effective domestic planning. Incorporating aid flows in budget planning and implementation supports better resource allocation, more comprehensive reporting and sustainability of capital spending. Institutional arrangements in recipient countries need to ensure that available aid information is included adequately in budget processes and budget documents, and made available to stakeholders, for example by linking up aid management and budget management information systems (Fölscher *et al*, 2012).

Recommendations

1. In coordination with donors, map the flow of aid information at different stages in the budget cycle via the IATI budget identifier's common code.
2. Develop an Aid Information Management System to manage aid information internally and integrate it with the flow of information from donors so that processes are not duplicated.
3. Publish regular, comprehensive, reliable, accessible and timely information on both aid and domestic budgets and ensure it is made available to legislators and citizens.

Standards & Guidance

- CABRI Position on Aid Transparency <http://www.cabri-sbo.org/en>
- IATI 'budget identifier' http://www.aidtransparency.net/wp-content/uploads/2011/05/Paper_5_-_Budget_Identifier_Nov_2012.doc

Country Examples

- As part of its Open Data strategy the UK government will publish machine readable data on the management and use of EU funds in the UK <http://www.opengovguide.com/country-examples/as-part-of-its-open-data-strategy-the-uk-government-will-publish-machine-readable-data-on-the-management-and-use-of-eu-funds-in-the-uk/>
- Malawi is working to integrate its Aid Management System with its overall financial information management system <http://www.opengovguide.com/country-examples/malawi-is-working-to-integrate-its-aid-management-system-with-its-overall-financial-information-management-system/>
- Rwanda, Malawi and Nepal are working to integrate their aid information management systems and financial

information management systems <http://www.opengovguide.com/country-examples/rwanda-malawi-and-nepal-are-working-to-integrate-their-aid-information-management-systems-and-financial-information-management-systems/>

- The Mozambique government, together with its aid partners, has been working to merge all financial accounts into one single treasury account <http://www.opengovguide.com/country-examples/the-mozambique-government-together-with-its-aid-partners-has-been-working-to-merge-all-financial-accounts-into-one-single-treasury-account/>

Advanced Step: Publish more detailed information on aid flows including performance information, sub-national location, results and project documents (donors)

Justification

Governments collect significant qualitative information on aid which is rarely published centrally and often not published at all. This includes:

- Background analysis and evidence
- Conditions attached to the aid
- Sub-national location
- Expected and achieved outputs and outcomes
- Project evaluation reports

These documents contain important information about what the funding is intended for, how it is being used and what lessons can be learned. Publishing this information in formats that can be retrieved, downloaded, indexed, searched and reused without restriction enables more people to access and use it.

Summaries, local language versions and geo-coding tags (which enable projects to be easily mapped and analysed alongside other geo-coded data) also help to make the information accessible.

Recommendations

1. Establish plans and policies to publish more comprehensive, detailed and overall higher quality information on aid planning, implementation and outcomes.
2. Publish information as it becomes available bureau by bureau and department by department without waiting on a donor-wide publication.
3. Regularly review and update commitments in relation to IATI implementation schedule.

Standards & Guidance

- Busan outcome document <http://www.publishwhatyoufund.org/files/Second-draft-busan-outcome-document.pdf>

Country Examples

- Malawi is working to geo-code project information <http://www.opengovguide.com/country-examples/malawi-is-working-to-geo-code-project-information/>
- Sweden plans to publish targets and outcomes and evaluations for all aid by 2015

<http://www.opengovguide.com/country-examples/sweden-plans-to-publish-targets-and-outcomes-and-evaluations-for-all-aid-by-2015/>

- The UK Government's Aid Transparency Guarantee sets standards for transparency in aid
<http://www.opengovguide.com/country-examples/the-uk-governments-aid-transparency-guarantee-sets-standards-for-transparency-in-aid/>
- The US Agency for International Development has a policy to share evaluations as widely as possible
<http://www.opengovguide.com/country-examples/the-us-agency-for-international-development-has-a-policy-to-share-evaluations-as-widely-as-possible/>

Innovative Step: Encourage the development of tools to share and interpret aid data

Justification

Aid information will reach its full potential when it is systematically used by recipients of aid for domestic planning, effective budgeting and more informed decision-making. In order for this to happen, information needs to start flowing in the right format and third party users and developers should be encouraged to share and visualise the data.

Technology now allows for innovative ways of using and, most importantly, of interpreting the data. These tools can be targeted for different users depending on their needs and data requirements in different sectors such as health, education and agriculture.

Recommendations

Events are a good way to encourage use and innovation when new data sets become available. Transparency challenges, open data workshops and hackathons have resulted in large volumes of data being cleaned, coded and structured.

1. Events should be promoted in and outside government and encourage participation from all stakeholders in order to identify different user needs.
2. The results of these events, such as new applications, software and websites, should be promoted with those who can benefit from it.
3. Recipients of aid should be able to access, download and share these tools.

Standards & Guidance

- AidInfo Labs <http://www.aidinfo.org/>
- Open Knowledge Foundation: Open Data Hackathon How To Guide <http://blog.okfn.org/2012/10/26/hackathons-the-how-to-guide/>

Country Examples

- The UK is establishing a fund to support developers to produce tools to make use of open aid data
<http://www.opengovguide.com/country-examples/the-uk-is-establishing-a-fund-to-support-developers-to-produce-tools-to-make-use-of-open-aid-data/>

Innovative Step: Engage the public In debates on development policy (donors)

Justification

The public in donor countries is often interested in the practical and ethical challenges of development, and how their public money is being used to advance international development. However, development policy and aid funding decision-making tends to be viewed as too complex for public deliberation, with fears that greater domestic accountability could shift aid away from recipients' priorities and lead to poor coordination with other donors. As a result, there tend to be few opportunities for the public to engage with the policy process on aid and development.

This leaves aid policy vulnerable to controversies and scepticism and can drive aid towards easily communicated activities in response to the imagined perspective of public attitudes, rather than the public's informed consideration of risks and challenges (Shamash *et al*, 2013).

Public engagement on aid and development policy can enable people to understand and debate the trade-offs and dilemmas that policy makers and officials face, and to consider aid together with other relevant policy areas such as tax, investment, climate change and trade.

Recommendations

Develop public consultation processes on key questions and areas of design on future foreign aid strategies and programmes. For example, this might involve:

- Carrying out public dialogues with representative samples of the public in reviewing country programmes or identifying 'grand challenges' and framing overarching questions and issues involving citizens at the highest level.
- Convening a sitting Citizen's Council to provide public perspective and feed into development policy discussions.
- Establishing a fund with direct citizen involvement in spending decisions, through both convened dialogues and crowd sourcing voting.

Country Examples

- The Danish Ministry of Foreign Affairs will conduct public hearings on the design of foreign aid programmes <http://www.opengovguide.com/country-examples/the-danish-ministry-of-foreign-affairs-will-conduct-public-hearings-on-the-design-of-foreign-aid-programmes/>

Innovative Step: Promote access to and use aid information by all stakeholders

Justification

For information to be useful it needs to be accessible.

Data should be made available and useful for both internal and external stakeholders in formats and languages that are most effective for users.

Recommendations

Governments can encourage their citizens to make use of data provided by:

1. Developing or supporting the creation of open source portals with data published under an open licence. This information should be used to access and analyse aid by the agency publishing it as well as internal and external stakeholders and aid recipients.
2. Providing links to aid data from all relevant government agency websites.
3. Holding information sessions, both at headquarter level and in country for field agencies, on how to use the data.
4. Working with partners to support local workshops on accessing and using the data.
5. Regularly gathering feedback about the utility and relevance of these tools.

Country Examples

- Nepal has developed an online Aid Management Platform combining government and donor information <http://www.opengovguide.com/country-examples/the-nepalese-government-developed-an-online-aid-management-platform-which-combines-both-government-and-donor-information/>
 - Netherlands has developed an OpenAid portal <http://www.opengovguide.com/country-examples/netherlands-has-developed-an-openaid-portal/>
 - Sweden has developed an Open Aid portal <http://www.opengovguide.com/country-examples/sweden-has-developed-an-open-aid-portal/>
 - The UK is establishing a fund to support developers to produce tools to make use of open aid data <http://www.opengovguide.com/country-examples/the-uk-is-establishing-a-fund-to-support-developers-to-produce-tools-to-make-use-of-open-aid-data/>
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Assets disclosure and conflicts of interest

 **Lead author:** [Global Integrity](#)

Introduction

When officials use their public office for private gain, it undermines institutions, deprives citizens of essential services and derails economic development. A conflict of interest arises when a public official is in a position to use public office for personal private gain or for the gain of other private parties. It points to the potential for—not necessarily the existence of—improper conduct. Thus, a regulatory regime of rules, guidance, and enforcement is needed to reduce the risk of real or perceived unethical conduct. Codes of conduct and regulations typically cover the following areas:

1. **Asset disclosure requirements** to make public official's assets and business activities transparent to the public.
2. **Conflict of interest rules** and guidance to identify and manage conflicts of interests and make sure public officials' decisions are not improperly affected by self interest.
3. **Revolving door regulations** to stem conflicts of interest arising from the movement of individuals between the public and private sectors.
4. **Gift and hospitality rules** preventing special interests attempting to influence policy by offering public servants items or services of value in return for favours.

Disclosure can be a powerful tool in bolstering public integrity and preventing abuses of power. While governments may put in place absolute restrictions on certain kinds of conduct, it is often supplemented with disclosures, which provide the means to monitor and resolve conflicts of interest and to detect and deter illicit enrichment.

There are multiple pathways through which asset disclosure and conflict of interest regulations strengthen public integrity. They build a culture of integrity by establishing standards of acceptable behaviour and by providing clear rules and guidance on ethical conduct in public office. Greater transparency through disclosure is a powerful deterrent against unethical behaviour by reminding public officials that their behaviour is subject to scrutiny. Moreover, they provide a valuable source of information for detecting abuse and corruption (World Bank, 2013). There is no one-size-fits-all approach to designing an appropriate regime. Absolute restrictions are often easier for governments to implement than disclosure systems, and are particularly relevant in contexts where there is low government capacity or resources. However income and asset disclosures are increasingly used, and a growing body of work points to a set of core principles that could be considered by governments seeking to adopt robust, effective disclosure measures.

References

World Bank (2013) Financial Disclosure Systems. Declarations of Interests, Income, and Assets Background Primer prepared by the Public Accountability Mechanisms (PAM) Initiative of The World Bank Public Sector and Governance Group

Expert Organisations

Organisation for Economic Co-operation and Development

<http://www.oecd.org/gov/ethics/managingconflictsofinterestinthepublicservice.htm>

World Bank <http://www.worldbank.org/anticorruption>

Inter American Development Bank <http://www.iadb.org/en/topics/transparency/transparency-and-anticorruption,1162.html>

African Development Bank <http://www.afdb.org/en/about-us/structure/integrity-and-anti-corruption/>

Asian Development Bank <http://www.adb.org/site/integrity/main>

Organization of American States <http://www.oas.org/juridico/english/fightcur.html>

Sunlight Foundation <http://www.sunlight.org/>

Transparency International http://gateway.transparency.org/guides/intro/public_integrity

Summary of illustrative commitments

Initial

- Establish a law requiring public disclosure of income and assets by elected and senior public officials
- Establish regulations governing gifts offered to public sector officials
- Establish regulations governing post-government private sector employment

Intermediate

- Establish a system of oversight for asset and conflicts of interest disclosures

Innovative

- Publish asset and conflict of interest disclosures as open data

Detailed Recommendations

Initial Step: Establish a law requiring public disclosure of income and assets by elected and senior public officials

Justification

Disclosing the value of assets and liabilities and sources of income, acts as a deterrent against graft, collusion, and patronage in the public sector.

Making asset and income declarations public allows civil society to assist in the detection of violations of financial disclosure requirements, providing additional scrutiny, complementing the role of official oversight bodies. However in many countries disclosures are not made public. A survey by the World Bank in 2012 found that 78% of countries have financial disclosure systems in place, but only 43% make this information public (World Bank, 2012).

The United Nations Convention against Corruption (UNCAC) requires state parties to consider establishing policies requiring officials to reveal “to appropriate authorities ... their outside activities, employment, investments, assets and substantial gifts or benefits”.

Asset disclosure measures are a powerful tool but they are also prone to disappointment or political pushback if launched with overambitious mandates in the wake of corruption scandals and are not backed by adequate resources. Systems burdened with too many requirements and inadequate institutional capacity to enforce compliance are more likely to fail than those designed to serve manageable objectives. When designing an asset disclosure system, attention should be paid to the local political, institutional, and socioeconomic context.

Countries are advised to start with high priority areas of disclosure and subsequently build the political will and capacity for more ambitious reforms. Countries might want to build up from initial targeted disclosure of high risk or high profile officials, to disclosure of senior civil servants and judges. Countries could also progress from disclosure of income and assets, to disclosure of business activities, to disclosure of post-employment activities (World Bank, 2012).

Recommendations

1. Establish and communicate a clear roadmap for the development of the scope, and coverage of the system. It is important to build capacity incrementally and manage public expectations about what the system can realistically achieve. As the capacity for managing asset disclosures is developed the system can be gradually expanded and strengthened, to widen the pool of people required to file, reinforce verification procedures, and improve public access to information.
2. As a general rule, asset and income disclosure requirements should cover at least the leadership of the three branches of government (executive, legislative and judiciary) as well as the senior career civil service/ bureaucracy.
3. For asset and income disclosures to be most effective, they must be regular, covering a range of key information. The information to be disclosed should include a combination of the following items:
 - Assets (Personal residences, Second homes, vacant land, buildings, farms, Financial investments (e.g. stocks, trusts, options, warrants, mutual funds, commodities, futures, money owed, savings plans, insurance policies and retirement accounts) and business assets (e.g. private corporations and partnerships), Bank accounts, interest-bearing instruments and cash, Vehicles (e.g. cars, boats, airplanes) and other significant movable assets (e.g. jewellery, art, furniture, cattle).
 - Liabilities (All debts, obligations, credit cards, mortgages, guarantees and co-signatures).
 - Sources of income (Financial investments (e.g. interest, dividends, annuities, pensions, benefits).

- Business assets (e.g. corporations, partnerships, farms, rental properties, patents), Private sector employment, Professional services (e.g. consulting and other paid contracts from the private or the public sector), Boards and directorships, Other public sector employment, Lotteries, gambling, and one-time payments.
 - Gifts (All significant gifts and benefits received).
 - Potential conflicts of interest (Unpaid contracts and employment, Unpaid boards and directorships, Participation in associations, not-for-profit organisations and trade unions, Post-tenure positions and employment).
4. Establish clear requirements. Keeping the forms simple and the filing requirements clear is important. The information required should be precise and must avoid ranges to avoid ambiguity and preserve the system's utility.
 5. Mandate an agency responsible for collecting asset disclosure information with the authority, skills, capacity, and resources to conduct basic verification, request information from the public official or other public or private sector entities, and investigate complaints from the public.

Standards & Guidance

- Guidelines for Managing Conflicts of Interest in the Public Service <http://www.oecd.org/gov/ethics/48994419.pdf>
- OGP Eligibility Criteria: Assets disclosure <http://www.opengovpartnership.org/how-it-works/how-join/eligibility-criteria>
- Public Office, Private Interests: Accountability through Income and Asset Disclosure [http://star.worldbank.org/star/sites/star/files/Public Office Private Interests.pdf](http://star.worldbank.org/star/sites/star/files/Public%20Office%20Private%20Interests.pdf)
- United Nations Convention against Corruption http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf
- World Bank Financial Disclosure Law Library <http://publicofficialsfinancialdisclosure.worldbank.org>

Country Examples

- About 137 jurisdictions implement some sort of asset disclosure regulations <http://www.opengovguide.com/country-examples/about-137-jurisdictions-implement-some-sort-of-asset-disclosure-regulations/>
- In India police officers are included in income and asset declaration requirements <http://www.opengovguide.com/country-examples/in-india-police-officers-are-included-in-income-and-asset-declaration-requirements/>
- Tanzania commits to strengthen asset disclosure regulation as part of its OGP Action Plan <http://www.opengovguide.com/country-examples/tanzania-commits-to-strengthen-asset-disclosure-regulation-as-part-of-its-ogp-action-plan/>
- The Dominican Republic is committed to passing an asset declaration law as part of its OGP Action Plan <http://www.opengovguide.com/country-examples/dominican-republic-commits-to-pass-an-asset-declaration-and-illicit-enrichment-law-as-part-of-its-ogp-action-plan/>

Initial Step: Establish regulations governing gifts offered to public sector officials

Justification

Rules governing gifts offered to public officials are an important safeguard against special interests trying to influence policy by offering items or services of value to public servants. Statutory guidelines set out rules of acceptable conduct and disclosure requirements for public officials.

By clarifying what constitutes a gift, when it is acceptable, as well as when and how it must be disclosed, gift regulations provide public servants with a code of conduct that inspires public confidence and preserves the integrity of the public sector workforce.

Recommendations

For gift rules to be effective, the regulations should:

1. Cover all public officials in the three branches of government including elected officials, civil servants, and the justice sector.
2. Be specific with little room for interpretation by clearly outlining what constitutes a gift and what conduct is and is not appropriate. The definition of gifts must be expansive enough to include both objects as well as services of value such as hospitality services.
3. Contain clearly defined thresholds that allow for the disclosure of all items or services of value offered to public employees.
4. Minimize exceptions and loopholes that would prevent certain gifts from being disclosed, including culturally-specific gifts that are commonly offered but may present a potential conflict of interest within a public sector management setting.
5. Regularly enforced by an independent ethics agency with sanctions applied when appropriate.

Explore processes for pre-approval of gifts and hospitality by an independent government watchdog such as an internal audit agency or ombudsman-type office.

Initial Step: Establish regulations governing post-government private sector employment

Justification

For public policy and administrative decisions to be made in the public interest, policymakers and regulators must be independent. The promise of future outside employment, consulting, board memberships, or other sources of income could potentially sway an official's behavior. 'Revolving door regulations' seek to prevent real or perceived conflicts of interest arising when individuals move between positions of public office and the private sector. They are an important tool for maintaining public integrity and trust in government (Transparency International, 2011).

Revolving door regulations typically aim to prevent potential conflicts of interest before, during, or after government employment by inserting an adequate buffer of time—a "cooling off" period—that regulates the movement of employees between the two sectors. They offer an important safeguard against attempts to buy access to public officials, preserving the integrity of institutions and officials in the broader sense.

Recommendations

- Regulations restricting post-government private sector involvement should cover public employees from all branches of government.
- Regulations should explicitly define the types of post-government employment opportunities that present a real or perceived conflict of interest and thus merit being controlled by the regulations. Officials taking positions outside of

government after leaving the public sector that do not present a real or perceived conflict of interest with their former positions should not be subject to these rules and regulations.

- Regulations should contain well-defined cooling off periods during which public sector employees cannot work for the private sector where they directly lobby or seek to influence their former government colleagues.
- The length of cooling off periods should be differentiated based on seniority of public sector employees.
- Consider codifying sensible restrictions on pre-government employment and secondments that do not prevent the transfer of valuable knowledge and skills from other sectors to the public sector.
- Consider sensible restrictions on secondments (or other employment arrangements) of private sector employees into public bodies that give private sector organizations insider information or an unfair advantage in promoting company interests.
- Regulations should be codified in law as primary and secondary legislation to serve as an effective deterrent.
 - a. Primary legislation directly restricts certain forms of post-government employment through specific laws on integrity or as part of the general law on the civil service.
 - b. Secondary legislations are rules and decrees authorized by primary legislation. A post-government employment clause in employment contracts, for example, is another method of revolving door restrictions.
 - c. Consider codes of conduct as alternative means to establish or strengthen norms on post-government employment.
- Revolving door regulations should be streamlined with other regulations on lobbying and conflicts of interest.
- Regulations should contain provisions requiring the disclosure of pre- and post-government employment history for public sector employees.
- Regulations should be monitored and enforced by an independent ethics agency with the mandate and authority to initiate investigations.
- A robust awareness and training programme should be instituted to ensure all public sector employees are aware of the existence and compliance requirements of revolving door regulations.

Standards & Guidance

- Post-Public Employment: Good Practices for Preventing Conflict of Interest http://www.keepeek.com/Digital-Asset-Management/oecd/governance/post-public-employment_9789264056701-en
- Revolving Doors, Accountability and Transparency – Emerging Regulatory Concerns and Policy Solutions in the Financial Crisis [http://search.oecd.org/officialdocuments/displaydocumentpdf/?cote=GOV/PGC/ETH\(2009\)2&docLanguage=En](http://search.oecd.org/officialdocuments/displaydocumentpdf/?cote=GOV/PGC/ETH(2009)2&docLanguage=En)

Country Examples

- At least 32 countries have restrictions on post-government employment in at least one branch of government <http://www.opengovguide.com/country-examples/some-32-countries-have-restrictions-on-post-government-employment-in-at-least-one-branch-of-government/>
- South Korea commits to monitoring post-public employment as part of its OGP Action Plan <http://www.opengovguide.com/country-examples/south-korea-commits-to-monitoring-post-public-employment-as-part-of-its-ogp-action-plan/>

Intermediate Step: Establish a system of oversight for asset and conflicts of interest disclosures

Justification

Establishing a system of oversight to provide effective guidance, monitoring, and enforcement is crucial. The effectiveness and credibility of a system of disclosures is only as good as its ability to detect violations and penalize wrongdoing.

Simply requiring officials to fill out a form poses little risk to an official seeking to hide certain commercial interests and sources of income from public view. Regular audits when complemented with the credible threat of swift enforcement in the face of violations create a powerful deterrent against improper behavior. Therefore, a system of oversight should be designed with the appropriate institutional and procedural mechanisms to detect risks, audit disclosures, and enforce sanctions for noncompliance. Moreover, such a system should be adequately resourced and must be integrated into the broader institutional and political context in which it operates (World Bank, 2012).

It is vital to communicate the objectives of the system to officials, and advise them about conflict of interest principles. Implementing agencies need to have the necessary skills and resources to review income and asset declarations to detect potential or actual conflicts of interest. Equally important is the ability to advise filers and provide public officials with the necessary guidance to effectively identify and manage conflicts of interest.

Recommendations

- Provide guidance to public officials on preventing situations where their private interests might improperly influence their official duties.
- Develop a system of monitoring for assets, income and gift disclosures. While regular auditing of all submitted asset disclosures poses a non-trivial burden on government regulators, undertaking random audits of a smaller subset would go a long way towards bolstering an asset disclosure regime's deterrent effect. An effective system of audits should have the following characteristics:
 - The percentage or volume of disclosures to be audited would be publicly announced ahead of time.
 - A combination of risk-based prioritization and random sampling should be used to select disclosures for audits. The random selection of which disclosures to audit should be performed via a transparent lottery/raffle-type system.
 - The auditing would be performed by an independent third party, ideally an outside, non-governmental auditor (whether a private auditing firm or otherwise).
 - Disclosures should be compared over time and against external sources such as tax information, land registries, etc.
 - The full results of the audit would be made publicly available immediately following the completion of the audit and overall compliance rates and enforcement actions should be reported publicly.

Standards & Guidance

- Guidelines for Managing Conflicts of Interest in the Public Service <http://www.oecd.org/gov/ethics/48994419.pdf>
- Income and assets declarations: Issues to consider in developing a disclosure regime <http://www.cmi.no/publications/file/3396-income-and-assets-declarations.pdf>
- Public Office, Private Interests: Accountability through Income and Asset Disclosure [http://star.worldbank.org/star/sites/star/files/Public Office Private Interests.pdf](http://star.worldbank.org/star/sites/star/files/Public%20Office%20Private%20Interests.pdf)
- World Bank Financial Disclosure Law Library <http://publicofficialsfinancialdisclosure.worldbank.org>

Country Examples

- Argentina, Guatemala, and Indonesia use targeted methods of selecting asset disclosures for verification <http://www.opengovguide.com/country-examples/argentina-guatemala-and-indonesia-use-targeted-methods-of-selecting-asset-disclosures-for-verification/>

- Peru commits to strengthening the capacity of the Comptroller General to detect possible corruption as part of its OGP Action Plan <http://www.opengovguide.com/country-examples/peru-commits-to-strengthening-the-capacity-of-the-comptroller-general-to-detect-possible-corruption-as-part-of-its-ogp-action-plan/>
- Rwanda's Ombudsman carries out audits on randomly chosen asset declarations <http://www.opengovguide.com/country-examples/rwandas-ombudsman-carries-out-audits-on-randomly-chosen-asset-declarations/>
- Slovenia uses a random sampling method to test asset disclosures <http://www.opengovguide.com/country-examples/slovenia-and-argentina-randomly-select-asset-disclosures-for-verification/>

No commitments for this level

Innovative Step: Publish asset and conflict of interest disclosures as open data

Justification

Public access to information strengthens social accountability mechanisms as informed citizens are more likely to demand greater accountability from public officials.

Disclosures that can be accessed publicly strengthen the demand for accountability by provisioning essential information used in monitoring and enforcement efforts. Accessible and searchable public disclosures allow citizens, media, government, and civil society organizations to verify information and raise concerns as they are discovered. The possibility of public scrutiny will likely discourage misstatements or inappropriate conduct from public officials, strengthening the deterrent effect of disclosures. It also builds trust and confidence in institutions by demonstrating a commitment to transparency and accountability. Public accessibility of disclosures is thus a key determinant of their impact. The higher the visibility of the disclosures, the greater is its potential for effectiveness.

Recommendations

- Make all disclosure data searchable online. While public accessibility might take different forms in different contexts, in countries where Internet penetration is reasonably high, submitted disclosures should be made available online and searchable by basic criteria such as submitter, year filed and government agency or department. For example, it would be helpful if one could verify whether a number of lawmakers had consulting arrangements with the same government contractor. Compliance rates, enforcement actions, and the results of audits should also be made available online (World Bank, 2012).
- Use open data principles in making information available online (Sunlight Foundation, 2010). Technological barriers (for example, proprietary technologies) as well as economic barriers (for example, fees for access) should be eliminated through the use of open data formats. Moreover, encourage greater standardization and machine-readability of the results to increase ease of analysis and comparability (Sunlight Foundation, 2013).
- Build in robust social accountability processes into the monitoring functions of government ethics enforcement agencies so credible concerns raised by the public can trigger investigations by appropriate authorities.

Country Examples

- Argentina developed an electronic financial disclosure system <http://www.opengovguide.com/country-examples/moving-from-a-paper-based-to-a-fully-electronic-financial-disclosure-system-in-argentina-has-reduced-errors-improved-compliance-rates-and-lowered-costs/>
- Around 45 jurisdictions make disclosures available online <http://www.opengovguide.com/country-examples/around-45-jurisdictions-make-disclosures-available-online/>

[45-jurisdictions-make-disclosures-available-online/](#)

- Chile has committed to publish asset declarations online as part of its OGP Action Plan <http://www.opengovguide.com/country-examples/chile-encourages-citizen-control-by-committing-to-publish-asset-declarations-online-as-part-of-its-ogp-action-plan/>
 - Estonia will create a database of declarations of economic interests as part of its OGP Action Plan <http://www.opengovguide.com/country-examples/estonia-will-create-a-database-of-declarations-of-economic-interests-as-part-of-its-ogp-action-plan/>
 - Georgia developed an online system for public financial disclosure <http://www.opengovguide.com/country-examples/georgia-developed-an-online-system-for-public-financial-disclosure/>
 - Mexico has transitioned to online asset declaration <http://www.opengovguide.com/country-examples/the-mexican-government-has-supported-the-country%E2%80%99s-transition-to-online-asset-declaration-in-several-ways/>
 - Moldova will develop an automated information system as part of OGP Action Plan <http://www.opengovguide.com/country-examples/moldova-will-develop-an-automated-information-system-as-part-of-ogp-action-plan/>
 - Russia makes summaries of assets disclosures available online <http://www.opengovguide.com/country-examples/russia-makes-summaries-of-assets-disclosures-available-online/>
 - Ukraine will amend its law on asset disclosure as part of its OGP Action Plan <http://www.opengovguide.com/country-examples/ukraine-will-amend-its-law-on-data-openness-in-relation-to-asset-disclosure-as-part-of-its-ogp-action-plan/>
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Budgets

 **Lead author:** [International Budget Partnership](#)

Introduction

Every year, governments collect and spend billions of dollars in taxpayer funds and citizens have a right to know how their governments are collecting and spending their money.

Governments implement policies through ministries, departments and agencies at central and local levels. These public bodies, and their executives, are accountable to the political leadership. Politicians, in turn, are accountable to their citizens for the implementation of national policies, in health care and education for example. Budgets are the link between policies and their implementation, between political visions or programmes and their delivery: they allocate resources to plans in terms of money and time.

As part of the management of the budget, governments produce a series of reports at various points in the annual budget cycle. These include Pre-Budget Statement, Executive's Budget Proposal, Enacted Budget, Citizens' Budget, In-Year Reports, Mid-Year Review, Year-End Report and Audit Report.

In order for citizens to be able to know how their governments are collecting and spending their monies, they need access to these budget reports. Fiscal transparency allows for better-informed debate by both policymakers and the public about the design and results of fiscal policy, and establishes accountability for its implementation.

Many budget reports are already being produced by governments for their internal use and these reports can be made available on government websites at almost no cost. Further, legislative discussions on the budget happen in almost every country and it is not an expensive exercise to make these discussions public by allowing the media to cover these discussions. Fiscal transparency is often pushed forward as part of political transitions, or in response to financial crisis or corruption. External influences that promote global norms and empower domestic reformers and civil society actors can also play a key role (Khagram et al, 2013).

Recent research studies show that transparency can enable governments to raise credit from the international markets at cheaper rates (Hameed, 2011). It can also help shine a light on the efficiency of public expenditures. Further, transparency can help foster equity by matching national resources with national priorities. Transparency and public participation can enable governments to build trust and give citizens voice and dignity (IBP, 2013). Opacity on fiscal issues on the other hand can undermine fiscal discipline and as illustrated in a recent IMF publication it can lead to large unexpected debt (Cottarelli, 2012).

References

Cottarelli, 2012, 'Fiscal Transparency, Accountability, and Risk, IMF Fiscal Affairs Department
<http://www.imf.org/external/np/pp/eng/2012/080712.pdf>

Hameed, 2011, 'Budget Transparency and Financial Markets, OGP Working Paper 1, Open Budget Partnership'.
<http://internationalbudget.org/wp-content/uploads/IBP-Working-Paper-1-Budget-Transparency-and-Financial-Markets.pdf>

IBP, 2013 Learning Program: Case Examples, http://internationalbudget.org/ibp_publication_categories/learning-program/

Khagram, S., A. Fung and P. De Renzio, 2013, Open Budgets: The Political Economy of Transparency, Participation, and Accountability, Washington DC: Brookings Institute.

Expert Organisations

International Budget Partnership <http://www.internationalbudget.org>

Global Initiative for Fiscal Transparency <http://fiscaltransparency.net/>

Global Movement for Budget Transparency, Accountability, and Participation (BTAP) <http://www.globalbtap.org/>

Organization for Economic Cooperation and Development <http://www.oecd.org/gov/budgeting/>

International Monetary Fund <http://www.imf.org/external/np/fad/tran>

Public Expenditure and Financial Accountability Program <http://www.pefa.org/>

Collaborative Africa Budget Reform Initiative <http://www.cabri-sbo.org/>

OGP Working Group: Fiscal Openness <http://www.opengovpartnership.org/get-involved/join-working-group>

Summary of illustrative commitments

Initial

- Allow public access to budget hearings in the legislature
- Publish a Citizens' Budget
- Publish Executive's Budget Proposal and Audit Reports
- Publish the four core budget documents

Intermediate

- Consult with the public on budget preparation
- Enable effective oversight by legislatures and supreme audit institutions
- Publish all budget reports as open data
- Publish all eight key budget reports

Advanced

- Enable citizen participation in budgeting
- Publish information on resources received by service delivery units
- Publish off budget financial information

Innovative

- Fully implement the GIFT Principles on fiscal transparency

Detailed Recommendations

Initial Step: Allow public access to budget hearings in the legislature

Justification

Legislative discussions on the budget happen in almost every country. It is not an expensive exercise to make these discussions public by allowing public access and media broadcasting of these discussions.

Recommendations

- The national legislature should organize public hearings when it discusses the budget presented to it by the executive prior to approving the budget.
- The media should be allowed to broadcast these hearings so that these hearings are accessible to a larger audience.
- Reports on the outcomes of these public hearings should be published.

Standards & Guidance

- IBP open budget survey <http://internationalbudget.org/what-we-do/open-budget-survey/full-report/>

Country Examples

- Increasing numbers of countries permit some form of public hearings during budget discussions in the legislature <http://www.opengovguide.com/country-examples/increasing-numbers-of-countries-permit-some-form-of-public-hearings-during-budget-discussions-in-the-legislature/>

Initial Step: Publish a Citizens' Budget

Justification

Government budgets are filled with so many numbers and so much technical jargon that the ordinary readers cannot easily understand what they mean. People need information in an accessible, understandable form to enable them to understand what government is doing with their money and allow them to participate in governmental affairs.

The International Monetary Fund in its Manual on Fiscal Transparency states that "A clear and simple summary guide to the budget should be widely distributed at the time of the annual budget."

Such a '*Citizens' Budget*' serves the public, but can also serve the government by enhancing public knowledge about the budget and the reasoning behind the choices made in putting it together.

Citizens' Budgets tend to present an accessible version of either the Budget Proposal or the Enacted Budget. But producing a Citizens' Budget can help a government to develop its capacity to make technical information more accessible, more broadly.

Recommendations

- Develop a strategy for producing a Citizens Budget, defining the goals and objectives, and the plan for production.
- Ensure that the ministry responsible has the structure, resources, and capacities to properly develop and disseminate a Citizens Budget.
- Hold a consultation with potential users to understand their interests and needs.
- Design and write the Citizens' Budget to meet users needs and include important basic information about the budget, including assumptions, the budget process, revenue collection, priorities in allocations and spending, sector-specific information and information about targeted programs and contact information for follow up by citizens.
- Present it in languages and through media (such as newspapers, radio, and video) to make it accessible, as well as publishing it on the web and in hard copy.
- Publish the Citizens Budget within a timeframe that makes it available at the same time as the technical document.
- Disseminate it widely
- Evaluate the process and planning for the next year's Citizens Budget.

Standards & Guidance

- The Power Of Making It Simple: A Government Guide To Developing Citizens Budgets <http://internationalbudget.org/publications/the-power-of-making-it-simple-a-government-guide-to-developing-citizens-budgets/>

Country Examples

- Guatemala developed a Citizens' Budget <http://www.opengovguide.com/country-examples/guatemala-developed-a-citizens-budget/>
- Kazakhstan's Citizen's Budget is mandated by legislation <http://www.opengovguide.com/country-examples/kazakhstans-citizens-budget-is-mandated-by-legislation/>
- Rwanda started publishing a Citizen's Guide to the Budget in 2009 <http://www.opengovguide.com/country-examples/rwanda-started-publishing-a-citizen%e2%80%99s-guide-to-the-budget-in-2009/>

Initial Step: Publish Executive's Budget Proposal and Audit Reports

Justification

The timely publication of essential budget documents forms the basic building blocks of budget accountability and an open budget system. The publication of the Executive's Budget Proposal and Audit Reports is recommended in the IMF's fiscal transparency code and the OECD's best practice guidelines on budget transparency. INTOSAI (the global association of supreme audit institutions) recommends the publication of audit reports. Further, the IBP's Open Budget Index evaluates these reports.

Recommendations

- The executive, led by the Ministry of Finance, should publish the Executive's Budget Proposal, ideally three months before the start of the year. This report presents the government's detailed plans, in terms of policy priorities and budgets for each ministry and agency, for the coming budget year.
- The supreme audit institution should publish an Audit Report, ideally within six months to a year after the end of the relevant budget year. This is an agency that is independent of the executive and has the mandate to review through

audit the financial performance of the government in the previous budget year; audits can also cover specific agencies and non-financial aspects of the executive's performance.

Standards & Guidance

- IBP open budget survey <http://internationalbudget.org/what-we-do/open-budget-survey/full-report/>
- IMF fiscal transparency code <http://www.imf.org/external/np/fad/trans/code.htm>
- INTOSAI Basic Principles in Government Auditing http://www.issai.org/media/12943/issai_100_e.pdf
- OECD best practice guidelines on budget transparency <http://www.oecd.org/gov/budgeting/best-practices-budget-transparency.htm>
- OGP Eligibility Criteria: Fiscal Transparency <http://www.opengovpartnership.org/eligibility>
- OGP Eligibility Criteria: Fiscal Transparency <http://www.opengovpartnership.org/how-it-works/how-join/eligibility-criteria>

Country Examples

- Afghanistan has established a roadmap to improve public financial management <http://www.opengovguide.com/country-examples/afghanistan-has-established-a-roadmap-to-improve-public-financial-management-including-improving-regular-reporting/>
- Many countries publish the Executive's Budget Proposal and Audit Report <http://www.opengovguide.com/country-examples/many-countries-publish-the-executive%E2%80%99s-budget-proposal-and-audit-report/>

Initial Step: Publish the four core budget documents

Justification

Governments that currently produce, but do not publish their core budget documents could publish them immediately at little cost. The four most important documents are:

- **The Executive's Budget Proposal** which outlines the government's revenue and expenditure plans. Timely publication of this document is essential for the public to be able to engage in the debate over the government's proposals.
- **The Enacted Budget** which is the result of legislative consideration of the executive's proposal. Because this report documents the commitments that have been approved, it will form the basis of any monitoring of government execution.
- **Audit Reports** which contain the audit institution's formal, independent evaluation of whether the government has collected and spent public funds as set out in the Enacted Budget, and has done so in accordance with the law. Citizens must have access to this document to be able to gauge the government's performance.
- **A Citizens' Budget** which provides a non-technical presentation of the budget (either the Executive's Budget Proposal or the Enacted Budget) that is widely accessible to all citizens.

These form the most basic building blocks of budget accountability, thus publishing them is the minimum requirement for an open budget system.

Recommendations

- To increase the public's access to these reports, and avoid unequal access, budget reports should at a minimum be posted on the government's website. Where internet access is limited, governments could make hard copies of their budgets widely available via public libraries and information desks throughout the country.
- In multilingual countries, budget reports should be published in multiple official languages.
- Each document should be made available according to a timetable and without delay. Late publication of these reports denies the public the ability to use the information to engage in decision-making processes.

Standards & Guidance

- IBP guide to transparency in government budget reports http://internationalbudget.org/wp-content/uploads/Government_Transparency_Guide1.pdf
- IBP open budget survey <http://internationalbudget.org/what-we-do/open-budget-survey/full-report/>
- IMF fiscal transparency code <http://www.imf.org/external/np/fad/trans/code.htm>
- OECD best practice guidelines on budget transparency <http://www.oecd.org/gov/budgeting/best-practices-budget-transparency.htm>
- OGP Eligibility Criteria: Fiscal Transparency <http://www.opengovpartnership.org/how-it-works/how-join/eligibility-criteria>

Country Examples

- Increasing numbers of countries publish the Executive Budget, Enacted Budget, Audit Report and Citizen's Budget <http://www.opengovguide.com/country-examples/increasing-numbers-of-countries-publish-the-executive-budget-enacted-budget-audit-report-and-citizen%E2%80%99s-budget/>

Intermediate Step: Consult with the public on budget preparation

Justification

Although they are responsible for taking key decisions about how best to address their country's needs and prospects for development, governments often lack important information and have limited research capacity and analytical resources for making choices about how to raise and spend funds. By increasing the opportunities for the public and civil society organisations to directly engage in and influence these process governments can benefit from their knowledge.

Recommendations

Establish sector and ministry level consultation meetings with the public on overall budget priorities, as well as macroeconomic policy and inter-sectoral resource allocation issues and provide detailed feedback to the public on how its inputs have been used.

Standards & Guidance

- GIFT High Level Principles on Financial Transparency <http://fiscaltransparency.net/wp-content/uploads/2012/09/GIFT-High-Level-Principles-2012-08-ENG.pdf>
- IBP open budget survey <http://internationalbudget.org/what-we-do/open-budget-survey/full-report/>

Country Examples

- New Zealand uses a wide range of mechanisms to seek public input <http://www.opengovguide.com/country-examples/new-zealand-uses-a-wide-range-of-mechanisms-to-seek-public-input/>

Intermediate Step: Enable effective oversight by legislatures and supreme audit institutions

Justification

The legislature and Supreme Audit Institution (SAI) play key roles in holding the executive to account for the conduct of fiscal policy. The legislature requires clear authority, together with sufficient time, information, and financial and non-financial resources. If the legislature is to enjoy public confidence trust and legitimacy, it must also operate in a transparent, participatory and accountable manner.

In many countries the executive holds very limited consultations or no consultation at all with the legislature during the formulation of the budget, with legislatures in some countries receiving the Executive's Budget Proposal less than six weeks before the beginning of the budget year, and sometimes after the start of the fiscal year, or not at all.

In many countries legislators have to rely on either understaffed research offices or external researchers to inform their deliberations and some have no access to any research capacity whatsoever.

An adequately resourced and independent supreme audit institution is also crucial. Supreme Audit Institutions (SAIs) provide assurance of the integrity of financial information, and of compliance with budgetary rules. SAIs can also play a role in performance auditing; monitoring and assessing both financial and non-financial information in the budget cycle.

Recommendations

- The executive and/or the legislature (as appropriate in the country) should facilitate the creation of an independent research office that can assist the legislature in analysing the budget presented to the legislature by the executive.
- Even after the budget is approved by the legislature, their approval should be sought before the executive spends any new revenues or contingency funds.
- Supreme audit institutions need adequate resources to be able to implement their audit mandates effectively. They also need to be made independent of the executive (for example the executive should not be able to remove the head of the supreme audit institution without advance approval from the legislature or judiciary).

Standards & Guidance

- IBP open budget survey <http://internationalbudget.org/what-we-do/open-budget-survey/full-report/>
- INTOSAI Basic Principles in Government Auditing http://www.issai.org/media/12943/issai_100_e.pdf
- INTOSAI's Lima and Mexico Declarations on Supreme Audit Institutions independence <http://www.intosai.org/issai-executive-summaries/view/article/issai-10-the-mexico-declaration-on-sai-independence-eger.html>

Country Examples

- In 2011, the Parliamentary Budget Office was established in Kenya <http://www.opengovguide.com/country-examples/in-2011-the-parliamentary-budget-office-was-established-in-kenya/>

- In many countries, fiscal councils are providing independent analysis of government budgets and policies <http://www.opengovguide.com/country-examples/in-many-countries-fiscal-councils-are-providing-independent-analysis-of-government-budgets-and-policies/>
 - The Congressional Budget Office in the United States offers credible and impartial support to legislators across party lines <http://www.opengovguide.com/country-examples/the-congressional-budget-office-in-the-united-states-offers-credible-and-impartial-support-to-legislators-across-party-lines/>
-

Intermediate Step: Publish all budget reports as open data

Justification

National budget reports typically include thousands of revenue and expenditure items. In order for these numbers to be properly understood, citizens and researchers need to analyse and manipulate the data in budget reports. Modern technology allows data to be relayed in formats that can be easily manipulated. In order to facilitate the use of budget data, governments should publish the data in machine-readable formats that can easily be retrieved, downloaded, indexed, and searched by all commonly used Web search applications.

Open formats, for example nonproprietary CSV files, are ones where the specification for the format is available to anyone for free, thereby allowing the data contained in a file to be opened by different software programmes.

Recommendations

Publish all budget reports on the internet in machine-readable formats,

1. A first step would be to publish budget documents as Excel spreadsheets.
2. In the longer term relevant budget data should be published directly from Financial Management Information System (FMIS) and comply with open data standards.

Standards & Guidance

- Open Data Index <http://https://index.okfn.org/>
- World Bank: Financial Management Information Systems and Open Budget Data <http://www.worldbank.org/publicfinance/FMIS>

Country Examples

- The Brazilian ministry of finance publishes large amount of budget data in machine-readable formats <http://www.opengovguide.com/country-examples/the-brazilian-ministry-of-finance-publishes-large-amount-of-budget-data-in-machine-readable-formats-2/>
-

Intermediate Step: Publish all eight key budget reports

Justification

Internationally accepted good practices require governments to publish at least eight key budget reports at various points

in the budget year:

- **The Pre-Budget Statement** presents the broad parameters and macroeconomic assumptions of the Executive's Budget Proposal.
- **The Executive's Budget Proposal** which outlines the government's revenue and expenditure plans.
- **The Enacted Budget** which is the result of legislative consideration of the executive's proposal.
- **Audit Reports** which contain the audit institution's formal, independent evaluation of whether the government has collected and spent public funds as set out in the Enacted Budget, and has done so in accordance with the law. Citizens must have access to this document to be able to gauge the government's performance.
- **A Citizens' Budget** which provides a non-technical presentation of the budget (either the Executive's Budget Proposal or the Enacted Budget) that is widely accessible to all citizens.
- **Execution reports (In-Year Reports and Mid-Year Review)** provide timely feedback on the progress of budget execution, thus allowing for mid-course corrections, reallocations or supplemental allocations, where necessary.
- **Year-End Reports** allow for a comparison between planned and actual spending, increasing accountability and informing decisions for the coming budget year.

In order for these reports to be useful, they need to provide adequate details that will enable citizens to get a comprehensive picture of how their governments are collecting and spending their monies. This means that budget reports should provide information on both the flows (expenditure, revenues, balance) as well as stocks (government debt, financial and non-financial assets and liabilities). Budget reports should also include performance information (objectives, outputs and outcomes) of key programs. This information should be supplemented by statements of fiscal strategy and reports on how they are being met. Finally, governments should report on how it is managing fiscal risks, such as government guarantees, macroeconomic shocks, and financial sector exposure.

The publication of key reports during budget planning, implementation and evaluation is recommended in the IMF's fiscal transparency code, the OECD's best practice guidelines on budget transparency, and the IBP's Open Budget Survey, which describe the information that should be provided in these key budget reports. The IMF offer periodic assessments of fiscal transparency through their fiscal transparency ROSCs. The [OECD](#) and the IBP evaluate budget transparency through their respective surveys. The World Bank-led PEFA framework also assesses some of these issues. Good practices on the timeliness and comprehensiveness of published budget reports are provided by the IBP in its Open Budget Survey, the IMF in its fiscal transparency Code, and the OECD in its best practice guidelines on budget transparency.

Recommendations

1. Publish a comprehensive Pre-Budget Statement at least one month before the publication of the Executive's Budget Proposal.
2. Publish a comprehensive Executive's Budget Proposal, ideally three months before the start of the budget year.
3. Publish a comprehensive Enacted Budget, ideally as soon as the budget is approved by the legislature.
4. Publish a comprehensive Citizens Budget, ideally alongside the Executive's Budget Proposal or Enacted Budget
5. Publish comprehensive monthly or quarterly In-Year Reports on revenues collected, expenditures made, and debt incurred, ideally within 30 days or six weeks after the end of the relevant reporting period.
6. Publish a comprehensive Mid-Year Review, ideally within 30 days or six weeks after the mid-point of the budget year.
7. Publish a comprehensive Year-End report, ideally within six months to a year after the end of the budget year.
8. Publish comprehensive Audit Reports, ideally within six months to a year after the end of the budget year. In addition to Audit Reports, government should also publish reports on steps taken to address audit recommendations.

Standards & Guidance

- IBP guide to transparency in government budget reports http://internationalbudget.org/wp-content/uploads/Government_Transparency_Guide1.pdf
- IBP open budget survey <http://internationalbudget.org/what-we-do/open-budget-survey/full-report/>
- IMF fiscal transparency code <http://www.imf.org/external/np/fad/trans/code.htm>
- OECD best practice guidelines on budget transparency <http://www.oecd.org/gov/budgeting/best-practices-budget-transparency.htm>

Country Examples

- A few countries publish all eight key budget documents <http://www.opengovguide.com/country-examples/a-few-countries-publish-all-eight-key-budget-documents/>
- Honduras publishes all eight key budget documents <http://www.opengovguide.com/country-examples/honduras-publishes-all-eight-key-budget-documents/>

Advanced Step: Enable citizen participation in budgeting

Justification

Citizen participation in budgeting is a relatively new concept in public financial management.

Citizen engagement in the budget process is important for a number of reasons. An OECD publication (Tanaka,2007) identifies several such important reasons for public engagement in budgeting.

- Budget decisions have a significant impact on the lives of the public, and therefore should be informed by the views and values of citizens.
- Engaging citizens in the budget process increases the information available to decision makers concerning the likely effects of their decisions in communities, and can help to guard against unintended consequences.
- The scrutiny of citizens can help to ensure that decision makers are diligent in the decisions they make, improving the efficiency, responsiveness and accountability of government, and guarding against corruption.
- Through engaging citizens in the budget process, they can address the same trade-offs that decision makers are forced to make, and generate a more fruitful discussion between citizens and government.
- Engaging citizens in fundamental decisions, such as budget decisions, can help to overcome public distrust and cynicism, and increase the legitimacy of government.
- Citizen engagement can help to ensure that government is responsive to the needs, views and values of citizens.

Recommendations

Develop citizen audit request system, social audit mechanisms, and participatory budgeting systems.

Below, we identify some principles that could guide governments as they develop mechanisms for public engagement in budgeting. These principles have been used in indicators on public engagement in the Open Budget Survey, and are the responsibility of the finance ministry:

1. Take responsibility for developing and implementing a strategy of citizen engagement in the budget process.

2. Identify examples of international, national and local good practice.
3. Define a clear purpose or set of purposes for engaging citizens in the budget process, and define clearly the scope of their involvement.
4. Identify institutional and cultural barriers to engaging citizens in the budget process, and consider ways in which they could be overcome
5. Carefully consider who it should engage in the budget process, and how they can be best involved and at which stage of the process.
6. Develop a range of opportunities for citizens, civil society, and other interested parties to engage in the budget process.
7. Ensure that all engagement with the budget process is open and transparent to allow for effective scrutiny.
8. Report back to participants on the results and impacts of consultation and publish the results for wider scrutiny.

Standards & Guidance

- IBP guide to participatory budgeting <http://internationalbudget.org/wp-content/uploads/A-Guide-to-Participatory-Budgeting.pdf>
- IBP open budget survey <http://internationalbudget.org/what-we-do/open-budget-survey/full-report/>
- World Bank participatory budgeting book <http://siteresources.worldbank.org/PSGLP/Resources/ParticipatoryBudgeting.pdf>

Country Examples

- Botswana has developed a “budget pitso” forum <http://www.opengovguide.com/country-examples/botswana-has-developed-a-%e2%80%9cbudget-pitso%e2%80%9d-forum/>
- Citizens in South Korea can submit requests for audits of programs or agencies that they are concerned about <http://www.opengovguide.com/country-examples/citizens-in-south-korea-can-submit-requests-for-audits-of-programs-or-agencies-that-they-are-concerned-about/>
- Germany invites economists, business and trade unions to give testimony to budget hearings <http://www.opengovguide.com/country-examples/germany-invites-economists-business-and-trade-unions-to-give-testimony-to-budget-hearings/>
- South Africa invites interested parties to present on budget proposals <http://www.opengovguide.com/country-examples/south-africa-invites-interested-parties-to-present-on-budget-proposals/>
- South Korea has established systems to seek public input on budgeting decisions <http://www.opengovguide.com/country-examples/south-korea-has-established-systems-to-seek-public-input-on-budgeting-decisions/>
- South Korea has introduced a number of different public participation mechanisms in which the public monitors the country's budget process <http://www.opengovguide.com/country-examples/south-korea-has-introduced-a-number-of-different-public-participation-mechanisms-in-which-the-public-monitors-the-country%e2%80%99s-budget-process/>
- State governments in India use social audit techniques to monitor government programs <http://www.opengovguide.com/country-examples/state-governments-in-india-use-social-audit-techniques-to-monitor-government-programs/>
- Trinidad and Tobago uses stakeholder forums and Facebook to gather budget input <http://www.opengovguide.com/country-examples/trinidad-and-tobago-uses-stakeholder-forums-and-facebook-to-gather-budget-input/>

Advanced Step: Publish information on resources received by service delivery units

Justification

Problems frequently arise in front-line service delivery units providing services at the community level (such as schools and health clinics) in obtaining resources that were intended for their use, whether in terms of cash transfers, distribution of materials in kind (e.g. drugs and school books) or provision of centrally recruited and paid personnel. The intended resource provision may not be explicit in budget documentation, but is likely to form part of line ministries internal budget estimates preparation. Front line service delivery units, being furthest in the resource allocation chain, may be the ones to suffer most when overall resources fall short of budget estimates, or when higher level organisational units decide to re-direct resources to other (e.g. administrative) purposes. There may be significant delays in transfers of resources to the unit whether in cash or in kind. Tracking of such information is crucial in order to determine, if the PFM systems effectively support front-line service delivery.

Recommendations

Publish data on resources (cash and in-kind) received by service delivery units (such as, primary schools & primary health clinics)

Standards & Guidance

- Public Expenditure and Financial Accountability Field Guide
<http://siteresources.worldbank.org/PEFA/Resources/PEFAFieldguide.pdf>

Advanced Step: Publish off budget financial information

Justification

Governments often implement financial activities outside of the national budget, for example through pension or social security funds, state-owned enterprises and banks, Public resources from natural resource extraction, foreign aid, debt cancellation and proceeds from privatization operations may also not show up in national budgets.

In recent years there has been an increased emphasis on governments having a balanced budget and low levels of debt. Such prescriptions may increase incentives for governments to use quasi-fiscal activities that mask the true cost of their policies.

Quasi-fiscal activities are subsidies and deficits which don't show up on government financial accounts, such as subsidised bank loans provided by the central bank noncommercial public services provided by state-owned enterprises or multiple currency exchange rates used for different transactions.

Tax expenditures are another financial measure that is generally less well understood and often hidden from public scrutiny. Tax expenditures are usually defined as a government's estimated revenue loss that results from giving tax concessions or preferences to a particular class of taxpayer or activity. The revenue loss, or "expenditure," is calculated as the difference between whatever tax would have been paid under a defined benchmark tax law (which identifies what tax structure should normally apply to taxpayers) and the lower amount that was actually paid after the tax break.

All these issues should be adequately disclosed so that they receive the same level of oversight that the national budget receives.

Recommendations

1. Publish timely, regular, comprehensive, accessible, and accurate information on financial activities that go beyond the routine items in a national budget including extra-budgetary funds, tax expenditures and quasi fiscal activities.
2. Budget documentation should include statements on the purpose, duration, and intended beneficiaries of each quasi-fiscal activity, based on information provided by those agencies that undertake these activities, whether state-owned enterprises or the central bank.
3. Public corporations should include in their reports specific information on, for example, noncommercial services that the government requires them to provide or lending to other government-owned agencies, while central banks should report on any non-monetary policy activities that they conduct on behalf of the government.

Standards & Guidance

- IBP Looking beyond the budget <http://internationalbudget.org/wp-content/uploads/Looking-Beyond-the-Budget.pdf>
- IMF fiscal transparency code <http://www.imf.org/external/np/fad/trans/code.htm>
- OECD Guidelines on Corporate Governance of State-owned Enterprises <http://www.oecd.org/daf/ca/corporategovernanceofstate-ownedenterprises/34803211.pdf>

Country Examples

- In Azerbaijan, fuel subsidies provided by the national oil company were put on the budget <http://www.opengovguide.com/country-examples/in-azerbaijan-fuel-subsidies-provided-by-the-national-oil-company-were-put-on-the-budget/>
- In South Africa information on quasi-fiscal activities is provided in the main budget or the budgets of the relevant agencies <http://www.opengovguide.com/country-examples/in-south-africa-information-on-quasi-fiscal-activities-is-provided-in-the-main-budget-or-the-budgets-of-the-relevant-agencies/>

Innovative Step: Fully implement the GIFT Principles on fiscal transparency

Justification

The Global Initiative for Fiscal Transparency (GIFT) is a multi-stakeholder action network working to advance and institutionalise global norms and significant, continuous improvements on fiscal transparency, participation, and accountability in countries around the world. High Level Principles on Fiscal Transparency, Accountability and Participation represent an attempt to distil a set of broad principles from across the body of existing standards and norms. They are intended to guide policy makers and all other stakeholders in fiscal policy in their efforts to improve fiscal transparency, participation and accountability.

In December 2012, the UN General Assembly adopted a resolution titled 'Promoting transparency, participation and accountability in fiscal policies' endorsing the GIFT High Level Principles on fiscal transparency and participation, and encouraging Member States to intensify efforts to enhance transparency, participation and accountability in fiscal policies.

Recommendations

Implement the 10 High Level Principles on fiscal transparency, participation, and accountability developed by GIFT, which are summarised below:

1. Establish a clear presumption in favour of the public availability of fiscal information without discrimination
2. Publish clear and measureable objectives for aggregate fiscal policy, regularly report progress against them, and explain deviations
3. Present high quality financial and nonfinancial information on past, present, and forecast fiscal activities, performance, fiscal risks, and public assets
4. Communicate the objectives being pursued and the outputs produced and endeavour to disclose the anticipated and actual social, economic and environmental outcomes
5. Ensure that all financial transactions of the public sector have their basis in law. Laws, regulations and administrative procedures should be available to the public, and their implementation should be subject to independent review
6. Government financial relationships with the private sector should be disclosed, conducted in an open manner, and follow clear rules
7. Assign clear roles and responsibilities for raising revenues, incurring liabilities, consuming resources, investing, and managing public resources
8. No government revenue should be raised or expenditure incurred or committed without the approval of the legislature through the budget or other legislation
9. The Supreme Audit Institution should have statutory independence, the mandate to access information, and appropriate resources to audit and report publicly
10. Citizens should have the right and they, and all non state actors, should have effective opportunities to participate directly in public debate on budgets

Standards & Guidance

- GIFT High Level Principles on Financial Transparency <http://fiscaltransparency.net/wp-content/uploads/2012/09/GIFT-High-Level-Principles-2012-08-ENG.pdf>

Citizen engagement

 Lead author: [Involve](#)

Introduction

Citizen engagement is what open government is all about. It underpins many of the other topics in this guide - with active citizenship often being a vital link between transparency and accountability. The Open Government Partnership recognises this in its [eligibility criteria](#), stating that: 'Open Government requires openness to citizen participation and engagement in policymaking and governance, including basic protections for civil liberties' (Open Government Partnership).

In an increasingly complex world, citizens' input is a critical resource for policy-making. Good decision-making requires the knowledge, experiences, views and values of the public. Implementing difficult decisions depends on citizens' consent and support. Unless citizens understand and are engaged in the decision themselves, trust is easily lost (OECD, 2009).

Civil liberties provide the critical foundations which enable people to participate without fear and to disagree peacefully with each other and with their government. Basic human rights including freedom of speech, expression and the press; freedom of religion; freedom of assembly and association; and the right to due judicial process are critical in supporting a political culture where citizens are willing and able to participate in public debate.

People around the world consistently indicate that they are not content simply to engage with government through periodic elections. But they are discouraged by the real and perceived control of public decisions and decision-makers by small political and economic elites.. It is important that citizen engagement is well designed and properly resourced, and that it is born from a genuine desire to involve the public and take their input into account. Good citizen engagement can support the effective functioning of democracy, the legitimacy of government, the successful implementation of policy and the achievement of social outcomes. Bad engagement practice can lead to poor decisions, and disengagement by citizens (Brodie et al, 2011)

Overcoming public disengagement, and effectively responding to citizens requires a culture change in how governments interact and cooperate with the public, mechanisms for hearing and taking into account the voices of citizens institutionalized into the behaviour and culture of public institutions.

NB: Our use of the word "citizen" in this chapter is to be understood in its broadest possible sense, including all inhabitants of a country or locality. There is understandable concern that the term can be used to exclude groups without voting rights and/or are not naturalised in a country, including children and young people, migrants and refugees. This is not our intention; indeed, it is groups such as these that should be the focus of particular efforts to engage them with decisions that affect their lives.

References

OECD, 2009, Focus on Citizens: Public Engagement for Better Policy and Services

Brodie, E; Hughes, T; Jochum, V; Miller, S; Ockenden, N; & Warburton, D, 2011, Pathways through Participation: What creates and sustains active citizenship?

Expert Organisations

Civicus <http://www.civicus.org>

Involve <http://www.involve.org.uk>

Deliberative Democracy Consortium <http://www.deliberative-democracy.net>

International Association for Public Participation <http://www.iap2.org>

Society for Participatory Research in Asia <http://www.pria.org/>

Twaweza East Africa <http://www.twaweza.org>

MKSS India <http://www.mkssindia.org>

National Coalition for Dialogue and Deliberation US <http://ncdd.org>

Division for Public Administration and Development Management, United Nations Department of Economic and Social Affairs
<http://www.unpan.org/DPADM>

World Bank Social Development Department <http://www.worldbank.org/socialdevelopment>

International Center for Not-for-profit Law <http://www.icnl.org>

European Center for Not-for-profit Law <http://www.ecnl.org.hu>

International Association of Facilitators <http://www.iaf-world.org>

Summary of illustrative commitments

Initial

- Involve citizens in assessing the institutions of government and identifying priorities for reform
- Reform legislation to create an enabling environment for civil society organisations

Intermediate

- Encourage the use of digital tools to engage with the public
- Develop a compact with civil society to achieve common goals
- Engage citizens in deliberation on a priority issue
- Establish legislation and guidelines on public consultation in policy development

Advanced

- Establish a centre of expertise and designate resources to support the institutionalisation of citizen engagement
- Establish citizen engagement as a core competency of government officials
- Establish mechanisms to engage children and young people as full participants in civic life

Innovative

- Prototype new approaches to citizen participation

Detailed Recommendations

Initial Step: Involve citizens in assessing the institutions of government and identifying priorities for reform

Justification

Over the past three decades democracy has taken root in many parts of the world, and is now the dominant form of governance. However, there is no such thing as a perfect democracy, and democracy can take many forms, rooted in the realities of each country and the aspirations of its people.

For democracy to be effective it must connect people's demands and aspirations to accountable and representative political institutions. The role of the citizen in improving the quality of governance and in political and institutional reform is therefore fundamental.

Assessing the quality of government institutions and processes is part of the long and complex process of building and consolidating democratic institutions. While there are many external tools, frameworks, methodologies, ratings and indexes for assessing governance, initiating a process in which citizens themselves examine their own systems allows people to express their priorities and develop broad based support for reform agendas.

Recommendations

The NGO International IDEA pioneered a 'State of Democracy' approach which has so far been applied to over 20 countries worldwide. These recommendations are drawn from this approach:

1. The process should allow citizens and others who live in the country to assess the quality of their own democracy.
2. The prime purpose of democracy assessment should be to promote public debate and awareness, and the exercise ought to allow for the expression of popular understanding as well as any elite consensus.
3. The assessment should assist in identifying priorities for reform and monitoring their progress.
4. The criteria for assessment should be derived from clearly defined democratic principles and should embrace the widest range of democracy issues, while allowing assessors to choose priorities for examination according to local needs.
5. The assessments should be qualitative judgements of strengths and weaknesses in each area, strengthened by quantitative measures where appropriate.
6. The assessors should choose benchmarks or standards for assessment, based on the country's history, regional practice and international norms, as they think appropriate.
7. The assessment process should involve wide public consultation, including a national workshop to validate the findings.
8. The democracy assessment should not be viewed as an end in itself but a means to assist a democratic reform process by providing the systematic evidence, argument and comparative data on which reforms might be based.
9. Where governments initiate the democracy audit they should take steps to guarantee the independence of the assessment, and commit to responding to its findings.

Standards & Guidance

- Assessing the Quality of Democracy: A Practical Guide <http://www.idea.int/publications/aqd/>

- OGP Eligibility Criteria: Citizen Engagement <http://www.opengovpartnership.org/how-it-works/how-join/eligibility-criteria>

Country Examples

- The government of Mongolia has institutionalised on-going national 'State of Democracy' audits <http://www.opengovguide.com/country-examples/the-government-of-mongolia-has-institutionalised-on-going-national-state-of-democracy-audits/>
- The Netherlands carried out a 'State of Democracy' assessment <http://www.opengovguide.com/country-examples/the-netherlands-carried-out-a-state-of-democracy-assessment/>

Initial Step: Reform legislation to create an enabling environment for civil society organisations

Justification

A strong and independent civil society (including non-governmental organisations, community groups, faith-based organisations, trade unions, and informal groups) is critical to open government. Civil society organisations have an important role in holding government to account, providing support and services to citizens and advocating for and supporting the mobilisation of citizens.

Throughout history, social movements have served as incubators of new issues that have subsequently become a core part of the State's agenda on issues such as women's rights, the environment, and indigenous people's rights. States that are aware and responsive to these nascent movements can short circuit decades of conflict and frustration (Green, 2013)

The legal frameworks in which people are allowed to organise themselves are often restrictive, either by design, or because of inherited legal and bureaucratic frameworks which are no longer fit for purpose. There have been increasing moves in many countries to limit the scope, the independence and the sources of funding for civil society organisations through legal means or by threats, harassment or violence. Restricting the capacity of civil society organisations to operate violates the fundamental human rights of freedom of association and assembly, and curbs the right of free expression. (ICNL/WMD/NED, 2012)

While laws on the formation and operation of CSOs, and on lawful protests are necessary for maintaining public safety and preventing crime and terrorism they should not be used as a barrier to the right to freedom of association. In an enabling environment, CSO formation and operation should be facilitative rather than obstructive.

The key role played by CSOs has been recognised in the UN Human Rights Council Resolution on Protecting Human Rights Defenders. The resolution calls on states to ensure that registration requirements for CSOs are non-discriminatory, expeditious and inexpensive and allow for the possibility of appeal. It further calls on governments to ensure that reporting requirements for CSOs "do not inhibit functional autonomy."

Recommendations

1. CSO laws should be clear and well-defined.
2. The acquisition of legal status should be voluntary, and based on objective criteria.
3. Registration should not be a prerequisite for access to universal rights of freedom of expression, peaceful assembly and association.
4. The registration process should be quick, easy and inexpensive.

5. There should be a defined and reasonable time limit for registration decisions and written justifications for denials of status, which should be open to appeal.
6. All acts and decisions affecting CSOs should be subject to fair administrative or independent judicial review.
7. Reporting procedures for small, provincial, community-based organisations and alliances should be as simple as possible.

Standards & Guidance

- Civicus Enabling Environment Index <http://civicus.org/what-we-do-126/2013-05-06-10-38-39/1886-download-the-2013-enabling-environment-index-eei-report>
- International Principles Protecting Civil Society <http://www.defendingcivilsociety.org>
- OGP Eligibility Criteria: Citizen Engagement <http://www.opengovpartnership.org/how-it-works/how-join/eligibility-criteria>
- UN Human Rights Council Resolution on Protecting Human Rights Defenders http://ap.ohchr.org/documents/alldocs.aspx?doc_id=21380

Country Examples

- Ukraine has established laws to simplify CSO registration and improve access to resources <http://www.opengovguide.com/country-examples/ukraine-has-established-laws-to-simplify-cso-registration-and-improve-access-to-resources/>

Intermediate Step: Encourage the use of digital tools to engage with the public

Justification

Digital tools, such as social media, present policy and decision makers with a channel to communicate directly with citizens in real time. The use of digital tools should not be considered an end in itself, but rather for the particular benefits they can offer in a given situation. As such, careful consideration should be given to their appropriateness depending on the intended purpose, context and participants, as well as how they fit with institutional processes and capacity, and how any engagement will be acted upon and feedback given. Digital tools should be considered within a broader range of approaches and tools to ensure their appropriateness.

That being said, citizens themselves are increasingly using digital tools in many countries to engage with organisations (whether asking questions or providing feedback), as well as sharing their experiences of public services and commenting on the policies and decisions of governments. Therefore, in contexts where digital tools, such as social media, are widely used, they can:

- Enable Governments to communicate with citizens in the spaces that citizens already occupy and participate
- Allow policy makers to listen to the views of citizens on their policy area and engage directly with citizens individually
- Be part of conversations that are happening on social media, creating online communities and providing an authoritative voice
- Increase the impact of government communications, through the multiplier effect that social media can have

There are, however, some cultural and technical barriers to the effective use of digital tools, as well as personal and

organisational risks, that governments must address in order to leverage their benefits. One step towards this is the development of social media guidance, which provides government officials with the information necessary to use social media with confidence, to mitigate any risks and to tackle any technical barriers.

Recommendations

1. New channels should be explored for communicating with citizens and other stakeholders in real time - particularly those already being used by the public
2. Public servants should be encouraged to use new digital tools where appropriate to inform and communicate with the public
3. Where social media is used widely by large groups of the public, the Executive should publish social media guidance for public servants, with the aim of supporting them to engage directly with citizens through new media.
 - The guidance should be developed with relevant stakeholders
 - The guidance should be designed based on a review of good practice, but take into account the specific country context
 - The guidance should be developed with reference to the practical and cultural barriers that present a barrier to the effective use of social media
 - Other channels and opportunities for engagement should be developed and maintained so as not to exclude groups of the public
4. Digital tools should only be used if they are appropriate for the given purpose, context and participants

Standards & Guidance

- Center for Technology in Government – Designing Social Media Policy for Government: Eight essential elements http://www.ctg.albany.edu/publications/guides/social_media_policy/social_media_policy.pdf
- Delib: How and When to Use Social Media Channels to Strategically Support Government Goals http://www.delib.net/delib_shared_assets/shared_documents/Delib_Social_Media_for_Government_2012.pdf
- IBM Centre for The Business of Government: Using Online Tools to Engage – and be Engaged by – The Public <http://www.businessofgovernment.org/report/using-online-tools-engage-public>

Country Examples

- Australia has developed guidance on online consultation <http://www.opengovguide.com/country-examples/australia-has-developed-guidance-on-online-consultation/>
- In Tanzania the government established wanachi.go.tz a website to submit and track complaints and feedback <http://www.opengovguide.com/country-examples/in-tanzania-the-government-established-wanachi-go-tz-a-website-to-submit-and-track-complaints-and-feedback/>
- The New Zealand Government has developed social media guidance <http://www.opengovguide.com/country-examples/the-new-zealand-government-has-developed-social-media-guidance/>
- The UK is establishing a fund to support developers to produce tools to make use of open aid data <http://www.opengovguide.com/country-examples/the-uk-is-establishing-a-fund-to-support-developers-to-produce-tools-to-make-use-of-open-aid-data/>
- The US government established a public open source project to facilitate the implementation and evolution of its Open Data Policy <http://www.opengovguide.com/country-examples/the-us-government-established-a-public-open-source-project-to-facilitate-the-implementation-and-evolution-of-its-open-data-policy/>

Intermediate Step: Develop a compact with civil society to achieve common goals

Justification

While effective civil society depends on separation and independence from the state, there are often common goals between governments and civil society organisations. Civil society organisations often work with, or for governments for example in the fields of social services, environmental protection, or international aid development.

In many countries civil society organisations and governments have recognised a need for a mechanism for cooperation. These have taken the form of negotiated agreements around key principles such as access to information, public funding, consultation and participation.

Often the publication of a framework agreement or compact is the culmination of a long period intensive relationship and trust building between the two sectors. The mechanisms give recognition of the existing practices and benefits, they send a message of political commitment and openness, and they give direction to future cooperation. Framework agreements provide a basis for developing processes of annual review, codes of practice for performance, and mechanisms for mediation. Any negotiated agreement needs to take account of the differentials in power between governments and civil society, and not act as a curb on the independence and diversity of civil society. It is essentially important to develop the policy document in a highly participatory manner to ensure that the document is addressing real needs and to create ownership among the parties.

Recommendations

1. The Compact should be jointly developed by the Executive and representatives from civil society organisations, including grassroots groups as well as large NGOs. Representatives from organisations spanning the breadth of civil society should be involved to ensure widespread ownership
2. The Compact should set out commitments from both government and civil society. The commitments should acknowledge and promote the independence of civil society. They should be realistic and evidence based.
3. The Compact should include commitments relating to civil society's role in the policy process, in the delivery of services and in holding government to account.
4. Develop tools to monitor the implementation of institutional mechanisms.
5. On-going capacity building of key stakeholders (government officials, Parliamentarians, CSOs) is the key for the establishment and proper functioning of the institutional mechanisms for collaboration.
6. Periodically review the compact.

Standards & Guidance

- ECNL: Improving Cooperation Between Public Institutions and Civil Society in the Western Balkans and Turkey <http://www.gamn.org/files/Report%20-%20Keeping%20up%20the%20Momentum.pdf>
- ICNL: Guidelines on the Preparation of Compacts http://www.icnl.org/research/journal/vol3iss4/special_5.htm

Country Examples

- Croatia has a programme of cooperation with the not-for-profit sector <http://www.opengovguide.com/country-examples/croatia-has-a-programme-of-cooperation-with-the-not-for-profit-sector/>
- The Canadian government developed an Accord with the Voluntary Sector <http://www.opengovguide.com/country->

[examples/the-canadian-government-developed-an-accord-with-the-voluntary-sector/](#)

- The Government of Macedonia includes a commitment to implement its Strategy for Cooperation with the Civil Sector as part of its OGP Plan. <http://www.opengovguide.com/country-examples/the-government-of-macedonia-includes-a-commitment-to-implement-its-strategy-for-cooperation-with-the-civil-sector-as-part-of-its-ogp-plan/>
- The UK Government has a longstanding compact with the voluntary sector <http://www.opengovguide.com/country-examples/the-uk-government-has-a-longstanding-compact-with-the-voluntary-sector/>

Intermediate Step: Engage citizens in deliberation on a priority issue

Justification

Mechanisms for hearing the views of citizens and other stakeholders should be institutionalised for all policy decisions. However, some policy decisions warrant and require a broader or deeper level of engagement with citizens than others. This is particularly true where issues of constitutional change are being considered, the issue in question is highly complex and requires action by many actors, and on issues that will likely impact or concern citizens in a significant way.

For such issues, it can be advantageous to use deliberative methods of citizen engagement, whereby groups of citizens engage deeply with the issue in question. Eliciting the views, values, knowledge and experiences of the public can offer new perspectives on issues and be the source of important new information and ideas - resulting in policies and services that are better designed, more efficiently and effectively implemented, and enjoy greater public support (Andersson et al, 2013).

Involving the public can strengthen the legitimacy of a decision making process and give people a sense of ownership over the final decision, lowering the likelihood that it will be challenged or rejected. In addition, involvement can give people a sense that they have contributed to an important process and that their voice has been heard - increasing their sense of efficacy and their trust in government. Publishing responses to input increases transparency, and builds public confidence that government decisions are based on appropriate criteria and evidence.

Recommendations

1. Engagement should be focused on issues that matter most to people - whether through having a direct impact on their lives or having broader social, ethical, environmental or economic impacts. This helps to ensure that engagement is meaningful, and incentivises citizens to take action
2. The input of citizens and stakeholders must be able to influence the decision in question
3. The issue may be a single decision that needs to be taken, or part of an ongoing governance process. However take care that citizen engagement is not over reliant on one-off, intermittent events, which raise expectations that can't be met.
4. The engagement process should be carefully designed to match the purpose, context and participants - with appropriate methods chosen that are appealing and meaningful to citizens.
5. It should be carefully considered who the participants should be, and how they can be involved
6. The outcomes of the process should be carefully evaluated and reported back to participants and wider society
7. Don't underestimate the power of having fun. Most people associate engagement with dull town-hall meetings - the same participants, talking about the same things and in a way and in an environment that alienates most citizens. Unfortunately this perception is also often a reality. The first step towards changing this is to make engagement fun (though, critically, not at the expense of it being meaningful)

Standards & Guidance

- Civicus – Participatory Policy Making http://www.pgexchange.org/index.php?option=com_content&view=article&id=140&Itemid=132
- IBM Centre for the Business of Government: A Manager's Guide to Evaluating Citizen Participation <http://www.businessofgovernment.org/report/manager%E2%80%99s-guide-evaluating-citizen-participation>
- NCDD: Legal Frameworks for Citizen Participation <http://http://ncdd.org/rc/wp-content/uploads/2010/09/LogoLink-LegalFrameworks2003.pdf>
- NCDD: Resource Guide on Public Engagement http://www.ncdd.org/files/NCDD2010_Resource_Guide.pdf
- Participation compass <http://participationcompass.org/>
- Participedia <http://participedia.net>

Country Examples

- Estonia set up an online 'People's Assembly' to make proposals for government reform <http://www.opengovguide.com/country-examples/estonia-set-up-an-online-peoples-assembly-to-make-proposals-for-government-reform/>
- In Madagascar the government established a mediation process to address tensions over a large infrastructure project <http://www.opengovguide.com/country-examples/in-madagascar-the-government-established-a-mediation-process-to-address-tensions-over-a-large-infrastructure-project/>
- The City of Gerardton developed a plan for the city's future through participation <http://www.opengovguide.com/country-examples/the-city-of-gerardton-in-australia-developed-a-plan-for-the-citys-future-jointly-owned-by-citizens-industry-and-local-government/>
- The Danish Ministry of Foreign Affairs will conduct public hearings on the design of foreign aid programmes <http://www.opengovguide.com/country-examples/the-danish-ministry-of-foreign-affairs-will-conduct-public-hearings-on-the-design-of-foreign-aid-programmes/>
- Turkey sought broad public inputs into development a new constitution <http://www.opengovguide.com/country-examples/turkey-sought-broad-public-inputs-into-development-a-new-constitution/>

Intermediate Step: Establish legislation and guidelines on public consultation in policy development

Justification

Institutionalising a minimum level of citizen engagement in the policy process is important for ensuring that the views of citizens and other stakeholders are present when decisions are made, and that decisions are better informed as a result.

Public consultation is a formal process through which citizens and stakeholders can give feedback on policy analysis, proposals and options presented by the executive branch of government. It can take place at various stages of the policy process, from exploring ideas set out in policy papers through to scrutinising drafts of legislation. Public consultation typically involves citizens and stakeholders responding to something presented to them by government and, as such, is often considered to be a relatively low level form of engagement as it gives citizens limited influence in the policy process. However, its effective use is essential for any and all policy processes as it helps to ensure that decisions are informed by a good understanding of the likely impact of different policy proposals and that those affected by a decision have the opportunity to present their views.

The techniques used to consult or involve people include written responses, crowdsourcing comments on proposed

legislation, focus groups, citizens' juries, public meetings, and user panels. However, while many techniques are widely known, the potential and pitfalls of participation in practice are less well understood. The effectiveness of public consultation processes is determined by the quality of the planning that precedes it, especially the planning of how to reach relevant participants, how to handle the results and how to link the initiative with wider decision-making processes and systems.

Concerns about consultation include the potential for tokenistic engagement of citizen representatives; the capture of resources and local decision-making by local political and economic elites; and the re-creation of existing power relations within new participatory spaces – such as domination by men; or the reluctance of social “inferiors” to publicly challenge someone they rely on for work or housing. Citizen engagement must, therefore, be well designed and sufficiently resourced in order to mitigate these challenges.

Recommendations

1. Commit to institutionalising public consultation in the policy process, and embedding good consultation practice
2. Establish legislation which requires timely and effective consultation in the policy development process. Legislation should establish basic minimum criteria for consultation, acknowledging that such formalised consultation is just one element of citizen engagement in a decision making process. Legislation should cover:
 - To what types of decisions the duty should apply
 - At what stage of the decision making process the duty should apply
 - Who should be consulted
 - Equality and confidentiality requirements
 - How consultations should be publicised
 - Information that should be provided about the purpose of the consultation
 - Information that should be provided to citizens and stakeholders (e.g. policy impact assessments)
 - The timescale of consultation
 - The expectation that consultation submissions should be published
 - How consultation input should be responded to
 - How citizens and stakeholders can challenge decisions where the proper process has not been carried out.
3. Develop broader guidance on participation, together with stakeholders (including from civil society, business and government). It should set out a range of principles against which consultation exercises can be assessed, but acknowledge that consultation exercises will vary depending upon the context and the intended purpose and participants.
4. Consider developing a portal for all active and complete consultations, where citizens and stakeholders can respond to and track issues.

Standards & Guidance

- Involve: People and Participation – How to put citizens at the heart of decision-making <http://www.involve.org.uk/wp-content/uploads/2011/03/People-and-Participation.pdf>
- NCDD: Legal Frameworks for Citizen Participation <http://ncdd.org/rc/wp-content/uploads/2010/09/LogoLink-LegalFrameworks2003.pdf>
- OECD: Focus on Citizens – Public Engagement for Better Policy and services <http://www.oecd.org/governance/regulatory-policy/focusoncitzenspublicengagementforbetterpolicyandservices.htm>
- Public Deliberation: A manager's guide to citizen engagement <http://www.businessofgovernment.org/report/public->

[deliberation-managers-guide-citizen-engagement](#)

Country Examples

- In Australia consultation is required before any regulatory change <http://www.opengovguide.com/country-examples/in-australia-consultation-is-required-before-any-regulatory-change/>
- Public participation is enshrined in the Constitution of South Africa <http://www.opengovguide.com/country-examples/public-participation-is-enshrined-in-the-constitution-of-south-africa/>
- The UK government has issued guidance on consultation <http://www.opengovguide.com/country-examples/the-uk-government-has-issued-guidance-on-consultation/>
- Tuscany established a law promoting participation in development of regional policies <http://www.opengovguide.com/country-examples/tuscany-established-a-law-promoting-participation-in-development-of-regional-policies/>

Advanced Step: Establish a centre of expertise and designate resources to support the institutionalisation of citizen engagement

Justification

Building a body of expertise and experience in citizen engagement and working to shift organisational structures, processes, and cultures to support greater openness in policy and decision-making are essential for opening up government organisations.

Government organisations have a long history of being inwardly focused and opaque, with organisational structures, processes and cultures that support these ways of working. Organisational change of any kind requires time and proper resourcing in order for it to have a chance of success. If citizen engagement is to be institutionalised - in order that it becomes part of the way government organisations function - then resources need to be dedicated to make it happen. Designing, commissioning, delivering and evaluating effective citizen engagement is not straightforward. Careful consideration needs to be given to the purpose of engagement, the context in which engagement will take place, and the citizens and stakeholders who should be engaged. The practice of citizen engagement therefore benefits considerably from the presence of a body of expertise and experience from which government officials can draw.

While ad hoc and low impact engagement can operate within existing organisational structures, processes and cultures, the comprehensive use of citizen engagement requires that organisations fully embrace openness - being transparent about what they do and responsive to what citizens tell them. For most organisations this requires significant culture change. A centre of expertise can help to build - and commit to organisational memory - the body of knowledge and experience of citizen engagement necessary to ensure that practice is evidence-based and develops over time. It can support the evaluation of practice, the testing of new approaches, the development of the business case for engagement, the spread of relevant knowledge and skills, and the removal of organisational barriers. As such, the presence of specific engagement expertise is an addition to - not a substitute for - all government officials developing their own citizen engagement capabilities.

Recommendations

1. Build a body of expertise and knowledge of citizen engagement
2. Prototype and evaluate new approaches to citizen engagement
3. Build and make the case for citizen engagement, and support its adoption across government institutions

4. Develop organisational capacity and capabilities for citizen engagement, through mentoring, training and networking
5. Support the growth of organisational processes and cultures that enable and promote citizen engagement

Country Examples

- Denmark set up a centre of expertise on collaborative democracy, starting with a focus on technology issues <http://www.opengovguide.com/country-examples/denmark-set-up-a-centre-of-expertise-on-collaborative-democracy-starting-with-a-focus-on-technology-issues/>
- Denmark's Mindlab involves citizens and business in problem solving with government ministries <http://www.opengovguide.com/country-examples/denmarks-mindlab-involves-citizens-and-business-in-developing-new-solutions-for-the-public-sector/>
- The City of Edmonton has set up a Centre for Public Involvement <http://www.opengovguide.com/country-examples/the-city-of-edmonton-has-set-up-a-centre-for-public-involvement/>
- The UK government set up a center for public engagement on science policy following a national controversy <http://www.opengovguide.com/country-examples/the-uk-the-government-set-up-a-center-for-public-engagement-on-science-policy-following-a-national-controversy/>

Advanced Step: Establish citizen engagement as a core competency of government officials

Justification

The changing context in which governments operate requires that government officials are increasingly able to engage and collaborate with citizens and stakeholders. This shift in the required approach of government necessitates that the skills and competencies of government officials must shift too. Among other things, it requires a much more open approach to policy making, whereby:

- a shared understanding of the issue in question is developed between relevant stakeholders (including citizens)
- possible policy solutions are developed with relevant stakeholders (including citizens), and collaborative solutions are sought
- policy decisions are informed by the views and expertise of a broad range of stakeholders (including citizens), and the reasoning and evidence base for a decision is open to all
- the implementation of a policy decision is informed by, and conducted in partnership with, relevant stakeholders (including citizens)
- the impact of a policy decision are properly evaluated, including by those it affects

The ability of government officials to engage and collaborate with citizens and external stakeholders should, therefore, figure in their recruitment, appraisal and personal development.

Recommendations

1. Undertake a review of the skills and competencies required for effective policy making, and create accessible opportunities for interested parties to contribute towards the review

2. Address any barriers to engagement and collaboration presented by organisational systems and processes
3. Explore the role of citizen engagement in the policy process, and consider the skills and competencies necessary for undertaking effective citizen engagement
4. Include these skills and competencies in the job descriptions, appraisal processes and personal development objectives of government officials
5. Develop a programme of learning and development that addresses the knowledge and skills necessary for effective citizen engagement

Standards & Guidance

- IBM Centre for the Business of Government: A Manager's Guide to Evaluating Citizen Participation
<http://www.businessofgovernment.org/report/manager%E2%80%99s-guide-evaluating-citizen-participation>

Country Examples

- Finland is committed to developing dialogue skills in public administration as part of its OGP action plan
<http://www.opengovguide.com/country-examples/finland-is-committed-to-developing-dialogue-skills-in-public-administration-as-part-of-its-ogp-action-plan/>
- UK Open Policymaking team crowdsourced suggestions of 'Ideal Policy Team Behaviors'
<http://www.opengovguide.com/country-examples/uk-open-policymaking-team-crowdsourced-suggestions-of-ideal-policy-team-behaviors/>

Advanced Step: Establish mechanisms to engage children and young people as full participants in civic life

Justification

Governments should place particular emphasis on engaging groups of the public that are subject to exclusion and/or unable to express their views in other ways. We focus this illustrative commitment on children and young people due to the need to foster active citizenship from an early age. Commitments could, however, similarly be formed for other segments of the population including women, ethnic and religious minorities, migrants and refugees, and old people.

Under 18s make up over 30% of the global population, and in many developing countries up to 50% of the population may be under 18. Under Article 12 of the [UN Convention on the Rights of the Child](#), children and young people have a right to have their views listened to, and taken into account on decisions that affect them.

Although most young people around the world do not have the right to vote, governments are making policy decisions every day, on health, education and welfare, with large impacts on the lives of children and young people. Listening to the views of children and young people can:

- Lead to better designed policies - drawing on the lived experience, insights and innovative ideas of young people
- Engage all people under 18 as allies in *the development and sustainability of new mechanisms throughout society* - whether reporting when teachers don't turn up to school, giving feedback on projects, or getting involved in implementing social programmes
- Give children and young people a greater stake in society - and increase the likelihood that they will be civically active

as adults

- Promoting the involvement of children and young people may involve:
- Making sure consultation opportunities are accessible - for example, by using clear language, and offering a range of ways to input rather than only accepting formal written submissions.
- Specific outreach to involve young people - through dedicated consultations, events and project activities that give young people an opportunity to share their feedback, express their views and get involved in influencing policy.
- Establishing formal youth engagement structures - such as a credible and independent National Youth Council, backed by a range of local structures that support children and young people to get involved.

In many countries young adults (18 - 30) are also commonly excluded from public consultation or opportunities for decision making, even though they may have formal voting rights. Many of the recommendations below should also be applied to youth in these cases.

Recommendations

1. Establish shared values & leadership. The government should affirm a public commitment to involving children, young people and young adults in all decisions that affect them.
2. Set out clear standards for the involvement of children and young people - drawing on international good practices
3. Work with a group of children and young people to assess current participation opportunities, and to identify future areas for development
4. Develop training in child and youth participation for professionals working with young people, and for decision makers

Standards & Guidance

- UNICEF: Child and youth participation resource guide http://www.unicef.org/adolescence/cypguide/index_intro.html
- Youth participation in development guide <http://ygproject.org/>

Country Examples

- In Uganda a consultation with young people provided inputs to the National Development Plan <http://www.opengovguide.com/country-examples/in-uganda-a-consultation-with-young-people-provided-inputs-to-the-national-development-plan/>

Innovative Step: Prototype new approaches to citizen participation

Justification

Citizen engagement is a continuously developing field, with new evidence of its benefits and limitations in different contexts emerging on an ongoing basis. There is no one “correct” model that should be adopted in any given scenario, but a range of possible approaches, the design of which can be tweaked to result in different outcomes. A common finding of evaluations of citizen engagement programmes is that context is key.

It is therefore important that governments and other actors continue to explore the efficacy of different approaches to

citizen engagement in different scenarios, but do so in an agile way that enables the development of the approach as evidence of its impact emerges. As such, high quality evaluation is needed to ensure that approaches are developed in the best possible way, and to add to the body of knowledge to inform the development of new approaches by others.

Recommendations

1. Consider what other approaches have been tried in similar contexts, and their benefits and limitations.
2. Commit to ongoing evaluation in order to develop the approach as necessary.
3. Support independent formative evaluation of the approach to build the evidence base of what works, in which contexts and why.

Standards & Guidance

- IBM Centre for the Business of Government: A Manager's Guide to Evaluating Citizen Participation <http://www.businessofgovernment.org/report/manager%E2%80%99s-guide-evaluating-citizen-participation>
- Participation compass <http://participationcompass.org/>
- Participedia <http://participedia.net>

Country Examples

- The plan for rebuilding New Orleans was developed through participation with people across 16 cities <http://www.opengovguide.com/country-examples/the-plan-for-rebuilding-new-orleans-was-developed-through-participation-with-people-across-16-cities/>
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Construction

 **Lead author:** [Construction Sector Transparency Initiative \(CoST\)](#)

Introduction

The construction sector is responsible for building crucial infrastructure which contributes to positive economic and social outcomes including poverty reduction. Up to 30 percent of public budgets is spent on construction, across sectors such as transport, energy, water, health, education, and housing. The sector also receives high levels of foreign direct investment and of international and regional development aid. This means that the concerns about mismanagement and corruption in the sector have both local and international significance.

It is estimated that upwards of \$4 trillion annually is lost through mismanagement, inefficiency, and corruption in public construction - on average 10 to 30 percent of a project's value. These losses have a negative effect on the quality, safety, and value of the built environment. Specific investigations have found much larger losses in some cases, including projects that were paid for but never built and structures that collapsed with injury and loss of life.

Corruption and mismanagement in public infrastructure are linked to weak governance, both in policy, legal and regulatory systems and institutional capacity. The nature of the construction industry and the manner in which infrastructure services are operated create structural vulnerabilities that can encourage corruption. Transparency International's 2005 report into corruption in infrastructure highlights 13 different features of infrastructure projects that make them particularly prone to corruption including size, uniqueness, complexity, the length and phasing of projects and the number of contractual links.

Strengthening transparency and accountability in public construction yields domestic and international benefits. Efforts to improve openness in the sector promise multiple benefits: improving the use of funds in public construction, resulting in better and more reliable infrastructure; freeing savings to extend social and economic services; and raising investor confidence. These benefits are shared amongst government, private sector and civil society.

For governments the benefits include, greater efficiency of public spending, improved quality of public services, improved business environment, public confidence, political reputation, reduction in risks to public safety and increased prospects for investment. For the private sector benefits include greater confidence that a 'level playing field' exists, a more predictable business environment and improved levels of trust, reducing reputational risk and improved access to financial markets. For the public the benefits include greater opportunities for public involvement and accountability, checks and balances to ensure value for money, assurances that corruption is being mitigated and better public services and infrastructure.

References

Construction Sector Transparency Initiative (2012), 'Openness and accountability in public infrastructure could save [1] US\$2.5 trillion by 2020', October 2012; Transparency International (2005), 'Global Corruption Report 2005', Transparency International, Berlin

Expert Organisations

Construction Sector Transparency Initiative (CoST) <http://www.constructiontransparency.org/>

World Bank Information and Communication Technologies <http://go.worldbank.org/0SVRFYVD90>

World Bank Transport <http://go.worldbank.org/0SYVYJWB40>

World Bank Water <http://www.worldbank.org/en/topic/water>

World Bank Sustainable Development <http://www.worldbank.org/en/topic/sustainabledevelopment>

Summary of illustrative commitments

Initial

- Commit to proactive disclosure of information on public construction projects in a timely manner
- Engage with the Construction Sector Transparency Initiative (CoST)
- Establish assurance of construction project information disclosure

Intermediate

- Enable the sharing and discussion of assurance findings in multi-stakeholder forums
- Integrate proactive disclosure of construction project information into existing government frameworks
- Join the Construction Sector Transparency Initiative (CoST) and develop a national programme

Advanced

- Publish all construction sector disclosures in machine-readable format

Innovative

- Integrate mechanisms for real-time citizen reporting and feedback on construction projects
- Make national experience of construction transparency and accountability available for international exchange

Detailed Recommendations

Initial Step: Commit to proactive disclosure of information on public construction projects in a timely manner

Justification

Proactive disclosure promotes transparency in public construction by ensuring that basic information on projects is disclosed by procuring entities to the public at key points throughout the project cycle.

A public disclosure process for the construction sector should be viable and appropriate to country conditions, is sustainable in the medium and long term as a government system and can achieve a credible and substantial level of compliance from the procuring entities.

Recommendations

1. **Identify a standard of project information for proactive disclosure in all public construction projects.** The Construction Sector Transparency Initiative (CoST) identifies 38 items of information in its standard for disclosure.
 - Project identification: Project owner, Sector, subsector, Project name , Project Location, Purpose, Project description
 - Project preparation: Project Scope (main output), Environmental impact, Land and settlement impact, Contact details, Funding sources , Project Budget, Project budget approval date
 - Procurement: Procuring entity, Procuring entity contact details, Procurement process, Contract type, Contract status (current), Number of firms tendering , Cost estimate, Contract administration entity, Contract title , Contract firm(s) , Contract price, Contract scope of work, Contract start date and duration
 - Project completion: Project status (current), Completion cost (projected), Completion date (projected), Scope at completion (projected), Reasons for project changes, Reference to audit and evaluation reports
 - Implementation: Variation to contract price, Escalation of contract price, Variation to contract duration, Variation to contract scope, Reasons for price changes, Reasons for scope and duration changes
2. **Support the disclosure process by formal requirements that align with and complement the country's existing institutional functions, policies, and laws** relating to public financial management and transparency. This can be achieved through a formal disclosure requirement - the administrative or legal basis providing the authority and the requirement for procuring entities to disclose project information into the public domain. Wherever possible, this information should be disclosed in a machine-readable format.

Standards & Guidance

- CoST project information standard
http://www.constructiontransparency.org/db/documents/List_of_CoST_Project_Information.pdf

Initial Step: Engage with the Construction Sector Transparency Initiative (CoST)

Justification

The Construction Sector Transparency Initiative (CoST) is a country-centred initiative to improve the value for money spent on public infrastructure by increasing transparency in the delivery of construction projects. Its primary purpose is to help raise the standards of transparency and accountability in the public construction sector internationally.

Participation in the CoST programme is open to any country, any government department or agency with responsibility for public sector construction projects. By joining CoST, the government is committing to a process of development and progressive implementation of disclosure that will be under local control and timing, but with access to international assistance. Thus, joining does not involve commitment to any prior specific changes or systems, but only to embarking on a programme for disclosure and accountability.

Recommendations

1. Initiate an 'engagement phase' with the CoST International Secretariat to determine how CoST could be aligned with existing initiatives and structured to help meet national priorities.
2. The request to engage can come from a government official or industry body, or from outside government. In most cases the initiator forms a small group to participate in the discussions.
3. Engagement could evolve in many ways. Relevant activities might include:
 - meetings and presentations aimed at raising awareness of performance and transparency concerns;
 - within the domestic construction sector, explaining CoST, and sharing experiences of other CoST countries;
 - bilateral meetings between the International Secretariat and each of the main stakeholder groups;
 - discussions with CoST representatives (by email, audio or video-conferencing, or visits) on practical matters including how disclosure, assurance and multi-stakeholder working might be implemented;
 - information gathering on cases in the construction sector that can be used to stimulate public demand for greater transparency on public infrastructure; and
 - information gathering on the existing policy environment relating to disclosure that can help inform stakeholders on how CoST might be implemented
4. At the end of this, determine whether to apply to join CoST by sending a formal request and developing an implementation plan.

Standards & Guidance

- CoST Guidance Notes http://www.constructiontransparency.org/db/documents/CoST_Guidance_Note_2_Joining_CoST.pdf
- CoST resources- one-stop-shop <http://www.constructiontransparency.org/resources.cfm>

Country Examples

- El Salvador joined COST after an initial period of engagement <http://www.opengovguide.com/country-examples/el-salvador-joined-cost-after-an-initial-period-of-engagement/>

Initial Step: Establish assurance of construction project information disclosure

Justification

For transparency to be effective, stakeholders need to be able to understand the disclosed information and to identify issues of potential concern.

An assurance process helps to achieve this by monitoring the compliance of the participating procuring entities with the formal disclosure requirement in terms of completeness and accuracy of the disclosed information. It also identifies issues of potential concern across the participating procuring entities, where more detailed review can take place

Recommendations

1. Establish an assurance process for construction industry transparency disclosures
2. The design of the assurance process should include identifying existing systems within government systems to avoid duplication.
3. Assurance should address the coverage, completeness and accuracy of the disclosed information, and identify issues of potential concern.
4. The Assurance Team could be a trusted and impartial institution with requisite capacity such as a national audit office or watchdog, or a team of consultants employed by the Multi-Stakeholder Group (MSG) in the case of countries implementing CoST.
5. Findings of the assurance process should be published in a timely manner.
6. Once it becomes established the assurance process should be embedded in relevant government institutions.

Country Examples

- Countries participating in CoST have enabled assurance of disclosed CoST project information and published findings <http://www.opengovguide.com/country-examples/countries-participating-in-cost-have-enabled-assurance-of-disclosed-cost-project-information-and-published-findings/>

Intermediate Step: Enable the sharing and discussion of assurance findings in multi-stakeholder forums

Justification

Enabling the sharing and discussion of assurance findings in multi-stakeholder forums promotes transparency and corrective action in public construction by ensuring that the stakeholders, including government, business and civil society, have access to information at key points throughout the project cycle and are able to propose and action corrective measures.

Recommendations

Governments should enable the sharing and discussion of assurance findings in multi-stakeholder forums.

Standards & Guidance

- CoST resources- one-stop-shop <http://www.constructiontransparency.org/resources.cfm>

Country Examples

- Disclosing information enabled Ethiopia to save money and improve governance in the construction sector <http://www.opengovguide.com/country-examples/disclosing-information-enabled-ethiopia-to-save-money-and-improve-governance-in-the-construction-sector/>
- District monitoring committees in Timor Leste are monitoring and helping resolve problems with public projects <http://www.opengovguide.com/country-examples/district-monitoring-committees-in-timor-leste-are-monitoring-and-helping-resolve-problems-with-public-projects/>
- In Guatemala the government has taken action where multistakeholder reviews found problems in public construction projects <http://www.opengovguide.com/country-examples/in-guatemala-the-government-has-taken-action-where-multistakeholder-reviews-found-problems-in-public-construction-projects/>

Intermediate Step: Integrate proactive disclosure of construction project information into existing government frameworks

Justification

Integration of public disclosure into existing government systems and frameworks enables the institutionalisation of transparency and opportunities for accountability and improved performance.

Recommendations

1. Governments should integrate proactive disclosure of construction project information into existing government systems and frameworks.

Standards & Guidance

- CoST project information standard http://www.constructiontransparency.org/db/documents/List_of_CoST_Project_Information.pdf

Country Examples

- Ethiopia launched a new Procurement Proclamation which requires disclosure of contracting information <http://www.opengovguide.com/country-examples/ethiopia-launched-a-new-procurement-proclamation-which-requires-disclosure-of-contracting-information/>
- The Government of Guatemala is working through CoST to bring disclosure of public construction data up to international standards <http://www.opengovguide.com/country-examples/the-government-of-guatemala-is-working-through-cost-to-bring-disclosure-of-public-construction-data-up-to-international-standards/>

Intermediate Step: Join the Construction Sector Transparency Initiative (CoST) and develop a national programme

Justification

Joining CoST promises multiple benefits from improving value for money in public construction, resulting in better quality and more reliable infrastructure, to freeing savings to extend public services. It also helps to create a business environment in which corruption is less likely to occur and can raise investor confidence.

CoST uses a multi-stakeholder approach where cooperation between government, the private sector and civil society promotes the sharing of ideas and experiences in the pursuit of common goals. Typically this achieved by forming a Multi-Stakeholder Group (MSG) who oversees the CoST national programme and sets the standard for transparency and accountability in the national construction sector.

Initially a national programme sees the disclosure and assurance processes described above tested by the participating procuring entities on sample of construction projects. The national programme then begins to scale-up disclosure and assurance based on the lessons of the testing period across an increasing number of procuring entities and projects. In due course, the disclosure and assurance process becomes mainstreamed within government systems.

The investment of time and resources needed to establish a national programme will depend on the existing institutional capacity and systems available to disclose information. However, from a relatively small investment countries have seen substantial cost savings achieved on individual projects, as well as legal and policy improvements to project delivery that could lead to further savings in future.

Recommendations

The International Secretariat works with local stakeholders to develop an application to join CoST. It should include

1. A letter from a government office or an alternative organisation with government endorsement, indicating:
 - A desire to enhance transparency and accountability in the construction sector and to adopt CoST principles;
 - A scheduled public announcement to confirm the intent to implement a programme for increasing transparency in the provision of public infrastructure and in accordance with international good practice;
 - An commitment from government to engage with the private sector and civil society in oversight of the national programme;
 - A commitment from at least one public infrastructure procuring entity to participate in the initial implementation of the programme; and
 - A commitment to liaise and share information with the international programme during implementation of the national programme.
2. An implementation plan indicating:
 - Administrative arrangements, including official contact for coordination with the international programme;
 - Schedule for key activities including: multi-stakeholder engagement and oversight, design and authorisation of disclosure requirements, management and coordination arrangements, engagement and training of procuring entities, and rollout of disclosure; and
 - Budget and financing plan.

Standards & Guidance

- CoST Pilot Results http://www.constructiontransparency.org/resources/pilot_results.cfm

Country Examples

- CoST participation countries have disclosed project information <http://www.opengovguide.com/country-examples/cost-participation-countries-have-disclosed-project-information/>

- Malawi is reforming its construction sector after CoST review <http://www.opengovguide.com/country-examples/malawi-is-reforming-its-construction-sector-after-cost-review/>
- Tanzanian authorities work alongside CoST to ensure high levels of scrutiny in the construction sector <http://www.opengovguide.com/country-examples/tanzanian-authorities-work-alongside-cost-to-ensure-high-levels-of-scrutiny-in-the-construction-sector/>
- The government of Vietnam has provided sustained high-level political support to the CoST initiative <http://www.opengovguide.com/country-examples/the-government-of-vietnam-has-provided-sustained-high-level-political-support-to-the-cost-initiative/>
- The Philippines integrates CoST into existing civil society initiatives <http://www.opengovguide.com/country-examples/the-philippines-integrates-cost-into-existing-civil-society-initiatives/>
- The UK government works with CoST as part of its programme for reducing the costs of infrastructure projects <http://www.opengovguide.com/country-examples/the-uk-government-works-with-cost-as-part-of-its-programme-for-reducing-the-costs-of-infrastructure-projects/>

Advanced Step: Publish all construction sector disclosures in machine-readable format

Justification

In order for construction information to be properly understood, stakeholders need to analyse and use the data. Modern technology allows data to be relayed in formats that can be easily used. For example, excel spread sheets are frequently used by practitioners across the globe. In order to facilitate the use of construction data, governments should publish the data in machine-readable format.

Recommendations

1. Governments should publish all information in machine-readable format.

Country Examples

- In the United States provides machine-readable information on construction contracts <http://www.opengovguide.com/country-examples/in-the-united-states-provides-machine-readable-information-on-construction-contracts/>
- The UK is developing a new format for capturing data from publicly funded construction projects through the CoST initiative <http://www.opengovguide.com/country-examples/the-uk-is-developing-a-new-format-for-capturing-data-from-publicly-funded-construction-projects-through-the-cost-initiative/>

Innovative Step: Integrate mechanisms for real-time citizen reporting and feedback on construction projects

Justification

In many countries civil society organisations are already working with communities to monitor project information and

assess the effectiveness of construction projects, such as clinics, roads and schools.

Some have developed online platforms to help community monitors collect data and to make it more easily available both to civil society organisations, the media, procuring entities and funders in order to generate pressure for improved services and projects. International initiatives as [development check](#) are experimenting in supporting these initiatives with ready made platforms, and a means for cross-country comparison and collective advocacy.

Community monitors can enter data, upload project documents as well as photos and videos (for example using smartphones). Local partner organisations share their findings with the community, government and contractors. Through constructive engagement with these key stakeholders, they can fix problems and improve development projects;

In an initial pilot of this system by Integrity action. 30%-50% of identified problems were resolved to the communities satisfaction.

Linking these kinds of platforms with e-government tools, such as data portals, online budget monitoring, and e-procurement sites would enable citizen reporting to provide real-time data to decision makers.

Recommendations

1. **Make sure that procuring entities integrate mechanisms that enable real-time citizen reporting and feedback for accountability and improved performance.**

Standards & Guidance

- Civicus – Monitoring and Evaluating Public Services http://www.pgexchange.org/index.php?option=com_content&view=category&id=59&Itemid=135
- CoST resources- one-stop-shop <http://www.constructiontransparency.org/resources.cfm>

Country Examples

- In Afghanistan, DRC, Liberia, Nepal, Palestine, Sierra Leone and Timor-Leste, civil society organisations work with communities to monitor and assess the effectiveness of construction projects <http://www.opengovguide.com/country-examples/in-afghanistan-drc-liberia-nepal-palestine-sierra-leone-and-timor-leste-civil-society-organisations-work-with-communities-to-monitor-and-assess-the-effectiveness-of-construction-projects/>

Innovative Step: Make national experience of construction transparency and accountability available for international exchange

Justification

International exchange of experience enables collective learning and action. Country participants can share tools and lessons learned of what works and does not work to improve the transparency, accountability and performance of the construction sector.

Recommendations

1. Stakeholders, including governments, business and civil society should facilitate international exchange of experience.

Standards & Guidance

- CoST resources- one-stop-shop <http://www.constructiontransparency.org/resources.cfm>

Country Examples

- Approximately 20 countries have taken part in experience exchange on construction sector transparency facilitated through CoST <http://www.opengovguide.com/country-examples/approximately-20-countries-have-taken-part-in-experience-exchange-on-construction-sector-transparency-facilitated-through-cost/>
 - CoST in Guatemala has benefited from the support of international partners, helping them avoid potential pitfalls and build on what has worked in other countries <http://www.opengovguide.com/country-examples/cost-in-guatemala-has-benefited-from-the-support-of-international-partners-helping-them-avoid-potential-pitfalls-and-build-on-what-has-worked-in-other-countries/>
-

Elections

 **Lead author:** [National Democratic Institute for International Affairs](#)

Introduction

Democratic elections serve two essential functions in any country: to provide the vehicle through which the people express their will as to who shall have the authority to govern; and to resolve peacefully the competition for governmental power. Through democratic elections citizens hold incumbents to account for their performance and promise to hold to account those who seek to be elected.

The obligation of governments to organise *genuine* elections, based on universal and equal suffrage, is interwoven with the right of citizens to participate in government and public affairs. Article 21 of the [Universal Declaration of Human Rights](#) (UDHR) states that the basis of the authority of government derives from the will of the people expressed in periodic and genuine elections. Article 25 of the [International Covenant for Civil and Political Rights](#) (ICCPR) states the governmental obligation to provide each citizen with the right and opportunity, without discrimination or unreasonable restriction, to vote and to be elected at genuine elections.

Citizens not only have a right to participate in elections, but also the right to know for themselves whether the electoral process is valid and free of corruption. The right to information is integral to electoral rights because it is impossible to participate meaningfully without information needed to make informed electoral choices. Access to information about electoral processes, including government held electoral data, and the steps taken by governmental institutions to establish accountability in the electoral context is fundamental to creating and reinforcing public confidence in the integrity of elections and the government that derives from them.

Genuine elections require administrative measures that ensure political impartiality of state institutions and personnel, vigorous enforcement of equality before the law and equal protection of the law. Unless the population is assured that citizens can participate in electoral processes free from the harms of violence, intimidation, threat of political retribution and other forms of coercion – and unless the population believes that votes will be accurately counted and honoured – barriers may undermine participation and the credibility of the electoral mandate. Unless electoral competitors are assured that they will be able to participate free from such harms and that they will have access to redress, including effective remedies for violations of their political rights, they may either choose not to participate or to turn to “self-help”, such as political violence.

Even in established democracies maintaining public confidence in administrative impartiality and effectiveness can often become points of sharp controversy. Moreover, where electoral problems are significant and transparency is lacking, public trust in government can be severely damaged, which is hard to repair in any country. That damage can have important effects on governmental stability.

The growing arena of campaign and political finance is also important to electoral integrity. The role of money in politics, whether from private individuals or corporations, or whether from legal sources or organised crime, can impact significantly upon who competes in elections, how well they are able to spread their messages to the electorate, how they are able to develop their other organisational efforts and potentially how they may perform if they enter government (Transparency International, 2013; Öhman and Zainulbha, 2009; International IDEA, Political Finance Database; Open Congress, International Campaign Finance Literature Review). Attention is increasingly turning to how to control the impact of money in politics so as to nurture its positive aspects, while controlling and counteracting negative influences.

Transparency International (2013), Buying Influence, Money and Politics in the Balkans,
http://www.transparency.org/news/feature/buying_influence_balkans

Magnus Öhman and Hani Zainulbha, 2009, Political Finance Regulation: The Global Experience, International Foundation for Electoral Systems

International IDEA, Political Finance Database, <http://www.idea.int/political-finance/sources.cfm>

Open Congress, International Campaign Finance Literature Review,
http://www.opencongress.org/wiki/International_Campaign_Finance_Lit_Review

Expert Organisations

ACE Electoral Knowledge Network <http://www.aceproject.org>

International IDEA <http://www.idea.int>

Electoral Institute for Sustainable Democracy in Africa (EISA) <http://www.eisa.org.za>

Global Network of Domestic [Citizen] Election Monitors <http://www.gndem.org>

National Democratic Institute for International Affairs (NDI) <http://www.ndi.org>

The Carter Center http://www.cartercenter.org/news/publications/peace/democracy_reports.html

Transparency International <http://www.transparency.org>

Summary of illustrative commitments

Initial

- Establish a legal framework for impartiality, effectiveness and transparency in elections
- Make available information related to electoral processes

Intermediate

- Establish measures to safeguard administrative impartiality and provide training and access to information about them
- Establish open contracting rules for election related procurements
- Make election related data available proactively
- Require consultation for any significant changes to electoral processes

Advanced

- Broaden and deepen opportunities for participation in public policy decisions related to election management
- Empower an ombudsman or similar office to receive, investigate and address citizen complaints concerning electoral processes

Innovative

- Establish an independent expert panel to monitor procurement and application of election technologies

Detailed Recommendations

Initial Step: Establish a legal framework for impartiality, effectiveness and transparency in elections

Justification

There is international consensus that a critical starting point for safeguarding electoral integrity and creating public confidence in governmental institutions that relate to elections is establishing a legal framework that warrants public trust in electoral administration, ensures fair competition, and safeguards a free and informed vote. The legal framework should guarantee political impartiality of governmental entities, administrative effectiveness and transparency for the numerous complex, time-sensitive, and large-scale processes required for genuine elections.

There is also international consensus that factors in the broader political environment, which is affected by an array of government institutions and other actors, can at times negate or substantially subvert electoral integrity. Legal frameworks therefore must ensure access to justice mechanisms, equal protection of the law and effective remedies in the election context. Beyond the letter of the law, visible and forceful steps to ensure political neutrality, proper actions and openness by state institutions are also crucial for establishing public confidence in the credibility of electoral processes. Assurances of commitment to proper actions by political competitors and by civil society actors, often through voluntary codes of conduct, are also important initial measures for establishing transparency and electoral credibility.

Legal frameworks are never perfect. They must be re-evaluated and improved as lessons are learned and countries advance through more substantial steps on their democratic paths, though rules must be clear well in advance of specific elections. Increased access to electoral data and other government held information that relates to electoral processes should be part of that progress.

Recommendations

A sound legal framework for elections should:

1. **Set out an inclusive process for appointing an impartial electoral management body (EMB, e.g., election commission)**, with clear criteria for selecting its members, requiring broad agreement of the political competitors (e.g., through a super-majority of legislators that includes governing and opposition parties) and the opportunity for public scrutiny of the process. Criteria are likely to include the ability to act impartially towards political competitors, demonstrated personal integrity and capacities to oversee complex electoral processes. In some countries the first criteria is relaxed in favour of management bodies that are designed to achieve political impartiality through a balanced number of representatives from opposing parties. Similar criteria and a selection process that includes opposing political parties are needed for selecting the chief executive officer of the EMB's staff.
2. **Include budgetary procedures that guarantee the ability of election administration to act impartially** (free and independently from political pressures), effectively (with timely and adequate funding), transparently (budget proposals and the budget documents made publicly available in a timely and easily accessible manner) and accountably (through legislative oversight and public scrutiny).
3. **Recognize electoral competitors' right to observe all aspects of the election process** to ensure their rights are respected, including to gather information and to seek remedies.
4. **Recognize the rights of citizens to associate through organizations that monitor electoral processes** (e.g., non-partisan citizen organizations and news media), and require timely accrediting, without unreasonable restrictions, of such organizations to observe all aspects of election administration, including, among others, delimitation of election districts, voter registration, voting, vote counting and electoral results tabulation and transmission.
5. **Require timely publication of all EMB decisions, rules, regulations and an electoral calendar** that includes the

dates of all steps in the election process, through announcement of results and seating of elected officials.

6. **Require immediate publication of denials (including rationale) by the EMB or other responsible government entity** of the legal recognition and qualification of electoral contestants (including ballot qualification), legal recognition and accreditation of citizen organizations to monitor the various election processes and accreditation of news media to witness election processes, and include a means for judicial appeal of such denials.
7. **Require that data on critical pre-election processes**, such as delimitation of election districts and related census data, voter registration and voter registries and candidate/party ballot qualification, be made timely available for scrutiny and claims for remedies by persons with a direct interest and impartial election monitors.
8. **Require that election results be publicly posted**, both at the location where ballots are cast and initially counted (e.g., polling stations) and at each point where they are consolidated (e.g., ward, district, regional/provincial and national results consolidation centres); require that results be released immediately at each juncture of results tabulation in a format that includes results recorded at the initial ballot counting location as well as in an aggregated form.
9. **Require that consolidated results be made immediately available through a searchable catalogue** (e.g., a website) that provides access to results recorded at the location where ballots were counted (e.g., polling stations) as well as aggregated results, and ensure that the data's format is reasonably structured for automated processing (analysis); and require that results also be maintained permanently and be publicly available in such easy to analyse formats.
10. **Require that all state-owned and state-controlled mass communications media remain impartial toward all electoral contestants**; include sanctions for non-compliance; provide that data collected by governmental agencies that may monitor the media be made publicly and timely available, and provide that public requests for information from state-owned or controlled media and media monitoring agencies shall receive timely responses.
11. **Provide a mechanism for complaints, review and sanction** concerning any government employee who uses governmental office, resources or employee time to pursue the advantage or disadvantage of an electoral contestant, and require timely public reports on the number, nature and disposition of such complaints.
12. **Establish criminal liability for anyone, including government employees, acting in a manner that violates the rights of prospective voters or electoral contestants** (including through bribery, threats of political retribution concerning jobs, scholarships or service provision, violence, threats of violence or other forms of coercion), and require timely public reports on the number, nature and disposition of such cases.
13. **Provide EMBs with the powers and the financial resources to investigate** on their own initiative possibilities of misfeasance and malfeasance by electoral officials, including any action that could affect an electoral outcome.
14. **Ensure that access to electoral complaint mechanisms and judicial proceedings concerning electoral processes** are not hindered by unreasonable filing fees and deposits, arbitrary or impracticable procedures and timelines, and ensure that requirements for lodging complaints or otherwise seeking administrative or judicial redress are broadly enough defined to allow the pursuit of any reasonable claim and timely, effective remedies.

Standards & Guidance

- American Convention on Human Rights <http://www.cidh.oas.org/basicos/english/basic3.american%20convention.htm>
- Document of the 1990 Copenhagen Meeting of the Conference [now the Organisation] for Security and Cooperation in Europe <http://www.osce.org/odihr/elections/14304>
- Electoral Justice: The International IDEA Handbook http://www.idea.int/publications/electoral_justice/
- Electoral Management Design: The International IDEA Handbook <http://www.idea.int/publications/emd/>
- Electoral System Design: The New International IDEA Handbook <http://www.idea.int/publications/esd/index.cfm>
- European Union's Compendium of International Standards for Elections http://eeas.europa.eu/eueom/pdf/compendium-of-int-standards-for-elections_en.pdf
- Inter-American Democratic Charter http://www.oas.org/charter/docs/resolution1_en_p4.htm

- Promoting Legal Frameworks for Democratic Elections- An NDI Guide for Developing Election Laws and Law Commentaries <http://www.ndi.org/node/14905>
- The African Charter on Elections, Democracy and Governance <http://www.africa-union.org/root/au/Documents/Treaties/text/Charter%20on%20Democracy.pdf>
- The Carter Center's Database of Obligations for Democratic Elections <http://www.cartercenter.org/des-search/des/Introduction.aspx>
- United Nations Human Rights Committee General Comment No. 25 <http://www.unhchr.ch/tbs/doc.nsf/0/d0b7f023e8d6d9898025651e004bc0eb>
- United Nations Human Rights Committee General Comment No. 34 <http://www2.ohchr.org/english/bodies/hrc/docs/GC34.pdf>

Country Examples

- Canada's electoral management body allows citizens to file complaints online <http://www.opengovguide.com/country-examples/canadas-electoral-management-body-allows-citizens-to-file-complaints-online/>
- Kenya adopted reforms to allow independent monitoring of electoral processes <http://www.opengovguide.com/country-examples/kenya-adopted-reforms-to-allow-independent-monitoring-of-electoral-processes/>
- Mexico has a comprehensive electoral code <http://www.opengovguide.com/country-examples/mexico-has-a-comprehensive-electoral-code/>
- South Africa has an Independent Electoral Commission <http://www.opengovguide.com/country-examples/south-africas-has-an-independent-electoral-commission/>

Initial Step: Make available information related to electoral processes

Justification

Advancing beyond rudimentary levels of confidence in general electoral performance requires making public the underlying workings of the electoral process including details of:

- electoral oversight by the legislature;
- activities and interactions of other governmental bodies that have important electoral related functions;
- decision making on electoral technologies and procurement of sensitive electoral materials;
- drawing up of boundaries of electoral districts (which are central to equality of suffrage);
- qualification of political parties and candidates for the ballot;
- campaign and political finance;
- voter registration;
- voting, ballot counting and tabulation of results and results announcement;
- laws, sanctions, remedies providing redress and accountability.

Making government held data and other information available in each of these areas and providing opportunities for electoral contestants, citizen organizations, the media and the public to scrutinize them is central to increasing public

confidence in the credibility of elections and related governmental processes.

Recommendations

1. **Publish and actively inform the public about all election related laws and procedures**, including time requirements for various applications, requests for corrections, appeals and specific definitions of electoral related crimes, along with appropriate penalties.
2. **Publish widely an easily understandable guide to** electoral rights and processes, including how citizens, including electoral contestants, can access mechanisms for redressing electoral violations via administrative and judicial avenues, the required procedures and available remedies, and procedures for requesting electoral related information from the EMB and other governmental agencies.
3. **Require that EMBs and other governmental institutions that play important roles in electoral processes receive and respond to public requests for election related data and other information** under the assumption that information held must be made timely available, unless well justified reasons, such as personnel matters or public security, are provided in writing to the requestor with the possibility for appeal of request denials.
4. **Appoint a public information officer** with the authority to ensure that such information is provided, and broadly inform the public of procedures for requesting information.
5. **Provide training to personnel of EMBs** and other government institutions that play important electoral roles (including at the sub-national level) concerning the public's right to information (RTI) in the electoral arena and procedures to timely provide that information.
6. **Establish key classes of election related data to be made proactively available.**
7. **Require that the EMB publish annual data and a comprehensive public report within a year of major elections.** All governmental institutions that play an important role in electoral processes including, among others, law enforcement agencies and public prosecutors, should be required to make an annual public report on such matters. The EMB's annual comprehensive report should cover all elements of the electoral process including lessons learned for fostering transparency, participation and accountability and actions to be taken to ensure effective administration and electoral integrity, and should be presented to the legislature for its oversight purposes and for consideration of improvements to the legal framework for elections.

Standards & Guidance

- Article 19 of the International Covenant on Civil and Political Rights <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>
- United Nations Human Rights Committee General Comment No. 34 <http://www2.ohchr.org/english/bodies/hrc/docs/GC34.pdf>

Country Examples

- Canada's electoral management body allows citizens to file complaints online <http://www.opengovguide.com/country-examples/canadas-electoral-management-body-allows-citizens-to-file-complaints-online/>
- In the UK, the Electoral Commission produces a report after every election <http://www.opengovguide.com/country-examples/in-the-uk-the-electoral-commission-produces-a-report-after-every-election/>
- South Africa has an Independent Electoral Commission <http://www.opengovguide.com/country-examples/south-africas-has-an-independent-electoral-commission/>

Intermediate Step: Establish measures to safeguard administrative impartiality

and provide training and access to information about them

Justification

Where the foundation is established for impartial and effective election administration, including public access to election related information, confidence in the election process must be reinforced to assure the public and electoral contestants that administrative impartiality is being protected. Safeguards against the effects of conflicts of interest, whether economic or political, and other forms of corruption are central to maintaining electoral integrity, and public disclosure of information about those safeguards is essential for maintaining public confidence.

Recommendations

1. **Publish clear requirements for all government personnel (including EMB personnel) concerning avoidance of conflicts of interest and management of potential conflicts of interest** (economic, political and otherwise) that could undermine electoral integrity, disseminate them to all personnel and appoint an ethics officer to whom questions about such requirements should be directed.
2. **Promulgate for EMB personnel and other government employees whose work affects election processes clearly defined restrictions on accepting gifts** (including subsidized trips) from vendors, other companies (both international and domestic) and politicians, and include meaningful sanctions for non-compliance with the restrictions.
3. **Require disclosure of personal financial assets of members of EMBs and key senior administrative EMB personnel.**
4. **Promulgate protections against firing or other retributions for persons who lodge complaints** or otherwise in good faith make known to the public information concerning wrongdoing by any governmental official or employee that would likely subvert the integrity of elections.
5. **Establish training programs for personnel** of EMBs and all governmental institutions that play important roles in electoral processes (including law enforcement and prosecutor offices) at all levels concerning legal framework provisions, right to information requirements, access to justice mechanisms, complaint procedures and remedies, conflict of interests, gift restrictions, asset disclosure and other accountability measures relevant to electoral integrity.

Standards & Guidance

- African Union's Convention on Preventing and Combating Corruption http://www.africa-union.org/Official_documents/Treaties_%20Conventions_%20Protocols/Convention%20on%20Combating%20Corruption.pdf
- Code of Conduct for the Ethical and Professional Administration of Elections http://www.idea.int/publications/conduct_admin/
- Managing Conflict of Interests: Frameworks, Tools, and Instruments for Preventing, Detecting, and Managing Conflict of Interest <http://www.oecd.org/site/adboecdanti-corruptioninitiative/40838870.pdf>
- The Inter-American Convention against Corruption <http://www.oas.org/juridico/english/Treaties/b-58.html>
- The Parliamentary Assembly of the Council of Europe's Draft Resolution on the protection of 'whistle-blowers' http://fairwhistleblower.ca/files/fair/docs/ti/Council_of_Europe_Draft_WB_Resolution.pdf
- United Nations Convention against Corruption http://www.unodc.org/pdf/crime/convention_corruption/signing/Convention-e.pdf

Country Examples

- Conflict of interest rules protect the independence of South Africa's Electoral Commission

<http://www.opengovguide.com/country-examples/south-africas-electoral-law-specifies-requirements-for-avoiding-conflicts-of-interest-in-the-independent-electoral-commission/>

- The Philippines Commission on Elections maintains rules on conflict of interest
<http://www.opengovguide.com/country-examples/the-philippines-commission-on-elections-maintains-rules-on-conflict-of-interest/>

Intermediate Step: Establish open contracting rules for election related procurements

Justification

Public confidence in elections and the government that results from them requires trust that election processes are free from corruption in any form and trust that sound procedures were followed in acquiring sensitive election materials, such as ballots and/or electronic technologies that may be employed in compiling voter registries, voting, vote tabulation and transmission of election results. If procurement processes are tainted by corruption, the public will have a significant reason to doubt that election outcomes are honest. Plus, with the adoption of electronic electoral technologies, transparency in procurement, including design, testing, certification, delivery, deployment, maintenance and application of the technologies, is crucial to understanding that the technologies accurately portrayed the will of the electorate.

Recommendations

Require that Election Management Bodies:

1. **Announce widely in advance intentions to make electoral related procurements**, at a minimum for those over a specified amount and for all related to voter registries, voting, vote counting, results tabulation and transmission, as well as related technical requirements.
2. **Publish a clear description of the procurement decision making procedure.**
3. **Make public the tender documents related to election processes procurements**, at least those over a specified amount and for all procurements related to voter registries, voting, vote counting and results tabulation and transmission.
4. **Require the public release of the names of all vendors or others that respond to procurement solicitations and the amounts of their bids**, as well as the name of the company that received the contract and the contract amount.
5. **Provide for transparency (such as monitoring by party representatives and nonpartisan observers) of all aspects** of the design, testing, certification, operation and auditing of electronic electoral technologies that relate to voter registries, voting, vote counting and the tabulation and transmission of election results.

Standards & Guidance

- Council of Europe Recommendation on Legal, Operational and Technical Standards for E-voting (2004)
<http://https://wcd.coe.int/ViewDoc.jsp?id=778189>

Country Examples

- The Australian Election Commission tenders all contracts over \$10,000 through and open online system
<http://www.opengovguide.com/country-examples/the-australian-election-commission-tenders-all-contracts-over-10000-through-and-open-online-system/>

- The Philippines Commission on Elections publishes invitations to bid on procurement projects <http://www.opengovguide.com/country-examples/the-philippines-commission-on-elections-publishes-invitations-to-bid-on-procurement-projects/>

Intermediate Step: Make election related data available proactively

Justification

Proactive disclosure of data related to the conduct of elections can be a key measure for building public confidence by making it easier for electoral contestants, citizen organizations, the media and the public to understand and verify electoral integrity. Individual citizens, citizen organizations and political contestants can confirm the accuracy of critical processes, identify omissions and seek corrections (for example in voter registries). Rapid disclosure of vote count data, with appropriate information about likely unevenness of reporting geographically and the differences between preliminary results and final results after quality checks and appeals processes are completed, can reduce political tensions, help unsuccessful contestants understand and accept results and gain public trust.

Disclosure of election related complaints, incidence of malfeasance, electoral related crimes and measures taken to address them demonstrates that governmental institutions are committed to deterring and prosecuting electoral offenders and establishing accountability around elections.

Making timely information available in easily accessible, machine-readable formats like spreadsheets, downloadable databases, through an application programming interface (API) or other such means, as well as in online searchable formats, allows electoral contestants, citizen election monitors, data journalists and academics to conduct analysis, make fact-based findings and contribute to electoral integrity efforts. Online disclosure can be the cheapest and most efficient way to reach multiple audiences in many countries and can reduce the workload of EMBs and other government agencies that conduct election related activities. However, where the Internet is not widely available or a practical solution, data related to elections can be made available through CD-ROMs or other inexpensive and timely means.

Recommendations

Data which should be proactively disclosed includes:

1. **Data related to voting rights and the drawing of electoral boundaries**, including the description of electoral boundaries (ideally available in an electronic format such as GeoJSON, KML, or other relevant format), as well as data used to draw boundaries, such as data on the number of eligible voters, minority populations, and the actual number of registered voters for each electoral level.
2. **A searchable version of the voter registry** that is reasonably formatted for automated processing (analysis) both in its preliminary and final forms.
3. **Data on the number of objections and claims for correction** to voter registry information, along with the voting districts related to them and the disposition of the matters.
4. **Population data** (including data on age, gender and ethnic/minority groups), geographic and administrative district information relevant for verifying the accuracy of voter registries and for determining the boundaries of election districts.
5. **Detailed information on where to vote**, including the address and contact information for every Election Day polling location and if applicable, when and where early voting and/or absentee voting may occur.
6. **Voter turnout information (including by age, gender and ethnic/minority group)**, including the number of voters registered and the number of voters participating at the point of voting (e.g., polling station) as well as by aggregates for each electoral district and nationally, in addition to election results at the location of initial counting of ballots (e.g.,

polling station) and in the aggregate.

7. **Detailed information on vote counts**, including unused, invalid and blank ballots cast as well as votes cast for each electoral contestant, at the place of balloting, intermediate tabulation centres and the national consolidation centre, disaggregated by the place of balloting and in the aggregate.
8. **Information from past elections** (along with relevant population and other data), including voter registration and voter turnout by age group, gender and ethnic/minority group, at the polling site level as well as in election district and national aggregates.
9. **Data on campaign finance** clearly identifying all individual contributions made by donors and parties, including the names of contributors.
10. **Data on the number of complaints received concerning electoral violations, actions taken and the outcomes of such cases**, including the number of administrative investigations, actions and disposition of cases concerning malfeasance and significant misfeasance.
11. **Data on the number of complaints and challenges to electoral results**, the parties lodging the matter, the remedy employed (if any) and the outcome of the action.
12. **Data on incidents of electoral related violence**, the types and scales of such incidents, which law enforcement and/or public security body responded.
13. **Data on criminal** investigations of electoral abuses, the number electoral related prosecutions and the charges involved, the parties to the actions and the outcomes of the cases and the number and types of penalties, fines and incarcerations that were imposed.
14. **The number of administrative and civil actions (cases) involving vendors and other contractors** that concern electoral related procurements and other contracts, the names of the parties in the case, the nature of the claims and the outcomes of the cases (including penalties, if awarded).

Standards & Guidance

- Article 19 of the International Covenant on Civil and Political Rights
<http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>
- Open Data Index <http://https://index.okfn.org/>
- United Nations Human Rights Committee General Comment No. 34
<http://www2.ohchr.org/english/bodies/hrc/docs/GC34.pdf>

Country Examples

- In Costa Rica, the Supreme Electoral Tribunal publishes statistics on voter registration
<http://www.opengovguide.com/country-examples/in-costa-rica-the-supreme-electoral-tribunal-publishes-statistics-on-voter-registration/>
- New Zealand allows voters to register online and provides election results online
<http://www.opengovguide.com/country-examples/new-zealand-allows-voters-to-register-online-and-provides-election-results-online/>
- South Africa has an Independent Electoral Commission <http://www.opengovguide.com/country-examples/south-africas-has-an-independent-electoral-commission/>
- The U.S. Federal Election Commission allows users of its website to view candidate finances
<http://www.opengovguide.com/country-examples/the-u-s-federal-election-commission-allows-users-of-its-website-to-view-candidate-finances/>

Intermediate Step: Require consultation for any significant changes to electoral processes

Justification

Even where public confidence in electoral processes is established, it is easily shaken unless political contestants and the general public possess direct knowledge about how policies were established, decisions were made and how they were implemented.

When making policy and procurement decisions such as shifting to a system of electronic voting or electronic voter registration (e.g., electronic poll books or recording biometric data), public engagement is crucial to retain and build trust, and it can help to strengthen the processes themselves. Public engagement is most effective when it takes place with legislative bodies in their electoral related policy and oversight functions, as well as with EMBs and other administrative/executive branch agencies that support electoral processes. Such engagement is important at all levels of government, including at local levels.

Recommendations

1. **Require that Election Management Bodies:**
 - **Make timely, public announcements**, including on a website and other media that are accessible to the population, meeting times and agenda items and hold open public meetings.
 - **Establish a liaison committee** with electoral contestants that meets regularly to discuss policy making issues under consideration by the EMB, as well as other electoral matters; whenever possible liaison committees should be developed at intermediate (e.g., provincial or regional) and local levels.
 - **Conduct public consultations concerning policy decisions**, giving the public and political contestants timely notification of upcoming deliberations about adopting significant changes to electoral processes and a meaningful opportunity to ask questions and express views on the matters.
2. **Require, among other open-legislature measures, that the legislature hold public consultations when policies concerning election systems and processes are being considered**, whether they concern changes to legislation, budget or oversight matters, and provide a meaningful opportunity for citizens to ask questions and express views on the matters.
3. **Where other agencies in addition to the EMB conduct important activities related to elections** (e.g., concerning census data, establishing electoral boundaries, political party legal recognition or regulation, candidate ballot qualification, political finance, media regulation in the electoral context, nongovernmental organization regulation, including those that monitor or otherwise engage with election issues, and/or electoral security):
 - **Make timely, public announcements, including on a website and other media** that are accessible to the population, meeting times and agenda items and hold open public meetings.
 - **Conduct public consultations concerning policy decisions**, giving the public and political contestants timely notification of upcoming deliberations about adopting significant changes to electoral processes and a meaningful opportunity to ask questions and express views on the matters
 - **Convene electoral security joint operation centres or other consultative measures** that include political party and civil society representatives along with EMB and public safety officials to consider security risk factors and measures to ensure violence free elections.

Standards & Guidance

- ACE Electoral Knowledge Network <http://www.aceproject.org>

- Article 19 of the International Covenant on Civil and Political Rights <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>
- Deepening Democracy: A Strategy for Improving the Integrity of Elections Worldwide <http://www.global-commission.org/report>
- Inter-Parliamentary Union's Tools for Parliamentary Oversight <http://www.ipu.org/PDF/publications/oversight08-e.pdf>

Country Examples

- South Africa's Independent Election Commission maintains committees to liaise with political parties <http://www.opengovguide.com/country-examples/south-africas-independent-election-commission-maintains-committees-to-liaise-with-political-parties/>

Advanced Step: Broaden and deepen opportunities for participation in public policy decisions related to election management

Justification

Public confidence in electoral processes is highest when political contestants and concerned civil society organizations (often through chosen experts) have a voice in policy formulation and decision making about electoral related processes. Proactively explaining the rationale and responding to inquiries about the procedures and rationale for policy formulation and decision making are essential for confidence building and developing an informed public.

Recommendations

Require EMBs at each level of administration to:

1. **Regularly (at least twice annually) conduct public consultations in which citizens are permitted to make comments and suggestions on issues they choose**, including about ways to make information available, and require that EMBs must receive written public comments (including by electronic means) and that they must provide a regular (at least annual) report analyzing such comments.
2. **Invite experts selected by political competitors and citizen organizations to participate in the budget development process and in the procurement process, at a minimum** concerning contracts over a specified amount; provide a website that shows all electoral related procurements in process above that amount, along with descriptions of decision making procedures, and publish all electoral related contract awards over the specified amount.
3. **Provide to the public, in a widely available format (e.g., a website), a calendar of all meetings scheduled as well as those held with vendors, their agents and politicians.**
4. **Provide a means for political contestants and the public to submit proposals for drawing electoral district boundaries** that maximize equal suffrage and non-discrimination; require that the governmental body charged with delimiting electoral districts receive and consider such proposals, hold public consultations and issue a report on the criteria, methodology and rationale for boundary delimitation.
5. **Require legislative hearings that are open to the public and that provide for public testimony, which review the conduct of electoral processes**, including the performance of EMBs and other governmental institutions that play important roles in electoral processes, and hearings on the financial performance of EMBs. The public report of the EMB should be presented to the legislature as part of these hearings, and a comprehensive report with findings and recommendations should be issued as a result of the hearings.

Standards & Guidance

- Council of Europe's Code of Good Practice in Electoral Matters <http://assembly.coe.int/ASP/Doc/XrefViewHTML.asp?FileID=9544&Language=en>
- Existing Commitments for Democratic Elections in OSCE Participating States <http://www.osce.org/odihr/elections/13957>
- United Nations Human Rights Committee General Comment No. 25 <http://www.unhchr.ch/tbs/doc.nsf/0/d0b7f023e8d6d9898025651e004bc0eb>

Country Examples

- South Africa's electoral commission publishes a report each year and after major elections <http://www.opengovguide.com/country-examples/south-africas-electoral-commission-publishes-a-report-each-year-and-after-major-elections/>

Advanced Step: Empower an ombudsman or similar office to receive, investigate and address citizen complaints concerning electoral processes

Justification

Administrative processes for citizen complaints about electoral matters may fail to deliver effective or sufficient redress. Recourse to courts of law may not always provide timely or suitable venues for citizens to pursue such matters. Many countries have an Ombudsman, Inspector General, People's Advocate/Defender or similar offices, which could take up such citizen complaints. Those offices, if empowered to address electoral matters, or if established where they do not exist, can provide effective resolution of important election related problems and at the same time enhance public confidence in governance.

Ombudsmen's offices may also at times take a proactive role to monitor and seek improvements in election processes, which can provide an important independent governmental voice and a bridge for constructive interactions among parliaments, to which they often report, EMBs and other agencies, electoral contestants and the public. As an independent entity, whether operating under the legislative or executive branch of government, Ombudsmen's Offices and similar entities should be free of conflicts of interest and well positioned to address electoral issues.

Recommendations

1. **Empower an Ombudsman's Office or similar body to receive citizen complaints concerning election related matters**, with authority to interact with EMBs and other governmental agencies that have significant roles in electoral processes, and with authority to both work out solutions to complaints and to make public reports.
2. **Empower an Ombudsman's Office or similar body to, on its own initiative, monitor electoral related activities** of governmental agencies and public officials, for example, concerning violations of electoral related rights of prospective voters and candidates, use of state resources for electoral advantage and failure of police, prosecutors or courts to provide equal and proper protection to all citizens in the electoral context.
3. **Require the Ombudsman's Office or similar body to develop expertise in the broad context of election processes**, over the election cycle, in order to properly understand and address election related matters, including the right to government held election information and electoral data.
4. **Require the Ombudsman's Office or similar body so empowered to report publicly** and to the legislature on an annual basis regarding its activities concerning electoral matters, and require that it respond in a timely manner to

citizen requests for information about such activities.

Country Examples

- Kenya's Ombudsman monitored misuse of public resources in the 2013 elections
<http://www.opengovguide.com/country-examples/kenyas-ombudsman-monitored-misuse-of-public-resources-in-the-2013-elections/>
- The UK Electoral Commission and Parliamentary Ombudsman provide complaints mechanisms
<http://www.opengovguide.com/country-examples/the-uk-electoral-commission-and-parliamentary-ombudsman-provide-complaints-mechanisms/>

Innovative Step: Establish an independent expert panel to monitor procurement and application of election technologies

Justification

Open policy making and other transparency measures in developing and implementing electronic electoral technologies are crucial to building and maintaining public confidence. A high level of technical expertise is required to scrutinize the efficacy of such technologies. Political party and candidate representatives, non-partisan citizen election monitors and journalists are faced with particular challenges in verifying electoral integrity when electronic technologies are used for voter registries, voting, vote tabulating and transmitting official electoral results. It is wise therefore to consider innovative measures to assure the public, including electoral contestants, that the technologies are properly employed and the outcomes they report are accurate.

Independent, impartial and trusted expert panels, themselves created through a transparent and politically inclusive process, are one innovation that can make important contribution to ensuring the integrity of such technologies and building public trust to the degree such trust is warranted.

Recommendations

1. **Establish and an independent expert panel** to review development requirements, certification and testing, production and delivery, maintenance and auditing of electronic voting, vote tabulation, voter registration and other sensitive electronic electoral technologies:
 - **Require that the panel include experts selected or approved by the political contestants and civil society organizations.**
 - **Provide that the panel be adequately funded.**
 - **Provide the panel with access to meetings** that deliberate policies and/or make decisions concerning application of such electronic technologies.
 - **Provide the panel with access to EMB, vendor generated and all other reports** related to such technologies.
 - **Empower the panel to conduct real-time tests** of technologies in use during elections.
 - **Require the panel to report publicly its findings** (which may respect proprietary interests of vendors and other technology suppliers) in the period before, immediately following and within six months after an election, and annually in non-election periods.

Standards & Guidance

- Council of Europe's e-voting project <http://www.coe.int/t/dgap/democracy/activities/ggis/E-voting/>

Country Examples

- In Belgium, an impartial College of Experts evaluates electronic voting technologies
<http://www.opengovguide.com/country-examples/in-belgium-an-impartial-college-of-experts-evaluates-electronic-voting-technologies/>
 - The Philippines used an Advisory Council to enable a electronic vote counting to be introduced with confidence
<http://www.opengovguide.com/country-examples/an-advisory-council-helped-in-the-philippines-transition-to-electronic-counting/>
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Environment

 **Lead author:** [The Access Initiative](#)

Introduction

People depend on a healthy environment for life and livelihoods. However decisions that have significant environmental and social consequences are often made without the involvement of those whose interests are directly at stake. In order to safeguard the quality of the environment, it is essential to empower communities, individuals and civil society organisations (CSOs) to take part in decision-making.

Public participation improves the legitimacy of decisions, helps build stakeholder capacity, improves implementation and improves sustainability of decisions (UNEP, 2012). Open and transparent processes enable citizens to identify environmental issues and problems, become engaged in decision-making processes and hold government agencies, officials and companies accountable (Foti et al, 2008). They also allow the private sector to address environmental issues earlier on and in a cost effective manner.

Principle 10 of the Rio Declaration from 1992 states that environmental issues are best handled with the participation of all concerned citizens (UNCSD, 1992). It states that each individual shall have:

- **Access to information** concerning the environment;
- The **opportunity to participate** in decision-making processes; and
- Effective **access to justice**.

Many countries, regardless of their level of economic development, have promoted these pillars as policy aspirations or as enforceable legal rights. Yet, even where progress has been significant, more work remains if such laws are to be implemented in a way that is meaningful to all citizens.

References

UNCSD, 1992, Rio Declaration

UNEP, 2012, Bali Guidelines for the development of national legislation on access to information, public participation and access to justice in environmental matters, http://www.unep.org/civil-society/Portals/24105/documents/Guidelines/GUIDELINES_TO_ACCESS_TO_ENV_INFO_2.pdf

Foti, Joseph with Lalanath de Silva, Heather McGray, Linda Shaffer, Jonathan Talbot, and Jacob Werksman, 2008, Voice and Choice: Opening the Door to Environmental Democracy, Washington DC: WRI. http://pdf.wri.org/voice_and_choice.pdf

Expert Organisations

The Access Initiative <http://www.accessinitiative.org/>

United Nations Environmental Programme (UNEP) <http://www.unep.org/environmentalgovernance/>

United Nations Institute for Training and Research: Principle 10 Project <http://www.unitar.org/egp/rio-principle-10-projects>

United National Economic Commission for Europe <http://live.unece.org/env/pp/welcome.html>

Summary of illustrative commitments

Initial

- Adopt legal requirements for the collection and production of environmental information
- Establish independent mechanisms for access to justice in environmental affairs
- Establish procedures for ensuring poor and marginalised groups are included in public engagement on environmental decisions
- Introduce procedures for public comments and hearings for environment related decisions

Intermediate

- Publish the decisions, responses and reasons on environmental approvals

Advanced

- Develop public disclosure programmes on corporate environmental impacts
- Reduce the costs to initiate and carry out environmental litigation
- Support citizens and their organisations to access and use environmental information

Detailed Recommendations

Initial Step: Adopt legal requirements for the collection and production of environmental information

Justification

Effective implementation of Right to Information (RTI) laws helps to expand access to environmental information, which is critical for people to make informed judgements.

Many countries have enacted RTI laws, but in practice obtaining government-held information can still be a subjective and inconsistent process. Getting a law on the books is just the first step in the process to ensuring freedom of information. The topic on RTI [\[link\]](#) provides guidance on strengthening and implementing RTI laws.

Meaningful access to environmental information requires governments to proactively gather, analyse, and disseminate information. However, most information laws require government agencies to release information reactively, only when that information is requested. For example, over 100 countries have laws requiring environmental impact assessments for projects but fewer make clear that these are public documents that must be made available proactively with no charge. Proactive disclosure programs focused on environmental information enable more effective access to this key class of information, promoting pollution prevention, abatement, good corporate behaviour, legal enforcement and problem solving.

Recommendations

1. Adopt and implement a law on proactive access to environmental information. This should ensure timely, accessible and standardised publication of the five most important classes of environmental information:
 - **Environmental impact assessment (EIA) reports** covering the location, scope, extent and nature of the project, predicted environmental impacts, and an assessment of environmentally friendly alternatives to the project of proposed developments.
 - **Air and water quality data** including daily air and water pollution data should be made available on government websites and well known locations.
 - **Permits, approvals and licences for development projects and industrial facilities.**
 - **Facility and project monitoring and compliance inspection data** collected in the course of compliance monitoring and investigation of complaints. Often this information is provided through pollutant release and transfer registers (PRTs).
 - **State of the environment reports** issued regularly (every 2–3 years) by the apex public environment ministry. These reports assess the air and water quality across the country, environmental threats and challenges, environmental indicators, and trends and key policy changes required to protect, preserve and enhance the environment.
2. Ensure that competent public authorities regularly collect and update relevant environmental information and establish relevant systems to ensure an adequate flow of information about proposed and existing activities that may significantly affect the environment. Information should be systematic, timely, reliable, comprehensive, user friendly, accessible, inexpensive and accurate.
3. Make this information available on the internet, in standardised, and as far as possible machine readable formats, with information made available to local communities in formats such as television, radio, newspaper, paper records and through mobile phones.
4. Hold government staff accountable for their access related duties by including these in their job descriptions and

assessing their performance—and adjusting their compensation—based on how well they discharge these duties.

Standards & Guidance

- Jakarta Declaration for Strengthening the Right to Environmental Information for People and the Environment <http://insights.wri.org/news/2013/05/new-jakarta-declaration-aims-strengthen-rights-environmental-information-asia>
- UN Environment Programme: Guidelines for the development of national legislation on access to information, public participation and access to justice in environmental matters http://www.unep.org/civil-society/Portals/24105/documents/Guidelines/GUIDELINES_TO_ACCESS_TO_ENV_INFO_2.pdf
- UN/ECE: Aarhus Convention: An Implementation Guide <http://www.unece.org/fileadmin/DAM/env/pp/acig.pdf>

Country Examples

- Chile requires that environmental information is published in an accessible form <http://www.opengovguide.com/country-examples/chile-requires-that-environmental-information-is-published-in-an-accessible-form/>
- Ghana has developed an environmental law database and placed all its environmental legislation online <http://www.opengovguide.com/country-examples/ghana-has-developed-an-environmental-law-database-and-placed-all-its-environmental-legislation-online/>
- Hungary publishes a state of the environment report <http://www.opengovguide.com/country-examples/hungary-publishes-a-state-of-the-environment-report/>
- Thailand requires environmental information to be proactively released <http://www.opengovguide.com/country-examples/thailand-requires-environmental-information-to-be-proactively-released/>

Initial Step: Establish independent mechanisms for access to justice in environmental affairs

Justification

It is crucial that citizens are able to turn to impartial arbiters to resolve disputes over access to information and participation in decision making on environmental matters. This serves four principal purposes in the context of environmental decision-making:

- Strengthens freedom of information, allowing civil society to press governments for information they are otherwise denied;
- Allows citizens the means to ensure that they participate meaningfully and are appropriately included in decision making on environmental matters;
- Empowers groups to enforce environmental laws that may not otherwise be enforced; and
- Increases the public's ability to seek redress and remedy for environmental harm, and allows the public to hold officials accountable for carrying out proper procedures in environmental decision making and enforcement.

Redress and remedy can be provided by several different institutions, including the judicial branch of government, special administrative forums in the executive branches of government, extra-governmental dispute resolution mechanisms, and even traditional forms of mediation. The institutions providing justice might order the government to revisit or reverse its decision, require a polluter to halt its activities, or compensate victims. Access to justice does not mean that the complaining party always wins, but that environmental rights and values are protected as provided for in law.

Recommendations

In opening both regular and specialised courts for environmental decisions, a number of 'institutional design' choices must be made. These will have strong consequences for the performance of the court. When establishing these courts, governments should consider:

1. Whether to establish a judicial court or administrative tribunal and at what level of independence;
2. What substantive laws, policies and principles the court or tribunal will have jurisdiction over;
3. Whether the court or tribunal should be a first-instance, intermediate appellate, and/or supreme (final review)-level institution and whether it should have civil, criminal or administrative authority, or a combination of these;
4. What territory should be covered by the court or tribunal, from a town to a city to a state or province to an entire nation;
5. Whether the jurisdiction will make the workload appropriate or too low or too high;
6. Providing broad standing, meaning what qualifications will be required of parties to bring an action in the court or tribunal or otherwise participate in a case;
7. What it costs for parties to bring cases and prosecute them to final decision, and taking steps to reduce those costs;
8. How the court or tribunal will manage to get adequate, unbiased input on the increasingly complex scientific/technical issues in environmental cases;
9. Establishing alternative dispute resolutions (ADRs) which can often be a cheaper, faster and better way to resolve environmental conflicts, and how these might be incorporated into the procedure;
10. Qualifications, training, tenure and salary for decision makers to ensure the quality of the court's or tribunal's decisions;
11. What process mechanisms will permit the court or tribunal to move cases through the decision-making process more efficiently and effectively and less expensively;
12. What powers will be needed to make the court's or tribunal's decisions effective, from mediated agreements to injunctions to criminal fines and incarceration, and all the creative alternatives in between.

Standards & Guidance

- UN Environment Programme: Guidelines for the development of national legislation on access to information, public participation and access to justice in environmental matters http://www.unep.org/civil-society/Portals/24105/documents/Guidelines/GUIDELINES_TO_ACCESS_TO_ENV_INFO_2.pdf
- UN Environment Programme: Johannesburg Principles on the Role of Law and Sustainable Development <http://www.unep.org/Documents.Multilingual/Default.asp?ArticleID=3115&DocumentID=259>

Country Examples

- India's Green Tribunal enables citizens to get access to justice in environmental protection cases <http://www.opengovguide.com/country-examples/indias-green-tribunal-enables-citizens-to-get-access-to-justice-in-environmental-protection-cases/>

Initial Step: Establish procedures for ensuring poor and marginalised groups are included in public engagement on environmental decisions

Justification

Decisions that have significant environmental and social consequences are often made without the involvement of those whose interests are directly at stake. Those most affected by local pollution, loss of land or access to natural resources are often not consulted. For poor people whose lives and livelihoods often depend on natural resources, and who are therefore most vulnerable to environmental risks, the consequences of exclusion can be especially severe.

Poor people in many countries face a daunting array of barriers to access, including low literacy levels, high costs (including the costs of corruption), exposure to risk through participation, lack of documentation of legal identity or rights to a resource, and difficulty in understanding technical information. Additionally, cultural norms that limit who may speak in public disproportionately exclude the poor.

Recommendations

1. Specify the right of poor people, marginalised groups and tribal communities to participate in environmental consultations and create a requirement for decision-makers to consult these groups.
2. Establish operational guidelines for agencies to involve poor and excluded communities – for example providing simple but accurate versions of background documents in local languages, identifying intermediaries and ensuring cost and other barriers to participation are addressed.
3. Make targeted efforts to prioritise delivery of information to those most affected by decisions about natural resources. This requires dedicating staff time and energy to identify target audiences and create information campaigns that address the needs of these audiences.

Standards & Guidance

- UN/ECE: Aarhus Convention <http://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf>
- UN: Convention on the Elimination of All Forms of Discrimination against Women <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>
- UN: Declaration on the Right to Development <http://www.un.org/documents/ga/res/41/a41r128.htm>
- UN: Declaration on the Rights of Indigenous Peoples http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf
- UN: International Covenant on Civil and Political Rights <http://treaties.un.org/doc/Publication/UNTS/Volume%20999/volume-999-I-14668-English.pdf>
- UN: Millennium Declaration <http://www.un.org/millennium/declaration/ares552e.htm>
- WRI: A Seat at the Table http://pdf.wri.org/a_seat_at_the_table.pdf

Country Examples

- Environmental impact assessment regulations in Chile make special provisions for indigenous people <http://www.opengovguide.com/country-examples/environmental-impact-assessment-regulations-in-chile-make-special-provisions-for-indigenous-people/>
- In the Philippines local people's organisations must be included in the management board for protected areas <http://www.opengovguide.com/country-examples/in-the-philippines-local-peoples-organisations-must-be-included-in-the-management-board-for-protected-areas/>
- South Africa has guidelines on involving excluded groups in environmental decision-making <http://www.opengovguide.com/country-examples/south-africa-has-guidelines-on-involving-excluded-groups-in-environmental-decision-making/>

- The US established an executive order on environmental justice for minority and poor populations <http://www.opengovguide.com/country-examples/the-us-established-an-executive-order-on-environmental-justice-for-minority-and-poor-populations/>

Initial Step: Introduce procedures for public comments and hearings for environment related decisions

Justification

Decision-making related to environmental matters takes place through the preparation of environmental impact assessments, permitting processes, and through legislation, policy-making and planning bodies.

Decision-making can take many forms. At one end of the spectrum it can be direct – where stakeholders collectively make a decision, either by majority or by consensus. At the other end of the spectrum is indirect decision-making, where a third party, usually a government official, makes the decision with or without the participation of stakeholders.

Either way better decisions are made if a wide range of stakeholder voices are heard. Decision-makers should listen and, to the greatest extent possible, respond to these voices. Citizens should know about their right to participate and should have ample guidance on how, when and where to exercise this right.

Recommendations

1. Introduce mandatory, low-cost procedures for public comments and hearings in decision-making processes involving all new development projects, the siting and operational compliance of industrial facilities and the creation or revision of national, state, provincial or local policies, plans, laws and regulations affecting the environment. This should apply to all levels of government.
2. Ensure that processes for engagement are known in advance and logistical barriers are minimised.
3. Decisions should be publicised before implementation so that aggrieved people can seek remedies and redress if they wish.

Standards & Guidance

- IAEA: Public Participation Best Practice Principles <http://www.iaia.org/publicdocuments/special-publications/SP4%20web.pdf>
- UN Environment Programme: Guidelines for the development of national legislation on access to information, public participation and access to justice in environmental matters http://www.unep.org/civil-society/Portals/24105/documents/Guidelines/GUIDELINES_TO_ACCESS_TO_ENV_INFO_2.pdf

Country Examples

- Ghana has taken steps to strengthen participation in environmental impact assessments <http://www.opengovguide.com/country-examples/ghana-has-taken-steps-to-strengthen-participation-in-environmental-impact-assessments/>
- In Austria the law provides for citizens groups to participate in Environmental Impact Assessment <http://www.opengovguide.com/country-examples/in-austria-the-law-provides-for-citizens-groups-to-participate-in-environmental-impact-assessment/>

Intermediate Step: Publish the decisions, responses and reasons on environmental approvals

Justification

The single most important factor that improves accountability for decisions affecting the environment and mitigates abuse and misuse of official authority is a legal requirement to publicly provide written reasons for the decision. When decision-makers are forced to make written reasons for decisions publicly available, it also ensures that they take relevant considerations into account, exclude irrelevant considerations and are open to scrutiny by the public, stakeholders and other accountability mechanisms.

The public, where involved in an environment approval process, may be asked to submit comments or objections to a new development in order to influence the outcome of the regulatory authority's decision. Providing a response to the public's comments ensures an understanding by the public of how their comments were taken into account and establishes a basis to judge the reasonableness of the regulatory authority's decision making process.

Recommendations

1. Establish a requirement to publicly provide written reasons for decisions on approving/rejecting or modifying development projects and environmental permits.
2. This should include a requirement to publish a summary of objections, comments and proposed alterations in relation to permitting, planning and regulatory decisions.

Standards & Guidance

- UN Environment Programme: Guidelines for the development of national legislation on access to information, public participation and access to justice in environmental matters http://www.unep.org/civil-society/Portals/24105/documents/Guidelines/GUIDELINES_TO_ACCESS_TO_ENV_INFO_2.pdf
- World Resources Institute: Administrative Procedure Principles <http://www.wri.org/events/administrative-fairness-environmental-decision-making-stakeholder-workshop>

Country Examples

- Canada's environment impact assessment legislation establishes opportunities for participation <http://www.opengovguide.com/country-examples/canadas-environment-impact-assessment-legislation-establishes-opportunities-for-participation/>
- The Netherlands publishes citizen input in strategic environmental assessment as part of the public record <http://www.opengovguide.com/country-examples/the-netherlands-publishes-citizen-input-in-strategic-environmental-assessment-as-part-of-the-public-record/>

Advanced Step: Develop public disclosure programmes on corporate environmental impacts

Justification

Corporations have a huge impact on the environment both at the local, national, and international level. Information on their policies related to sustainability, pollution, and use of natural resources is necessary to hold these corporations accountable to national and international standards for environmental protection. However, often-times corporate actors are still able to operate under a cloud of secrecy. Countries need to create effective data tools that address environmental concerns and that communicate the risk posed by corporate actions.

Recommendations

Steps that governments can take to improve access to corporate environmental information:

1. Develop public disclosure programmes that release information on the quality of air and water, as well as discharges into the environment, by private corporations and state-owned companies acknowledging that this can assist in promoting pollution prevention, abatement, and good corporate behaviour.
2. Provide environmental information in a usable and understandable format to effectively explain risks to local communities.
3. Emission and discharge data from the corporate sector must be provided to the Government to enable monitoring of the environment. This information should be released in the public interest and not fall within the category of commercially confidential information as it directly relates to the environment and public health.

Standards & Guidance

- IMF Guide on Resource Revenue Transparency <http://www.imf.org/external/np/pp/2007/eng/101907g.pdf>
- Jakarta Declaration for Strengthening the Right to Environmental Information for People and the Environment <http://insights.wri.org/news/2013/05/new-jakarta-declaration-aims-strengthen-rights-environmental-information-asia>
- Open Data Index <http://https://index.okfn.org/>
- UN/ECE: Aarhus Convention <http://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf>
- UNITR: PRTR: Learn <http://prtr.unitar.org/en>

Advanced Step: Reduce the costs to initiate and carry out environmental litigation

Justification

Judicial and administrative forums can be costly and slow. The poor face particular challenges in using justice mechanisms due to issues around their cost, technical issues, and legal restrictions.

Recommendations

Steps that governments can take to reduce costs of environmental litigation for individuals include:

1. Encourage pro bono legal services for environmental matters, for example by providing tax codes that allow attorneys to write off donated hours;
2. Award or waiving litigation costs in “public interest” cases;
3. Provide subsidized legal services either directly through ombudsmen/local defenders or through incentives to intermediary organisations; and
4. Establish alternative dispute resolution (ADR) mechanisms, such as conciliation, mediation or arbitration.

Standards & Guidance

- UN Environment Programme: Johannesburg Principles on the Role of Law and Sustainable Development <http://www.unep.org/Documents.Multilingual/Default.asp?ArticleID=3115&DocumentID=259>
- UN/ECE: Aarhus Convention <http://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf>

Country Examples

- The Philippines has established special courts for environmental cases <http://www.opengovguide.com/country-examples/the-philippines-has-established-special-courts-for-environmental-cases/>
- The US Toxics Release Inventory programme provides information on toxic discharges by corporations <http://www.opengovguide.com/country-examples/the-us-toxics-release-inventory-programme-provides-information-on-toxic-discharges-by-corporations/>

Advanced Step: Support citizens and their organisations to access and use environmental information

Justification

Environmental decision making often involves complex data, technical concepts and differences in options. Many governments have therefore recognised the need to build capacity by providing guidance and education to citizens. CSOs play a key role in organising demand for access to environmental information and can provide education to the public on issues and concepts, and to officials on access and participation.

Recommendations

1. Require authorities to maintain and publish a list of organizations and media outlets to be contacted with environmental information and opportunities for participation so that all environmental information for a relevant area is delivered to local elected officials, non-governmental organizations, and media.
2. Provide guidelines and easily understood manuals on how and where to access environmental information to help improve the ability of citizens to access information. In many countries, governments have developed guidelines and manuals in close collaboration with CSOs.
3. Consider providing grants for community assistance, the establishment of training institutes for communities, and training of CSOs at the community level.

Standards & Guidance

- Jakarta Declaration for Strengthening the Right to Environmental Information for People and the Environment <http://insights.wri.org/news/2013/05/new-jakarta-declaration-aims-strengthen-rights-environmental-information-asia>
- WRI: A Seat at the Table http://pdf.wri.org/a_seat_at_the_table.pdf

Country Examples

- The Mexican government has established an outreach partnership with local NGOs <http://www.opengovguide.com/country-examples/the-mexican-government-has-established-an-outreach-partnership->

[with-local-ngos/](#)

No commitments for this level

Extractive industry

 **Lead author:** [Revenue Watch Institute](#)

Introduction

Many resource-rich developing countries fail to realise the full development potential of their natural resources. This is especially acute in the case of oil, gas, and mineral resources. Evidence from many resource-rich countries shows their performance on human development indicators compares unfavourably to less-endowed countries. At the root of this underperformance—often referred to as the “resource curse”—is the failure by governments to properly address the institutional and policy challenges that come with natural resources. (IMF, 2010)

More than 50 countries depend on oil, gas and minerals as their most important sources of government and export revenues. Large-scale fisheries, forestry and leasing of agricultural lands are also becoming important sources of revenue. As the government is managing such resources in trust for the people, the people have a right to know what is being done with their natural wealth.

Mismanagement and corruption have many manifestations and can have dire consequences. Some countries negotiate poor terms with extractive companies, forsaking potential long-term benefits. Many countries do not collect resource revenues effectively. And even when resource revenues do end up in government coffers, they aren’t always spent in ways that benefit the public. (Revenue Watch, 2013).

Transparency and accountability are crucial in the governance of natural resources, from the decision to extract to the granting of concessions, the collection of revenues and the management of resource revenues. This can increase the efficiency of government policies, reduce opportunities for self-dealing and diversion of revenues for personal gain, raise the level of public trust and reduces the risk of social conflict. An informed and engaged public can hold the government to account, but will also help ensure that complex, large-scale projects meet government standards for environmental and social protection as well as revenue generation.

Public disclosure requirements can improve the quality of data the government gathers and maintains. This makes it easier for relevant bodies such as financial, energy and mining ministries, as well as environmental and regulatory agencies, to do their jobs. Reliable and frequent data can make it easier for governments to plan and manage their budgets and long-term development plans. Transparency also reduces the cost of capital.(Hameed, 2005)

NB: This topic relates to oil, gas, mining, forestry and fisheries as well as to the leasing of agricultural lands. However there are also separate sections dealing with specific issues in the forestry, fisheries (forthcoming) and land sectors. This topic relates to oil, gas, mining, forestry and fisheries as well as to the leasing of agricultural lands. However there are also separate sections dealing with specific issues in the forestry, fisheries and [land](#) sectors. Other critical steps in support of extractive industry transparency and integrity are the enactment and implementation of [Right to Information](#) laws and the requirement that officials with a role in the oversight of the extractive sector disclose any [conflicts of interest](#).

References

IMF, 2010, 'Managing Natural Resource Wealth', Program Document.

Revenue Watch, 2013 'Resource Governance Index'

Hameed, Farhan, 2005, Transparency and Economic Outcomes, IMF Working Paper

Expert Organisations

Revenue Watch Institute <http://www.revenuewatch.org/>

Extractive Industry Transparency Initiative <http://eiti.org/>

Natural Resources Charter <http://naturalresourcecharter.org/>

OGP Working Group: Extractives <http://www.opengovpartnership.org/get-involved/join-working-group>

Summary of illustrative commitments

Initial

- Disclose contracts signed with extractive companies
- Make all rules and regulations for natural resource licenses and concessions available in a public database
- Publish timely, comprehensive reports on oil, gas and mining operations, including detailed revenue and project information

Intermediate

- Create a national strategy for the extractive sector, through an open and participative process
- Create mechanisms for the public and legislators to engage in extractive concessioning
- Publish comprehensive financial reports on natural resource funds
- Publish environmental and economic impact studies for all natural resource projects
- Publish resource-related revenue transfers to sub-national governments
- Require state owned enterprises to publish comprehensive reports

Advanced

- Create a public web registry of all natural resource concessions
- Require all listed companies to disclose resource related payments on a project by project basis

Detailed Recommendations

Initial Step: Disclose contracts signed with extractive companies

Justification

Laws and contracts establish the terms of what a country might gain from extraction, which can affect a nation's ability to derive full benefits from its resources. While parliaments are constitutionally mandated to ratify laws, they generally do not have a role in reviewing contracts. Contracts, even when signed, are rarely disclosed to parliament or the public.

This secrecy is a problem because contracts contain important terms and conditions. In several countries, contracts may contravene national legislation or contain stabilisation clauses, allowing companies to ignore changes in national law. If contracts are not disclosed, parliaments cannot adequately monitor the sector and secure a fair share of the profits for citizens. Contract transparency is crucial to ensuring that laws are followed and gains are maximised (Pelligrini, 2011).

Disclosure also provides an incentive to improve contract quality. If contracts are subject to public scrutiny, government officials will be deterred from seeking their own interests. With access to international contracts, government officials can engage in negotiations that will not only increase their bargaining power but also lead toward good global practices. Contract transparency also increases investment stability for extractive companies by securing balanced deals from the outset. Countries that publish contracts, like Liberia, Timor-Leste and the United States, have attracted substantial investments from major companies.

The IMF 'Guide on Resource Revenue Transparency' and the Natural Resource Charter consider publication of contracts to be best practice.

Recommendations

1. Publish existing contracts
2. Adopt clear rules for the publication of all licenses and contracts. The fullest possible information should be disclosed, including public offering documents, lists of pre-qualified companies, successful and unsuccessful bids, contracts and other agreements signed with extractive companies, including the identity of the beneficial owners.
3. Assign responsibility for maintaining the data repository to specific government agencies. This agency should make regular and timely public reports on any anticipated and concluded allocation of natural resources licences.

Standards & Guidance

- IMF Guide on Resource Revenue Transparency <http://www.imf.org/external/np/pp/2007/eng/101907g.pdf>
- Natural Resource Charter http://naturalresourcecharter.org/sites/default/files/NRC_Eng_2011.pdf
- RWI: Contract Confidential Report <http://www.revenuewatch.org/sites/default/files/RWI-Contracts-Confidential.pdf>

Country Examples

- Congo (DRC) publishes all mining, oil and forestry contracts <http://www.opengovguide.com/country-examples/congo-drc-requires-the-govenrment-to-publish-all-mining-oil-and-forestry-contracts/>
- Guinea discloses dozens of mining contracts on centralised government websites <http://www.opengovguide.com/country-examples/guinea-discloses-dozens-of-mining-contracts-on-centralised-government-websites/>
- In Sierra Leone the law requires that oil contracts must be awarded through competitive auctions

<http://www.opengovguide.com/country-examples/in-sierra-leone-the-law-requires-that-oil-contracts-must-be-awarded-through-competitive-auctions/>

- Liberia publishes information on bids and contracts <http://www.opengovguide.com/country-examples/liberia-publishes-information-on-bids-and-contracts/>
- Timor Leste publishes some minerals contracts <http://www.opengovguide.com/country-examples/timor-leste-publishes-some-minerals-contracts/>

Initial Step: Make all rules and regulations for natural resource licenses and concessions available in a public database

Justification

Transparency and uniform rules level the field for investors and promotes competition. Both governments and investors are generally better served if there are clear rules applicable to all investors. This ensures that operators know that treatment is non-discriminatory, reduce opportunities for corruption and may reduce demands from individual investors for special treatment.

It also supports citizens in holding government to account, by providing a clear baseline against which to monitor and measure government actions and performance.

While all laws and regulations should be published, the format in which they are published also matters. Formats such as pdfs (or pdfs of scanned documents) may allow citizens to view information, but restrict their ability to analyse or find it. Information provided in open data formats, such as structured XML, can be processed and re-purposed by citizens and parliaments for use in a variety of ways and using a variety of technologies while retaining the integrity of the original information. There is an emerging international consensus that government and parliamentary information should be made available in open and structured formats.

Recommendations

1. Make all rules and regulations for natural resource licences and concessions available and indexed in one place on a public website.
2. Provide clear definitions and explanations on fiscal terms, property rights and social and environmental protections.
3. Ideally rules and regulations on natural resource licenses and concessions should be compiled and released in an open and structured format, such as structured XML, that can be read and processed by computers.

Standards & Guidance

- IMF Guide on Resource Revenue Transparency <http://www.imf.org/external/np/pp/2007/eng/101907g.pdf>
- Natural Resource Charter http://naturalresourcecharter.org/sites/default/files/NRC_Eng_2011.pdf
- Revenue Watch: Resource Governance Index http://www.revenuwatch.org/sites/default/files/rgi_2013_Eng.pdf

Country Examples

- Colombia has a comprehensive legal framework for the extractive sector <http://www.opengovguide.com/country-examples/colombia-has-a-comprehensive-legal-framework-for-the-extractive-sector/>

Initial Step: Publish timely, comprehensive reports on oil, gas and mining operations, including detailed revenue and project information

Justification

Revenue transparency is essential to ensure public accountability for both income and spending. Resource-related payments are often generated outside normal budgetary processes, so a dedicated disclosure procedure may be needed to capture these flows in public data.

As part of their core functions and to encourage an open, stable investment environment, industry regulators should take responsibility for publishing such information as the process for allocating licenses, revenues received from each project, and environmental and social impact assessments.

Recommendations

1. Ensure that regulatory agencies publish timely, comprehensive reports on all oil, gas and mining operations, including detailed revenue and project information. This should include signature bonuses, royalties, taxes, payments in kind and transit revenues
2. Regular and detailed reports should be available in a central location for public consumption.
3. All operating resource companies should be required to disclose project-by-project location, production volumes, costs, revenues and payments to the state.

NB: Countries may do this by joining and implementing the Extractive Industries Transparency Initiative (EITI).

Standards & Guidance

- Extractive Industries Transparency Initiative Standard http://eiti.org/files/EITI_STANDARD-screen-version.pdf
- IMF Guide on Resource Revenue Transparency <http://www.imf.org/external/np/pp/2007/eng/101907g.pdf>
- Natural Resource Charter http://naturalresourcecharter.org/sites/default/files/NRC_Eng_2011.pdf

Country Examples

- 39 countries are implementing EITI <http://www.opengovguide.com/country-examples/thirty-nine-countries-are-implementing-eiti/>
- Brazil publishes detailed information on resource revenues <http://www.opengovguide.com/country-examples/brazil-publishes-detailed-information-on-resource-revenues/>
- Colombia announced that it would implement the EITI <http://www.opengovguide.com/country-examples/colombia-announced-that-it-would-implement-the-eiti/>
- Ghana publishes information on receipts from petroleum companies on a quarterly basis <http://www.opengovguide.com/country-examples/ghana-publishes-information-on-receipts-from-petroleum-companies-on-a-quarterly-basis/>
- Ukraine announced that it would implement the EITI <http://www.opengovguide.com/country-examples/ukraine-announced-that-it-would-implement-the-eiti/>

Intermediate Step: Create a national strategy for the extractive sector, through an open and participative process

Justification

Governments owning natural resources have the responsibility to manage those resources for the benefit of current and future citizens. Where the revenues from resource extraction are properly managed they can help to alleviate poverty, generate economic growth and develop the economy, thus sustaining a more prosperous future. Exploitation of natural resources should be pursued in order to help a country meet its broader social and economic goals, not as an end in itself. This means having a vision of how the resource sector fits in a country's economic future.

A national strategy for the extractive sectors can provide direction and clarity on key issues, enabling integrated development of policies and institutions in multiple areas, including leasing and fiscal regimes, social and environmental regulation, and national development plans.

The strategy needs to address how the capabilities and capital required for efficient development of the resource will be obtained, how near-term benefits, and long-term interests will be balanced, and how the risks, costs and benefits of extraction will be shared between public and private sectors and across regions and stakeholders. Other key areas addressed in national strategy include local content, fiscal objectives, revenue and expenditure management and social and environmental concerns, including the role of artisanal mining. The roles of the sector ministry, its agencies, and the national resource company (NRC), if there is one, are of the greatest importance. These institutions are typically mandated to implement and oversee sector strategy.

These long-term decisions will be more robust, credible and less subject to abuse if they are developed with the participation and knowledge of citizens and investors.

Recommendations

Develop a national strategy for the extractive sector that

1. Identifies how the sector fits into national development;
2. Sets clear economic, social and environmental performance benchmarks for the sector (Can use the Natural Resource Charter as a tool to do this such as in Nigeria, Sierra Leone and Tanzania)
3. Identifies a scheme for monitoring the country's progress.

Standards & Guidance

- Natural Resource Charter http://naturalresourcecharter.org/sites/default/files/NRC_Eng_2011.pdf

Country Examples

- Bulgaria is developing a strategy for more effective management of natural resources <http://www.opengovguide.com/country-examples/bulgaria-is-developing-a-strategy-for-more-effective-management-of-natural-resources/>
- Ghana's Petroleum Revenue Management Act was developed with public consultation <http://www.opengovguide.com/country-examples/ghanas-petroleum-revenue-management-act-was-developed-with-public-consultation/>
- The government of Peru has committed to strengthen extractive industry transparency <http://www.opengovguide.com/country-examples/the-government-of-peru-has-committed-to-strengthen-extractive->

Intermediate Step: Create mechanisms for the public and legislators to engage in extractive concessioning

Justification

Legislative and public hearings around licensing rounds ensure that major concessions align with the development aspirations of the country and help to minimise risks of corruption.

Countries could create platforms for engaging civil society in the monitoring of contracts (particularly environmental and social aspects) and the oversight of revenues from the natural resource sector, including through initiatives such as the EITI.

Recommendations

1. Establish legislation or policies calling for public consultation, civil society observers of public contracting in the extractive sector, and civil society monitoring of contract performance, and requiring that public bodies are receptive to these inputs and take corrective action as a result of citizen feedback.
2. Enter into cooperation agreements with civil society organizations to monitor their public contracting in the extractive sector. This could involve creating multi-sector monitoring platforms for the oversight of revenues and social and environmental aspects through initiatives such as the EITI.

Standards & Guidance

- Natural Resource Charter http://naturalresourcecharter.org/sites/default/files/NRC_Eng_2011.pdf
- Open Contracting Principles http://www.open-contracting.org/global_principles

Country Examples

- Ghana is establishing Committee with civil society participation to oversee the petroleum sector <http://www.opengovguide.com/country-examples/ghana-is-establishing-committee-with-civil-society-participation-to-oversee-the-petroleum-sector/>
- The Northwestern Power Council in the USA developed a vision for power development, through widespread public consultation <http://www.opengovguide.com/country-examples/the-northwestern-power-council-in-the-usa-developed-a-vision-for-power-development-through-widespread-public-consultation/>

Intermediate Step: Publish comprehensive financial reports on natural resource funds

Justification

Natural resource funds (NRFs) can serve as important tools to manage revenue volatility, balance near-term expenditures with long-term savings, and utilize resource revenues to generate sustainable economic development. However,

governance risks are high since NRF financial flows can bypass the regular budget process or become vehicles for patronage and discretionary allocations.

Annual reports from natural resource funds allow stakeholders within government and outside to understand how national financial resources are being stewarded. This information should include full reporting on assets, transactions and investments.

Recommendations

1. **Provide comprehensive and timely reports** on NRFs transactions and assets;
2. **Establish legally mandated** deposit and expenditure rules for NRFs;
3. **Subject NRFs** to financial audit
4. **Ensure that NRFs are subject to** legislative oversight.

Standards & Guidance

- Extractive Industries Transparency Initiative Standard http://eiti.org/files/EITI_STANDARD-screen-version.pdf
- IMF Guide on Resource Revenue Transparency <http://www.imf.org/external/np/pp/2007/eng/101907g.pdf>
- Revenue Watch: Resource Governance Index http://www.revenuwatch.org/sites/default/files/rgi_2013_Eng.pdf
- Santiago principles <http://www.iwg-swf.org/pubs/eng/santiagoprinciples.pdf>

Country Examples

- Trinidad and Tobago's Heritage and Stabilisation Fund publishes quarterly reports <http://www.opengovguide.com/country-examples/trinidad-and-tobagos-heritage-and-stabilisation-fund-publishes-quarterly-reports/>

Intermediate Step: Publish environmental and economic impact studies for all natural resource projects

Justification

Successful natural resource management requires government accountability to an informed public. Resource projects can have significant positive or negative local economic, environmental and social effects, which should be identified, explored, accounted for, mitigated or compensated for at all stages of the project cycle.

Recommendations

1. Publish environmental, social and economic impact assessments for all natural resource projects. Such reports will help the public assess the costs and benefits of resource development.

Standards & Guidance

- IMF Guide on Resource Revenue Transparency <http://www.imf.org/external/np/pp/2007/eng/101907g.pdf>
- Revenue Watch: Resource Governance Index http://www.revenuewatch.org/sites/default/files/rgi_2013_Eng.pdf

Country Examples

- Environmental and social impact assessments are mandatory for extractive concessions in Australia <http://www.opengovguide.com/country-examples/environmental-and-social-impact-assessments-are-mandatory-for-extractive-concessions-in-australia/>
- Environmental impact assessments are required for the extractive industry in Colombia <http://www.opengovguide.com/country-examples/environmental-impact-assessments-are-required-for-the-extractive-industry-in-colombia/>

Intermediate Step: Publish resource-related revenue transfers to sub-national governments

Justification

In a number of countries, sub-national units get a defined share of resource revenues, which is not part of the national budget. In some cases these amounts are discretionary.

These transfers are often large, subject to competing claims and managed by subnational governments that may lack accountability and the capacity for good governance.

Recommendations

1. Establish and publish clear rules in legislation to govern transfers of natural resource revenues to local government.
2. These rules should require publication of a detailed breakdown of transfers to local government
3. Direct distributions to citizens should also be disclosed.

Standards & Guidance

- Extractive Industries Transparency Initiative Standard http://eiti.org/files/EITI_STANDARD-screen-version.pdf
- IMF Guide on Resource Revenue Transparency <http://www.imf.org/external/np/pp/2007/eng/101907g.pdf>
- Revenue Watch: Resource Governance Index http://www.revenuewatch.org/sites/default/files/rgi_2013_Eng.pdf

Country Examples

- Peru reports natural resource transfers to local government online <http://www.opengovguide.com/country-examples/peru-reports-natural-resource-transfers-to-local-government-online/>

Intermediate Step: Require state owned enterprises to publish comprehensive reports

Justification

State-owned enterprises (SOEs) bring in more than two thirds of total government revenue in countries including Azerbaijan, Iraq and Yemen. In the mining sector, Chile's Codelco is the largest producer of copper in the world, Botswana's partially state-owned Debswana is the leading producer of diamonds and Morocco's OCP is the largest company in the country and the main producer of phosphates in the world. In countries like Angola and Nigeria, SOC functions and influence stretch across the sector—from licensing and production, to revenue collection and even direct expenditures. Given their unique institutional status and frequently high levels of authority, SOCs often operate with limited oversight and accountability.

Requiring state owned enterprises to publish annual reports including cash flows, details of joint ventures and quasi-fiscal activities, production, revenues, costs payments to the state, on a project by project basis, and the Board of Directors' decision making process would open state-owned enterprises up to greater scrutiny and accountability for performance. Moving towards international disclosure practices and standards will also be crucial for any future listing.

Recommendations

1. **Establish legal requirements for SOEs to publish comprehensive reports** in compliance with international accounting standards.
2. **Disclose audits and data** on production and revenues.
3. **Include SOE financial information** in the national budget.

Standards & Guidance

- Extractive Industries Transparency Initiative Standard http://eiti.org/files/EITI_STANDARD-screen-version.pdf
- IMF Guide on Resource Revenue Transparency <http://www.imf.org/external/np/pp/2007/eng/101907g.pdf>
- Revenue Watch: Resource Governance Index http://www.revenuwatch.org/sites/default/files/rgi_2013_Eng.pdf
- Santiago principles <http://www.iwg-swf.org/pubs/eng/santiagoprinciples.pdf>

Country Examples

- Norway's Statoil publishes all its revenues and payments by country <http://www.opengovguide.com/country-examples/norways-statoil-publishes-all-its-revenues-and-payments-by-country/>

Advanced Step: Create a public web registry of all natural resource concessions

Justification

Effective and transparent management of licenses with clearly defined responsibilities and processes create a more attractive investment environment. Transparency is crucial all along the natural resource chain from the decision to extract to final mine closure, otherwise corruption and misallocation are likely to be transferred from more transparent parts of the process to those that are more opaque. .

Information systems such as the mining repository and mining cadastre are vital first steps towards a holistically transparent mining sector. Putting information about natural resource concessions into a central registry makes the information available in a systemised and organised manner so that it can be read and processed by computers and can be easily reused and analysed by citizens, civil society, the private sector and government to check for discrepancies and to enable democratic debate on whether the government is using the country's natural resources to the benefit of the people.

Recommendations

1. Create a national public web registry of all natural resource concessions that includes physical demarcation, identity of leaseholders, production volumes, costs and revenues for each lease.
2. Develop systems to collect and publish this data in a structured manner on a timely, current, and routine basis and in a form that enables easy use, participation, and analysis.
3. Where feasible, concession information should be digitized and made available to the public on an online portal.
4. Structured formats such as structured XML and inclusion of all relevant meta-data allows for user-friendly searching and access.
5. Digital information should be retained and made available in perpetuity.
6. Where possible use non-proprietary software applications.

Standards & Guidance

- Revenue Development Foundation tools <http://www.revenuedevelopment.org>
- Spatial Dimension: Flexicadastre <http://www.spatialdimension.com/Solutions/EITI-Compliance>

Country Examples

- Several countries use the 'Flexicadastre' system to create public mining portals <http://www.opengovguide.com/country-examples/several-countries-use-the-flexicadastre-system-to-create-public-mining-portals/>
- Sierra Leone set up an online mineral concession registry <http://www.opengovguide.com/country-examples/sierra-leone-set-up-a-complete-mineral-concession-registry-and-all-related/>
- South Africa set up an online portal for mining applications and information <http://www.opengovguide.com/country-examples/south-africa-set-up-an-online-portal-for-mining-applications-and-information/>

Advanced Step: Require all listed companies to disclose resource related payments on a project by project basis

Justification

Companies that extract natural resources and the countries where these companies are based share the responsibility to advance transparency. Some resource-rich countries are concerned that applying strict standards of openness will reduce their ability to attract necessary investment to the sector. If home governments can mandate project-by-project payment

disclosure this will ensure that revenue payments are disclosed even in countries whose governments do not require it, and it will provide a flow of reliable, timely and detailed information to support better reporting in those that do.

Transparency also reduces financial risk for investors and enhances security of supply for consumers. Major investors support country-by-country reporting, and some support project-level disclosure. The World Bank's IFC requires project reporting and the publication of related contracts as a lending condition.

The utility of aggregate payment information provided only at country level is limited. Royalties and other payments vary enormously within jurisdictions and are typically negotiated in developing countries on a project-by-project basis. Project-level data allows investors to properly assess risk, governments to better track company compliance, citizens to track who is gaining from particular resources, and local communities to track their entitlements, essential to reducing conflict and interruptions to production.

Recommendations

Home countries should pass legislation requiring their companies to report payments to governments on a project-by-project basis:

1. "Project" should be defined at the level of the licence, production-sharing agreement, lease or other such agreement. The materiality threshold should be set in relation to payment levels that are important to national and local governments in developing countries. For local governments receiving payments, this means the threshold should take account of the relatively small sums that are often meaningful to local budgets. A sensible threshold might be for any payment, or set of payments, amounting to more than €15,000.
2. Disclosure of information should include not only payments relating to exploration, discovery, development and extraction but also those relating to transport and security.
3. To provide a full picture, disclosure of payments should apply to each country where a company has operations of any kind, including countries of registration and where companies have a financial trading presence.
4. Country-by-country and project-by-project payments data should therefore be fully audited and included in companies' annual financial statements.
5. The report should be published as a summary in print with detailed online data available to download in a structured format.

Country Examples

- The Dodd-Frank Act in the US requires companies to report on how much they pay governments for access to oil, gas and minerals <http://www.opengovguide.com/country-examples/the-dodd-frank-act-in-the-us-requires-companies-to-report-on-how-much-the-pay-governments-for-access-to-oil-gas-and-minerals/>
- The EU requires extractive companies to publish their payments on a country-by-country and project-by-project basis <http://www.opengovguide.com/country-examples/the-eu-requires-extractive-companies-to-publish-their-payments-on-a-country-by-country-and-project-by-project-basis/>

No commitments for this level

Fisheries

 **Lead author:** [Christian Michelsen Institute \(CMI\)](#)

Introduction

Global problems facing the marine fisheries sector, including overfishing and the marginalization of the small-scale sector, are leading to increased international awareness of the need to improve transparency in fisheries governance.

Data collated by the United Nations Food and Agriculture Organization (FAO) shows that since the early 1980s total landings of fish from the sea have decreased steadily and the majority of commercially targeted fish stocks are fully exploited or overexploited. The global commercial fishing fleet is now estimated to be at least twice the size needed to catch marine fish sustainably, and many forms of industrial fishing cause high levels of by-catch and discards. The World Bank has estimated that, due to subsidies, waste and unsustainable management, losses from marine fisheries exceed \$50 billion per year (World Bank, 2009).

The inability to stem overfishing represents a profound failure of governance on national and international levels. Lack of transparency and government openness is increasingly recognised as part of the problem. In many coastal and island states, basic information on which companies are allowed to fish, how much these companies can catch, how much revenue is being generated from fisheries and how this is being spent is obscured from the public. Commercial fisheries tend to be secretive, aided by the fact that they operate 'off-shore' and out of sight. Studies on illegal fishing in Africa, which has been conservatively estimated to be worth \$1 billion each year, claim that levels of illegal fishing are closely related to proxies of good governance, including transparency, media freedom and the rule of law (MRAG, 2005).

Citizens living in Africa, Asia-Pacific and Latin America disproportionately feel the negative impacts of governance failure, corruption and overfishing. This is partly due to the importance of marine fisheries to national incomes, diets and livelihoods in many poorer coastal and island states. Lack of transparency is not only undermining the effectiveness of fisheries management and denying national revenues; it is also obscuring the true value of marine resources, as well as the social and economic cost of losing them. Less than half of African countries publish data on fish catches and exports, and illegally caught fish may account for up to 30% of fish trade worldwide (FAO, 2010). A commitment by governments, in all regions, to be more open about the management of fisheries would lead to improved knowledge about the actual and potential contribution of fisheries, which in turn may stimulate political will to better address the threats caused by overfishing and the further degradation of marine ecosystems (Standing, 2011).

References

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FAO (2010) State of World Fisheries and Aquaculture 2010, Food and Agriculture Organization of the United Nations, Rome, <http://www.fao.org/docrep/013/i1820e/i1820e.pdf>

Standing, A. (2011) Making transparency work in Africa's marine fisheries, U4 Anti-Corruption Resource Centre/Christian Michelsen Institute, Bergen, <http://www.u4.no/publications/making-transparency-work-in-africa-s-marine-fisheries/>

United Nations Food and Agriculture Organization (FAO) <http://www.fao.org/fishery/en>

fishsubsidy.org <http://www.fishsubsidy.org/>

Environmental Justice Foundation <http://ejfoundation.org/oceans/fisheries-transparency>

Coalition for Fair Fisheries Arrangements <http://www.cape-cffa.org/>

Stop Illegal Fishing <http://www.stopillegalfishing.com/>

Summary of illustrative commitments

Initial

- Publish detailed and up-to-date information on the proposed contents of bilateral fisheries access agreements
- Require national fishing authorities to publish detailed and timely information on commercial fishing licences and catch quotas

Intermediate

- Publish complete and up-to-date information on penalties and fines imposed on individuals and companies for illegal fishing activities
- Publish comprehensive information on subsidies paid to the fisheries sector

Advanced

- Produce a comprehensive annual report on marine fisheries

Detailed Recommendations

Initial Step: Publish detailed and up-to-date information on the proposed contents of bilateral fisheries access agreements

Justification

Access to national waters for foreign commercial fishing boats is often governed by bilateral fisheries access agreements. These are contracts negotiated by governments or fishing associations that pay for a certain number of fishing boats to operate in a given area. It has been estimated that there are at least 100 fisheries access agreements in operation worldwide, and the amount spent on access agreements is approximately \$1 billion (Sumaila *et al*, 2010).

Fees paid to host countries are often considered 'off-budget' payments, and are therefore not reflected in annual government accounts. Although most access agreements are calculated on a percentage of the value of expected fish landings, access agreements can also contain extra funds for development projects, or they can form part of broader government-to-government aid. The terms of these agreements should – but often do not – place restrictions on fishing intensity and by-catch, as well as restrictions on the type of fishing gear, the sea areas or seasons in which boats can operate. At a minimum, they should be in conformity with prevailing national regulations.

Public knowledge of the contents and implementation of access agreements is limited. Most access agreements are negotiated confidentially and few of them are published. This lack of transparency creates opportunities for corruption, and citizens are denied important economic and environmental information on how their marine resources are being exploited. Maintaining the confidentiality of access agreements, which is a condition typically imposed by those paying for access, also places host countries at a disadvantage in negotiating better terms. This is because they have little information about what other countries are receiving.

Recommendations

1. **Commit to publishing all existing and future contracts of fisheries access agreements**, before parties sign these agreements, thereby allowing for public debate and input. Such documents should be translated into local languages where necessary.
2. **Publish actual financial sums paid/received through these contracts**, and any further documentation relating to scientific and economic audits or evaluations of these agreements through the website of the ministry or department responsible for marine fisheries, ideally in the host country as well as in the national press.

Country Examples

- The EU started publishing details of fisheries access agreements with developing countries in the early 1990s <http://www.opengovguide.com/country-examples/the-eu-started-publishing-details-of-fisheries-access-agreements-with-developing-countries-in-the-early-1990s/>

Initial Step: Require national fishing authorities to publish detailed and timely information on commercial fishing licences and catch quotas

Justification

Many countries do not publish any information on the details of private fishing licences, including which company has bought the licence, the type of fishing allowed and any restrictions on fishing activity, the price paid for the licence, the flag state of the vessel or the quantity of fish that the licence holder is allowed to catch. This means that citizens are denied basic information on the management of their marine resources, which undermines research, public debate and the quality of decision-making. It also creates opportunities for embezzlement and fraud. In the Solomon Islands, an investigation by the Auditor General in 2002 revealed that the country had lost \$4 million through the theft of licence fees by the Ministry of Fisheries. Similar cases have been documented in Fiji and Guinea-Bissau (Standing, 2008).

Lack of transparency in fishing licences also undermines international and national efforts in combating illegal fishing: with greater knowledge on the legal status of fishing boats, the public and the fishing sector will be able to identify instances of illegal fishing and fishing by unlicensed boats.

Timely publishing of information is crucial as late publishing of information on licences undermines the ability of the public and other fishing vessels to use such information to monitor illegalities and fraud.

Recommendations

1. **Require all fishing licences and permits authorised by governments for boats of over 10 metres in length or 10 gross tons to be made public** and available on the websites of the authority issuing the licence, within seven days of it being granted.
2. **Commit to providing detailed information on licences on an annual basis in the national press and to the public on request at any time**, especially in countries where the relevant fishing authority does not have a working website.

Standards & Guidance

- FAO: Global Record for fishing vessels <http://www.fao.org/fishery/global-record/en>

Country Examples

- Gabon publishes its registry of fishing licences on the internet <http://www.opengovguide.com/country-examples/gabon-publishes-its-registry-of-fishing-licences-on-the-internet/>
- The fisheries authorities of Madagascar publish complete details of fishing licences in local newspapers <http://www.opengovguide.com/country-examples/the-fisheries-authorities-of-madagascar-publish-complete-details-of-fishing-licences-in-local-newspapers/>

Intermediate Step: Publish complete and up-to-date information on penalties and fines imposed on individuals and companies for illegal fishing activities

Justification

Illegal fishing poses one of the key threats to the sustainable use of marine resources. It is a problem in all waters, but may be particularly prevalent in developing countries due to lower capacity in monitoring, control and surveillance, as well as weak governance. Public information on arrests or prosecutions stemming from illegal fishing is important, not only to act as a deterrent, but also to allow citizens insight into the effectiveness of government agencies in combating illegal fishing and the appropriateness of resulting punishments and penalties. Increased public information on successful cases of prosecuting illegal fishing boats may also stimulate greater reporting of illegalities by citizens and responsible boat owners. Few countries make such information available, and when boats are caught fishing illegally, details on penalties or fines can be kept secret. This may create an environment where forms of corruption and payment of bribes can undermine the rule

of law. Moreover, there is considerable concern in many developing countries that operators of foreign boats caught for illegal fishing locally are pardoned due to diplomatic pressure from the home governments of boat owners.

Recommendations

1. **Commit to making timely information publicly available on all surveillance activities, infractions observed/recorded and fines or punishments related to illegal fishing.** This information should be made publicly available through annual reports or documents on government websites.
2. **Fishing authorities should provide information by on penalties and fines imposed on companies or individuals committed for illegal fishing to members of the public on request** where governments lack the capacity to publish annual reports, or they do not have existing websites on marine fisheries.

Country Examples

- The government of New Zealand publishes regular updates on cases of illegal fishing <http://www.opengovguide.com/country-examples/the-government-of-new-zealand-publishes-regular-updates-on-cases-of-illegal-fishing/>

Intermediate Step: Publish comprehensive information on subsidies paid to the fisheries sector

Justification

Government subsidies paid to the fisheries sector worldwide are considered a major cause of overcapacity in the global fishing fleet, which directly contributes to overfishing and the intensification of competition between fishing boats. The most recent and thorough estimate of subsidies paid to the fishing sector globally is approximately \$27 billion (Sumaila *et al.*, 2010). Of this amount, \$16 billion can be classified as 'capacity-enhancing subsidies'. Since 2001, deliberations at the World Trade Organization (WTO) have attempted to place disciplines on the use of fisheries subsidies that contribute to overcapacity, such as subsidies on fuel and boat-building. In 2005 the WTO Ministerial meeting in Hong Kong led to a strong commitment by governments to strengthen fish subsidy disciplines, including a specific call for WTO rules to address issues of transparency and enforcement (the 'Hong Kong Mandate'). Discussions are ongoing and a final outcome has yet to be reached. However, for the time being, governments provide inconsistent and limited data on fisheries subsidies. This inhibits public debate and undermines the potential role that civil society can play in monitoring subsidy payments and impacts.

Currently some governments publish no data at all, others publish incomplete data in inaccessible formats like PDF files.

Recommendations

1. **Commit to publishing comprehensive data on subsidies paid to the fisheries sector.** The public should be notified of subsidy payments to the fisheries sector in advance of these payments being made, thereby increasing the scope for public debate and possible objections to be made;
2. **In disclosing information on subsidies, provide comprehensive information** on the amount transferred, the purpose of the subsidy and details of the recipient company or organisation and owner;
3. **Include in the data on subsidies the amount paid** as well as a description of why and when the subsidy was paid and the name and location of the beneficiary;
4. **Include in the data on vessel-related subsidies CFR identification number for the vessel.**

5. **Publish the data online and update every three months**, in a single consistent, database-compatible format (CSV or XML);
6. **Extend the principal of transparency to all beneficiaries of EMFF** and not beneficiaries that are legal entities; and
7. **Ensure that all payments are identified alongside a consistent system** of unique project identification numbers.

Country Examples

- The EU has released data on fishing subsidies amounting to 1 billion Euros <http://www.opengovguide.com/country-examples/the-eu-has-released-data-on-fishing-subsidies-amounting-to-1-billion-euros/>

Advanced Step: Produce a comprehensive annual report on marine fisheries

Justification

Comprehensive annual reports on marine fisheries provide citizens with an understanding of how their marine resources are being managed, the objective and priorities of the state's approach to managing these resources and what achievements have been made in meeting policy objectives. Lack of information sharing by governments creates distrust and frustration among stakeholders, which can undermine responsible fisheries governance. It also allows governments to pursue fisheries policies that may not be in the interest of the majority of citizens. Not all countries produce such reports but, in producing them, governments can consult technical guidelines produced by FAO on best practice in information sharing. However, because best practice in producing annual reports is currently lacking, further work needs to be undertaken by international organisations and experts to develop guidelines, including what information should be considered essential. A commitment by governments to produce annual reports for marine fisheries would certainly ensure that such guidelines are produced and that technical assistance is made available.

Recommendations

1. **Commit to producing comprehensive annual reports on fisheries;**
2. **Include in the reports clear information** on fisheries policy, data on production and trade, revenues received from commercial fisheries and a summary budget and financial statement of the department responsible for managing fisheries, as well as information on the revenues generated from selling fishing licences and access agreements;
3. **Make the report available online and in hard copies;**
4. **Distributed copies widely** through local community based and non-governmental organisations;
5. **Set aside financial resources for this activity**, and governments should highlight annual reports as an important tool in the management of marine resources; and
6. **Translate these reports** in multilingual countries.

Standards & Guidance

- FAO Technical: Guidelines for Responsible Fisheries <http://ftp://ftp.fao.org/docrep/fao/011/i0587e/i0587e00.pdf>

No commitments for this level

Land

 **Lead author:** [Global Witness](#)

Introduction

A well-functioning land sector can boost a country's sustainable economic growth, foster social development, protect the rights of vulnerable groups and support environmental protection. However, weak governance of land and land rights has in many countries hindered the achievement of these developmental objectives.

Land governance concerns the recognition, registration and enforcement of land tenure rights, land use administration, management planning and taxation, the provision of information on land holdings and mechanisms for the resolution of land disputes. Governments play a crucial role in ensuring these processes are carried out through clear, transparent and fair processes, and that the human rights of citizens are protected. Accountable decision-making about how best to use land is crucial for States and citizens to be able to maximize the developmental potential from their land and natural resources. Improving the openness enables government agencies to better understand the potential costs and benefits of resource use options, to secure land rights and tenure, and to enable distribution of financial benefits from resource extraction are in accordance with law. Consultation with those potentially affected by changes in land legislation, policies or tenure can help communities and households protect their rights.

A key factor putting pressure on land governance systems is the increase in commercial demand for land. The term “large-scale land investments” is used in this topic to cover all forms of public and private, domestic and international, investments which involve the acquisition, lease or transfer of large areas of land for commercial investment purposes, including agribusiness investments mineral concessions and economic development zones. While accurate data is difficult to obtain, The Land Matrix Global Observatory has collected details of large-scale land investments in low and middle income countries since 2000. The total land area estimated to be currently under contract is 32.6 million hectares (ha) with a further 32 million ha under negotiation, totalling 65 million ha; equivalent to twice the size of India (The Land Matrix Global Observatory).

Investment in land has the potential to improve livelihoods and food security, increase agricultural productivity, and support broader economic growth (Deininger et al, 2011). However all too often, the acquisition of large areas of land for commercial investment has had devastating socio-economic, environmental, and governance impacts (High Level Panel of Experts, 2011). Such problems are particularly accentuated in countries where customary and collective tenure rights are not recognised in law, or in practice, and where governance is weak. Common principles to address these challenges through recognising and securing land tenure rights are emerging. In 2012 [The Voluntary Guidelines for the Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security](#) (VGGT) were agreed. Developing one critical pillar of the VGGTs further, the Principles for Responsible Agricultural Investment are currently under development, through a global consultation process, facilitated by the CFS.

Because of the negative impacts associated with “land grabbing” (defined as land acquisition in violation of human rights and environmental or social safeguards. International Land Coalition, 2011) this topic focuses on large-scale land investments as a particular concern. However strengthening land rights and tenure security also depends on broader reforms and improvements in governance. The basic underlying principles of the VGGTs and the opportunities for commitments and action provided by the Open Government Partnership, therefore are relevant to all countries.

References

The Land Matrix, <http://landmatrix.org/> (last accessed June 2013)

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Sustainable and Equitable Benefits. The World Bank.

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http://www.fao.org/fileadmin/user_upload/hlpe/hlpe_documents/HLPE-Land-tenure-and-international-investments-in-agriculture-2011.pdf

International Land Coalition (2011) Tirana Declaration. <http://www.landcoalition.org/about-us/aom2011/tirana-declaration>

Expert Organisations

Global Witness <http://www.globalwitness.org/>

Food and Agriculture Organisation (FAO) <http://www.fao.org/nr/tenure/lt-home/en/>

Global Land Tool Network <http://www.gltn.net/>

LANDac, Academy on Land Governance for Equitable and Sustainable Development <http://www.landgovernance.org/>

Landportal.info <http://landportal.info/>

International Land Coalition <http://www.landcoalition.org/>

Land Matrix Global Observatory <http://www.landmatrix.org/>

Summary of illustrative commitments

Initial

- Carry out a baseline assessment of the openness of current land governance structures
- Develop an open process for identifying and providing formal protection for land rights
- Implement the Voluntary Guidelines for the Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security
- Make existing land tenure and land holding registries public

Intermediate

- Codify and implement protocols for meaningful consultation with those potentially affected by large-scale land investments
- Develop a process for open contracting of large-scale land investments
- Require public disclosure of information about land holdings and transfers

Advanced

- Nominate independent grievance mechanisms for those affected by large scale land investments
- Undertake participatory land and resource use planning

Detailed Recommendations

Initial Step: Carry out a baseline assessment of the openness of current land governance structures

Justification

Taking stock of the level of openness of current policies and institutions responsible for land governance enables all stakeholders to assess effectiveness and identify gaps where improvements can be made. Joint assessments by government agencies and civil society partners, with the participation of other key stakeholders, enables the establishment of a baseline from which progress towards specific ambitions can be measured. It also helps States gain support for such goals from non-state actors.

Recommendations

1. **Carry out a baseline assessment.** A useful diagnostic tool is the [Land Governance Assessment Framework \(LGAF\)](#) which was developed through a partnership involving IFPRI, UN-Habitat, FAO, IFAD, and the World Bank. LGAF provides a holistic review designed for application at the country level, to inform policy dialogue in a clear and targeted manner, built around five key areas of intervention:
 - Land and Institutional Framework
 - Land Use Planning, Management and Taxation
 - Management of Public Land
 - Public Provision of Land Information
 - Dispute Resolution and Conflict Management
 - Forestry, Large Scale Land Acquisition, and Tenure Regularization

Standards & Guidance

- World Bank: Land Governance Assessment Framework (2012) <http://go.worldbank.org/XW0YK1HU60>

Initial Step: Develop an open process for identifying and providing formal protection for land rights

Justification

Having formal recognition of tenure rights to land and associated natural resources and giving tenure holders the power to negotiate, is essential for good governance of land and the broad developmental objectives. Opening and improving the transparency and disclosure of such processes has significant benefits for all stakeholders.

In their guiding principles for responsible tenure governance, the VGGTs call on States to “recognise and respect all legitimate tenure rights holders and their rights”, whether formally recorded or not (FAO, 2012). Many countries have adopted legislation which recognises the continuum of land rights (including customary, traditional and collective tenure

regimes, as well as those not yet formally recognised), makes oral evidence of land tenure admissible and strengthens women's land rights, for example. However implementation rates are often low. Accelerated land titling campaigns have in some cases strengthened tenure security. But unless these programs are designed to include tenure rights to customary and collective resources and are carried out transparently and openly, taking into consideration existing power imbalances and ensuring active, free, effective, meaningful and informed participation, they can undermine rights and increase the risk of 'land grabbing'.

The VGGTs stress that identifying and protecting legitimate land rights is critical to open, transparent and accountable governance of land tenure (FAO, 2012). The steps required to achieve this are core functions and responsibilities of the State, but are highly complex, need to be appropriately sequenced and require long-term commitment. Non-state actors also have important roles and responsibilities. The following recommendations are ways in which processes undertaken to identify and secure land rights and rights holders can be made more open and transparent:

Recommendations

1. **Identify categories of legitimate tenure rights in consultation with such rights holders and civil society.** Clearly define such categories in legal and policy frameworks, and publicise them.
2. **Ensure the rights and subsequent duties accompanying the registration of land tenure are clearly identified and publicised,** and that vulnerable individuals and communities are given support to understand and uphold such rights.
3. **Ensure that all processes for identifying, mapping and registering land rights are open and transparent.** This can be achieved through the following steps, inter alia:
 - Identifying all existing, legitimate, right holders (including indigenous peoples, herders, women and communities with customary tenure systems), where possible through a systematic area-by-area process;
 - Publicising the steps for undertaking these land rights registration processes, including clear outlining of the roles and responsibilities of State and non-state actors;
 - Publicising the time frame and costs;
 - Clearly defining and publicising the process for resolving disputes, and disclosing the results;
 - Publicly displaying the results of the mapping process and clearly outlining the appeal and final adjudication process;
 - Ensuring that the final identified land rights (private and collective) are included in the land registry, are publicly available and kept up to date;
 - Ensuring accessibility to the publicly disclosed land registry (including those in rural areas, with low levels of literacy and without access to computers or the internet).
4. **Enable independent monitoring of the process** in order to secure on-going improvements in land tenure programs and prevent corruption, through for example multi-stakeholder..

It is recognised that in practice there may be significant overlap between these and other illustrative commitments. Specifically, the formalization of rights should be done as part of participatory land and resource use planning.

Standards & Guidance

- Global Land Tool Network (GLTN): Global Land Tools Guidance <http://www.glttn.net/index.php/land-tools/access-to-land-and-tenure-security>
- Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (2012) <http://www.fao.org/nr/tenure/voluntary-guidelines/en/>

Country Examples

- The Government of Tanzania cites its village land allocation system as a step towards opening government <http://www.opengovguide.com/country-examples/the-government-of-tanzania-cites-its-village-land-allocation-system-as-a-step-towards-opening-government/>

Initial Step: Implement the Voluntary Guidelines for the Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security

Justification

The Voluntary Guidelines for the Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security (VGGT) were drafted through a process of multi-stakeholder consultations and endorsed by the inter-governmental UN Committee on World Food Security (CFS) in 2012. The VGGTs focus on States as the primary agents for their implementation. Nevertheless, they recall that reforming land rights, securing tenure and resolving land disputes involves many stakeholders, from government agencies, to investors of different kinds, to local community members and civil society organisations.

The VGGTs also recognise the increasing involvement of international actors in land-related activities (including large scale land investments) and provide guidance for such actors with regard to protecting human rights and supporting land governance. Such guidance builds upon existing international standards. The [UN Guiding Principles for Business and Human Rights](#) state that business enterprises have a responsibility to comply with all applicable laws and respect human rights wherever they operate, and that these enterprises' home States should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations. Article 3.2 of the VGGTs builds on these guiding principles by providing that where transnational corporations are involved, their home States have roles to play in assisting both those corporations and host States to ensure that businesses are not involved in abuse of human rights and legitimate tenure rights.

Additionally, the VGGTs place a strong emphasis on policy coherence, stating that their implementation will be most effective if it is simultaneously mainstreamed through overseas development assistance, trade and foreign policies. Consequently, a State's firm commitment to implement the VGGTs therefore not only applies to its national context, but is also intended to influence the way in which companies registered in that country invest in land overseas, as well as how overseas development aid is given to support land sector activities.

Recommendations

1. **An initial step which can be taken to implement the VGGTs is to set up multi-stakeholder platforms**, or use such existing mechanisms, as a means to collaborate on the implementation and monitoring of the guideline. Multi-stakeholder platforms can support the execution of policies and specific projects, monitor compliance and provide a means for grievance processes and mediation. Multi-stakeholder processes should be inclusive, participatory, gender sensitive, implementable, cost effective and sustainable. There is experience from previous multi-stakeholder collaborations which can be drawn on, for example Global Witness et al, 2012 and van Huijstee, 2012.
2. **Put in place frameworks to regulate protection against human and legitimate tenure rights abuses in relation to :**
 - Business enterprises that are owned or controlled by the State, or that receive substantial support and service from State agencies.
 - Enterprises raising investment on capital markets within the jurisdiction of the State.
 - Development assistance
3. **Expand company listing reporting requirements to include details of the environmental and social impact assessments** undertaken by business enterprises for potential land-related investments, including evidence through

which free, prior and informed consent for the project was granted by affected communities, as well as progress towards implementing mitigation management plans for any identified social or environmental risks.

4. **Allocate additional financial assistance towards building the capacity of governments and other stakeholders to support the implementation of the VGGTs.**

Standards & Guidance

- UN Guiding Principles for Business and Human Rights (2011)
http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf
- Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (2012)
<http://www.fao.org/nr/tenure/voluntary-guidelines/en/>

Initial Step: Make existing land tenure and land holding registries public

Justification

Lack of available public data about existing land tenure and holdings is a significant barrier to the basic functions of the State, effective land administration and achievement of developmental objectives. Furthermore, it inhibits private individuals and communities from understanding and protecting their own tenure security, and provides a significant disincentive for potential investors in the land, agriculture and natural resource sectors.

Recommendations

1. **Publicly disclose inventories of land, fisheries and forest resources owned by the State, communities, individuals and the private sector.** Such inventories should include customary and collective tenure rights as well as naming the agencies responsible for the administration of state assets.
2. **Where possible establish a single recording system or linked common framework** to enable publicly-held tenure rights to be recorded alongside tenure rights of indigenous peoples, other communities with customary tenure systems and the private sector.
3. **Ensure that such information can be accessed and used by communities** including those in rural areas, with local levels of literacy and who do not have access to computers or the internet.

Standards & Guidance

- Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (2012)
<http://www.fao.org/nr/tenure/voluntary-guidelines/en/>
- World Bank: Land Governance Assessment Framework (2012) <http://go.worldbank.org/XW0YK1HU60>

Country Examples

- The Land Registry for England and Wales has opened up its public data for free use and re-use
<http://www.opengovguide.com/country-examples/the-land-registry-for-england-and-wales-has-opened-up-its-public-data-for-free-use-and-re-use/>

Intermediate Step: Codify and implement protocols for meaningful consultation with those potentially affected by large-scale land investments

Justification

The Convention on Economic and Social Rights ([General comments 4 and 7](#), the right to adequate housing (Art.11 (1)) state that all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threat. Forced evictions are incompatible with the requirements of the Covenant. It requires States to explore all alternatives to eviction in consultation with the affected persons, with a view to avoiding, or at least minimizing, the need to use force, provide legal remedies and see to it that all the individuals concerned have a right to adequate compensation.

The right of indigenous peoples to give or withhold their “free, prior, and informed consent” (FPIC) in relation to actions that affect their lands, territories, and natural resources is a recognized component of international conventions and standards including the United Nations Declaration on the Rights of Indigenous Peoples (UN-DRIP), Convention on the Elimination of Racial Discrimination, International Covenant on Civil and Political Rights, Convention on Biological Diversity, UN Sub-Commission on the Promotion and Protection of Human Rights’ Norms on Transnational Corporations, The Inter-American Commission on Human Rights, Forest Stewardship Council, and the World Bank’s Extractive Industries Review. Some countries including the Philippines, Malaysia, Australia, Venezuela, and Peru have included community consent provisions in domestic laws (UN, 2005).

The VGGTs build upon rights for indigenous peoples and have meanwhile strengthened the definition and process of “meaningful consultation” for all communities whose livelihoods will be potentially affected by proposed large-scale land investments. However, there is increasing pressure for the right of “consent” for indigenous peoples to be extended as an equivalent principle for consultation with all communities, as described by two recent UN expert reports (De Schutter, 2009) and (HLPE, 2011).

In many countries, undertaking community consultations is already required by law as part of the land transfer process. However, even where policy frameworks are well developed, practice is often unsatisfactory. Consultation may be confined to village elders, officials or elites and tends to be a one-off event rather than ongoing through the project cycle. Consultation meetings can be rendered meaningless if not enough information is made available in advance to those potentially affected. Additionally, records of consultation processes are often incomplete and vague about meeting minutes, timeframes, targets and responsibilities. For example, agreements on social investment, benefit-sharing, guaranteed resource access or other arrangements between the community and the investor are generally not documented in formal documents or legally binding contracts.

From the perspective of the State and private sector parties, consultation processes, including FPIC, that do not resolve a community’s reasons for opposition or achieve consent provide little assurance against potentially costly and disruptive conflict. For the private sector operating transparently and undertaking early consultation enables comprehensive evaluation of the benefits and costs of investment projects, which can identify potential risks and local concerns (De Mann, 2013). It increases the legitimacy of investments, fosters project continuity during changes of government, contributes to supply chain security and mitigates against local opposition. For example, 31% of all commercial concessions (by area) in selected emerging market economies were found to overlap in some way with community lands, putting at risk some \$5 billion of implied agriculture production value (RRI and The Munden Project, 2012). Meanwhile land disputes are estimated to result in an increase in investor operating costs of up to 29 times a baseline scenario (The Munden Project, 2013). Meaningful consultations which genuinely seek consent can therefore benefit the community, the government and the company by addressing concerns more successfully and cost-effectively than responding to community opposition later on (Sohn, 2007).

Recommendations

Codify a consultation protocol at the national level which ensures full respect for the rights to free, prior and informed

consent for indigenous people, which enables meaningful consultation for other potentially affected people, and ensures the adequate public participation of local communities concerned by land leases or purchases. It should:

1. **Ensure that decision-making processes are fully transparent** and that procedures for transferring such rights are clearly defined and applied in a transparent way.
2. **Recognize all legitimate tenure rights of potentially affected communities** (formal and non-formal, documented and not).
3. **Enable affected people to conduct prior independent assessments** on the potential positive and negative impacts that those investments could have on tenure rights, food security and the progressive realization of the right to adequate food, livelihoods and the environment.
4. **Allow for FPIC** in accordance with the UN-DRIP and its associated documentation.
5. **Take account of traditional customs and decision-making processes**, as well as heterogeneity within communities, containing within them inequalities and households who have been marginalised historically.
6. **Require that the individuals concerned have a right to adequate and appropriate compensation.** Expropriation, must be strictly limited to situations that affect the public interest rather than routinely applied as a means to transfer land to private investors.
7. **Ensure that technical and legal assistance is made available to communities** if needed, from the State, civil society groups and / or farmers' associations.
8. **Involve independent oversight, through multi-stakeholder platforms.**

A more robust commitment to strengthening consultation protocols would be provide legislative requirements for free, prior and informed consent for all individuals and communities potentially affected by proposed large-scale land investments.

Standards & Guidance

- UN Declaration on the Rights of Indigenous People (2007)
http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf
- UN: Basic principles and guidelines on development-based evictions and displacement
http://www.ohchr.org/Documents/Issues/Housing/Guidelines_en.pdf
- Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (2012)
<http://www.fao.org/nr/tenure/voluntary-guidelines/en/>

Intermediate Step: Develop a process for open contracting of large-scale land investments

Justification

Improving the disclosure of information about large-scale land acquisitions and investments enables people potentially be affected to understand the impacts it may have on their lives. Disclosure also helps citizens to know what a resource is worth and how much of it they are entitled to, so they can provide input into decision-making about how it should be managed. Transparency enables governments to better understand the trade-offs of land and natural resource use options available to them, to make the best choice in terms of policy and allocation of resources, and to negotiate better deals on behalf of their people and natural wealth.

The contractual documents pertaining to large-scale land investments include all of this basic information. The concept of “open contracting” is gaining traction within international normative frameworks and could have an equally transformative effect on land transfer contracts issued by public authorities. This involves the disclosure of key parts of contracts from the earliest stages of project conception, design, through the negotiation stages and into full project implementation.

The need to maintain confidentiality of genuinely commercially sensitive or proprietary information is recognized. However, the application of broad policies of commercial confidentiality in some cases hinders improvements in transparency. A precautionary principle of “if in doubt, disclose” can help improve disclosure through placing the onus of justification on those who want to retain information, rather than those arguing for its disclosure.

Recommendations

Develop regulatory standards and processes which require government agencies and companies to publicly disclose key information about land contracts in a locally accessible and timely format (Cotula, 2011; Global Witness et al, 2012).

Information should include:

1. Parties to the contract:

- Names of the business enterprise, subcontractors, affiliates, and beneficial owners;
- Financial intermediaries and backers, capital investments and deposits, and involvement of international financial institutions;
- Fiscal and economic components;
- Name of the State and Third Parties to the contract, such as affected communities.

2. Rights, responsibilities and obligations:

- Concession area and nature of rights (e.g. provisions for water use rights), business plans and development intentions (including social contracts), terms for local employment, procurement, and how the “economic equilibrium” (costs, risks and benefits) was weighed; value of land, rents, and fees, projected profits and revenues, taxation regimes, and closure plans
- Inter-relationship of national (and if applicable, international) legal jurisdictions and how they apply in the event of dispute;
- Obligations of the business enterprise, including how they will liaise with employees, local communities (respecting and protecting the rights of local communities and landholders), and maintain the environment; Obligations of the State to monitor the implementation of the contract’s terms and conditions, including grievance mechanisms, sanctions, and penalties in the case of noncompliance.

3. Information on assessment and mitigation of potentially negative impacts:

- Publicly agreed and documented evidence of human rights, socio-economic, environmental, due diligence, food security, value and supply chain, and other impact assessments;
- Publicly agreed and disclosed mitigation and management plans;
- Resettlement and compensation plans.

Standards & Guidance

- Open Contracting Principles http://www.open-contracting.org/global_principles

Country Examples

- In Peru public land for sale must be advertised for a minimum of 90 days <http://www.opengovguide.com/country->

[examples/in-peru-public-land-for-sale-must-be-advertised-for-a-minimum-of-90-days/](#)

Intermediate Step: Require public disclosure of information about land holdings and transfers

Justification

Transactions for the purchase, lease, or concession of land are frequently negotiated by governments and potential investors behind closed doors. This makes it difficult for potentially affected individuals, the general public and other interested parties to gain access to information about current holdings or proposed transfers, which subsequently acts as a barrier to influencing decision-making or ensuring accountability. Incomplete flows of information also inhibits governments from ensuring they are negotiating the best terms for the management of public assets and can lead to lack of coordination among ministries and agencies.

Instead, secretive decision-making fosters an environment where corruption between political and business elites can prevail, where capture of natural assets becomes the norm, and where investment incentives are stacked against companies willing to push for better standards of ethical or legal behaviour (Global Witness et al, 2012). Improving transparency is a first step to enabling accountable equitable decision-making where people are able to hold governments or business enterprises to account for negative impacts.

Recommendations

1. **Establish rules and systems for proactive disclosure of information about land and land transfers and about opportunities for acquisition of public land.** This may form part of a broader set of policies for [open contracts](#), or the [right to information](#).
2. **Establish requirements to publicly disclose contracts, including licenses, concessions, permits, grants or any other document exchanging public goods, assets, or resources** (including all annexes, schedules and documents incorporated by reference) and any amendments public, as well as any applicable pre-studies, standard bid documents, performance evaluations, guarantees, and auditing reports.
3. **Ensure that relevant information relating to land disputes is disclosed,** including both judicial and non-judicial processes, but with safeguards to ensure due legal process.

Standards & Guidance

- Open Contracting Principles http://www.open-contracting.org/global_principles
- Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (2012) <http://www.fao.org/nr/tenure/voluntary-guidelines/en/>

Advanced Step: Nominate independent grievance mechanisms for those affected by large scale land investments

Justification

Grievance resolution mechanisms provide a means for land tenure holders, business enterprises and other key

stakeholders to refer complaints and bring actions concerning breaches of law, contract, explicit or implicit promises, customary practice, or notions of fairness of aggrieved communities. Given that large scale land investments are frequently undertaken in countries where rule of law is weak, access of affected peoples to such mechanisms is of utmost importance. These mechanisms also provide a means reduce risk for responsible land investors and can enable those involved in corrupt land deals to be investigated and prosecuted.

The UN Guiding Principles on Business and Human Rights recommend that States must take appropriate steps to ensure that when business related human rights abuses occur within their jurisdiction, those affected have access to effective remedy.

Judicial grievance mechanisms need to be accessible and affordable for communities potentially affected by such projects, including the provision of legal aid. They must operate independently, be clearly separated from executive and administrative powers, and include appeal mechanisms. However, complementary independent mechanisms such as human rights commissions, ombudsman and complaints offices, as well as traditional authorities are also recognised as having a critical role. Judicial and non-judicial mechanisms need to be impartial and well resourced, and steps need to be taken to overcome barriers such as the cost of bringing claims, difficulty in securing legal representation, discrimination, threats of violence and lack of access to information and expertise.

Non-state based grievance mechanisms such as those administered by multi-stakeholder groups can also complement State-based grievance mechanisms providing early-stage recourse and a forum to reach mutually agreed solutions through dialogue.

Recommendations

Establish independent grievance mechanisms for land related complaints. These may be mediation-based, adjudicative or follow other culturally-appropriate and rights-compatible processes. The UN Guiding Principles on Business and Human Rights lay out criteria for the effectiveness of non-judicial grievance mechanisms, which should be legitimate, accessible, predictable, equitable, and transparent, in line with international human rights and a source of continuous learning. Key recommendations are to:

1. **Design the mechanism in consultation with stakeholders**, ensuring that the parties to a grievance process cannot interfere with its fair conduct.
2. **Address barriers to access including a lack of awareness of the mechanism**, language, literacy, costs, physical location and fears of reprisal.
3. **Provide public information about the mechanism**, how it can be accessed, and any support for doing so, including providing information about the procedure it offers.
4. **Communicate regularly with parties about the progress of individual grievances**. Timeframes for each stage should be respected wherever possible, while allowing that flexibility may sometimes be needed.
5. **Disclose information about the mechanism's performance to wider stakeholders**, through statistics, case studies or more detailed information, while maintaining confidentiality of the dialogue between parties and of individuals' identities where necessary.
6. **Analyse the frequency, patterns and causes of grievances** to identify policies, procedures or practices that should be altered to prevent future harm.

Standards & Guidance

- UN Guiding Principles for Business and Human Rights (2011)
http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

Advanced Step: Undertake participatory land and resource use planning

Justification

As pressure for commercial investments in land increases, governments need to carefully consider the different options for use. Existing land and natural resource rights and future needs must be formally recognized and protected before alternative or additional uses are considered. The impacts and externalities of all options need to be taken into account.

“Land use planning” is defined as “Systematic and iterative procedures carried out in order to create an enabling environment for sustainable development of land and resources which meets people’s needs and demands” (GIZ, 2011). If undertaken through transparent and participatory methodologies, such processes can reduce the risks of human rights and environmental violations, enable fair allocation of land and natural resource rights, aid better decision-making and empower citizens to hold decision-makers to account.

Although many developing countries have long histories of undertaking participatory land or natural resource use planning, such processes tend to lack the combination of local and national level legitimacy to secure tenure effectively. Long-term land and natural resource use plans need to be developed with full participation and engagement of all relevant stakeholders, be fully transparent and the result enshrined in law. Participatory land and resource use planning should be undertaken in conjunction with the formalisation of the rights of individuals and communities, especially those most vulnerable. As such, it is recommended that this step be considered an extension of opening the process for identifying and providing formal protection for legitimate land rights.

Recommendations

1. **Involve representatives of all land and resource users in dialogues**, and consultation meetings in order to develop robust governance policies.
2. **Ensure that timely, accessible, and accurate information** is disclosed about land and natural resource planning processes, as well as the dissemination of the final outcome.
3. **Authorise local government agencies to be able to take immediate action to map and protect land and resource rights which are under particular threat**, or involved in pre-existing disputes, pending approval of national level policies and processes, . This could include introducing a moratorium on large-scale deals, either overall or in particular hotspots, or the establishment of grievance resolution processes.
4. **Embed participatory land and resource use planning policy in a legal and institutional framework** which:
 - Facilitates the formal recognition of legitimate customary and traditional land and natural resource rights;
 - Ensure transfers are voluntary;
 - Promotes openness and broad access to relevant information;
 - Is technically and economically viable and in line with national development strategies;
 - Complies with minimum standards of environmental and social sustainability;
 - Enables review of existing concession awards that do not comply with the new standards.

Participatory planning can also be done at more localised scales (for example, in areas where tenure disputes are most prevalent), however the aim should be for national and local policies to be harmonized.

Standards & Guidance

- World Bank: Land Governance Assessment Framework (2012) <http://go.worldbank.org/XW0YK1HU60>

Country Examples

- British Colombia carried out participatory land use planning of its forests <http://www.opengovguide.com/country-examples/british-colombia-carried-out-participatory-land-use-planning-of-its-forests/>
 - Mali is reforming its policies for the agriculture sector with participation of farmers' associations <http://www.opengovguide.com/country-examples/mali-is-reforming-its-policies-for-the-agriculture-sector-with-participation-of-farmers-associations/>
-

No commitments for this level

Open government data

💡 Lead author: [Sunlight Foundation](#)

Introduction

Open Data is the idea that data should be freely available for everyone to access, use and republish as they wish, published without restrictions from copyright, patents or other mechanisms of control. Public sector information made available to the public as open data is termed 'Open Government Data'. Governments and their contractors collect a vast quantity of high-quality data as part of their ordinary working activities. Typically this results in the state becoming a powerful data monopoly able to structure and homogenize the interactions between itself and its citizens. These one-sided interactions are expensive and unresponsive to citizens' needs and can unnecessarily restrict government activities, as well.

Opening government data involves both policy and technical considerations. If governments' data is made open, it can have huge potential benefits including:

- **Transparency:** In a well-functioning, democratic society citizens need to know what their government is doing. To do that, they must be able freely to access government data and information and to analyse and share that information with other citizens.
- **Efficiency:** Enabling better coordination and efficiency within government, by making data easier to find, analyse and combine across different departments and agencies.
- **Innovation:** In a digital age, data is a key resource for social and commercial activities. Everything from catching a bus to finding a doctor depends on access to information, much of which is created or held by government. By opening up data, government can help drive the creation of innovative business and services that deliver social and commercial value.

Where many public records laws and policies regulating the right to information [link] have traditionally relied on *reactive* disclosure, meaning public information has to be requested before it is shared, a government fully engaged in open data is choosing to *proactively* disclose information - meaning public data is released as it is collected and before it is requested. Put another way, the vision of open data is for government information to be 'open by default'. Open data also has a number of technical implications, with special consideration given to the particular formats chosen for data release. Open formats are those that are structured and non-proprietary, allowing the public and the government to extract maximum value from the information now and in the future.

Governments around the world cite many different reasons for starting open data initiatives, including increasing government transparency and accountability, catalysing the creation of new digital services and applications for citizens, unlocking the full economic potential of public information, and evolving current government services for anticipated future needs. Although much of this top-level government interest is new, there are many professions and communities engaged in dialogue, policy, and development around this issue, including from government officials, journalists, developers, transparency reformers, issue advocates, and interested citizens.

Expert Organisations

Global Open Data Initiative <http://globalopendatainitiative.org/>

Sunlight Foundation <http://sunlightfoundation.com/>

Open Knowledge Foundation <http://okfn.org/>

World Bank's Open Government Data Working Group <http://data.worldbank.org/>

Web Foundation <http://www.webfoundation.org/>

Open Institute <http://openinstitute.com/>

OGP Working Group: Open Data <http://www.opengovpartnership.org/get-involved/join-working-group>

Summary of illustrative commitments

Initial

- Establish a strong, public commitment to opening data
- Identify and publish some public information as open data

Intermediate

- Develop a government-wide policy on open data, through an inclusive process
- Mandate the publication of new data sets

Advanced

- Create or appoint an oversight authority
- Create public listings of government data, and audit data availability and management
- Establish new legal rights to empower the public
- Proactively engage with and support data users
- Require that open data commitments apply to all organizations handling public data

Innovative

- Create unique identifiers for organisations, things and places

Detailed Recommendations

Initial Step: Establish a strong, public commitment to opening data

Justification

Governments seeking to reap the benefits of open data often start by publicly committing to the idea of open data and setting ambitious, but achievable goals for data release. Beginning with a strong, public commitment makes open data a cross-government practice and can provide a solid foundation for continued policy and technical development, as well as opportunities for engaging with the public, entrepreneurs and the private sector.

Commitments can and should outline the benefits of publishing data proactively and in open formats. Commitments can also help governments to welcome new stakeholders into the process of data release and deliberation. Including the public early on -- even in the commitment drafting process -- helps to build interest, advocacy prioritization, and technical support for later open data efforts, and empowers advocates to prioritize this issue and continues to monitor progress over time.

A strong, well-crafted commitment can be a useful tool for creating political space for other reform efforts, interim studies, and new policies, even while acknowledging that it is only a first step.

Recommendations

Make a visible, substantive, and ideally high level commitment to open data. For example, key steps that governments have taken are:

1. Public statement by the head of state to all government departments, making the case for open data, establishing key principles open format and license and presumption in favour of transparency and, setting priorities for action.
2. Establishing a coordinating body (e.g. in a Cabinet Office) or working group including members of the government and public for exploration of this issue.
3. Supporting legislative resolutions demonstrating support for transparent operations and the integration of open data into policy considerations.

Standards & Guidance

- Open Knowledge Foundation Open Data Handbook <http://opendatahandbook.org/pdf/OpenDataHandbook.pdf>
- Sunlight Foundation: Open Data Policy Guidelines <http://sunlightfoundation.com/opendataguidelines/>
- World Bank Open Data Toolkit <http://data.worldbank.org/open-government-data-toolkit>

Country Examples

- The City Council of Enschede passed a motion recognizing the importance of reusable open data and encouraging citizen participation <http://www.opengovguide.com/country-examples/the-city-council-of-enschede-passed-a-motion-recognizing-the-importance-of-reusable-open-data-and-encouraging-citizen-participation/>
- The UK Prime Minister set out a broad commitment to open data in a letter to government departments <http://www.opengovguide.com/country-examples/the-uk-prime-minister-set-out-a-broad-commitment-to-open-data-in-a-letter-to-government-departments/>
- The US government has made a public commitment to open data <http://www.opengovguide.com/country->

<examples/the-u-s-open-government-initiative-includes-a-commitment-to-open-data/>

Initial Step: Identify and publish some public information as open data

Justification

An essential first step in any open government data initiative is to actually engage in the process of making information available online in structured, machine-readable formats (such as spreadsheets or CSV files, mapping data or marked up official documents) under an open license that clearly lets third parties use them without restriction. Unstructured data formats, such as scanned pictures of government documents, only allow the data to be seen, rather than extracted. Structure allows for machines to parse the information with more detail and accuracy and allows data to be searched, sorted, and analyzed more easily. Specific open data formats include JSON, CSV, and XML (for databases), and HTML and plain text (which are only semi-structured, but provide flexibility) for documents.

At the national level, there are at least 25 countries that have published open government data (listed at datacatalogs.org). Initial, early publishing of new datasets can help governments move toward proactive government data publishing at scale. Ideally the selection of what data to start with or prioritize should respond to demand from prospective users, whether directly solicited from these users or interpreted from related sources, such as freedom of information requests.

When considering proactive data publishing at scale, governments should take advantage of the opportunity to publish data in bulk. Bulk access is a simple, but effective means of publishing datasets in full, giving the public the ability to download all of the information stored in a database at once. Whether offered as a feature of a data portal or even as a simple “click to download” button on a government agency, bulk access to information is often one of the simplest and most direct steps a government entity can take to share information with the public.

Recommendations

1. **Identify data valuable to internal and/or public processes for release**, working with government officials and members of key public stakeholder groups. While prioritising data, look for the opportunity to provide information that helps reveal and inform decision-making.
2. **Explore making the data both machine and human readable** by enriching it with semantics, metadata, and identifiers;
3. **Start to release some public information as open datasets** – i.e. in structured, machine-readable, platform-independent formats under an explicit open license.
4. **Explore avenues for government agencies to participate** at identifying data for publishing, both individually and in coordinated efforts.
5. **Identify data liaisons or coordinators** among existing staff who can help facilitate early conversations about data publishing with their department.

Standards & Guidance

- Open Data Definition <http://opendefinition.org/>
- Open Knowledge Foundation Open Data Handbook <http://opendatahandbook.org/pdf/OpenDataHandbook.pdf>
- OpenGovData.io <http://opengovdata.io/>
- Sunlight Foundation: Open Data Policy Guidelines <http://sunlightfoundation.com/opendataguidelines/>

- Ten Principles for Opening Up Government Information <http://sunlightfoundation.com/policy/documents/ten-open-data-principles/>
- The 10 Principles for Open Data <http://sunlightfoundation.com/policy/documents/ten-open-data-principles/>
- World Bank Open Data Toolkit <http://data.worldbank.org/open-government-data-toolkit>
- World Wide Web Consortium: Publishing Open Government Data <http://www.w3.org/TR/gov-data/>

Country Examples

- In Denmark, enabling free access to 'basic data' will save the government an estimated USD 45 million per year <http://www.opengovguide.com/country-examples/in-denmark-enabling-free-access-to-basic-data-will-save-the-government-an-estimated-usd-45-million-per-year/>
- The government of Chile has published 1,003 datasets <http://www.opengovguide.com/country-examples/the-government-of-chile-has-published-1003-datasets/>

Intermediate Step: Develop a government-wide policy on open data, through an inclusive process

Justification

The centrepiece of many governments' open data initiatives is a government-wide policy committing to releasing new government data and to setting standards for how data is released. This policy serves as the primary substantive description of how the government will manage and release information. Open data policies should be practically aspirational, meaning that they should both define a vision for why the policy is being implemented, while also being able to provide actionable steps for government and relevant oversight authorities to follow to see the policy through to implementation. Creating regulations or guidance can ensure a strong, reliable policy, and usually means the difference between a policy passed for show versus policy passed for substance.

Open data access is a broad concept, and a well-designed open data policy should be relevant to many different communities. A strong policy requires consultation and collaboration with stakeholders both inside and outside government, both during the development of the policy and in its implementation.

Open government data policies are often best when developed iteratively, adapting to help strengthen and grow fledgling efforts and to identify where continued revision is needed. By being open (or even requiring) future review and iteration, open data policies will be able to keep current with best practices, technological advances, and feedback from existing policy oversight.

Recommendations

1. Create opportunities and channels to engage with data users – such as consultations, social media accounts, dedicated email addresses and staff who are able to process and respond.
2. Hold broad, inclusive consultations to take advantage of public expertise and build a legitimate process. Assign specific responsibilities for hosting consultations and pay special attention to excluded communities.
3. Proactively solicit for information from prospective data users about what kinds of information they would like – both initially and on an ongoing basis.
4. Review existing policies and barriers to open data access and reuse that may exist in the country.

5. Assign specific responsibility for drafting the policy, while involving government officials from across government. This should include responsibility for incorporating public suggestions into the policies.
6. Create requirements to establish open data as the default, ranging from data standards to new requirements for designing new data systems, to crafting complimentary laws with publication and data standards built in from the start.
7. The policy should include deadlines and actionable goals and benchmarks that can be used as a metric for compliance.
8. Consider establishing a single authority empowered to resolve conflicts, provide consistent oversight, and ensure compliance. This may be a role for an existing Information Commissioner [link] or a new authority.
9. Ensure sufficient funding is dedicated for implementation.
10. Build new iterations of the policy after its release, to strengthen it.

Standards & Guidance

- Open Knowledge Foundation Open Data Handbook <http://opendatahandbook.org/pdf/OpenDataHandbook.pdf>
- Sunlight Foundation: Open Data Policy Guidelines <http://sunlightfoundation.com/opendataguidelines/>
- World Bank Open Data Toolkit <http://data.worldbank.org/open-government-data-toolkit>

Country Examples

- The Australian state of New South Wales opened up its draft open data policy to comments on the web <http://www.opengovguide.com/country-examples/the-australian-state-of-new-south-wales-used-a-web-platform-to-receive-comments-from-the-public-on-a-draft-open-data-policy/>
- The city of Oakland drafted their open data policy using a collaborative method involving open, online comments and public meetings <http://www.opengovguide.com/country-examples/the-city-of-oakland-drafted-their-open-data-policy-using-a-collaborative-method-involving-open-online-comments-and-public-meetings/>
- The Flemish government's open data policy that makes open-by-default the standard <http://www.opengovguide.com/country-examples/flemish-governments-open-data-policy-that-makes-open-by-default-the-standard/>
- The US government established a public open source project to facilitate the implementation and evolution of its Open Data Policy <http://www.opengovguide.com/country-examples/the-us-government-established-a-public-open-source-project-to-facilitate-the-implementation-and-evolution-of-its-open-data-policy/>

Intermediate Step: Mandate the publication of new data sets

Justification

Governments produce tremendous amount of information, but often only a small subset is available on the Internet, even as more and more people look online for these records and resources. Open data initiatives provide an opportunity to identify data sets and records that could be, but are not yet, made available publicly – or online. Identifying and publishing this 'new' data is key to fulfilling the vision of any government's open data programme as it integrates open data norms into government procedure.

Requiring 'new' data to be published can in some instances refer to information that will be created, collected and released for the first time -- a unique opportunity to follow best practices in open data publishing from the start. In other instances,

'new' data can mean identification of existing datasets and mandating their release as open data.

Information can run the gamut from corporate registration data to the video, audio, and minutes from a public meeting. It can also include historic information that has previously been locked in paper-based archives. Specific mandates can be made about a variety of kinds of data -- information ranging from transportation data to lobbying registration databases to the video and audio of public meetings -- though careful consideration should be given to the language used to describe what information is affected. Descriptive phrases such as 'high-value' or 'high priority', when used without direction or indication of how to assign value or priority, can open up loopholes that slow or prevent the release of information desired by the public.

Recommendations

1. Work with government officials and members of key public stakeholder groups to identify data valuable to internal and public processes that can be released.
2. Establish open data legislation which requires the release of specific classes or categories of datasets as open data.
3. Be clear about the scope of 'new' information and identify key agencies, committees or other relevant agents necessary for the digitization and publishing process.
4. Create specific requirements for ongoing updates of open data, and aim to release government data as quickly as it is gathered and collected (in 'real time').
5. Release new data online in a way that is free of intellectual property restrictions or fees, in a structured format and ensure that the data is kept updated in a timely manner.

Standards & Guidance

- Open Knowledge Foundation Open Data Handbook <http://opendatahandbook.org/pdf/OpenDataHandbook.pdf>
- Sunlight Foundation: Open Data Policy Guidelines <http://sunlightfoundation.com/opendataguidelines/>
- World Bank Open Data Toolkit <http://data.worldbank.org/open-government-data-toolkit>

Country Examples

- In Japan, the Parliament's National Library plans to digitise its entire collection to make available online <http://www.opengovguide.com/country-examples/in-japan-the-parliaments-national-library-plans-to-digitise-its-entire-collection-to-make-available-online/>
- In Slovakia, government contracts are published online <http://www.opengovguide.com/country-examples/in-slovakia-government-contracts-are-published-online/>
- The Brazilian ministry of finance publishes large amount of budget data in machine-readable formats <http://www.opengovguide.com/country-examples/the-brazilian-ministry-of-finance-publishes-large-amount-of-budget-data-in-machine-readable-formats-2/>
- The Senate of Italy publishes legislative data on its own open data portal <http://www.opengovguide.com/country-examples/the-senate-of-italy-publishes-legislative-data-on-its-own-open-data-portal/>

Advanced Step: Create or appoint an oversight authority

Justification

A single authority empowered to resolve conflicts, provide consistent oversight, and ensure compliance with new open data measures is a valuable asset to any open data policy. Commonly, open data initiatives either direct a pre-existing officer (i.e. a chief technology or administrative officer) or a specific department to oversee execution and compliance, although new positions and authorities can also be created. Specifying an authority, review board, or similar body is an important step to making sure that an open data policy can actually be executed and provides a resource to address unforeseen hurdles in implementation. New oversight bodies should conduct their work independently and publicly, and can be bolstered by creating new regulations or guidance for implementation.

Recommendations

For any authority created or granted, care should be given that the new position has powers of enforcement to follow through on their work and address resistance or non-compliance.

Standards & Guidance

- OpenGovData.io <http://opengovdata.io/>
- Sunlight Foundation: Open Data Policy Guidelines <http://sunlightfoundation.com/opendataguidelines/>
- World Bank Open Data Toolkit <http://data.worldbank.org/open-government-data-toolkit>

Country Examples

- Australia's information commissioner is responsible for all information held by the government <http://www.opengovguide.com/country-examples/australias-information-commissioner-is-responsible-for-the-collection-use-disclosure-and-management-of-all-information-held-by-the-government/>
- In Canada, the information commissioner investigates access to information complaints and advocates for more proactive disclosure within government <http://www.opengovguide.com/country-examples/in-canada-the-information-commissioner-investigates-access-to-information-complaints-and-advocates-for-more-proactive-disclosure-within-government/>
- In the U.S. state of Utah, a Transparency Advisory Board acts as the oversight authority for the state's open data policy <http://www.opengovguide.com/country-examples/in-the-u-s-state-of-utah-a-transparency-advisory-board-acts-as-the-oversight-authority-for-the-states-open-data-policy/>

Advanced Step: Create public listings of government data, and audit data availability and management

Justification

Government officials, policy-makers, and members of the public can only request or analyse what they know exist. Too often, government officials themselves are not aware of the details or amount of information that they possess. A comprehensive index or listing of government information both enables policy-makers and administrators to determine whether information is being appropriately managed, and empowers public oversight of those determinations. Publicly accounting for agency information helps ensure that information is managed to benefit the public interest, and can create efficiencies among government departments.

To provide up-to-date information, agencies can also be required to regularly audit their information holdings.

Recommendations

1. Craft a high level policy requiring each individual department to index all of their data.
2. Design the variables and labels that will accompany all listed government datasets -- i.e. is it public or not, could it be made public, is it accessible through FOI request, what is the justification or classification for non-release, if public, where it can be found, etc.
3. Publish data indexes online so that public datasets can be directly linked to.
4. Explore opportunities to use the auditing process as an empowering mechanism for government agencies to be recognized for the information they collect, handle and share.

Standards & Guidance

- Sunlight Foundation: Open Data Policy Guidelines <http://sunlightfoundation.com/opendataguidelines/>

Country Examples

- In Canada, a government wide initiative has been undertaken to identify all government data holdings <http://www.opengovguide.com/country-examples/in-canada-a-government-wide-initiative-has-been-undertaken-to-identify-all-government-data-holdings/>
- In the U.S. city of San Francisco, the government's open data policy calls for all departments to publish an inventory of data held <http://www.opengovguide.com/country-examples/in-the-u-s-city-of-san-francisco-the-governments-open-data-policy-calls-for-all-departments-to-publish-an-inventory-of-data-held/>
- In the United States, the 2013 Open Data Policy called for federal agencies to perform an audit and create an index of datasets <http://www.opengovguide.com/country-examples/in-the-united-states-the-2013-open-data-policy-called-for-federal-agencies-to-perform-an-audit-and-create-an-index-of-datasets-2/>
- The England and Wales Land Registry contains an inventory of all available data <http://www.opengovguide.com/country-examples/the-england-and-wales-land-registry-contains-an-inventory-of-all-available-data/>
- The National Audit Office in the UK audited government data holdings and released a report on their findings to the public <http://www.opengovguide.com/country-examples/the-national-audit-office-in-the-uk-audited-government-data-holdings-and-released-a-report-on-their-findings-to-the-public/>

Advanced Step: Establish new legal rights to empower the public

Justification

Laws regulating access to data and public records are not limited to managing internal processes for publishing; they can also give the public new oversight powers to defend their access and support continued compliance with open data policies, and even the quality and integrity of the data. These powers can be expressed through the right to sue or by strengthening the powers of ombudsmen, anti-corruption agencies or other mechanisms for the public to investigate and settle disputes about government data.

Recommendations

Standards & Guidance

- Sunlight Foundation: Open Data Policy Guidelines <http://sunlightfoundation.com/opendataguidelines/>
- World Bank Open Data Toolkit <http://data.worldbank.org/open-government-data-toolkit>

Country Examples

- In Indonesia, individuals have the right to pursue legal recourse if they are prevented from obtaining information under the freedom of information act <http://www.opengovguide.com/country-examples/in-indonesia-individuals-have-the-right-to-pursue-legal-recourse-if-they-are-prevented-from-obtaining-information-under-the-freedom-of-information-act/>
- Many government's FOI laws give citizens the right to sue the government over freedom of information requests <http://www.opengovguide.com/country-examples/many-governments-foi-laws-give-citizens-the-right-to-sue-the-government-over-freedom-of-information-requests/>
- Some countries, such as Canada, have freedom of information ombudsmen with special legal enforcement powers <http://www.opengovguide.com/country-examples/some-countries-such-as-canada-have-freedom-of-information-ombudsmen-with-special-legal-enforcement-powers/>

Advanced Step: Proactively engage with and support data users

Justification

Many of the most successful open data initiative do not stop at publishing open data and waiting to see what happens. To maximise the impact of public information they proactively engage with citizens and end users, to understand and respond to their needs and demands. This might include running or supporting events, workshops, hackathons, competitions, and fellowships, as well as having dedicated staff and communication channels through which to support data users and intermediaries.

Recommendations

To engage data users, governments can:

1. Run or support events, workshops, hackathons, competitions, fellowships or other initiatives to facilitate the reuse of public information.
2. Ensure that there are government officials who are able to proactively engage with, and understand and respond to, the demands of data users (e.g. at events or through relevant online channels).
3. Set up and resource dedicated communication channels to engage with data users such as social media accounts, email lists, webinars and events.

Standards & Guidance

- Open Data Definition <http://opendefinition.org/>
- Sunlight Foundation: Open Data Policy Guidelines <http://sunlightfoundation.com/opendataguidelines/>
- World Bank Open Data Toolkit <http://data.worldbank.org/open-government-data-toolkit>

- World Wide Web Consortium: Publishing Open Government Data <http://www.w3.org/TR/gov-data/>
-

Advanced Step: Require that open data commitments apply to all organizations handling public data

Justification

Governments often use third-party entities, contractors, and quasi-autonomous government agencies to carry out public services and generate, handle or research, government information, but the use of outside services should not obscure access to government information. Ensuring that open data is defined not solely as data held by the government but as information collected, stored, processed, or housed otherwise on behalf of the government ensures that public data is treated consistently.

Recommendations

1. Communicate to agencies, and contractors about the role and value of open government data.
2. Integrate open data requirements into grants and contracts with quasi-governmental agencies and other similar actors, such as multi-state agencies, government-sponsored entities, publicly-funded universities, and self-regulatory organizations should release.
3. Specify open data formats and disclosures in contracts with private sector providers.
4. Employ open source solutions whenever possible to enable sharing.

Standards & Guidance

- Open Data Guidelines for Procurement <http://sunlightfoundation.com/procurement/opendataguidelines>

Country Examples

- In the US, the White House Office of Science and Technology Policy requires federal agencies that fund research make the results and underlying data available to the public <http://www.opengovguide.com/country-examples/i-in-the-us-the-white-house-office-of-science-and-technology-policy-requires-federal-agencies-that-fund-rd-make-the-results-and-underlying-data-available-to-the-public/>
 - The US city of Chicago is developing contract provisions to promote open data in technology related procurements <http://www.opengovguide.com/country-examples/the-us-city-of-chicago-is-developing-contract-provisions-to-promote-open-data-in-technology-related-procurements/>
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Innovative Step: Create unique identifiers for organisations, things and places

Justification

Many government datasets refer to other entities – for example national budgets refer to departments, company registers refers to companies, charity registers refer to charities (which may also be companies) and education performance tables refer to schools. Without a standardised way of referring organisations, locations and things, cross referencing between

different datasets requires manual cross-examination against other contextual information. Some analyses can become difficult or impossible, since similar names may or may not refer to the same entities.

When identifiers are shared across data silos, they create connections and make the data more adaptable. The value of the two connected datasets becomes more than just the sum of their parts.

Recommendations

1. Create guidelines for the naming and using of unique identifiers for government datasets and the entities they refer to.
2. Create reusable sets of identifiers for common sets of public entities, such as Government Departments, Local Authorities, Schools and Railway Stations.
3. Work with governments, and through standards bodies and other consensus groups to unify unique identifiers in key areas of collaboration.

Standards & Guidance

- 6 Degrees of Corporations <http://sunlightfoundation.com/sixdegrees/resources/>
- Open Data Guidelines for Procurement <http://sunlightfoundation.com/procurement/opendataguidelines>
- Sunlight Foundation: Open Data Policy Guidelines <http://sunlightfoundation.com/opendataguidelines/>
- World Wide Web Consortium: Linked Data <http://WWW.W3.ORG/DESIGNISSUES/LINKEDDATA>

Country Examples

- Belgium piloted a system to develop unique identifiers for addresses and streets
<http://www.opengovguide.com/country-examples/belgium-piloted-a-system-to-develop-unique-identifiers-for-addresses-and-streets/>
 - The UK government published guidelines on the use of unique resource identifiers
<http://www.opengovguide.com/country-examples/the-uk-government-published-guidelines-on-the-use-of-unique-resource-identifiers/>
 - The US White House requires predicable URLs for committee documents and data
<http://www.opengovguide.com/country-examples/the-us-white-house-requires-predicable-urls-for-committee-documents-and-data/>
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Parliaments

 **Lead author:** [National Democratic Institute](#)

Introduction

Citizen participation in democracy begins at the ballot box. But genuine elections – no matter how free and fair – are insufficient in ensuring that elected officials are accountable and responsive to citizens. Parliaments are the citizens' institutions. As the representative branches of democratic governments, parliaments are meant to provide citizens with links to the policy-making process and with methods of holding the executive branch to account. As a place for informed debate on the issues affecting citizens, parliaments are ultimately responsible for finding compromise among competing interests, enacting these compromises into laws, and ensuring their successful implementation.

The Inter-Parliamentary Union characterizes the “democratic parliament” as one that is representative of the social and political diversity of a people, transparent in the conduct of its business, accessible to the involvement of citizens and interest groups, accountable for its performance, and effective in organizing and conducting its work. Parliaments have gathered in regional and international venues across the globe to discuss the specific characteristics of a democratic parliament, emphasizing these same values.

The concept of parliamentary openness is a crucial factor in enhancing how parliaments function. The Declaration on Parliamentary Openness is a normative framework developed by the OpeningParliament.org community of parliamentary monitoring organizations, with the support of several parliaments and parliamentary associations. The Declaration states that parliamentary openness “enables citizens to be informed about the work of parliament, empowers citizens to engage in the legislative process, allows citizens to hold parliamentarians to account and ensures that citizens’ interests are represented.” It is this connection with citizens that deepens the legitimacy of parliament and, in turn, provides an incentive for parliaments to promote a culture of openness in government more broadly.

The illustrative commitments outlined herein represent a sample of possible commitments parliaments can make to become more open and engaging of citizens. As illustrative commitments, these ideas represent a sampling of measures taken by parliaments around the world. Efforts to design and implement commitments to further open parliaments must recognize differences among parliamentary systems. They must also recognize differing levels of parliamentary and governmental resources, as well as differences stemming from a country's historical and political context. Nevertheless, meaningful commitments to advance parliamentary openness should demonstrate a respect for citizens’ right to openness, participation and accountability, as well as a desire to deepen the relationship of trust between citizens and their parliaments more broadly.

Expert Organisations

National Democratic Institute <http://www.ndi.org/>

OpeningParliament <http://www.openingparliament.org>

Global Centre for ICT in Parliament <http://www.ictparliament.org/>

Inter-Parliamentary Union <http://www.ipu.org/>

The Latin American Network for Legislative Transparency <http://www.transparencialegislativa.org/>

OGP Legislative Openness Working Group <http://www.opengovpartnership.org/get-involved/join-working-group>

Summary of illustrative commitments

Initial

- Define clear rules on parliamentary openness and integrity, and develop capacity to implement them
- Enable citizens to provide input into the legislative process
- Proactively publish information about parliament's roles, functions and work online

Intermediate

- Make parliamentary information easier to understand and accessible to citizens through multiple channels
- Partner with external groups to enhance citizen participation with parliament
- Publish parliamentary information in open formats

Advanced

- Conduct targeted outreach to youth and historically marginalized communities
- Develop digital platforms and capacities to enable citizen engagement with parliament
- Ensure that parliamentary openness procedures are in line with international good practice

Innovative

- Develop and share open-source parliamentary software
- Enable citizens to engage with parliaments and MPs using mobile and SMS technology

Detailed Recommendations

Initial Step: Define clear rules on parliamentary openness and integrity, and develop capacity to implement them

Justification

For citizens to be able to participate in the legislative process, they must have an understanding of the rules of engagement, and trust that they are implemented fairly. Provisions on parliamentary openness and regulations about ethics and behaviour of parliamentarians and public officials can be established through constitutions, statutes, rules of procedure, or through a mix of these and other regulations. By adopting explicit and clear policies on openness, parliaments can signal their commitments to representing citizens' needs and help them navigate this potentially confusing terrain. An openness policy can include procedures for requesting parliamentary information that is not otherwise readily available, as well as procedures for challenging decisions to not disclose particular information. The right of citizens to access and analyse the work of parliament is linked with policies on integrity, which may be established in parliamentary bylaws, or through the adoption of codes of conduct or ethics. Transparency requirements which shine light on the assets, expenses and relationships between parliamentary actors with lobby or interest groups are particularly important, irrespective of a parliament's level of development.

According to the OpeningParliament.org community's [Declaration on Parliamentary Openness](#) (art.13), "Parliament shall adopt policies that ensure the proactive dissemination of parliamentary information, including policies regarding the formats in which this information will be published." The Declaration on Parliamentary Openness echoes the conclusions of a 2004 Commonwealth Parliamentary Association (CPA) and World Bank Institute (WBI) study group on access to information, which noted that consideration should be given to regular parliamentary review, for example on a biannual basis, of implementation of the access to information regime (Mendel, 2005). In its [Benchmarks for Democratic Legislatures](#), the CPA also states that "Legislatures shall require legislators to fully and publicly disclose their financial assets and business interests," a benchmark supported by the Assemblée Parlementaire de la Francophonie (APF), Parliamentary Confederation of the Americas (COPA), and the South African Development Community Parliamentary Forum (SADC-PF) and the OpeningParliament.org community.

Recommendations

1. **Recognize citizens as the owners of parliamentary information.** This includes respecting citizens' right to access parliamentary information, including proactively providing information categories needed by citizens to make informed decisions about issues being discussed in parliament and their elected officials.
2. **Conduct an assessment of parliament's information and integrity policies and implementation capacities.** This review should examine the flow of parliamentary information, the technological infrastructure to support this workflow, and how information is used by citizens, civil society and other stakeholders. A review of a parliament's system for ensuring public integrity review should focus on identifying the mechanisms in place for addressing potential conflicts of interest and disclosure of the financial interests of parliamentarians.
3. **Develop a workplan for enhancing public access to parliamentary information and opportunities for citizen engagement,** and for removing or minimizing restrictions on citizen access to use of parliamentary information.
4. **Create a basic parliamentary ethics regime.** This could include adopting regulations for disclosing member assets and any non-parliamentary income. It may also include adopting ethics regulations limiting conflicts of interest and the creation of an ethics committee or other body charged with the enforcement of these regulations.
5. **Enable citizens and citizen-based groups to provide input into the policy process,** to understand their needs and concerns and help ensure that parliamentary information can reach a broader audience.
6. **Develop a primer for citizens that clearly explains the parliament's policies in plain language,** especially where rules and regulations affecting the transparency and openness of parliamentary information or the ethical responsibilities

of parliamentary actors are captured in a variety of laws, statutes and policies.

7. **Create educational opportunities for MPs and staff** to help them gain the skills necessary to effectively implement these openness and integrity policies.

Standards & Guidance

- Commonwealth Parliamentary Association: Recommended Benchmarks for Democratic Legislatures http://www.cpahq.org/cpahq/Main/Document_Library/Benchmarks_for_Democratic_Legislatures/Recommended_Benchmarks_for_Democratic_Legislatures.aspx
- Declaration on Parliamentary Openness <http://openingparliament.s3.amazonaws.com/docs/declaration/commentary-20120914.pdf>

Country Examples

- In India, a declaration of assets is mandatory within 90 days of taking office as a Member of Parliament <http://www.opengovguide.com/country-examples/in-india-a-declaration-of-assets-is-mandatory-within-90-days-of-taking-office-as-a-member-of-parliament/>
- The Mexican Senate's Transparency Committee has developed a workplan on parliamentary openness <http://www.opengovguide.com/country-examples/the-mexican-senates-transparency-committee-has-developed-a-workplan-on-parliamentary-openness/>
- The Scottish Parliament has developed a series of Key Principles that guide the practices of parliament and the work of MPs <http://www.opengovguide.com/country-examples/the-scottish-parliament-has-developed-a-series-of-key-principles-that-guide-the-practices-of-parliament-and-the-work-of-mps/>
- The U.S. House of Representatives has clearly defined its standards for posting electronic information <http://www.opengovguide.com/country-examples/the-u-s-house-of-representatives-has-clearly-defined-its-standards-for-posting-electronic-information/>

Initial Step: Enable citizens to provide input into the legislative process

Justification

International parliamentary associations broadly agree that citizens should have the right to provide input into the work of the legislature. The Commonwealth Parliamentary Association has adopted a [benchmark](#) stating: "Opportunities shall be given for public input into the legislative process," an idea echoed by the [Southern African Development Community Parliamentary Forum](#) and the [Confederation of Parliaments of the Americas](#). The [Treaty on the European Union](#) states, "The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action." According to the [Declaration on Parliamentary Openness](#): "Parliament has a duty to actively engage citizens and civil society, without discrimination, in parliamentary processes and decision-making in order to effectively represent citizen interests and to give effect to the right of citizens to petition their government."

Many parliaments have recognized the value of actively soliciting citizen input in the legislative process by providing mechanisms for citizens to share their policy ideas, their experiences with a given law, and their expertise on the problems that a given law may seek to address. To provide opportunities for citizen's input into the law-making process, a simple initial step is to institutionalize public hearings as a method for citizens and CSOs to provide comment on draft legislation. In addition, however, parliaments are increasingly using new technologies to provide new, more robust opportunities for citizens to participate in the law-making process.

Recommendations

Parliaments should adopt mechanisms to receive citizen input into the legislative process. Recommendations include:

1. **Hold public committee hearings as a means of enabling citizens to provide input on legislation.** When focused and structured, public hearings allow parliaments to benefit from the expertise of citizens. By taking testimony from government officials and investigating the use of public funds, public hearings can also demonstrate to the public that parliament is ensuring that government implements policy effectively and in accordance with citizen interests.
2. **Consider providing opportunities for citizens to submit written comments on draft laws.** In some instances, these comments become part of the official record.
3. **Provide basic support for constituency relations efforts of MPs.** Many parliaments provide MPs with a minimum of support to travel to and from their constituencies for the purposes of meeting with constituents. Some also fund constituency offices.

Standards & Guidance

- Declaration on Parliamentary Openness <http://openingparliament.s3.amazonaws.com/docs/declaration/commentary-20120914.pdf>
- EU: Information and Communications Technologies in Parliament: Tools for Democracy http://www.europarl.europa.eu/pdf/oppd/Page_8/ICT_FINAL.pdf
- Inter-Parliamentary Union & United Nations: Global Parliamentary Report, 2012 <http://www.ipu.org/pdf/publications/gpr2012-full-e.pdf>

Country Examples

- Citizens are invited to have their say in the legislative process in Ghana, South African and Uganda <http://www.opengovguide.com/country-examples/citizens-are-invited-to-have-their-say-in-the-legislative-process-in-ghana-south-african-and-uganda/>
- The Swedish parliament reaches out to citizens in a variety of ways <http://www.opengovguide.com/country-examples/the-swedish-parliament-reaches-out-to-citizens-in-a-variety-of-ways/>

Initial Step: Proactively publish information about parliament's roles, functions and work online

Justification

Nearly all of the world's parliaments have websites, enabling citizens to access parliamentary information wherever Internet access is available. Even in countries where Internet penetration may be low, putting information online makes information available to civil society organizations, the media and citizens, who all play an important role in transmitting parliamentary information. While the Global Centre for ICT in Parliament reports that more than 93% of parliamentary websites in a recent survey included information on their composition and function, many parliaments do not provide public access to a variety of critical legislative documents that are necessary for citizens to be able to influence decision-making processes. Even when this information is publicly available, it may not be available in a fashion that enables broad participation. According to a World Bank Institute report, "international provisions make clear that, in addition to having numerous benefits for public bodies and for members of the public, proactive disclosure is an obligation that is part of the right of access to information" (Darbishire, 2013). The [Declaration on Parliamentary Openness](#) (section 2, provisions 13-26) contains a comprehensive list of information that parliaments should make available, as does the Inter-Parliamentary Union's

Guidelines for Parliamentary Websites.

Recommendations

1. **Establish requirements for the proactive publication of parliamentary information** including:
 - Information about parliament's roles and functions;
 - Legislative process information: proposed legislation and amendments, laws enacted, the legislative workflow, preparatory analysis, reports and background documents, and historical information;
 - Agenda and meeting information: advance notice of plenary and committee meetings;
 - Member information: Basic information about members, their backgrounds and activities, including votes and transcripts, their assets and expenses, and sufficient information for citizens to make informed judgments regarding their integrity and probity;
 - Parliamentary institution and committee information: their powers and functions, management and administration of parliamentary, parliamentary staff, and detailed budget data.
2. **Consider the quality of the information provided, as well as any barriers to use of his information by citizens.** The Declaration on Parliamentary Openness highlights a number of principles that contribute to helping parliaments meet this end, including:
 - Accuracy: Parliamentary information should be authoritative and accurate.
 - Timeliness: Parliamentary information should be provided as close to real time as possible and at minimum in time for citizens to influence the legislative process.
 - Completeness: Parliaments should strive to make the full body of information categories available to citizens (for example;. not just some draft legislation or votes, but all draft legislation and votes).
3. **Seek to minimize other restrictions and burdens on citizen access to use of parliamentary information.** For example, parliaments should consider taking steps to:
 - Allow for simple and complex searches using persistent URLs so that documents remain at their same web address over time.
 - Eliminate any fees associated with accessing or searching laws and subsidiary legal requirements, as well as applying copyright or similar tools to limit sharing or publication of laws, which should be viewed as belonging to the public.
 - Eliminate provisions that compromise the privacy of users of parliamentary information.
 - Avoid the use of unnecessary use of legalese and technologically complex language, which can also serve as a barrier to citizens and consider regular use of "plain language summaries."
 - Eliminate the release of information in formats that can only be viewed using proprietary software.
 - Reduce difficulties in finding parliamentary information due to poor website organization or limits on searchability.

Standards & Guidance

- Declaration on Parliamentary Openness <http://openingparliament.s3.amazonaws.com/docs/declaration/commentary-20120914.pdf>
- Global Centre for ICT in Parliament: World e-Parliament Report 2012 <http://www.ictparliament.org/WePReport2012>
- Inter-Parliamentary Union: Guidelines for Parliamentary Websites <http://www.ipu.org/PDF/publications/web-e.pdf>

Country Examples

- The New Zealand Parliament provides easy access to most relevant information on its website
<http://www.opengovguide.com/country-examples/the-new-zealand-parliament-provides-easy-access-to-most-relevant-information-on-its-website/>
- The Swedish Parliament's website is easy to use and provides the public with a range of information
<http://www.opengovguide.com/country-examples/the-swedish-parliaments-website-is-easy-to-use-and-provides-the-public-with-a-range-of-information/>
- The website of the Korean National Assembly provides a variety of information about its work
<http://www.opengovguide.com/country-examples/the-website-of-the-korean-national-assembly-provides-a-variety-of-information-about-its-work/>

Intermediate Step: Make parliamentary information easier to understand and accessible to citizens through multiple channels

Justification

Democratic parliaments need to inform citizens about their work, both to young people as a part of civic education, as well as to provide citizens with information necessary to make decisions on political activism and voting. However, in a modern society, citizens access information through increasingly diverse channels. Benchmarks on democratic standards suggest that parliaments have a role to play in ensuring that parliamentary information is widely available to citizens irrespective of their proximity to parliament, their access to technology, or other social or cultural factors. The [Declaration on Parliamentary Openness](#) summarizes this idea when it states: "Parliament shall provide access to information about its work through multiple channels; including first-person observation, print media, radio and television broadcasts, and Internet and mobile device technology." Since it is impossible for parliaments to anticipate all of the ways that citizens would want to use parliamentary information, parliaments should seek to disseminate information in a variety of formats, seeking citizen feedback throughout the process. In this way, parliaments can give effect to the principle that parliamentary information should be available "to the widest range of users for the widest range of purposes" (Tauberer, 2012).

While most parliaments agree on the need to minimize barriers in accessing parliamentary information, it is also recognized that there is a difference between accessing information and being able to interpret and understand this information effectively. As a result, parliaments are also increasingly providing the context needed to help reduce barriers in understanding parliamentary information. Put bluntly by the former President of the European Parliament Josep Borrell Fontelles, "There is no point in putting a report adopted in plenary online if no effort is made to explain it." The [World e-Parliament Report 2012](#) notes that "Because proposed legislation often deals with current statutes and, if passed, must be incorporated into the existing body of law, it is usually drafted in legal language that can be difficult to understand. A number of parliaments have begun to recognize the importance of providing explanations of bills and legislative actions in language understandable to citizens."

Recommendations

1. **Provide contextual information on draft laws.** Many parliaments provide parliamentarians with resources such as plain language summaries, analyses of economic or environmental impact, testimony and reports, committee reports and other information aimed at helping them to make informed decisions. Citizens should also have access to this information to enable them to fully engage in the legislative process.
2. **Provide resources for civic education.** Many parliaments provide educational resources targeting specific groups, including high school and middle school students, aimed at enabling non-experts to explore parliamentary work and voice their legislative preferences.

3. **Support broader media coverage.** Many parliaments seek to encourage media coverage of parliamentary activities by providing in-house press facilities, such as parliamentary recording studios and media offices. Others have in-house media or information teams that are charged with communicating parliamentary information to media outlets and helping to ease the reporting process.
4. **Provide multiple channels of access for parliamentary information.** The best means of communication of parliamentary information depends on the audience and the nature of its interest in the information provided. Many parliaments provide written transcripts of debate, which form a permanent record that is also essential for ensuring the accuracy of the public debate. This information can be useful, particularly if it is made available immediately after the debate takes place and is in a format that is easily searchable and downloadable. To reach a different and broader audience, many parliaments are making this information available by broadcast plenary and committee sessions on television, radio and through live and/or on-demand webstreaming as means of broaden the reach of parliamentary debate to audiences beyond the capital.
5. **Create a parliamentary information or visitor's centre.** Providing physical access to the plenary not only is a method of providing information about the session, but carries important symbolic value in communicating the openness of the parliament. Many parliaments create information and visitor's centres to enable citizens to observe parliament at work, view the seat of the legislative branch of government, and retrieve parliamentary information from its source.

Standards & Guidance

- Declaration on Parliamentary Openness <http://openingparliament.s3.amazonaws.com/docs/declaration/commentary-20120914.pdf>
- Inter-Parliamentary Union & United Nations: Global Parliamentary Report, 2012
<http://www.ipu.org/pdf/publications/gpr2012-full-e.pdf>

Country Examples

- A parliamentary monitoring organisation in India publishes easily digestible information about parliament
<http://www.opengovguide.com/country-examples/a-parliamentary-monitoring-organisation-in-india-publishes-easily-digestible-information-about-parliament/>
- In Slovenia, the Netherlands and the UK, the public may attend a plenary or committee session without prior arrangement <http://www.opengovguide.com/country-examples/in-slovenia-the-netherlands-and-the-uk-the-public-may-attend-a-plenary-or-committee-session-without-prior-arrangement/>
- The UK Parliament's Educational Service provides a range of opportunities for youth education
<http://www.opengovguide.com/country-examples/the-uk-parliaments-educational-service-provides-a-range-of-opportunities-for-youth-education/>

Intermediate Step: Partner with external groups to enhance citizen participation with parliament

Justification

In recent years, citizens around the world have begun to develop innovative tools and applications to improve understanding and use of parliamentary and other government information. These emerging tools can help citizens recognize where legislative amendments have been drafted by private companies, visualize the legislative process, and connect citizens to their representatives to promote constructive dialogue. The emergence of parliamentary monitoring organizations (PMOs) as a community of civic developers that can help support innovation in the use of parliamentary information and forge partnerships with parliaments has been recognized in the IPU's Social Media Guidelines and the joint

Recommendations

1. **Sign memoranda of understanding with civil society or parliamentary monitoring organizations** to collaborate in improving parliamentary openness.
2. **Host parliamentary hackathons and other events** aimed at harnessing technology for the exploration of parliamentary data.
3. **Create transparency advisory committees** that enable citizens to engage parliamentarians on issues related to transparency and openness.
4. **Integrate new operational models for interacting with third parties.**

Standards & Guidance

- Declaration on Parliamentary Openness <http://openingparliament.s3.amazonaws.com/docs/declaration/commentary-20120914.pdf>
- Inter-Parliamentary Union & United Nations: Global Parliamentary Report, 2012 <http://www.ipu.org/pdf/publications/gpr2012-full-e.pdf>
- Inter-Parliamentary Union: Guidelines for Parliamentary Websites <http://www.ipu.org/PDF/publications/web-e.pdf>

Country Examples

- Manabalss.lv is a Latvian civil society-run website allowing citizens to propose legislation <http://www.opengovguide.com/country-examples/manabalss-lv-is-a-latvian-civil-society-run-website-allowing-citizens-to-propose-legislation/>
- The Argentinean Chamber of Deputies collaborates with parliamentary monitoring organisations on transparency <http://www.opengovguide.com/country-examples/the-argentinean-chamber-of-deputies-collaborates-with-parliamentary-monitoring-organisations-on-transparency/>
- The Finnish Parliament works with external groups to engage citizens <http://www.opengovguide.com/country-examples/the-finnish-parliament-works-with-external-groups-to-engage-citizens/>

Intermediate Step: Publish parliamentary information in open formats

Justification

While nearly all parliaments use the Internet to communicate information to citizens, many do so in formats that can be viewed by people, but not be processed by machines. This prevents citizens and parliamentary actors from taking advantage of the advances in modern technology that have helped revolutionize commerce and industry. Putting data in open formats is a key element of the Open Government Partnership. Even some parliaments that provide information in formats that can be processed by computers place copyright restrictions or fees on the use of information. This can also prevent citizens from freely sharing, republishing, and integrating this parliamentary information with other sources of information. Enabling bulk downloading, which allows the user to download all the information in a database at once, is also critical to third party developers who use parliamentary information.

Providing parliamentary information in open formats, which are machine-readable, reusable and re-publishable, makes parliamentary information more accessible to citizens. It allows them to develop and use their own tools and software for

making this information more interesting, useful and understandable. In addition to fostering innovation, many parliaments have found various efficiencies in utilizing open formats, as well as cost savings (Global Centre for ICT in Parliament, 2012; Mandelbaum, 2012). For these reasons, the [IPU](#) states that “open document standards, such as XML, should be used to prepare proposed legislation and other parliamentary documentation. Eventually all documentation and media should be made available using open standards.” The [IPU](#) also calls specifically for countries to provide on their parliament’s website the ability for “high-speed downloading of parliamentary files,” a suggestion echoed by the [Declaration on Parliamentary Openness](#).

Recommendations

Parliaments may take a number of steps to provide parliamentary information in open formats; in particular, parliaments may wish to:

1. **Create a policy for ensuring that parliamentary information is provided using “open data” principles.** Several parliaments and governments have issued directives or policies to help govern principles on open data. These policies cover issues such as which information is to be provided in which format, where, and how.
2. **Create specific websites where citizens can access legislative data in open formats,** similar to how governments have created open data portals. This can serve as a means for fostering public discussions on open data and how the parliament can begin to serve the data needs of its citizens.
3. **Provide bulk download and/or API (application programming interface) access to parliamentary data.** Access to raw parliamentary data is essential to developers interested in creating websites that help citizens understand and analyse parliamentary information. Providing bulk access to the raw data is an easy and low-cost way to ensure access to the data, while creating an API can be more costly, but can also be useful in some circumstances.
4. **Consult and consider publication in a format that is interoperable internationally.** The United Nations (UN) has supported the creation of the Akoma Ntoso standard for all legal documents, which provides the basis for the Brazilian government’s open documentation standard and is in use by a growing number of parliaments.

Standards & Guidance

- Declaration on Parliamentary Openness <http://openingparliament.s3.amazonaws.com/docs/declaration/commentary-20120914.pdf>
- Global Centre for ICT in Parliament: World e-Parliament Report 2012 <http://www.ictparliament.org/WePReport2012>
- Inter-Parliamentary Union: Guidelines for Parliamentary Websites <http://www.ipu.org/PDF/publications/web-e.pdf>

Country Examples

- The Brazilian Chamber of Deputies has an open data standard and an open data webpage <http://www.opengovguide.com/country-examples/the-brazilian-chamber-of-deputies-has-an-open-data-standard-and-an-open-data-webpage/>
- The Italian Senate has adopted standards based on the Akoma Ntoso format <http://www.opengovguide.com/country-examples/the-italian-senate-has-adopted-standards-based-on-the-akoma-ntoso-format/>
- The Senate of Italy publishes legislative data on its own open data portal <http://www.opengovguide.com/country-examples/the-senate-of-italy-publishes-legislative-data-on-its-own-open-data-portal/>
- The UK National Archives makes a range of legislative documents available on its legislation.gov.uk website <http://www.opengovguide.com/country-examples/the-uk-national-archives-makes-a-range-of-legislative-documents-available-on-its-legislation-gov-uk-website/>
- The US Library of Congress has launched a challenge to help improve Akoma Ntoso’s support of US and UK legislative data <http://www.opengovguide.com/country-examples/the-us-library-of-congress-has-launched-a-challenge-to-help-improve-akoma-ntosos-support-of-us-and-uk-legislative-data/>

Advanced Step: Conduct targeted outreach to youth and historically marginalized communities

Justification

Beyond developing new mechanisms to encourage engagement of those already interested in parliamentary action, parliaments must also seek to reach constituencies that are less engaged in parliamentary work, particularly those in historically marginalized communities. In some countries, as in Romania, parliaments have adopted electoral rules that aim to ensure the participation of marginalized or minority groups (Protsyk, 2010a). Others seek to demonstrate symbolic respect for minorities, by, for instance, flying a minority flag (Protsyk, 2010b). But encouraging historically marginalized groups to participate in parliamentary work can be aided by the adoption of routinized practices for conducting outreach and engagement of these groups.

Recommendations

1. **Conduct targeted outreach to marginalized communities**, i.e., through school outreach programs intended to advance civic education.
2. **Use non-official languages to include minority populations**, or conduct hearings in non-official languages on issues that are of interest to a particular minority community (such as immigration reform) that does not speak the official language.
3. **Engage in targeted outreach to youth** to engage them more directly in political life through legislator back to school programs, youth parliaments or other activities seeking to engage the youth in political decision making.
4. **Assess particular challenges for a person of average means to enter parliament as a representative**, and take affirmative actions to ensure equality of opportunity for a country's citizens to serve in the legislature.
5. **Explore creative processes, such as citizen juries, to amplify voices** that might not otherwise be able to contribute to legislative debate.

Country Examples

- In the U.S. the 'America's Legislators Back to School' programme enables legislators to meet with young people <http://www.opengovguide.com/country-examples/in-the-u-s-the-americas-legislators-back-to-school-programme-enables-legislators-to-meet-with-young-people/>
- The Mexican Senate is translating parliamentary documents to indigenous languages <http://www.opengovguide.com/country-examples/the-mexican-senate-is-translating-parliamentary-documents-to-indigenous-languages/>
- The U.S. state of Oregon aims to improve political participation through its Citizens' Initiative Review <http://www.opengovguide.com/country-examples/the-u-s-state-of-oregon-aims-to-improve-political-participation-through-its-citizens-initiative-review/>

Advanced Step: Develop digital platforms and capacities to enable citizen engagement with parliament

Justification

Recognizing that interaction between citizens and their representatives enhances the work of parliament, many parliaments are seeking to institutionalize citizen participation both through development of new platforms for citizen parliamentary work and through integration of social media. The Global Centre for ICT in Parliament (2010) recommends that parliaments employ “all available tools, including new media and mobile technologies, to provide citizens with improved access to the work of parliament and means of participation in the political dialogue.”

The methods that parliaments are adopting to improve parliamentary consultation of citizens are varied, but many parliaments are adopting the use of digital technologies as low-cost ways to reach citizens in various geographic locations or who lack the means to participate in-person. As noted by the Secretary General of the Inter-Parliamentary Union in the preface to its Social Media Guidelines for Parliament, “One lesson that parliaments have learned from their efforts to engage citizens is the following: you cannot wait for the people to come to parliament; you need to go where the people are. In 2013, the people are on social media. More than one billion to date and the number continues to grow exponentially.” (Williamson, 2013). These tools are most effective when integrated with the parliament's workflow. For instance, many parliaments and PMOs are finding that new technologies can complement in-person interaction between citizens and representatives by allowing citizens to provide comments or annotations in the text of draft legislation, or by providing citizens the opportunity to submit letters or questions to representatives in a public forum.

Recommendations

Actions that countries have taken include:

- **Develop a robust institutional social media presence**, drawing on the principles contained in the IPU's Social Media Guidelines for Parliaments. While individual parliamentarians oftentimes use social media to engage with citizens, social media provides an opportunity for the institution of parliament to reach out to citizens and build interest in their work.
- **Create an e-petition website with low barriers to participation**. Websites that allow citizens to propose and vote on legislation to come before parliament are gaining traction in a number of countries. In some instances, they raise debate on issues that might otherwise not be tabled.
- **Create a platform for citizens to contribute ideas in the mark-up of draft legislation**.

Standards & Guidance

- Declaration on Parliamentary Openness <http://openingparliament.s3.amazonaws.com/docs/declaration/commentary-20120914.pdf>

Country Examples

- Brazil's e-Democracia platform allows citizens to comment on draft legislation <http://www.opengovguide.com/country-examples/brazils-e-democracia-platform-allows-citizens-to-comment-on-draft-legislation/>
- Finland set up an e-petition platform that enables citizens to propose legislation <http://www.opengovguide.com/country-examples/finland-set-up-an-e-petition-platform-that-enables-citizens-to-propose-legislation/>
- In Croatia there is widespread collaboration between parliamentarians and civil society representatives <http://www.opengovguide.com/country-examples/in-croatia-there-is-widespread-collaboration-between-parliamentarians-and-civil-society-representatives/>
- The European Parliament runs live chats on Facebook with MEPs <http://www.opengovguide.com/country-examples/the-european-parliament-runs-live-chats-on-facebook-with-meps/>

Advanced Step: Ensure that parliamentary openness procedures are in line with international good practice

Justification

Parliaments must constantly renew their commitments to openness, transparency and citizen engagement. Due to the rapid pace of technological change, there's a need clear for periodic reviews of policies that influence parliament's ability to engage; and it is often helpful to institutionalize this process for periodic review. The [Declaration on Parliamentary Openness](#) states that "Parliamentary transparency policies shall be publicly available and shall specify terms for their periodic review to take advantage of technological innovations and evolving good practices." As early as 2004, the conclusions of a 2004 Commonwealth Parliamentary Association and World Bank Institute study group on access to information noted that "[c]onsideration should be given to regular parliamentary review, for example on a biannual basis, of implementation of the access to information regime." (Mendel, 2005). The Global Centre for ICT in Parliament (2010) has also established that parliaments should elaborate "strategic plans, updated regularly, for the use of ICT that directly improve the operational capacity of parliaments to fulfil their legislative, oversight, and representational responsibilities."

Recommendations

1. **Institutionalize a regular legislative openness review**, in the rules of procedure or in other procedures and practices that involve the participation of local civil society experts, leading to both changes in policies and potential commitments.
2. **Actively engage with the government in the development of parliamentary openness commitments in future OGP action plans**; either fully integrated into the countries action plan or as a separate appendix, focused solely on the legislature.
3. **Conduct a parliamentary information audit** to ensure that necessary information is made available in accordance with international good practice.
4. **Form or formally task a committee or other body within parliament to monitor parliamentary openness** and citizen engagement efforts.
5. **Engage in international fora dedicated to sharing international good practice**, including the OGP Legislative Openness Working Group, to actively learn from other peer institutions regarding emerging best practice on parliamentary openness.

Standards & Guidance

- Declaration on Parliamentary Openness <http://openingparliament.s3.amazonaws.com/docs/declaration/commentary-20120914.pdf>
- Global Centre for ICT in Parliament: World e-Parliament Report 2012 <http://www.ictparliament.org/WePReport2012>

Country Examples

- Many parliaments have institutionalised responsibility for transparency and openness <http://www.opengovguide.com/country-examples/many-parliaments-have-institutionalised-responsibility-for-transparency-and-openness/>
- The U.S. House of Representatives has clearly defined its standards for posting electronic information <http://www.opengovguide.com/country-examples/the-u-s-house-of-representatives-has-clearly-defined-its-standards-for-posting-electronic-information/>

Innovative Step: Develop and share open-source parliamentary software

Justification

Open-source software refers to software whose source code (its instructions) can be freely modified and distributed. While the majority of users of parliamentary data train their focus on the contents of that data, the use of open-source software enable citizens to understand how that data is being used by parliament and to create adaptations to the software so that they can view it in the way they find most beneficial. Unlike many proprietary software solutions that restrict data use, most open-source software allows data to remain open, an advantage that benefits users and the parliament in case the parliament decides to shift its data to another platform in the future. Open-source software has the added advantage of being shareable among parliaments, thus potentially reducing the cost of adoption of new technologies by many parliaments.

According to the [World e-Parliament Report 2012](#), "...shared applications that are based on open source or commercial software may enable parliaments to acquire more easily many of the tools needed to support the work of their members and staff." While few parliaments have taken the innovative step of using open-source software, many governments have employed the [CKAN](#) open-source data portal software. Managed by the Open Knowledge Foundation, CKAN "is used to power official data portals by national and local governments in the UK, Brazil, the Netherlands, Austria, the US, and elsewhere, as well as by other organisations and data communities wanting to publish or collaborate with data.

Recommendations

1. **Go open source.** Develop a source code policy recommending that new software purchased by parliament be open source, where open-source solutions exist.
2. **Facilitate the exchange of code that helps to make parliamentary information more usable.**

Standards & Guidance

- Consumer Financial Protection Bureau: The CFPB's source code policy <http://www.consumerfinance.gov/blog/the-cfpbs-source-code-policy-open-and-shared/>

Country Examples

- Dominican Republic, Uruguay, Suriname and Ecuador have been testing 'Bungeni' for managing legislative information <http://www.opengovguide.com/country-examples/dominican-republic-uruguay-suriname-and-ecuador-have-been-testing-bungeni-for-managing-legislative-information/>
- The code for the UK Government's GOV.uk platform was released on github <http://www.opengovguide.com/country-examples/the-code-for-the-uk-governments-gov-uk-platform-was-released-on-github/>
- The European Parliament has provided open source access to its legislative mark-up tool <http://www.opengovguide.com/country-examples/the-european-parliament-has-provided-open-source-access-to-its-legislative-mark-up-tool/>
- The US Congress is developing an online crowdsourcing legislative platform <http://www.opengovguide.com/country-examples/the-us-congress-is-developing-an-online-crowdsourcing-legislative-platform/>

Innovative Step: Enable citizens to engage with parliaments and MPs using mobile

| and SMS technology

| Justification

It is important to keep citizens apprised of parliamentary developments as they occur, and it is part of parliament's responsibility to provide information in a timely manner. This can be done effectively by using alert services using mobile phones or email. The IPU recommends parliaments use alert services: "Alerting services, such as email, RSS, or other appropriate technologies that enable members and the public to be informed about important parliamentary actions such as the introduction of, and changes to, the status and text of legislation; members' activities; committee activities; oversight and scrutiny activities; and plenary activities." The Office for Promotion of Parliamentary Democracy also cites alert services as a crucial modern technology tool that parliaments increasingly use to enhance openness.

| Recommendations

1. **Create a system that allows citizens to SMS in their concerns** or to push out tailored legislative updates to subscribers on specific issues.
2. **Develop a system for receiving citizen input** on draft legislation or on general concerns through SMS.

| Country Examples

- The UK Parliament has developed an app that enables citizens to view the parliamentary agenda on the iPad <http://www.opengovguide.com/country-examples/the-uk-parliament-has-developed-an-app-that-enables-citizens-to-view-the-parliamentary-agenda-on-the-ipad/>
 - The 'Congress app' provides profiles of all members of the U.S. Congress and updates on congressional action <http://www.opengovguide.com/country-examples/the-congress-app-provides-profiles-of-all-members-of-the-u-s-congress-and-updates-on-congressional-action/>
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Police and public security

 **Lead author:** [Open Society Foundation](#)

Introduction

Across the globe, the primary point of contact many citizens have with their government is a police officer. Competent, honest and effective law enforcement is a mainstay of the rule of law. Insufficient or ineffective investment in the public security sector can result in weak or non-functioning security institutions, unable to respond to or deter crime and violence. Given the extraordinary power and authority vested in the police, accountability is particularly important in addressing problems of corruption, discrimination, abuse of power and anti-democratic use of police. For these to be exposed and addressed requires sound governance and accountability of the police, supported by transparency

Countries organise their police systems in different ways. Most of them have more than one police force, for example national, state or regional police, local or municipal police, gendarmerie, and judicial police. Some also undertake military duties, and in some cases military forces may supplement national police forces in national emergencies or, in specific circumstances that are clearly defined and restricted under law, help carry out basic police functions. There may also be special police forces or units such as tax and military (or para-military) and drug enforcement police. Whatever the form the police and public security forces take, it is important that information about laws and the way they are enforced is open to the public, and that policing is accountable. As with any other public service, the police force is paid for by the public and therefore should be ultimately accountable to citizens. Issues of security and safety are of profound concern to the entire population but are often 'owned' by police and political authorities.

Key principles of democratic policing are;

- Police give priority to serving the needs of individual citizens and private groups
- Police are accountable to law
- Police respect and protect human rights, particularly those necessary for unfettered democracy
- Police are professional and transparent in their activities (Bruce and Nelid, 2005)

The establishment and consolidation of democratic policing require that governments see the police as an instrument for protecting the safety and democratic rights of the people, and establish mechanisms and institutions to ensure that police are accountable and act with integrity. A further concern is that police themselves are fairly treated by their own institution – police corruption often takes a heavy toll on officers' conditions of service – and this in turn has direct outcomes for service delivery and police efficiency.

Going beyond this, it is increasingly recognised that community participation is crucial to enhancing safety and public order, solving and preventing crime. Police departments enjoy greater support when the public understand police procedures, believes that they are fair and that officers are held accountable for their actions and performance. Active participation by local people requires a new approach to policing (often termed 'community policing') in which the police are better integrated into communities, are seen to listen and respond to concerns, and actively engage people and communities. This involves a change in organisational values, management style, training and evaluation of police officers. The benefits of this approach come in better community relations, improved police legitimacy and public support, more effective problem solving and increased information for the police (OSCE, 2008).

New technologies open up new opportunities for collecting evidence, targeting police resources and enhancing efficiency, and monitoring the performance and conduct of police, but they also raise important privacy concerns, which need to be addressed with robust safeguards.

References

Bruce, D and Neild, R, 2005, The Police we Want: A handbook for oversight of police in South Africa, Centre for the Study of Violence and Reconciliation

OCSE, 2008, Good Practice in Building Police-Public Partnerships, OCSE. <http://www.osce.org/spmu/32547>

Expert Organisations

Open Society Foundation <http://www.opensocietyfoundations.org>

United Nations Office on Drugs and Crim <http://www.unodc.org>

OSCE Polis <http://polis.osce.org>

Transparency International <http://www.ti-defence.org/publications/1431-arresting-corruption-in-the-police>

Altus <http://www.altus.org>

International Network to Promote the Rule of Law <http://www.inprol.org>

DCAF <http://www.Dcaf.ch>

Summary of illustrative commitments

Initial

- Publish all laws setting out law enforcement powers and complaints and whistleblower procedures in relation to policing
- Publish basic information on police budgets, personnel and crime

Intermediate

- Develop a system of regular public surveys about crime and policing
- Establish integrity provisions for police officers, in line with international good practice
- Establish more extensive proactive disclosure requirements for police

Advanced

- Publish comprehensive national crime statistics to international standards

Innovative

- Create on-line crime and policing maps
- Establish safeguards to ensure that new technologies used for police surveillance respect the right to privacy

Detailed Recommendations

Initial Step: Publish all laws setting out law enforcement powers and complaints and whistleblower procedures in relation to policing

Justification

Democratic policing requires that all citizens are treated according to established procedures, regardless of who they are and who the individual police officer is. Procedures and training should ensure that members of the public are treated with dignity and respect and ensure that all people are treated with dignity and respect and engaged with due care for their safety concerns and for their rights in encounters with police officers.

Ensuring that the laws and regulations that describes the nature and extent of police powers are robust and well-understood is critical to enabling citizens to feel confident of their rights in relationship to the police

The great majority of individuals involved in policing are committed to honourable and competent public service and consistently demonstrate high standards of personal and procedural integrity and still more would do so given the right institutional support and training, but in every policing agency there needs to be safeguards to ensure honesty and professionalism. Robust complaints mechanisms and the means to identify individual officers are crucial to enable individuals to register complaints where police abuse their powers.

Recommendations

1. **Publish all laws and regulations setting out police powers and adopt such laws where these do not exist.** These should cover internal regulations and procedures (such policies and standards on key police powers including ID checks, searches, arrest, detention, and the regulation of public demonstrations among others; and regulations concerning the private security sectors).
2. **Provide information to citizens on the official complaint mechanism** (including where and how to file a complaint, protection for whistleblowers, the process for reviewing complaints, time-frames for adjudication). Display information on police conduct and the right to complain prominently in police stations and online, including in holding cells or police lockups. Such information should also be readily available externally (in non-police settings), not solely on-line, particularly in those settings with limited literacy and/or internet access. Information should be provided in accessible (non-legal) terms and in all frequently used local languages.
3. **Require that all police personnel are publicly identifiable** through wearing badges with names or ID numbers clearly visible. This should include senior management, district and regional chiefs and patrol officers.
4. **Require that private security personnel are also clearly identifiable** by company name and badge number or name.
5. **Ensure that police officers and other police service employees are included within whistleblower protection legislation** and that these procedures are well publicised.

Standards & Guidance

- Council of Europe's European Code of Police Ethics <http://polis.osce.org/library/f/2687/500/CoE-FRA-RPT-2687-EN-500>
- Government Accountability Project: International Best Practices for Whistleblower Policies http://www.whistleblower.org/storage/documents/Best_Practices_Document_for_website_March_13_2013.pdf
- Interpol: Global Standards to Combat Corruption in Police Forces/Services <http://www.interpol.int/Media/Files/Crime-areas/Corruption/Global-standards-to-combat-corruption-in-police-forces>
- OECD: G20, Whistleblower Protection Frameworks, Compendium of Best Practices and Guiding Principles for

Legislation <http://www.oecd.org/general/48972967.pdf>

- OGP Eligibility Criteria: Citizen Engagement <http://www.opengovpartnership.org/how-it-works/how-join/eligibility-criteria>
- UN Code of Conduct for Law Enforcement Officials and supplementary guidelines <http://www.un.org/disarmament/convarms/ATTPrepCom/Background%20documents/CodeofConductforlawEnfOfficials-E.pdf>
- UNODC: Criminal Justice Toolkit <http://www.unodc.org/unodc/en/justice-and-prison-reform/Criminal-Justice-Toolkit.html>

Country Examples

- In Brazil police stations show photographs of the team of officers <http://www.opengovguide.com/country-examples/in-brazil-police-stations-show-photographs-of-the-team-of-officers/>

Initial Step: Publish basic information on police budgets, personnel and crime

Justification

Basic information on budgets, line accountability and crime rates is necessary in order to assess the costs of policing and distribution of law enforcement resources relative to public safety needs as well as to other spending priorities. Lines of authority and the chain of command should be published so that responsibility is clear. Such data should cover all police agencies, including intelligence services, which should be statutorily established and subject to parliamentary oversight. This data must be accessible and published in a timely manner

Basic data gives the public some means to judge the performance of their police forces. Public data about police performance also means that the police can receive credit from the public when they are successful. Care, however, must be taken to avoid perverse incentives, a risk especially when activity measures are set as key performance indicators. (Reliance on clearance rates, or use of total numbers of identity checks irrespective of their outcomes, for example, are commonly used as productivity measures and drive discriminatory and abusive police practices as well providing little insight into actual safety outcomes.)

Recommendations

1. **Publish basic budgets and lines of leadership and authority** for national police force(s). Information on the station commander and teams can also be made public at station of local level.
2. **Publish basic data on number of personnel** (distinguishing sworn officers, administrative staff, officers in intelligence agencies and other law enforcement units); number of police officers per capita and by region; names and functions of special units; numbers of officers assigned to each; weapons and non-lethal equipment assigned to officers.
3. **Publish the number of recorded crimes**, breaking out violent crime from property crime, and within violent crime, noting numbers of homicides and rapes and other gender violence and hate crimes. Publicly available guidance should set out definitions that support consistent recording of types of crimes, and audit systems should support checks to make sure that there is no deliberate mis- or under-recording.
4. **Publish the arrest rate and clearance rate** (rate of handling cases and outcomes following arrest such as referrals for prosecution versus cases dropped) on an ongoing basis and in a timely and accessible manner. Also, awards such as medals or out-of-turn promotions should be made public.

All data should be published in a timely and accessible manner, taking into account local languages and levels of internet

access. Posters, noticeboards and the media should be used for key information, in addition to websites.

Standards & Guidance

- UNODC: Criminal Justice Toolkit <http://www.unodc.org/unodc/en/justice-and-prison-reform/Criminal-Justice-Toolkit.html>

Country Examples

- The National Crime Records Bureau in India publishes annual reports on crime, deaths and imprisonment <http://www.opengovguide.com/country-examples/the-national-crime-records-bureau-in-india-publishes-annual-reports-on-crime-deaths-and-imprisonment/>

Intermediate Step: Develop a system of regular public surveys about crime and policing

Justification

Citizens expect the police to reduce crime and to be fair and sensitive to the needs of people in all interactions. Public satisfaction surveys provide a means to assess the quality of these interactions, allowing citizens to have a voice in policing and generating timely feedback regarding police performance that can be used by local agencies to enable performance management, and as a means of accountability. Creating a visible mechanism for community input can help to build trust, transparency, and legitimacy. Citizen surveys can also provide information on crime levels, as many crimes are not reported to the police.

While one-time surveys can provide a useful snapshot, the most effective systems enable ongoing and timely feedback which tracks performance over time. Surveys can be complemented by information such as crime maps, and information on precautions taken against victimization.

Recommendations

1. **Design crime and police satisfaction survey** to provide regular, actionable timely data that can be used by local police forces, as well as offering aggregate measures of national performance.
 - Independent researchers and guaranteed anonymity are crucial in enabling people to speak freely.
 - Surveys and sampling methods should be designed to capture feedback from across all members of the public. They can include both representative surveys (such as telephone based research) and customer satisfaction surveys enabling people who have had specific contact with police to feedback on the experience. Focus groups can provide more detailed feedback on particular issues or from particular groups of citizens (such as young people, or particular ethnic groups).
 - Consider using web-based, telephone and automated surveys to save costs and reduce the turn-around time to agencies (where these do not exclude persons without such access and/or skew sampling).
 - Ensure that the survey is well publicised to people who have had encounters with the police and that it is available in local languages.
2. **Publish results regularly and hold meetings with citizens and civil society organisations to discuss them.**

Country Examples

- Australia holds regular satisfaction surveys on policing <http://www.opengovguide.com/country-examples/australia-holds-regular-satisfaction-surveys-on-policing/>

Intermediate Step: Establish integrity provisions for police officers, in line with international good practice

Justification

As public servants whose mandate it is to uphold law and order the police are awarded a particular trust by the public. Police work by its nature is often intrusive on communities and individuals – involving investigative work, searching premises, stopping suspects, controlling demonstrations and dealing with vulnerable individuals. Maintaining integrity and trust is paramount. Police forces face considerable threats from external corruptors. Examples include organised crime, drug dealers and syndicates, media who pressure to gain access to information, criminals trying to influence the outcomes of investigations and those who engage in criminal activity amongst police officers such as steroid dealing. Opportunities to accept or extort bribes from citizens are manifold (Transparency International, 2012). Other corruption risks may be embedded in police culture, including a professional ‘code of silence’, a perception among police officers that some aspects of their improper behaviour are acceptable in the cause of the greater good in order to gain information or to ensure a conviction.

In too many countries the police force is seen as routinely corrupt, and in others trust in the police has been damaged by a few high profile scandals. Police forces therefore need clarity and consistency about what constitutes integrity and how this is to be instilled in their activities.

Police forces also increasingly outsource of police key functions. This can present increased integrity risks during the procurement process and because the police need to rely on private partners to uphold integrity standards in operation. Conflicts of interest may also arise when senior officers retire and move into the private sector provision of security services.

Recommendations

Since each country faces different challenges in addressing corruption in the police force, there is no “one-size fits all” template for action. National reform strategies need to be developed through domestic analysis and development of long term change programs. Key elements that have achieved success are:

1. **Adoption of police integrity codes**, supported by guidance in line with accepted anti-corruption codes and systems.
2. **Creation of robust systems** to identify, monitor and manage risks (including issues such as improper disclosure of information, gratuities, hospitality, contracting and secondary employment). Implementation of such systems supported by internal communication and training, development of complaints and whistleblowing channels, internal controls and sanctions and oversight.
3. **Internal transparency** in the form of open consultation and communication between all ranks of the police force can make corruption more difficult to conceal, and can help to restore the confidence and morale of a service suffering from public scandal.
4. **Asset disclosure and conflict of interest systems** for police officers and senior management.
5. **Involvement of civil society** in developing the case for reforms, keeping up the pressure and helping to mobilise public support and engagement.
6. **Technology can be used to support anti-corruption measures in the police.** Examples include cashless systems for paying fines and permit fees, CCTV and body-worn cameras.

7. **Police officers must have access to their performance appraisal reports.** Merit-based career advancement is a crucial incentive for ensuring democratic and accountable policing.

Standards & Guidance

- DCAF: Overseeing Intelligence Services: A Toolkit <http://www.dcaf.ch/Publications/Overseeing-Intelligence-Services-A-Toolkit>
- Public Office, Private Interests: Accountability through Income and Asset Disclosure [http://star.worldbank.org/star/sites/star/files/Public Office Private Interests.pdf](http://star.worldbank.org/star/sites/star/files/Public%20Office%20Private%20Interests.pdf)
- TI: Arresting corruption in the police – The global experience of police corruption reform efforts http://issuu.com/tidefence/docs/2012-11_arrestingcorruptioninpolice

Country Examples

- In India police officers are included in income and asset declaration requirements <http://www.opengovguide.com/country-examples/in-india-police-officers-are-included-in-income-and-asset-declaration-requirements/>
- The UK established a new integrity package for the police in 2012 <http://www.opengovguide.com/country-examples/the-uk-established-a-new-integrity-package-for-the-police-in-2012/>

Intermediate Step: Establish more extensive proactive disclosure requirements for police

Justification

Publication of information—about the structures and numbers of police personnel, salary scales, seized assets, persons in detention, and measures of core activities of the criminal justice system—is one of the most powerful ways to protect against corruption and mismanagement in police forces. The publication of such information supports more informed discussion of operational approaches, and improves public perceptions of the police. For instance, comparing police budgets, and crime and arrest data can enable the public to raise questions about efficiency and good management, and assess whether the information suggests good policy or, to the contrary, mismanagement and corruption.

Detailed information about patterns of criminality, including distribution, and level and rates of crime allow citizens to assess whether remedial approaches being taken are effective and whether the police are addressing crimes that affect most people, or targeting special interests or groups to their advantage or disadvantage.

Recommendations

1. **Establish requirements or include police services in existing requirements for proactive disclosure of information.**

Key information that should be disclosed includes:

- Basic pay scales, qualifications for entry to the police, recruitment and promotions processes should be public.
- Data on crime disaggregated by age, sex, weapon used if any, and locality.
- Data on persons held in police detention, with length of detention, age, sex and geographic district.
- Data about assets seized by the police (including real estate, cars, weapons, drugs, and cash)
- Statistical data on complaints against police, both those received directly by police and those made to

prosecutors, independent complaint bodies and ombudsmen offices, including reasons for those complaints and their disposition (including rejected, substantiated, mediated, upheld) and all disciplinary actions taken against officers at all rank levels, and including senior civilian management staff and political appointments at ministerial or cabinet level. Individual information should respect privacy rights of officers.

- Data on use of enhanced or special powers to fight organised crime, terrorism and other specialised authorities with figures on the frequency, numbers and categories of targets, duration, cost and outcomes. Data on the use of wiretapping, interception of telephone or internet communications, emails, should be also made public.
 - Information on the procurement rules, regulations and procedures. All tenders and major acquisitions should be public, also the names of companies winning contracts, including names of all private companies contracted to provide public security services.
2. **Information should be disclosed in a systematic fashion on-line and made available locally through media and posting at police stations.**
 3. **Police archives should be statutorily obliged to de-classify all information related to the police and secret services after a fixed period established by law**, subject to extension only in exceptional circumstances, and filing those archives with the regular civil archive services. Rules for classification of police and related agencies' data should be established in law and publicly available.

Standards & Guidance

- DCAF: Overseeing Intelligence Services: A Toolkit <http://www.dcaf.ch/Publications/Overseeing-Intelligence-Services-A-Toolkit>
- UNODC: Criminal Justice Toolkit <http://www.unodc.org/unodc/en/justice-and-prison-reform/Criminal-Justice-Toolkit.html>

Country Examples

- Austria has published information on the use of special investigative means <http://www.opengovguide.com/country-examples/austria-has-published-information-on-the-use-of-special-investigative-means/>
- Germany publishes an annual statistical yearbook on crime <http://www.opengovguide.com/country-examples/germany-publishes-an-annual-statistical-yearbook-on-crime/>
- In Bulgaria publishes data on permissions granted for electronic surveillance <http://www.opengovguide.com/country-examples/in-bulgaria-courts-are-publishing-information-about-the-number-of-permissions-granted-to-the-police-to-wiretap-telephone-conversations-and-electronic-communications/>
- The monthly criminal intelligence gazette is published by the West Bengal police <http://www.opengovguide.com/country-examples/the-monthly-criminal-intelligence-gazette-is-published-by-the-west-bengal-police/>
- The UK sets 'annual data requirements' for police forces <http://www.opengovguide.com/country-examples/the-uk-sets-annual-data-requirements-for-police-forces/>

Advanced Step: Publish comprehensive national crime statistics to international standards

Justification

Timely information about national crime statistics is essential in order to be able to track and address overall trends and sub-trends, and compare criminal patterns across countries. Victimisation surveys are important complements to police and criminal justice data that capture only recorded crime and not the large number of unreported incidents that exist in every setting. Criminal justice systems include many components that do not work independently and problems frequently arise in coordination between various steps of the criminal justice process. Information that tracks the progress of individuals through the criminal justice system is important both to detect and address abuse and corruption and to support development of more effective and fairer policies.

The collection of ethnic data is a vital tool to detect and address patterns of discriminatory targeting of certain groups for law enforcement attention. Police should not feature the ethnic, religious or political background individuals in their investigations, unless necessary for the investigation and directly relevant to specific offence. The gathering and publication of anonymous ethnic statistics – while an essential tool to monitor discrimination – remains a highly sensitive in many settings where there are valid fears that ethnic data may fuel stereotypes about ethnic or religious identity and offending and the affected communities should have a voice in decisions to gather such data.

Recommendations

1. **All relevant criminal justice authorities (prosecution serves as well as police) should collect and publish more detailed information on criminal justice statistics** from policing through to probation, including the following:
 - Police data. Basic demographic statistics on the police force and administrative staff, including sex, age group, and ethnic group or nationality.
 - Prosecution statistics. Data covering all steps of decision-making by prosecutors, such as initiating and abandoning prosecutions, bringing cases to court, and sanctioning offenders by summary decisions.
 - Detention statistics. Regular data on persons in police custody, in pre-trial detention, and on bail and electronic monitoring, including the legal bases (charges) and length of detention, including basic demographic info about detainees – age, sex, ethnic origin, nationality.
 - Judicial (Court) statistics. Integrated systems of data related to all actors in the criminal justice system.
 - Conviction statistics: data on persons who have been convicted—i.e., found guilty according to law – disaggregated by offence and by sex, age group, and ethnic background or nationality of the offender.
 - Prison authorities or Corrections. Information on numbers in detention, distinguishing juveniles and women, type of facility (e.g., high, medium or minimum security, early release decisions, and numbers of persons on probation. Figures should enable analysis of repeat offending and cycling through the criminal justice system.
2. **Compile and publish annual victimisation surveys/crime reports so that overall trends and sub-trends can be monitored.**
3. **Make national crime data bases, including victimisation surveys, open and accessible** to academic researchers and civil society organisations and the general public, and further publication should be permitted without restrictions.
4. **Provide geo-referenced or mapped crime data.**
5. **Publish evaluations of management quality, resource allocation and effectiveness** as measured against public safety and crime outcomes.
6. **Data sets should be available online in open formats** that are easily downloaded for comparing and contrasting with other government data sets.
7. **Submit data to the UN Office on Drugs and Crime for the International Crime and Victimisation Survey** and to relevant regional organisations (OSCE; Council of Europe – CEPEJ).
8. **Make police and crime info available in commonly-used languages.**

Country Examples

- The UK conducts annual surveys of experience and attitudes to crime <http://www.opengovguide.com/country-examples/the-uk-conducts-annual-surveys-of-experience-and-attitudes-to-crime/>
-

Innovative Step: Create on-line crime and policing maps

Justification

New technologies are making information gathering and provision accessible to the general public in close to real time. These technologies enable the release of a greater level of detail, and ways to make police responses and resource allocation easily visible to local communities and the public.

Recommendations

1. **Geo-code police crime data.**
2. **Enable on-line mapping of reported crime and of police use of discretionary statutory powers**, such as stops, frisk and searches such that police-initiated actions may be assessed against crime patterns by the public at large.
3. **Allow raw data (suitably anonymised) to be downloaded as open data.**

Country Examples

- The www.police.uk website provides street level information about crime and justice outcomes <http://www.opengovguide.com/country-examples/the-www-police-uk-website-provides-street-level-information-about-crime-and-justice-outcomes/>
-

Innovative Step: Establish safeguards to ensure that new technologies used for police surveillance respect the right to privacy

Justification

Police organisations collect, hold, or have access to a significant amount of information, some of it of a private nature about victims, witnesses, crimes, and suspects, and much of it confidential. This information must be lawfully collected and used for only as far as is necessary and proportionate for law enforcement, and must be safeguarded from being misappropriated by criminals, journalists or private investigators, or for use by politically motivated State forces.

Technology developments are changing the nature of this information. People now transmit vast amounts of digital data about themselves and leave trails of metadata about their whereabouts, their contacts, and their transactions. Other data can be more cheaply collected, digitised and analysed, RFID tags enable individual products to be tracked, DNA can be sequenced, while facial recognition and number plate recognition software enable data mining of CCTV images. Taken alone or analysed collectively this data can be used to reveal a person's identity, behaviour, associations, physical or medical conditions, race, color, sexual orientation, national origins, or viewpoints; or enable the mapping of the person's location, movements or interactions over time.

These technologies can play an important role in preventing and detecting crime and enabling justice. They have also been used to support more accountable policing, for example there is early promising evidence from pilots of police officers using body-worn cameras that this encouraged lawful and respectful interaction and reduced the use of force.

However all of these technologies also raise privacy concerns. Pervasive or systematic monitoring has the capacity to reveal private information far in excess of its constituent parts, leaving the application legal principles to new technological contexts inadequate and unclear. As the development and use of these technologies advance, it is crucial that laws and regulations adhere to international human rights and adequately protect the rights to privacy and freedom of expression. The European Court of Human Rights has acknowledged that the mere collection and storing of personal data, including DNA and photographs, by law enforcement agencies can amount to an interference with the right to privacy. This is even when that data is publicly available and is systematically collected and stored in police files. (*Segerstedt-Wiberg v Sweden* (2007) 44 EHRR 2; *S and Marper v United Kingdom* (2009) 48 EHRR 50)

Recommendations

The following recommendations draw on the 'International Principles' and on 'Tshwane Principles,' Principle 10E.

States should:

1. **Publish sufficient information to enable individuals to fully comprehend the scope, nature and application of the laws permitting communications surveillance.**
2. **Authorise communications service providers to publish the procedures they apply when dealing with surveillance, adhere to those procedures, and publish records of State communications surveillance.**
3. **Publish, at a minimum, aggregate information on the number of requests for communications surveillance approved and rejected, and a disaggregation of the requests by service provider and by investigation type and purpose.**
4. **Establish independent oversight mechanisms to ensure transparency and accountability of surveillance.** Oversight mechanisms should have the authority to access all potentially relevant information about surveillance, to assess whether it is conducted lawfully, and to evaluate whether the State has been transparently and accurately publishing information about the use and scope of communications surveillance techniques and powers. The independent oversight mechanism should publish periodic reports on its findings.

For law enforcement agencies, the operational implications of this include the need to

1. **Review police information security measures in the light of new technologies and techniques** to ensure they remain robust.
2. **Submit new or expanded surveillance techniques or technologies to the scrutiny of the judiciary or other democratic oversight mechanism** to ascertain whether it falls into the realm of complies with constitutional protections and international human rights standards.

Standards & Guidance

- DCAF: Overseeing Intelligence Services: A Toolkit <http://www.dcaf.ch/Publications/Overseeing-Intelligence-Services-A-Toolkit>

Public contracting

 **Lead author:** [Open Contracting Partnership](#)

Introduction

Public contracts play a vital role in the financial health of a country and the lives of its citizens by generating revenues and providing essential goods, works, and services. Public contracts cover all economic sectors and types of agreements, including **procurement, licenses and concessions** and the **sale of public property**. It has been estimated that public contracts procuring goods, works, and services alone are worth approximately USD 9.5 trillion per year. (Kenny, 2012)

Therefore, it is critical that public contracts should be fairly awarded and offer good value-for-money. However, in many countries around the world, public contracting has been identified as the government activity most vulnerable to wastefulness, mismanagement, inefficiency, and corruption. (World Bank, 2011)

Citizens, media, and civil society want to know why a school was not built, why medicines are so expensive, why a road is in disrepair after only one year, or how many local workers the new mine will be hiring. To answer these questions requires access to information contained in contracts and documents related to their procurement and performance. But, in many countries there is limited public information about how contracts are negotiated, what has been contracted for, how they are being performed, and who is responsible. Sometimes even parliamentarians and supreme audit institutions are prevented by confidentiality clauses from understanding how the government is allocating public resources. Likewise, there are few chances for citizens to monitor public contracts.

It is increasingly recognised that 'open contracting' is required for governments to be held accountable for the use of public resources. (OECD, 2007) Disclosure and participation are critical tools to improve the management of public resources and *open contracting* refers to norms and practices for increased disclosure and participation in public contracting. It covers the entire process, including formation, award, execution, performance and completion of public contracts, and the full range of contract types, from basic procurement to joint ventures, licenses and production sharing agreements. Open contracting practices can be implemented at all levels of government and can apply to all public contracting, including contracts funded by combinations of public, private and donor sources.

References

Kenny, Charles with Jonathan Karver, 2012, Publish What You Buy The Case for Routine Publication of Government Contracts, Center for Global Development Policy Paper 011

World Bank, 2011, Curbing Fraud, Corruption, and Collusion in the Roads Sector

OECD, 2007, Integrity in Public Procurement: Good Practice from A to Z

Expert Organisations

Open Contracting Partnership <http://www.open-contracting.org/>

Summary of illustrative commitments

Initial

- Develop a framework for public contracting that ensures a transparent and equitable process
- Recognize the right of the public to access public contracting information

Intermediate

- Proactively disclose core classes of documents and data about public contracting
- Provide capacity building to support stakeholders to understand, monitor and act upon contracting data

Advanced

- Create mechanisms for participation and redress in public contracting

Innovative

- Facilitate funding to support participation in public contracting

Detailed Recommendations

Initial Step: Develop a framework for public contracting that ensures a transparent and equitable process

Justification

Clear, transparent and fair frameworks for public contracting are linked to operational benefits such as saving time and money on finding and processing bids. At the same time transparent processes deter a culture of corruption and create conditions for open competition, supporting the goal of securing goods and services that deliver greater value money. (Kaspar and Puddephatt, 2012) Transparent contracting frameworks should not require excessive bureaucracy which prevents small firms and organisations from competing for tenders, but rather should open up a level playing field.

In awarding licenses in the extractive industries competition among potential investors is crucial to help offset some of the asymmetry regarding access to information that tends to disadvantage governments.(World Bank, 2012)

Recommendations

Public contracting frameworks should be characterised by:

1. Well-defined, concise, and comprehensible regulations, guidelines and procedures that are enforceable and open to public scrutiny.
2. Transparent advertising of opportunities, clear and standardised tender documents and guidelines.
3. Clear and public selection and award criteria.
4. Disclosure of awards.
5. Rationale behind awards.
6. Conflict of interest policies for officials.
7. Mechanisms for appeal and information requests.

Public contracts should be awarded through competitive processes whenever possible.

Information relating to procurement procedures and contracts that have been awarded should be made publicly available.

Standards & Guidance

- OECD Methodology for Assessing Procurement Systems (MAPS) <http://www.oecd.org/dac/effectiveness/45454394.pdf>
- OECD Principles for Integrity in Public Procurement <http://www.oecd.org/gov/ethics/48994520.pdf>
- Open Data Guidelines for Procurement <http://sunlightfoundation.com/procurement/opendataguidelines>

Country Examples

- In Ecuador, the introduction of an e-reverse auction in the purchase of medicines achieved an expenditure reduction of USD 327 million <http://www.opengovguide.com/country-examples/in-ecuador-the-introduction-of-an-e-reverse-auction-in-the-purchase-of-medicines-achieved-an-expenditure-reduction-of-usd-327-million/>
- In Peru public land for sale must be advertised for a minimum of 90 days <http://www.opengovguide.com/country-examples/in-peru-public-land-for-sale-must-be-advertised-for-a-minimum-of-90-days/>

- In Sierra Leone the law requires that oil contracts must be awarded through competitive auctions
<http://www.opengovguide.com/country-examples/in-sierra-leone-the-law-requires-that-oil-contracts-must-be-awarded-through-competitive-auctions/>
 - The Philippine Procurement law requires the proactive publication of key information
<http://www.opengovguide.com/country-examples/the-philippine-procurement-law-requires-the-proactive-publication-of-key-information/>
-

Initial Step: Recognize the right of the public to access public contracting information

Justification

Many countries have enacted access to information laws or regulations, reflecting the growing recognition of the right of citizens to access State-held information. This right has been interpreted as imposing a positive obligation on States to proactively disclose information of public interest, including contracts.

Therefore, it is important that contracting information is made available to the public in as complete a form as possible, with any exceptions or limitations narrowly defined. Where contracting information is exempted from disclosure by government, it is important that citizens, as well as parliaments and other oversight authorities, have recourse to subject the exemptions to impartial review.

Recommendations

1. Adopt rules to make contracts, including licenses, concessions, permits, grants or any other document exchanging public goods, assets, or resources (including all annexes, schedules and documents incorporated by reference) and any amendments accessible to the public, as well as any applicable pre-studies, standard bid documents, performance evaluations, guarantees, and auditing reports.
2. These rules may take the form of a national or sub national level law, that governs all or a particular sector, or agency level policies or guidance.
3. The rules should clearly lay out the circumstances in which contracting information may be exempted from disclosure, provide for reasons to be given for the exemption or redaction, and a mechanism for redress, preferably judicial review.
4. Ensure that laws and policies governing public access to public contracting information are applied to state-owned companies and sovereign wealth funds.
5. Include in model agreements and standard contracting documents language indicating the disclosable nature of the contracting documents.
6. Preclude confidentiality clauses, draft them narrowly to cover permitted exemptions, or include provisions to allow for the contract and related information to be published.

Standards & Guidance

- Open Contracting Principles http://www.open-contracting.org/global_principles

Country Examples

- Denmark's Model License for Exploration & Production of Hydrocarbons contains a standard provision on disclosure

<http://www.opengovguide.com/country-examples/denmarks-model-license-for-exploration-production-of-hydrocarbons-contains-a-standard-provision-on-disclosure/>

- Ethiopia launched a new Procurement Proclamation which requires disclosure of contracting information <http://www.opengovguide.com/country-examples/ethiopia-launched-a-new-procurement-proclamation-which-requires-disclosure-of-contracting-information/>
- In Victoria, Australia disclosure requirements are part of the standard terms and conditions for contracts <http://www.opengovguide.com/country-examples/in-victoria-australia-disclosure-requirements-are-part-of-the-standard-terms-and-conditions-for-contracts/>
- Liberia publishes information on bids and contracts <http://www.opengovguide.com/country-examples/liberia-publishes-information-on-bids-and-contracts/>
- South Sudan enacted a law that makes confidentiality clauses in petroleum contracts invalid <http://www.opengovguide.com/country-examples/south-sudan-enacted-a-law-that-makes-confidentiality-clauses-in-petroleum-contracts-invalid/>
- The Indian Right to Information Act makes contracts disclosable <http://www.opengovguide.com/country-examples/the-indian-right-to-information-act-makes-contracts-disclosable/>
- The UK issues guidance on what information can be exempted from tenders <http://www.opengovguide.com/country-examples/the-uk-issues-guidance-on-what-information-can-be-exempted-from-tenders/>
- Transparency in public contracting is written into the South African Constitution <http://www.opengovguide.com/country-examples/transparency-in-public-contracting-is-written-into-the-south-african-constitution/>

Intermediate Step: Proactively disclose core classes of documents and data about public contracting

Justification

Developing a system of proactive disclosure (meaning that contracts and the other core classes of information are routinely published) has several benefits:

- Promotes equality of access to information as all members of society can access without having to file requests.
- Improves records management system.
- Saves time and money - proactive disclosure may even be more affordable than dedicating staff time to search for documents and evaluate every access to information request individually.[1]

This information needs to be available in a systemized and organized manner so that it can be read and processed by computers and can be easily reused and analyzed by citizens, civil society, the private sector and government.

Many governments are shifting to e-procurement and standardised contracting documents to provide a simple, secure and efficient means for managing the whole procurement process online. This reduces the obstacles to disclosure as documents are already in digital form and are organised with metadata. While e-procurement portals are aimed at bidders, a separate interface should be developed that allows ordinary people to find out about projects or contracts affecting them or their area.

Recommendations

Define core classes of information for proactive disclosure. This should include:

1. **Contracts**, including licenses, concessions, permits, grants or any other document exchanging public goods, assets, or resources (including all annexes, schedules and documents incorporated by reference) and any amendments.
2. **Related documents** such as Pre-studies, standard bid documents, performance evaluations, guarantees, and auditing reports;
3. **Key pieces of information concerning contract formation**, including: The planning process, method of award, scope and specifications for each contract, criteria for evaluation and selection, bidders or participants in the process, their validation documents, and any procedural exemptions for which they qualify, any conflicts of interest uncovered or debarments issued, results of the evaluation, including the justification for the award; and the identity of the contract recipient and any statements of beneficial ownership provided.
4. **Information related to performance of the contract**, including subcontracting arrangements, schedules and milestones, status of implementation, dates and amounts of stage payments made or received, service delivery and pricing, arrangements for ending contracts, final settlements and responsibilities, risk assessments, including environmental and social impact assessments, assessments of assets and liabilities of government, provisions in place to ensure appropriate management of ongoing risks and liabilities; and appropriate financial information regarding revenues and expenditures, such as time and cost overruns.

Develop systems to collect and publish this data in a structured manner on a timely, current, and routine basis and in a form that enables easy use, participation, and analysis.

1. Where feasible, contracting information should be digitized and made available to the public on an online portal.
2. Structured formats such as structured XML and inclusion of all relevant meta-data allows for user-friendly searching and access.
3. Digital information should be retained and made available in perpetuity.
4. Where possible use non-proprietary software applications
5. Where possible, citizens should have the ability to subscribe to services to alert them of certain types of contracting developments through the use of email, SMS text, or other technologies.

Standards & Guidance

- Developing Data Standards for Open Contracting http://www.open-contracting.org/developing_data_standards_for_open_contracting
- OECD Methodology for Assessing Procurement Systems (MAPS) <http://www.oecd.org/dac/effectiveness/45454394.pdf>
- OECD Principles for Integrity in Public Procurement <http://www.oecd.org/gov/ethics/48994520.pdf>
- Open Contracting Principles http://www.open-contracting.org/global_principles

Country Examples

- In Afghanistan the Ministry of Economy is required to publish all contracts <http://www.opengovguide.com/country-examples/in-afghanistan-the-ministry-of-economy-is-required-to-publish-all-contracts/>
- In Colombia the law requires all documentation related with a public contract to be published <http://www.opengovguide.com/country-examples/in-colombia-the-law-requires-all-documentation-related-with-a-public-contract-to-be-published/>
- In Slovakia, government contracts are published online <http://www.opengovguide.com/country-examples/in-slovakia-government-contracts-are-published-online/>
- In the Democratic Republic of Congo, all contracts relating to natural resources are required to be published

<http://www.opengovguide.com/country-examples/in-the-democratic-republic-of-congo-all-contracts-relating-to-natural-resources-are-required-to-be-published/>

- In the UK potential opportunities that might be advertised in the future are published, so that all companies can view the pipeline of opportunities <http://www.opengovguide.com/country-examples/in-the-uk-potential-opportunities-that-might-be-advertised-in-the-future-are-published-so-that-all-companies-can-view-the-pipeline-of-opportunities/>
- Many countries have developed electronic databases of public contracting information <http://www.opengovguide.com/country-examples/many-countries-have-developed-electronic-databases-of-public-contracting-information/>
- Mongolia addresses contracting specifically in its Right to Information Law <http://www.opengovguide.com/country-examples/mongolia-addresses-contracting-specifically-in-its-right-to-information-law/>
- Mongolia addresses contracting specifically in its Right to Information Law <http://www.opengovguide.com/country-examples/mongolia-addresses-contracting-specifically-in-its-right-to-information-law-2/>
- New York City's Checkbook NYC website integrates budgets and contracts <http://www.opengovguide.com/country-examples/checkbook-nyc/>
- The Philippine Procurement law requires the proactive publication of key information <http://www.opengovguide.com/country-examples/the-philippine-procurement-law-requires-the-proactive-publication-of-key-information/>
- The State of Minas Gerais, Brazil requires proactive disclosures about PPP projects <http://www.opengovguide.com/country-examples/the-state-of-minas-gerais-brazil-requires-proactive-disclosures-about-ppp-projects/>

Intermediate Step: Provide capacity building to support stakeholders to understand, monitor and act upon contracting data

Justification

In some cases governments have gone to great effort to make information available to the public, only to have low usage of this information. (Smith, 2011)

In order for information to be useful, citizens must be empowered to access it, must have the capacity to use it, and be incentivised to engage.

Governments can play a key role in empowering people to understand, monitor and act upon contracting data by establishing a program of capacity building to support relevant stakeholders, both within and outside of government. The importance and impact of public contracting is such that it is likely worth the efforts of companies, governments and donors to build citizen capacity and create an enabling environment for participation. For example, civil society may lack the skills necessary to analyse and understand the technical, legal and financial elements of the deals that their government negotiated with companies.

Recommendations

1. Work with CSOs and business organisations to put in place civic education programs for citizens or groups wishing to engage in the monitoring of contracting activities. This engagement can also be used to help identify the most useful contracting information.
2. With regard to individual contracts of significant impact, contracting parties should craft strategies for citizen understanding of the key terms and benefits and engage citizen monitoring groups.

Standards & Guidance

- OECD Principles for Integrity in Public Procurement <http://www.oecd.org/gov/ethics/48994520.pdf>
- OECD Public Engagement for Better Policy and Services <http://www.iadb.org/intal/intalcdi/pe/2009/03785.pdf>

Country Examples

- In the Philippines, both government and private sector are active at training monitors <http://www.opengovguide.com/country-examples/in-the-philippines-both-government-and-private-sector-are-active-at-training-monitors/>

Advanced Step: Create mechanisms for participation and redress in public contracting

Justification

Contracting processes and outcomes can be improved with citizen feedback. Such citizen participation mechanisms complement government oversight and redress mechanisms. Feedback enables projects to be better designed to meet local needs, and issues to be identified in implementation.

Public hearings and consultations are particularly relevant where contracts affect land or delivery of services to a particular constituency. Constituents or affected communities should be invited to participate during the planning and pre-bidding phases, in needs assessments, feasibility studies and environmental and social impact assessment. Their inputs are crucial to ensure that the contracting process ultimately meets needs and delivers to the public good. (Human Rights Watch, 2013)

Civil society and the media can play a significant role in promoting transparency and accountability in public contracting. If issues are observed then government implementing agencies and oversight authorities can be alerted to take action. However often citizens groups seeking to participate in public contracting are frustrated by a lack of legal basis or support for stakeholder participation and hesitance of officials to engage with them.

Recommendations

1. Establish legislation or policies calling for public consultation, civil society observers of public contracting, and civil society monitoring of contract performance, and requiring that public bodies are receptive to these inputs and take corrective action as a result of citizen feedback.
2. Enter into cooperation agreements with civil society organizations to monitor their public contracting.
3. Enact whistle-blower protection mechanisms.
4. Provide a suitable avenue of redress for citizens, including unsuccessful bidders, to resolve contracting issues.

Standards & Guidance

- Open Contracting Principles http://www.open-contracting.org/global_principles
- The Open Contracting Community of Practice <http://pro-act.org/>

Country Examples

- In Colombia citizens' oversight organizations can supervise the entire public contracting process <http://www.opengovguide.com/country-examples/in-colombia-citizens-oversight-organizations-can-supervise-the-entire-public-contracting-process/>
- In Guatemala the government has taken action where multistakeholder reviews found problems in public construction projects <http://www.opengovguide.com/country-examples/in-guatemala-the-government-has-taken-action-where-multistakeholder-reviews-found-problems-in-public-construction-projects/>
- In Mexico "social witnesses" oversee public procurement <http://www.opengovguide.com/country-examples/in-mexico-social-witnesses-oversee-public-procurement/>
- In Mongolia, civil society and professional organizations play a formal role in bid evaluation and contract monitoring <http://www.opengovguide.com/country-examples/in-mongolia-civil-society-and-professional-organizations-play-a-formal-role-in-bid-evaluation-and-contract-monitoring/>
- In the Philippines, citizens participate in all stages of the procurement process and may also observe implementation <http://www.opengovguide.com/country-examples/in-the-philippines-citizens-participate-in-all-stages-of-the-procurement-process-and-may-also-observe-implementation/>
- The Philippine National Textbook Delivery Programme uses citizen participation to improve accountability in public procurement <http://www.opengovguide.com/country-examples/the-philippine-national-textbook-delivery-programme-uses-citizen-participation-to-improve-accountability-in-public-procurement/>
- The UK created a "Mystery Shopper" service to resolve complaints related to procurement processes <http://www.opengovguide.com/country-examples/the-uk-created-a-mystery-shopper-service-to-resolve-complaints-related-to-procurement-processes/>

Innovative Step: Facilitate funding to support participation in public contracting

Justification

A key challenge to sustainability of open contracting remains the lack of sustainable resourcing to enable participation.

Civil society organizations in particular, require funding and there is often competition for limited resources, particularly from the government. However providing direct funding may undermine the role of civil society as independent watchdogs and create the potential for conflicts of interest. In order to preserve this independence, innovative sustainable funding solutions must be reached.

Recommendations

1. Developing countries can opt into the [Global Partnership for Social Accountability](#), a donor-funded grant system that provides strategic and sustained support to beneficiary groups and civil society organizations (CSOs) working with their governments, to promote greater transparency and accountability. This would allow civil society groups to apply for core funding for monitoring activities.
2. Governments, foundations and/or companies could convene, or contribute to a national multi-stakeholder governed fund (potentially from funds set aside from public contracts themselves) from which civil society can apply for funds to undertake this work.

Standards & Guidance

- Global Partnership for Social Accountability <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/CSO/0,,contentMDK:23017716~pagePK:220503~piPK:220476~the>

[SitePK:228717,00.html](#)

| Country Examples

- Seventeen countries have joined the Global Partnership for Social Accountability
<http://www.opengovguide.com/country-examples/seventeen-countries-have-joined-the-global-partnership-for-social-accountability/>
-

Public services

 **Lead author:** [Twaweza](#) and [Involve](#)

Introduction

The provision of public services—such as health care, education, sanitation and criminal justice—is a key task for government. People care about public services and depend on them being delivered well. Public services provide the most common interface between people and the state, and their functioning shapes people's sense of trust in and expectations of government. At a national level, public services underpin human welfare and economic growth.

Public services need to be delivered with integrity, centred around citizens, and responsive to their needs, particularly the needs of the most vulnerable. Promoting greater transparency and enabling ordinary citizens to assess the quality, adequacy and effectiveness of basic services, to voice their needs and preferences and to become involved in innovation offers an opportunity to enable better use of public funds, and improve service delivery (Ringold et al, 2013)

Public services account for a large proportion of government budgets, but increased spending has often not been matched by improvements in outcomes. In the worst case, public services can be bedeviled by corruption which leads to money intended for books, teachers, dispensaries, medical supplies and infrastructure being syphoned off by officials or private contractors (World Bank, 2004). Around the world, children still leave school are unable to read and do basic arithmetic, and the quality of healthcare remains uneven. Data show that just increasing resources, equipment, financial, or personnel, does not guarantee that the quality of education or health care will improve. The quality of service delivery is critical.

Even where the integrity of public resource flows can be secured, approaches to public service delivery designed for a previous age struggle to respond to present day needs driven by complex challenges, such as those created by aging populations, chronic health conditions, mega cities and poverty and inequality.

Public services are traditionally organized in a way that puts the public in a passive role, as the recipient of a standardised service. This contrasts with innovations in other areas of life such as retail, travel and media where people are used to giving feedback on the goods and services they receive, and playing an active role in making choices. Citizens are connected like never before and have the skill sets and passion to solve problems. Local people often know what the solutions to problems in their area, but are rarely empowered by bureaucratic processes, instead facing public services which may be impersonal, irrelevant, and inefficient.

Governments are experimenting with redesigning parts of the system so that citizens can play a more active role as a user community for public services. This can mean participative processes and forums, community monitoring and citizens' budgets, or new forms of commissioning. Technology and open data enable a different kind of participation. Open government data APIs [\[link to topic\]](#) allow anyone to write a citizen-facing application using government data, creating new interfaces to government, and opening up new possibilities. (Lathrop et al, 2010)

However translating information into action is a difficult challenge. The relationships between citizens, policy-makers, program managers, and service providers are complicated and are not easily altered through a single intervention, such as an information campaign or scorecard exercise. (Ringold et al, 2012)

Particular attention needs to be given to human motivation and incentives. Research by Twaweza in Uganda for example found that formal information sources were not seen as particularly influential and citizens are often either too afraid to act, do not consider it their responsibility or do not know what to do. (Twaweza, 2013)

Lathrop, Daniel and Laurel Ruma, 2010, Open Government, Collaboration, Transparency and Participation in Practice, O'Reilly Media https://github.com/oreillymedia/open_government

Ringold, Dena, Alaka Holla, Margaret Koziol and Santhosh Srinivasan, 2012, Citizens and Service Delivery: Assessing the Use of Social Accountability Approaches in Human Development, Washington DC: World Bank

World Bank, 2004, World Development Report 2004: Making Services Work for Poor People, Washington D.C.: World Bank

Twaweza, 2013, Uganda baseline report <http://twaweza.org/uploads/files/TwawezaBaselineReport-AIID-18April13.pdf>

Expert Organisations

World Bank The Participation and Civic Engagement Group <http://go.worldbank.org/FMRAMWVYV0>

OECD <http://www.oecd.org/gov/publicengagement.htm>

Twaweza <http://www.twaweza.org>

Involve <http://www.involve.org.uk>

Feedback labs <http://feedbacklabs.org>

Govlab <http://thegovlab.org/>

South Asia Social Accountability network <http://www.sasanet.org/>

Affiliated Network for Social Accountability in East Asia and the Pacific <http://www.ansa-eap.net/>

Affiliated Network for Social Accountability <http://www.ansa-africa.net>

Summary of illustrative commitments

Initial

- Establish easy feedback mechanisms for public services
- Publish and promote information on the public services people are entitled to

Intermediate

- Involve citizens in the commissioning, design, delivery and assessment of public services
- Provide cooperation to independent monitoring efforts and take action on issues raised
- Publish key public service performance data

Advanced

- Systematically track and publish performance indicators across public services

Detailed Recommendations

Initial Step: Establish easy feedback mechanisms for public services

Justification

User feedback can play an important role in improving public services. User feedback can:

- help service providers to improve their efficiency and effectiveness
- be a source of innovative ideas for the improvement of services
- help commissioners and policy makers to identify issues with policy and/or delivery
- ensure that public resources are spent effectively
- uncover instances of negligence or corruption

Often there are formal complaints mechanisms in place for public services (including the option of contacting political representatives) but these routes require individuals to put a lot of effort into pursuing a complaint, and require them to challenge powerful institutions and professionals. Citizens may not be willing or able to challenge providers if they lack information or time or if they do not feel empowered to do so. Where providers come from more powerful or affluent backgrounds, citizens may not feel in a position to question them, or they may be concerned about the repercussions of giving negative feedback. Many people will simply grumble and accept poor service. Policymakers meanwhile can often have little access to the everyday experiences and realities of a large majority of citizens. This makes it difficult to know whether policies are properly implemented or actually working.

Making it easy for people to give feedback and empowering them to report things that aren't working, without having to escalate it into formal complaint mechanism can create a powerful feedback loop for public services. Feedback mechanisms should be set up that are built around what people already use and like (e.g. mobile phones, markets, prayer groups, schools). Technology opens up new avenues through which citizens can give their views, such as using SMS, and online.

Collecting feedback is only the beginning. Service providers must respond. This often requires culture change on the part of public service deliverers. Receiving feedback from public service users, particularly complaints is often seen as something to be wary of, not celebrated. However effective public sector organisations should view complaints not as a problem, to be ignored, dismissed or under-valued; but as useful early warning signs that something has gone wrong, which then enable public services to engage with citizens (Simmons et al, 2013)

Recommendations

Governments should

1. Require that public service providers put feedback and complaints mechanisms in place and provide data on complaints and feedback received;
2. Conduct comparisons across services.
3. Aggregate public feedback on services to inform policy and/or commissioning decisions
4. Support the development of channels operated independently of service providers and government by civil society, and respond to feedback gathered through mechanisms developed independently.

While feedback mechanisms should be tailored to the specific context, common best practice is to:

- Keep a range of channels open for feedback and complaints, providing choice in the way feedback can be given and

issues raised, and ensuring they are tailored to the needs of users, including disadvantaged groups.

- Make it easy to give feedback and make complaints, for example using use new technology such as SMS messages and websites, as well as through intermediary organisations.
- Ensure that suitable processes and requirements are in place that citizens feedback is acted upon by service providers and policy makers.
- Ensure that the result of user feedback is reported back to users individually (where possible) and collectively Evaluate the use and effectiveness of mechanisms, and adapting and/or replacing as necessary

Standards & Guidance

- Civicus – Monitoring and Evaluating Public Services http://www.pgexchange.org/index.php?option=com_content&view=category&id=59&Itemid=135
- The World Bank: Citizens and service delivery <http://elibrary.worldbank.org/content/book/9780821389805>

Country Examples

- In Tanzania the government established [wanachi.go.tz](http://www.wanachi.go.tz) a website to submit and track complaints and feedback <http://www.opengovguide.com/country-examples/in-tanzania-the-government-established-wanachi-go-tz-a-website-to-submit-and-track-complaints-and-feedback/>
- In the UK the National Health Service asks all patients leaving hospital if they would recommend it to their friends and family <http://www.opengovguide.com/country-examples/in-the-uk-the-national-health-service-asks-all-patients-leaving-hospital-if-they-would-recommend-it-to-their-friends-and-family/>
- Indonesia set up a social media channel for complaints <http://www.opengovguide.com/country-examples/indonesia-set-up-a-social-media-channel-for-complaints/>
- Montenegro developed a mobile app to allow citizens to report local problems <http://www.opengovguide.com/country-examples/montenegro-developed-a-mobile-app-to-allow-citizens-to-report-local-problems/>

Initial Step: Publish and promote information on the public services people are entitled to

Justification

Too often citizens do not know what their basic entitlements and responsibilities are, or what are the expected performance of service providers. The lack of information prevents people accessing services, allows for under-performance of services and makes it easier for local officials and service providers to divert public resources for illicit gain. Many countries have established Service Charters, backed by information campaigns which make clear what services and benefits people are entitled to receive, the performance standards they should expect, and the grievance redress channels they can use when things go wrong (Centre for Good Governance, 2008).

This lets people know about the services and programs available to them and arms them with information that they can use to hold providers accountable for delivering those services. Citizens can use information to have better-informed direct interactions with individual providers, such as physicians, and with provider organizations, such as village education committees, and they can have better-informed indirect interactions with policy makers, including through voting.

Recommendations

1. **Require public sector organisations (ministries, departments, agencies, local government) to publish information on what level of service people are entitled to.** This may take the form of a service charter detailing the role of the organisation, services provided to each client group, any user costs involved, details of grievance redress mechanism and how to access it; and expectations from the clients.
2. **Develop the Charter not only with senior experts,** but with interaction of frontline staff.
3. **Disaggregate service commitments to the lowest level** (e.g. 'x and y services are free for pregnant women, z dollars per student will be sent to each school per student, x functioning water points per 1000 population in a ward). However the charter does not have to imply a uniform pattern on every service and can also indicate choices.
4. **Communicate the information internally within each public organisation** and integrate into internal performance management.
5. **Set specific targets for communication:** e.g. 'At least 80% of all citizens will be easily able to access this information'.
6. **Make this information easily accessible using simple language and visual displays,** and deliver it through public noticeboards at public service locations and local government offices, TV, internet and mobile phone platforms. The information should also be published as open data to enable third parties to reuse and disseminate it.
7. **Work with civil society organisations and the media to inform citizens** of their rights, the services and benefits they are entitled to receive, the performance standards they should expect, and the grievance redress channels they can use when things go wrong. Cooperate with independent monitoring efforts that seek to assess the reach and quality (meaningfulness, value) of the public dissemination of information, and should commit to specify and take swift measures to remedy problems.

Country Examples

- Brazil's Bolsa Família program is backed by a widespread information campaign
<http://www.opengovguide.com/country-examples/brazils-bolsa-familia-program-is-backed-by-a-widespread-information-campaign/>
- Chile set up a one-stop shop for accessing public services <http://www.opengovguide.com/country-examples/chile-set-up-a-one-stop-shop-for-accessing-public-services/>
- Chile's healthcare system sets out guarantees on access, quality and cost of public healthcare
<http://www.opengovguide.com/country-examples/chiles-healthcare-system-sets-out-guarantees-on-access-quality-and-cost-of-public-healthcare/>
- More than 600 government organizations in India have issued Citizen's Charters
<http://www.opengovguide.com/country-examples/more-than-600-government-organizations-in-india-have-issued-citizens-charters/>
- South Africa has carried out a national public education campaign on Know Your Service Rights and Responsibilities
<http://www.opengovguide.com/country-examples/south-africa-has-carried-out-a-national-public-education-campaign-on-know-your-service-rights-and-responsibilities/>
- The UK Government's Choice Charter sets out what users should receive from their services
<http://www.opengovguide.com/country-examples/the-uk-governments-choice-charter-sets-out-what-users-should-receive-from-their-services/>

Intermediate Step: Involve citizens in the commissioning, design, delivery and assessment of public services

Justification

The constituency most affected by and often most knowledgeable about the realities, constraints and opportunities regarding service delivery are the millions of citizens and grounded CSOs (including local faith and business groupings), and yet this constituency is often the least consulted or involved in solving persistent service delivery challenges.

Creating serious and practical opportunities for citizen involvement can provide a huge untapped reservoir of knowledge and good will, align incentives effectively and create greater trust, all of which are essential to solve service delivery challenges. New technologies and decreasing costs of communication, particularly the mobile phone and fast-growing social media platforms such as Facebook, enable unprecedented avenues for information sharing and demand-driven, contingent collaboration.

One approach to this is to involve citizens actively in the governance of and commissioning of public services, for example on school boards and health councils and in monitoring public private partnerships delivering public services.

Another is the co-production of public services where service users act not as passive recipients but as individuals with skills and mutual responsibilities with professionals. While still at a developmental stage in many areas of public service delivery, co-production has started to be mainstreamed in a few areas, such as health and social care. Examples include parent-run nurseries, community-led justice, peer-education and medical self-help groups (OECD, 2011).

Open government data [link] approaches offer the potential for users to become involved in developing new interfaces to public services.

Governments can take specific actions here, setting up innovation units, grants, awards and new governance mechanisms, but also important are changes in internal culture of public sector organisations to encourage easier exchange and critique, to take feedback seriously and respond to it reliably, and to set incentives to tap into new ideas, solve problems through experimentation and rigorously evaluate and adopt them at scale.

Recommendations

1. **Promote and support the monitoring and evaluation of public services by civil society and citizens** independently of and in collaboration with policy makers
2. **Consider opportunities to involve citizens at all stages** of the development and delivery of public services or government programmes.
3. **Ensure that the participation of citizens is inclusive** and does not exclude the less powerful.
4. **Give citizens and stakeholders influence** over which services are commissioned and how public funds are allocated through the adoption of participatory budgeting.
5. **Ensure that public service commissioning approaches enable user driven and innovative service approaches** to be funded.
6. **Promote open government data** as a tool for public service innovation
7. **Document and share research and stories** of how change has happened (including through this Guide)

Standards & Guidance

- OECD: Together for Better Public Services – Partnering with citizens and civil society: <http://browse.oecdbookshop.org/oecd/pdfs/product/4211131e.pdf>

Country Examples

- Brazil's Health Councils involve people in governing the health system <http://www.opengovguide.com/country-examples/brazils-health-councils-involve-people-in-governing-the-health-system/>

- Denmark's Mindlab involves citizens and business in problem solving with government ministries
<http://www.opengovguide.com/country-examples/denmarks-mindlab-involves-citizens-and-business-in-developing-new-solutions-for-the-public-sector/>
- In Karachi, the local government adopted a co-management approach to sanitation
<http://www.opengovguide.com/country-examples/in-karachi-the-local-government-adopted-a-co-management-approach-to-sanitation/>
- US Citizen Corps trains volunteers to play a role in community safety and disaster preparedness
<http://www.opengovguide.com/country-examples/us-citizen-corps-trains-volunteers-to-play-a-role-in-community-safety-and-disaster-preparedness/>

Intermediate Step: Provide cooperation to independent monitoring efforts and take action on issues raised

Justification

Because the quality and integrity of underlying data used by governments can be uneven, independent monitoring can help to provide additional means to collect feedback and provide data, through community monitoring of public works and public services. In many countries civil society groups have pioneered the development of feedback approaches such as public service report cards, social audits and community monitoring.

Social audits allow citizens receiving a specific service to examine and cross-check the information the service provider makes available against information collected from users of the service. This form of monitoring can cover all aspects of the service delivery process, such as funds allocated, materials procured, and people enrolled. The audit results are typically shared with all interested and concerned stakeholders through public gatherings, which are generally attended by users of the services as well as public officials involved in management of the service delivery unit.

Technologies such as SMS, apps, social media, online forums and websites can make it easier to people to submit feedback. For example in Tanzania Twaweza, set up a national mobile phone panel of 2,000 randomly selected residents invited to participate for two years. Participants receive mobile phones and agree to participate in monthly surveys on topics such as schools and health clinics.

Recommendations

1. **Promote and support the monitoring and evaluation of public services** by civil society and citizens independently of and in collaboration with policy makers

Country Examples

- In Ethiopia the Protection of Basic Services Project is working to empower citizens to assess public services
<http://www.opengovguide.com/country-examples/in-ethiopia-the-protection-of-basic-services-project-has-sought-to-empower-citizens-to-assess-public-services/>
- In India the National Rural Employment Guarantee Act is monitored through social audits
<http://www.opengovguide.com/country-examples/in-india-the-national-rural-employment-guarantee-act-is-monitored-through-social-audits/>
- In the Philippines the Department for Education cooperates with the Checkmyschool monitoring initiative
<http://www.opengovguide.com/country-examples/in-the-philippines-the-department-for-education-cooperates-with-the-checkmyschool-monitoring-initiative/>

Intermediate Step: Publish key public service performance data

Justification

Government departments have many systems for tracking and managing performance. Making these measurements public and accessible allows citizens (and authorities) to more effectively compare performance, assess value for money and exercise choice and accountability.

Often performance data is not standardized and quality can be variable. However the absence of perfect data should not prevent transparency. Measuring performance in key areas and making data public can be a first step to improving the quality of the data and performance management

Recommendations

1. **Provide information to the lowest disaggregated facility or community level** (e.g. school, health facility, village) so as to be meaningful and relevant to citizens, without undermining the privacy of service users.
2. **Present information about the same services and agencies from different sources** (e.g. administrative data, survey data, reports of the auditor general, reports of the public procurement authorities) side by side and using common institutional boundaries and standardized names
3. **Make available the information on user-friendly interactive online platforms** that allow users to tailor searches and queries, and in particular make comparisons across time, geographies, sectors and against policy commitments.
4. **Ensure that information is made available on public noticeboards and on popular mobile phone platforms** and foster synergies with other mass media (e.g. FM radio) and mass institutions (e.g. faith bodies, fast-moving consumer goods companies). This is particularly important in developing countries where computer-based internet access, while growing, is still constrained.
5. **Publish information in an open data format** to allow others to analyse and reuse it.

Standards & Guidance

- Civicus – Monitoring and Evaluating Public Services http://www.pgexchange.org/index.php?option=com_content&view=category&id=59&Itemid=135
- OECD: Focus on Citizens – Public Engagement for Better Policy and services <http://www.oecd.org/governance/regulatory-policy/focusoncitizenspublicengagementforbetterpolicyandservices.htm>
- OECD: Together for Better Public Services – Partnering with citizens and civil society: <http://browse.oecdbookshop.org/oecd/pdfs/product/4211131e.pdf>
- The World Bank: Citizens and service delivery <http://elibrary.worldbank.org/content/book/9780821389805>

Country Examples

- In Korea city residents get up to date information on water quality <http://www.opengovguide.com/country-examples/in-korea-city-residents-get-up-to-date-information-on-water-quality/>
- In Peru the government introduced standardised tests in schools to improve school standards <http://www.opengovguide.com/country-examples/in-peru-the-government-introduced-standardised-tests-in-schools-to-improve-school-standards/>
- Several countries in Africa are working with the World Bank to collect Service Delivery Indicators on health and

education <http://www.opengovguide.com/country-examples/several-countries-in-africa-are-working-with-the-world-bank-to-collect-service-delivery-indicators-on-health-and-education/>

Advanced Step: Systematically track and publish performance indicators across public services

Justification

Different countries manage their public services in different ways, in particular with regards to the degree to which services are centralised or decentralised, the involvement of private and voluntary sector delivery partners, and the extent to which users have choice between different providers. Whatever way services are delivered the state has a key role in defining outcomes, setting standards for public services and ensuring that all public service users are able to access the services they are entitled to.

Increasing focus is being put on transparency over how services are performing, both as a means for enabling service users to effectively exercise choice, and to allow them to influence the services they rely on and hold government accountable. At the heart of this are moves to systematically publish information on performance and user satisfaction.

Research into the impact of publishing performance information is limited, but it appears likely that publishing performance data encourages greater efficiency and effectiveness in public services. Beneficial effects are often due in the first instance to information by those professionally involved in providing the service than to feedback from the general public. However to be effective and gain the attention of providers, information should be meaningful and relevant and have the potential to arouse the interest of stakeholders (Mulgan, 2012).

Assessments of performance involve judgments about social value and political priorities. This must be taken into account both in the design of public service performance indicators and their interpretation. The simplest measures of the outcomes of a provider such as exam pass rates, or hospital mortality rates may need to be presented as value-added indicators to take into account factors such as the health and wealth of users. Composite indicators such as 'star ratings' can be easy to communicate, but opaque in what they assess. Any indicator can lead to gaming, for example with providers closing waiting lists to reduce the numbers waiting, or excluding children at risk of failure to increase average test scores.

Recommendations

1. **Develop performance indicators** in close consultation between politicians, users, officials and professionals involved in service delivery
2. **Take care in developing indicators to guard against distortion** by providers seeking to improve their score without improving underlying performance. Relying on a number of separate measures, rather than just one indicator
3. **Develop public performance indicators as part of a broader performance management regime** where data is taken into account by decision makers but is subject to discussion and open judgement.
4. **Sponsor research to assess the 'before-and-after' effects** before embarking on a new performance indicators framework .
5. **Publish information to the lowest disaggregated facility or community level** (e.g. school, health facility, village) so as to be meaningful and relevant to citizens, without undermining the privacy of service users.
6. **Present information about the same services and agencies from different sources** (e.g. administrative data, survey data, reports of the auditor general, reports of the public procurement authorities) side by side and using common institutional boundaries and standardized names
7. **Make available the information on user-friendly interactive online platforms** that allow users to tailor searches and

queries, and in particular make comparisons across time, geographies, sectors and against policy commitments.

8. **Communicate indicators** in the media, through public displays, booklets and letters to parents and patients as well as online.
9. **Publish information in an open data format** to allow others to analyse and reuse it.

Standards & Guidance

- Civicus – Monitoring and Evaluating Public Services http://www.pgexchange.org/index.php?option=com_content&view=category&id=59&Itemid=135
- OECD: Focus on Citizens – Public Engagement for Better Policy and services <http://www.oecd.org/governance/regulatory-policy/focusoncitizenspublicengagementforbetterpolicyandservices.htm>
- OECD: Together for Better Public Services – Partnering with citizens and civil society: <http://browse.oecdbookshop.org/oecd/pdfs/product/4211131e.pdf>
- The World Bank: Citizens and service delivery <http://elibrary.worldbank.org/content/book/9780821389805>

Country Examples

- In Sweden the government publishes performance reports on social services, health and medical care <http://www.opengovguide.com/country-examples/in-sweden-the-government-publishes-performance-reports-on-social-services-health-and-medical-care/>
- Uganda publishes comprehensive national data on the performance of the rural water sector <http://www.opengovguide.com/country-examples/uganda-publishes-comprehensive-national-data-on-the-performance-of-the-rural-water-sector/>

No commitments for this level

Records management

 **Lead author:** [International Records Management Trust](#)

Introduction

Records management is the field of management responsible for the systematic control of the creation, receipt, maintenance, use and disposition of records, including the processes for capturing and maintaining evidence of and information about business activities and transactions in the form of records (ISO 15489).

Record-keeping has traditionally been regarded as a routine clerical function. However, efficient records management is crucial for effective decision-making and for transparency and accountability.

Good records management ensures that accurate and reliable records are created and remain accessible, usable and authentic for as long as they are needed to provide the basis for improving services, controlling corruption and strengthening democracy. This benefits both those requesting information, by assuring that information is complete and reliable, and those holding information, by enabling them to locate and retrieve it easily to meet their operational needs and obligations for transparency and accountability.

In many countries, government records are not managed to meet international standards, and in some countries even the most basic records management controls are not in place. Furthermore, the adoption and use of digital technologies has often outpaced capacity to manage digital records, creating new challenges.

Poorly managed records are difficult to locate and hard to authenticate or preserve. This can result in misguided policy, inadequate or inappropriate services, misplaced funding and cover-up of fraud, with serious consequences for citizens' lives.

Successful open government policies, including Open Data and Right to Information (RTI), rest on sound records management, and countries are therefore beginning to orient their records management programmes to support the objectives of open government.

References

ISO 15489:2001 Information and Documentation – Records Management, http://www.iso.org/iso/catalogue_detail?csnumber=31908

Expert Organisations

International Records Management Trust <http://irmt.org/>

International Council on Archives <http://www.ica.org/>

Alliance for Permanent Access <http://www.alliancepermanentaccess.org/>

ARMA International <http://www.arma.org/>

Association for Information and Image Management <http://www.aiim.org/>

Summary of illustrative commitments

Initial

- Adopt a government-wide policy on records management in line with the right to information and open government goals
- Establish a public authority to lead on government records management
- Provide training on dealing with government records in line with RTI to all relevant officials

Intermediate

- Build the capacity of records management professionals
- Include records management requirements in the specification criteria for new IT systems and upgrades

Advanced

- Establish a central digital repository to provide permanent, lasting access to government records and data
- Establish standardised requirements for metadata across government

Innovative

- Develop a quality assurance strategy for open government datasets

Detailed Recommendations

Initial Step: Adopt a government-wide policy on records management in line with the right to information and open government goals

Justification

Government-wide records management policies identify requirements for all public authorities in creating, managing and preserving public sector records. This enables them to take a planned and consistent approach. The policy will have the greatest impact when it is harmonised with policies governing ICT, RTI and Open Data.

Normally, the central authority responsible for records management across the government should provide standards and guidance on establishing records management programmes, and requiring each government organisation to establish its own records management unit. In this way, records management can be developed as a critical organisational function similar to functions such as human resource and financial management.

Recommendations

A government wide records management policy should:

1. Be developed in consultation with stakeholders, including those responsible for managing Open Government, Open Data, and RTI initiatives.
2. Set out overall goals and expectations for records management.
3. Set out requirements for public authorities to assign authority for records management at a senior level, develop their own records management policies and establish professional units capable of managing records.
4. Include provisions for developing schedules on records retention and disposal, taking account of the legal and financial needs and obligations of government, and of the administrative and historical value of the records.
5. Establish overall responsibility to monitor compliance with the policy and the achievement of expected results.
6. Be aligned to policies supporting RTI, Open Government and Open Data.

Standards & Guidance

- ISO 15489:2001 Information and Documentation – Records Management http://www.iso.org/iso/catalogue_detail?csnumber=31908
- ISO 30300:2011 Information and Documentation – Management System for Records http://www.iso.org/iso/catalogue_detail?csnumber=53732

Country Examples

- In 2011, the US President established a government-wide effort to reform records management policies and practices <http://www.opengovguide.com/country-examples/in-2011-the-us-president-established-a-government-wide-effort-to-reform-records-management-policies-and-practices/>
- In Mexico the national archive, in collaboration with IFAI have issued joint guidelines for the organisation of archives across the Federal Government <http://www.opengovguide.com/country-examples/in-mexico-the-national-archive-in-collaboration-with-ifai-have-issued-joint-guidelines-for-the-organisation-of-archives-across-the-federal-government/>
- The Government of Canada established a new policy on information management in 2007

<http://www.opengovguide.com/country-examples/the-government-of-canada-established-a-new-policy-on-information-management-in-2007/>

- The UK has created guidance for public authorities in establishing their own records management policies <http://www.opengovguide.com/country-examples/the-uk-has-created-guidance-for-public-authorities-in-establishing-their-own-records-management-policies/>

Initial Step: Establish a public authority to lead on government records management

Justification

It is important to establish an agency with statutory responsibility for managing records across the public sector. This could be a national records authority, an archives body or a series of state or local bodies with equivalent authority. The agency needs a clear mandate for guiding the management of records and helping to ensure that government decisions, actions and transactions are documented in a trustworthy manner. It must also ensure that records are made available to citizens as the basis for public confidence and openness.

It is also important that the relationship between RTI, Open Data and records management is clear, and that inconsistent regimes for access to information are not created [Dokenia, 2013]. The International Council on Archives has endorsed the principle that national/ state archives should play a strong leadership role in facilitating the management of current government records, including those in digital form.

Recommendations

1. Enact a law to establish a records authority. The law should ensure:
 - The records authority is empowered to set records management policy for government, and define good practice standards and quality controls for managing government records in all formats.
 - The authority is positioned in a central cross-cutting position of authority rather than within the cultural sector.
 - The authority's role is not replicated by other agencies, for instance the ICT authority or the Office of the Information Commissioner, but strong working relationships with these and other relevant agencies are established.
 - The authority has high-level support, including budgetary support, for delivering its mandate, particularly in relation to Open Data, RTI and ICT/ e-government programmes.

Country Examples

- In Sierra Leone the records authority has developed standards and guidelines for keeping civil servants' and teachers' records <http://www.opengovguide.com/country-examples/in-sierra-leone-the-records-authority-has-developed-standards-and-guidelines-for-keeping-civil-servants-and-teachers-records/>
- In Tanzania modern legislation empowers the national archives to define standards for keeping government records <http://www.opengovguide.com/country-examples/in-tanzania-modern-legislation-empowers-the-national-archives-to-define-standards-for-keeping-government-records/>
- In the United Kingdom the National Archives and the Information Commissioner cooperated to develop a code of practice on records management <http://www.opengovguide.com/country-examples/in-the-united-kingdom-the-national-archives-and-the-information-commissioner-cooperated-to-develop-a-code-of-practice-on-records-management-2/>

- Several countries have mandated their national archives to serve as records authorities
<http://www.opengovguide.com/country-examples/several-countries-have-mandated-their-national-archives-to-serve-as-records-authorities/>

Initial Step: Provide training on dealing with government records in line with RTI to all relevant officials

Justification

For officials to implement RTI laws properly, they must be aware of their responsibilities under the law.

It is important for public officials to have training in how to ensure that records are captured and held in reliable record-keeping systems, that they are properly controlled and scheduled for retention and disposition and that those that are exempt from access are protected in line with Official Secrets, Privacy, Copyright and other information-related laws.

For practical reasons, it may make sense to focus initial training activities on information officers and other key personnel. Over time, however, it is important to provide training to all officials. This is important to ensure that they understand their obligations under the law, and also to promote better cooperation with and support to information officers.

Over time, all officials should receive at least some training on records management and the RTI. This can be provided in different ways, depending on the way the civil service is run in the country, including through incorporating modules on RTI in ongoing training courses provided to officials, by having information officers provide training to other staff at the public authority and through incorporating RTI training into entry level courses for officials.

Recommendations

- Identify the training and guidance needed to enable public servants to assess records, datasets and other information assets for disclosure and to prepare and update information accessibility statements.
- Review existing records management training and guidance and identify components that would be relevant for inclusion in the training and guidance developed for RTI, Open Government, and Open Data.
- Provide basic but specialised training to all information officers and staff at the independent oversight body. Over time, expand this so that some training on RTI is provided to all officials (i.e. staff of public authorities).
- Conduct reviews of the training and guidance to ensure their continued relevance and effectiveness.

Standards & Guidance

- ARTICLE 19 Training course for public officials http://https://www.ip-rs.si/fileadmin/user_upload/Pdf/Publikacije_ostalih_pooblastencev/Article_19_foitainersmanual.pdf
- CLD Training course for public officials <http://www.law-democracy.org/live/wp-content/uploads/2012/08/Manual-Final.docx>

Country Examples

- The UK Information Commissioner's Office has developed a set of training materials for use in the public sector
<http://www.opengovguide.com/country-examples/the-uk-information-commissioner%e2%80%99s-office-has-developed-a-set-of-training-materials-for-use-in-the-public-sector-2/>

Intermediate Step: Build the capacity of records management professionals

Justification

Records management is a technical field that requires professional training and education. Records management theory and practice continue to develop rapidly, and records specialists are increasingly required to work with ICT professionals to design and implement new or enhanced systems that enable information to be made available to the public. Working in teams with Open Data/ RTI and ICT/ e-government experts, they should be capable of enabling governments and citizens to maximise the value of the information held in records.

Recommendations

1. Identify the challenges to records management presented by changing technologies, legislation and policy, work practices, theory and client expectations and the expertise needed to address these challenges.
2. Assess the gap between required and existing expertise.
3. Create a strategy for developing the required expertise through recruitment, training, education, continuing professional development programmes, technical projects, and local and international partnerships as well as partnerships with the private sector where appropriate.
4. Secure budgetary support for the strategy.
5. Review schemes of service, organisational structures, job descriptions, salary scales, etc, to ensure that the records management function is represented at senior levels and that a career path for records specialists is clearly defined.

Country Examples

- National Archives Australia supports capability development in the Australian government
<http://www.opengovguide.com/country-examples/national-archives-australia-supports-capability-development-in-the-australian-government/>

Intermediate Step: Include records management requirements in the specification criteria for new IT systems and upgrades

Justification

Many government operations that traditionally depended on information derived from paper records have become partially or wholly automated. As governments migrate to an on-line environment, records in digital form are providing the basis for conducting business, serving the public, managing state resources, measuring progress and outcomes, and protecting governments' and others' rights.

Technology is making significant contributions to improving government programmes and services, achieving development goals and advancing e-government strategies. However, in too many cases, ICT systems are introduced without the essential processes and controls for the capture, long-term safeguarding and accessibility of digital records.

It is important that the records authority works closely with Open Data/ RTI and ICT/ e-government experts to ensure that records and data management requirements are fully integrated in new or modified government systems. The system

functionality necessary to ensure that records remain authentic and accessible over time needs to be defined in records management requirements. This also helps to ensure that responses to formal requests for information can be processed correctly and quickly in relation to requirements defined by law and policy.

Recommendations

1. Develop functional requirements for managing records through their life cycle in relation to international standards.
2. Consider open source systems and formats for records in the context of digital preservation and long-term access needs. [LINK to 11 – Establish A Government Digital Repository]
3. Identify existing and planned government systems that are generating records and datasets.
4. Ensure that the functional requirements are reflected in the design of existing and planned systems as well as in subsequent stages of the systems development life cycle (for instance, testing, implementation, production, evaluation).
5. Assign accountability for managing records and datasets generated in the systems.
6. Develop and apply standards and procedures for managing the records and datasets through their life cycle.
7. Provide training to technical staff, systems users and those making records and datasets available to the public to ensure that record-keeping requirements continue to be respected.
8. Undertake compliance audits, preferably within the context of systems audits, to ensure that the requirements are respected in the design of systems.
9. Conduct reviews of the functional requirements and update these as required.

Standards & Guidance

- Integrating Records Management in ICT Systems http://www.irmt.org/documents/educ_training/term_resources/IRMT_Good_Practice_Indicators.pdf
- MoReq2010 <http://www.moreq2.eu/home>
- Principles and functional requirements for records in electronic office environments (ISO 16175) http://www.iso.org/iso/catalogue_detail.htm?csnumber=55791

Country Examples

- National Archives of Australia have developed guidelines on electronic records management <http://www.opengovguide.com/country-examples/national-archives-of-australia-have-developed-guidelines-on-electronic-records-management/>
- National Archives of the Netherlands has developed a set of functional requirements for information and archives management in government organisations <http://www.opengovguide.com/country-examples/national-archives-of-the-netherlands-through-the-dutch-archives-school-has-developed-a-set-of-functional-requirements-for-information-and-archives-management-in-government-organisations/>
- The New South Wales government has a strategy to ensure the protection and management of digital government records <http://www.opengovguide.com/country-examples/the-new-south-wales-government-has-a-strategy-to-ensure-the-protection-and-management-of-digital-government-records/>
- The Queensland State Archives has developed guidelines to assist public authorities to plan for the introduction of an electronic document and records management system <http://www.opengovguide.com/country-examples/the-queensland-state-archives-has-developed-guidelines-to-assist-public-authorities-to-plan-for-the-introduction-of-an-electronic-document-and-records-management-system/>

Advanced Step: Establish a central digital repository to provide permanent, lasting access to government records and data

Justification

Digital records of government decisions, actions and transactions need to be retained for their probative and evidentiary value, but they are difficult to capture and manage over time. They can include standard office documents, emails, images, videos and other formats. Digital preservation brings challenges such as format recognition, software preservation and compatibility and degradation of digital media.

Digital repositories are the means of ensuring long-term access to digital records, protecting their trustworthiness, demonstrating the traceability of data derived from them, and providing assurance that the records and data have not been compromised. National Archives, with their statutory responsibility for protecting and preserving government records, are the appropriate authority for developing digital repositories for government information.

Repositories should use open standards and formats to ensure that their contents remain accessible over time. There are internationally recognised standards that guide organisations on the establishment of Trusted Digital Repositories (TDRs) (ISO 14721) and their certification (ISO 16363) to assure the technical and organisational robustness of long-term preservation initiatives and the care of digital records.

Recommendations

1. Assess records creation in government, focusing on key transaction points where information is produced by processes or systems.
2. Examine digital records formats in government and the requirements for managing and preserving them.
3. Assess IT infrastructure and capacity in relation to current and projected digital information production.
4. Identify and develop a digital repository solution that meets government information needs and complies with the regulatory environment.
5. Develop processes for receiving digital records from government departments, including metadata and format requirements.
6. Develop policies and procedures to ensure that digital records are managed and preserved once they are accepted into the digital repository.
7. Define rules for identifying and authorising system users, allocating and administering access rights, and establishing log and audit trails.
8. Seek independent third-party certification of the digital repository as a TDR.
9. Establish a programme of monitoring and auditing to demonstrate compliance as a TDR.

Standards & Guidance

- Digital Repository Audit Method Based On Risk Assessment (DRAMBORA) <http://www.repositoryaudit.eu/>
- Nestor- Catalogue of Criteria for Trusted Digital Repository http://files.d-nb.de/nestor/materialien/nestor_mat_08-eng.pdf
- Open Archival Information System (OAIS) (ISO 14721) http://www.iso.org/iso/home/store/catalogue_tc/catalogue_detail.htm?csnumber=57284
- Repository Audit and Certification (ISO 16363) http://www.iso.org/iso/catalogue_detail.htm?csnumber=56510

- Trusted Digital Repository: Attributes and Responsibilities (2002)
<http://www.oclc.org/content/dam/research/activities/trustedrep/repositories.pdf?urlm=161690>
- Trustworthy Repository Audit & Certification: Criteria and Checklist
http://www.crl.edu/sites/default/files/attachments/pages/trac_0.pdf

Country Examples

- New Zealand provides options for improving digital repository in its Digital Continuity Action Plan
<http://www.opengovguide.com/country-examples/new-zealand-provides-options-for-improving-digital-repository-in-its-digital-continuity-action-plan/>
- Norway has established a central digital repository through its Noark5 and digital archive initiatives
<http://www.opengovguide.com/country-examples/norway-has-established-a-central-digital-repository-through-its-noark5-and-digital-archive-initiatives/>

Advanced Step: Establish standardised requirements for metadata across government

Justification

Digital records and datasets must be held with sufficient contextual information (metadata) to be uniquely identifiable and accessible over time and so that activity logs can be audited as a safeguard to trustworthiness. Standardised metadata requirements limit the amount of resources that will be needed to clean up or supplement records metadata when aggregating records or migrating records between systems. Many organisations have built their standardised metadata requirements into functional record-keeping requirements.

Recommendations

1. Evaluate the way records, data and metadata are created, captured and used in government.
2. Identify a basic set of metadata elements needed to document the original context and the function that the records are documenting.
3. Consult with stakeholders, including senior civil servants and technical staff, to ensure that appropriate metadata elements have been identified.
4. Develop metadata requirements and issue them as a standard and/ or incorporate them in existing records management standards.
5. Ensure that any procurement of systems includes the requirement to comply with the metadata standard, for instance by making compliance with the standard mandatory for government systems.
6. Work with audit and evaluation groups to ensure the proper enforcement of the metadata requirements.

Standards & Guidance

- ISO 23081-2:2009 Information and Documentation – Records Management Processes – Metadata for Records
http://www.iso.org/iso/iso_catalogue/catalogue_tc/catalogue_detail.htm?csnumber=50863

Country Examples

- In Norway software for government must meet the Norwegian Archive Standard <http://www.opengovguide.com/country-examples/in-norway-the-noark-5-standard-is-mandatory-for-central-government-agencies-software-vendors-wishing-to-sell-record-keeping-systems-to-government-must-ensure-that-their-systems-meet-the-record-keepi/>
 - The United States has developed discretionary record-keeping standards which include metadata schemas <http://www.opengovguide.com/country-examples/the-united-states-has-developed-discretionary-record-keeping-standards-department-of-defense-standard-dod-5015-2-which-include-metadata-schemas/>
-

Innovative Step: Develop a quality assurance strategy for open government datasets

Justification

Open Data initiatives depend largely upon the quality, trustworthiness and accessibility of the government records from which datasets are derived. If the source records lack integrity, then the data derived from the records will also lack integrity. Data quality and integrity can be difficult to determine where the procedures for managing and assessing the quality and integrity of the records are weak or incomplete. Where proper records and data management controls and effective quality assurance standards and procedures are in place, the public and government officials can have confidence that the data derived from the records can be trusted and that a comprehensive documentary record of government activities exists.

Recommendations

1. Identify government activities that are generating datasets that could be made available as part of Open Data initiatives.
2. Assess the quality and integrity of the datasets within the context of the quality and integrity of the source records (use risk assessment models and techniques where applicable).
3. Develop record-keeping quality control standards and procedures based on international standards and practices, and ensure a close relationship with quality control standards established for government datasets.
4. Develop and apply standards and procedures for managing the documentary relationship between the datasets and the other records documenting the given government activity or programme.
5. Ensure that personnel generating and making datasets available are trained in the application of standards and procedures.
6. Establish a monitoring and compliance strategy to ensure that the integrity and quality of datasets and source records are monitored through time and the quality control standards and practices continue to be relevant and effective.

Standards & Guidance

- The Digital Curation Centre <http://www.dcc.ac.uk/>
- UK Data Archive directory to sources on the management of valuable datasets <http://data-archive.ac.uk/create-manage/document/resources>

Country Examples

- Archives New Zealand has developed a guide, "Managing Datasets", which provides some guidance for the

management of datasets in public sector organisations <http://www.opengovguide.com/country-examples/archives-new-zealand-has-developed-a-guide-%e2%80%9cmanaging-datasets%e2%80%9d-which-provides-some-guidance-for-the-management-of-datasets-in-public-sector-organisations/>

Right to information

 **Lead author:** [Access Info](#) and [Centre for Law and Democracy](#)

Introduction

Right to information legislation (RTI), also referred to as freedom of information or access to information laws, establishes a general presumption that all information held by government should be accessible and set out the mechanisms by which it can be accessed.

The case for ensuring access to information is that it supports good governance, effective and efficient public administration, compliance with laws and regulations, efforts to combat corruption and better investment climates. There is emerging evidence to support this, however there remains a lack of systematic assessments of RTI policies and whether and how they are translating into greater government transparency and participation in decision-making (Calland, 2010).

Open, participatory and accountable government is contingent on members of the public having access to information held by public bodies. The right to information is protected through the guarantees of freedom of expression found in the main international human rights treaties. This has been recognised by international human rights tribunals (Inter-American Court of Human Rights and the European Court of Human Rights) and leading international authorities (including all four special mandates on freedom of expression at the UN, OAS, OSCE and African Commission on Human and People's Rights, and the Inter-American Juridical Committee) as well as the UN Human Rights Committee (Mendel, 2008).

A key principle of Right to Information is that of 'maximum disclosure'. Information should only be withheld from the public where absolutely necessary to prevent harm to a legitimate interest and where there is no overriding public interest in knowing the information.

As of June 2013, 95 countries have adopted RTI laws, a massive increase from the 13 countries which had these laws in 1990. However, experience has shown that while the passage of the law is often a high-profile effort by its political champions, the key challenge is to maintain the political momentum needed for effective implementation (Dokenia, 2013).

References

Calland, R., (2010) Review of Impact and Effectiveness of Transparency and Accountability Initiatives: Freedom of Information, Institute of Development Studies, Brighton. <http://www.ids.ac.uk/files/dmfile/IETAAAnnex3FreedomofInfoCallandFinal28Oct2010.pdf>

Mendel, T. (2008), Freedom of Information: A Comparative Legal Survey, 2nd Ed., UNESCO, Paris.
http://portal.unesco.org/ci/en/ev.php-URL_ID=26159&URL_DO=DO_TOPIC&URL_SECTION=201.html

Dokenia, A. (2013) Right to Information; Lessons from experience, World Bank, Washington D.C.
http://www.right2info.org/resources/publications/publications/wb_implementing-rti_lessons-from-experience_2013

Expert Organisations

Access Info <http://www.access-info.org/>

Article 19 <http://www.article19.org/>

The Freedom of Information Advocates Network <http://www.foiadvocates.net>

Right2INFO.org <http://right2info.org/>

freedominfo.org <http://www.freedominfo.org/>

Centre for Law and Democracy <http://www.law-democracy.org/live/>

Alianza Regional por la Libre Expresión e Información, (Alianza Regional) <http://www.alianzaregional.net/>

Africa Freedom of Information Centre <http://www.africafoicentre.org>

Summary of illustrative commitments

Initial

- Adopt a law which recognises the right to information, in line with international standards
- Establish institutional structures for implementing RTI
- Provide training to officials on record management and RTI implementation
- Publish core information about government on a proactive basis

Intermediate

- Ensure that each public authority puts in place core implementation systems on RTI
- Expand the scope of proactive publication
- Promote public awareness of the right to information

Advanced

- Align RTI law and practice with highest international standards on RTI
- Establish best practice monitoring and evaluation systems on RTI
- Review and amend secrecy laws

Innovative

- Use IT to enhance access to information

Detailed Recommendations

Initial Step: Adopt a law which recognises the right to information, in line with international standards

Justification

The basic building block for ensuring the right to information is the adoption of a law, which recognises the right to information as a fundamental right. The special international mandates for freedom of expression at the UN, OSCE, OAS and African Commission on Human and Peoples' Rights, among others, have called on States to adopt such laws. If neither the Constitution, jurisprudence nor the statutory law recognise a fundamental right, efforts should be made to do so: the strongest foundation for a RTI law is where right to information is recognised as a fundamental right in the Constitution.

For a law to be effective it must provide a robust framework that ensures that persons can access the information held by public bodies, which includes all branches of the State (executive, legislative and judicial) and other public or governmental authorities, at whatever level – national, regional or local, as well as all bodies exercising public power, performing public functions or operating primarily with public funds. International standards provide key minimum benchmarks for such laws.

Recommendations

Where no right to information law is in place, one which conforms to international standards should be adopted. Where a law is already in place, it should be reviewed and amended, as necessary, to bring it into line with international standards. The key criteria are that the law should establish:

1. Recognition of a human right to information, along with a broad presumption in favour of openness which applies to everyone, including non-citizens, and to all information, regardless of format, held by all public bodies, including State-owned enterprises and bodies, and private bodies undertaking public functions or operating with public funding;
2. An obligation to publish a wide range of information on a proactive basis;
3. Robust procedures for making and processing requests which are simple, free (to make requests and limited, centrally set fees for reproduction of information) and quick (maximum 20 day response time), and which involve the provision of assistance to requesters as needed (including in formats accessible to people with disabilities);
4. A limited regime of exceptions based on preventing harm to protected interests, a public interest override and severability where part of a record is exempt;
5. The principle that the right to information law prevails over other laws which place limits on the right, such as secrecy laws, in case of conflict;
6. A broad right of appeal for all failures to implement the law, including proactive publication failures, to an independent oversight body and the courts;
7. Protection for good faith disclosures and sanctions for wilful obstruction of access; and
8. A package of promotional measures, including obligations on all public bodies to report on requests received and how they were processed, backed up by sanctions for refusal to disclose information without reasonable cause.

Standards & Guidance

- ARTICLE 19 Principles <http://www.article19.org/data/files/pdfs/standards/righttoknow.pdf>
- OGP Eligibility Criteria: Access to Information <http://www.opengovpartnership.org/how-it-works/how-join/eligibility-criteria>

- RTI Rating <http://www.rti-rating.org/>
- Special Mandates 2004 Declaration <http://www.osce.org/fom/38632>
- Tshwane Principles on National Security and the Right to Information <http://www.right2info.org/exceptions-to-access/national-security>

Country Examples

- 23 countries have recently adopted RTI laws which reflect the progress made in international standard setting <http://www.opengovguide.com/country-examples/23-countries-have-recently-adopted-rti-laws-which-reflect-the-progress-made-in-international-standard-setting/>

Initial Step: Establish institutional structures for implementing RTI

Justification

For an RTI law to be effective it needs to be supported by active implementation measures and supported by an institutional framework to undertake this task.

There are three key institutional mechanisms for implementing RTI laws. First, each public authority needs to appoint a dedicated official to receive and process requests. Often this official is also responsible for leading on the putting in place other systems as required by the law. Second, it is very useful to establish a focal point in the government to provide guidance and to monitor implementation. Finally, the law should provide for the establishment of an independent oversight body, such as an information commission or commissioner, which has the power to review complaints relating to requests and often also has a role in promoting awareness of the right (Neuman, 2011).

Recommendations

1. Each public authority which falls within the ambit of the RTI law should nominate one or more officials as information officer(s) to receive and process requests for information and to lead the authority in implementing the law.
2. The executive should designate a central focal point (a high-level unit or committee) with responsibility for supporting and monitoring implementation across the public body.
3. An independent oversight body, or information commission, should be established; it should have a dual function covering complaints and promotional measures, along with the necessary mandate, resources and powers to carry out its functions effectively, including to review documents, inspect premises, to make binding orders for the release of information and to impose structural measure on public bodies as necessary to ensure compliance with RTI rules.

Standards & Guidance

- Carter Center: The Access to Information legislation Implementation Assessment Tool http://www.cartercenter.org/peace/americas/access_to_information/IAT/index.html
- World Bank's Public Accountability Mechanisms website <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/ETPUBLICSECTORANDGOVERNANCE/0,,contentMDK:23352107~pagePK:148956~piPK:216618~theSitePK:286305,00.html>

Country Examples

- The institutional structures supporting RTI vary between countries <http://www.opengovguide.com/country-examples/the-institutional-structures-supporting-rti-vary-between-countries/>

Initial Step: Provide training to officials on record management and RTI implementation

Justification

For officials to implement RTI laws properly, they must be aware of their responsibilities under the law.

It is important for public officials to have training in how to ensure that records are captured and held in reliable record-keeping systems, that they are properly controlled and scheduled for retention and disposition. It is also important to make sure that officials are trained on how to meet their obligations under an RTI law. This requires not only training in legal and technical dimensions, but often a process of culture change, to shift from a defensive, 'secrecy' mindset to one in which officials accept that public scrutiny of their actions is the norm.

For practical reasons, it may make sense to focus initial training activities on information officers and other key personnel. Over time, however, it is important to provide training to all officials. This is important to ensure that they understand their obligations under the law, and also to promote better cooperation with and support to information officers.

Over time, all officials should receive at least some training on RTI. This can be provided in different ways, depending on the way the civil service is run in the country, including through incorporating modules on RTI in ongoing training courses provided to officials, by having information officers provide training to other staff at the public authority and through incorporating RTI training into entry level courses for officials.

Recommendations

1. Identify the training and guidance needed to enable public servants to assess records, datasets and other information assets for disclosure and to undertake their obligations under the RTI law.
2. Review any existing records management and RTI training and identify components that need to be updated.
3. Establish an adequate budget allocation to enable training to be undertaken.
4. Provide basic but specialised training to all information officers, members of the central focal point and staff at the independent oversight body. Over time, expand this so that some training on RTI is provided to all officials (i.e. staff of public bodies).
5. Provide specialised training for judges, and ensure that the right of access to information is included in curriculum for future judges.
6. Training should draw on civil society inputs which provide a view from the perspective of information seekers.
7. Conduct reviews of the training and guidance to ensure their continued relevance and effectiveness.

Standards & Guidance

- ARTICLE 19 Training course for public officials http://https://www.ip-rs.si/fileadmin/user_upload/Pdf/Publikacije_ostalih_pooblastencev/Article_19_foitrainersmanual.pdf

Country Examples

- The UK Information Commissioner's Office has developed a set of training materials for use in the public sector <http://www.opengovguide.com/country-examples/the-uk-information-commissioner%e2%80%99s-office-has-developed-a-set-of-training-materials-for-use-in-the-public-sector/>
-

Initial Step: Publish core information about government on a proactive basis

Justification

For most people, the most important practical means of accessing information held by public bodies, government, and by organisations acting on behalf of government, is through accessing information which is made available on a proactive basis, rather than through making requests for information (Darbshire, 2011). Many of the other sections of this guide address the proactive publication of information relating to different sectors, such as the [budget](#), [aid](#), [extractive industries](#) and [assets of public officials](#). In addition to these sectoral commitments, it is very important for all public bodies to make available a minimum platform of information about what they do, how they function, how they spend public funds, and the service and benefits they provide.

Every effort should be made to ensure that this proactively disclosed information is presented in a way which makes it easy to find and readily comprehensible to the average person.

Recommendations

Public bodies should publish on a proactive basis the following core categories of information:

- **Institutional:** Core legal documents, internal regulations, functions and powers.
- **Organisational:** Information on personnel, names and contacts of public officials.
- **Operational:** Strategy and plans, policies, activities, procedures, reports, and evaluations and reports from supervisory mechanisms and oversight bodies.
- **Decisions and Formal Acts:** Including the background documents.
- **Public Services:** Descriptions of services offered, guidance, booklets and leaflets, forms, information on fees and deadlines.
- **Budget:** Projected budget, actual income and expenditure, audit reports.
- **Open Meetings:** Including about which meetings are open and how to attend them.
- **Decision-making and Participation:** Decision-making procedures, and mechanisms for consultations and public participation in decision-making.
- **Subsidies:** Beneficiaries of subsidies, the objectives, amounts, and implementation.
- **Public Procurement:** Detailed information on public procurement processes, criteria, outcomes of tenders; copies of contracts, and reports on completion of contracts.
- **Lists, Registers, Databases:** Lists, registers and databases held and whether these are available online and/or for on-site access.
- **Publications:** Publications, including whether they are free of charge or the price.
- **Dispute Resolution:** Mechanisms available to the public for raising concerns, complaints and making appeals regarding the decisions or actions of the institution.
- **Information about RTI:** How to make requests, complaints and appeals, contact information for information officer.

In addition, the legislative branch should ensure that all records of parliamentary proceedings are published proactively and the courts should make decisions from courts of all levels available proactively.

Regular consultations should be held with members of the public about the information which they find to be most useful and how to ensure that this is published proactively as a priority. Information which is requested frequently should be made public proactively.

Country Examples

- Georgia issued a decree requiring proactive publication of government information http://www.opengovguide.com/country-examples/georgia_proactive_publication/
- Mexico's access to information law provides for proactive disclosure of information <http://www.opengovguide.com/country-examples/mexicos-access-to-information-law-provides-for-proactive-disclosure-of-information/>
- The Indian Right to Information Act lists the types of information that must be published on a proactive basis <http://www.opengovguide.com/country-examples/the-indian-right-to-information-act-lists-the-types-of-information-that-must-be-published-on-a-proactive-basis/>
- The Peruvian Law of Transparency and Access to Public Information contains extensive proactive publication obligations <http://www.opengovguide.com/country-examples/the-peruvian-law-of-transparency-and-access-to-public-information-contains-extensive-proactive-publication-obligations/>

Intermediate Step: Ensure that each public authority puts in place core implementation systems on RTI

Justification

For public bodies to be able to meet their various obligations under the RTI law consistently over time, systems need to be put in place. Such systems should ensure that requests can consistently be processed within the time limit set out in the law, and should make clear what role officials other than specifically nominated information officers play in this process (including that they must cooperate with the information officer). Where the law provides for an internal appeal, a system for managing this also needs to be put in place; the same holds for appeals before the oversight body.

Many countries that have enacted ambitious right to information laws have put in place annual reporting processes to track their progress and report back to parliament and to the public. For these to function effectively, systems need to be put in place for collecting and collating information about implementation.

Recommendations

1. Develop guidelines or model policies for public bodies to assist them to establish formal policies or systems for meeting their obligations under the RTI Law, including in relation to:
 - Ensuring requests for information are received and processed in accordance with the rules, including the timelines for responding to requests.
 - Ensuring that internal appeals are processed in accordance with the rules.
2. Establish a system collect and collate information to produce an annual report on implementation.
3. Use the annual report process to improve both implementation and to feed into law reform to bring the law more closely into line with international standards.

4. Incorporate provisions on compliance with the provisions of an RTI law as part of the general performance management systems for public sector organisations and managers.

Standards & Guidance

- Carter Center: The Access to Information legislation Implementation Assessment Tool
http://www.cartercenter.org/peace/americas/access_to_information/IAT/index.html
- World Bank's Public Accountability Mechanisms website
<http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTPUBLICSECTORANDGOVERNANCE/0,,contentMDK:23352107~pagePK:148956~piPK:216618~theSitePK:286305,00.html>

Intermediate Step: Expand the scope of proactive publication

Justification

Proactive publication of information is an effective RTI system from the perspective of both users and officials, since it is far more efficient for both parties than the piecemeal release of information pursuant to requests (while recognising that these will always be important to supplement proactive publication systems) (Darbshire, 2011).

Over time, as much information as possible should be made available proactively, as this both facilitates access for the public and reduces the cost of providing access for officials. Proactive publication is closely related to the '[Open Government Data](#)' approach in which governments make datasets available in machine readable and reusable formats to allow users and intermediaries analyse, visualise and use it in new ways.

Releasing new records and datasets proactively requires quality control, to ensure a high degree of quality and integrity and that information is kept up-to-date. Effort also needs to be put into ensuring that information is available in an accessible form to those who are likely to be interested in it. Paper based records may need to be digitised, and converted into machine-readable formats, and information covered by exceptions may need to be redacted.

Engaging the public actively in determining priorities for proactive publication can both help to prioritise the timetable for publication, and ensure that the information is made available in a form that is useful, which may also include making use of non-digital means of publishing and disseminating information.

Recommendations

1. Require government organisations to develop, produce, and disseminate indexes of the information they hold, and its accessibility, and provide guidelines to assist go in providing user-friendly descriptions of records and datasets using a common format.
2. Hold consultations with public interest groups, representative organisations and the general public to enable them to recommend which categories and datasets should be priorities for release and to test and refine the relevance and format of proactively published information.
3. Publish all information released pursuant to RTI requests in a searchable database.
4. In addition to the initial set of information released, further categories include national companies' registers, laws, and documents on the full cycle of [public contracts](#), and comprehensive and searchable records of parliamentary proceedings and court jurisprudence.
5. Make data available in open, machine-readable formats ensuring that it is openly licenced and free of any restrictions on reuse, present it clearly in the major languages of user communities and ensure that it is regularly updated.

6. For countries where internet penetration is still low, this more substantial step should include making more extensive use of alternative means of proactive publication and ensuring that it reaches larger sectors of the public.

Country Examples

- A Canadian government website provides the public with information about the government's access to information and privacy programmes <http://www.opengovguide.com/country-examples/a-canadian-government-website-provides-the-public-with-information-about-the-government%E2%80%99s-access-to-information-and-privacy-programmes/>
- In Bulgaria all units of the Ministry of Interior must publish data on FOI requests <http://www.opengovguide.com/country-examples/in-bulgaria-all-units-of-the-ministry-of-interior-must-publish-data-on-foi-requests/>
- The US Federal Register website provides information on citizen rights and obligations and actions of federal agencies, and provides a forum for public participation in the democratic process <http://www.opengovguide.com/country-examples/the-us-federal-register-website-provides-information-on-citizen-rights-and-obligations-and-actions-of-federal-agencies-and-provides-a-forum-for-public-participation-in-the-democratic-process/>

Intermediate Step: Promote public awareness of the right to information

Justification

If citizens, civil society organisations, journalists and others are not aware of the RTI Law, their rights under it or how to use it, demand for information through the Law will be poor and the openness objectives it seeks to promote will be undermined. There is no standard approach towards promoting public awareness of RTI and in most countries this involves a range of different actors, including senior politicians, public bodies, the oversight body, civil society, the media and the education authorities. To ensure a locus of responsibility for these efforts, it is useful to allocate overall responsibility for publicity to a central body.

Public educational efforts are critical to ensure that all citizens are aware of this right. This should include incorporation of RTI as a subject in school curriculums (for example on civic education or citizenship), as well as in various university courses and programmes (for example in human rights courses, and journalism and law programmes), as well as particular efforts to reach disadvantaged segments of the population.

This effort should also include assessments of the effectiveness and appropriateness of public information systems, such as surveys on awareness of RTI and on the utility of the information which is disclosed publicly.

Recommendations

1. Give overall responsibility for training and promotion to a central body – such as the central focal point or the oversight body.
2. A range of official actors should be involved in promoting public awareness, including senior politicians and officials, public bodies, the oversight body and educational authorities; as well as regional and local bodies particularly in larger, federal and more decentralised countries.
3. Over time, public outreach efforts should be substantially enhanced and RTI should be incorporated into school curriculums and relevant university courses and programmes, as well as programmes aimed at CSOs, and public education campaigns to build people's skills to seek and use information under the RTI law.
4. Develop promotion strategy. Depending on the needs of the country, include high level events and statements by

leading individuals, prominent highlighting of RTI, along with guidance materials, on public bodies' websites and in public spaces such as receptions, notice boards, waiting rooms, meeting rooms. Also include active outreach by public bodies through their regular communication with the public as well as through public service announcement and news stories disseminated via the media, including through media which reach large sectors of the population such as television and community radios.

5. RTI should be incorporated into educational programmes, such as a session on this in a civil education or citizenship course for schoolchildren, and inclusion in university courses on human rights issues, law and journalism.
6. RTI should be incorporated as a theme in professional training for officials, both at entry level and through ongoing professional development.

Country Examples

- In Nicaragua right to information is incorporated into school curricula by law <http://www.opengovguide.com/country-examples/in-nicaragua-right-to-information-is-incorporated-into-school-curricula-by-law/>

Advanced Step: Align RTI law and practice with highest international standards on RTI

Justification

Stronger RTI laws can help promote greater access to information in many ways, such as by expanding the scope of the law, by reducing the scope of exceptions, by streamlining procedures for processing requests and/or by increasing the strength of promotional measures. Countries adopting an RTI Law for the first time are encouraged to build in these features right from the outset, and many of the strongest RTI laws are indeed recent ones. Countries which already have laws should assess and amend them to bring them into line with best international practice.

Recommendations

Governments should review the RTI Law and propose amendments to it with a view to bringing it into line with highest international standards.

Key Criteria

The highest international standards are evolving as better practices constantly emerge. Some key criteria are:

1. Proactive publication obligations include commitments to publish all information which may be of interest to the public, including information released in response to a request;
2. Extensive assistance is available; public bodies are required to undertake electronic redesign of information to provide it in requested formats;
3. Information that was traditionally sold, such as geo-spatial maps, meteorological data and company registers, is provided for free without limitations on or charges for reuse of information;
4. Most information is provided immediately or very rapidly and maximum timelines are reduced (for example to ten days);
5. Exceptions are progressively reduced in scope and applied rigorously and in a limited fashion;
6. In addition to the general public interest override, there is an explicit override for information relating to violations of human rights, crimes against humanity, corruption or abuse of power, or threats to public health or the natural

environment;

7. The burden of proof rests on a public authority seeking to deny access to information; timelines for processing appeals are reduced, ideally to 30 days or less;
8. Protection for disclosing wrongdoing ([whistleblowers](#));
9. The right is extended to cover private bodies when the information requested is necessary for the protection of a fundamental right; and
10. Promotional measures include strong training requirements, public awareness raising obligations, record management systems and reporting rules.

Standards & Guidance

- African Commission on Human and Peoples' Rights: The Model Law on Access to Information for Africa http://www.achpr.org/files/news/2013/04/d84/model_law.pdf
- ARTICLE 19 Principles <http://www.article19.org/data/files/pdfs/standards/righttoknow.pdf>
- RTI Rating <http://www.rti-rating.org/>
- Special Mandates 2004 Declaration <http://www.osce.org/fom/38632>
- Tshwane Principles on National Security and the Right to Information <http://www.right2info.org/exceptions-to-access/national-security>

Country Examples

- Serbia, India and Slovenia tops the RTI Rating <http://www.opengovguide.com/country-examples/serbia-india-and-slovenia-tops-the-rti-rating/>
- South Africa's right to information law covers both public and private bodies <http://www.opengovguide.com/country-examples/south-africas-right-to-information-law-covers-both-public-and-private-bodies/>

Advanced Step: Establish best practice monitoring and evaluation systems on RTI

Justification

RTI systems, like all systems, may fail to deliver their intended benefits if they are not subject to robust monitoring and evaluation systems, leading to adjustments in either the law or the practice to address problems. This should include the regular and systematic collection, by all public bodies, of data on the number of requests, rates of response, exceptions relied upon and classes of information published proactively, as well as the central collation of this information. There should be a feedback loop, so that systems are in place for ensuring that remedial measures are taken to address problems. Civil society should be encouraged to input into how to improve implementation, and the government should consider setting up consultation processes with civil society and members of the public.

It is not possible to design an RTI system that is responsive to people's needs and interests without consulting them on the design and implementation of that system. Issues which are particularly sensitive to public input are what sorts of information are important to people (and which should then be disclosed proactively and, where necessary, presented in more easily understandable formats), when search functions are not use-friendly (i.e. when people cannot find the information they are seeking even though it is available online) and problem areas and issues in the requesting process. To address this, mechanisms need to be put in place to foster public feedback and also participation in design of RTI systems.

Recommendations

1. Robust monitoring and evaluation systems should be put in place, which include extensive information collection components and mechanisms for ensuring that remedial measures are taken to address problems.
2. The promotion of public feedback and participation should be fostered through regular public awareness surveys and public consultations/focus groups to permit the public to participate directly in debates about how to improve government openness.
3. Civil society should be encouraged to play a major role in providing this feedback not only to governments but also to Information Commissions/Commissioners. This can be done by setting up civil society advisory committees.

Country Examples

- Mexico has a system in place to systematically track statistics on requests and responsiveness from federal agencies <http://www.opengovguide.com/country-examples/mexico-has-a-system-in-place-to-systematically-track-statistics-on-requests-and-responsiveness-from-federal-agencies/>
- The UK publishes quarterly and annual reports on the number of FOI requests, response and appeals <http://www.opengovguide.com/country-examples/the-uk-publishes-quarterly-and-annual-reports-on-the-number-of-foi-requests-response-and-appeals/>

Advanced Step: Review and amend secrecy laws

Justification

In many countries, there are numerous secrecy provisions in different pieces of legislation, and sometimes even dedicated secrecy laws. In most cases, these laws were adopted prior to the RTI law, and their secrecy requirements do not conform to the standards of the RTI law. As an initial step, the RTI law should prevail over secrecy laws in case of conflict. However, this will not fully resolve the potential for conflict of laws situations, and civil servants faced with apparently conflicting rules cannot be expected to navigate complex legal issues. It is important to create a fully consistent and coherent legal framework for exceptions to give officials clear guidance as to their duties, to prevent legal uncertainty from being used to keep information secret and to reduce the number of administrative and legal appeals.

Recommendations

Governments should review secrecy provisions in other laws and propose amendments to them with a view to creating a coherent and consistent regime of exceptions based on the three-part test under international law, namely that exceptions should: only protect recognised interests; be based on harm; and be subject to a public interest override.

Standards & Guidance

- African Commission on Human and Peoples' Rights: Declaration of Principles on Freedom of Expression in Africa <http://www1.umn.edu/humanrts/achpr/expressionfreedomdec.html>
- Special Mandates 2004 Declaration <http://www.osce.org/fom/38632>
- Tshwane Principles on National Security and the Right to Information <http://www.right2info.org/exceptions-to-access/national-security>

Country Examples

- In Slovenia, all secrecy provisions are laid out in the Classified Information Act <http://www.opengovguide.com/country-examples/in-slovenia-all-secrecy-provisions-are-laid-out-in-the-classified-information-act/>
 - In Sweden, all secrecy provisions are concentrated in one law: the Secrecy Act <http://www.opengovguide.com/country-examples/in-sweden-all-secrecy-provisions-are-concentrated-in-one-law-the-secrecy-act/>
-

Innovative Step: Use IT to enhance access to information

Justification

IT can be used to enable both proactive and reactive disclosure of information, reducing burdens on public bodies and significantly enhancing access to information by individuals and others.

Recommendations

The scope of action here will continue to evolve with new technologies. Some key areas of potential include:

Substantive improvements to information accessibility:

- Enabling real time updates of documents and data, including financial data.
- Requiring government agencies to keep a register of metadata, including about requests and how they are being processed, and to publish it daily to the online access portal.
- Improving the granularity of data.
- Tagging to enable relevant searches.
- Customised and powerful search facilities.
- Adopting interoperable formats and systems for government websites and information.

Procedural improvements to information accessibility:

- Developing a citizen access portal to provide a central access point for government information that enables users to search for information across all public bodies, to make requests for information easily and rapidly, with processes for routing requests to the agency that holds the information and handling appeals.
- Ensuring that information is published in a format that is accessible for users with disabilities.
- Making information and datasets produced, collected or owned by public bodies available for free in accordance with open licences (thereby ensuring elimination of all fees and copyright/reuse restrictions).
- Requiring RTI to be designed into IT systems and the production of records, for example by building in systems for the segregation of exempt information (for example, private data).
- Fully enabling the electronic processing of appeals.

Country Examples

- Mexico has put in place three key electronic systems to facilitate RTI <http://www.opengovguide.com/country-examples/mexico-has-put-in-place-three-key-electronic-systems-to-facilitate-rti/>
- Norway has developed an electronic public records tool, which is used by central government agencies to publicise their public records online, and which is open for everyone to use <http://www.opengovguide.com/country->

[examples/norway-has-developed-an-electronic-public-records-tool-which-is-used-by-central-government-agencies-to-publicise-their-public-records-online-and-which-is-open-for-everyone-to-use/](#)

Tax and Illicit flows

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Introduction

Taxation provides funds to invest in development, relieve poverty, deliver public services and build the physical and social infrastructure for long-term growth. Taxation is also a crucial part of the social contract that binds citizens and states, ensuring government is accountable. Fair and efficient tax systems can contribute to good governance by establishing a bargaining process between states and citizens. States that rely on their citizens for income also have to take their demands into account (Corbacho *et al*, 2013).

Most OECD members have a broad base for direct and indirect taxes, with tax liability covering the vast majority of citizens and firms. Countries at lower incomes often face more severe social, political and administrative obstacles and so can be especially vulnerable to tax evasion and avoidance efforts of individual and corporate taxpayers. In addition, many of the same instruments and channels used to defeat tax systems – from opaque company ownership and accounts, to mispriced trade through secrecy jurisdictions ('tax havens') – are used for a range of other flows that undermine both public finances and governance. These include laundering the proceeds of crime, theft of state assets and bribery of public officials (van der Does de Willebois *et al*, 2011).

International flows of investment and trade mean that policy decisions in one country can have far reaching impacts. A lack of financial transparency in one jurisdiction can allow assets and income streams to be moved around, and hidden in ways that undermine regulation and taxation in other jurisdictions. International rules and institutions are critical, but each country has a responsibility to raise its own standards – which will limit abuses and support improved corporate governance both domestically, and for trading partners.

Financial transparency concerns the disclosure of all financial information that allows governments to effectively regulate and tax economic and financial activity, private sectors actors including investors to be confident others are operating by the same rules, and for civil society to hold all actors – public and private – accountable for their role in this (Murphy *et al*, 2009). It is crucial for well-functioning states and markets in several ways, it enables action against fraud and corruption, enables public confidence in, the effectiveness and fairness of taxation, it improves market efficiency by facilitating price discovery, uncovering hidden costs, improving data quality and, more generally, by ensuring a level playing field and fairer market conditions and allowing better analysis of the risks to investment.

States provide companies with their legal standing, mandate disclosures and collect information about those companies. A major, common benefit of incorporation is limited personal liability; and this requires effective financial transparency about company performance to ensure confidence of business partners, customers and tax authorities; and effective transparency about ownership to guard against fraud, market manipulation and other criminal misuse of corporate vehicles. In this way, businesses and society benefit from states ensuring effective transparency, with compliance at the heart of the virtual circle. However, in many countries, it is not even possible to confirm the existence of a company without payment of a fee. Furthermore, data about companies acting in multiple jurisdictions is even more challenging to obtain and at times may only present a partial or highly limited view of the company. The limited access and availability of data about companies and their work facilitates money laundering, tax evasion, bribery, the theft of public assets, financing of terrorism, and excessive risk-taking which can lead to systemic vulnerability.

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Murphy, R. & P. Sagar, 2009, 'What is Financial Transparency?', Mapping the Faultlines Series, Tax Justice Network, <http://www.secrecyjurisdictions.com/PDF/FinancialTransparency.pdf>

Expert Organisations

International Centre for Tax and Development <http://www.ictd.ac>

International Tax Compact <http://www.taxcompact.net>

Stolen Asset Recovery Initiative (StAR) (World Bank/UNODC) <http://star.worldbank.org/star>

OECD Centre for Tax Policy and Administration <http://www.oecd.org/ctp>

Financial Transparency Coalition <http://www.financialtransparency.org>

Financial Action Task Force (FATF) <http://www.fatf-gafi.org>

Global Financial Integrity <http://www.gfintegrity.org>

Tax Justice Network <http://www.taxjustice.net>

Summary of illustrative commitments

Initial

- Require minimum standards for company filing and disclosure, and publish data online

Intermediate

- Establish a system to exchange information automatically with tax authorities
- Establish robust registers of beneficial ownership
- Require combined and country-by-country reporting by multinational companies operating in the jurisdiction

Advanced

- Publish combined and country-by-country reporting of multinational companies in open, machine-readable format
- Publish information on tax expenditures
- Publish registers of company beneficial ownership, and of parties to trusts and foundations as open, machine-readable data

Innovative

- Establish a system for monitoring customs declarations in real time to detect abuse
- Establish 'follow the money' partnerships to curtail trade mispricing

Detailed Recommendations

Initial Step: Require minimum standards for company filing and disclosure, and publish data online

Justification

Basic company disclosure underpins markets by providing a level playing field and ensuring confidence in business relationships. It also supports public confidence in the fair and effective application of tax and regulation. Some countries lack basic filing requirements. In many cases, however, the problem is that existing filing requirements are not well enforced or that public disclosure is not required, or simply not effective. The opportunities for fraud and other criminal behaviour, in the absence of effective, basic company regulation, are substantial.

Research by Tax Justice Network suggests that a wide range of jurisdictions are providing public data on companies, for below USD/Euro10, for all legal entities with limited liability: Aruba, Australia, Austria, Belgium, Czech Republic, Denmark, Finland, France, Germany, Guernsey, Hong Kong, India, Ireland, Isle of Man, Israel, Italy, Jersey, Luxembourg, Malta, Netherlands, New Zealand, Norway, Singapore, Slovakia, Spain, Sweden, UK.

Recommendations

1. **Require basic disclosure from companies**, including of directors and minimum corporate data.
2. **Assign globally unique identifiers to all legal entities** incorporated within the jurisdiction, through the national corporate registry.
3. **Ensure corporate registries have the appropriate resources** (e.g. from charges for filing), capacities and legal mandate to carry out verification and apply sanctions.
4. **Publish the information disclosed**, online, in a timely fashion and for no, or minimal, payment.

Standards & Guidance

- Financial Stability Board: Global LEI (Legal Entity Identifier) Initiative http://www.financialstabilityboard.org/list/fsb_publications/tid_156/index.htm
- Open Data Index <http://https://index.okfn.org/>

Country Examples

- The UK Companies House makes company information available to the public <http://www.opengovguide.com/country-examples/the-uk-companies-house-makes-company-information-available-to-the-public/>
- The US EDGAR system allows anyone to access and download company information for free <http://www.opengovguide.com/country-examples/the-us-edgar-system-allows-anyone-to-access-and-download-company-information-for-free/>

Intermediate Step: Establish a system to exchange information automatically with tax authorities

Justification

The G20, OECD and G8 have established automatic exchange of tax information as the global standard, recognising that information exchange 'on request' has not proven a sufficiently powerful tool against tax evasion and related abuses.

Automatic exchange of information (AEI), as practiced between Mexico and Canada, for example, or among all members of the European Union and some associated jurisdictions under the Savings Tax Directive, involves the automatic provision from one jurisdiction to others of information relating to defined assets or income streams held or received in the first jurisdiction by residents of the second. Without this, direct taxation of income can be increasingly difficult since tax authorities are impeded from uncovering income accruing to their residents.

The OECD will deliver a full technical standard by 2015, which gives countries an opportunity to prepare their national systems where necessary. In addition, there are already multilateral instruments available which make automatic exchange possible, notably the Convention on Mutual Administrative Assistance in Tax Matters and the pilot of a 'global FATCA' based on the US tool. Countries should ready themselves to join the global mechanism that will provide the platform for the new standard as of 2015.

Recommendations

1. **Establish mechanisms to aggregate information received from financial institutions on the income received by non-residents**, and/or their financial interest in (domestic) structures.
2. **Require that financial institutions provide this information to tax authorities**, on a regular and timely basis.
3. **Sign up to the Convention on Mutual Administrative Assistance in Tax Matters**, and negotiate automatic information exchange where possible, recognising that full reciprocity need not be an *immediate* requirement from developing countries.

Standards & Guidance

- OECD and Council of Europe: Multilateral Convention on Mutual Administrative Assistance in Tax Matters <http://www.oecd.org/tax/exchange-of-tax-information/conventiononmutualadministrativeassistanceintaxmatters.htm>
- OECD model tax agreements <http://www.oecd.org/ctp/treaties/oecdmtcavailableproducts.htm>
- The Global Forum on Transparency and Exchange of Information for Tax Purposes <http://www.oecd.org/tax/transparency/>

Country Examples

- A US Act is laying the groundwork for an international system of automatic information exchange <http://www.opengovguide.com/country-examples/a-us-act-is-laying-the-groundwork-for-an-international-system-of-automatic-information-exchange/>
- EU member states exchange tax information under the Savings Directive <http://www.opengovguide.com/country-examples/42-countries-and-territories-exchange-tax-information-as-part-of-the-european-union-savings-directive/>

Intermediate Step: Establish robust registers of beneficial ownership

Justification

Corporate and legal vehicles such as companies, trusts and foundations serve a range of complex needs for business,

enabling entrepreneurs and investors to share and limit risks and allowing complex contracting relationships to be managed across borders. However corporate vehicles can also be used to hide tax evasion, money laundering, and other illegal or abusive transactions through complex and opaque structures which disguise ownership (van der Does de Willebois *et al*, 2011).

The root of the problem of the misuse of legal entities is that individuals can use a myriad of techniques to hide their ownership and control over a company, including by forming them in foreign jurisdictions. This compels authorities to engage in the complicated and often difficult process of a cross-border investigation. The legal title to companies is not always the same as the name of the people who actually control it (the 'beneficial owners'). For example companies can be listed under the name of 'Nominee' shareholders, or be held in the name of another company (or trust or foundation), or anonymous 'bearer shares' may be used, making it impossible to trace relationships.

The Financial Action Task Force (FATF) recommends that countries ensure that information on the real, beneficial owners of companies, trusts and foundations are available to the authorities in an adequate, accurate and timely manner (Recommendations 24 and 25). However, corporate registries around the world very rarely collect information on beneficial ownership, instead countries rely on the due diligence carried out by banks and other professions such as lawyers and company service providers., and on the investigative powers of law enforcement This has proved ineffective, and companies are still being registered in the name of nominees, trusts and even dead people, with cases of grand corruption often involving anonymous shell companies (Global Witness, 2013).

Stronger efforts are needed to ensure that information is collected and verified on the true owners of companies, trusts and other corporate vehicles and is made available in corporate registries and to the public (Open Societies Foundation, 2013).

Recommendations

1. **Require that the national corporate registry obtains identification documents of the beneficial owners of all types of company**, and of all parties to trusts and foundations that they create, including prohibiting the issue of bearer shares.
2. **Require that the national corporate registry (or a third party) should carry out due diligence** to verify that the beneficial ownership information provided to them is correct. They should do this on a risk based approach using AML systems.
3. **Impose serious penalties, such as the removal of limited liability**, for provision of false information or failure to provide legally-required information.
4. **Regulate company service providers under anti-money laundering laws**, with significant efforts to ensure that these standards are enforced.
5. **Give appropriate resources, capacities and legal mandate to corporate registries** to carry out verification and apply sanctions.

Standards & Guidance

- Financial Action Task Force (FATF) Recommendations http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf
- United Nations Convention against Corruption (UNCAC), Article 52 http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf

Country Examples

- Jersey requires beneficial owners to be identified and recorded by the JFSC Company Registry <http://www.opengovguide.com/country-examples/jersey-requires-beneficial-owners-to-be-identified-and-recorded-by-the-jfsc-company-registry/>

- The UK has committed to establish a central registry of information on beneficial ownership <http://www.opengovguide.com/country-examples/the-uk-has-committed-to-establish-a-central-registry-of-information-on-beneficial-ownership/>

Intermediate Step: Require combined and country-by-country reporting by multinational companies operating in the jurisdiction

Justification

The years since the financial crisis have seen a notable loss of confidence in the international tax system for multinational companies, with growing public and political pressure in countries at all income levels. A major issue is the apparent ease with which profits can be shifted from the location of the underlying, real economic activity, to an alternative jurisdiction (with a lower tax implication).

Tax authorities in a number of countries, for example the United States, require companies to provide a consolidated report on their global activity, alongside their tax return in the one jurisdiction, as a handy check on potential distortions to profit declaration and tax liability. Both the OECD Transfer Pricing Guidelines and the UN Manual on Transfer Pricing identify the possibility for tax authorities.

There is broad agreement that multinational companies should be publicly accountable through transparency about where they operate, and in the form of at least some limited data on the scale and nature of their activities in each jurisdiction. The United States and the European Union are in the process of requiring such information (or information of greater granularity) to be published for the extractive sector, and in the EU the financial sector.

The idea of country-by-country reporting for all multinational companies, across sectors which would require them to provide details of their profits, cash tax paid, turnover and employment on a country-by-country basis has been discussed for over a decade (Murphy, 2012). The OECD has been mandated by the G8 group of countries to develop a country-by-country reporting tool, to provide the information to tax authorities consistently around the world (see discussion in OECD, 2013). A major advantage of a common standard will be that countries will not need to develop individual, bespoke tools to manage data, or to flag potentially anomalous disclosures.

Recommendations

1. **Establish legislation requiring that multinational company groups provide a combined and country-by-country report of their global group activities, upon filing a tax return.**
2. **Support the creation of a system of tax accounting and reporting standards on how country-by-country reporting data must be prepared and presented, to parallel the existing International Financial Reporting Standards (which have a different purpose)**

Country Examples

- The Dodd-Frank Act in the US requires companies to report on how much they pay governments for access to oil, gas and minerals <http://www.opengovguide.com/country-examples/the-dodd-frank-act-in-the-us-requires-companies-to-report-on-how-much-the-pay-governments-for-access-to-oil-gas-and-minerals/>
- The EU requires extractive companies to publish their payments on a country-by-country and project-by-project basis <http://www.opengovguide.com/country-examples/the-eu-requires-extractive-companies-to-publish-their-payments-on-a-country-by-country-and-project-by-project-basis/>

Advanced Step: Publish combined and country-by-country reporting of multinational companies in open, machine-readable format

Justification

The requirement for combined and country-by-country reporting by multinational companies is now well established on the international policy agenda. There is also growing pressure for such information to be made public, and not only held privately by tax authorities, since openness in this regard is seen as important for public confidence in both tax authorities and companies (Murphy, 2012).

As noted, there is broad agreement that multinational companies should be publicly accountable through transparency about where they operate, and in the form of at least some limited data on the scale and nature of their activities in each jurisdiction. One important feature of publishing this data, rather than keeping it private for tax authorities, is that it would demonstrate appropriate tax being paid, and help to restore public confidence that large companies are paying their share. In addition, the principle of 'many eyes' would help both to reduce errors and, potentially, to highlight anomalous reporting.

Recommendations

1. **Publish combined and country-by-country reporting information** provided by multinational companies online in a fully machine-readable format.
2. **Where possible, join up reporting facilities with other countries** to provide a single data access point (or, failing that, multiple sources with a consistent reporting structure and format).
3. **Cooperate internationally to create a single, harmonised system of unique corporate identifiers.**

Standards & Guidance

- G8 Open Data Charter and Technical Annex <http://https://www.gov.uk/government/publications/open-data-charter>

Advanced Step: Publish information on tax expenditures

Justification

Tax expenditures are a financial measure that is generally less well understood and often hidden from public scrutiny. Tax expenditures are usually defined as a government's estimated revenue loss that results from giving tax concessions or preferences to a particular class of taxpayer or activity. The revenue loss, or "expenditure", is calculated as the difference between whatever tax would have been paid under a defined benchmark tax law (which identifies what tax structure should normally apply to taxpayers) and the lower amount that was actually paid after the tax break.

All these issues should be adequately disclosed so that they receive the same level of oversight that the national budget receives.

Recommendations

1. **Publish timely, regular, comprehensive, accessible, and accurate information on tax expenditures** as part of overall budget transparency. Budget documentation should include statements on the purpose, duration, and intended

beneficiaries of tax expenditures.

Advanced Step: Publish registers of company beneficial ownership, and of parties to trusts and foundations as open, machine-readable data

Justification

There are several benefits to putting company registers, including beneficial ownership information, in the public domain, as opposed to only being accessible to the police or other law enforcement authorities. Firstly it enables law enforcement authorities in other countries to access information without having to resort to the cumbersome, expensive and time-consuming process of mutual legal assistance. Having beneficial ownership information in the public domain also allows citizens, journalists and civil society to hold companies (and their owners) to account for their actions and provides useful information for banks, customers and suppliers in assessing potential business partner (Open Societies Foundation).

As well as improving regulation and guarding against market abuse, providing full openness of such information will hinder multiple types of illicit financial flows, most obviously those associated with money laundering; corrupt payments; the theft of public assets; and tax evasion. As the UK's Institute of Directors (2013) has stated, "So-called 'anonymous companies', in which the corporate veil is used to conceal illegal activities, have no place in a modern economy and bring the entire business sector into disrepute."

Requiring beneficial ownership information to be put in the public domain is not expensive. Cost/benefit analyses have concluded public registries are more cost effective than closed registers, as they save significant police time. Neither does it involve much red tape. For example, in the UK it is estimated that only 1% of companies have beneficial owners who are distinct from their legal shareholders (Global Witness, 2013).

Recommendations

1. **Publish the full national company register online** and make it available to search without charge or registration.
2. **Data should be published with an explicit open licence** (e.g. CC-0, Open Government Licence) and should be available as downloadable data.
3. **Company registers should include a list of company directors and significant shareholders** for each company.
4. **Statutory filings** (e.g. Annual Reports and accounts) should be available.
5. **Accounts must be available** and include a minimum data standard that must incorporate a profit and loss account, balance sheet, report of the directors and notes to explain all key items.

Standards & Guidance

- G8 Common Principles on Misuse of Companies and Legal Arrangements <http://www.gov.uk/government/publications/common-principles-on-misuse-of-companies-and-legal-arrangements>
- G8 Open Data Charter and Technical Annex <http://https://www.gov.uk/government/publications/open-data-charter>
- Open Data Index <http://https://index.okfn.org/>
- OpenCorporates: Open Company Data Index <http://registries.opencorporates.com/>

Innovative Step: Establish a system for monitoring customs declarations in real time to detect abuse

Justification

Most estimates of illicit financial flows, for most countries and regions and in most periods, find that trade mispricing is the largest component. Currently available international data allow the detection of abnormal patterns, but not the specific abusive transactions which can be revealed through access to disaggregated data (Pak and Zdanowicz, 1994; Pak and Zdanowicz; Cobham *et al*, 2013). Technological advances have made real-time monitoring straightforward, with simple filters allowing the querying of abnormally priced transactions as they are declared. Greater transparency of trading patterns and prices would assist detection and provide further incentive for compliance.

Recommendations

1. **Carry out a detailed study of recent transaction-level customs data**, to estimate the likely scale of abnormal pricing (and to uncover evidence of specific abuse).
2. **Initiate real-time monitoring**, to identify abnormally priced transactions as they are declared – not only to detect abuses but with preventative aspect likely to be significant also.
3. **Publish customs data in timely fashion**, partially aggregated where necessary to protect commercial confidentiality.

Innovative Step: Establish ‘follow the money’ partnerships to curtail trade mispricing

Justification

Most estimates of illicit financial flows, for most countries and regions and in most periods, find that trade mispricing is the largest component. Currently available international data allow the detection of abnormal patterns, but not the specific abusive transactions which can be revealed through access to disaggregated data (Pak and Zdanowicz, 1994; Pak and Zdanowicz; Cobham *et al*, 2013). Technological advances have made real-time monitoring straightforward, with simple filters allowing the querying of abnormally priced transactions as they are declared. Cooperating with trading partners would allow detection of a greater range of abuses, protecting the integrity of trade at both ends of the transaction.

Recommendations

1. **Establish trade data-matching arrangements (‘follow the money’ partnerships)** with major trading partners or regional blocs, and in the case of aid donor countries with development partner countries, to allow full tracking of transactions and pricing, allowing detection of further types of abusive behaviour.
2. **Cooperate administratively and judicially to pursue criminal and civil cases** on the basis of evidence obtained in this way.
3. **Cooperate to ensure harmonisation for ease of use of data published by each partner government.**

Whistleblower protection

 **Lead author:** [Whistleblowing International Network](#)

Introduction

Those working in or with an organisation are often the first to see misconduct, dishonest or illegal activity or a serious risk to the public interest in areas ranging from consumer safety and environmental damage, professional misconduct and child abuse, to financial embezzlement and corruption. However they can be discouraged from reporting their concerns by fear of reprisals and by the perceived lack of follow-up to address such warnings.

Responsible organisations should encourage those working for them to communicate actual or potential problems. Yet too many individuals face retaliation if they report their concern, this can include threats to their physical well-being as well as detriments in the workplace such as harassment, lack of promotion, demotion or dismissal. When lines of communication within organisations are blocked or not trusted, or the organisation itself is involved in the wrongdoing or its cover-up, it is vital that individuals can safely report such concerns to a competent external authority or more widely, where necessary.

Alerting organisations, external competent authorities or the public about risk, misconduct, dishonest or illegal activity, or matters of important public interest is termed whistleblowing. Whistleblowing covers the spectrum of such communications. It is a democratic right closely linked to freedom of speech and the right to petition; a public interest safety net which supports openness in government and democratic accountability.

Whistleblower protection is relatively new to the open government agenda, and while laws are becoming increasingly popular, it is crucial that they can be enforced. If the rights they offer are only symbolic this puts workers and others at greater risk; as they invite individuals to make disclosures while offering no genuine protection or any commitment to any appropriate follow-up of the issue raised.

Governments have a responsibility to facilitate whistleblowing and in so doing protect public interest whistleblowers. Laws which recognise the right of those who act in the public interest not to suffer harm or threats of harm and which build on the democratic principles of free speech and freedom of information are critical. They provide individuals a safe alternative to the silence that allows negligence and wrongdoing to take root. Whistleblower protection also offers an important alternative to anonymous leaks - a form of self-preservation which can compromise both the public interest and the whistleblower.

International instruments on whistleblower protection have, for the most part, recognised the importance of having whistleblower protection laws in place as part of an effective anti-corruption framework. (See for example the whistleblower protection requirements in the United Nations Convention against Corruption (2003), the 2009 OECD Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions (Anti-Bribery Recommendation), the 1998 OECD Recommendation on Improving Ethical Conduct in Public Service , the Council of Europe Civil and Criminal Law Conventions on Corruption (1999), the 1996 Inter-American Convention against Corruption and the African Union Convention on Preventing and Combating Corruption (2003))

These provide a good foundation on which to develop legal and institutional frameworks to facilitate whistleblowing and protect whistleblowers for a wider category of public interest information. Governments also need to protect whistleblowing at the international level, to enhance support and protection where it falls short particularly across multinational production chains or regulatory and legal frameworks.

While it is incumbent on governments to facilitate safe and effective channels for whistleblowing and to protect whistleblowers, civil society has a complementary role in advocating for the protection of those who come forward to safeguard the public interest, particularly when it challenges government authority. An engaged civil society can ensure

that the legal and practical responses to whistleblowing are effective and appropriately applied over the long term.

NB: This topic is focused primarily on whistleblowing that arises out of a working relationship. However, there are important overlaps with the protections needed for those understood to be 'human rights defenders', and for the protection of journalists and their sources and for witness protection for those physically at risk.

Expert Organisations

Whistleblowing International Network (WIN) <http://whistleblowingnetwork.org>

OECD <http://www.oecd.org/governance>

Council of Europe: Group of States Against Corruption http://www.coe.int/t/dghl/monitoring/greco/default_en.asp

Federal Accountability Initiative for Reform (FAIR) <http://fairwhistleblower.ca/>

Government Accountability Project (GAP) <http://www.whistleblower.org/>

Open Democracy and Advice Centre (ODAC) <http://www.opendemocracy.org.za/>

Public Concern at Work (PCaW) <http://www.pcaw.org.uk>

Whistleblowers Network (Germany) <http://www.whistleblower-net.de>

Transparency International <http://www.transparency.org/topic/detail/whistleblowing>

Transparency International (Ireland) <http://www.transparency.ie/>

Open Society Justice Initiative (OSJI) <http://www.justiceinitiative.org>

Summary of illustrative commitments

Initial

- Review and strengthen laws and policies on whistleblowing

Intermediate

- Establish a public awareness campaign on the value of whistleblowing
- Set up or support independent confidential advice services for whistleblowers

Advanced

- Ensure competent authorities have the mandate, powers and resources to facilitate whistleblowing and protect whistleblowers
- Extend whistleblower protection to those working with sensitive or classified information

Innovative

- Establish a public fund to support whistleblowers

Detailed Recommendations

Initial Step: Review and strengthen laws and policies on whistleblowing

Justification

It is important that governments actively review their domestic laws and policies in order to ensure that a comprehensive framework to facilitate whistleblowing and protect whistleblowers not only builds on international best practices but is properly embedded in the national system. Such a review should identify existing protections, legal principles, good practice and custom (e.g., incident reporting in civil aviation, and common law principle that there is 'no confidence in iniquity') and any laws or policies which contradict or undermine whistleblower protection (e.g., restrictive confidentiality, data protection, libel or secrecy laws).

Enshrining whistleblower protection in law is important. It sends a strong message of the value and importance of whistleblowing in a democracy. Legislation clarifies what is expected of employers and competent authorities whether in the public or private sector, informs individuals of their right to report or disclose, and enforces the remedies available to those who suffer unfairly for blowing the whistle.

Whistleblowing regulations seek to protect the interests of society by helping to ensure that information about wrongdoing or serious risk gets to the right people at the right time. In so doing, it must effectively balance three main sets of rights: the public's right to information and to know when their interests are at risk; the right of whistleblowers to freedom of expression and fair treatment; and the right of organisations to manage their operation and their reputation. In particular, the legal and institutional frameworks protecting whistleblowers must be comprehensive and strong enough to address the power imbalance between whistleblowers and organisations - particularly if the organisation itself is involved in wrongdoing or its cover-up - and to protect those who might be wrongly accused of committing wrongdoing.

It should be understood that such laws should not oblige individuals to report on wrongdoing except in the very limited specific cases where there may be a professional duty to do so (e.g., doctors and police officers). Instead, whistleblower protection laws build on the democratic principles of free speech and freedom of information and ensure that where a disclosure is made in the public domain, any interference with the right to impart that information is only that which is necessary in a democratic society.

Recommendations

1. Map existing laws and policies to facilitate whistleblowing and protect whistleblowers, this can include dedicated laws on protection of whistleblowers, information and criminal laws (e.g., right to information, privacy and data protection, laws on confidence and libel laws, official secrets) sectoral laws such as health and safety and competition laws, and laws regulating public servants.
2. Consult with stakeholders including trade unions, civil society groups (e.g., human rights and whistleblower advocacy or campaigning groups), the legal profession and the judiciary, ombudspersons and other independent regulators, private sector representatives, etc., on how to facilitate whistleblowing and protect whistleblowers in the public good.
3. Assess the adequacy of existing laws in protecting whistleblowers and reinforcing openness and democratic accountability. Key best practices^[1] include ensuring:
 - whistleblowers protection rights are enforceable
 - protection extends to all who carry out activities relevant to an employer's mission
 - a reverse burden of proof on the employer to show that any employment detriment was fair and not in retaliation for having blown the whistle
 - full relief is available to whistleblowers : e.g., workplace remedies, compensation for losses, physical protection

- all staff and working partners are informed of their whistleblowing rights and how to seek confidential advice
- safe internal arrangements for staff and working partners to report or disclose information and an obligation on organisations to publicly report on the effectiveness of such arrangements

[1] See in particular GAP's *International Best Practices* under Relevant Standards and Guidance for this Step.

Standards & Guidance

- Council of Europe: (Draft) Recommendation and Explanatory Memorandum on the Protection of Whistleblowers <http://www.coe.int/t/dghl/standardsetting/cdcj/whistleblowers/Whistleblowers%20meeting%20-%20Explanatory%20notes%20.pdf>
- Council of Europe's Parliamentary Assembly (PACE): Resolution 1729 <http://assembly.coe.int/ASP/XRef/X2H-DW-XSL.asp?fileid=17851&=en>
- Council of Europe's Parliamentary Assembly (PACE): Recommendation 1916 <http://assembly.coe.int/ASP/XRef/X2H-DW-XSL.asp?fileid=17852&=en>
- Government Accountability Project: International Best Practices for Whistleblower Policies http://www.whistleblower.org/storage/documents/Best_Practices_Document_for_website_March_13_2013.pdf
- OECD: G20, Whistleblower Protection Frameworks, Compendium of Best Practices and Guiding Principles for Legislation <http://www.oecd.org/general/48972967.pdf>
- Organisation of American States: Draft Model Law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses http://www.oas.org/juridico/english/draft_model_reporting.pdf

Country Examples

- Ireland is developing a new law to provide comprehensive whistleblowing protection <http://www.opengovguide.com/country-examples/ireland-is-developing-a-new-law-to-provide-comprehensive-whistleblowing-protection/>

Intermediate Step: Establish a public awareness campaign on the value of whistleblowing

Justification

In order to ensure that whistleblower protection is properly embedded as a democratic accountability mechanism, it needs to be promoted and understood.

Whistleblower protection legislation should be supported by effective awareness-raising, communication, training and evaluation efforts. Communicating to public or private sector employees their rights when exposing wrongdoing or serious risk to the public interest is essential. They need to know what arrangements are in place internally, their right to report directly to a competent authority, how to get confidential advice and what protection will be available to them.

A public awareness campaign is also important to tackle the cultural perceptions of whistleblowers as traitors or informers rather than as people acting for the public good, and out of loyalty to their organisation, profession and the interests of the society. It must be recalled that informers are individuals paid or compelled to help the state control its citizens. Such

perceptions are understandably even more difficult to shift in countries where such control was imposed under dictatorship or foreign domination. This is why it is critical that whistleblower protection builds on democratic values of openness and freedom of expression rights and that the power to disclose information in the public domain is protected. Whistleblowers are those who voluntarily put themselves at risk to try to protect the public from harm from actual or potential wrongdoing or risk, or its cover-up.

Recommendations

1. Establish a public awareness campaign that extends to schools and professional training on the value of whistleblowing in protecting the public good, the health and safety of people, their environment and their human rights. Distinguish whistleblowing from informing by ensuring laws to protect whistleblowers emphasise open or confidential reporting and build on freedom of expression rights.
2. Provide clear statements and advice on whistleblowing procedures and protections.
3. Establish requirements for public sector employers and encourage private sectors employers to put in place internal arrangements to facilitate whistleblowing and to report on these regularly and publicly.
4. Provide training within organisations to ensure managers are adequately trained to receive reports, and to recognise and prevent occurrences of discriminatory and disciplinary action taken against whistleblowers.

Standards & Guidance

- British Standards Institute: Whistleblowing Arrangements Code of Conduct <http://www.pcaw.org.uk/bsi>
- Brown, A.J., P. Roberts and J. Olsen (2011) Whistling While They Work: A good-practice guide for managing internal reporting of wrongdoing in public sector organisations <http://epress.anu.edu.au?p=144611>
- Sticing Van De Arbeid (Labour Foundation): Statement on Dealing with Suspected Malpractices in Companies http://www.stvda.nl/en/~media/Files/Stvda/Talen/Engels/2012/20120829_EN.ashx

Country Examples

- In the US, OSHA requires federal agencies to post information about whistleblower protection <http://www.opengovguide.com/country-examples/in-the-us-osha-requires-federal-agencies-to-post-information-about-whistleblower-protection/>

Intermediate Step: Set up or support independent confidential advice services for whistleblowers

Justification

While whistleblower protection laws will go a long way towards reassuring those who come across wrongdoing or malpractice that it is safe and acceptable for them to report it, questions about how such rules apply in individual circumstances will remain. At times people will be unsure about whether, how or to whom to raise their concern. They may be unsure as to the nature of what they have witnessed or how such information will be received by managers, or they may be aware of how others were treated when they raised similar concerns and be worried about their own position. Such doubts can easily lead to silence and an opportunity missed to protect the public interest before any serious damage or harm is caused.

Further, early advice and information helps ensure that whistleblowers do not suffer unnecessarily, that they are able to report or disclose information clearly and responsibly and that, should they nonetheless be treated unfairly, they are fully

protected under law and are in a strong position to seek an appropriate remedy.

Access to independent confidential advice is important to help ensure information is reported or disclosed in a way that will best allow the information to be assessed and addressed, and to make the legal rules a practical reality for those involved whether it is the whistleblower, the organisation, regulators or the public.

Currently advice, where available, is often limited and provided by voluntary sector organisations, for example Public Concern at Work in the United Kingdom, the Government Accountability Project in the United States of America, and Transparency International Ireland.

Recommendations

1. Set up or support services to provide independent, legally protected, confidential advice and information for whistleblowers.

Standards & Guidance

- The Hague Institute for the Internationalisation of Law: Towards basic justice care for everyone: Challenges and promising approaches

http://www.hiil.org/data/sitemanagement/media/TrendReport_Part1_020412_DEF%20%282%29.pdf

Country Examples

- The Dutch government has set up an independent, confidential advice service for whistleblowers
<http://www.opengovguide.com/country-examples/the-dutch-government-has-set-up-an-independent-confidential-advice-service-for-whistleblowers/>

Advanced Step: Ensure competent authorities have the mandate, powers and resources to facilitate whistleblowing and protect whistleblowers

Justification

The role of ombudspersons, independent regulators and enforcement bodies is vital as they have an oversight remit that rises above the working relations within and between organisations and are experts in their field. Their capacity to ensure that the organisations they regulate are accountable for their conduct depends on the information they receive from many sources, including the organisations themselves. However, information received from inside sources - whistleblowers - can often allow regulators to effectively and efficiently focus their energies and resources on the problem. At the same time regulators and enforcement bodies will not want to undermine good local governance and accountability arrangements. Thus having the power to receive information from a whistleblower as well as take enforcement action against an organisation that fails to facilitate internal whistleblowing, tries to block, or retaliates against a whistleblower is part of maintaining oversight and reinforcing local accountability.

Experience of protecting whistleblowers around the world has demonstrated time and again that whistleblowers report or disclose information in order for a problem to be addressed and in so doing they need to be able to enforce their rights in a meaningful way. These include, among other things, being able to seek advice, to petition their employer, ombudspersons, independent authorities, and the courts.

Whistleblower legislation should ensure that regulators, ombudspersons and independent enforcement bodies are empowered to receive and investigate complaints of retaliatory, discriminatory or disciplinary action taken against

whistleblowers. The right to appeal to court in the event that these bodies do not act properly or fairly should also be safeguarded.

Recommendations

1. The whistleblowing mandate of competent authorities should include:
 - promoting the law and receiving disclosures;
 - investigating or overseeing investigations of the issues;
 - action or requiring action to suspend or stop the conduct alleged to be wrong or causing harm;
 - measures or requiring measures to protect a whistleblower and any other individual affected by the report (e.g., protecting confidentiality of third parties, or the rights of an accused);
 - sanctions against an employer or organisation for failing to reasonably investigate or remedy the issue, or for failing to protect a whistleblower.
2. Competent authorities in this regard are existing regulators, ombudsmen or enforcement bodies or a new independent body charged with overseeing whistleblowing and whistleblower protection.
3. Such bodies must have the remit, powers and resources to carry out their role effectively.
4. Such bodies should be mandated to regularly publish reports on their activities.
5. Appeals from the decisions of such bodies to a court of law should be allowed.

Standards & Guidance

- Asia Pacific Forum: A Guide for National Human Rights Institutions: Undertaking Effective Investigations
<http://www.asiapacificforum.net/support/files/investigations-manual-for-nhris>

Country Examples

- In the US the Office of the Special Counsel oversees whistleblower protection for federal employees
<http://www.opengovguide.com/country-examples/in-the-us-the-office-of-the-special-counsel-oversees-whistleblower-protection-for-federal-employees/>
- The Slovenian independent Anti-Corruption Commission has enhanced power to protect whistleblowers
<http://www.opengovguide.com/country-examples/the-slovenian-independent-anti-corruption-commission-has-enhanced-power-to-protect-whistleblowers/>

Advanced Step: Extend whistleblower protection to those working with sensitive or classified information

Justification

As a rule all government information should be accessible and open to the public for scrutiny as this enables democratic participation and the development of sound public policies even in sensitive areas such as national security. However, history has shown that governments or parts of government can use overly broad exceptions to open information which prevents effective public scrutiny and debate about government decision-making and activities, and thus there must be safeguards to ensure against such practices.

Whistleblower protection is one such important safeguard and should therefore be extended to all those working with sensitive or classified information whether in public administration, the armed services, national security, defence or intelligence services, or the private sector. Clearly whistleblower protection in such circumstances needs to allow for the proper consideration and protection, where necessary, of other important interests such as national security, international relations, personal privacy, provision of free and open advice, commercial confidentiality, etc.

The Global Principles on National Security and Right to Information (Tshwane Principles), based on international and national law, standards and good practices, provide guidance to legislators and relevant officials throughout the world - they set out a proportionate approach to facilitating internal whistleblowing for those working with sensitive information, and the protection that should be available to those who publicly disclose wrongdoing or other information of public interest. Importantly, the Tshwane Principles include a public interest defence for public servants, whether or not they meet the conditions for whistleblower protection as laid out in the Principles, if the public interest in the disclosure outweighs the public interest in keeping it secret.

Recommendations

1. Adopt the principle that all those who work with sensitive information should be protected from retaliation for whistleblowing on public interest matters including wrongdoing, risk or government abuse.
2. Consult with stakeholders including trade unions, civil society groups (e.g., human rights and whistleblower advocacy or campaigning), legal profession and the judiciary, ombudsperson and other independent regulators on how to facilitate whistleblowing and protect whistleblowers in relation to sensitive information.
3. Review existing laws and policies to facilitate whistleblowing and protect whistleblowers against the Tshwane Principles.

Standards & Guidance

- Council of Europe's Parliamentary Assembly (PACE): Recommendation 2024, Provisional Version <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=20194&=en>
- Tshwane Principles on National Security and the Right to Information <http://www.right2info.org/exceptions-to-access/national-security>

Country Examples

- Canada provides a public interest defence for those who would otherwise be bound by secrecy laws <http://www.opengovguide.com/country-examples/canada-provides-a-public-interest-defence-for-those-who-would-otherwise-be-bound-by-secrecy-laws/>
- Danish criminal law provides a public interest defence for publication of state secrets <http://www.opengovguide.com/country-examples/danish-criminal-law-provides-a-public-interest-defence-for-publication-of-state-secrets/>
- Ghana's Whistleblower Act applies to the security sector <http://www.opengovguide.com/country-examples/ghanas-whistleblower-act-applies-to-the-security-sector/>
- South African law covers all whistleblowers from the public and private sectors <http://www.opengovguide.com/country-examples/south-african-law-covers-all-whistleblowers-from-the-public-and-private-sectors/>

Innovative Step: Establish a public fund to support whistleblowers

Justification

While much attention is given to the protections in law for public interest whistleblowers, less attention is given to how these protections are implemented in practice. Whistleblowers often need advice and support in raising their concern, preserving their position at work, and seeking redress for unfair or detrimental treatment. In extreme circumstances, the detrimental treatment extends beyond the workplace, affecting their families as well as their physical and mental well-being. A fund to support whistleblowers to seek advice, to get advocacy support and where necessary take a legal claim is lacking in all jurisdictions. Such a fund would help ensure that whistleblower protection becomes a reality and could also include relief for those for whom other forms of protection fail (e.g., insolvency of their employer) and emergency relief for those who find themselves with no means to support themselves.

The vast majority of people report wrongdoing, risk or illegality in order for it to be stopped, often at great personal cost, and very few are ever thanked for their efforts. While whistleblowing is most often associated with disclosures made in the public domain, this guidance demonstrates that it can cover a range of communications that will help governments and organisations in the public and private sectors to address problems early enough to avoid damage and harm. National governments around the world confer honours to individuals whose actions have contributed significantly to the common good of the country; some courts and law enforcement bodies also honour or reward individuals who put themselves at risk to protect or serve the interests of others. Whistleblowers should be considered amongst those deserving public honour.

A public fund could also honour those who reported or disclosed wrongdoing or risk that contributed to protecting the public interest and would help normalise whistleblowing as an act of good citizenship.

NB. Honouring and acknowledging a whistleblower who has reported or disclosed information either to an employer, a competent authority, or to the public is not the same as offering a reward. A distinct regulatory model such as that employed by the Securities Exchange Commissions under the Dodd-Frank Act in the USA -which offers monetary compensation in exchange for information on violations of securities law in order to encourage whistleblowers to come forward - has caused some controversy on the basis that it shifts the motivation away from the public interest to the personal gain of the whistleblower. In any event, this should only be seen as a complementary measure to full whistleblower protection in law.

Recommendations

1. Establish a public fund or separate public funds to help whistleblowers a) cover legal costs b) provide other relief as necessary and c) honour those who make important contributions to protecting the public interest.

Country Examples

- Korea's Anticorruption Commission can provide relief for whistleblowers' losses <http://www.opengovguide.com/country-examples/koreas-anticorruption-commission-can-provide-relief-for-whistleblowers-losses/>
- The US False Claims Act puts resources in the hands of the whistleblower <http://www.opengovguide.com/country-examples/the-us-false-claims-act-puts-resources-in-the-hands-of-the-whistleblower/>

Annex: Acknowledgements

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