

TRANSPARENCY AND ACCOUNTABILITY:

Journalism and access to public
information in Latin America and
the Caribbean



A Report of the 2013 Austin Forum on Journalism in the Americas



Knight Center for

Journalism in the Americas

AT THE UNIVERSITY OF TEXAS AT AUSTIN

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FOREWORD

Journalism and access to public information in Latin America and the Caribbean

By Rosental Calmon Alves

After the celebrations of the democratization processes that swept Latin American countries in the last quarter of the 20th Century, many journalists realized that there was something missing to allow them to use the recently conquered Freedom of the Press and democracy in a more effective way. Most of the region embraced democracy, but did not change the culture of government secrecy that was brought to Latin America and the Caribbean from Europe. Journalists wondered: what do we do with the freedom to publish if governments don't answer our questions, don't provide crucial information about what they do?

The United States of America provided an outstanding example of the missing piece journalists were looking for in the rest of the Western Hemisphere: the Freedom of Information Act or FOIA. Latin American and Caribbean journalists started using FOIA in the U.S. to find information about their own countries in American archives and government agencies. Again, these journalists wondered: why do we not have a law like that in our own countries? It became evident to many journalists that government transparency was the missing piece to complement Freedom of the Press. Convinced that it was the next step necessary for the consolidation of democracy, they decided to act in several countries, along with other civil society sectors, to demand access laws.

Journalists were at the forefront of the struggle for FOIA-like laws in the two largest countries in Latin America: Brazil and Mexico. Perhaps the most spectacular example was Mexico, as it was becoming one of the most opaque countries in the world. Mexican journalists and newspaper companies had a protagonist role in the work of the so-called Oaxaca Group, an alliance of various civil society organizations, which led a successful campaign for a transparency law. Their work started during the presidential election campaign of 2000 and culminated a couple of years later with the approval of a transparency law much more comprehensive and advanced than the FOIA in the U.S. Following the Mexican example, the Brazilian Association of Investigative Journalists (ABRAJI) launched a similar campaign and also formed a coalition of civil society organizations. The result was the passage of another law that in many aspects is also more advanced than FOIA.

This connection between journalism and the struggle for access to public information was the focus of the 11th Austin Forum on Journalism in the Americas, an annual roundtable conference organized by the Knight Center for Journalism in the Americas at the University of Texas at Austin. "Transparency

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and Accountability: Journalists and Access to Public Information in Latin America and the Caribbean” was the topic of the 2013 Austin Forum.

Summer Harlow, who was then a doctoral student at the University of Texas School of Journalism and veteran contributor to the Knight Center, compiled this report as a snapshot of the status of access to public information in 11 Latin American countries and the Caribbean region. We are grateful to all participants of the Austin Forum and believe this report is a modest but important contribution to the scarce literature about transparency and accountability in the Western Hemisphere.

INTRODUCTION

Moving Toward Freedom of Information: The Bedrock of Journalism

By Summer Harlow

After suffering through decades of authoritarian and military dictatorships, most Latin American and Caribbean countries in the 1980s and 90s began to experience an unprecedented wave of democratization. But as journalists and citizens alike now are coming to realize, democratic elections – even a free press – are not enough: the right to access public information also is a crucial component of a truly democratic society.

Despite the growing recognition – at least on the part of journalists and civil society – that freedom of information and democracy go hand in hand, governments in general have been reluctant to adopt or comply with laws that run counter to a culture of silence firmly embedded in Latin American and Caribbean countries. In fact, the Inter American Press Association during its 2013 General Assembly even mentioned the growing barriers to public information access as worrisome obstacles for press freedom.

In light of the need to guarantee access to public information and help civil society overcome the centuries-old tradition of secrecy, about fifty journalists from throughout the Americas and the Caribbean gathered in November 2013 in Austin, Texas, for the 11th annual Austin Forum on Journalism in the Americas: “Transparency and Accountability: Journalists and Access to Public Information in Latin America and the Caribbean.” Thanks to the collaboration of many of the Forum’s participants, this ebook brings together contributions from journalists throughout the hemisphere, analyzing the pros and cons of existing freedom of information laws, how the laws are being used, and journalists’ thoughts on what still must be done to improve transparency.

During the Austin Forum journalists identified the three biggest threats to information access and transparency as the region’s enduring culture of secrecy, the infrequent use of right-to-information laws, and a lack of training on how to use them effectively. Most of the freedom of information laws in the region came into place within the past five years or so, meaning journalists, citizens and even public officials still are learning how best to use or comply with the laws.

In Mexico, for example, journalists still rely mostly on officials’ statements – taking their declarations at face value – rather than investigating the truth behind the statements by utilizing the country’s freedom of information law that is recognized as one of the best in the world. Brazil’s public

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information access law, signed by President Dilma Rousseff in 2012, also is praised as one of the best and most comprehensive laws in existence. Journalists regularly take advantage of the law, using it to produce meaningful stories and investigative projects. While compliance at the federal level hovers around the 80 percent mark, compliance at the state and municipal level remains a problem.

Another seemingly noteworthy law is that of Chile -- despite the lack of resources to process information requests and despite the fact that the law does not apply to Congress. Still, Chile's information access law, enacted in 2009, has become an important investigative tool for journalists, as has Uruguay's law, approved in 2008. However, compliance with the law in Uruguay leaves much to be desired, and there seems to be little interest among the general public in using the law. Similarly, journalists in Peru have yet to effectively use the public information access law signed into effect in August 2013, relying more on social media than the law as a source of information.

Having information access laws on the books is no guarantee of the right to information, however. Guatemala and Nicaragua took positive steps toward transparency with the approval of their information access laws, but in both countries government compliance is a problem, in part because of a lack of sanctions to punish those officials who do not respond to information requests. Nicaragua is in a particularly difficult spot in light of the fact that the president, Daniel Ortega, is not exactly forthcoming with information: Ortega did not hold a single press conference between 2007 and 2012.

Caribbean countries in general are moving slowly but surely toward transparency, although their public information access laws in general are limited by a culture of secrecy. Some island nations have yet to pass freedom of information legislation, and even among those that have laws in place, journalists and citizens are not necessarily taking advantage of the laws as they should.

The Dominican Republic's law ranks as one of the worst in the world, in part because it includes so many exemptions that allow officials to avoid having to provide information.

While most countries in the region have a freedom of information law in place, there are some notable exceptions. Colombia approved a public information access law in 2012, but as of the beginning of 2014, it had not yet been implemented. As such, Colombians must rely on an Official Documents Act, which provides limited access to government information.

A freedom of information bill in Bolivia, which received preliminary approval in 2013, is opposed by journalists who view it as a threat to freedom of expression. For example, the law would exclude information about natural resources or environmental impact studies from having to be made public, a major concern considering that Bolivia's economy is dominated by the mining industry.

Argentina also has no public information access law, forcing journalists to rely on a presidential decree from 2003 to access government documents. The decree, however, has proven ineffective, so journalists rarely even use it.

Ultimately, what the following chapters underscore is that consolidation of democracy requires more than just laws guaranteeing the right to access information. Rather, government institutions also must be strong enough to implement and comply with the laws, and journalists and citizens alike must understand the importance of these laws and take advantage of them, using them regularly to monitor the workings of the government and public agencies and to ensure their transparency.

Journalists cannot be the only ones who understand or use freedom of information laws, however. Effective use of such laws means journalists, non-profit organizations and universities must work together to push for better laws, better compliance, and better utilization among journalists and society in general. After all, access to information is a fundamental, universal human right.

Also made clear in these chapters is the desperate need for training among journalists to understand not just how the laws work or how to file an information request, but also to know what information each government agency holds, and how to appeal any denials of information requests. Just because a request is denied does not mean there is no story – journalists must be proactive in looking for stories in what information was supplied, as well as looking for stories in the information that was not supplied. Taking full advantage of the law also requires that journalists be better equipped to organize, analyze and visualize massive amounts of data, requiring training in computer assisted reporting.

Journalists also could benefit from a sort of Americas-wide best practices guide, which perhaps could cut down on journalists' frustrations with bureaucratic hurdles during the information request process, which often lead reporters to give up on or never seek the information in the first place. Some kind of repository showcasing the best stories done using freedom of information laws might also help encourage journalists to persevere in their access to public information quests. If journalists hit a wall in trying to obtain information, it could be useful to learn workarounds and other "tricks" that their colleagues have used, and encouraging to know that they are not alone in encountering obstacles.

As Tom Blanton, director of the nonprofit National Security Archive in the United States, noted at the start of the Austin Forum, much work remains to fulfill the promise of transparency laws throughout the world. Finding sustainable sources of income to help fund journalistic projects, ensuring the safety of whistleblowers, going after multinational corporations and holding them accountable, helping expand the open data movement, and making sure that access-to-information laws work all are challenges that journalists and transparency advocates have yet to fully overcome.

But that doesn't necessarily mean freedom of information laws are not working. And just because it might take 15 years for the information to come through doesn't mean journalists should give up – taking full advantage of freedom of information laws requires commitment. Blanton's solution? FOIA (Freedom of Information Act) Fridays.

Spend an hour or so every Friday morning filing as many freedom of information requests as you can think of. It makes the wait for information less burdensome, and in the end is a strategy that will

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produce a string of various stories or projects.

“Making the laws work means using them,” Blanton said, adding that access to government documents – even leaked documents – is a core part of democracy.

Once the freedom of information laws are in place, then, the next step is to use them, and to convince journalists, citizens, and government officials that they *all* have the right to know. All must recognize that without information access, transparency, and accountability, there is no true democracy.

Argentina: A Right without a Law is a Limited Right



By Juan Carlos Simo

Juan Carlos Simo is a member of the Argentine Journalism Forum (in Spanish, Foro del Periodismo Argentino, FOPEA). He is a multimedia journalist at La Voz del Interior (www.lavoz.com.ar) in Córdoba, Argentina, where he covers human rights, social issues, and crime. He is also a university teacher.

When journalists in 2012 began to insist on the need for press conferences to be held regularly, the ombudsman for Broadcast Communication Services, Cynthia Ottaviano, responded with an argument used by many government officials.

“I think there is a false concept when demanding press conferences as the exclusive mechanism to access to information,” she said during a public television program, alluding to conferences where bad or false information was obtained. “There is a decree on access to information, but most of the journalists do not know about it. If the true intention were to access public information, all journalists would be asking for information using that decree, and that is not the reality.”

That is to say, journalists should not worry themselves about the lack of press conferences because, following Ottaviano’s line of reasoning, the decree is what effectively guarantees access to information. Ottaviano is correct in stating that few Argentine journalists attempt to use this institutional mechanism, but there is evidence to contradict her belief that the decree ensures public information access. It remains to be seen what will happen in Argentina with press conferences and access to public information.

Press conferences

As President, Cristina Fernández de Kirchner -- currently in her second consecutive term -- has given few press conferences. According to journalist and Argentine Journalism Forum (FOPEA) member Mariel Fitz Patrick, the president held only five press conferences between 2008 and 2011.

In 2012 she held two “press” conferences, but they were for students: during a visit to the United States she spoke at Harvard and Georgetown. In 2013 she held only one, in Russia, during the G-20 summit.

When asked at Harvard about why she did not give press conferences regularly, the president

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responded: “In Argentina, when you speak and say ‘white’, the next day in the press they say that the President said ‘black.’... Giving conferences every day doesn’t seem to me to be the obligation of the President. I have to govern. My public officials give conferences.”



Also in 2013 President Fernández gave two strange television interviews to journalists. In both cases she invited the journalists she preferred to interview her, and the government was in charge of producing the programs. Even the final editing, which the interviewers themselves could not access, was done by authorities. The interviews aired on public television.

Access to public information

If participating in professional press conferences or interviewing authorities is problematic, see what happens with the decree for public information access that the ombudsman, Ottaviano, insisted was an adequate way for journalists to seek information.

In Argentina there are 15 provinces -- plus the country’s capital of Buenos Aires -- with public information access laws. But at the national level there is no specific information access law such as those found in countries like Brazil or Mexico, or even the United States with its Freedom of Information Act. Two bills were close to becoming law back in 2004 and in 2012, but they couldn’t receive full support in Congress and so failed.

In the absence of a law, what guarantees access to information is the National Constitution, in Articles 1 and 33, adhering to the American Convention of Human Rights. In December 2012 the Supreme Court ratified the right to information when it for the first time ordered a state agency to disclose information about how it distributed official advertising.

In 2003, then-President Néstor Kirchner signed Decree 1172/03 that allows for public information requests and sets a 10-day period (renewable once) for agencies to respond to requests. However, the decree system exhibits major flaws.

According to various independent studies conducted by non-governmental organizations the Association for Civil Rights (ADC in Spanish) and the Civil Association for Equality and Justice (ACIJ in Spanish), access to public information is weak in Argentina as a large percentage of information requests are ignored or do not follow the legal terms established by the decree.

What's more, both NGOs pointed out that in many cases the information requests are denied under the excuse that the information is personal and thus protected by law, even when the information is about public officials.

The titles of the ADC reports are significant in and of themselves: "A Bad Balance: Personal Data as a Barrier to Information Access in Argentina," and "A Weak Right."

This situation directly impacts journalists. In 2012, for example, journalists Daniel Santoro and Leonardo Mindez of *Clarín* filed an information request to obtain details about the president's salary. They received no formal response. A similar request was made by the ADC and it was denied on the basis that the information was protected under the personal data law. Ultimately, the details of the president's salary were revealed by the government on its official website, but the information was never provided as part of the information request process.

Also in 2012, journalist Mariel Fitz Patrick filed a public information access request to find out how much money the State was paying for production of the political program "6,7,8" on public television. This request also was denied under the excuse that the information was protected by the personal data law.

Fitz Patrick appealed the denial at court and received two favorable rulings, but the requested information still had not been provided. In November 2013 Fitz Patrick said she was prepared to take the case to the Supreme Court if necessary, and a few days later, the producer in charge of the television program revealed on his own the requested information.

The need for a law

So why, then, exactly, does Argentina need a law guaranteeing the right to public information? FOPEA consulted Ramiro Álvarez Ugarte, director of ADC's Access to Public Information program, and he offered three fundamental reasons:

- A law could create an independent and professional guarantor with powers and funds to respond to requests for access to public information. This is important because those "who regularly use the tool

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found many incomplete, late and negative responses that were unjustified.”

- A law would allow for the implementation of active transparency policies. That is, “information that the state must produce and diffuse via the Internet.”

- A law also could develop an open data policy. “The law should define with precision the formats in which the State produces information,” Álvarez Ugarte said.

In 2013, the government launched an online database (www.datospublicos.gob.ar) which constitutes a breakthrough in terms of access to public information, although it remains to be discussed what data should be public and who decides what is public.

Actions by FOPEA

Given the preceding, then, the Argentine Journalism Forum (FOPEA) believes the country urgently needs a law guaranteeing access to public information. Also, institutional mechanisms must be established to ensure press conferences are held regularly by public officials.

In 2012, FOPEA launched a public campaign calling for press conferences. For Day of the Journalist (June 7), FOPEA released broadcast spots with the slogan “If they silence me I don’t serve you” (Si me callan no te sirvo). The campaign incorporated social media by using Twitter and Facebook to post the questions journalists were unable to ask public officials during “press conferences” that in reality were monologues, or allowed for only one or two questions, or created tense atmospheres that hindered journalistic work.

On Twitter, using the hashtag #queremospreguntar (we want to ask), journalists posted unasked or unanswered questions. Then, the list of questions was published by FOPEA and various media outlets.

Prior to the national legislative elections of 2013, FOPEA, with the support of Open Society Institutes, launched the social media campaign #InfoenDemocracia (for more information see www.infoendemocracia.com.ar) that consisted of getting the candidates to commit to the following:

- the need for a public information access law;
- professional press conferences with open agendas and that don’t exclude or discriminate against journalists based on the media outlet where they work;
- the promotion of a plurality of public and private media; and
- the need for a law to regulate official advertising, especially since the national and provincial governments are accustomed to using advertising to punish some media outlets and to reward others.

FOPEA obtained the commitment of 179 candidates from around the country. The hope is that, once they enter Congress, they will help improve access to public information in Argentina.

Argentina does not have a law on access to public information, just an executive decree that,

according to various expert of an information access law, press conferences with main government officials are few and far between. A law on the books would strengthen the right to information, regulating a procedure to improve access to information and transparency of government actions sources and journalists, is failing. The situation is made even more complex for journalists because besides the absence, regardless of who is in power or who requests the information.

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FOIA in Brazil: Still an Uphill Battle, but a Leap in the Right Direction¹



By Fernando Rodrigues

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Twitter: https://twitter.com/fr_bsb

It took more than a decade, but on Nov. 18, 2011, Brazil became the 89th country in the world, and the 19th in Latin America, to approve a freedom of information law. The journey to a public information access law began in 2000 when journalists started discussing the need for a law – while the right to information was inscribed in the Constitution, there was no law regulating it. Then in 2002, with the founding of the Brazilian Association of Investigative Journalism (ABRAJI in Portuguese), journalists joined forces with various civil society organizations to form a coalition to push for an information access law.

But this was no easy task, as it involved breaking a mold of secrecy and prejudice against open access. Still, there was the beginning of the recognition that such a law was not just for journalists, but rather legislation that could benefit the bulk of society.

Fast forward through eight years of lobbying and drafting various proposals, and finally on May 16, 2012, six months after President Dilma Rousseff signed the bill, Brazil's public information access law went into effect. Here is a version of the full text of the law (in *Portuguese*): http://www.planalto.gov.br/ccivil_03/_ato2011-2014/2011/lei/l12527.htm.

The “Lei de Acesso à Informação,” as it is known in Brazil (Information Access Law), applies to all levels of the government (city, state, and national) as well as the three branches (legislative, executive, and judiciary). That means that all the 5,600 Brazilian cities, 26 states, the Federal District of Brasília and the federal administration all are under the same transparency rules.

The law's wide reach even extends to all public companies and also to some NGOs that are

¹ This article is a compilation of the revised transcript of Fernando Rodrigues' presentation at the Austin Forum on November 9, 2013.

recipients of public money. Access is the general rule, and secrecy the exception, making Brazil's information access law one of the most comprehensive in the world.

Although the general rule is to enforce a proactive policy of making all public documents readily accessible, a limited number of items may be classified on the grounds of national security. But the Brazilian law is very strict in terms of what these exceptions might be, establishing three different levels for classified documents: ultra-secret (25 years before it is open to the public), secret (15 years), or reserved (five years).

Profession or origin	Total	%
Not informed (*)	16.152	22,43%
Workers from the private sector	10.460	14,49%
Federal civil servants	6.594	9,13%
Students	6.255	8,68%
Local State Government civil servants	3.470	4,81%
Businessmen	3.419	4,75%
Teachers	3.268	4,52%
Local Municipal Government civil servants	3.037	4,20%
Reseachers	1.161	1,61%
Journalists	988	1,36%
Brazilian NGOs	252	0,34%
Trade unions	101	0,14%
Political parties	79	0,10%
Internacional NGOs	36	0,05%



(*) The Brazilian FoIA does not request one to indentify himself/herself in detail. Many people choose not to fill out all of the forms' fields.

Source: Brazilian Comptroller General Office considering data from 16 May 2012 thru 09 October 2013

Secret and reserved information is automatically made available to the public after the period of classification. Ultra-secret documents, however, may be subject to one renewed classification period of 25 years, but only a very limited number of public officials have the power to renew a document's classification – and the reasons must be thoroughly explained.

All public agencies have 20 days to respond to an information request (they can request an extra 10 days). The law requires that everything be supplied in digital format whenever possible. The law also establishes an appeals system and everything can be done online, without the need to go personally file a request or an appeal.

Another important, positive and rare aspect of the Brazilian law worth highlighting is that it mandates

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the government publish a list of all documents that were classified in the previous 12 months. That means that all agencies need to make public, once a year, a complete list with all the information classified in the previous 12 months.

Those annual lists describe each of the documents classified with alphanumeric codes and with the corresponding number of years each of those documents will be kept secret. This is a major accomplishment for the cause of transparency. This procedure makes it much easier for journalists or anyone in the future to find those papers that were classified in the past.

In a few years time, those annual lists of classified documents will give the Brazilian society a powerful accountability tool. It will be possible for anyone to quickly verify whether the government is complying with the law and whether the information is being declassified accordingly.

Still, despite having such a worthwhile law in place, information access and transparency remain an uphill battle. Brazil has no culture of transparency, so there is not much political will for enforcing the law. Compliance is especially bad in small cities and remote states. There also is no independent agency to oversee the whole enforcement of the law. Also, despite the efforts of journalists and various media outlets, there's no national campaign to promote the law.

At the federal level, at least, there is much to celebrate, even if there is still a long way to go. During the first 18 months that the law was in place, 124,394 information requests were filed at the federal executive level (not including the judiciary and legislative branches). Of those, 96 percent were answered, and 80 percent were answered positively. Only 10 percent of requests were denied.

Unfortunately, one the main reasons that FoIA requests were not answered was a vague excuse made by many federal agencies: the documents requested were not clearly described and it would require too much work to locate what was being demanded.

While it is not necessarily clear who is filing the information requests – the law does not require petitioners to identify themselves – there is no doubt journalists are taking advantage of the law. In the first 18 months of the law's enforcement, at least 68 news outlets across the country published 802 stories – mostly political in nature – based off information obtained using the new law.

During that same 18 months Brazil also saw the way in which journalists were using the law evolve and become more sophisticated. In the beginning journalists were requesting all kinds of information, and not necessarily information that could be turned into a story. Now, though, reporters are considering the country's context and then requesting information that will make stories more complete and meaningful for readers.

For example, on Aug. 12, 2013, the newspapers *Folha de S. Paulo* and *O Estado de S. Paulo* both published front-page stories they had reported using the freedom of information act, and both were

based off the national context: the massive June protests that had started because of an increase in bus fare and the president's declining popularity, respectively.

O Globo, another major national newspaper, also has used the law rigorously, publishing on May 5, 2013, a story about the impact of the Bolsa Familia social welfare program 10 years after it had gone into effect. It took 98 days and two appeals, but the newspaper eventually got all the data of every Bolsa Familia beneficiary in the country. Not only did the newspaper create an interactive database with the information (for example, showing which regions of the country had the most beneficiaries and how those regions had voted in recent elections), but journalists also used the obtained data to tell a better, more complete story by going into the field and interviewing the real people behind the names.

Without a doubt, Brazil's access to public information law is a victory for journalists and citizens alike. Challenges remain: states and municipalities still must come into compliance with the law, discussions must be had about what should be considered public and what is private, and, of course, it is essential to break free of the tradition of secrecy and create and strengthen a culture of transparency and openness. But the law, more than 10 years in the making, is an important step – if not leap – in the right direction.

The Bolivian Press and Access to Public Information



By Raúl Peñaranda

Raúl Peñaranda (b. 1966) is a well known Bolivian journalist. He is a columnist for *Página Siete*, a daily newspaper that he founded and edited until August 2013. In 2008, he became the first Bolivian to receive a prestigious Nieman Fellowship at Harvard. He has been managing editor of *La Razón* and *Ultima Hora* dailies, correspondent for the AP and ANSA news agencies, and has also worked as a freelance contributor for the *Los Angeles Times* and a number of Latin American newspapers. He also founded two other newspapers: *La Época* and *Nueva Economía* weeklies (both still in circulation). He has published nine books related to journalism and politics, some of which are used by Bolivian universities as required reading texts.

The situation of freedom of expression in Bolivia is very worrisome. The government of President Evo Morales has been developing multiple (and flexible) strategies to reduce the space for independent media. The president's plan includes encouraging public offices, such as the national tax office, to put pressure on news organizations; the arbitrary use of the assignment of state advertising (a source of revenue for many Latin American newspapers); verbal attacks by top government officials on journalists and their media; isolation of independent media; and the purchase and co-optation of media. To all this is added the possible approval of a law that would greatly reduce access to public information. Let's look in detail at the elements mentioned above:

The constant nitpicking audits by government entities, among them the national tax office, always end up levying heavy fines against independent media. Curiously, pro-government or state-controlled media are not subject to these types of audits.

In addition to the tax office, other state entities, such as the Labor Ministry, the Business Authority (an institution created by the current government with somewhat ambiguous mandates), and the Financial Investigations Unit, which depends on the Economics Ministry, all harass independent media.

Also troublesome is the government's withholding — in some cases completely — of state advertising from independent media. In contrast, pro-government media have seen an escalation of state advertising. The use of official advertising has always been used in an arbitrary fashion in Bolivia, but with the arrival of the Movement for Socialism (MAS) party of Evo Morales, the situation has worsened considerably. High-level government orders exist to "punish" certain media by cancelling all official publicity.

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AND
TRANSPARENCY
AND ACCOUNTABILITY

Evo Morales,
President of Bolivia

Another aspect of this strategy of weakening independent media is through public verbal attacks on journalists and media by government officials, beginning with the president and on down to other official representatives. These slanderous and calumnious attacks serve to discredit, scare and intimidate journalists and the media for which they work. These attacks are made in press conferences, state of the nation speeches, and other events that are always carried live and direct by the state radio and television network.

Government authorities also try to isolate critical media by denying them interviews with public officials, not informing them about press conferences, and responding in public to their requests for information, a tactic that deprives journalists of scoops and allows officials (through their co-opted media) to spin the information to their benefit.

Another and more recent phase of the strategy against the free press has been the government's purchase — through third parties — of media outlets like newspapers, television channels and radio stations. These media, in the space of just a few months, have changed their editors and begun to support the official line in which all criticism of the government is eliminated; they also carry live all public government events, even those that are completely devoid of news value.

Apart from this system of media acquisitions, in Bolivia, co-optation of the media by the government also takes place, particularly through a double-sided tactic of simultaneous threats and promises to increase official advertising if the media outlet changes its stance. These co-opted media diminish their criticisms of the government, eliminate their political programs, and increase the amount of entertainment news and crime pieces. The end result is that the public is prevented from focusing on relevant topics, and spaces for the opposition are taken away while those of the government are increased.

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In keeping with this carrot-stick situation, the president made a revelatory declaration during a Sept. 24, 2013, interview. A journalist from *El Deber* newspaper asked him, “You used to say that journalists are your principal opposition?” And the president responded, “Before I felt that 80 or 90 percent of the media was in opposition. Now there are only 10 to 20 percent of opposition media.”

The president’s statement demonstrates the government’s successful campaign of purchasing and co-opting independent media.

Access to Public Information

Access to public information in Bolivia is limited and depends upon arbitrary decisions by government officials. For the most part, access to information is granted only to co-opted media and on many occasions the information is manipulated by the authorities.

Bolivia has a Supreme Decree regarding access to public information that is hardly used by journalists and other sectors of society due to its lack of regulation and little understanding of its possibilities.

In September 2013 the legislature preliminarily approved the first stage of a bill that would create a Law of Transparency and Access to Public Information, establishing the way in which public officials and all those who have contracts or relations with the state should provide information. The law considers public officials to be those who work in the central government; state-owned enterprises; the executive, legislative and judicial branches; the electoral court; the Attorney General’s Office; the Armed Forces; the police; etc.

The proposed law appears to have good intent, demanding that public officials provide information in a timely and complete fashion. However, the law establishes exceptions that are so great that they practically annul any positive effect. Among the exceptions are the obvious ones, used in other countries, such as aspects related to national security. But there are also limitations about giving out information on “strategic natural resources” (that make up 80 percent of the Bolivian economy), environmental impact studies, and those events that are still “in process” (which eliminates practically all affairs carried out by the state).

The bill has met with great resistance from journalist organizations and human rights activists. However, the majority of congressional representatives did not accept any of the suggestions made by the press and approved the bill in the first round. It is believed that at the beginning of 2014, the law will be approved in the final rounds and put into law by the president.

In Bolivia, it is increasingly difficult to express opinions contrary to those of the government and to be a watchdog of the actions of those in power. The opposition is weak and fragmented while the government is powerful (and popular). In spite of the fact that the constitution expressly prohibits a third term for Evo Morales, the Constitutional Court authorized him to run for re-election in October

2014.

If one compares Bolivia today with the situation of a decade ago (the second half of 2003), it is clear that currently it is more difficult to dissent, the verbal aggressiveness of authorities against journalists inhibits criticism, opposition leaders have been intimidated, and the media are becoming more uniform and judges less independent than ever before.

Freedom of Information Legislation and Administration in the Caribbean



By Wesley Gibbings

Wesley Gibbings is a Trinidad and Tobago based journalist and press freedom advocate. He is founding president of the Association of Caribbean MediaWorkers, Deputy Convenor of the International Freedom of Expression Exchange and member of the Council of the Global Forum for Media Development. A journalist for more than 30 years, he has trained print and broadcast journalists throughout the English-speaking Caribbean, and is the author of numerous seminar and conference papers on the state of the media and the practice of journalism in the region.

Caribbean countries have been moving slowly but surely to enter the ranks of nations interested in facilitating laws for public access to official information. But this comes against the backdrop of a longstanding culture of secrecy that crosses public and official lines, relatively turbulent political conditions, and low public awareness and expectations that have often intervened to blunt the impact of otherwise useful and effective legislation.

The mere existence of access to information laws in the Caribbean does not guarantee their effectiveness, and the general legislative, social and political climate must be taken into consideration when estimating the true impact of the presence of such legislation.

For example, in Jamaica, the country's Access to Information Act of 2002 faces the serious hurdle of official secrets prohibitions, which are being actively campaigned against by the media sector.

In Antigua and Barbuda, a controversial Citizens by Investment program has earned controversial de facto exemption status and, in Guyana, there is concern about the feasibility of the independent administration of a law which emerged as a demand of opposition parties now occupying the rather peculiar joint position of a one-seat majority in the country's legislative assembly.

For purposes of clarity, the countries under examination in this chapter are five of the 15 member states of the Caribbean Community and Common Market (CARICOM). With the exception of Haiti, Suriname and the British colony of Montserrat, CARICOM is comprised of the independent Commonwealth countries of the Caribbean.

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Only one country, Trinidad and Tobago, has joined the Open Government Partnership (OGP) which was launched in 2011 to provide an international platform for domestic reformers committed to making their governments more open, accountable, and responsive to citizens.

Freedom of information legislation currently exists in Antigua and Barbuda, Belize, Guyana, Jamaica, and Trinidad and Tobago. There have been drafts in existence in Saint Lucia and St. Vincent and the Grenadines for years that have not reached very far along the road to eventual passage and implementation.

However, though the United Kingdom would customarily lead the way in such matters, more than one former colony actually introduced and passed access to information laws prior to the UK's own Freedom of Information Act of 2000.

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Belize



Belize, for example, was the first of the CARICOM countries to introduce a Freedom of Information Act in 1994, with subsequent amendments in 2000. In 2010, a commitment was also made, in keeping with the country's follow-up mechanisms to the Inter American Convention Against Corruption, to make further amendments to strengthen the law as a way of better tracking corrupt activities.

Under the commitment made by Belize, the country needs to conduct a comprehensive review of the rules and regulations that provide exceptions to the right of access to public information. This is so that such exemptions do not obstruct the exercise of the right to information as an effective mechanism in efforts against corruption. Similar undertakings have occurred in other CARICOM countries, all of which (with the exception of Barbados), have ratified the Convention, according to the Organization of American States (OAS) Department of Law.

There is little evidence, however, that the Act in its current form is used in any meaningful way by the media or civil society in Belize. At a March 2013 review in Jamaica of Caribbean freedom of information acts, for example, one Belizean environmental activist reported that since its introduction in 1994, there had been fewer than a dozen requests for information. When requests were made in connection with controversial oil exploration contracts in 2011 and 2012, the applications were simply ignored.

Trinidad and Tobago



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In Trinidad and Tobago, a Freedom of Information Act was passed in 1999. Use of the law for journalistic purposes and for civil society-led action has been relatively prolific. There is a Freedom of Information Unit located within the Office of the Prime Minister that oversees compliance with the Act and administers fairly rigid statutory reporting obligations.

Journalists there, however, report persistent use of the cover of “Cabinet” deliberations as a shield to prevent disclosure. Not unlike other Caribbean jurisdictions, the Freedom of Information Act of Trinidad and Tobago has a specific restriction on disclosures related to the conduct of the Cabinet. Part IV of the Act lists exemptions for “Cabinet documents” along with documents related to defense and security documents, international relations and law enforcement, among others.

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Jamaica



A similar exemption can be found in the 2002 Access to Information Act of Jamaica. There is, however, a Protected Disclosures Act of 2011, which seeks to protect whistleblowers. All of this is undermined, however, by the continued existence of the 1911 Official Secrets Act.

Still, investigative journalists and civil society organizations effectively use the Access to Information Act. Some of its recognizable challenges, however, have to do with what one former director of the country's Access to Information Unit described as a "culture of secrecy."

The work of the Unit has nevertheless considerably assisted in promoting greater use of the legislation in accessing official information. There is an ongoing campaign by the media community against the continued existence of the Official Secrets Act.

Among the recognizable weaknesses not of the Act, per se, but of the management of the process, are the need to promote greater public awareness of the value of the legislation, the need to strengthen its administrative arm, and a shortage of resources devoted to the work of the Appeals Tribunal.

Jamaican journalists generally speak favorably about use of the law and it is considered to be

among the more positive elements of the country's public information system. There is also an Access to Information Advisory Stakeholders' Committee, which ensures civil society has input into administration of the law.

Guyana



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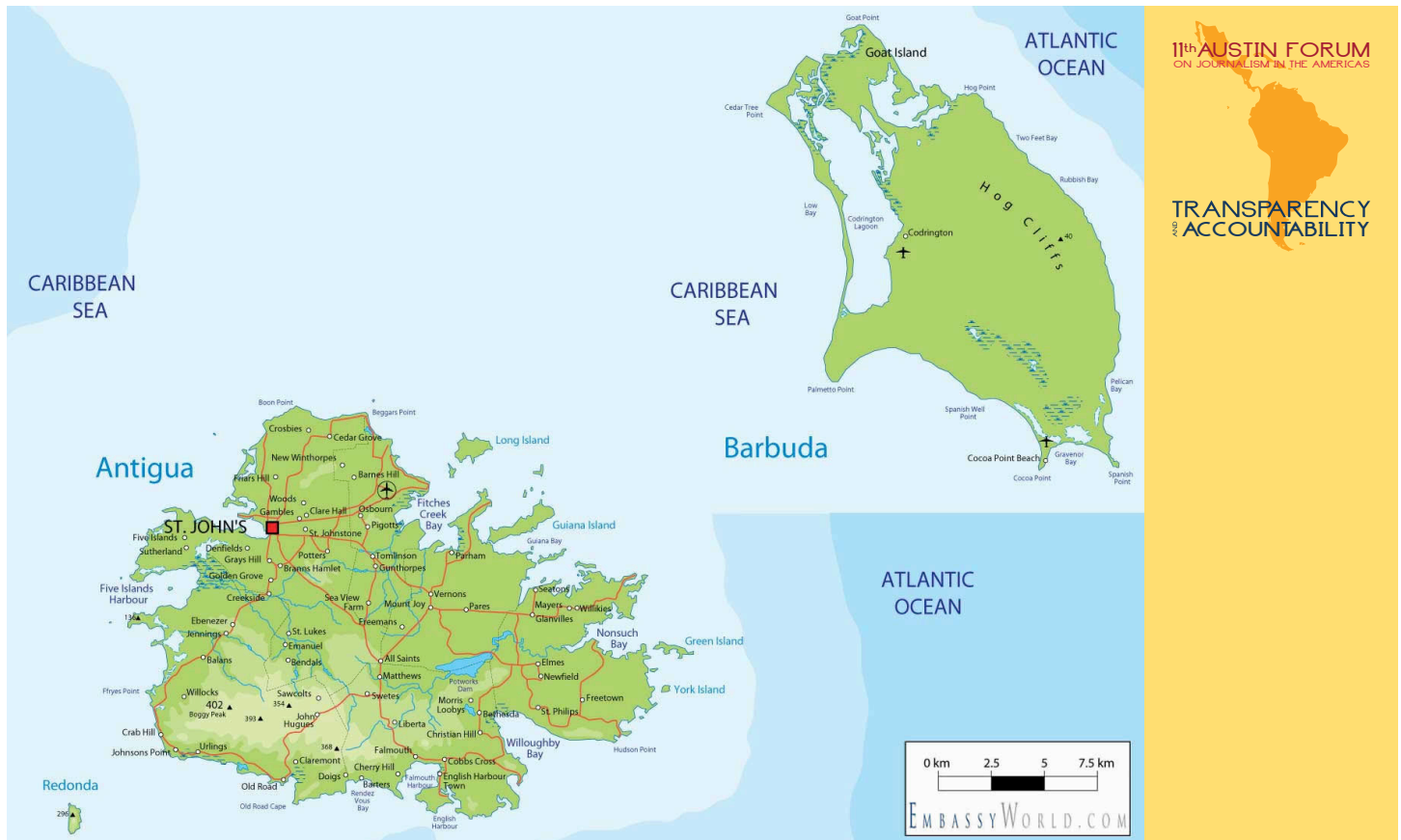
Guyana's Access to Information Act of 2013 has an interesting history. A first draft was initially tabled as a Private Members Bill in 2011 by opposition parliament member Raphael Trotman. It remained on the parliamentary agenda untouched for nearly two years before it was eventually presented in a modified form by the ruling administration, which has a one-seat deficit in the country's National Assembly.

St. Kitts and Nevis

A similar strategy to have freedom of information legislation passed is being employed in St. Kitts and Nevis where the country's opposition leader has tabled a Freedom of Information Bill in parliament.

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Antigua and Barbuda



Antigua and Barbuda's Freedom of Information Act has been on the books since 2004. Both citizens and journalists have reported slow and sometimes non-existent responses to requests for information. A program that grants citizenship to financial investors in the country also explicitly prohibits publication of matters related to its operations. The Citizenship by Investment Unit, which administers this economic citizenship strategy, actually has the power to prescribe limits on access to information related to the program.

St. Vincent and the Grenadines

A Freedom of Information Act has been in existence in St. Vincent and the Grenadines since 2003, but its implementation has been stalled by the absence of administrative arrangements to facilitate the legislation. The country's prime minister, Ralph Gonsalves, has also been quoted as saying it is necessary for a Privacy Act, passed at the same time as the FOI legislation, to be operationalized simultaneously.

Saint Lucia

In Saint Lucia, a Freedom of Information Act has been in draft form since 2009. There have been several stakeholder consultations, but the law has yet to take effect. Interestingly, the Act contains a “whistleblowers” clause which provides protection to persons in breach of the Act but who “acted in good faith and in the reasonable belief that the information was substantially true and disclosed evidence of wrongdoing or a serious threat to health, safety and the environment.”

It is clear that access to information laws in the Caribbean can considerably militate against the stifling effects of the region’s culture of secrecy. However, it also is necessary to take into account important socio-political antecedents, together with the general quality of the legislation. An FOI list, long or short, does not paint the entire picture.

The Challenge for Chilean Journalists in Using the New Transparency Law



By Claudia Urquieta

Claudia Urquieta is a Chilean journalist who specializes in environmental issues. For the past six years she has been a staff reporter for Chile's leading online media group, El Mostrador. She also is a founding member of the Network of Chilean Journalists.

Introduction: The transparency law

In April 2009, Chile's new transparency law went into effect.

It is an incredible tool for journalism, even though it is not a law created just for journalists: any citizen can use it.

The principal change that this law brings is that it guarantees access to public information. And that is a big, huge step.

Prior to 2009 there already existed a constitutional right of access to all documents, acts, and resolutions of the state. Still, supplying the information depended on the good will of the public official who received the request, as there was no institution guaranteeing that the public could actually exercise the right to information.

With the new law in 2009 (20.285), however, things changed.

Now government institutions have a limited time to respond to information requests: 20 days. If a response is incomplete or an answer is denied because the institution alleges that providing the documents would affect the national interest, private life of individuals, or national security (these are exemptions permitted under the law), the petitioner may go to the Transparency Council and appeal the decision.

Additionally, the law provides for sanctions for violations, such as the suspension of an employee from his or her position or a fine. Also very important to note is that the responsibility for the response to the information request is shared by the institution and by the official who did

not answer the request.

In addition, the law obligates all public services and agencies to adhere to active transparency: they must permanently maintain certain information on their websites. For example, websites should post the payroll of public employees and their monthly remuneration, services and goods purchased, and each agency's budget and how it is spent.

The Transparency Council

The new law also establishes the Transparency Council, an autonomous body that controls the implementation of the law and applies sanctions.

The council has a key role in fostering transparency, and is crucial for allowing journalists and citizens to get information from authorities who refuse to make information available.

Since 2009 the Transparency Council has processed 6,637 cases, of which 41 percent (2,732) were approved.

What can journalists do with the transparency law and how have they used it?

There are a lot of examples of ways in which journalists are putting the transparency law to work.

Two years ago, in 2011, a military airplane had an accident while flying to the Island Juan Fernandez. Since famous TV personalities were on board the plane, it became a huge case, with all the media outlets talking about it. What happened to the plane? What was the problem? Who was responsible?

A journalist from the newspaper *La Tercera* had a tip: the airplane had not received all the maintenance recommended by the manufacturer. The journalist requested information from the Chilean Air Force, which denied the request, saying it affected national security. Interestingly, though, the Air Force did not deny that the information was true. The journalist decided to use the denial of the answer in his favor and contacted the Ministry of Defense, which recognized there was a problem and announced to the media that the information would be given to the judge responsible for the case. As a result, various military officers had to leave the Air Force.

In another example, in September 2010, a journalist from the online news site Ciper Chile spent a year investigating the oversight mechanisms for doctors working in six public hospitals in the

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capital, Santiago. In his report, called “[Doctors out of control: The owners of public health in Chile](#),” the reporter concluded that in contrast to all other employees in the public health system, the doctors were the only ones that lacked any kind of oversight. No one checked that they actually attended to the poor people in the capital.

It wasn't easy for the journalist to get the information he needed. To access the archives of the doctors attending in the six hospitals, the journalist had to overcome numerous obstacles. For example, some hospitals did not give the requested information or they gave incomplete answers. The cases of two hospitals, Hospital Barros Luco and Hospital San José, were presented to the Transparency Council due to their refusal to provide public data. In both cases the Council decided that the information was public and had to be made available.

Pushing the limit of what is public

Journalists can do so much more than just use the law to report a good story: journalists should be pushing the limit of what is considered public.

This is especially important in a country like Chile where many services are in the hands of private enterprises that in other countries typically are public, such as companies responsible for pensions, education, water or health.

In 2009 journalists of Ciper Chile requested the budgets and financial information of two foundations at the Ministry of Justice: Foundation Futuro, which at that time was of then-presidential candidate Sebastián Piñera, and Foundation Eduardo Frei, another presidential candidate.

Both foundations are private, but they must give financial information to the Ministry of Justice because as foundations they receive tax benefits. These financial documents are in state hands and thus should be considered public. Unfortunately, however, according to the transparency law, the Ministry has to ask the private person or company to agree to publish the information.

The foundation of Eduardo Frei said yes. The Foundation Futuro of Sebastián Piñera, however, refused to provide the information. Ciper Chile presented the case to the Transparency Council, and after a long fight, Ciper Chile in 2010 won the case and created a precedent: when a natural or juridical person refuses to give public information, the denial must be justified based on exceptions established by law. In other words, the denial must show that making the information public would affect the right to privacy or national security.

Also take the example of the energy company Aes Gener, which constructed a power plant (Alto Maipo) close to Santiago, in the mountains of the Cajón del Maipo. Santiago's drinking-water is in the hands of a private company, which received a concession from the state. This

company, Aguas Andinas, made a “secret” contract with Aes Gener about the use of the water of two lagoons. Parliamentary members and residents alike used the transparency law to request access to the contract, but the responsible authority (Superintendent of Sanitary Services) as well as the Transparency Council refused to give the information because it was a contract between two private entities and thus would “undermine the equity of both enterprises.” The decision was appealed in court, and those seeking the information won because of the social and economic significance of drinking-water.

In the end, the “secret” contract did not include any sensational details, but the fight set a further precedent extending the limits of public information.

As a final example, as a consequence of another transparency request from Ciper Chile in 2012, one of the most powerful economic groups in Chile, the Luksic Group, had to reveal the contracts between its company Aguas Antofagasta, another company supplying drinking-water, and a group of mining companies, of which some were also a part of the Luksic Group.

The responsible public authority, the Superintendent of Sanitary Services, again refused to provide the contracts, agreeing with the Luksic Group’s argument that disclosure would affect the commercial rights of the company. However, like in the above case of the Alto Maipo power plant, Aguas Andinas is a regulated enterprise and thus must give its financial information and contracts to the state.

The fight was long. After the Transparency Council decided in favor of Ciper Chile, Aguas Antofagasta appealed the decision at court. Again Ciper Chile won the case and the Luksic group had to provide the documents to the journalists. As a result, the journalists learned about the agreements on water consumption, rates, and fines in case of service interruptions.

This is very important: Aguas Antofagasta is responsible for the drinking-water of the city of Antofagasta. In 2012 there were a lot of interruptions in the water supply to city residents. The question is whether the company also cut the water supply for the mining companies.

Personally, I don’t think so.

An interruption of water supply for the mining industry results in a million dollar loss, which is why one might assume the company cuts the city’s water supply in order to be able to provide sufficient water for the mining industry.

The transparency law represents progress. But it is not enough.

The problem is that, in general, journalists are not taking advantage of the law because they do not have sufficient knowledge about it.

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Journalists don't know how to request information; they don't know what can be requested, or don't use the correct different ways to succeed in getting what they want.

For example, if a journalist requests a lot of information at once, most likely the public institution will refuse to turn over the information. Therefore, journalists should divide the information requests into various petitions, or call the responsible officials and talk to them personally. If the official recognizes that journalists know and understand the law, like the legal period of time for the answer and the rights that they have, the official will probably be more receptive.

Some considerations on obstacles for transparency in Chile

Sometimes public institutions and authorities try to find legal ways to delay responding to what they consider to be unpleasant requests. Although there is a deadline for answers, it will take at least one month to get the information - if you are lucky.

For example, officials have to answer in 20 days, but they can say that the request is unclear, or they can provide incomplete information. Then you have to appeal to the Transparency Council, which delays the response time significantly.

The Transparency Council has a lot of work and not enough resources to process each case immediately. In 2013, the Council already had received more than 1500 cases by November.

A further problem is related to how the Council's members are designated: the president of Chile names candidates, who then are approved by parliament. This process could inhibit the Council's independence.

Additionally, the public administration still shows a tendency toward keeping things secret (although the new law has only been in effect for four years), such as by finding various ways to make access more difficult. For example, in response to an information request from Miguel Paz, journalist and founder of Poderopedia (an online site dedicated to revealing political, business, and family ties), the Electoral Service sent him the voter list for the 2013 elections in the form of a PDF document, even though he asked for the document in a CSV or Excel format. After several communications he chose to present a formal complaint to the Transparency Council against the Electoral Service; the complaint is still under review as of early 2014.

In some cases, however, the requested information is not given or is incomplete not because the public authorities do not want to provide the information, but because of officials' lack of knowledge about the application of the transparency law. This happens mainly at the municipal level and is typically related to requests for budget information. At the level of the central government, on the other hand, the transparency law is already very much internalized, as the national government seems to understand and be mostly complying with the law.

Also an issue is that the transparency law does not apply to all public institutions. For example, Congress adapted the law according to its own needs, so that denials can't be appealed to the Transparency Council if Congress refuses to answer. Instead, appeals go through the ethics committee of the parliament – a committee comprised of Congress members.

Further, Chile has a big black hole in transparency when it comes to the financing of political campaigns. Presidential elections were held in 2013, yet still the public does not know who financed the candidates, because the transparency law's "limits and controls for expenses of election campaigns" contains various parts that allow for keeping campaign finances secret. For example, the law offers an option for campaigns to receive secret contributions, and even companies can contribute money secretly to campaigns.

My newspaper, *El Mostrador*, formally requested details on campaign financing (who were the contributors and how much did they contribute) from the offices of the leading candidates in the 2013 presidential elections: Michelle Bachelet, Evelyn Matthei, Franco Parisi and Marco Enríquez-Ominami. No one responded.

The result is a gaping hole when it comes to public information about elections, which in practice prevents the population from knowing who the candidates represent and how they might decide when it comes to voting on laws or making decisions.

The challenge for us as journalists in Chile is to learn how to use and take advantage of the Chilean Transparency Law, which is an invaluable source of information for our work.

TRANSPARENCY AND ACCOUNTABILITY

The Struggle to Access Public Information in Colombia: Caught Between the Law and a Culture of Secrecy



By Miriam Forero

Miriam Forero Ariza is a Colombian journalist with seven years of experience in data analysis projects. Currently she is the editor of Poderopedia Colombia, a website operated by Consejo de Redacción that maps power networks in the country. At Consejo de Redacción she also directed the development of the database Zoom Online (www.zoomonline.info), which, through public information access, gathers millions of public records for investigative journalists. She also coordinated other digital projects such as the Corruption Monitor (www.monitordecorrupcion.org) and the virtual platform for the [Colombian Digital Media Study](#). Since 2008 she has given lectures and workshops on computer assisted reporting and data journalism.

The [Center for Law and Democracy](#) and Access Info Europe rank Colombia's freedom of information as middle of the road, placing it at No. 82 out of 150 countries. It's no wonder, considering that public information access in Colombia is in a sort of limbo right now: the Transparency and Access to Public Information Law was approved in 2012, but by the publication of this ebook, the law had been signed but remained in the process of implementation.

This means journalists and citizens still must rely on an Act from 1985. The story began in 1886 when the Constitution of that year recognized the right of citizens to make information requests to authorities. A century later the Official Documents Publication Act was signed in 1985 to indicate how government decisions, actions and documents should be published. The Act included a chapter recognizing the right to access official documents and information, and gave specific directions that have been regulated over the years. The Constitution of 1991 reinforced the right to ask for information.

Based on those regulations, citizens may request information from any public institution and officials have 15 days to respond – 10 if the request is for journalistic purposes. Responses must be clear and answer the request with no evasion, or demonstrate legal support for denying information. If the request is denied, petitioners have the right to appeal and to seek a ruling from the Constitutional Court.

In general, the new law keeps those standards. However, there are some concerns; namely, the law increases the exceptions that allow documents to be exempt from being made public. For example, information related to national security, international relations, drafts of official documents, drafts containing officials' opinions, crime investigations, childhood rights, and macroeconomic stability all can be kept secret.

Perhaps just as worrisome is a provision that leaves it to government officials to decide whether a request should be denied for hurting the public interest.

The NGOs and civil society organizations that promoted the law – [Colombia Transparency](#), [Dejusticia](#), [FLIP](#) (Press Freedom Foundation), the [Antonio Nariño Project](#) and [Ocasa Corporation](#) comprising the “[Más Información Más Derechos](#)” (More Information More Rights) alliance, defend its contents by highlighting its advantages and clarifying that officials who deny information requests still are obligated by the new law to support their decision with a law that specifically classifies that piece of data.

Despite the ability to access public documents, few journalists take advantage of the Act. For example, a [study](#) by the Antonio Nariño Project examining the state of information access and freedom of expression in Colombia found that more than 61 percent of journalists use social media to obtain information, yet a mere 26 percent rely on freedom of information requests.

Perhaps some of the reluctance to use the Act to request official information can be attributed to the obstacles journalists encounter, such as administrative difficulties, official demands to know why the information is being requested, or requirements that the information will not be turned over unless the journalist refuses to reveal the source of the information. Since sanctions are not really strong or clearly defined -in the study by the Center for Law and Democracy this aspect gets the lowest score- journalists have no option but to follow long procedures in courts if they want to report an incorrect response by government officials.

Precisely because of all those difficulties and the so called “culture of secrecy” –officials who consider it their duty to keep every government action secret and perceive FOIA requests as personal attacks against them – the Press Freedom Foundation (FLIP) has a special department dedicated to access to information and giving journalists legal support when they face obstacles demanding public information.

In the case of [Consejo de Redacción](#) (CdR), or the Newsroom Council, an organization that promotes investigative journalism in Colombia, members have used the access to information act to create a database that offers useful public information for journalists.

[Zoomonline.info](#), created in 2009, offers two services: first, it has a directory that links to 140 different databases where journalists can find government purchases and contracts, transit fees, companies'

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financial statements, property records, etc. Second, it gathers information related to such topics as extraditions, companies or individuals with fiscal sanctions, campaign donors, election candidates, winter emergency figures, judiciary officials, diplomats, and congress members' conflict of interest declarations.

Nombre del departamento:

Valle Del Cauca



Región		Ola invernal		Municipios			
Dañificados		Ayuda humanitaria		Obras de rehabilitación		Proyectos de entidades nacionales	
Las siguientes son las cifras de personas, hogares y bienes afectados por la ola invernal 2010-2011 en Valle del Cauca, según el Registro Único de Dañificados. Fuente: Departamento Administrativo Nacional de Estadística -DANE-.							
Población damnificada							
Personas damnificadas:	88.813	Personas heridas:	1.666	Hogares damnificados:	26.137		
Personas afectadas:	42.881	Personas fallecidas:	27	Hogares afectados:	17.380		
Porcentaje de población afectada o damnificada: *	3,4%	Personas desaparecidas:	140				
Cédulas excluidas del registro de damnificados por inconsistencias							
Cédulas de fallecidos:	249	Registros duplicados:	1.103				
Identificaciones no válidas:	127	Otras inconsistencias:	2.989	Total inconsistencias:	4.468		
Bienes afectados							
Viviendas destruidas:	2.365	Locales destruidos:	46	Fábricas destruidas:	13		
Viviendas averiadas:	24.717	Locales averiados:	221	Fábricas afectadas:	38		
Bodegas destruidas:	83	Fincas destruidas:	4.151	Lotes destruidos:	905		
Bodegas afectadas:	121	Fincas averiadas:	10.583	Lotes averiados:	886		

Example of the type of information Zoom Online provides.

To build this information database, which currently boasts 2,152,837 records, CdR has so far filed 90 information requests, and obtained information in 58 percent of them, sometimes (10 cases) having to insist before the corresponding authorities. Of the remaining 42 percent, about 25 cases are still in process, five ended in denial and the others got stuck because of high costs, administrative delay, and other common difficulties. Unsurprisingly, with only 58 percent of requests approved, the information request process produced various obstacles, such as officials providing the documents in PDF form, refusing to provide information that already was available online, sending information that wasn't requested, or sending summaries of statistics, rather than the requested raw data.

Journalists who are affiliated with CdR have used this information to produce important investigative work, such as a report on agricultural fraud [by the magazine *Semana*](#), which revealed that thousands of plots of land that were supposed to be distributed to poor farmers to use as a way to make a living in fact ended up in the hands of the wealthy, business owners, politicians, or professionals who lived far from the plot. Another [piece, published by the newspaper *El País*](#), investigated how construction projects paid for with public funds earmarked for the 2010-2011 winter emergency had never been finished, were not related to the emergency or simply didn't exist.

Even with the existing Act and the new law, Colombia, like elsewhere in Latin America, suffers from a culture of secrecy that ultimately frustrates journalists so that many do not even bother to request information. Overcoming that tradition, and overcoming journalists' rampant lack of persistence, are the challenges that must be surmounted if the new law is going to make any real impact on improving transparency in Colombia.

Note: Miriam Forero's presentations in Prezi slides is available online at <http://prezi.com/pappbtai8o7/journalism-and-access-to-public-information-and-in-colombia/>

An Opaque Country: Open Access to Public Information and Transparency in the Dominican Republic



By María Isabel Soldevila

María Isabel Soldevila Brea of the Dominican Republic is a journalist, chief editor of the newspaper *Listín Diario* and director of the UNESCO Chair in Communication, Democracy and Governance based at Pontificia Universidad Católica Madre y Maestra, where she also directed the School of Social Communication and has lectured since 2006. She is an associate producer and presenter of the TV news program Morning Focus on CDN 37. She is a graduate in Social Communication from the Autonomous University of Santo Domingo and has a Masters in Journalism from Columbia University in New York, where she was a Fulbright and Maria Moors Cabot scholar. She continued her studies in Paris with a year of studying French language and culture at the Sorbonne. In 2007 she obtained a Certificate in Business Management from New York University.

For the Dominican Republic, open access to public information and transparency continue to be pending challenges. The legislation that regulates access to government information contains, in Article 17, a total of 12 exceptions that include generalities like “information linked with the defense or security of the State, that has been classified as ‘reserved’ by law or by decree of the Executive Power, or when it can affect international relations of the country” or “when the giving of said information can compromise the litigation strategy prepared by the administration in the process of a court case or a duty of confidentiality that the attorney or officer exercising the representation of the State must keep with respect to the interests of their representation.”

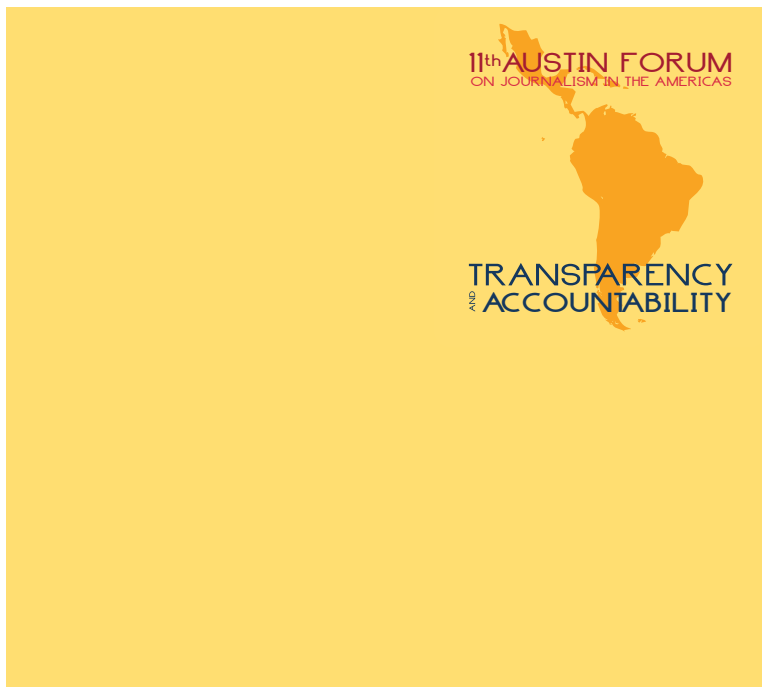
The obstacles presented by the public information access law are made palpable in the global ranking of right to information laws published by Access Info Europe (AIE) and the Center for Law and Democracy (CLD). The Dominican Republic was ranked 87 of 95 countries analyzed, placing it in the bottom 10.

These measures analyze the strengths of the laws, not their execution, based on seven criteria. The Dominican Republic earned poor marks, receiving 61 of 150 possible points: right to access (five of six points), reach (21 of 30 points), application procedures (16 of 30 points), exceptions and rejections (11 of 30 points), appeals (three of 30 points), penalties and protection (two of eight points), and promotion (three of 16 points).

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Country Rating Results

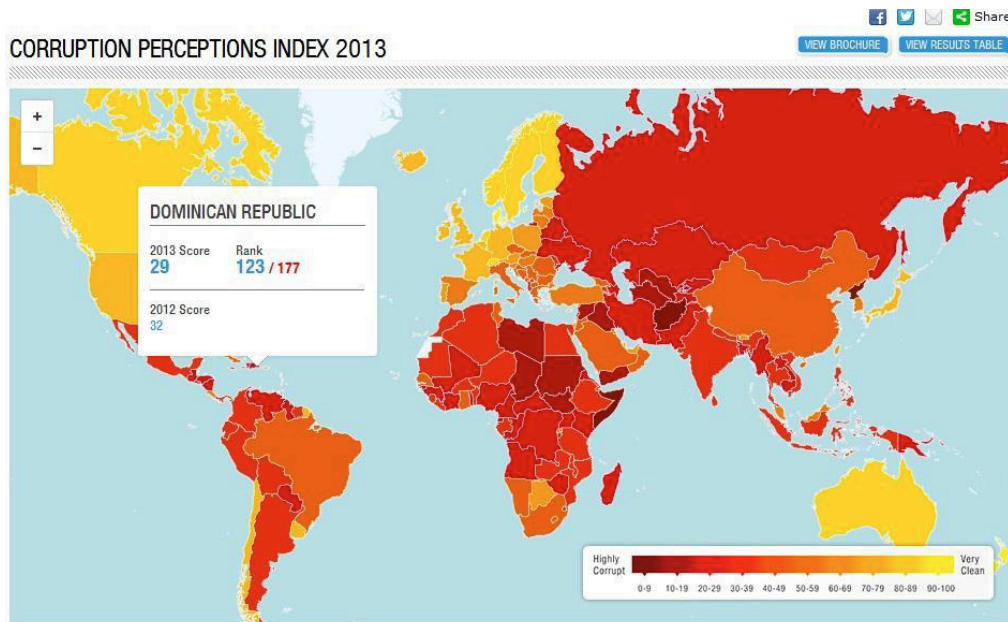
TOP 10	BOTTOM 10
Serbia 135	Austria 37
India 130	Liechtenstein 38
Slovenia 130	Tajikistan 51
Liberia 126	Germany 52
El Salvador 124	Jordan 56
Mexico 119	Belgium 56
Antigua 117	Italy 57
Azerbaijan 115	Taiwan 60
Ukraine 115	Uzbekistan 61
Ethiopia 114	Dominican Republic 61



It is not surprising then, that, given the close relation between access to public information and transparency -- and the link between transparency and advances in the fight against corruption -- that a country with weak access to information legislation appears among the worst off in the rankings of government corruption.

The Dominican Republic occupies the 123rd spot among 177 countries in Transparency International's annual global rankings that analyze the perception of corruption.

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In the past 10 years, this perception of government corruption has consistently averaged around 60 percent, placing it in an undesirable position among the most corrupt countries of the world, as the following chart shows.

Implementation of the Open Access to Public Information Law 200-04

Citizen Participation, the Dominican chapter of Transparency International, for six years has been monitoring the implementation of the public information access law. The goal of these reports is to “determine the level of compliance with the General Law of Open Access to Public Information and its implementing regulations (decree 130-05) in the entities that receive public funds.”

In its most recent report, published in 2012, the organization filed 286 information requests using the 200-04 law, with an average of six requests per government institution. The results do not show an inclination toward openness on the part of institutions that receive public funds.

According to the report, of all the information requests, 47 percent received no response, amounting to “administrative silence.” Further, four percent of requests received responses, but violated the timeframes established by the law. About 11 percent of the responses were incomplete, also violating the law. The overall level of noncompliance with the law reached 62 percent.

The same report stated that just more than half (54 percent) of government agencies’ websites published institutional statistics, and the online publication of institutions’ approved and current

budgets was slipping, from 65 percent of institutions that published the information in 2011 to just 56 percent in 2012. Also, just 58 percent published their actual expenditures on the web.

Of particular concern was the execution of the government's budget of 2012. The Dominican Oxfam highlighted the "worrisome decline in transparency and accountability" in the country. "It is unacceptable that as a result of the unprofessional, hidden and improvised management of the Ministry of Finance and the Directorate General of Budget of public finances at this time of year we still do not even know how the 2012 budget closed out, nor with what criteria the current budget of 2013 is being executed, nor how the 2014 budget is being developed. So far this year the Organic Budget Law (423-06) has been violated at least 11 times given the repeated breaches in the budget cycle" (Justicia Fiscal, 2013).

One positive aspect in 2013 worth highlighting, the results of which are yet to be seen, has been the strengthening of the State's procurement and contracting processes and the creation of independent commissions to oversee these processes.

The NGO Citizen Participation in 2013 developed the "First Monitoring Report" on "Monitoring Protocol for Transparency and Institutionalization," in which the group found that 82 percent of the websites of the Ministries of State do not have updated lists of their employees nor are these lists displayed on their websites, as mandated by the Law on Access to Public Information.

The report, dated March 2013, seven months after Danilo Medina took over as president, explained that as a candidate, Medina committed to guaranteeing systematization of all public information online within the first 150 days of his presidency.

In the report, the NGO characterized as "weak" the actions of the president in terms of fulfilling the "obligations assumed under the Protocol for Transparency and Institutionalization because of the 11 measures evaluated, 63 percent was not completed, 27 percent was in process, and only 9.9 percent was rated as fulfilled.

The free exercise of the press

Since his arrival to the presidency, Danilo Medina has worked intensely on his image and has cultivated communication strategies that centralize in the press office any information about the president's activities.

Previously, Leonel Fernández, Medina's predecessor, had established a "network of communicators" dedicated to promote his messages in different media. Experts estimate that this network was comprised of as many as 3,000 persons who were receiving salaries or some kind of benefit from official government advertising.

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Medina has used a team well versed in new media to develop multimedia platforms that disseminate information at his convenience. His strategy of “surprise visits”-- lightning-like appearances in remote locations without prior notice to the independent media so that only the official media can attend -- has guaranteed that the information disseminated always is positive or in his favor.

Perhaps it is no surprise, then, that Medina’s approval rating among citizens ranges between 85 and 90 percent, a true record.

The president’s control efforts compound the already complicated situation of traditional media, which increasingly are concentrated in the hands of about three families. What’s more, wages are depressed, so many journalists feel forced to moonlight (many with side jobs in the government), and journalists are poorly trained in new technologies.

Twitter and Facebook have emerged as alternative information sources for the upper and middle classes, generating information flows on subjects typically ignored by the mainstream media. However, the still-limited connectivity has limited this process.

The current trend in the Dominican Republic is not inclined toward greater openness of government to provide information of national interest -- to citizens or the press. Nor is the press pressuring for openness as it should, due mainly to the limitations resulting from concentration of media ownership, lack of training, and even corruption among journalists themselves. A recent law to protect personal information, passed in Congress and awaiting presidential approval, raises new limitations for accessing information about government officials. In short, the picture is not a rosy one for access to information in the Dominican Republic.

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Guatemala: Ups and Downs in Transparency in a Complicated Country



By Alejandra Gutiérrez Valdizán

Alejandra Gutiérrez Valdizán of Guatemala is an editor for the online news site Plaza Pública. She specializes in social themes and justice and is starting to investigate organized crime. She has a Ph.D. in Communications from the Universitat Pompeu Fabra (Barcelona, Spain), a master's degree in communications and art (U. of Girona), and a bachelor's degree in communications with a minor in alternative communications. She has worked nearly 20 years in in-depth magazines, researching about media, and conducting audiovisual analysis.

Poverty, inequality, violence, 36 years of war, a new democracy, corruption, impunity, a weak State, organized crime... These are just some of the elements that make Guatemala a so-very-complicated country, with various angles to observe and explain when it comes to transparency.

How, though, can journalists adequately inform the public in an atmosphere clouded by a fog produced by actors that do not want to be discovered? That's the challenge, especially when transparency is not a one-protagonist play: numerous actors must be monitored to find out how this country and its systems work.

Among the players who would prefer to stay in the dark are:

- Private institutions, such as big companies, banks, mining corporations, industrial companies, and agriculturalists: Some receive tax exemptions, and others evade taxes, while simultaneously contributing large sums of money to political campaigns, thus making the electoral system a business wherein candidates buy and sell favors. The electoral laws do not require the candidates or political parties to reveal how much money they raise, where the money comes from, or how much money is spent. This further contributes to the buying and selling of favors, thus protecting the private companies that do business with the State and that push for legislative and judicial decisions to be made in their favor.
- Organized crime: As one of the principal sources of violence, homicides, drugs, weapons, and human trafficking, organized crime also is a main factor in corruption. Mafias pay for campaigns, and they pay for impunity, making them difficult to control. What's more, organized crime elements have infiltrated the State, making oversight that much more difficult.
- The State: The government is supposed to be responsible for transparency. And yet in Guatemala, with its long history of brutal military dictatorships, it is easy to understand why the country has a culture of opacity.

But not everything is so negative. In 2008, in part because of strong efforts on the part of civil society, Guatemala approved the Access to Public Information Law (Ley de Acceso a la Información Pública, or LAIP by its Spanish acronym), a law that by many accounts is exemplary. The most positive aspect the new law offers is that it forces the system to make public much information that used to be classified, including salaries, civil servants, advisers, expenses, purchases from private companies, and judgments, among others. Unfortunately, however, sanctions for violating the law are weak, and the Constitutional Court, which has the final say on any appeals, has been shown to act in its own interest and favor secrecy. Still, many governmental institutions are taking steps to make their information public, as the law mandates.

The support of the office of the human rights ombudsman (Procuraduría de los Derechos Humanos) also is an encouraging sign. In 2013, Jorge de León, the ombudsman, evaluated government transparency and the utilization and compliance of the information access law. The results were not very promising: 60 percent of the information requests were fulfilled with institutions providing complete data, but 40 percent of the requests were denied or only partial information was provided. The worst offenders were local municipalities or institutions in the interior of the country, outside of the capital city. Corruption is rampant among many local institutions due to little oversight and bad management of State money. For journalists, then, it is complicated to track public funds -- often associated with organized crime -- especially when the information access offices in many towns are not even digitized.

In recent months the situation for transparency and anticorruption organizations in the country has become alarming. During the first week of 2014, Citizen Action ([Acción Ciudadana](#)) -- the local chapter of Transparency International working on taxation and accountability of government expenses -- [was publicly criticized by the government](#).

There are other examples illustrating this alarming renewal of a culture of secrecy.

For example, the independent news site [Plaza Pública](#) partnered with Citizen Action to examine the levels of nepotism in the government. Journalists and the civil society organization requested the names of all the workers in 75 institutions of the government -- including Congress and the judicial system -- along with their salaries and resumes in order to cross-check the data to determine levels of experience and preparedness of the civil servants, and look for nepotism and [possible relations with political parties](#), businesses, and other officials.

While data still is being gathered and analyzed, already disturbing patterns have emerged. For example, Congress denied the information request, saying the information was sensitive. Other institutions also refused to provide the information, or only provided partial results, such as the Auditor General's Office (Contraloría General de Cuentas); the Superintendent of Banking (Superintendencia de Bancos) that controls the private banking institution; the Army (which [made excuses](#), arguing it didn't have the equipment to print or digitize the data); the Ministry of the Interior (in charge of security affairs); and the Constitutional Court, which has the final say in any lawsuits or appeals related to the

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information access law.

What the Plaza Pública project has thus far demonstrated is the major lack of a centralized and uniform system to request information. Each government institution has its own process in place not just for requesting information, but also for organizing information provided, thus making it difficult to compare and analyze data, even if the information is provided.

For example, when it comes to recording violence and other criminal activities, all of the security-related institutions (i.e. the public prosecutor's office, courts, forensics office, and the police) have different ways of tracking crime statistics and handling information, making it impossible to know exactly how many people are killed in Guatemala each year. Only estimates are possible.

The government institutions related to private interests are particularly opaque, like the Superintendent of Banking and the Ministry of Energy and Mines, which is in charge of licensing and overseeing all extractive industries. This is concerning because this relationship makes it especially difficult to monitor how the private sector benefits from the State, and whether the industries are complying with the law, such as when it comes to environmental issues, for example.

While the Plaza Pública project shows that the information access offices in each government institution are fairly open, real problems begin to arise at the judicial level. It's unfortunate that the highest office that determines whether information will be provided is itself shrouded in secrecy.

The end result is that, despite the public information access law, obtaining information remains a challenge, especially when it comes to exposing corruption.

But we can't forget one other main actor in the search for transparency: journalism.

Journalists who are asking for information and demanding transparency have to be accountable themselves. Media companies (some of the most concentrated in Latin America) must be transparent about their holdings and about their advertising revenues so that it is clear to the audience who is "paying the bills." It is also urgent that media companies invest in professionalization and support (money, time, and protection) for journalistic investigations. They must also be willing to follow up with lawsuits in case the system must be forced to give the information requested.

Journalists also must understand that even though it is difficult, there are ways to monitor the connections between the private sector and the government, and between organized crime and government or political parties.

Guatemala is a complicated country, but we, as journalists, need to be committed to our audience, our readers, and be watchdogs for the system.

Note: Alejandra Gutiérrez's presentation in Prezi slides is available at <http://prezi.com/44nhws5-mi6q/guatemala-transparency-20013/>

Transparency, Access to Public Information, and Journalism in Mexico



By Estela Margarita Torres Almanza

Estela Margarita Torres Almanza of the Iberoamerican University in Mexico City is the coordinator for the Iberoamerican Right to Information Program and the managing editor for the Iberoamerican Communication Magazine. A Ph.D. Candidate in Humanistic Studies with a specialization in Ethics, she is specializing in ethics and journalism, the right to information and journalism, and journalistic professionalization in times of violence. She is co-founder of the social journalists network Periodistas de a Pie, a meeting space for social journalists looking to share investigative techniques, reporting strategies, narrative styles, ideas for addressing different topics, and ethical reflections for strengthening coverage.

When the Transparency and Access to Public Government Information in Mexico federal law was approved in 2002, the overall mood was positive. For the first time the Mexican government not only set guidelines so that citizens could request public information, but the law also meant the establishment of reforms and transformations that made the requesting and turning over of information as agile a process as possible. These reforms included changes to Article 6 of the Constitution and the creation of the Institute for Access to Public Information (IFAI by its Spanish acronym), a new digital system to handle information requests and deliveries, as well as the professionalization of public servants. All of this came with the main goal of recognizing access to public information as an essential human right.

The passing of the law also brought international recognition to Mexico as a country with one of the world's best freedom of information laws. The new Mexican law, made possible by the political will of the executive branch and all political parties as well as active citizen participation, not only established an obligation of transparency but also set up a specific procedure to require public officials and institutions to hand over information in a timely manner.

For example, at the federal level all governmental agencies are required to set up a website stating their commitment to transparency and disclosing their organizational structure, staff directories, salaries, services, public programs and their results, etc. The law also put in place a 20-working-day timeframe for government agencies to respond to citizens' requests for information. If citizens are unhappy with the reply, or the reply fails to appropriately address the request, petitioners have 15 days to appeal, and a response can be expected within 50 days.

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The law also opened new discussions and brought new challenges, such as broadening the law to state and municipal levels, teaching citizens about the exercise of this fundamental right, and involving journalists in this new institutional framework that ideally helps to oversee the use of public resources and the decision-making processes of governments.

From a journalistic perspective, it can be assumed that the law helps to strengthen the professionalization of journalism in Mexico, and with good use of the right of access to public information, the quality of journalistic stories can improve. Unfortunately, it's not that simple, as the possibility of access to public information requires journalists and media outlets to break old habits, relationships and vices that have grown in recent decades. And this is not an easy task.

The ongoing battles

In Mexican journalism there exist factors that work together against journalistic quality and democracy: there is little investigative journalism and few investigative techniques used; the media, in general, depend greatly on government advertising in order to survive; and the concentration of the media determines the (lack of) plurality of information and the dynamics of working as a journalist.

Along with this, the practice of reproducing verbatim whatever officials, politicians and other public personas say – a practice known as *declarationitis*, or what ex-correspondent for *The Economist* in Mexico Gideon Lichfield termed *declarocracy* – continues to grow. It seems to be easier, faster and

more dramatic to focus on verbal confrontations than to search for data and documents to counter what is being said. The end result is that the media give up their own news agenda.

As if this wasn't enough, Mexican journalism also faces two more challenges. First is the prolific violence against journalists and media that in recent years has limited the possibility of investigating and bringing to light government corruption in various regions of the country. Second is the precarious working conditions and the resultant lack of professional development and training to provide the tools to investigate, analyze data and make use of access to public information. While on one hand there is a demand for journalists to be trained to do responsible journalism that responds to citizens and not to special interests (whether political or economic), on the other hand this lack of professional development is a consequence of the lack of optimum conditions for fair wages, social security, physical security, and availability of time to incorporate new tools that improve the quality of journalism.

Yet within this seemingly dark scenario it is important to acknowledge that there are journalists and media outlets that insist on carrying out a different kind of journalism that, while not a common practice, includes using the public information access law as an important tool. What's more, recent evidence suggests more and more journalists are learning about the federal and state information access laws, even though there are few who actually are utilizing the laws and those who do face a series of problems because of a persistent lack of understanding on how the laws work.

In light of this, we can't ignore that the right to access public information is somewhat elitist. It requires knowing the appropriate wording for how to ask for information; clearly knowing exactly what information is being sought; understanding the timeframes and legal process; being able to understand, interpret and question the information provided in the public documents; and overcoming the obstacles and increasingly sophisticated padlocks authorities place on information – namely, investment of time, effort and training. This is not something all journalists or media outlets want or can do themselves, which leads to the need to encourage more links between journalists, universities and civil society organizations in order to develop and strengthen the skills that transparency and access to public information require.

It is important to always reiterate that obtaining public documents is not investigative journalism per se – access to information is just an investigative tool, albeit a fundamental one. An ongoing challenge is to foster journalistic professionalization that includes procedures for accessing public information, methods for research and information organization, the use of basic software for data analysis, and the best ways to tell the stories behind the data, the statistics, or the governmental decisions. It is not only important that journalists and media outlets develop their own news agenda, but that they also collaborate together to produce joint investigations to maximize impact, and to help protect journalists during the coverage of sensitive issues or in difficult regions so as to prevent the silencing of information. And in this, academic institutions and civil society have much to contribute.

Finally, even though it is almost taboo to say so, if journalists want transparency and public

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information access to be common practices in Mexico, then the media also must adhere to this practice. As a central element to the functioning of democracy, the media should not be exempt from being held accountable. One major aspect of this must be transparency regarding government advertising. What good is insisting on investigative journalism if media are controlled by the very powers that they should be monitoring? Independence is a prerequisite for journalism to be a watchdog of the government.

Brief conclusion

In Mexico, 2013 ended with a reform to the transparency law, adding unions and political parties to the regulated entities that are accountable for their use of public resources. But even in the most advanced democracies, as scholar and former journalist John Dinges claimed, the mechanisms of control of the powers-that-be are ever more subtle and sophisticated, and thus journalism cannot remain idle. The law is not – and will not be – enough, and access to public information alone will not solve corruption nor impunity. However, learning to utilize the law as a useful tool that complements other journalistic skills is, without a doubt, a key element that furthers investigative journalism and the development of quality journalism. Journalists are not alone in this process. Devising strategies that link universities and civil society in order to strengthen journalistic development is both necessary and fundamental.

The Dangers of “Cleansing” Information in Nicaragua



By Leonor Zúniga Gutiérrez

Leonor Zuniga has a degree in sociology from the Central American University in Nicaragua and is also an alumnus of the Global Leadership and Competitiveness Program in Georgetown University. Leonor is a researcher at the Center for Communication Research (CINCO) and an associate researcher at the Central American Institute of Social Research (INCEDES) and was the lead researcher for Open Society’s Mapping Digital Media report in Nicaragua. Leonor also founded CaLé videoproducciones, which produces educational documentaries.

On Feb. 22, 2007, just one month after Daniel Ortega assumed the presidency in Nicaragua, a national newspaper published a 30-page confidential document in which the First Lady explained the government’s new communication strategy: “We’re going to use our media so that our information comes out uncontaminated, direct, just like we did during the campaign... We will delimit the field of discussion.”

The new communication policy of “uncontaminated” information

- ☞ Own the media
- ☞ Control the budget
- ☞ Own the agencies
- ☞ Intermediaries are not allowed in the communication between the State and citizens
- ☞ Provides salaries for journalists
- ☞ Prohibits the entry of independent media to public events (In five years, zero press conference)

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This new strategy went hand-in-hand with the creation of the Communication and Citizenship Council,

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led by the First Lady. This council was set up to implement the communication strategy, as the Minister of Finance made clear when he ordered all government institutions' advertising budgets be frozen. Only the new council had the authority to determine how public advertising dollars – from the highest government levels down to local institutions and program – would be distributed.

Redistribution, of course, began to reduce the advertising budget for independent media, as government advertising mostly was awarded to official government media. The results have been especially clear when it comes to broadcast television: by 2010 half of independent opinion programs had been discontinued, and by 2014 only a couple of programs persisted.


The biased distribution of official advertising has been a common practice among Nicaraguan presidents, who favor their own partisan agenda over the government's agenda and who have prevented the development of true public media.

This new strategy of “uncontaminated” information goes beyond controlling how advertising dollars are distributed. In practice, this strategy constitutes the total “cleansing” of the communication chain (institutions, advertising agencies, budget, media and messages), from the sender to the final receiver. The idea is to achieve absolute control over the messages that are issued from and about the government, regardless of whether those messages are coming from state institutions or co-opted media.

Co-optation is accomplished via the purchase, coercion or repression of media and journalists, resulting in various threats to freedom of expression and the right to information:


1. Purchasing national and local journalists. The director of the independent magazine *Media and Messages*, Guillermo Cortés, reported in the Media Mapping of Open Society Foundations that there exists a government pay sheet showing the journalists who are paid monthly for publishing news favorable to the government.
2. Using advertising as a carrot and stick. Those media outlets that decide to align their editorial stance with the government are rewarded with official advertising, and those that maintain their independent editorial line are punished, receiving no government advertising. During the first year of Ortega's administration, the independent newspaper recorded a 31.8 percent decrease in income from official advertising, down from the previous year. Proportionally inverse was the case of Channel 4, aligned with the president's political party.
3. The fixing of public bids with advertising agencies connected to the ruling party. This practice of rigged bidding was made public by the program *Esta Semana* (This Week), with the report “The Petty Cash of Enel” which showed how the Nicaraguan Electric Energy Company (Enel) only bid with three advertising agencies, which in reality were one company. The main broadcast production company of the State belongs to President Ortega's children.
4. Purchasing TV and radio stations. In 2007 the ruling party had under its control Channel 4;

today it owns three television channels and has acquired licenses to open new channels. In addition it uses Channel 6, in theory a public channel, as the party's channel. Currently the FSLN and its main business partner in communications, Mexican Ángel González, control 85 percent of the national television channels and dozens of radio stations.



Canales de televisión	Propietarios
Canal 2	Ángel González
Canal 4	Propiedad de la familia Ortega
Canal 6	Estatad, manejado por la familia Ortega
Canal 7	¿Ángel González?
Canal 8	Propiedad de la familia Ortega
Canal 10	Ángel González
Canal 11	Ángel González
Canal 12	Mariano Valle
Canal 13	Propiedad de la familia Ortega

Fuente: Observatorio de Medios-CINCO Agosto 2013.



5. Journalists' access to information has declined. Between 2007 and 2014 President Ortega gave only one press conference, and he was not interviewed by even one national media outlet: he spoke only during party activities to which independent media did not have access. What's more, the First Lady issued an order preventing any public official from granting interviews without prior authorization, in effect meaning that independent media cannot count on officials as sources.
6. The Public Information Access Law (Law 621) has suffered enormous setbacks. The law, approved in May 2007 with the backing of civil society organizations and international pressure, was established with the goal of guaranteeing citizens access to public information. The law created offices to see to citizens' information requests. Compliance reports, however, show poor – even worsening – implementation of the law. In 2011 just 40 percent of information requests received a response (whether positive or negative), in part because officials did not fully understand the law or because they were waiting for a representative from the ruling party to authorize the information request. While in 2011 about 73 percent of government institutions had information access offices, in 2012 that number had dropped to 67 percent. For independent media, information access is practically non-existent, as showed the TV program *Esta Semana* (This Week) when it sought information about advertising budgets from 30 government institutions, and not one agency responded. What's more, reports also show that journalists are under-utilizing the law.
7. Legal uncertainty. The operating licenses of several radio and television channels have

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expired, but they haven't been renewed because of a pending new Telecommunications Law. However, the new law is not even being discussed, so the various media outlets do not know if their licenses will be renewed. This limbo of expired licenses has been used as pressure to silence critical voices, the most emblematic of which was the case of Channel 2, which was ordered to terminate its opinion program – one of the most critical and most heard.

8. Intimidation of journalists, activists, and media outlets. In its annual reports, the Nicaraguan Human Rights Center has raised the alarm of violation of rights of journalists, including the expulsion of foreign journalists from the country, intimidation of journalists on the part of Army intelligence, aggression and expulsion committed by state institutions, and illegal raids on journalists' offices, such as the case of the Center of Communication Research, whose records and computers were illegally confiscated and then later returned without any legal reason given.

Finally, at the end of 2013, the president proposed constitutional reforms that, among other things, mandated that all databases of online records be kept in the country for reasons of national security. The proposal sparked immediate rejection and was dismissed. However, a new reform that received preliminary approval in the first legislative session (final passage of Constitutional amendments require approval in two different legislative periods) would make changes to the political system that also would affect freedom of expression and press freedom.

The reform would allow military officials and active police to accept positions in the executive branch (including the Council on Communication and Citizenship), mostly eliminate the role of the Ministry of Interior and Defense, give the president greater power over the Army and police, allow for the indefinite re-election of the president, remove the ban on political parties that want to establish a dictatorship, and other equally bad or worse proposals that would violate the rights of Nicaraguans.

The main danger of this policy of uncontaminated communication is that it has been extremely effective: it has succeeded in drastically reducing the number of independent media outlets, led to the economic decline of both large and small media, undermined the independence of journalists and media outlets, and maintained tight control on the communication agenda of the country through control of both the media and information sources. The end result is that this communication strategy has seriously violated every citizen's constitutional right to be informed, and to inform without censorship.

The Situation in Peru with Regard to Access to Public Information and Transparency at All Levels of Government: How Journalists Use Mechanisms for Access to Public Information

By Úrsula Freundt-Thurne

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When we talk about transparency and accountability, about journalists and access to public information in Peru, we are talking about the weakness of democratic institutions, a culture of secrecy in public administration, the lack of transparency in government management, and the urgent need to avoid the abuse of power. In short, we are talking about the need to fight against the deep-seated crisis of trust that is affecting our government and non-government entities, and of course, the people who comprise them.

As stated by Beatriz Merino, the Peruvian National Ombudswoman in 2009, “The promotion of transparency and the defense of the right to access public information has taken on importance in the countries of Latin America, including Peru, (...) due to the serious political crisis the nations of our region have lived through, characterized by weak democratic institutions, thus affecting the assurance of peoples’ basic rights.”²

Five years on, the situation continues to be telling. A survey conducted in October 2013 by Datum International for Peruvian media outlets such as *Peru 21*, *Diario Gestión*, and *Frecuencia Latina*³

² The Right to Access to Public Information. Statutes, Case Law, and the Work of the National Ombudsman’s Office. Ombudsman’s Documents Series – Document No. 9. Introduction, p. 19.

<http://www.munlima.gob.pe/documentos/accesoinfo/Documento%20de%20adjuntia.pdf>

³ <http://cde.peru21.pe/doc/0/0/1/5/9/159115.pdf>

Survey by Datum Internacional for Peru 21, Diario Gestión, and Frecuencia Latina. Nationwide. Sample size: 1,200 surveys. Margin of error: +/- 2.8%. Confidence level: 95%. Field dates: October 4 through 9, 2013. Website: www.datum.com.pe.

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asked those surveyed to choose the three most corrupt institutions in the country. The results demonstrate that in Peru, we are dealing with fragile government institutions where, as pointed out so astutely by the Peruvian sociologist Guillermo Nugent, the main conflicts are not processed or resolved through the institutions, but rather through the media. This is why it is so important for media outlets and the journalists who form part of them to exhibit sound journalistic skills in order for citizens to establish solid bonds of trust with them.

According to the survey in question, conducted in October 2013 among 1,200 people nationwide, the most corrupt institutions in the country were the National Police, in first place with 50 percent; the Judicial Branch, with 49 percent; Congress, with 48 percent; followed by political parties, with 25 percent; regional governments, with 14 percent; government agencies, with 13 percent; the Armed Forces and provincial municipalities, with 11 percent each; and district municipalities, with 10 percent.

The media were seen as corrupt by five percent of respondents. According to the report, which includes the survey results, “It is alarming to note that 91 percent of those surveyed feel the level of corruption is very high, and 69 percent believe this scourge has increased in the last two years.”⁴

4 <http://cde.peru21.pe/doc/0/0/1/5/9/159115.pdf>

INSTITUTIONS

In your opinion, what are the three most corrupt institutions in Peru?

Police	50%
The Judiciary	49%
Congress	48%
Political Parties	25%
Regional Governments	14%
State Institutions	13%
Armed Forces	11%
Provincial Municipalities	11%
District Municipalities	10%
Mass Media Companies	5%
Private Sector, Corporations	3%
NGOs	2%
Church	2%

In your opinion, what are the three most corrupt institutions in Peru?

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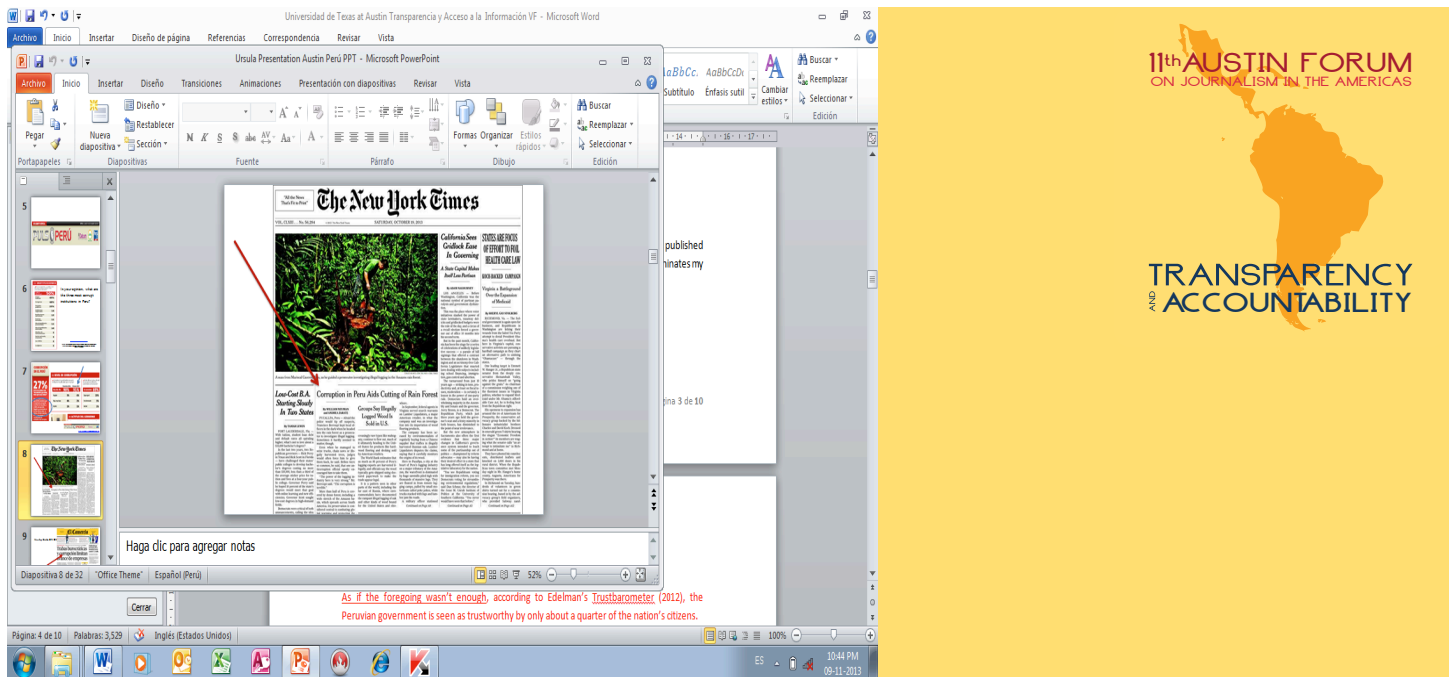
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Official Graph in Spanish.
Translation by: Ursula Freundt-Thurne

For example, on Oct. 19, 2013, *The New York Times* published a front-page article by journalists Neuman and Zárate on the corruption that dominates Peru.

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As if the foregoing weren't enough, according to Edelman's Trustbarometer (2012), the Peruvian government is seen as trustworthy by only about a quarter of the nation's citizens.

It is precisely this constant scenario of distrust and growing corruption that led, in June 2003, to the approval of Law 27806, the Act for Transparency and Access to Public Information and its Regulations, approved by Supreme Executive Order (Decreto Supremo) 072-2003-PCM, in order to promote the transparency of the State's actions and regulate the basic right to access to information, as established in Article 2, Section 5 of the Political Constitution of Peru.⁵

It should be noted that a Supreme Executive Order passed in June 2010, seven years later, approved the implementation of a Standard Transparency Website (PTE) in public administration entities.

As stated by the official *Gazette El Peruano*⁶, the objective of the Standard Transparency Website is to "guarantee compliance with the principle of public access to information, via the use of standardized forms that are easily accessible and written in user-friendly language."⁷

5 Official Gazette El Peruano, Friday, June 14, 2003. Laws 497089. See: El Peruano, Thursday, April 24, 2003. Laws, p. 243128, and El Peruano, Thursday, August 7, 2003. Laws, p. 249373.

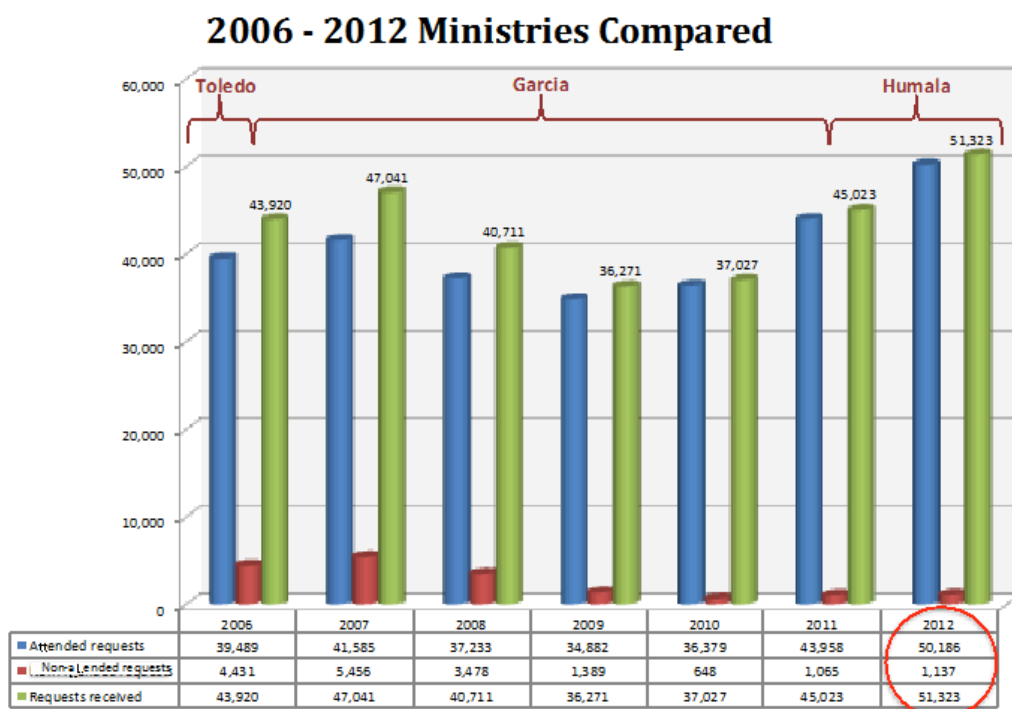
6 Official Gazette El Peruano, Friday, June 14, 2003. Laws 497089. See: El Peruano, Thursday, April 24, 2003. Laws, p. 243128, and El Peruano, Thursday, August 7, 2003. Laws, p. 249373.

7 Official Gazette El Peruano, Friday, June 14, 2003. Laws 497089. See: El Peruano, Thursday, April 24, 2003. Laws, p. 243128, and El Peruano, Thursday, August 7, 2003. Laws, p. 249373.

So then, what is Peru's situation regarding access to public information and transparency at all levels of government?

A quick audit of the behavior of the 19 ministries⁸ belonging to the Executive Branch, which are coordinated by the Prime Minister's Office (PCM), shows that for 2012, they received a total of 51,323 information requests, of which 50,186 were answered and 1,137 were denied⁹. In other words, in a country with 30 million inhabitants, only 0.2 percent of the population officially requested some type of information.

Graph 1.



Source: Report from the Prime Minister's Office, 2012
 Presidential timeline added by: Ursula Freundt Thurne



⁸ Report from the Prime Minister's Office, 2012.

⁹ The Report from the Prime Minister's Office (2012) explains that "the requests fell under the exceptions established by law; because of the inexistence of the information requested; because the requests were unspecific or incomplete; because the interested party did not rectify problems with his/her request; or because the entity in possession of the information did not forward it, or did so after the deadline provided for by law."

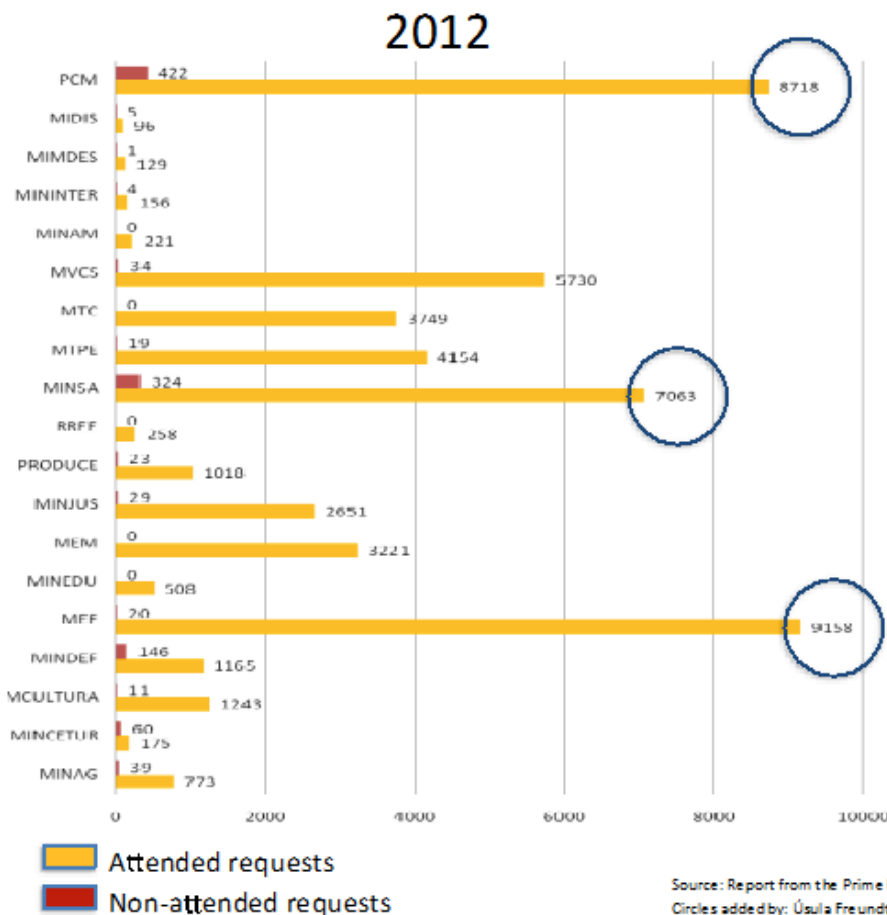
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In terms of the main reasons given for denying the requests, the Prime Minister's Office¹⁰ said that such requests were denied either because they fell under the exceptions established by law; because of the inexistence of the information requested; because the requests were unspecific or incomplete; because the interested party did not rectify problems with his/her request; or because the entity in possession of the information did not forward it, or did so after the deadline provided for by law.

Graph 2 shows that according to the PCM, just as in the same period of 2011, the sectors that received the highest number of public information requests during 2012 were the following: the Ministry of Economy and Finance, the Prime Minister's Office (including its Public Agencies), and the Ministry of Health.

Graph 2. Answered and Unanswered Requests by Ministry, 2012

Answered and Unanswered Requests by Ministry

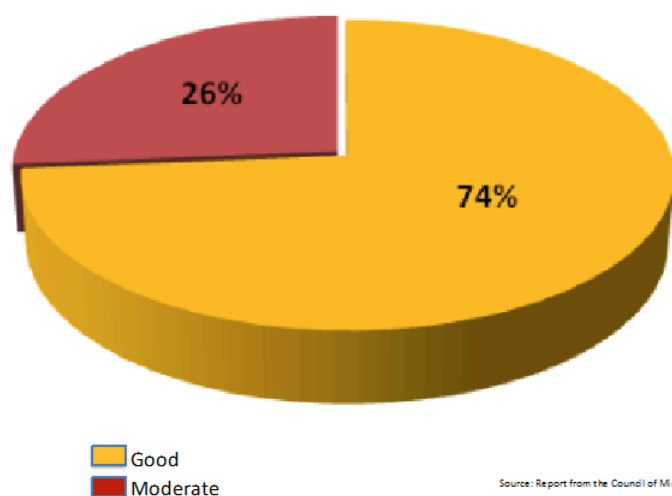


¹⁰ Informe Anual 2012. Ley No. 27806, Ley de Transparencia y Acceso a la Información Pública. Solicitudes y Pedidos de Información atendidos y no atendidos por las entidades de la Administración Pública. Presidencia del Consejo de Ministros. Secretaría General y Secretaría de Coordinación. Lima, Marzo 2013. Website: <http://www.pcm.gob.pe/InformacionGral/sc/2012/informe-transparencia-2012.pdf>

It should be noted with regard to the “quality of the reports” that while it is, by all indications, a subjective classification, the PCM considered 74 percent of the reports to be good, while 26 percent were average (Graph 3). As the PCM stated¹¹, this may mean that there are sectors which exhibit difficulties in the correct presentation of reports in accordance with Directive 003-2009-PCM/SGP and the Act for Transparency and Access to Public Information. This observation may indicate that with regard to the presentation of the reports, there is still work to be done.

Graph 3.

Ministries: Classification of Reports



Transparent Municipalities Project

Because of problems in correctly presenting the reports in accordance with the law, the Peruvian Press Council has been in charge of the Transparent Municipalities Project in seven regions of the country since 2002. This project, aimed at making sure municipal governments understand how to comply with the law, includes training workshops for mayors and public officials from provincial and district governments, the publication of Transparent Municipality websites¹², as well as the publication of a Citizen's Manual for Access to Public Information.

11 Prime Minister's Office (PCM)

12 This data was obtained from the Transparent Municipalities Project triptych published on page 24 of the 2013 First Report on the supervision of Standard Transparency Websites of the ministries of the Executive Branch, regional governments, and provincial municipalities located in the department capitals. September 2013.

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What is surprising is that despite the efforts of the Peruvian Press Council to organize training activities, due to technological reasons or simply because of the lack of awareness of the value of the law, the provincial and district municipalities who voluntarily participate in this project still do not meet the deadlines set for providing up-to-date information on highly important issues such as the annual budget and information on hiring, procurements and suppliers. This lack of up-to-date information means that journalists cannot trust the accuracy of official documents.

Also, although there is an Act for Transparency and Access to Public Information, and the violation of this law is considered a serious offence — criminal charges may even be brought for Abuse of Authority, as established in Section 377 of the Penal Code¹³ — to date, according to the Coordinator of the Transparent State Project of the Peruvian Press Council, David Alamo¹⁴, “no administrative proceedings have been brought against the responsible public officials for not complying with the law.”

When it comes to the party interested in the information (citizens or journalists), the problems with the requests as cited by the ministries¹⁵ are generally related to a “lack of knowledge on how to file the requests, which tend to be unspecific, incomplete, or fall under the exceptions provided for by law.” The PCM also noted that there have been cases of public officials who refuse to hand over the information requested by the established deadline.

So far, we have discussed requests for information from public entities. But how do journalists use the mechanisms for access to public information?

After receiving the invitation to the Austin Forum, I decided to create a survey using Survey Monkey¹⁶ to find out whether Peruvian journalists were aware of the existence of the transparency websites, whether they had the skills necessary to use them, whether they knew how to build databases and cross-check information, and whether the official information coming from formally discredited institutions was verified or simply inserted into news articles without any contextualization, analysis, or interpretation whatsoever.

According to this rapid survey answered by 37 journalists from different news media outlets, 48.6 percent said they used mechanisms for access to information: only 5.4 percent did so on a daily basis, while 37.8 percent did so monthly.

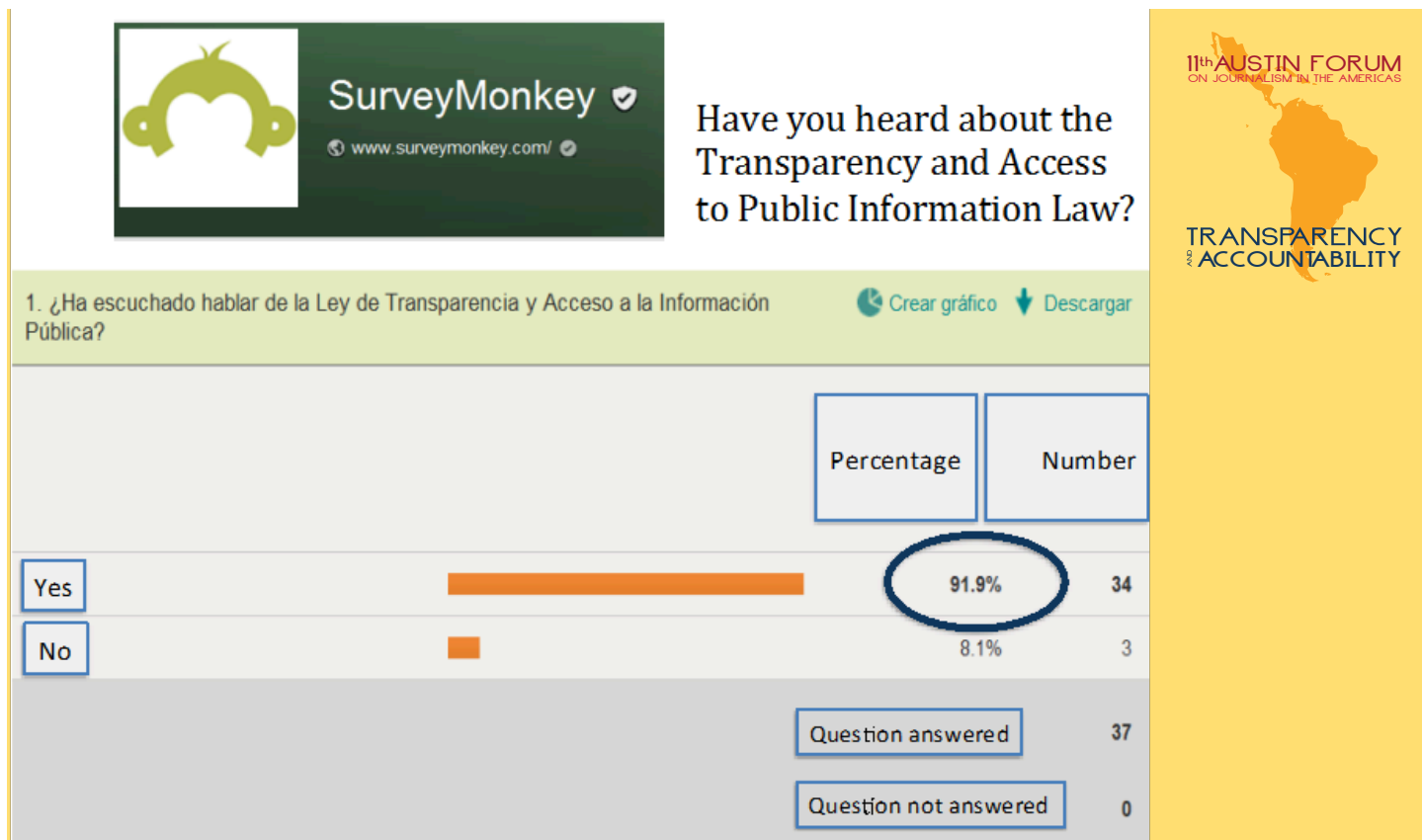
13 <http://www.minedu.gob.pe/normatividad/leyes/Ley27806.php>

14 Telephone interview held on October 22, 2013.

15 Included in the 2012 Annual Report of the PCM.

16 Survey Monkey. October 2013. Survey of 37 Active Peruvian Journalists. Consisting of 10 questions. Survey date: October 18 to 25, 2013.

<http://es.surveymonkey.com/s/VRNFCJP>

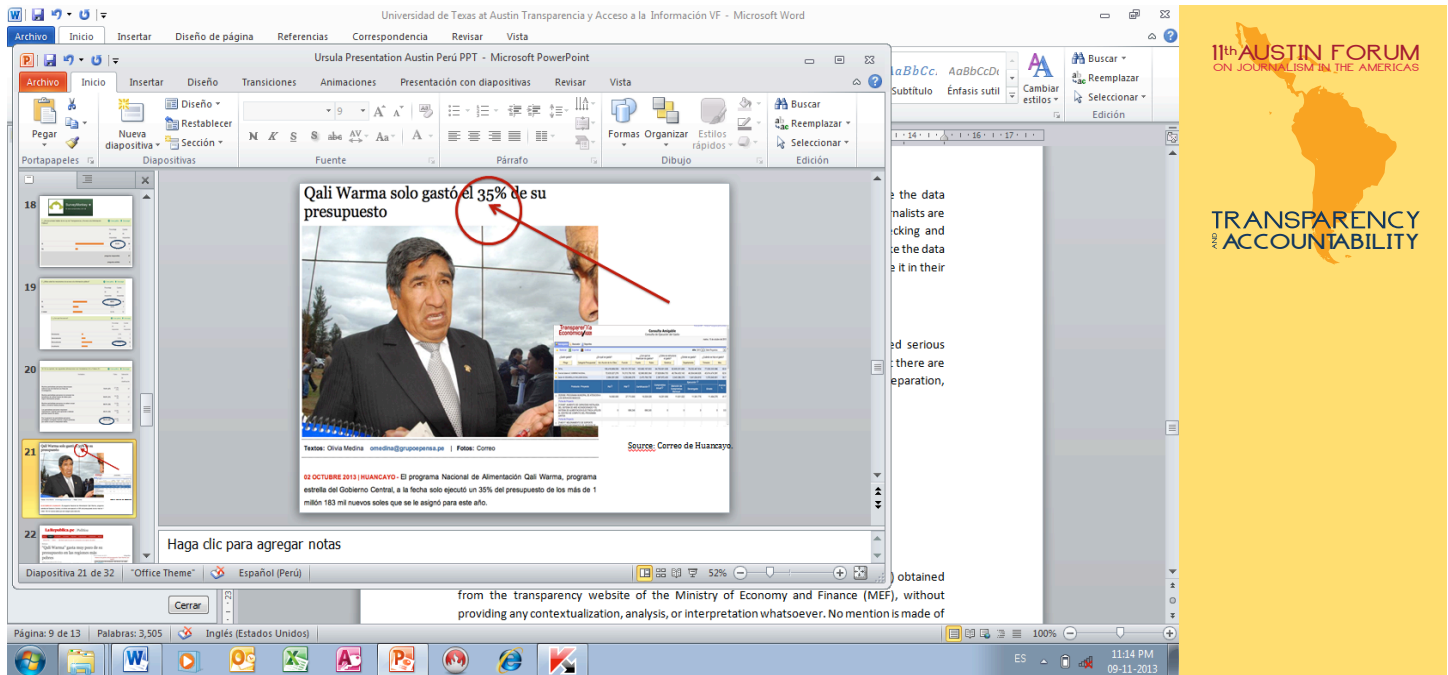


Among the respondents, 13.5 percent said they trust in the information published on the websites of the ministries of the executive branch, regional governments, and provincial municipalities, but only 10.8 percent said they always verified such information. Results also showed that 63.9 percent said they had difficulties in browsing and finding the information they were looking for, and 47.2 percent were of the opinion that, generally speaking, the data is not well organized and the language is not user-friendly. Also, 66.7 percent of respondents said that when they find the data they are looking for, they usually analyze and interpret it before using it.

It is surprising to note that all of those surveyed said they do NOT extract and use the data directly, and 89.2 percent were of the opinion that, in general, Peruvian journalists are more concerned with reporting events and getting scoops than with cross-checking and interpreting facts. In Peru, it has been demonstrated that many journalists simply take the data offered on these websites and, without verifying, analyzing, or interpreting it, include it in their coverage, becoming mere repeaters of official information.

Recent examples include the Peruvian media's coverage of the National Food Program "Qali Warma," which faced serious charges of food poisoning among children, proving that there are journalists who act out of laziness, carelessness, hurriedness, and/or a lack of preparation, giving preference to cold, decontextualized data.

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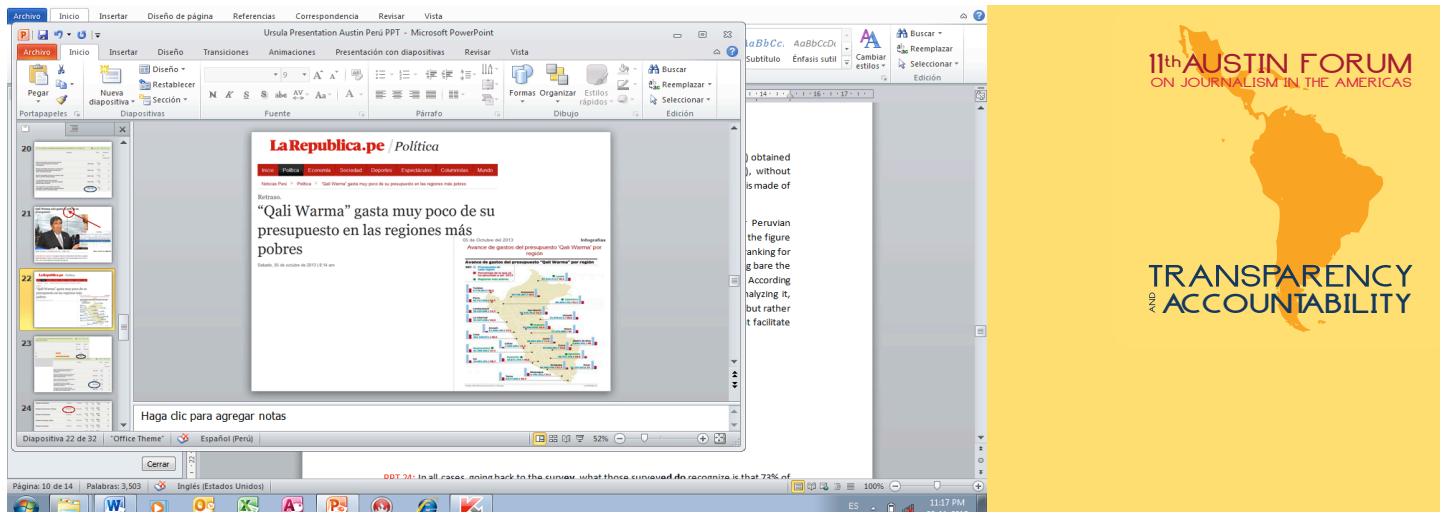


For example, the headline of the news article shown simply repeats a figure (35 percent) obtained from the transparency website of the Ministry of Economy and Finance (MEF), without providing any contextualization, analysis, or interpretation whatsoever. No mention is made of the source of the data offered.

It is worth noting with regard to this same “Qali Warma” case that another Peruvian newspaper (*La Republica* online version) decided to make use of the data from the same website, contextualizing the figure and helping to inform citizens’ knowledge of the case. This newspaper created a ranking for the amount of funding assigned by “Qali Warma” to the 25 regions, thus laying bare the fact that the poorest regions ranked last in spending aimed at fighting malnutrition. According to journalist Angel Paez, by taking the data and then cross-checking and analyzing it, citizens may come to understand that “the issue at hand is not a money problem, but rather one of inefficient management.”¹⁷ The newspaper’s coverage included informational graphics to facilitate the contextualization of data provided by the websites.

17 Conversation with journalist Angel Paez, from *La Republica* newspaper.

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Going back to the survey, what it shows is that 73 percent of Peruvian journalists surveyed do not make use of information from government websites, while 89.2 percent said that Peruvian journalists require urgent training to learn how to create large databases.

The ministries most often consulted by those surveyed were the Ministry of Economy and Finance, with 27.6 percent; the Ministry of Foreign Affairs, with 18.5 percent; and the Ministry of Justice, with 14.8 percent. While there are other ministries that are visited often by journalists, current events tend to influence the number of recent visits.

Conclusions and recommendations

When addressing the situation in Peru regarding access to public information and transparency at all levels of government, it is essential to talk about at least three different actors: public officials and persons responsible for supplying the information with the level of quality and promptness required; citizens who have the right to know and to be informed on a timely basis; and journalists, who act as a connection between the former and the latter, respecting the basic tenets of journalism.

- In the case of journalists, if we look at the results of the survey administered at the end of October, we notice that while 91.9 percent have heard of the Act, 45.9 percent said that they trust in the information published on the websites only part of the time. Journalists must always remember that the credibility of their profession is directly related to the quality of the sources they use, and that they are responsible for checking their own facts. Trigger data is, as Thomas Blanton¹⁸ reminded us during his participation in this Forum, just that: “a piece of data, an incomplete part of a larger story.”
- The dissemination of the contents and scope of the Act for Transparency and Access to Public Information, as well as training on how to take advantage of it, should be part of the academic

18 Executive Director of The National Security Archive at The George Washington University in Washington. Austin Forum, November 8th, 2013.

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curriculums of all university programs. In other words, we must train citizens, such as through media literacy programs, to hold journalists accountable, forcing them to report the news in a better way. Journalists can no longer just repeat data officially published on the websites. Instead, journalists should be encouraged to offer products with added value through the contextualization, analysis, and interpretation of the data.

- It is not enough to have websites (even if they are good tools). Journalists must be trained, for example, on the use and cross-checking of databases. This necessity is urgent among Peruvian journalists outside the capital of Lima. The Peruvian Press Council is currently making efforts, but these are still insufficient. Additionally, let's not forget that, as Alamo explained, there is a significant turnover rate among public administration staff, making constant training of government officials essential.
- In countries with rates of confidence in public institutions as low as they are in Peru, with publicly and internationally recognized corruption rates, engaging in journalism based on official figures poses a serious risk if what we are trying to accomplish is to offer citizens reliable tools for making well-informed decisions. Acting as reproducers of official information offered by government entities that do not have the public's trust must force us to rethink our role as journalists.
- With regard to the Act, proper compliance surveillance and enforcement should be implemented. Corrective actions should be undertaken.
- In certain areas of the country (the Peruvian highlands and jungle), technological limitations (bandwidth, for example) have become barriers that prevent compliance with official deadlines mandated by the law. Updating of information, with the frequency established by law, is also not being met. Uploading graphs and large files can take an incredibly long time.
- It is worth analyzing the idea that just as transparency is requested and promoted in public administration in an effort to strengthen the relation between the State and society, we also need to request and promote it among media corporations.
- Journalism faces the urgent demand of transparency. The transparency challenge presents itself as an opportunity to improve quality and revert the fall of credibility levels that this profession is suffering in Peru.
- It also is necessary to ensure transparency of media ownership. Citizens should have general information about who owns media outlets, who their directors are, and what their strategic objectives might be. This information must be made available to those interested by using accessible and public forms, as suggested in an interesting draft by Access Info¹⁹ entitled "Ten Recommendations of Transparency of Media Ownership," published in September 2013, which deserves further analysis.
- Knowing the ownership of media companies, understanding who is who and what their parallel investments are, makes it possible for citizens to better understand the agenda of the different media outlets, their editorial line, their priorities and hierarchies, and the angle of their coverage. Only in this way, as writer and analyst Chris Shipley²⁰ said, can we comply with one of the characteristics of transparency: putting "content in context."

19 www.access-info.org, Bartlett Quintanilla, Access Info Europe Campaigner. Draft for Consultation. September 5th, 2013.

20 Shipley, Chris: Corporations and Blogging: How Openness, not Secrecy, is the New face of Public Relations. February 2, 2005. En www.wistechology.com/article.php?id=1531.

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Website: <http://www.munlima.gob.pe/documentos/accesoinfo/Documento%20de%20adjuntia.pdf>
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Access to Public Information in Uruguay: Civil Rights, Institutional Mazes and Political Zigzags



By Rosario Radakovich

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Introduction

Access to public information is an active exercise of social citizenship that involves recognition of the people's civil right to have access to information held by public institutions. It is also mandatory for the State to guarantee public access to this data with limited exceptions, thus allowing citizens to monitor the processes and decisions that concern public life. The right to access public information entitles civil participation in matters of general interest as well as the tracking of the public agenda, thus serving as a mechanism for accountability and the deepening of democracy.

The Inter-American Human Rights System and the Open Government initiative have played a key role in considering access to information as an essential human right.

According to Abramovich (2006), the rights-based approach foregrounds subjects, which means the State must recognize that citizens have the right and ability to demand certain benefits and practices. From this point of view, "rights demand obligations and obligations require mechanisms to give them due and compliance" (Abramovich, 2006: 3). These mechanisms have been difficult for States to implement, however, especially when it comes to third-generation rights such as economic, social, cultural and environmental rights.

In Uruguay, a country which values democracy, acceptance and promotion of the right to information has been, and still is, a challenge, filled with complexities and institutional "mazes" inside government organizations. The right to information has also proven challenging in terms of clear and advance regulations that encourage public information access, due to political "zigzags."

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The right to public information: Drives and halts

In Uruguay, a public information access law (18.381) passed in 2008. The law regulates people's right to access government information, with limited exceptions that have to be explicitly justified. This law grants the right of access to public information to all citizens with no questions asked. As such, the law has improved the access to information that journalists need.

An important achievement to highlight is the foundation of the Public Information Access Unit (PIAU, *Unidad de Acceso a la Información Pública*), a State agency designed to work as part of the Electronic Government and Information Society Agency (*Agencia para el Gobierno Electrónico y la Sociedad de la Información*). This institutionalization is a milestone in terms of compliance with the law, and represents a transformation regarding how "secret" information is viewed by public administration officers. Nevertheless, this organization depends on the office of the President.

Of concern, however, is an amendment to the law introduced in Parliament in August 2013. The reform would have allowed public institutions to declare as secret any information that could influence assessment or evaluation of subjects that are under investigation -- criminal or not -- by any public institution, until a final decision is made. The amendment also introduced the possibility for any citizen to request that information be declared confidential, and created a special system for autonomous entities and decentralized services that prevents the PIAU from requesting that information be declassified.

While ultimately Parliament did not approve this reform, the initiative was at least symptomatic of the existence of differences among politicians and even the ruling party, Encuentro Progresista, about what the right to access public information should entail. Such new potential restrictions to the law have created concern both locally and internationally. For example, in October 2013 the Inter American Press Association urged the Uruguayan parliament to withdraw the bill, arguing that the reforms would harm freedom of information.

Even after five years in existence, the right to access public information is still not being utilized -- or complied with -- as it should be. Civil organizations' tracking of public access to information reveals a huge gap between what the law guarantees and how the law actually is implemented. Beyond problems with the technical use of the law by journalists, social activists and researchers, this also means serious difficulties for the general public's appropriation of the right to information.

The institutional maze

The law establishes a classification for public information that differentiates between *public* (general access), *reserved* (limited access with permission) and *confidential* (no access), and documents must be classified as such prior to any specific information requests. Initially, the law granted a two-year deadline for governmental institutions to classify information; later on that deadline was extended to four years.

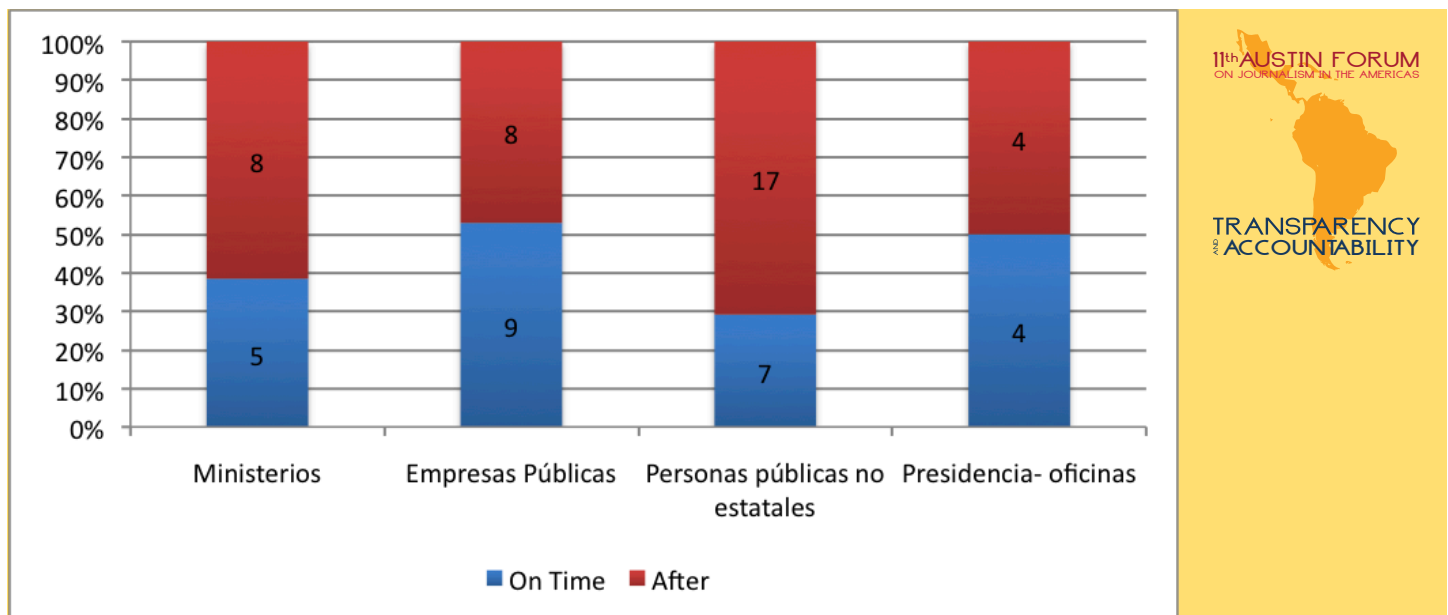
After completion of those four years in 2012, research conducted by the Archive and Public Information Access Center (CAINFO in Spanish) exposed tensions between the citizen's right to public information and the State's desire to preserve its own interests.

According to this study, "the group of institutions that complied with the request to classify information in a timely manner is a minority."

Only two out of 38 agencies from around the country that were required by law to provide this classification fulfilled their obligation within the time frame given.

Regarding the ministries, only five out of 13 submitted the declaration on time, as did nine out of the 17 public companies and decentralized services, seven out of 24 non-state public individuals, and four out of eight agencies that are part of the presidential office.

Graphic 1. Government entities at the national level that fulfilled the classification requirement "on time."



Source: Elaborated with the CAINFO report

The institutions that complied with the classification of internal information declared 614 files of information as *reserved* due to the following reasons: four percent of the information referred to public safety or national defense; another four percent could affect international affairs; six percent could harm financial, economic and monetary stability; 12 percent could put at risk the life or safety of any citizen; 54 percent was related to possible loss of competitive advantages for the obliged subject; and 2 percent were deemed to possibly make scientific or cultural discoveries vulnerable. Another 18 percent of the cases did not have a valid argument to subscribe to the exceptions.

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Graphic 2. Reasons government institutions gave for classifying information as “reserved.”

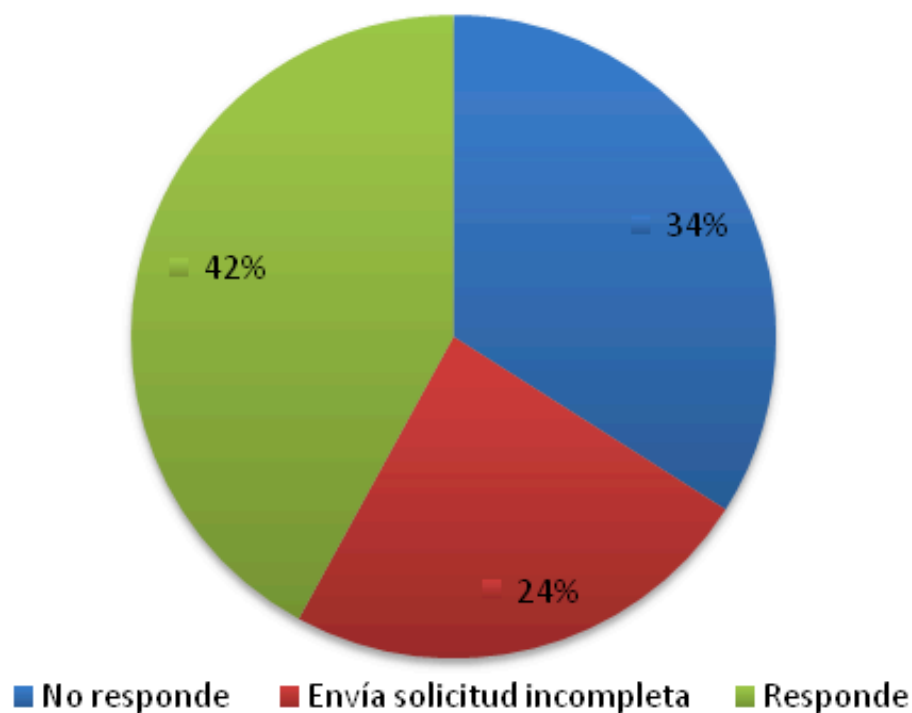


Source: Prepared with the CAINFO report

The CAINFO study also included an analysis of the relationship between the type of organization and the reason provided to request the exception. The research concluded that the ministries focused on the following arguments: risk of internal safety and across-borders national safety, risk for the country’s economic stability, and physical risk for particular people. The autonomous entities and decentralized services contended they reserved information mainly because of possible loss of company or personal competitiveness (72 percent).

This practice of reserving documents indicates a long, rambling path with no certainty of reaching a destination in the search for information at the State level. For example, another study conducted in 2010 by CAINFO, which analyzed several government agencies’ responses to information requests, showed that 34 percent of the requests were never answered and 24 percent of the institutions provided the information after the deadline had already passed (CAINFO, 2010:32).

Graphic 3. Responses from public institutions about information requests



Source: Elaborated with the CAINFO report

The uncertainty experienced by the petitioner when asking for access to information is related to many public officials' lack of knowledge about the law.

This brings us, first, to abuse of power by administrative officials in relation to the granting or not of information. Second, we can see a difference regarding treatment within the data-gathering process according to who is making the information request. This difference is linked to the socioeconomic and educational level of the claimant.

In terms of receiving information, a lot of time usually goes by while the request passes from one area to another within an institution. This requires continuous monitoring of the process by the person requesting the information, and when the petitioner finally gets the information, most of the time it is incomplete and presented in an uncomprehensive manner.

As a consequence, the slow and complex application process often causes the claimant to withdraw the information request.

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The gap between the law and institutional practices

Although Uruguay has an advanced regulatory framework to guarantee access to public information, there are still several challenges to overcome in terms of the law's execution.

Another CAINFO study, called "Information for Action" (2013), confirms the inconsistencies between the regulatory progress established by law and the real practices that take place. This might involve discrepancies when it comes to the State's compliance with judicial decisions.

The same research shows the great difficulty experienced by civil society organizations trying to keep track of public policies, due to the lack of availability of relevant information in terms of budgets and social-economic indicators.

These difficulties are nothing more than the projection of a system of a political and institutional culture of unwillingness to allow access to public information. This culture of secrecy has been associated for decades with the culture of cronyism. Thus, access to public information suffers from a tradition dating back to the time of the dictatorship that values secrets within the State and distrusts citizen participation. This leaves a discretionary and arbitrary trail of bureaucratic tradition in terms of public information access, that even under an advanced regulatory framework is hard to overcome because it remains active in the practices and "zigzags" when a request is filed. Thus, the whole process turns out to be a rambling mess for the regular citizen.

Such political "zigzagging" makes it clear that access to information -- data, records, procedures and action plans for public policies -- is a valuable instrument of power that defines the public agenda and thus is one that State institutions and government agents do not want to give up. It's hard to recognize what factors might influence leftist, progressive politicians to support restrictions to information access. Perhaps the culture of fear and the tradition of secrecy within bureaucratic structures inherited from the dictatorship influence the persistence of these practices.

The role of Uruguayan journalists

Uruguayan journalists had a key role at the time in promoting the creation of the law to facilitate access to information. These efforts date from 1995, when the Uruguayan Press Association (UPA) put forward a platform to end criminalization of contempt, a reform regarding slander, wider legislation for radio broadcasters, and copyright changes, among others.

In addition to these initiatives, the road to an information access law also included the human rights activists and investigative journalists who drew upon the concept of justice to get access to "classified" information about people who went missing during the dictatorship (1975-1980). One important case was the court's ruling in 2000 to require the State to investigate and report on the whereabouts of teacher Elena Quinteros who was disappeared during the dictatorship. According to CAINFO, that ruling recognized citizens' rights to demand access to information from the State, or at least for the State to investigate those disappearances to get to the truth and reach justice.

In 2001 another important antecedent to the access to information law occurred when journalist Andres Alsina took the government to court to obtain information about military officers accused of human rights violations during the dictatorship. Ultimately the court ruled in Alsina's favor, making him the country's own journalist to receive a positive ruling in a lawsuit brought against the State for denying information.

In 2005, due to the work of the Uruguayan Press Association, the Archive and Public Information Access Group was founded. This organization's main objective was to support legislation to guarantee access to public information as a human right. This organization also wrote the draft for the law that currently is in effect in Uruguay.

Also important on the road toward an access to information law was the 2007 case of journalist David Rabinovich, who went before the Inter-American Commission for Human Rights to request meeting minutes from the Budget Committee of the San Jose Departmental Board. Even though the Court recommended that Uruguay provide the information, the journalist's request never was fulfilled.

The preceding makes clear the important role that Uruguayan journalists have had in pushing for regulations and good practices for public institutions when it comes to access to information. The current challenge for journalists is to overcome the gap between the guarantees established by law and the restrictions found in the practices and processes of public institutions replying to information requests. Journalism must have a leading role in calling for public information access because of its watchdog capacity in overseeing the actions of government and its ability to prioritize and organize the public agenda.

In Uruguay, civil society, non-governmental organizations and universities are working hard in order to use public information access in the fight for truth and justice in human rights. In 2013 they won a big battle: access to the dictatorship archives is now in the hands of civil society, in particular the University of the Republic (the public state university), and no longer under the jurisdiction of the police or military institutions.

Conclusions

In Uruguay, we can see important progress regarding information and communication policies within the last decade, and an intensification of the transformation process concerning the relationship between the State and the public because of the role of the media and information system during the past five years. It is within that framework that the Public Information Access Law represents an important effort to guarantee civil rights. In particular this law has actually allowed substantial progress in terms of investigations into human rights violations in the country.

However, there are several issues that are difficult to solve and that hinder the processing of requests for access to information:

1. Residue from a culture of secrecy and silence remains.
2. Clientelistic mechanisms and bureaucratic procedures hinder broad and equitable access to

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information.

3. Initiatives placed by State entities restrict the scope of information requests and invoke exceptions to avoid providing answers to information requests.
4. There is an institutional culture of unwillingness to provide information.

The role of journalists and civil society to follow up on claims and requests for information is essential to move toward a more transparent governmental information system. However, a bigger challenge seems to be to achieve ownership among all citizens of wider access to information, since the population is not aware, to a large extent, that this right exists.

It must be a priority to generate public awareness campaigns to reach a massive audience and not only promote citizens' knowledge of their rights, but also to encourage them to become active in demanding their rights and enforcing the State's obligation to answer the people's requests for information.

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About the Austin Forum on Journalism in the Americas

Since 2003, journalists, media executives and civil society organizations from Latin America and the Caribbean have been invited to meet in Austin every year to discuss topics related to journalism and Freedom of Expression in the region. The Austin Forum on Journalism in the Americas has helped hundreds of journalists with training in a variety of topics and has fostered numerous projects of collaboration among the organizations of different countries.

More than just an annual conference, the [Austin Forum](#) is a network of journalists and organizations that focus on media development and training in Latin America and the Caribbean. The annual meeting is organized by the [Knight Center for Journalism in the Americas](#) at the University of Texas at Austin, and in the past it received help from the John S. and James L. Knight Foundation and Open Society Foundations' Program for Independent Journalism and Latin American Program.

At the first Forum, held Feb. 14-15, 2003, in Austin, Texas, journalists, journalism trainers, and advocates for independent media from throughout the Americas gathered to discuss ways to collaborate and expand the reach of their work. Subsequent Forums have tackled such topics as press freedom monitoring and advocacy in Latin America; the impact of digital technology on journalism and democracy in the Americas; coverage of drug trafficking and organized crime; media coverage of migration in the Americas; and safety and protection for journalists, bloggers, and citizen journalists.

The theme of the most recent Forum, Nov. 8-9, 2013, was "Transparency and Accountability: Journalists and Access to Public Information in Latin America and the Caribbean."

PDF versions of previous Austin Forum reports are available in English and Spanish in the [Digital Library](#) of the Knight Center for Journalism in the Americas. Copies also can be accessed via the links below:

[Media Coverage of Migration in the Americas](#), 2011

[Coverage of Drug Trafficking and Organized Crime in Latin America and the Caribbean](#), 2010

[The Impact of Digital Technology on Journalism and Democracy in Latin America and the Caribbean](#), 2009

[Press Freedom Monitoring and Advocacy in Latin America and the Caribbean](#), 2007

Appendix 2

11th Austin Forum on Journalism in the Americas

Transparency and Accountability: Journalists and Access to Public Information

Knight Center for Journalism in the Americas

November 8-9, 2013 at [LBJ Conference Room](#) at [CMA building](#) 5th floor
College of Communication at University of Texas at Austin

FRIDAY, Nov 8

8:00 – 9:00 am: Registration and breakfast

9:00 – 10:30 am: Welcoming words:

- **Rosental Calmon Alves**, founder and director, Knight Center for Journalism in the Americas at the University of Texas at Austin

Special session: Mapping Digital Media Around the World: the case of the Americas

- Speakers:
 - **Carlos Cortés Castillo**, Open Society Foundations' Mapping Digital Media project advisor on media policy issues, advisor to the Special Rapporteur for Freedom of Expression at OAS' Human Rights Commission.
 - And Latin American researchers **Alejandra Gutierrez** (Guatemala), **Leonor Zuniga** (Nicaragua), **Úrsula Freundt-Thurne** (Peru) and **Rosario Radakovich** (Uruguay)
- Moderator: **Joe Straubhaar**, professor, University of Texas's Department of Radio-TV-Film
- Discussant: **Sharon Strover**, professor, University of Texas's Department of Radio-TV-Film

11:00 am – 12:00 pm: Austin Forum's opening session

- Keynote speaker: **Tom Blanton**, director of the National Security Archive at George Washington University in Washington, D.C.

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- Moderator and discussant: **Wanda Cash**, associate director, University of Texas at Austin's School of Journalism, and past president of Freedom of Information Foundation of Texas.

12:00 – 1:00 pm: Lunch break

1:00 – 2:30 pm: Access to public information and journalism in Mexico, Guatemala and Nicaragua

Moderator and discussant: **Silvina Acosta**, Trust of the Americas, Washington, DC

- **Margarita Torres**, Periodistas de a Pie and Universidad Iberoamericana, Mexico
- **Alejandra Gutierrez Valdizan**, Plaza Pública, Guatemala
- **Leonor Zuniga**, Centro de Investigación de la Comunicación, Nicaragua

2:30 – 3:00 pm: Coffee break

3:00 – 4:30 pm: Access to public information and journalism in Bolivia, Peru and Chile

Moderator and discussant: **Emilene Martinez**, Open Government Partnership's Latin American Regional Coordinator, Mexico

- **Raul Peñaranda**, journalist, former editor of Página Siete newspaper, Bolivia
- **Úrsula Freundt-Thume**, Universidad Peruana de Ciencias Aplicadas, Peru
- **Claudia Urquieta**, Chilean Journalists Network and El Mostrador, Chile

7:00 pm – Welcome dinner offered by UT's Lozano Long Institute of Latin American Studies (LLILAS) at [Ruby's Texas BBQ](#) located at 512 West 29th Street: [map](#)

SATURDAY, Nov 9

8:00 – 9:00 am: Registration and breakfast

9:00 – 10:30 am: Access to public information and journalism in the Caribbean and Colombia

Moderator and discussant: **Moisés Sánchez**, Alianza Regional por la Libre Expresión e Información, Washington DC

- **Wesley Gibbings**, Association of Caribbean Media Workers, Trinidad and Tobago
- **Maria Isabel Soldevila**, Pontificia Universidad Católica Madre y Maestra, and Listín Diario, Dominican Republic
- **Miriam Forero**, Consejo de Redacción, Colombia



11th AUSTIN FORUM ON JOURNALISM IN THE AMERICAS

10:30 – 11:00 am: Coffee break

11:00 am – 12:30 pm: Access to public information and journalism in Argentina, Brazil and Uruguay

Moderator and discussant: **Joe Straubhaar**, professor, University of Texas's Department of Radio-TV-Film

- **Juan Simo**, Foro del Periodismo Argentino (FOPEA), La Voz del Interior (Córdoba), Argentina
- **Fernando Rodrigues**, Brazilian Association of Investigative Journalism (ABRAJI) and Folha de S. Paulo, Brazil
- **Rosario Radakovich**, Universidad de la República, Uruguay

12:30 – 1:30 pm: Lunch break

1:30 – 3:00 pm: Working groups

3:30 – 4:00 pm: Coffee break

4:00 – 5:30 pm: Groups presentations, discussions and conclusion

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