OECD Public Governance Reviews

Open Government in Latin America



OECD

OECD Public Governance Reviews

Open Government in Latin America



This work is published under the responsibility of the Secretary-General of the OECD. The opinions expressed and arguments employed herein do not necessarily reflect the official views of OECD member countries.

This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

Please cite this publication as:
OECD (2014), *Open Government in Latin America*, OECD Public Governance Reviews, OECD Publishing.
http://dx.doi.org/10.1787/9789264223639-en

ISBN 978-92-64-22360-8 (print)
ISBN 978-92-64-22363-9 (PDF)

Series: OECD Public Governance Reviews
ISSN 2219-0406 (print)
ISSN 2219-0414 (online)

The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

Photo credits: Cover © Maksim Kabakou-Fotolia.com.

Corrigenda to OECD publications may be found on line at: *www.oecd.org/about/publishing/corrigenda.htm*.

© OECD 2014

You can copy, download or print OECD content for your own use, and you can include excerpts from OECD publications, databases and multimedia products in your own documents, presentations, blogs, websites and teaching materials, provided that suitable acknowledgment of the source and copyright owner is given. All requests for public or commercial use and translation rights should be submitted to *rights@oecd.org*. Requests for permission to photocopy portions of this material for public or commercial use shall be addressed directly to the Copyright Clearance Center (CCC) at *info@copyright.com* or the Centre français d'exploitation du droit de copie (CFC) at *contact@cfcopies.com*.

Foreword

Open government cuts across a number of diverse domains and encompasses a wide range of principles and practices all aiming to make the relationship between governments and their constituencies more dynamic, mutually beneficial and based on reciprocal trust. Open government initiatives can help improving transparency, fostering public sector innovation, empowering people and making policy making processes more representative, inclusive and effective. Hence, open government can effectively contribute to increase the accountability of public institutions, their capacity to deliver services more in line with citizens' and business' demands, and to produce more economic and social benefits. As a result, open government is an important lever to maintain, or reinforce where needed, public trust.

Policies based on transparency and consultation can promote a level playing field supporting a more favourable environment for business development and investments and more inclusive socio-economic development. Governments' decisions on allocation of resources and investments are increasingly expected to rely on predictable and transparent scenarios, where economic stakeholders have a say in public decisions, and are submitted to clear accountability frameworks. The same applies to the identification of the intended social outcomes of policies and services. Technocratic planning is progressively being replaced by participatory approaches that contribute to the policy cycle from design to evaluation, hence improving impacts and citizens' satisfaction.

In order to fulfil public expectations and achieve expected impact governments need to focus on implementation and constantly monitor and assess impact of policies and initiatives. Designing policies is a necessary but alone insufficient condition to deliver the expected economic and social value.

This report presents the main findings that emerged through the review process of open government policies and initiatives in 11 Latin American countries, which was launched in October 2013. The review process drew on the cutting hedge work and analytical frameworks developed by the OECD on open government and open data. The process included a regional survey, background analysis, and interviews with key stakeholders in three countries: Peru, Costa Rica and Colombia.

Case studies on these three countries, which were the result of a peer review exercise, complement the overall comparative analysis that identifies the main trends and challenges in the Latin American region on the design and implementation of policies and initiatives on open government, access to information and open data. The report includes policy Recommendations aimed to support the efforts of governments in the region to ensure that open government contributes to address national and regional policy priorities. Open government can indeed provide a key opportunity not only to foster national progress, but also to jointly identify solutions to common regional challenges and produce more inclusive growth and social development.

The initial findings of the review process were presented at a regional workshop held in Bogotá on 20 and 21 March 2014, which contributed to discuss the open government strategic vision and practices in Latin America in light of international and regional good experiences. Public officials from Brazil, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Finland, Guatemala, Mexico, Paraguay, Peru, United Kingdom, and Uruguay participated in the workshop. The participation of international experts from the Inter-American Development Bank, the Organisation of American States, the United Nations Development Programme, and the World Bank further enriched the discussions and favoured horizontal co-ordination.

This report is part of the series of Public Governance Reviews that aim to support governments in strengthening public governance to respond effectively to diverse and disruptive economic, social and environmental challenges and to deliver on government's commitments to citizens.

Acknowledgments

Open Government in Latin America was prepared by the Public Governance and Territorial Development (GOV) Directorate of the Organisation for Economic Development and Co-operation (OECD) led by Rolf Alter. The report and its policy recommendations have been elaborated under the strategic direction of Carlos Conde, Deputy Head of Division of the OECD Governance Reviews and Partnerships Division, who coordinated the review process. Barbara-Chiara Ubaldi, Project Manager of the Reform of the Public Sector Division led the drafting process providing strategic support and extensive comments and inputs to all chapters. Introduction and Chapter 4 were drafted by David Michael Goessmann. Jacob Arturo Rivera Pérez drafted Chapters 1, 2, 3 and 6 and analyzed the results of the OECD Survey on Open Government Policies in Latin America. Chapter 3 on open data has benefited from important contributions of Barbara-Chiara Ubaldi. Chapter 5 was drafted by Felipe Mancini (Chile). Alessandra Fontana and David Michael Goessmann supported the process of data collection and the organization of fact finding missions. Administrative support was provided by Katarzyna Weil and Alpha Zambou.

This review benefited from the key input and advises of following peer reviewers:

- Mr. Otávio Moreira de Castro Neves, Coordinator for Open Government and Transparency Corruption Prevention and Transparency Secretariat Office, Comptroller General, Federative Republic of Brazil.
- Mr. Felipe Mancini Ruiz-Tagle, Head of the Development and Operations Area, Unit of Modernisation and Digital Government, Ministry of the General Secretariat of the Presidency of the Republic of Chile.
- Ms. Corita Goulding, Government Reform Unit, Department of Public Expenditure and Reform, Republic of Ireland.
- Ms. Ania Calderón Mariscal, General Director of Digital Innovation, Co-ordination of the National Digital Strategy, Presidency of the Republic of Mexico.

- Ms. Katju Holkeri, Financial Counsellor, Personnel and Governance Policy Departement, Ministry of Finance, Finland.
- Ms. Eleanor Stewart, Head of Transparency, Foreign & Commonwealth Office, United Kingdom.

The dissemination of preliminary findings and capacity-building activities took place in San José, Costa Rica on 18 March, in Lima, Peru on17 and 18 March and in Bogota, Colombia on 21 March. The review team wishes to thank Martin Forst, Head of the Governance Reviews and Partnerships Division, Edwin Lau, Head of Division of the Reform of the Public Sector Division, Eva Beuselinck, Policy Analyst in the Governance Reviews and Partnerships Division and Alessandro Bellantoni, Policy Analyst in the Governance Reviews and Partnerships Division for supporting these activities. It further wishes to thank Eleanor Stewart, Head of Transparency of the Foreign & Commonwealth Office of the United Kingdom, Alonso Cerdán Verástegui, Program Manager at the Open Government Partnership Support Unit and Juan Casanueva, Founder of the NGO SocialTIC for supporting the execution of the capacity-building activities.

The review team also wishes to acknowledge the significant contribution made by the interlocutors in the Costa Rican, Colombian and Peruvian administrations and their support to organize OECD fact-finding missions, in particular Rafael Merchán and Juanita Burgos from Colombia, Mariana Llona Rosa and Ana Maria Tamayo Flores from Peru and Maikol Porras and Alicia Avedaño from Costa Rica.

The *OECD Public Governance Review: Open Government in Latin America* has been funded by the United Kingdom's Foreign and Commonwealth Office (FCO). The team wishes to thank Marney Crainey who provided support in Paris and Caterin Wall who was vital for the implementation of the Regional Seminar on Open Government in Bogota.

Table of Contents

Acronyms and abbreviations 9
Executive summary 13
Assessment and recommendations 17

Chapter 1. **The context of open government in Latin America** 23
Introduction 24
The Latin American context for open government 25
The OECD Approach to Open Government 28
The OECD report *Open Government in Latin America* 33
Bibliography 36

Chapter 2. **Open government strategies and governance frameworks in Latin America** 37
Introduction 38
General open government strategy 38
The challenge: Implementing an over-arching open government strategy and ensuring horizontal policy alignment 40
The overall picture: Institutional co-ordination and institutional framework 41
Bibliography 58

Annex 2A.1. Open government policy and strategy co-ordination 59

Chapter 3. **Access to public information in Latin America** 63
Introduction 64
Legal framework on access to information and transparency among LACs 68
Depth of central government freedom of information laws 74
Going public: Which information is available? 79
Accessing public sector information: Where is information available? 85
The practicalities of accessing public information 85
Bibliography 92

Annex 3A.1. Access to information 93

Chapter 4. **Harnessing the Potential for Open Data in Latin America** 97
From PSI to the open data agenda 98
Creating value through open data 100
Creating value: The status of open data policies across Latin American countries 103
Making data work: Open government data portals and data offer among LACs 112
Bibliography 122

Annex 4A.1. Open data 123

Chapter 5. **Open government policies and initiatives in Colombia** 127
Introduction 128
Legal framework for open government 129
Institutional framework for open government 138
Main policy framework 147
Recommended actions for Colombia 159
Bibliography 167

Chapter 6. **Open government policies and initiatives in Costa Rica** 171
Introduction 172
Legal Framework 173
Institutional Framework 180
Policy framework 185
Recommended actions for Costa Rica 193
Bibliography 200

Chapter 7. **Open government policies and initiatives in Peru** 201
Introduction 201
Legal framework 203
Institutional Framework 215
Policy framework 233
Recommended actions for Peru 244
Bibliography 253

Acronyms and abbreviations

AN	National Agreement (Peru)
ANP	Anti-Corruption National Plan (Peru)
BIMER	Prime Ministry Communication Centre (Turkey)
CAD	Ciudadanos al Día (Peru)
CAN	High-Level Anti-Corruption Commission (Peru)
CCL	Lima Chamber of Commerce (Peru)
CCR	Comptroller General of the Republic (Peru)
CDO	Chief Data Officer
CEIC	Inter-institutional Statistical Committee on Crime (Peru)
CIGE	Ibero-American Electronic Government Charter
CIO	Chief Information Officer
CLAD	Latin American Centre for Development Administration
CoG	Centre of Government
CONAPOC	National Criminal Policy Council (Peru)
CONFIEP	National Conference of Private Business Institutions (Peru)
COPRET	Presidential Commission of Transparency and Electronic Government (Guatemala)
CPAD	Private Council for the Digital Agenda (Peru)
CPP	Peruvian Press Council (Peru)
CSO	Civil Society Organisation
DAFP	Administrative Department of the Public Service (Colombia)
DANE	National Administrative Department of Statistics (Colombia)
DGGP	Directorate-General of Public Management (Peru)
DHR	Public Defender of the People of the Republic (Costa Rica)
DIGEIG	Directorate-General of Ethics and Government Integrity (Dominican Republic)
DNP	National Planning Department (Colombia)
DP	Ombudsman
EITI	Extractive Industries Transparency Initiative
ENAHO	National Household Survey (Costa Rica)
FOI	Law on Transparency and Access to Information/Freedom of Information Laws
GaG	Government at a Glance
GOGs	General Open Government Strategies

HT	Harm test
IARs	Information asset registers
ICE	Costa Rican Electricity Institute
ICTs	Information and Communication Technologies
IGA	Open Government Index (Colombia)
IFAI	Federal Institute for the Access to Public Information and Data Protection (Mexico)
INDA	Open Data National Infrastructure Committee (Brazil)
INEC	National Statistics and Census Institute (Costa Rica)
INEI	National Institute of Statistics and Computing (Peru)
INEGI	National Institute of Statistics and Geography (Mexico)
INPE	National Penitentiary Institute (Peru)
IPYS	Press and Freedom of Speech Institute (Peru)
IRM	Independent Reporting Mechanism
ITSP	Public Sector Transparency Index (Costa Rica)
LACs	Latin American and Caribbean countries members of the OGP
LDI	Law on Cyber Crimes (Peru)
LGA	General Law on Environment (Peru)
LMM	Framework Law on State Modernisation Management (Peru)
LPDP	Law on the Protection of Personal Data (Peru)
LTF	Law on Fiscal Transparency (Peru)
MEF	Ministry of Economy and Finance (Peru)
MESICIC	Inter-American Convention against Corruption
MSEs	Micro and small enterprises
MIDIS	Ministry of Development and Social Inclusion (Peru)
MINIAM	Ministry of Environment
MINJUS	Ministry of Justice and Human Rights (Peru)
MinTIC	Ministry of Information Technologies and Communications
NARA	National Archives and Records Administration (United States)
OAS	Organisation of American States
OGIS	Office of Government Information Services (United States)
OIS	Information Official (El Salvador)
OG	Open government
OGAP	Open Government Action Plan
OGD	Open government data
OGDS	Central OGD strategy
OGP	Open Government Partnership
ONGEI	National Office of Electronic Government and Information (Peru)
PAGA	Peruvian Open Government Action Plan
PMB	Public Management Barometer (Peru)
PB	Participatory Budgeting
PCD	Agreed Development Plan (Peru)
PCM	Presidency of the Council of Ministers (Peru)

PGR	Public Governance Review
PIDE	State Interoperability Platform (Peru)
PMC	Permanent Multi-Sectoral Commision (Peru)
PSCE	Citizen and Business Services Portal
PSI	Public Sector Information
PTE	Standardised Transparency Portal (Peru)
RFID	Radio Frequency Identification
RIT	Inter-institutional Transparency Network (Costa Rica)
RREE	Ministry of Foreign Affairs (Peru)
SEACE	Electronic System of State Procurement (Peru)
SENATICs	National Secretariat of ICTs (Paraguay)
SGP	Secretary of Public Management (Peru)
SIAC	Integrated System of Contractual Activity (Costa Rica)
SIAF	Integral Financial Management System (Peru)
SIGE	System for Geographic Information (Peru)
SINAD	National Processing Complaints System (Peru)
SINIA	National Environmental Information System (Peru)
SIPP	Information System on Planning and Budget (Costa Rica)
SMEs	Small and Medium Enterprises
SNIP	National Public Investment System (Peru)
SSTA	Under-Secretariat of Transparency and Anti-corruption (El Salvador)
VHR	Vice-Ministry of Human Rights and Access to Justice (Peru)

Executive summary

Open government policies, including initiatives in the fields of transparency, anti-corruption, public consultation and digital government have improved significantly in Latin America in recent years. The region has now a unique opportunity to consolidate this progress, improve overall impact on social and economic development, and move forward by using a more integrated and result-oriented approach.

In the past two decades, Latin American countries (LACs) have made efforts to design and implement public sector reforms and to create the organisational and legal conditions to become more transparent, effective, accountable and responsive to citizens' needs. Institutions were created to fight corruption and promote integrity, laws on access to information were passed and open data platforms were built.

The creation of the Open Government Partnership in 2011 provided an opportunity for LACs to combine their own efforts with genuine support from the international open government community.

An official multilateral partner of the OGP, the OECD started taking stock in 2013 of the advances and challenges of LACs in three strategically important areas for open government: open government strategies and policy co-ordination, access to public sector information, and open data. The organisation also conducted three in-depth case studies on open government policies and practices in Costa Rica, Peru and Colombia which benefited from the analytical instruments and mechanism of the OECD peer review process.

Latin American countries share similar open government challenges.

Across the region open government is still conceived as an isolated element to favour governments' transparency and accountability and to increase public trust. Even though these are important policy objectives, governments across the region have now the opportunity to broaden their perspectives and to recognise and capture the full potential of open government as a dynamic lever to produce social and economic value for the public and private sectors and the society as whole. More comprehensive open government strategies, aiming to permeate other policy sectors including at the subnational level of government,

are needed. Furthermore, a clearer institutional framework would be useful to support policies' definition, co-ordination and implementation.

Consultation processes and citizens' participation in LACs remain at an initial stage. Participatory and collaborative approaches and processes should be institutionalised in order to embed consultation in the whole policy making process, expanding the range and representativeness of consulted actors and increasing the engagement of population at the local level. Moreover, law compliance and enforcement are among the most important challenges of the region. LACs have succeeded in developing elaborated regulatory frameworks but levels of implementation are often very low. Latin American countries would benefit from improved institutional clarity and support to ensure law enforcement and compliance. Furthermore, availability of empowered technical bodies in charge of providing support in the implementation of open government policies to central and local institutions would strengthen their implementation capacities to equally deliver benefits across the countries. Effective implementation and a more rooted culture of evaluation can guarantee long-term effects. In this sense, indicators and impact evaluation should be improved and used more widely.

Most LACs countries have a supply-driven perspective on access to information. Expanding the focus on access to information to embed open data is vital to strengthen a more demand-driven approach and to capture the value of public sector data and information not only to advance key governance objectives, such as government transparency and accountability, but also to deliver social and economic value.

Capacity-levels vary across the region but as a whole Latin America is endowed with great knowledge on open government, consisting of practical experience, strategies and policies.

In their efforts to foster their open government agenda, countries have chosen different paths and approaches. While most LACs have focused on anti-corruption and transparency policies as point of departure, some have put a stronger emphasis on the effective management of public resources or on digital government strategies. In most LACs access to information policies have progressed significantly in recent years together with the adoption of access to information legal frameworks. Some countries have created websites and applications to foster transparency and fight corruption. Others have implemented successful policies to enhance citizens' participation and improve consultation mechanisms. Few have fully embraced open data.

The analysis included in this report shows that all LACs obtained significant achievements that can inspire peer policy makers in Latin America, as well as around the world. Examples include Colombia's e-government programme that dates back to 2000 and has made significant contributions to fostering

transparency and accountability of the government and public consultation. The country has developed a complete and sophisticated legal framework that has provided the basis for the numerous ambitious policy initiatives. The initiative "Urna de Cristal" can be regarded as a very innovative initiative to consult with the broad society. In Peru, the 2002 Law on Public Information Access and Transparency is very progressive and in line with good international practices, as it establishes a maximum period of seven working days as the limit to provide information to the requestor. Peru has further created the Standardised Transparency Portals which allows citizens to consult information on institutional activities, budget, investments and employment with a user-friendly visual interface. In Costa Rica, the initiative *Conozca en qué se gasta su dinero* ("Know how your money is spent") allows citizens to monitor public spending through the information provided on the website of the General Comptroller's Office and thereby increases citizens' engagement and social control of public expenditure while also fostering public trust.

Given the excellent initiatives existing across the region, by better linking national efforts LACs would have the opportunity to share good practices and exploit synergies to tackle common challenges and policy priorities across the region.

In the framework of the Regional Seminar on Open Government organised in Bogota in March 2014, a regional network of open government focal points has been created. Countries identified common preoccupations and ways to address them. Regional capacity-building seminars could be one important tool to transfer knowledge by bringing together civil servants, representatives from the civil society, the private sector and academics from the region. These seminars could be important tools to create a more integrated and result-oriented "Latin American approach" to open government.

Assessment and recommendations

Latin American and Caribbean countries should aim to align existing policies and strategies with a general open government strategy. They should also move towards more comprehensive open government and open data strategies aiming to permeate other policy domains and foster the development of open government programmes at the sub-national level and across the central administration.

The effective implementation of cross-cutting open government policies in Latin America requires a more comprehensive policy approach. Open government should not be conceived as an isolated element favouring government transparency, accountability and public trust only but as a dynamic mechanism useful to produce economic and social value for the public and private sectors in all areas of the public sector and the broad economy and society at large.

The wide range of existent parallel policies (i.e. anticorruption policies, transparency policies and digital strategies) demands the Centre of Government to further work to align them with the general open government strategy. Over-arching open government policies require embedding the open government component in other policy sectors such as environment, transport and housing, moving further from the current approach highly focused on public finance and public procurement.

Effective policy implementation requires aligning open government and open data strategies to major reform programs to ensure that these strategies contribute to key policy priorities at the central and local levels. This would also imply expanding the composition of open government steering groups across Latin American countries to include representatives from the sub-national levels of government for a more effective communication and co-ordination and a more bottom-up policy making.

Developing a clearer institutional framework would improve policy definition, co-ordination and implementation. Latin American and Caribbean countries would benefit from the availability of empowered technical bodies in charge of providing support to central and local institutions and from clarifying and strengthening institutional responsibilities to secure law enforcement and compliance.

Effective policy co-ordination and implementation requires horizontal and vertical inter-institutional support to develop enough capacities to sustain implementation of broad and cross cutting open government strategies. Public bodies close to the Centre of Government have been identified as leading institutions in charge of policy co-ordination across the region. These institutional arrangements have created a window of opportunity to embed open government within the framework of national development plans. Nevertheless, the progressive availability of open government and open data policies and initiatives in Latin America entails strengthened institutional capacities to sustain, for example, data release and to foster the culture of data re-use needed to ensure the delivery of the expected social and economic benefits.

It would be advisable to institutionalise open government co-ordination in order to prevent negative consequences linked to lack of necessary human capital and leadership losses in public institutions across the region. High political support and leadership need to be maintained. Policy continuity in the short term, and long-term sustainability in the medium and long run, could be endangered due to the high turnover inside co-ordinating institutions. Institutionalising open government co-ordination would be particularly beneficial also to sustain the regional network of open government policy makers.

Stronger links between parliamentary groups in charge of transparency, the CoG and technical institutions would increase the possibility to develop and implement efficient citizen-centred process, e.g. regulatory assessment tools such as open parliament initiatives and participatory web-platforms. The anti-corruption approach shared in the region has led to the establishment of co-ordinating mechanisms with the Judiciary across LACs. These links could be further exploited to reinforce open government practices and culture (i.e. ministerial and sectorial access to information and open data portals) and could be complemented by stronger links with legislative branches which appear to be absent hence affecting citizen involvement in law making. Greater citizens' participation on *ex-ante* discussions and *ex-post* law evaluation processes is needed to improve regulatory efficiency and avoid red tape. This could help increasing public trust, compliance and government accountability.

Latin American and Caribbean countries could further develop more comprehensive consultation processes. These exercises should be institutionalised in order to permanently embed consultation practices in the whole policy making cycle, expanding the range of consulted actors and increasing the involvement of the population at the local level.

The local networks of central ministries and bodies (i.e. Ombudsman) and the existing local civil society tissue could be further exploited to bring knowledge and input from the sub-national level to the Centre. This would permit to strengthen informed policy and decision making processes while supporting the capacities of the co-ordinating institution. While civil society organisations are a key partner for policy making and implementation, and an important source of knowledge, their representativeness of all existing voices in society is limited. Consultation exercises implemented by some Latin American countries at the local level have demonstrated the existence of a vibrant organised society at local levels which complements the dynamisms of the central level.

Direct stakeholder consultation (i.e. focused groups) should be continuously used and promoted in parallel to processes focused on getting inputs from civil society organisations. Envisaging public consultation as an inherent element of policy definition, implementation and feedback process would be beneficial to correct *ex-post* one-time exercises. In parallel, direct consultation could be used as a social inclusion tool and could take advantage of both on line ICTs enabled and traditional face to face methods to foster more inclusive social development (i.e. for indigenous population).

The definition of effective communication strategies on access to public sector information and open data would benefit the risen interest of the general society. Increasing population awareness and willingness to cooperate and participate remains a challenge across Latin American and Caribbean countries. Communication strategies shall be based on a solid knowledge of citizens' needs in order to link open government policies and citizens' perceived benefits. Therefore clear and understandable information about open government programmes has to be communicated (i.e. clear information on the process and response times related to file requests to access public sector information).

Higher involvement of micro, small and medium enterprises in the policy making process is an absolute necessity. While policy makers across Latin American countries are making great progress in consulting the civil society, implementing a more comprehensive approach to the private sector will require the active involvement of SMEs during the whole policy making process.

The importance of SMEs in the Latin American region as a source of formal employment is conspicuous but evidence suggests that SMEs involvement is limited to early stages of policy definition and to very specific tasks, such as the use of public data to build applications.

Latin American and Caribbean countries should focus on reinforcing law provisions and on strengthening law compliance to ensure access to public sector information.

In order to foster public transparency and accountability though widespread access to public sector's information, it would be necessary not only to appoint specific public bodies in charge of ensuring law compliance but also to guarantee their impartiality, autonomy, continuity and empowerment. Although Latin American countries have succeeded in developing a regulatory framework supporting efforts to increase transparency by ensuring access to public sector information, law compliance and enforcement remain a challenge in the region. In some OECD and Latin American countries, the availability of public bodies and mechanisms in charge of law compliance and enforcement has effectively strengthened open government institutional framework. The active co-operation and co-ordination between these institutions and civil society organisations in LACs would be highly beneficial to build a more participative and engaged population and favour the dissemination of a culture of legality and transparency.

Transparency laws could be reinforced and their scope expanded. Freedom of Information could be revised across the region in order to integrate key components of open government such as open data requirements. Eliminating potential legal barriers to access to public information is equally necessary (i.e. age requisites to file access to public information requests, the lack of mandates on the possibility to anonymous requests, clear regulations on fee waivers). In parallel, the risks of data management – breaches of data privacy and security – should be anticipated and managed. This implies that data protection regulations need to be enforced together with the accountability of entities managing public data.

Latin American and Caribbean countries should frame open data policies in connection to the significant efforts made so far to ensure access to information. This would reinforce recognition and help increasing the benefits of open government data not only to key governance elements – such as government transparency and openness – but also as a driver of social and economic value for the public sector, the broad economy and the society at large.

Latin American governments should take the opportunity of emerging open data policies and initiatives to move away from a supply driven approach in the provision of information. It is imperative to migrate from the "data supply" approach to a more balanced "data demand" perspective that would benefit data re-use and value creation. This would require a widening of data offer based on users' needs (e.g. to include policy sectors such as geographic, environmental and educational data).

Governments should take the opportunity of the general absence of open government data (OGD) strategies to perform ex ante consultation to enrich policy making while institutionalising consultation and feedback mechanisms. Governments in the region can avoid top-down approaches to open data development by basing OGD policy making and data release on data users' needs.

Efforts should aim to create an open data ecosystem and to encompass all OGD related efforts in broad national public sector data and information management plans. In order to leverage open data strategies and policies governments in the region should strengthen co-operation between the CoG, co-ordinating and technical institutions, and public officials in charge of open data release across public bodies. Fulfilling open data objectives calls for the implementation of training activities focused on tackling skills gaps. Trainings should target not only capacity development across the general population but inside public institutions too. In this respect, LACs could consider reinforcing co-operation with the academia to provide open data training activities and develop tools (i.e. seminars and manuals on open government data, guidelines on data quality standards).

The appointment of a Chief Data Officer close to the CoG would facilitate the development and implementation of a cross-cutting national open data strategy and ensure that ministerial strategies are aligned to the main one.

User engagement activities need to be broadened. While maintaining the current collaboration initiatives with app-developers, engagement should be expanded to involve also data users and inform the general population and

specific sectors such as journalists, the media and the private sector (SMEs) on the benefits of using open government data. Un-used data represent a missed opportunity to deliver economic and social value.

Governments should remove obstacles to data accessibility taking advantage of stronger inter-institutional co-operation. Further steps to facilitate access to open data include providing a single point of access ("one-stop-shop") to open data available across institutions for instance through the development of centralised open data portals. In the mid-term, inter-institutional working groups and sectorial co-operation could be strengthened in order to rationalise already existing sectorial OGD portals. This would set the ground for broader OGD programmes while expanding open data strategies to additional policy sector to enhance data availability, e.g. beyond financial and public procurement data. These activities will require the definition of mechanisms for data exchange and data quality control. Co-operation with public bodies managing national archives and national statistics needs to be strengthened across the region.

Chapter 1

The context of open government in Latin America

This chapter describes the context for open government in Latin America. It introduces the Open Government Partnership (OGP), its core principles and the OGP process. It then analyses recent reform efforts taken by Latin American countries and provides a picture of the region's main challenges. In the last section, the chapter presents the frameworks to assess open government and open data policies and initiatives developed by the OECD and used to review the progresses and achievements in the region highlighted in this report.

The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

Introduction

Since the beginning of the Financial Crisis in 2008, governments in Latin America and around the world have struggled with high levels of unemployment and public debt, restraining the states' possibilities to deliver quality public services and to reinforce inclusive and sustainable development. People from countries all over Latin America are increasingly loosing trust in their governments. Empowered by the Internet and new information and communication technologies (ICTs) they are calling for their governments' transparency and accountability and for increased participation in the policy making process, at the same time as they expect governments to create better economic opportunities. It is in this context that "open government" (OG) has gained great importance.

In its early days, the term "open government", that had first emerged in the United States in the debates of the Freedom of Information Act of 1966, was used as a synonym for public accountability and referred mostly to the disclosure of politically sensitive government information (Yu and Robinson, 2012). Over the years, the meaning was conceptually extended to include the new opportunities in innovation, efficiency, and flexibility in government that were offered by the use of "open data" and ICTs which had emerged with the rise of the Internet. Most recently, there is an increasing awareness that open government and open data can provide important opportunities for economic growth, as they can help promote business, develop cost-effective public services and create new jobs.

Over the past years, different international initiatives have been launched to support the global open government movement, including the "International Aid Transparency Initiative", the "Transparency and Accountability Initiative", "Publish what you Pay" and the "Extractive Industries Transparency Initiative" (EITI). However, no other initiative has been as all-embracing as 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."[1] This initiative has grown quickly from eight member countries to 64 as of September 2014 and has attracted the participation of many of the world's leading advocacy organizations for democracy, transparency, and good governance. Since its creation, 15 Latin American countries have joined the initiative, making Latin America one of the most active regions.

By becoming members of the OGP, countries commit to four core open government principles: access to information (including government transparency), civic participation (including civic engagement), integrity (including anti-corruption measures), and access to technology to support openness and accountability[2]. Countries are required to endorse a high-level

Open Government Declaration, to develop a biennial action plan through public consultation, and to prepare an annual self-assessment report. In its few years of existence, the OGP has considerably changed the dynamics of the international open government agenda and of the collaboration among key actors of national open government ecosystems.

This report looks at the particular context for open government in 11 Latin American and Caribbean countries members of the OGP (LACs) and takes stock of their efforts and the remaining challenges for them to become more open. It also includes three in-depth case studies on open government policies and practices in Costa Rica, Colombia and Peru.

Box 1.1 Potential benefits of open government

- **Establishing greater trust in government**. Trust is an outcome of open government that can reinforce government performance in other aspects. In addition, if citizens trust the government or specific government policies, then they may be more willing to pay (fees, contributions, taxes) to support these policies.
- **Ensuring better outcomes at less cost**. Co-design and delivery of policies, programs and services with citizens, businesses and civil society offer the potential to tap a broader reservoir of ideas and resources.
- **Raising compliance levels**. Having people participate in the process helps them understand the stakes of reform and can help ensure that the decisions reached are perceived as legitimate.
- **Ensuring equity of access to public policy making** by lowering the threshold for access to policy making processes for people facing barriers to participation.
- **Fostering innovation and new economic activity**. Public engagement and open government are increasingly recognised as drivers of innovation and value creation in both the private and public sectors.
- **Enhancing effectiveness** by leveraging knowledge and resources of citizens who otherwise face barriers to participation. Public engagement can ensure that policies are better targeted and address the needs of citizens, eliminating potential waste.

Source: OECD (2010), "Background document for session 1 OECD Guiding Principles for Open and Inclusive Policy Making", expert meeting on Building an open and innovative government for better policies and service delivery, OECD, Paris, 8-9 June 2010, *http://www.oecd.org/gov/46560128.pdf*.

The Latin American context for open government

In the past two decades, Latin America has experienced a solid economic performance and high levels of economic growth. In most countries of the region, poverty rates have dropped (World Bank, 2014) and new economic

opportunities have been created. At the same time, countries have made efforts to implement reforms to become more transparent, effective, accountable and responsive to citizens' needs, creating for instance new institutions to fight corruption and building up open data platforms. Within the framework of their national development and modernisation plans and in their anti-corruption, transparency and/or digital government strategies, countries started implementing different types of open government policies without explicitly referring to the concept of OG.

The creation of the Open Government Partnership in 2011 provided an opportunity for LACs to integrate these disperse strategies within a wider open government policy framework and to combine their own efforts with genuine support from the international open government community. By September 2014, 15 LACs had joined the OGP, with Brazil and Mexico being founding members of the partnership (see Figure 1.1). All LACs have adopted OGP Action Plans, including concrete commitments in the areas of the four core open government principles, and perform monitoring activities as foreseen by the OGP framework. Governments in the region have therefore fully embraced the notion that open government should be seen as a key opportunity to tackle some of the grand challenges also identified by the OGP:

- *Improving Public Services*
- *Increasing Public Integrity*
- *More Effectively Managing Public Resources*
- *Creating Safer Communities-*
- *Increasing Corporate Accountability*

Countries are currently at different stages of the OGP process. Mexico, Guatemala, Honduras, Brazil, Paraguay, Uruguay and Chile have published their first self-assessment, have been evaluated by the Independent Reporting Mechanism (IRM) and are now implementing their second actions plan, while El Salvador, Costa Rica, Panama, Colombia, Peru and Argentina are in the first action plan cycle.

Similarly, the maturity of open government policies and programmes varies across LACs and countries' approaches to OG differ widely. While some countries are more advanced in digital government and open data policies, others have drafted strong access to information laws and related policies, and a few have enhanced their focus on engaging citizens. In light of the important progress made, there is great potential for countries to learn from each approach in order to harness the opportunities open government offers for the region, and to jointly find common solutions to social and economic challenges shared across Latin America.

Box 1.2 The Open Government Partnership: Open Government Declaration (excerpt)

As members of the Open Government Partnership, committed to the principles enshrined in the Universal Declaration of Human Rights, the UN Convention against Corruption, and other applicable international instruments related to human rights and good governance:

We acknowledge that people all around the world are demanding more openness in government. They are calling for greater civic participation in public affairs, and seeking ways to make their governments more transparent, responsive, accountable, and effective.

We recognize that countries are at different stages in their efforts to promote openness in government, and that each of us pursues an approach consistent with our national priorities and circumstances and the aspirations of our citizens.

We accept responsibility for seizing this moment to strengthen our commitments to promote transparency, fight corruption, empower citizens, and harness the power of new technologies to make government more effective and accountable.

We uphold the value of openness in our engagement with citizens to improve services, manage public resources, promote innovation, and create safer communities. We embrace principles of transparency and open government with a view toward achieving greater prosperity, well-being, and human dignity in our own countries and in an increasingly interconnected world.

Together, we declare our commitment[2] to:

- Increase the availability of information about governmental activities.
- Support civic participation.
- Implement the highest standards of professional integrity throughout our administrations.
- Increase access to new technologies for openness and accountability.

Source: Open Government Partnership (2011), Open Government Declaration, *http://www.opengovpartnership.org/about/open-government-declaration*.

In designing and implementing their open government strategies, LACs face very similar challenges.[3] In order to make the most of the broad potential that open government offers, it should become a cross-cutting policy area that is part of core strategies and reform programs (e.g. public sector reform) and embedded in the definition process of all public policies. Better awareness raising and communication campaigns on open government are also needed. There is still limited consciousness in large parts of the society, in the private sector and even in governments about the potential that open government and open data represent for social and economic development. In the preparation

and implementation of policies, consultation mechanisms to involve different actors, including indigenous groups, the private sector –in particular Small and Medium Enterprises (SMEs) and micro-companies–, the media, Congress and the subnational level in open government activities, have to be reinforced. This is essential not only to nurture a required collaboration among key actors but also to create a context of broad engagement and empowerment needed to bear the desired benefits.

Furthermore, many LAC countries have quite elaborate legislations in the different areas of open government and struggle to implement them. Law compliance and enforcement remain a challenge to be tackled across the region. Indicators for monitoring and evaluating activities can be improved and used more widely. Given the great number of institutions that are involved in the design and implementation of open government policies, there is also a need for stronger institutional leadership and well-functioning co-ordination mechanisms. Top-down and bottom-up approaches have to be balanced. Mechanisms to build capacities and to transfer good practices both from the central to the subnational level and vice versa should be further developed.

Figure 1.1. LAC countries by OGP Membership



Source: Open Government Partnership (2014), "Participating Countries", *http://www.opengovpartnership.org/countries*, accessed 10 July 2014.

The OECD Approach to Open Government

The OECD has long-standing experience in gathering data, providing policy advice and setting international standards and guiding principles in the areas of good governance and open government. The organisation provides legal instruments, internationally recognised principles and guidelines, proven expertise and broad knowledge on good practices in these areas. For the past decade, the OECD has been developing the conceptual foundations of open

government based on a multi-stakeholder and multi-sectoral approach. The organisation has for instance developed the Guiding Principles for Open and Inclusive Policy Making to guide governments in the promotion of open government (see Box 1.3). In addition, the OECD Recommendation of the Council on Digital Government Strategies adopted on 15 July 2014 suggests that governments develop and implement digital strategies that "ensure greater transparency, openness and inclusiveness of government processes and operations".

Box 1.3 Principles on Open and Inclusive Policy Making

- **Commitment**: Leadership and strong commitment to open and inclusive policy making is needed at all levels – politicians, senior managers and public officials.
- **Rights**: Citizens' rights to information, consultation and public participation in policy making and service delivery must be firmly grounded in law or policy. Government obligations to respond to citizens must be clearly stated. Independent oversight arrangements are essential to enforcing these rights.
- **Clarity**: Objectives for, and limits to, information, consultation and public participation should be well defined from the outset. The roles and responsibilities of all parties must be clear. Government information should be complete, objective, reliable, relevant, and easy to find and understand.
- **Time**: Public engagement should be undertaken as early in the policy process as possible to allow a greater range of solutions and to raise the chances of successful implementation. Adequate time must be available for consultation and participation to be effective.
- **Inclusion**: All citizens should have equal opportunities and multiple channels to access information, be consulted and participate. Every reasonable effort should be made to engage with as wide a variety of people as possible.
- **Resources**: Adequate financial, human and technical resources are needed for effective public information, consultation and participation. Government officials must have access to appropriate skills, guidance and training as well as an organisational culture that supports both traditional and online tools.
- **Co–ordination**: Initiatives to inform, consult and engage civil society should be co-ordinated within and across levels of government to ensure policy coherence, avoid duplication and reduce the risk of "consultation fatigue." Co-ordination efforts should not stifle initiative and innovation but should leverage the power of knowledge networks and communities of practice within and beyond government.
- **Accountability**: Governments have an obligation to inform participants how they use inputs received through public consultation and participation. Measures to ensure that the policy making process is open, transparent and amenable to external scrutiny can help increase accountability of, and trust in, government.

Box 1.3 Principles on Open and Inclusive Policy Making *(Cont.)*

- **Evaluation**: Governments need to evaluate their own performance. To do so effectively will require efforts to build the demand, capacity, culture and tools for evaluating public participation.
- **Active citizenship**: Societies benefit from dynamic civil society, and governments can facilitate access to information, encourage participation, raise awareness, strengthen citizens' civic education and skills, as well as to support capacity-building among civil society organisations. Governments need to explore new roles to effectively encourage autonomous problem solving by citizens, CSOs and businesses.

Source: OECD (2001), Citizens as Partners: OECD Handbook on Information, Consultation and Public Participation in Policy Making, OECD Publishing: Paris as updated in OECD (2009), Focus on Citizens: Public Engagement for Better Policy and Services, OECD Publishing: Paris.

As an official multilateral partner of the Open Government Partnership, the OECD is working with governments and civil society across the world to foster public sector reforms inspired by the principles of transparency, integrity, accountability and citizen's participation. By analysing open government policies in 11 out of the 15 Latin American countries that adhered to the OGP, this report aims to provide valuable input to open government efforts in the region.

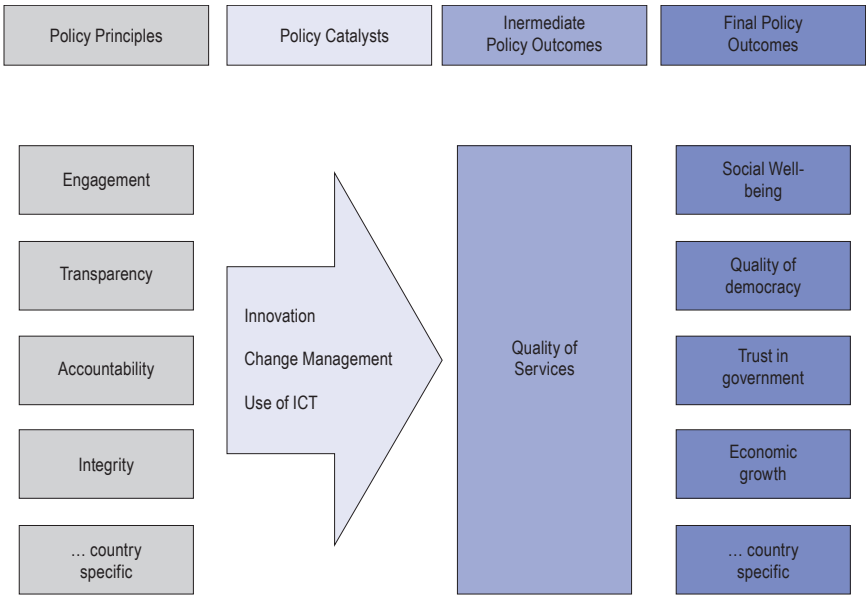
The following section will present the frameworks to assess open government policies and open data initiatives prepared by the OECD that will be analysed in the different chapters of this report.

OECD Open Government Analytical Framework

The OECD Open Government Analytical Framework, which builds on key public management and governance analytical frameworks developed by the OECD and other international organisations, provides a solid basis for evaluating the performance of a specific country and for providing recommendations on how to improve the effective implementation of open government policies. The building blocks of the OECD Open Government Analytical Framework are policy principles, policy catalysts and policy outcomes (intermediate and final).

A government is open when it is transparent, accountable, engaging and integer (*policy principles*), which - through specific policy instruments and practices (*policy catalysts*) driving change and innovation processes - is likely to lead to better services and policies (*intermediate policy outcomes*). This is expected to finally lead to higher trust in government, social well-being, quality of democracy and economic growth (*final policy outcomes*) (see Figure 1.2).

Figure 1.2. The OECD Open Government Analytical Framework



Source: OECD (forthcoming), *Public Governance Reviews: Open Government in Tunisia*, OECD Publishing, Paris.

In the analysis of a country's open government policies, the OECD Open Government Analytical Framework is particularly useful as it allows focusing on the implementation of key open government principles through policy instruments and their effectiveness. It also provides the right tools to assess the quality of the country's catalysts (i.e. change management, innovation processes and use of ICTs) and the impact of open government policies on improving intermediate outcomes (i.e. public services and policies).

OECD Methodology: From access to information to open data

Chapters 3 and 4 describe in detail how access to public sector information and open data are both key elements of open government strategies. Enhancing the access to and use of the massive quantity of data and information that the public sector generates can lead to important economic, social and good governance value creation (Ubaldi, 2013). However, while making information available to the public and guaranteeing access to it is important to foster transparency and accountability, it is the actual use and re-use of the data that creates those values. Hence, open data goes beyond simple information disclosure – it aims to provide access to data that is requested by different actors such as civil society and the private sector to create value.

"Open government data" (OGD) first came into prominence in 2008 when a set of open government data principles was published by advocates in the United States. Since then, the OECD has been very active in the area and has built up an extensive expertise on OGD. The organisation has been one of the first institutions to map practices internationally, establishing a knowledge base on open data policies, strategies and initiatives. The OECD open government data (OGD) project started in 2012 and is on-going. It seeks to progress international efforts on OGD impact assessment and to assist governments in creating public value through open data (for a detailed theoretical explanation of the OECD approach to open data see Chapter 4).

The OECD methodology was put forward in the Working Paper "Open Government Data: Towards Empirical Analysis of Open Data Initiatives" (Ubaldi, 2013), and was validated with the collaboration of a number of OECD countries. The methodology, that comprises an overall analytical framework and a data collection instrument, is a key step in supporting countries to conduct national impact assessment exercises and to identify metrics to support their business cases for open government data (see Chapter 4). It also aims to help governments in identifying the necessary steps to design and implement open data action plans and to follow up on results. These efforts are conducted in collaboration with the World Bank, the Open Data Institute and the Open Government Partnership's Open Data Working Group, of which the OECD is a member.

Government at a Glance

The OECD has also gathered significant experience in the development of accurate and timely performance indicators on open government and transparency in the public sector. These indicators are published biannually in the "Government at a Glance" (GaG) series. GaG provides key quantitative and qualitative data that can enable evidence-based decision-making and help governments plan for the future. The methodology of GaG allows for the comparison of government activities, practices and performance across countries and regions, and helps pinpoint areas that warrant further examination. Sections of this report will apply this well-tested methodology to three specific policy areas in Latin America, thereby allowing LACs to benchmark against OECD practice.

GaG include variables on: (i) freedom of information legislation for central/federal governments, (ii) proactive disclosure of public information (fiscal, regulatory and procurement), (iii) scope and advancement of open data initiatives, (iv) integrity in decision making (disclosure, transparency and management of potential conflict of interest); as well as (v) inclusive policy making (gender equality in government, and tools such as gender responsive budgeting and gender impact assessments).

In 2014, the first edition of *Government at a Glance: Latin America and the Caribbean* was published. It provides internationally comparable data on government activities and their results for the LAC region. The publication offers a dashboard of more than 30 indicators and is focused in four broad areas: budgeting practices; public sector pay and employment; public procurement; and public finances.

The OECD report *Open Government in Latin America*

The present report is divided into seven chapters. Chapters 2-4 discuss the results of the OECD Survey on Open Government in Latin America, presenting a general overview of the current status of open government in three areas of open government: open government policy co-ordination and strategies, access to public information and open data. Chapters 5-7 consist of in-depth case studies of open government policies and practices in Costa Rica, Peru and Colombia.

The regional stocktaking exercise (Chapters 2-4)

The stocktaking exercise applies the methodology of the OECD's flagship publication *Government at a Glance*. The analysis is based on a region-wide questionnaire that was answered to by 11 LACs: Brazil, Chile, Colombia, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Mexico, Paraguay, Peru, and Uruguay.

Three priority areas (open government co-ordination, access to information and open data) were selected based not only on the experience gathered by the OECD work on these issues, both with member countries and with non-members from various parts of the world, but also based on their importance as critical components of public policy analysis in Latin America. Gathering extensive qualitative and quantitative information about open government practices in LACs, the survey allows countries to compare and benchmark their practices against good international and specific OECD countries' practices.

The chapter's main conclusions and recommendations were discussed with the OGP focal points of all countries that participated in the survey during a regional seminar in Bogota (Colombia) in March 2014. The event, which was also attended by representatives from civil society, international organisations and a selected number of representatives of other regions, allowed adding further qualitative information to the report. Comments received in the sessions have been integrated in the present document.

The stocktaking exercise identifies some common trends in Latin American open government policies. While access to information policies has progressed

significantly in recent years and most countries have implemented access to information laws, open government data remains a field requiring greater development in the region. Centralised open data portals are still very rare and the citizens' usage of open data, except for the occasional hackathon event, remains low. When it comes to OGP Action Plans, most Latin American countries put emphasis on anti-corruption policies and transparency. While there is a certain trend to include commitments that allow for the participation of civil society organisations (CSOs) in the implementation, the private sector is almost completely excluded.

The open government case studies of Colombia, Costa Rica and Peru (Chapters 5-7)

The case studies are the result of in-depth data collection about the current open government policies and practices of Costa Rica, Colombia and Peru, complemented with the evaluation and advice provided by peer reviewers.[4] In 2013/2014, OECD teams conducted field missions to Costa Rica and Peru. Interviews were also held with Colombian stakeholders in 2014.

Using the OECD's Open Government Analytical Framework, the policies and initiatives of each country are benchmarked against OECD good practices, principles and standards. Each of the case studies provides final recommended actions adapted to the national context of each country and aimed to support governments in their endeavour to reinforce their institutional frameworks for the successful implementation of commitments included in their OGP Action Plans, as well as to provide assistance in the development of more efficient systems to generate, access, store, distribute, and reuse public sector data and information.

The case studies find that the three countries' open government efforts have very different strengths and weaknesses. Despite the fact that the Colombian Law on Transparency and Access to Information (FOI) only entered into force in 2014, Colombia has been able to implement open data efforts and to develop a central open data portal building on its digital strategies dating from 2000. Costa Rica has built a strong e-government system and has made progress on e-procurement, but is still on the way to develop a strong institutional framework to support policy co-ordination and a broad commitment and sense of ownership, as well as a solid regulatory framework; opportunity that should be used to embed the open data component. Peru has a very advanced legislation in the area of access to information dating from 2002, but is still struggling with policy inertia in order to move towards a more comprehensive OG policy focusing not only on anti-corruption but on a wider set of policy objectives and is up to now taking very initial steps to develop open data in the country. While all three countries have open government steering committees, they have different mandates and competences. In their OGP Action Plans, the three countries focus mainly on the fight against corruption and transparency.

Notes

1. *http://www.opengovpartnership.org/*

2. The four commitments as shown here are abridged. For the full text, please refer to the OGP Declaration: *http://www.opengovpartnership.org/sites/www.opengovpartnership.org/files/page_files/OGP_Declaration.pdf*

3. The challenges that are presented here were identified by the OGP focal points of Brazil, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Mexico, Paraguay, Peru and Uruguay in the framework of the Regional Seminar on Open Government in Bogota (Colombia) in March 2013.

4. For more information about the OECD Peer Review methodology see: *http://www.oecd.org/site/peerreview/*

Bibliography

OECD (forthcoming), *Public Governance Reviews: Open Government in Tunisia*, OECD Publishing, Paris.

OECD (2005), Modernising Government: The Way Forward, OECD Publishing: Paris, *http://dx.doi.org/10.1787/9789264010505-en*.

OECD (2001), Citizens and Partners, OECD Publishing: Paris http://dx.doi.org/10.1787/9789264195561-en as updated in OECD (2009), Focus on Citizens, OECD Publishing: Paris, *http://dx.doi.org/10.1787/9789264048874-en*.

OECD (2010), "Background document for session 1 OECD Guiding Principles for Open and Inclusive Policy Making", expert meeting on Building an open and innovative government for better policies and service delivery, OECD, Paris, 8-9 June 2010, *http://www.oecd.org/gov/46560128.pdf*.

OECD (2014), *Public Governance Reviews: Open Government in Tunisia* (forthcoming).

Open Government Partnership (2011), Open Government Declaration, *http://www.opengovpartnership.org/about/open-government-declaration*.

Ubaldi, B. (2013), "Open Government Data: Towards Empirical Analysis of Open Government Data Initiatives", OECD Working Papers on Public Governance, No. 22, OECD Publishing, Paris, doi: *10.1787/5k46bj4f03s7-en* World Bank (2014), *Povery & Equity, Regional Dashboard, Latin America & Caribbean*, *http://povertydata.worldbank.org/poverty/region/LAC*.

Yu, H. and D.G. Robinson (2012), "The New Ambiguity of Open Government", *UCLA Law Review* 59, Disc. 178 (2012), *http://dx.doi.org/10.2139/ssrn.2012489*.

Chapter 2

Open government strategies and governance frameworks in Latin America

Based on the results of the OECD Survey on Open Government in Latin American, this chapter evaluates the open government strategies and governance frameworks of eleven Latin American countries. It analyses open government achievements and challenges against the background of the creation of the Open Government Partnership in 2011 and provides a picture of the institutions in charge of open government. It finds that countries from the region have made great progress in defining and implementing open government strategies and programmes. But it also identifies the need to strengthen horizontal policy alignment and institutional leadership.

The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

Introduction

Since the creation of the OGP in 2011, Latin American countries have made progress in defining and implementing open government policies and programmes. Implemented actions have focused, for instance, on strengthening the regulatory framework on access to public information and transparency; on implementing programmes to improve interaction with subnational governments; on increasing the use of ICTs and new technologies – particularly social networks; on building closer co-operation with the private sector to generate added value and economic development; and on strengthening open data strategies and initiatives. This chapter underlines some of the main points of strength, as well as the challenges still faced by the governments across the region.

General open government strategy

Open government should not be seen in isolation. It is indeed a critical policy area for the achievement of a number of policy outcomes in specific domains (e.g., transparency, integrity, fight against corruption, public sector reform, public service delivery), and it should be conceived as such in order to ensure the widest possible impact of the related policies and initiatives. To strengthen and focus open government efforts many governments worldwide have adopted specific open government policies and strategies.

Latin American and Caribbean countries (LACs) are committed to implement programmes and reforms on public sector transparency, anti-corruption, government accountability and public integrity. They acknowledge the value of citizen engagement and collaboration as key to make these reforms work and all LACs have managed to integrate these components into their general open government strategies, but elements such as national historic background, economy or social disparities shape policy priorities.

Open government is indeed a policy area that has recently gained the attention of policy makers across Latin America. Since 2011, LACs which are members of the Open Government Partnership (OGP) have worked on defining, implementing and strengthening their general open government strategies (GOGs)[1].

All LACs report GOGs are in place, but commonly these strategies are a component embedded in other policies. In fact, in seven countries the GOG is included in the framework of national development, modernisation and/or digital government strategies or programmes.

Therefore, the OECD survey results reflect that open government is a crucial component of national progress for LACs; however, evidence shows that, for the time being, open government and open data are part of other policies and not self-standing and over-arching whole-of-government policies. Only Brazil and Paraguay report GOGs were conceived as a stand-alone policy not part of another strategy[2]. Ensuring complementarity and alignment of open government and open data efforts with other policy domains is essential, but having dedicated strategies and action plans should be seen as a key step to channel efforts, create a sense of commitment to and ownership of results, across the Administration and in society as a whole. For example, open government can be crucial for transparency, but its contribution can go much beyond such policy goal. Hence, making of open government solely a component of a national Transparency Agenda would mean risking downplaying the ambitious set of objectives a government could try to achieve through its investments on OG. Embedding the GOGs within a wider policy framework would be useful to increase policy impact on good governance, economic and social perspectives.

Additionally, in most LACs (for instance, Brazil and Costa Rica), national Open Government Action Plans have been conceived and are considered as GOGs themselves, whereas from a policy making perspective they should be meant to operationalise broader policy documents framing the overall efforts and specifying the main goals.

In some countries the implementation of specific strategies that are crucial elements of the overall set of policies on open government has been continuous, and was prior to those countries' adhesion to the OGP. For instance, the Colombian E-government Strategy and the Costa Rican Institutional Network of Transparency were initiated in the early 2000s. These strategies have been useful to set the ground towards wider and self-standing open government and open data policies. Thus, the maturity of open government and open data policies and programmes varies across LACs, and some countries may appear more advanced than others in the development and implementation of open government policies and related initiatives. Nonetheless, the OGP has played an important role leveraging open government reforms across LACs and underpinning regional co-operation[3] (1-1.7).

While the objectives of the GOGs are widely shared across LACs[4], the specific approaches to OG differ. For instance, Uruguay is the only country that did not identify integrity and anti-corruption as priorities of its national strategy [one should note that, according to Transparency International, Uruguay is one of the two countries with the lowest corruption levels in Latin America (TI, 2012)]. Other countries, like the Dominican Republic and Mexico, included professionalisation of the public service and performance-based budgeting as priorities of their GOGs (see Table 2.1).

Table 2.1 Priorities of the general open government strategy

	Access to information and open data	Information and Communication Technologies	Integrity and Anti-corruption	Citizen participation
COLOMBIA	●	●	●	●
COSTA RICA	●	●	●	●
GUATEMALA	●	●	●	●
DOMINICAN REPUBLIC	●	●	●	●
MEXICO	●	●	●	●
PERU	●	●	●	●
CHILE	●	-	●	●
URUGUAY	●	●	-	●
BRAZIL	●	●	●	●
EL SALVADOR	●	●	●	●
PARAGUAY	●	●	●	●

Others: Public Sector Efficiency (Colombia and Mexico), Public Service Delivery (Colombia), Transparency (Costa Rica), Public Service Professionalisation (Dominican Republic) and Performance-based Budgeting (Mexico)

Source: 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 1 – Question 1.4.

The challenge: Implementing an over-arching open government strategy and ensuring horizontal policy alignment

Even with the national particularities, the identification of policy priorities and objectives has been decisive for policy implementation in Latin America, showing, for instance, a strong anti-corruption component. In fact, Colombia, Costa Rica, the Dominican Republic, Mexico, Brazil, Uruguay, Peru, El Salvador and Paraguay have created specific bodies or implemented parallel programmes aiming to fight corruption.

One should note that, in fact, in two countries (Guatemala and El Salvador) the GOGs are part of individual transparency or anti-corruption policies[5]. Although coherent with the fact that fighting corruption is one of the key policy objectives of LACs, the inclusion of the OG strategy in the framework of the transparency and anti-corruption policies may limit the potential of using open government and open data strategies for wider policy objectives, as indicated in the previous section of this chapter.

Some LACs have started to recognize also the broad potential of open government and open data in addition to its benefits to fight corruption,

increase transparency and public accountability. Costa Rica, Colombia and Mexico report having embraced open government reforms due to the potential economic benefits that may arise from re-using public information and data[6]. For instance, in parallel to anti-corruption policies, citizen participation is also one of the policy areas where LACs are pursuing achievements:

- In Brazil, the online platform *www.Participa.br* allows citizens to participate and discuss government programmes and policies.
- In Guatemala, the Presidential Commission of Transparency and Electronic Government (*Comisión Presidencial de Transparencia y Gobierno Electrónico*, COPRET) has launched initiatives such as *Ciudadano Asesor* (The Advisor Citizen) and *Diálogos de Participación Ciudadana* (Citizen Participation Dialogues). The COPRET also created the National School of Transparency in 2014 to raise awareness on transparency and anti-corruption in public official and citizens.
- In Uruguay some ministries like the Ministry of Transport and Public Works have implemented programmes on participatory budgeting[7].
- Mexico launched the Programme for a Closer and Modern Government in 2013.
- In Colombia, the government has created the Crystal Urn (*Urna de Cristal)*, a mechanism of citizen participation (see Chapter 5).

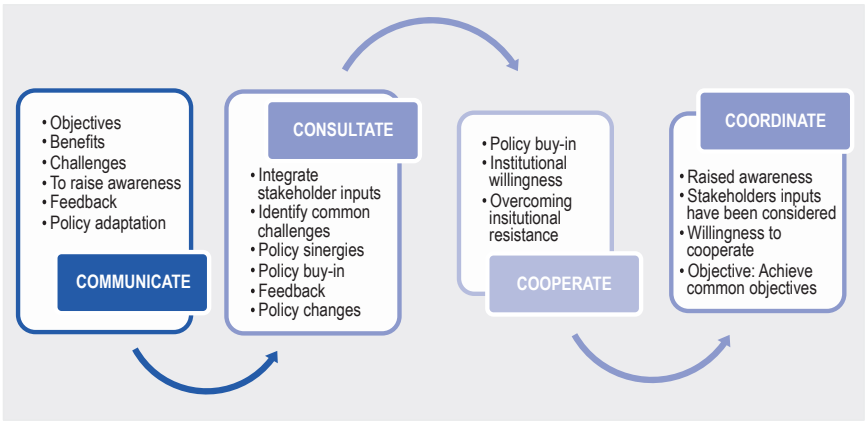
The wide range of existent individual programmes and policies on areas directly related to open government (i.e. citizen participation and anti-corruption measures) challenges central governments to ensure horizontal and vertical policy links, in order to find policy synergies and pursue common objectives with the best cost-effective approach. GOGs should be used as a mechanism to complement and underpin parallel, sectoral and individual policies, institutionalising open government towards a continuous implementation in the long term.

The overall picture: Institutional co-ordination and institutional framework

The institutional and governance frameworks established to support policy implementation are a key aspect to secure results and impact. Hence, policy co-ordination is a crucial component of policy implementation. Effective co-ordination is hard to achieve and requires certain elements to be present in order to make it sustainable and suitable. However, while those elements may depend on each government's specific situation, co-ordination calls for three specific components: policy communication, stakeholder consultation and institutional co-operation:

- **A clear, simple, timely and efficient *communication*** to inform all stakeholders involved on policy implementation about policy objectives, its overall and specific benefits and implementation challenges. Communication is useful to raise policy awareness among public, private and social stakeholders. Policy communication is a constant process and should be conceived as a permanent component of the whole policy making process.
- Performing ***consultation*** to find out the opinion of relevant stakeholders and to integrate their inputs during the policy defining stage. Furthermore, the definition of cross-cutting policies should be carried out taking into consideration other central, sectoral and local policies, as well as the contributions of the stakeholders in charge of implementing them. The purpose is to find synergies between actors and policies in the open government ecosystem and to increase policy buy-in. The latter is useful to align institutional efforts, capture synergies and avoid duplication towards a better-co-ordinated and cost-effective policy implementation. Policy environment is not static but evolving. Thus, consultation should be also used to obtain feedback from stakeholders in order to adapt public policies and programmes when needed.
- **Willingness to *co-operate*** between institutions within and across levels of government. Co-operation is key to ensure effective co-ordination. This element is highly influenced by institutional policy awareness and buy-in, and it will depend on overcoming resistance to change, especially inside public institutions. The existence of high-level political support is key in this respect.

Figure 2.1. The Four C's for policy co-ordination



Source: OECD (forthcoming), *Public Governance Reviews: Open Government in Tunisia*, OECD Publishing, Paris.

- The first three elements are crucial to underpin **policy *co-ordination* towards an effective policy implementation.** Co-ordination is performed after stakeholders have been informed; their inputs have been taken into consideration; the best cost-efficient alternatives for policy implementation have been discussed and defined; and willingness to co-operate has been raised across stakeholders. Co-ordination is mandatory to implement concerted actions and achieve common objectives.

Based on these aspects, this section presents the results for the region, considering:

- **Who is involved?** Stakeholders who participate in policy definition, co-ordination and implementation
- **What is the purpose?** Objectives of the general open government strategy and common challenges
- **How do they co-ordinate?** Communication, consultation and co-operation, policy alignment and integration

Institutional leadership and co-ordination

Defining roles and responsibilities is essential for a better co-ordination. Policy makers and technicians might find a difficult environment for policy co-ordination and implementation if well-established institutional framework and clear roles are not available. Hence, co-ordination should be based, at least, on:

- The availability of clear and strong institutional leadership with enough capacities and resources to face policy requirements.
- The establishment of horizontal and vertical co-ordination and monitoring mechanisms offering spaces for policy discussion, ideas exchange and decision-making.

Strong institutional leadership and support are key elements to leverage open government programmes. In this regard, all LACs report having a specific institution in charge of policy co-ordination[8] and 10 of 11 countries (except Mexico) report the existence of specific institutions at the technical level responsible of implementing OG policies[9].

One should note that a clear institutional framework enables better policy implementation. Models can vary given the specific national context, but experience shows that having a body in charge of policy setting and co-ordination – supported in the implementation stage by additional units or institutions if necessary – may facilitate delivery of results. For instance, in Colombia, policy co-ordination and implementation roles are shared between different central government institutions. The Office of the Presidency in Colombia is mainly in

charge of policy co-ordination, while the Ministry of Information Technology and Communications (*Ministerio de Tecnologías de la Información y las Comunicaciones*, MinTIC), the National Planning Department (*Departamento Nacional de Planeación*), the Administrative Department of Civil Services (*Departamento Administrativo de la Función Pública*) and the National Agency of Public Procurement (*Colombia Compra Eficiente*) provide support in the implementation of policies. As mentioned in the analysis of the Colombian country case in Chapter 5, the technical support of these institutions is crucial to underpin the development of OG across the Colombian public sector.

A scenario involving multiple institutions balances institutional capacity issues *vis-à-vis* single-office policy scenarios where one institution is fully in charge of policy co-ordination, implementation and provision of technical support to institutions. This is especially risky if that single institution is not sufficiently empowered or staffed to carry on all these tasks. Being able to count on the required powers and position within the public sector, on a clear mandate and on sufficient human capital is essential if the strategic decision to merge all responsibilities in one institution is made.

LACs do not overlook institutional capacities issues. In fact, according to information received, the most important challenges for co-ordination are related precisely to these issues. On this subject, the lack of financial resources and human resources for the co-ordinating institution was identified as the most important challenge for co-ordination by nine and eight countries respectively[10]. Among LACs, three countries (Dominican Republic, Mexico and Paraguay) report the co-ordinating institution is mostly focused on open government subjects, but seven countries report open government subjects are a component of a wider institutional portfolio[11]. The latter creates an opportunity to foster the connection of the open government component within the framework of other policies but deeply challenges the capacities of the co-ordinating institution.

In addition, government administration or team changes may have some impacts on policy continuity and long-term sustainable implementation. Continuous human capital losses and changing political support are a constant threat across public institutions, especially when policies have not been institutionalised. The impact is even higher when there is a loss of human capital inside institutions responsible of policy co-ordination. Policy continuity is a common issue not only related to open government policies but to the policy making process in general. The experience of the OECD in the Latin American region has been useful to observe that Latin American public administrations may face continuous human capital loses within the institutions. Hence, LACs are challenged to ensure the co-ordinating institution's work will not merely focus on inter-institutional co-operation but also on building and strengthening their own internal human capital capacities.

Horizontal institutional co-ordination and multi-level governance

Co-ordination works on a horizontal and vertical manner. While LACs report successful practices regarding horizontal co-ordination (see Box 2.1), countries admit that the lack of incentives for institutions to co-operate, as well as the lack of policy links, may have a negative impact on policy implementation and dissemination across public institutions at the central and subnational levels.

In this respect, closer and stronger co-operation with the Judiciary and the Congress is needed across LACs. Formal co-ordination mechanisms with the Judiciary and the Congress are available only on four and three countries respectively[12]. For instance, in Costa Rica the central government worked in co-ordination with the Legislative Assembly in the preparation of a programme aimed to include OG as a subject in the 2014 legislative agenda. In Chile, the Parliament is working on developing an open Parliament initiative.

Regarding links with the Judiciary, in Peru, the Ministry of Justice is a member of the open government steering group. It is also a member of the national high-level anti-corruption commission. In Costa Rica, there is also high-level co-ordination between the Presidency of the Supreme Court of Justice (*Corte Suprema de Justicia*) and the Office of the Technical Secretary of Digital Government. The purpose of this co-operation is to develop an open government strategy for the Judiciary.

Box 2.1 The challenge of institutional co-ordination: Successful practices across LACs

The question of how to achieve an efficient horizontal co-ordination is always a component of the policy making process. Policy makers across countries are not only challenged to design evidence-based policies, but also to make them work. Latin American countries are not alone on this endeavour. Following the 2008 economic crisis, the role of the Centre of Government and its tasks are more important than ever (OECD, 2013). Quality decision-making, institutional leadership and effective policy implementation are crucial to fulfil policy objectives with fewer resources. An effective inter-institutional co-ordination plays a key role in this case.

LACs have been successful on making co-ordination work. Open government policies are intended to develop practices across the public sector and institutions should be willing to co-operate and support each other, especially when open government and open data policies are a new topic in the country. The existence of over-arching open government strategies in all LACs enables policy dissemination across public institutions, but the work done from the Centre is decisive for institutional buy-in. Among other countries, Colombia, Costa Rica, El Salvador and the Dominican Republic have been successful in implementing open government practices which have required high levels of inter-institutional co-ordination, especially when referring to data and information exchange.

Box 2.1 The challenge of institutional co-ordination: Successful practices across LACs *(Cont.)*

- In Costa Rica, the development of Mer-link *http://www.mer-link.co.cr/* as a public procurement online platform required strong institutional commitment. As further discussed on the Costa Rican country case in Chapter 6, Mer-link allows public bodies to buy and sell products and services on line. The Executive, the Legislative, the Judiciary, the Costa Rican Ombudsman (*Defensoría de los Habitantes*), the General Comptroller of the Republic and other public bodies at the regional level were involved on Mer-link's development process. This co-ordination was useful to agree on a shared, modern, efficient and more transparent public procurement model.
- In 2013, the Dominican Republic followed a process aiming to standardise institutional transparency portals across the Dominican government. As observed in other countries like Peru, this process was underpinned by a legal mandate from the central government. In order to support public bodies during the standardization process, the Dominican Directorate-General of Ethics and Government Integrity (*Dirección General de Ética e Integridad Gubernamental*, DIGEIG) trained more than 570 public officials in 58 courses on how to implement these new requirements. Continuous support was provided through permanent "Help Desks" (*Mesas de Ayuda*), receiving more than 200 requests from different public institutions. The DIGEIG also developed a follow-up and empowerment programme including specific activities to assess the standardisation progress across 70 public institutions.
- Launched in 2012, the Salvadoran portal "InfoÚtil" *http://infoutil.gobiernoabierto.gob.sv/* works as an information portal to citizens. The portal is fed with data from different public institutions based on citizens' needs of information and government's priorities for its release. Once citizens have filed information requests, the Salvadoran Secretariat of Citizen Participation, Transparency and Anti-corruption (*Secretaría de Participación Ciudadana, Transparencia y Anticorrupción*, SPCTA) contacts the Information Official (Oficiales de Informacion, OIS) of the public institutions managing the data requested. The purpose is not only to obtain and make information public, but also to train OIS on how to use the web platform in order to keep databases up-to-date. The SPCTA has also published a manual on transparency (*Manual de Transparencia Focalizada*) to support public institutions during the information disclosure process. The SPCTA works inpermanent co-ordination with several public institutions to feed the portal, such as the Consumer Protection Office, the Ministry of Education, the Ministry of the Interior, the National Civil Police, the National Institute of Civil Protection, and the National Directorate of Medicaments, among others.
- The Colombian E-Government Strategy (Estrategia de Gobierno en Línea) has required full institutional commitment of Colombian institutions since its creation by a presidential directive in 2000 (see case study of Colombia in Chapter 5). The strategy is led by the MinTIC in co-ordination with other institutions such as the National Department of Planning, and the Presidency of the Republic. In order to ensure the continuous evolution of the strategy, Colombian institutions are challenged to provide high-quality online services, including greater access to institutional information and datasets. As mentioned earlier, the role of the MinTIC has been key to provide support to Colombian institutions while implementing their own ministry e-government policies.

Source: 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 1 – Question 7.

Multi-level policy co-ordination is a widely known and discussed policy issue across OECD countries. Limited capacities and resources at the local level and other particularities such as geographic isolation or highly centralised national administration work as hazards for an effective policy implementation. LACs are working on improving policy- making by moving from a strong top-down approach to more balanced bottom-up co-operation. Decentralisation policies such as the ones being implemented in Peru are headed to address high centralisation issues. But the challenges are still there.

LACs are learning from their own achievements and challenges on the go, modifying the approach originally applied to their first Open Government Action Plan (OGAP). All LACs agree on the urgency of providing a more inclusive approach to the open government policy- making and to the OGAPs.

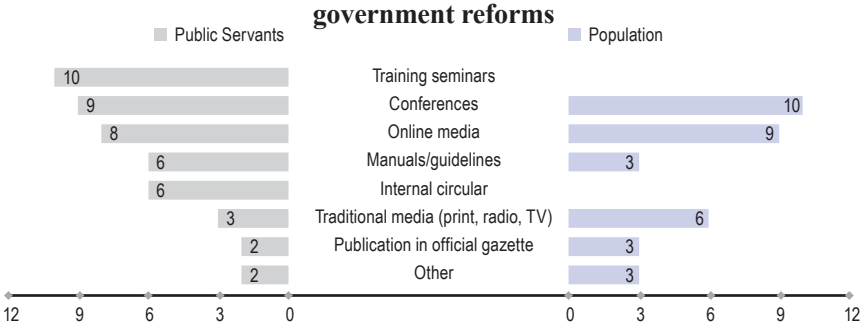
The presence of subnational governments in central OG co-ordinating forums is still limited. Only four out of 11 countries[13] report local levels of government are included during policy co-ordination meetings. Plainly, this lack of inclusion of subnational governments or their representative organisations on central co-ordination forums contradicts the general agreement of LACs related to improve multi-level governance for open government policies.

Nonetheless, the objective should not be to increase the number of members of the co-ordination fora, but to select key representatives that would allow the dissemination of decisions made towards a more co-ordinated and informed policy- making.

Communication and policy awareness

Together with conferences, training seminars are the communication mechanisms most used by LACs to inform public servants on OG reforms. In parallel, conferences and wide-range communication tools, such as online resources and the media, are preferred to inform the general population[14].

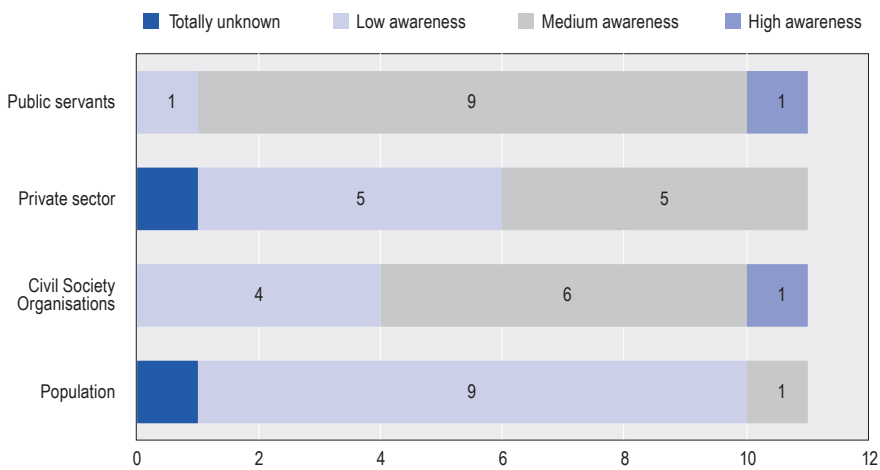
Figure 2.2. Communication mechanisms to inform on open government reforms



Source: 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 1 – Question 6.

LACs report mostly medium awareness levels among public servants[15]. But policy communication strategies might not be achieving the results expected. While seven countries inform of medium or high awareness levels among civil society organizations (CSO), the general population presents the lowest levels of awareness regarding OGP initiatives. The latter may be caused either by inefficient policy communication tools or low population interest and involvement that may create a lack of effective synergies (i.e. low population response to training events or workshops) between the government and the general population.

Figure 2.3. Stakeholder awareness of OGP initiatives



Source: 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 1 – Question 9.8.

Box 2.2 Communication to raise awareness

How to raise stakeholders' policy awareness is a key question policy makers should be reflecting on across LACs. Low policy awareness has a direct impact on policy efficiency especially when policies aim to increase stakeholders' participation and involvement. The debate around policy communication centres on who should communicate, how communication should be done and how to know if the message will be understood and will be able to increase stakeholders' interest.

The key challenge is to create a mental link between abstract concepts such as open government and state modernisation policies and the perception of stakeholders regarding their own role within the framework of those policies. Implementing clear and understandable

Box 2.2 Communication to raise awareness *(Cont.)*

inter-institutional and external communication strategies is crucial for building this link and increasing stakeholders' interest on getting involved and policy buy-in. OECD countries have been implementing communication strategies intended to mobilise citizens, businesses and civil organisations, as described below.

Germany

The German Federal Ministry of the Interior continuously provides information on projects being implemented within the framework of the "Modern State" initiative via the official websites. In addition, reform projects are showcased at regular intervals at the annual "Modern State Trade Fair" (Kongressmesse Moderner Staat) and at the CeBIT trade fair. The trade fairs and conferences have the purpose of providing the public, business and scientific communities and public administration with information. In doing so, services, concepts and strategies involving the modernisation of public administration and e-government are publicised and discussed using information and communication technologies (ICTs). At the same time, opportunities, options and risks are discussed with the public and the private sectors. This approach has made it possible to generate acceptance, build confidence and foster understanding of the federal government's accomplishments in the area of modernisation of public administration and ICTs over the years.

Spain

The general state administration in Spain seeks to include the private sector in the main actions influencing its current modernisation and improvement policies. Thus, in the area of e-government, an important milestone was the approval of the Law on Citizens' Electronic Access to Public Services in 2007. The law acknowledges the citizens' right to communicate with the Administration through electronic means, and various measures have been taken in this respect. Some of these measures are described in the Plan Avanza for the fostering of an information society, and in its revised version, Plan Avanza 2. Among others, these measures include collaborating with the private sector (for example, through agreements with telecommunications businesses) and involving citizens in service improvement (for example, through public awareness of the measures being carried out to promote e-government).

Spain is also focused on improving communication and collaboration with local businesses by sharing networks among administrations, sharing software, and fostering state investment in local e-government projects. To this end, the State Federation of Towns and Provinces is generally the mediator between the administration and the Higher Council on E-government, a unit that includes all different levels of the Administration: state, autonomous, and local governments.

Turkey

In Turkey, the Department of Public Relations of the Prime Ministry is responsible for assessing the impacts of government works through public opinion; assessing all sorts of written notices, complaints, proposals and requests sent by citizens to the Prime Ministry, and carrying out the necessary procedures to respond to them; and providing administrative

Box 2.2 Communication to raise awareness *(Cont.)*

consultancy to citizens about public duties and ensuring co-ordination on these issues among the institutions and ministries affiliated with the Prime Ministry.

In fulfilling the above-mentioned duties, the Department of Public Relations bases its actions on two main criteria for service delivery. The first is the government policy based on "further strengthening the ties between the government and society and responding to the requests and expectations of the people". The second is the Urgent Action Plan, which states that citizen-oriented approaches should be adopted in public service delivery.

The Department of Public Relations has accelerated its structuring stage and established "Call 150" lines in addition to letters, faxes and phones. Furthermore, this department established a "Prime Ministry Communication Centre" (BIMER), which provides the opportunity to fill, register and file all sorts of applications on line using modern communication tools and systems. The BIMER system, which was set up to ensure citizens-government communication and to provide services more effectively, quickly, efficiently and cost-effectively, has been in operation since 2006.

Source: OECD (2011a), The Call for Innovative and Open Government: An Overview of Country Initiatives, OECD Publishing, *http://dx.doi.org/10.1787/9789264107052-en Consultation*

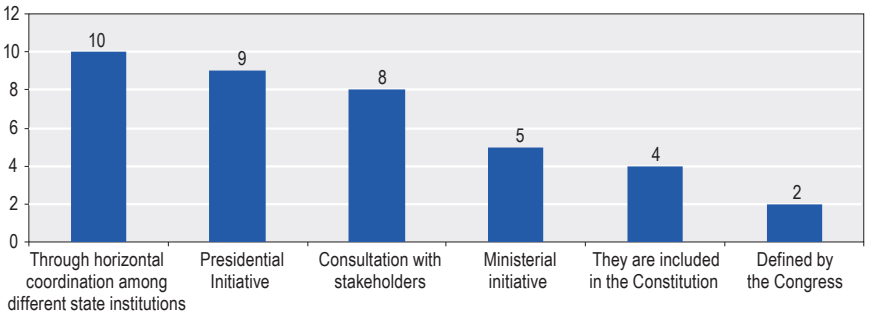
While GOGs priorities are almost the same across LACs, the processes to define these priorities are not. Aggregated results of the survey show that LACs usually follow horizontal institutional co-ordination processes, presidential initiatives and/or stakeholder consultation to define GOGs priorities (see Figure 2.4)[16]. However, particularities arise when information is disaggregated by country (see Annex A).

Eight out of 11 LACs carried out consultation processes to define GOGs priorities. Regarding the general open government strategy, Guatemala and Uruguay followed a strong top-down approach in order to define priorities, as none of these countries consulted stakeholders. In addition, only Colombia, and Guatemala report the Congress had some intervention on the GOGs priorities' definition stage, beside their role in the law-drafting process.

All of the countries that carried out consultation processes consulted non-governmental or civil society organisations (CSOs). However, data received shows evidence of existing gaps related to the range of the stakeholders consulted. For instance, chambers of commerce were consulted only by four LACs. There is consensus among LACs on the need of increasing the involvement and inputs of the civil society, the local governments and the private sector during forthcoming stages of their respective open government action plans[17].

In parallel, while CSOs are important sources of knowledge useful for an informed policy- making, citizens are being left behind in the consultation process.

Figure 2.4. How were strategy priority areas chosen?



Source: 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 1 – Question 1.5.

CSOs work as bridges between government and society, but governments should keep in mind the limitations of this mechanism since it might not represent all voices in society, thus limiting citizens' inclusion on policy definition.

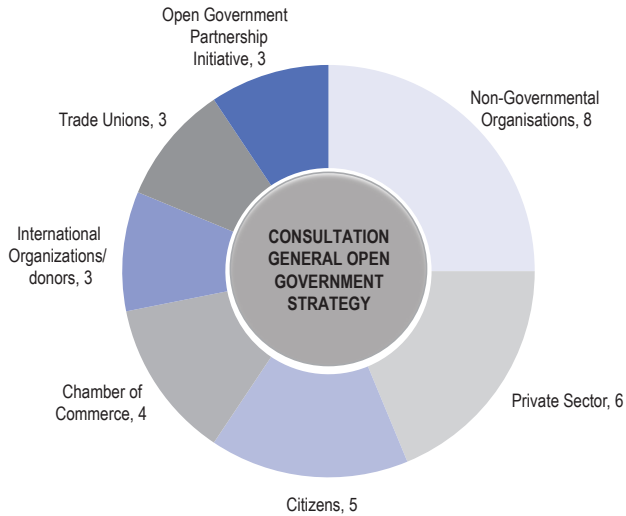
The challenge increases considering that, in some LACs, those private sector associations or CSOs who were consulted represent most of the organisations operating across their national territories. This could create a smokescreen of confidence regarding the need to perform direct consultations. For instance, as discussed in the Colombian country case (Chapter 5), in Colombia three CSOs were chose by over 60 organisations at the national and territorial levels to represent them in the OGP steering committee. Those three CSOs were actively involved during the Colombian OGAP definition process. A similar situation is observed in Peru where the three CSOs who are members of the open government steering group were selected by a group of CSOs. While these practices have ensured the involvement of organised society, this pyramidal structure may exclude other voices that might not be fully represented, especially at the local level.

In Peru, the open government steering group includes two private sector organisations, the National Conference of Private Bussiness Institutions (*Conferencia Nacional de Instituciones Empresariales Privadas*, CONFIEP) and the Lima Chamber of Commerce (*Cámara de Comercio de Lima*, CCL)[18]. On one hand, the CONFIEP is a group of private associations representing mostly business sub-groups (fishing, mining, commerce, etc.) and not micro and small enterprises (MSEs). On the other hand, the CCL represents around 80% of Peru's MSEs that are of major importance for the Peruvian economy. Nonetheless, being Peru a highly centralised country, most of these companies are located in the capital city, Lima. This mix leaves the representation and inputs of MSEs at the regional level.

Briefly, LACs face two key challenges regarding consultation:

1. Maintaining and strengthening the existent links with CSOs while keeping in mind the relevance of performing also direct government-citizen consultations – especially at the local level - as a valuable source of knowledge to ensure informed decision and policy making; and,
2. Increasing the involvement in policy making of the private sector and, specifically, of micro, small and medium enterprises which are key for employment and economic development in the Latin American region.

Figure 2.5. Stakeholders consulted to define GOGs priorities



Note: See Annex A for information by country.

Source: 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 1 – Question 1.6.

In some LACs the Centre of Government (CoG) is implementing activities aiming to obtain direct input from the population, especially at the local level. As observed in the Peruvian and the Chilean cases, the implementation of open government workshops at the subnational level evidences the increasing interests of LACs in carrying out direct consultation. Peru organised four regional workshops in early 2014 in order to get direct input from citizens outside Lima to the preparation of the Peruvian OGAP's second version. Chile

implemented a similar exercise with a "participative dialogue" approach in four Chilean cities (Antofagasta, Valparaiso, Valdivia and Punta Arenas).

The challenge in this point is clear: LACs should keep in mind that multi-level direct consultation mechanisms should not remain as one-time exercises. Nonetheless, the resources of the Centre of Government to perform continuous direct-consultation exercises at the subnational level may be limited. This breakpoint makes room for collaboration with NGOs' networks to be exploited. The objective is not to limit consultations to either CSOs or to citizens but to find an efficient balance between both mechanisms.

In addition, while social media and ICTs indeed play a key role in the consultation process by offering a cost-effective alternative, not all sectors in civil society may have access to Internet or to ICT tools such as computers and smartphones, or be willing to use these tools to interact with the government. LACs face the challenge of implementing modernisation and open government policies in a social environment that might be framed by strong social disparities, both in urban areas and across the countries. Hence, governments should ensure no social sector will be left behind in the process; and ICTs (in particular new technologies) should be considered as an additional and complementary tool in parallel to direct consultation, especially when targeting the younger generations.

Figure 2.6. Word Cloud: Which changes does your government consider necessary to implement for the definition of your second open government action plan?



Note: Letter size indicates number of times a specific word was mentioned by 11 LACs. Word cloud created with text provided by countries. Original text in Spanish.

Source: 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 1 – Question 9.6

Box 2.3. What tools to use for consultation?

Consultation is a two-way relationship between government and citizens. Governments can either passively receive unsolicited input from citizens, or else, actively seek it by inviting citizens to respond to their request.

Unsolicited feedback from citizens may contain valuable information for the government. For example, requests for information may reveal the need to adapt or redesign information activities. Suggestions might include useful propositions for consideration by policy makers. Complaints may point to necessary adjustments of public policies. **Tools supporting the use of unsolicited feedback are: "Letterboxes"** as entry points for suggestions and complaints; **Information management software packages** to ease data collection; and analytical reports to enable governments to make use of information. **Reports** may also be published to demonstrate the commitment of public administrations to transparency and accountability.

Governments obtain solicited feedback from citizens when they inform them about an issue and ask their opinion about it. **Tools to support solicited feedback include: Questioning, listening and reporting.** There is no feedback without questions**; Periods for comments and actions:** Using this tool, the government defines a period of time for receiving comments or appeals from citizens on a policy proposal or issue, such as the environmental impact of a planned activity; **Focus groups**: This tool gathers a group of citizens in one place for one day or a few hours, thus enabling governments to receive in-depth feedback from them; **Surveys:** With surveys, governments present a series of questions to citizens, collect their responses and analyse them. The results are used to set priorities for implementation; **Public Opinion Polls:** Established instruments for portraying opinions held by a population on a given issue at a certain moment in time. In order for them to deliver statistically valid results, public opinion polls follow a strict methodology, involving random samples, trained interviewers, and pre-tested questionnaires.

In contrast to receiving citizens' feedback**, the interaction in the consultation between government and citizens is more intensive.** Ad hoc consultation concerns a specific issue or tasks and is done over a limited amount of time. **Governments use the following tools for ad hoc consultation: Inclusion of individual citizens in consultative bodies:** Governments may ask individual citizens – such as experts or representatives of Civil Society Organisations – to join as members of review boards evaluating government policies or programmes; **Workshops, seminars, conferences:** These events enable the government to enter into a direct exchange with a group of citizens and representatives of interest groups. During workshops, seminars and conferences, the government may present information, ask participants to respond to it and then initiate an open discussion; **Public hearings:** Public hearings may be required in certain decision-making processes (such as under environmental impact assessments) or be established practice in policy making. They are open not only to specifically invited experts and laymen, but to all citizens who wish to attend. The discussion can explore the issue within a wider framework or focus on concrete policy proposals; **Non-binding referenda:** Non-binding referenda can be used for a concrete consultation of the entire population on a specific issue with a choice of answers. Binding referenda goes further and leaves the outcome of the decision itself directly in the hands of the citizens.

Box 2.3. What tools to use for consultation? *(Cont.)*

When governments want to consult citizens on a more steady and permanent basis, they use tools for ongoing consultation such as: Open hours: This tool offers citizens regular opportunities to meet and talk to decision makers; **Citizens' panels:** These panels are composed of citizens selected on the basis of a representative sample of the population. Governments regularly consult the citizens panel through surveys by post or telephone, interviews or workshops in order to obtain their reactions on several policy initiatives; **Advisory committees** are made up of representatives of public interest, who are appointed by government bodies, with the purpose of ensuring broad representation and providing a forum for ongoing consultation.

When choosing tools to receive feedback from and consult citizens on policy making, be sure to:

- **Announce there will be a consultation process:** For citizens to be able to voice their opinions in consultations, they should know about them. Governments need to openly inform the public of the what, when and where of the consultation before it starts.
- **Pay attention to selection procedures:** Who to select for consultation is not only crucial for the quality of answers received through this activity, but also for the effectiveness of consultation. If citizens and participants are not selected representatively, but are chosen because of their closeness to the government or its officials, then results will be flawed and the exercise may lead to mistrust rather than more trust in government. Setting, publishing and following clear rules and conducting a transparent selection process can help.
- **Ensure the use of the input:** If governments do not make use of the input obtained, and have not intended to from the very start, -the activity is of no use for strengthening government-citizen relations.
- **Consider delays:** Consultation exercises can be time-consuming, and may lead to opposition and delays in policy making. Clearly defined goals and limits of consultation as well as thorough planning can help.

Source: OECD (2001), *Citizens as Partners: OECD Handbook on Information, Consultation and Public Participation in Policy Making*, OECD Publishing, Paris. doi: *10.1787/9789264195578-en*

Notes

1. 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 1 – Question 1.
2. Ibid. Question 1.1.
3. Ibid. Question 1.7
4. Ibid. Question 1.4
5. Ibid. Question 1.1
6. Ibid. Question 1.7
7. Ibid. Question 2.1
8. Ibid. Question 3
9 Ibid. Question 3.6
10. Ibid. Question 4
11. Ibid. Question 3.1
12. Ibid. Questions 3.8 & 3.9
13. Ibid. Question 3.4
14. Ibid. Question 6
15. Ibid. Question 9.8

16. Ibid. Question 1.5

17. Ibid. Question 9.6

18. For more information, see the Peruvian country case.

Bibliography

OECD (2013), Questionnaire on the Implementation of Open Government Policies in Latin America.

OECD (2011a), *The Call for Innovative and Open Government: An Overview of Country Initiatives*, OECD Publishing, *http://dx.doi.org/10.1787/9789264107052-en.*

OECD (2001), *Citizens as Partners: OECD Handbook on Information, Consultation and Public Participation in Policy Making*, OECD Publishing, Paris, *http://dx.doi.org/10.1787/9789264195578-en*.

Transparency International (TI) (2012), *Annual Report 2012: Corruption Perception Index.* Available on: *http://www.transparency.org/annualreport/2012*.

ANNEX 2A.1.

Open government policy and strategy co-ordination

Question 1.5. How were general OG strategy priority areas chosen?

	They are included in the Constitution	Presidential Initiative	Ministry initiative	Defined by the Congress	Through horizontal co-ordination among different state institutions	Consultation with stakeholders
BRAZIL	-	●	●	-	●	●
CHILE	-	●	●	-	●	●
COLOMBIA	●	●	-	●	●	●
COSTA RICA	●	●	●	-	●	●
EL SALVADOR	-	●	-	-	●	●
GUATEMALA	-	●	-	●	-	-
MEXICO	●	●	-	-	●	-
PARAGUAY	-	●	●	-	●	●
PERU	-	-	-	-	●	●
DOMINICAN REPUBLIC	●	-	-	-	●	●
URUGUAY	-	●	●	-	●	-

Question 1.6. Which stakeholders were consulted to define GOG (general open government) priorities?

	Citizens	International Organizations and/or donors	Non-Governmental Organisations	Trade Unions	Chamber of Commerce	Private Sector	Open Government Partnership Initiative
COLOMBIA	●	●	●	-	●	●	-
COSTA RICA	●	-	●	-	●	●	●
GUATEMALA	-	-	-	-	-	-	-
DOMINICAN REPUBLIC	●	●	●	●	●	●	-
MEXICO	-	-	-	-	-	-	-
PERU	-	-	●	-	●	-	●
CHILE	-	-	●	-	-	-	-
URUGUAY	-	-	-	-	-	-	-
BRAZIL	●	-	●	-	-	●	-
EL SALVADOR	-	●	●	●	-	●	-
PARAGUAY	●	-	●	-	-	●	●

Question 2. In which policy areas is your country already implementing open government policies?

	Access to information and open data	Information and communication technologies	Integrity and anti-corruption	Citizens' participation	Other
BRAZIL	●	●	○	○	○
CHILE	○	○	○	○	○
COLOMBIA	●	●	●	●	●
COSTA RICA	●	●	●	●	●
EL SALVADOR	●	●	●	●	●
GUATEMALA	●	○	○	●	○
MEXICO	●	●	●	●	○
PARAGUAY	●	●	●	●	●
PERU	○	○	○	○	○
DOMINICAN REPUBLIC	●	●	●	●	●
URUGUAY	●	●	●	●	○

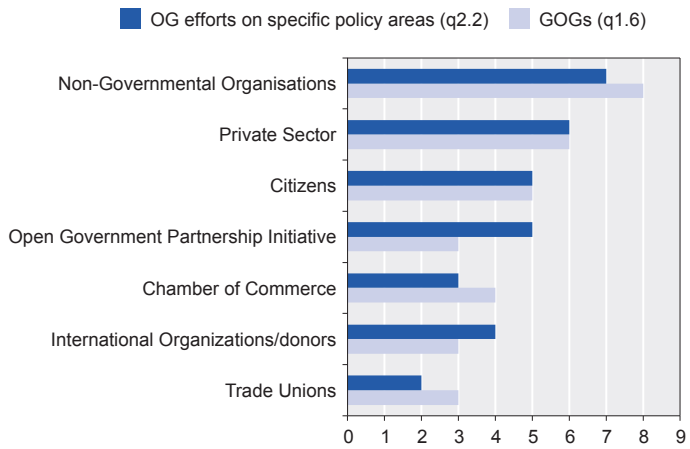
● Yes

○ No

Question 2.1. How were policy areas chosen?

	They are included in the Constitution	Presidential Initiative	Ministry Initiative	Defined by the Congress	Through horizontal co-ordination among different State institutions	Consultation with stakeholders
Brazil	-	-	●	-	●	●
Chile	-	-	-	-	-	-
Colombia	●	●	●	●	●	●
Costa Rica	●	●	●	-	●	●
Dominican Republic	●	-	-	-	●	●
Guatemala	-	●	-	●	-	-
Mexico	-	●	●	-	-	●
Paraguay	-	●	●	●	●	-
Peru	-	-	-	-	-	-
Salvador	-	-	-	-	●	●
Uruguay	●	●	●	●	●	●

Question 2.2. Which stakeholders were consulted to define these policy areas?



Question 8.8. The funds allocated to open government projects are managed by?

- In Mexico, Brazil and El Salvador, project funds are managed directly by line ministries. In eight countries funds are allocated by project and managed by the institution responsible of implementation (q8).



Chapter 3

Access to public information in Latin America

This chapter analyses legal, institutional and policy frameworks for access to public information in Latin America. After introducing key concepts such as Public Sector Information (PSI), open data and big data, the chapter presents the results of the OECD Regional Survey on Open Government in Latin America looking at the institutions responsible for disclosing information, exemptions limiting access to information as well as the functions and benefits of centralised, sectoral and ministry information portals in eleven Latin American countries. The chapter emphasises that "freedom of information" laws are widespread in Latin America. However, it also underlines that these laws often lack effective implementation.

The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

Introduction

Open government involves a wide range of elements. Experts across OECD countries are still discussing the meaning of key concepts such as Public Sector Information (PSI), open data and big data (see Box 3.1). Understanding and agreeing on the meaning of these key concepts is decisive to develop effective policies and to provide clear guidelines supporting public officials' work.

Public sector information is public property. While granting and facilitating access to public information is a basic responsibility of democratic governments, public information openness and right of access to it is a basic right of societies. Access to PSI is to be considered a key element of good governance as much as transparency and accountability, anti-corruption, public integrity, etc.

Box 3.1. Open government: Some key concepts

Public Sector Information (PSI)

For the purposes of the OECD Recommendation of the Council for Enhanced Access and More Effective Use of Public Sector Information (PSI) (OECD, 2008), the latter is broadly defined as "information, including information products and services, generated, created, collected, processed, preserved, maintained, disseminated, or funded by or for a government or public institution", taking into account the legal requirements and restrictions referred to in the last paragraph of the Recommendation's preamble.

Open government data (OGD)

The term "open government data" (OGD) has stood out relatively recently, becoming popular in 2008 after the publication of a set of open government data principles by advocates in the United States. The two main elements of OGD are normally defined as follows: (a) *Government data*: any data and information produced or commissioned by public bodies; and (b) *Open data*: data that can be freely used, re-used and distributed by anyone, only, and at the most, subject to the users' requirements and provided that they make their work available to be shared.

Public datasets being considered as references for analysis concerning OGD initiatives include: Business information (i.e., Chamber of Commerce information, official matters); registers, patent and trademark information and public tender databases; geographic information (i.e., address information, aerial photos, buildings, cadastral information, geodetic networks, geology, hydrographical data and topographic information); legal information (i.e., national, foreign and international courts' decisions, national legislation and treaties); meteorological information (i.e., climate data and models and weather forecasts); social data (i.e., various types of statistics on economics, employment, health, population, public administration); transport information (i.e., information on traffic congestion, roadworks, public transport and vehicle registration).

Box 3.1. Open government: Some key concepts *(Cont.)*

Well into the 2000s, the concept of open government among public officials was still centred on fresh disclosures, rather than improved access to data that was already in the public domain. In the past decade there has been a shift from a commitment mainly focusing on open government's goals of higher transparency and public accountability to an increasing pledge to OGD with an agenda strongly driven also by innovation, efficiency and flexibility in government. To date, governments, civil society organisations and private sector representatives, consider OGD to be a building block for open government, a key enabler of improved service delivery, transparency and public engagement, and a result of better relationships between governments and citizens.

Big Data

Governments are no exception in the modern world tendency to generate a staggering amount of data and larger datasets. Across the public sector, extraordinary quantities of data are amassed in the course of delivering public services, from managing welfare payments and national health services through issuing passports and driving licences.4 While economic and social activities have long revolved around the use of data, the significant volume, velocity and variety of data increasingly used in the economy as a whole, and the important social and economic value of this data, signal a shift towards a data-driven socio-economic model, commonly referred to as "big data". In this model, data are a core asset for creating significant competitive advantages and for driving innovation, sustainable growth and development.

"Big data" is a collection of datasets so large and complex that it hinders the use of on-hand database management tools, or traditional data processing applications, for their processing, including capturing, storage, search, sharing, transfer, analysis, and visualization. The trend towards having and dealing with larger datasets produced by different actors is also due to the additional information derivable from the analysis of a single large set of related data, as compared to separate smaller sets with the same total amount of data, allowing to find correlations that help spot business trends, determine quality of research, prevent diseases, link legal citations, combat crime, and determine real-time roadway traffic conditions.

Source: Text from Ubaldi, B. (2013), "Open Government Data: Towards Empirical Analysis of Open Government Data Initiatives", OECD Working Papers on Public Governance, No. 22, OECD Publishing, Paris.

Open government is a two-element policy: On one hand, there should be governments willing to be more open, transparent and accountable and, on the other, there should be societies willing to know more about their government's activities and to actively engage in them. If one of these elements is missing, openness would be either unachievable or won't lead to the desired benefits.

Access to public information requires, first, its recognition as a constitutional right and, second, the definition of clear regulations that elaborate

on the subject. The drafting of laws on transparency, privacy protection and data security is crucial to define which data and information should be released and which not – and the arguments justifying the exclusion –, where it will be available, and, more important, which will be the responsibilities of public institutions and public officials in charge of executing the law, e.g. making data and information available and processing data and information requests. While doing so, governments should also be aware of the potential risks of creating regulatory red tape as it might discourage the general population to exercise their rights.

Once regulations have been created, governments and institutions have to decide where information will be available and how they will make it accessible. The use of ICT tools and platforms such as social media and online portals are complementary mechanisms useful to ease information access and to build a closer citizen-government relationship. While capturing the opportunities created by technology to facilitate access to public information, governments will face institutional and technical challenges, among others.

Latin American policy makers should be able to find the most cost-effective alternatives to make information publicly available, exploiting the opportunities and benefits provided by ICTs. While doing so, a comprehensive and inclusive approach should be maintained to ensure access of all population sectors to PSI and OGD, not only through technologic platforms but also through other access channels. Access to public information, open government (OG) and OGD should be implemented in parallel to programmes headed to increasing the population's access to ICTs, but the social advantages of regular access channels, such as *in-situ* printed requests or phone inquiries, should not be disregarded.

Sharing information and data, as well as ensuring their quality and the creation of monitoring and control mechanisms, are also some of the topics that governments will address while working on creating a more open government.

Based on these aspects, the report presents the results for the region considering:

- **Who is disclosing information?** Central and subnational institutions involved on policy implementation
- **What has been achieved?** Laws and regulations available across the region
- **What is being done?** Information publicly available and exemptions limiting access to information
- **Where is information available?** Centralised, sectoral and ministry information portals

Box 3.2. What elements should be included in the relevant legal framework?

Legal elements of information

Information is the basis for strengthening government-citizens relationships. Countries vary widely in terms of laws on citizen's access to information (often called freedom of information laws or FOI laws). Sweden introduced its first laws on this subject as early as 1766. Finland, in 1951, was the first country to adopt modern legislation on the subject. The U.S. followed in 1966 with the Freedom of Information Act. After a sharp rise from 1980 to 2001, now four out of five OECD countries have legislation on this subject. Austria, the Netherlands, Hungary and Poland have enshrined citizens' right to access information in their constitutions. Additional provisions enhancing access to information are included in laws in areas such as environment, consumer protection and health.

In designing these laws, all countries face a double challenge: Balancing the right of access to information with the individual right to privacy, as well as with the need to protect confidential information which, if disclosed, would harm public interest. This is why access to information is best embedded in a comprehensive framework inclusive of: sound legislation, clear institutional mechanisms, and an independent judiciary for enforcement. When designing or reviewing laws on information access for citizens, it is advisable to keep the following aspects in mind.

Define what information is accessible to citizens:

- What basic principle
- What exemptions:
- Whose information
- What format
- What privacy and data protection

Define how the information can be accessed and/or received:

- How to request access
- How to submit and appeal a refusal
- What to actively publish
- What languages
- What maximum response time

Policy elements of information

Policies on access to information underpin legal rights. They ensure that citizens receive the information sought. They may also prescribe the active dissemination of information to

Box 3.2. What elements should be included in the relevant legal framework? *(Cont.)*

citizens. For policies on providing information actively or upon request, countries should clarify:

- What practical response time
- Whether or how much to charge
- How to deal with informal requests
- How to manage information
- How to actively disseminate information
- How to present information
- How to handle general contacts with citizens

Institutional elements of information

Institutions responsible of enforcing the law on access to information are responsible for ensuring that the tasks get fulfilled in the way foreseen by law. They either implement the provision of information, or they control and enforce it. When setting up or reviewing the institutional elements of information, consider:

- Who does the job
- Who co-ordinates
- Who oversees, controls and enforces

Source: OECD (2001), Citizens as Partners: OECD Handbook on Information, Consultation and Public Participation in Policy Making, OECD Publishing, Paris, doi: *10.1787/9789264195578-en*.

Legal framework on access to information and transparency among LACs

Despite the fact that OGP has played an important role in fostering open government policies and laws in Latin America, LACs were already working on building a stronger legal framework. By 2011, Freedom of Information laws (FOI) were already available in eight out of 11 LACs. The most recent FOI is the Colombian information law, which entered into force in 2014. Additionally, by September 2014, draft legislation on access to public information was being examined by the legislative body of Costa Rica[1,2] (see Figure 3.1). It is against this scenario that the OGP contributed to fostering open government reforms and further leveraging access to information in the region.

The availability of constitutional rights and laws on access to information and transparency (FOI) is close to being standardised among LACs. With the exemptions of El Salvador and Uruguay, nine out of 11 countries have included provisions ensuring access to information in their Constitutions (see Table 3.1).

The inclusion of access to information and transparency in the supreme law seeks to ensure these rights apply to everyone and everywhere within each country's national territory. In addition, the wide social and cultural diversity in Latin America makes it mandatory to ensure that laws and regulations are also accessible to all social groups. For example, in Guatemala the FOI is currently available in 20 different indigenous languages.

Table 3.1. Availability of laws on access to information and transparency among LACs

	Information access/ Transparency provisions included in Constitution	Law on Information Access	Law on Transparency and Access to Information	Year of entry into force of FOI
MEXICO	◉	-	●	2002
PERU	◉	-	●	2002
DOMINICAN REPUBLIC	◉	●	-	2004
GUATEMALA	◉	●	-	2008
CHILE	◉	-	●	2008
URUGUAY	-	●	-	2008
BRAZIL	◉	●	-	2011
EL SALVADOR	-	●	-	2011
COLOMBIA	◉	-	●	2014
COSTA RICA	◉	-	◖	-
PARAGUAY	◉	-	●	2014

●	Law is available
◖	Law is under discussion and not yet into force (by September 2014)
◉	Information access/Transparency provisions included in Constitution

Note: Countries listed by earliest date of entry into force of FOI.

Source: 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 2 – Question 1.1.

FOIs' provisions should be observed not only at the central level of government but also at the subnational level. In this respect, among LACs, different government frameworks (i.e., unitary and federal states) might play a key role on how policies and regulations are implemented, how law provisions are enforced and what is the role of local governments in this process.

While unitary governments could have a more centralised approach to policy implementation, federal governments may leave part of the decisions on implementation and rule making in the hands of local governments. In some cases (i.e., Mexico), local governments might be challenged not only to

Figure 3.1. Availability of laws on access to information and transparency among LACs



Notes: This map is for illustrative purposes and is without prejudice to the status of or sovereignty over any territory covered by this map.

(a) Law on access to information and transparency is available: *Mexico, Paraguay, Colombia and Peru*

(b) Law on access to information is available: *Guatemala, El Salvador, Dominican Republic, Brazil, Uruguay and Chile*

(c) Law is not yet available or it is under discussion: *Costa Rica*

Source: 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 2 – Question 1.1.

implement central policies but to adapt and amend their own legal frameworks in order to better co-ordinate with the Centre and to fulfil their responsibilities.

Government arrangements should not limit policy implementation and law compliance at the central and local levels. In all LACs, freedom of information laws (FOI) should be implemented by both national and subnational levels of government and by all public institutions, including the Legislative, the Executive and the Judiciary[3]. Nonetheless, it is worth considering again how relevant it is to establish adequate mechanisms to ensure law compliance. As mentioned earlier, formal co-ordination mechanisms with the Judiciary and the Congress are available only in four and three LACs respectively. Hence, efforts to ensure full involvement and co-operation of the Legislative and the Judiciary seem weak across the Latin American region. If we bear in mind that only 16 OECD countries included those two government branches in their FOI, the issue of strengthening links with them becomes a common challenge for LACs and OECD countries.

But access to public information is not limited to public institutions. Specific business arrangements, such as public-private partnerships, and the management and use of public funds by private entities make it mandatory for governments to establish transparency mechanisms to allow public scrutiny in order to ensure the correct use of those funds. In the case of private institutions managing public funds, eight countries report private actors as compelled by law. Chile and Mexico are still working on this issue. In Mexico, the Constitution was reformed in 2014 to establish that any information kept by private subjects managing public funds is, indeed, public. However, these reforms require the Mexican Congress to further amend or develop the national legal framework on access to information. In Chile, despite the fact that the FOI only defines public entities as liable subjects, the Chilean Council of Transparency (*Consejo de Transparencia de Chile*) has established that non-public organisations (a) created mainly by public bodies, (b) managed and control by public officials or by managers appointed by them, and (c) which perform activities related to public administration, should abide by FOI legal provisions. These specifications do not include any references to public funds and they are restrictive on the range of private subjects compelled by law.

In Uruguay, private actors are not required by law to submit information on the use of public resources and no current efforts were reported[4]. Only 18 OECD countries report the inclusion of private entities managing public funds in their FOI (OECD, 2011b); similarly, LACs face the challenge of ensuring transparency in the use of public funds regardless of the nature of the entity (public or not) in charge of managing those resources. This is of critical importance to increase public trust in government across LACs.

In general, LACs have made great progress in defining a legal framework on access to information, but further work is still required. The absence of

specific public bodies in charge of law compliance and enforcement is one of the most important challenges LACs may face to ensure efficient law enforcement. Institutions in charge of OG and OGD policy co-ordination and implementation will encounter implementation barriers as long as a more clear institutional framework ensuring full law compliance is not in place. In some LACs and OECD countries, specific public bodies have been created to assume responsibility for monitoring and ensuring that public entities will fulfil their responsibilities (see Box 3.3).

Recent examples are the efforts on public transparency being implemented by Spain within the framework of a wide public administration reform in process in the country. In 2013 the Spanish Senate approved Spanish Law for Transparency, Access to Public Information and Good Governance. The law created a Council for Transparency and Good Government as a guarantor of the law (OECD, 2014). While the Spanish government still needs to work further in order to ensure the Council's institutional capacities and efficiency, the Spanish case illustrates the relevance of simultaneously developing a) a strong legal framework on transparency and access to information and b) an institutional framework able to sustain transparency and open government policies, law compliance, enforcement and empowerment to apply the proper sanctions when needed.

Box 3.3. Examples of bodies that monitor transparency laws: Chile and the United States

United States

In the United States, the Office of Government Information Services (OGIS), known as the Federal FOIA ombudsman was created within the National Archives and Records Administration (NARA). The OGIS was established when the Open Government Act of 2007 amended the Freedom of Information law and is responsible for:

- Mediating disputes. It offers mediation services to resolve disputes between persons making FOIA requests and agencies (non-exclusive alternative to litigation). May issue advisory opinions if mediation has not resolved the issue.
- Serving as ombudsman. It solicits and receives comments and questions from federal agencies and the public regarding the administration of FOIA, in order to improve FOIA processes and facilitate communication between agencies and FOIA requestors.
- Providing dispute resolution training for the FOIA staff of federal agencies, working closely with key FOIA stakeholders such as the requestor, community and open government advocates, etc.

The NARA is seen as an independent arbitrator detached from the White House. According to its statute, the NARA shall be an independent establishment in the Executive branch of the government, administered under the supervision and direction of the Archivist. The Archivist

Box 3.3. Examples of bodies that monitor transparency laws: Chile and the United States *(Cont.)*

of the United States shall be appointed by the President, with the advice and consent of the Senate. The Archivist shall be appointed without regard to political affiliations and solely on the bases of the professional qualifications required to perform the duties and responsibilities of the office of the Archivist. The Archivist may be removed from office by the President. The President shall communicate the reasons for any such removal to each House of the Congress.

Chile

The Council for Transparency is an autonomous public body with its own legal personality, created by the Law on Transparency of Public Service and Access to Information of the State's Administration. Its main task is to ensure proper enforcement of the law, which was enacted on 20 August 2008 and became effective on 20 April 2009.

The boards' direction falls under four designated counsellors appointed by the President, with the agreement of the Senate, adopted by two-thirds of its members. The board is entrusted with the management and administration of the Council for Transparency.

The counsellors serve six years in office, may apply only for one additional period and may be removed by the Supreme Court at the request of the President or the Chamber of Deputies. The council has the main following functions:

- Monitoring compliance with the provisions of the Law on Transparency and apply sanctions in case of infringements of them
- Solving challenges for denial of access to information
- Promoting transparency in the public service by advertising information from the State's Administration bodies
- Issuing general instructions for the enforcement of legislation on transparency and access to information by the bodies of the State's Administration, and requiring them to adjust their procedures and systems to such legislation
- Making recommendations to the bodies of the State Administration aimed at improving the transparency of their management and to facilitate access to the information they possess
- Submitting to the President and to the Congress, where appropriate, rules, instructions and other regulatory improvements to ensure transparency and access to information
- Training, directly or through third parties, public officials in matters of transparency and access to information containing statistics and reports on transparency and access to information of the organs of the State's Administration and compliance of this law.

Source: OECD (2014), *Spain: From Administrative Reform to Continuous Improvement*, OECD Public Governance Reviews, OECD Publishing, Paris, *http://dx.doi.org/10.1787/9789264210592-en*.

Table 3.2. OECD Countries: Breadth of central government freedom of information laws (2010)

Level of government		Total OECD countries
Central	31	Australia, Austria, Belgium, Canada, Chile, Czech Republic, Denmark, Estonia, Finland, France, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Russian Federation, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom and United States.
Subnational	25	Austria, Belgium, Chile, Czech Republic, Denmark, Estonia, Finland, France, Hungary, Iceland, Ireland, Israel, Italy, Korea, Netherlands, New Zealand, Norway, Poland, Portugal, Russian Federation, Slovak Republic, Slovenia, Spain, Sweden, Turkey, Ukraine and United Kingdom.
Branches of power at the central level		
Executive	31	Australia, Austria, Belgium, Canada, Chile, Czech Republic, Denmark, Estonia, Finland, France, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Russian Federation, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom and United States.
Legislative	16	Belgium, Chile, Estonia, Finland, Hungary, Ireland, Israel, Italy, Korea, Mexico, Poland, Russian Federation, Slovak Republic, Slovenia, Sweden, Turkey, Ukraine and United Kingdom.
Judiciary	16	Australia, Belgium, Chile, Estonia, Finland, France, Hungary, Israel, Italy, Korea, Mexico, Norway, Poland, Russian Federation, Slovak Republic, Slovenia, Sweden and Ukraine.
Other bodies		
Private entities managing public funds	18	Australia, Belgium, Czech Republic, Estonia, Finland, France, Hungary, Iceland, Italy, Korea, Netherlands, Poland, Portugal, Slovak Republic, Sweden, Switzerland, Turkey, Ukraine and United Kingdom.

Data are not available for Germany and Greece. Luxembourg is currently drafting a law on access to information and is not included in the table. The Russian Federation and Ukraine are not included in the totals.

The Italian FOI law applies only to administrative acts and does not refer to legislative acts. According to the Italian system, all legislative acts are published on the *Gazzetta Ufficiale* (freely available on line). Also preliminary legislative acts, as well judgements and judicial acts, are available on line.

Source: OECD, *Government at a Glance 2011*. Information based on results obtained from the OECD 2010 Open Government Survey.

Depth of central government freedom of information laws

Virtually, none of the LACs report restrictions on which legal persons are allowed to file requests of information and, usually, requestors are asked only to provide name, address and an official identification document when seeking

information *in-situ*. The only exception for this common practice is Colombia, where requestors are not asked to provide any personal information or to submit any official ID, which encourages individuals to access PSI. The antagonism between both examples illustrates how regulatory particularities may have either a negative or positive impact on access to public information and transparency.

The requirement to provide personal information may discourage citizens to file information requests. Although in practice the Colombian case could illustrate the possibility to file anonymous requests, these are not legally allowed in any LAC[5]. While online requests may offer requestors the possibility to anonymously access public information (for instance, by providing false personal data), it is important to include provisions that enable and support this mechanism in FOI laws.

LACs could further work in this respect. Countries should target reducing discouraging factors, such as the mandatory provision of personal information. In parallel, LACs may specify exceptions to the possibility of filing anonymous requests (for instance, when requesting access to sensitive data such as crime records or partial access to excluded information such as national defence).

Exceptions to access public information

In most LACs, the right to access public information is warranted by the FOI and the national supreme law. In other words, legally, all individuals with no distinctions should have access to public information. However, granting access to public information needs to specify and to take into account exceptions and exclusions. Hence, governments should ensure a balance between access to information and the protection of basic rights or guarantees such as personal and private data or information on national security.

In line with the above, while the principle of maximum disclosure of information[6] (see Box 3.4) is included in all FOIs across LACs, countries have specified exceptions to protect information considered private or sensitive (See Table 3.3).

Class tests and harm tests are two common ways to exempt information. Under class tests, any information that falls within a certain category (such as national security) can be denied. Under harm tests, the government can deny a request for information on the basis that disclosure would cause potential prejudice; for example, to an individual or harm to the defence of the state (the two most commonly used harm tests). Exemptions to FOI requests can be either mandatory (public entity is required to withhold the information) or discretionary (public entities can use their judgement to withhold or disclose information) (OECD, 2011).

Box 3.4. Principle of maximum disclosure of information

The principle of maximum disclosure establishes a presumption that all information held by public bodies should be subject to disclosure and that this presumption may be overcome only in very limited circumstances (see Principle 4). This principle encapsulates the basic rationale underlying the very concept of freedom of information and ideally it should be provided for in the Constitution to make it clear that access to official information is a basic right. The goal of specific legislations should be to implement to overall right and grant maximum disclosure in practice.

Public bodies have an obligation to disclose information and every member of the public has a corresponding right to receive information. Everyone present in the territory of the country should benefit from this right. The exercise of this right should not require individuals to demonstrate a specific interest in the information. Where a public authority seeks to deny access to information, it should bear the onus of justifying the refusal at each stage of the proceedings. In other words, the public authority must show that the information it wishes to withhold comes within the scope of the limited regime of exceptions, as detailed below.

Source: Text from Article 19 (1999), The Public's Right to Know: Principles on Freedom of Information Legislation; International Standards Series; London, June 1999. Available on: *http://www.article19.org/data/files/pdfs/standards/righttoknow.pdf*

Personal data and national security class tests are subject to mandatory exemptions in 10 out of 11 countries. Indeed, countries like Colombia, Costa Rica, Mexico and Peru have drafted additional secondary laws to reinforce personal or private commercial data protection[7,8].

Generally speaking, as observed in Table 3.3, discretionary exceptions are not the common trend across LACs when referring to class tests. Considering the six main class-tests included in this report (see Table 3.3) and the 11 countries reporting information, 69% of class-tests are of mandatory exception and discretion is only permitted in 16% of the cases. As a matter of fact, this trend is opposite to that shown in OECD countries, where 32% of class-tests are of mandatory exception and discretion is permitted in 51% of cases (see Table 3.4). The difference is remarkable regarding national security information and personal data: While 91% of LACs have specified mandatory exemptions for both classes, mandatory and discretionary exemptions are almost equally divided across OECD countries (see Table 3.4). In general terms (not including Paraguay), only Brazil, Costa Rica and Colombia allow the use of ministry discretion to override exempted information[9].

Some LACs have also included harm tests (HTs) in their FOI. Also, HTs are mostly specified as mandatory exemptions. One should note the differences between class and harm tests regarding individuals (personal data and harm to persons). While all LACs have included provisions on private data class tests in their FOI, harm to persons is not considered in three FOI[10]. Among OECD countries, only two out of 31 countries did not include this harm test in their transparency laws.

Although the scope of this section is limited to analysing transparency laws, FOI regulations on their own are not enough to protect data. While laws on protection of private data have entered into force in countries like Peru, Colombia, Uruguay and Brazil, the risks associated to data management (i.e., illegal use or sale of data by public officials and private institutions, *phishing*, etc.) require the implementation of mechanisms and identification of public bodies devoted to law enforcement and compliance.

Table 3.3. Class and harm tests referenced in FOI applied to exempt information from freedom of information requests across LACs oss LACs

	Class Test						Harm Test			
	National security	Personal data	Commercial confidentiality	Law enforcement and public order information received in confidence	Internal discussions	Health and safety	Harm to commercial competitiveness	Harm to law enforcement agencies	Harm to persons	Harm to the economic interests of the State
Brazil	⦿	●	●	●	⦿	●	●	●	●	●
Chile	●	●	●	●	●	●	●	●	●	●
Colombia	●	⦿	⦿	●	○	⦿	●	●	●	●
Costa Rica	●	●	⦿	●	○	●	⦿	●	○	○
Dominican Republic	●	●	●	●	⦿	●	●	●	●	●
Guatemala	●	●	○	○	○	○	○	n.a	○	○
Mexico	●	●	●	●	●	●	⦿	⦿	⦿	⦿
Paraguay	●	●	○	⦿	⦿	⦿	○	⦿	○	n.a.
Peru	●	●	●	●	●	●	●	●	●	●
Salvador	●	●	●	●	●	●	●	●	●	○
Uruguay	●	●	●	n.a.	n.a.	n.a.	●	n.a.	●	●
● Mandatory	10	10	7	8	4	7	7	7	7	6
⦿ Discretionary	1	1	2	1	3	2	2	2	1	1
○ Not applicable	0	0	2	1	3	1	2	0	3	3
n.a. Information not available										

Source: 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 2 – Questions 3.4 and 3.5.

Table 3.4. OECD Countries: Class and harm tests referenced in FOI applied to exempt information from freedom of information requests

	Class test						Harm test			
	National security	Personal data	Commercial confidentiality	Law enforcement and public order information received in confidence	Internal discussions	Health and safety	Harm to commercial competitiveness	Harm to law enforcement agencies	Harm to persons	Harm to the economic interests of the State
Australia	⊙	○	⊙	⊙	○	○	⊙	⊙	⊙	⊙
Austria	●	●	●	○	○	●	○	○	●	●
Belgium	●	○	○	○	○	○	●	○	●	●
Canada	⊙	●	●	⊙	⊙	○	●	⊙	⊙	⊙
Chile	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙
Czech Republic	●	●	●	●	⊙	⊙	●	●	●	●
Denmark	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙
Estonia	●	●	●	●	⊙	●	●	●	●	○
Finland	⊙	⊙	⊙	⊙	○	⊙	⊙	⊙	⊙	⊙
France	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙
Hungary	●	●	○	●	○	○	○	○	○	○
Iceland	●	●	●	○	⊙	⊙	●	○	●	●
Ireland	●	●	⊙	●	⊙	●	●	●	●	⊙
Israel	●	●	⊙	⊙	⊙	○	⊙	⊙	●	○
Italy	●	⊙	⊙	●	⊙	●	⊙	●	⊙	●
Japan	⊙	⊙	⊙	⊙	⊙	⊙	●	●	●	●
Korea	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙
Mexico	⊙	●	⊙	⊙	⊙	⊙	⊙	⊙	●	●
Netherlands	●	●	●	○	⊙	○	⊙	⊙	⊙	⊙
New Zealand	○	○	○	○	○	○	⊙	⊙	⊙	⊙
Norway	⊙	●	●	⊙	⊙	⊙	●	⊙	⊙	⊙
Poland	⊙	⊙	⊙	⊙	●	⊙	⊙	⊙	⊙	⊙
Portugal	●	●	●	●	○	●	●	○	●	○
Slovak Republic	●	⊙	●	⊙	⊙	⊙	⊙	⊙	⊙	⊙
Slovenia	⊙	⊙	⊙	⊙	⊙	○	⊙	⊙	⊙	⊙
Spain	●	⊙	●	●	○	⊙	○	○	○	○
Sweden	⊙	⊙	⊙	⊙	●	○	●	●	●	●
Switzerland	●	●	●	●	●	●	●	●	●	●
Turkey	●	●	●	⊙	⊙	○	●	○	●	●
United Kingdom	⊙	○	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙
United States	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	⊙	○
Russian Federation	●	●	●	●	⊙	●	●	●	●	●
Ukraine	○	⊙	○	●	○	●	○	○	○	○
Total OECD31										
● Mandatory	15	14	12	8	3	6	12	7	13	10
⊙ Discretionary	15	13	16	18	20	15	16	17	16	15
❍ Not applicable	1	4	3	5	8	10	3	7	2	6

Source: Adapted from OECD, *Government at a Glance* 2011. Information based on results obtained from the OECD 2010 Open Government Survey.

Although certain kinds of information may be exempt from disclosure for the reasons described above, additional mechanisms exist in FOI laws that can be applied to override these exemptions. A public interest test can lead to information disclosure if the public benefits from the information outweigh any harm that may be caused by disclosing it. Provisions of FOI laws can also include the possibility of partial disclosure of exempt information. Finally, ministry discretion can be applied to override information deemed exempt by class and/or harm tests (OECD, 2011).

Eight out of 11 LAC countries report a public interest test could be applied to information deemed exempt by class tests and/or harm tests[11]. For instance, while salaries are considered personal information protected by law in Peru, salaries of public officials should be disclosed as this information is considered of public interest. In El Salvador and Uruguay, information on procedures related to human rights violations should be disclosed as well[12]. In parallel, partial information disclosure is legally allowed in nine countries[13].

Going public: Which information is available?

Setting regulations on access to information is necessary to ensure individuals will be able to exercise their rights towards greater public accountability. Nonetheless, to achieve public openness, governments need to ensure public institutions will make key information publicly available without further intervention and without demanding individuals to file an information request. Plainly, not all public data will be instantly available but public institutions may disclose some information proactively, particularly when they are compelled by existent FOI legal mandates.

Box 3.5. Proactive disclosure of information

The principle of proactive disclosure (i.e. that information must be publicly available prior to public request) is instrumental in achieving greater transparency and openness in government. Proactive disclosure (also known as "affirmative publication") ensures that information seekers get immediate access to public information and avoid the costs of filing a request or engaging in administrative procedures. For public organisations, proactive disclosure can reduce the burden of complying with FOI requests.

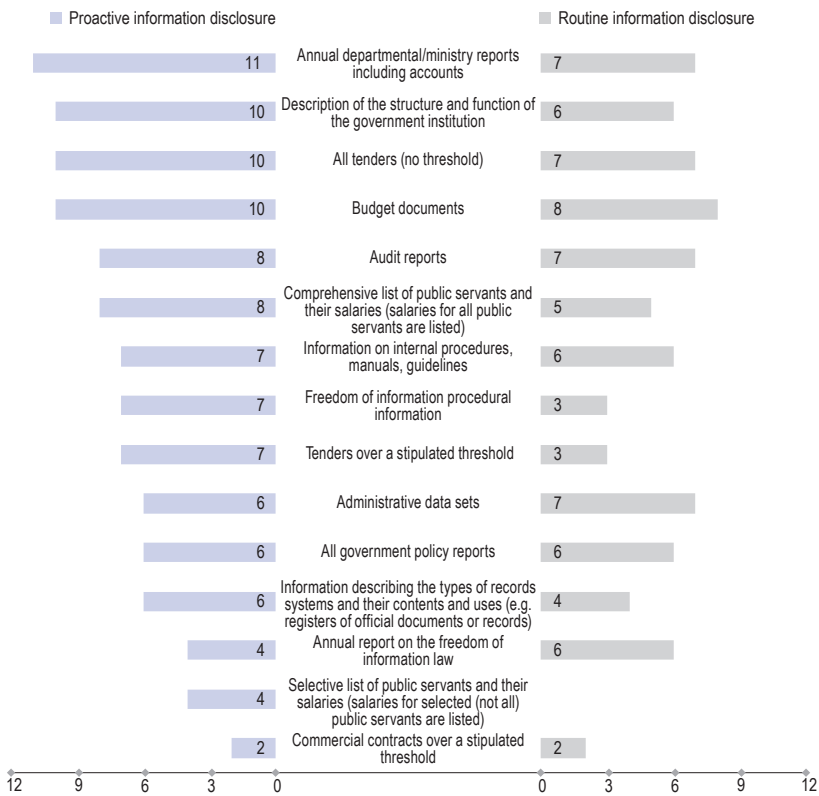
Source: OECD, Government at a Glance 2011.

All LACs have set legal provisions to guarantee that specific information will be proactively disclosed[14]. Based on information provided, countries report a clear trend to disclose information proactively on public finance, public procurement and institutional structure and functions[15] (see Figure 3.2). This

trend is similar to the one noted in most OECD countries, which proactively disclose budget documents (94%), annual Ministry reports (84%), and audit reports (72%) (OECD, 2011b).

Regarding information on public officials' salaries, proactive information disclosure is not homologised: six countries report comprehensive disclosure is applied, two countries mentioned that salary disclosure applies only to some public officials and two countries report mixed schemes (see Annex B for information by country). In this respect, one should note the differences between LACs *vis-à-vis* OECD countries, where 23 out of 32 countries are not required by FOI to routinely publish information on public servants' salaries. Indeed, only 28% of OECD countries (nine countries - Chile, Estonia, Iceland, Israel, Italy, Mexico, the Netherlands, Turkey and the United Kingdom) proactively publish lists of public servants and their salaries (OECD, 2011b) (See Figure 3.2).

Figure 3.2. Proactive and routine information disclosure across LACs

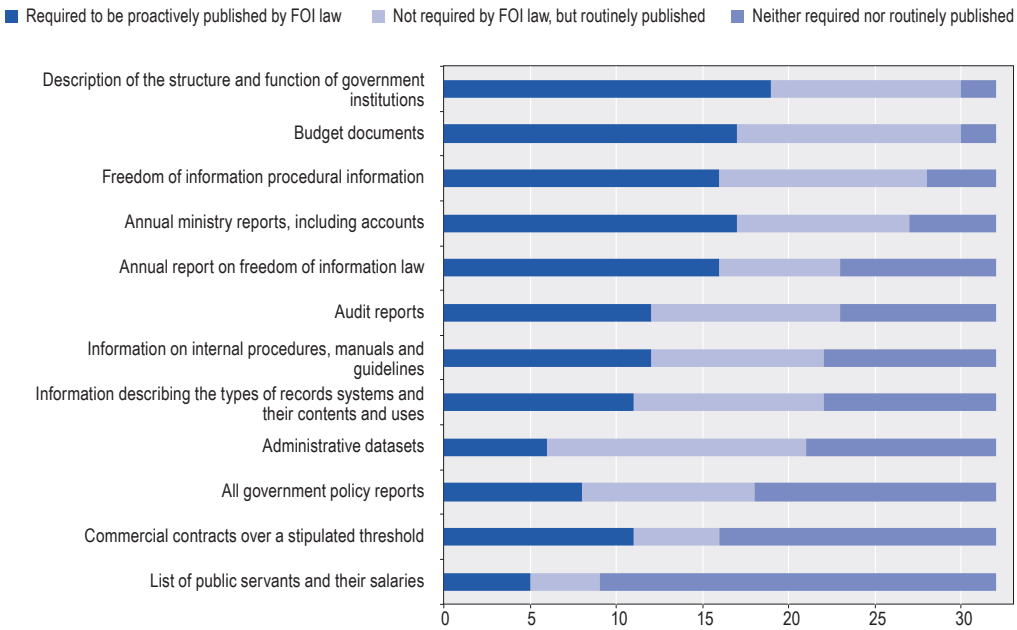


Note: See Annex B for information by country.

Source: 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 2 – Questions 5.2 and 6.1.

Regarding information on public tendering, seven LACs operate a mixed scheme (no threshold/over a stipulated threshold), three countries declared public tendering information disclosure is not subject of specific thresholds and one country reports information disclosure applies only to tenders over a stipulated threshold[16] (See Figure 3.2).

Figure 3.3. OECD Countries: Proactive disclosure of information by central government (2010)



Source: OECD, *Government at a Glance 2011*. Information based on results obtained from the OECD 2010 Open Government Survey.

Law mandates are a milestone for public information disclosure but public institutions may also open information to the public on a routine basis. This can be done as a component of their own institutional processes or an inherent component of organisational culture. In fact, all LACs report routine information disclosure as a common practice[17]. As shown in Figure 3.3, the existence of legal mandates increases the amount of disclosed information. In almost all cases, LACs experience higher levels when migrating from routine to proactive disclosure showing FOI's positive impact on public openness.

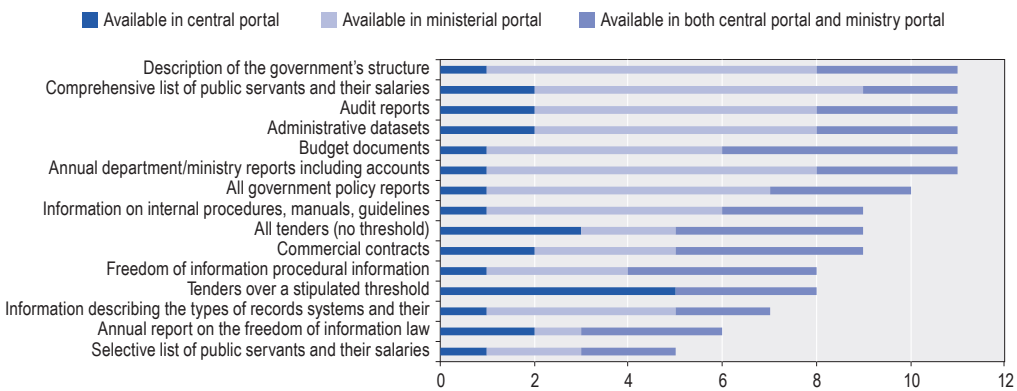
Accessing public sector information: Where is information available?

Usually, public sector information (PSI) on specific policy areas is not produced by a single public institution but by a group of institutions that generate their own information as a result of day-to-day activities. Hence, creating and feeding databases and information centralised portals on subjects such as public procurement or public finance require horizontal institutional co-ordination and co-operation, while other institutional information (i.e., internal procedures or public officials' directories) might be available only in ministry or agency information portals.

All LACs report the existence of central information portals (see Figure 3.4). However, as equally noticed in all OECD countries (see Figure 3.4), PSI is mostly available on ministry portals and not on central portals. Across LACs, Information on tenders over a stipulated threshold is the only information category where countries show a higher use of central portals[18]. Nonetheless, countries may also carry out parallel efforts, as information might be available in both central and ministry portals. For instance, in five LACs budget documents are available in both sources. A similar situation occurs with information related to commercial contracts, public tendering with no threshold and freedom of information procedural information: for these three categories, four countries report information is available in central and ministry portals[19] (See Annex B for information by country).

Figure 3.4. Centralised and ministry information portals across LACs

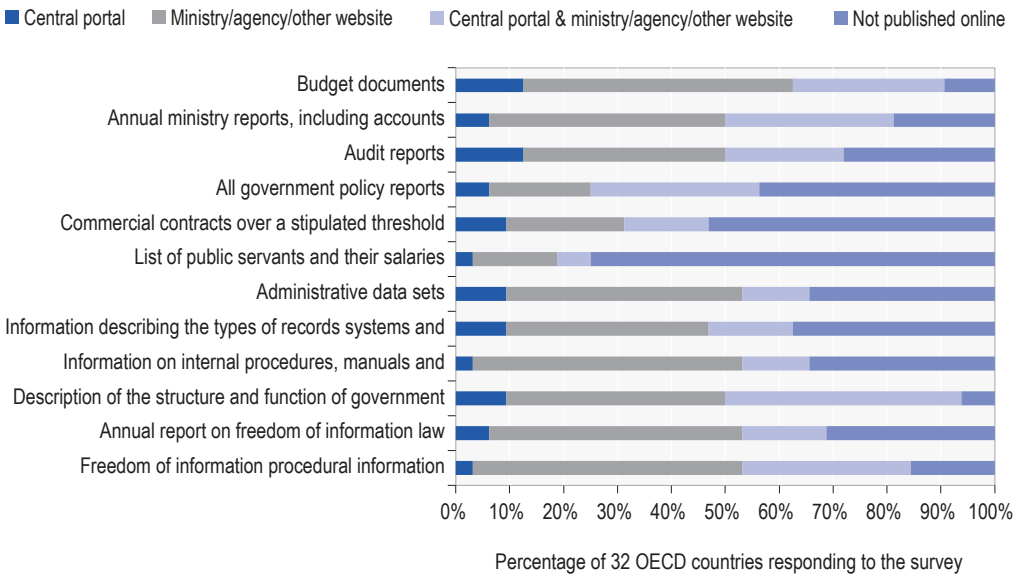
Information categories available by type of portal



Source: 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 2 – Question 7.2.

Finally, one of the challenges central governments face is to find the most cost-effective option to make information available and avoid duplicities and information quality issues. In some cases, centralised portals may work as "information gates" where users can find relevant information to access further PSI in ministry portals. However, the purpose should be to centralise efforts, facilitating its use by keeping a user-centred approach.

Figure 3.5. OECD Countries: Accessibility of most commonly available information released by central government (2010)



Source: OECD, *Government at a Glance 2011*. Information based on results obtained from the OECD 2010 Open Government Survey.

Box 3.6. Access to information practices across LACs

Transparency, citizen participation and public efficiency and integrity are key policy subjects shared by central governments, not only in Latin America but also across OECD countries. The current membership of 15 Latin American counties in the Open Government Partnership is a driver for the development of open government programmes across the region. Fighting corruption and increasing public accountability require committed governments and citizens willing to take advantage of the benefits offered by the implementation of open government practices such as higher public trust and citizen empowerment.

Box 3.6. Access to information practices across LACs *(Cont.)*

LACs are working on defining OG programmes and strategies, not only at the central level but also with a strong focus on the subnational levels of government. Participatory budgeting practices, information portals, FOI, etc. are only a few examples of LACs efforts on open government:

- The initiative "*Conozca en qué se gasta su dinero*" *http://cgrw01.cgr.go.cr* (Know how your money is being spent) was implemented by the Costa Rican government to increase public accountability and transparency. By accessing the General Comptroller of the Republic website, citizens are able to monitor public expenditure. This online platform is fed with information and data from two additional public databases (the SIAC and the SIPP) with information on public procurement and public expenditure. Similar initiatives on public finance transparency have been launched in El Salvador (*http://www.transparenciafiscal.gob.sv/*) and Peru (*http://www.mef.gob.pe/*).
- In Mexico, *Compranet http://www.compranet.gob.mx* provides online information on public procurement. Within the framework of the 2011-2013 Mexican Open Government Action Plan, the information provided in the portal was increased by incorporatig information on the number of transactions by institution, a list of authorized and penalised private suppliers, contact information of designated public officials, etc. The 2013-2015 OGAP includes Compranet's further development as a commitment towards a more transparent public procurement in Mexico. The Mexican government has also developed a centralised transparency portal, *http://portaltransparencia.gob.mx/*, providing information from public institutions based on the FOI's legal mandates. Other countries like the Domincian Republic, El Salvador and Colombia have also launched portals to foster public procurement transparency (*comprasdominicanas.gov*.do in the Dominican Republic, *www.contratos.gov.co* in Colombia and *www.comprasal.gob.sv* in El Salvador).
- The Chilean transparency portal, *http://www.gobiernotransparentechile.cl/*, is a 'gate' to access public information. Currently, the platform is working in *beta* version. Once the platform goes fully functional, it will centralise information from 343 Chilean institutions using standardised web pages.
- In 2012, the Brazilian government launched the e-Sic system (*Sistema Eletrônico do Serviço de Informação ao Cidadão*, e-SIC) to ease access to public information. The e-Sic allows citizens to file online information requests, monitor deadlines, as well as to store and appeal requests' outcomes. Since 2012, the system has received more than 140 thousand information requests. The e-Sic works in parallel to the Brazilian information portal, *http://www.acessoainformacao.gov.br/*, which receives an average of 620.000 visits per month.

Source: 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 1 – Question 4.1 and Section 2 – Questions 6.2 and 7.2.

The practicalities of accessing public information

Standards stated in freedom of information laws for timely responses

Response times should be regulated to ensure information will be provided (when not exempted) and to provide requestors with mechanisms to ensure law compliance and exercise their rights.

Across LACs, response times vary between seven and 20 working days. Peru is the country reporting the shortest response time (seven working days), while Brazil, Chile, Mexico and Uruguay report the longest time (20 working days). In some cases, information availability may limit a timely response forcing institutions to apply extended response times. Six countries have informed of up to an additional 50% of the initial response time. In Mexico and Uruguay, extended response times might double the initial response times (+20 working days)[20].

It is worth mentioning that, with the exception of Guatemala, all FOI offer the possibility to appeal the outcome of an information request[21].

Figure 3.6. Response time standards across LACs



Source: OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 2 – Question 8.2.

Fees

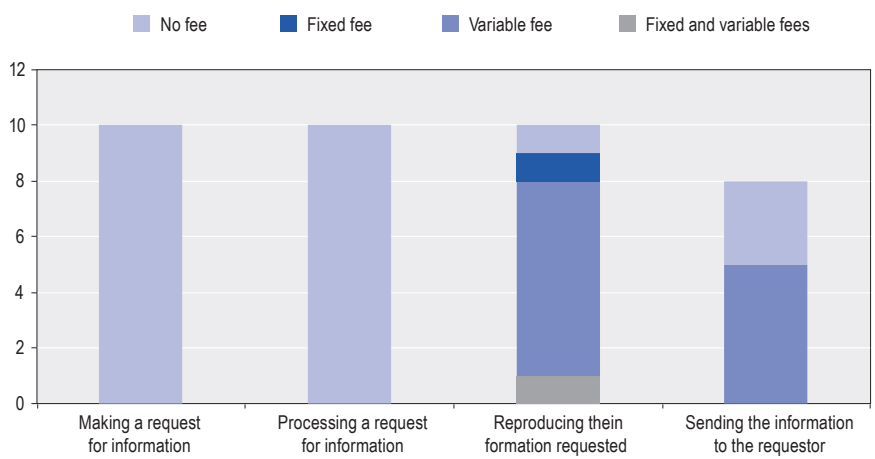
Charging requestors fees for asking for, accessing or reproducing public information is a sensitive subject for policy makers. For instance, it is essential to set limits for fees to avoid blocking access to requestors and to establish related mechanisms to avoid corruption, as public officials may be tempted to "profit" from requestors' needs to access PSI.

Should citizens, individuals and businesses pay for information defined as public by law? Are fees creating limitations for citizens to access PSI or penalising more disadvantaged segments of the population? These are some of the issues faced by policy makers worldwide.

All OECD countries, with the exception of Iceland and Poland, use fees at one or more stages of the information request process, most often to cover the cost of reproduction and, in about half of OECD countries, fees are also related to the cost of sending the documents (OECD, 2011b). The same trend is noticed across LACs: nine countries report the existence in certain stages of the request process of fees, mostly charged for reproducing requested information. The number decreases to five LACs in the information-sending stage.

However, usually fees apply to information reproduced on paper and not to electronic files. For instance, information laws in El Salvador included specific mandates prohibiting charging fees when information is provided using an USB or CD (provided by the requestor)[22]. In Chile, access to public information is framed within a "fee-free principle" (*Principio de Gratuidad*), establishing that access to PSI should be free of charge whenever possible. Guatemala is the only country reporting a complete free of charge process[23].

Figure 3.7. Use of fees during the information request process



Note: Information not available for Paraguay.

Source: OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 2 – Question 9.2.

Fee waivers or reductions to ensure equal access are reported by Brazil, Chile, Dominican Republic and Mexico[24]. In the OECD, only 16 countries use a similar scheme. Both OECD countries and LACs should work further on this. While the decision on charging fees in all, any or none of the stages of the PSI's access process depends on policy makers, they should keep in mind that while one population sector could easily defray fees charged, these could be a barrier for the execution of other sectors' rights.

Table 3.5. OECD Countries: Fees charged at different stages of the request process (2010)

	No fee	Variable fee	Fixed fee	Fixed and variable fees
Making a request	Australia, Belgium, Chile, Czech Republic, Denmark, Estonia, Finland, France, Hungary, Iceland, Italy, Korea, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, United Kingdom, United States.	-	Austria, Canada, Ireland, Israel, Japan	-
Processing a request	Austria, Belgium, Chile, Czech Republic, Denmark, Estonia, Finland, France, Hungary, Iceland, Italy, Japan, Korea, Mexico, Netherlands, Norway, Poland, Portugal, Slovak Republic, Sweden, Switzerland, Turkey, United Kingdom.	Canada, Ireland, Israel, New Zealand, Slovenia, Spain, United States	-	Australia
Reproducing the information	Austria, Iceland, Poland.	Australia, Belgium, Canada, Estonia, Finland, France, Hungary, Ireland, Israel, Italy, Japan, Korea, Mexico, Netherlands, New Zealand, Norway, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, United Kingdom, United States	Chile, Czech Republic, Denmark	Portugal
Sending the information	Austria, Canada, Chile, Denmark, Estonia, Hungary, Iceland, Ireland, Italy, Japan, Netherlands, New Zealand, Poland, Turkey, United States.	Belgium, Finland, France, Israel, Korea, Norway, Portugal, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, United Kingdom.	Australia, Czech Republic, Mexico	-

Data are not available for Germany and Greece. Luxembourg is currently drafting a law on access to information and is not included in the table.

In Australia, no fees for processing requests are charged.

Source: OECD, *Government at a Glance 2011*. Information based on results obtained from the OECD 2010 Open Government Survey.

Administrative records on freedom of information requests

Tracking information requests represents an important step for both the requestor and the government. From the requestors' perspective, this possibility allows him to find out about the status of the request. From the government's perspective, keeping records and indicators on information requests (i.e., number of processed or denied requests per year) is useful to self-assess the efficiency of public service delivery, to identify opportunity areas to improve the information request process and to spot priorities in terms of information relevance for the public.

The availability of tracking mechanisms for individuals provides certainty to the requestor. As previously mentioned, LACs have legally specified response times. Nonetheless, the period of time elapsed between the filing of a request and the reception of the information requested or a notification of denial (if sent) might be blurry for the requestor, particularly if the FOI specifies instruments such as the *negativa or positiva ficta*, which may not be widely known by individuals. In this respect, the availability of clear information about the process and of tracking mechanisms, as well as the support of public officials, are key to help individuals understand how the process works. Indeed, 10 LACs report public officials are in charge of helping the requestor during the public information access process[25].

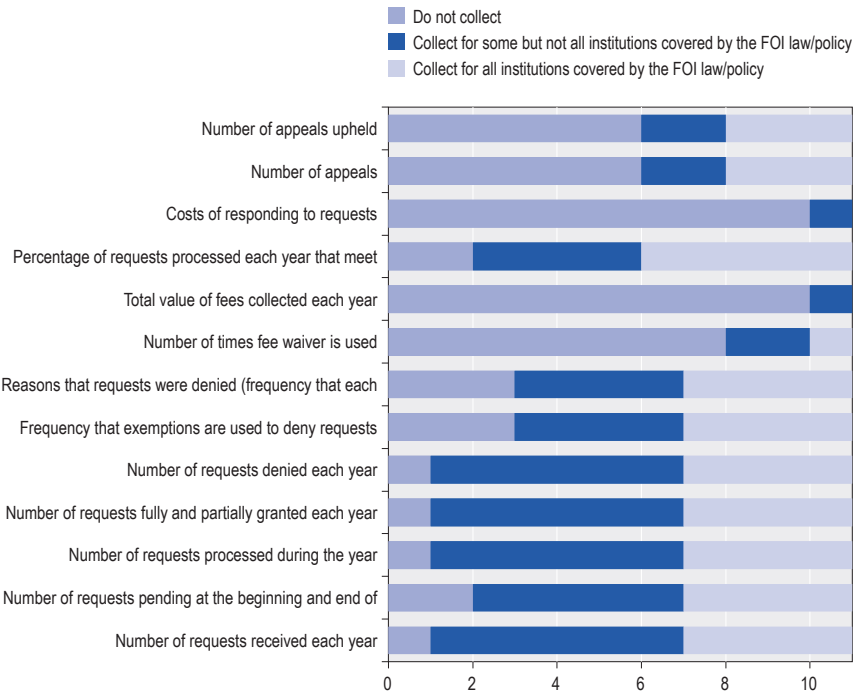
Evidence received shows that among LACs, the possibility to track information requests is still in progress: Only in Brazil, Chile, Colombia and Mexico printed information requests must be logged in a format that enables their process to be tracked[26]. In addition, only Brazil, Chile, Guatemala and Mexico report citizens are able to track the progress of an information request on line[27], despite the fact that almost all LACs offer the possibility of filing requests on line[28].

On the other hand, keeping internal records requires inter-institutional commitment and co-ordination, since records might be available not only in ministry portals but also in central portals. Implementing information quality control mechanisms such as homologised reporting formats would help to process and collate the information received. Seven LACs' data is collected and/or collated by a central authority[29], which makes the implementation of clear inter-institutional information sharing processes mandatory.

Among LACs, 10 countries keep records of requests received, processed, denied or fully and partially granted per year, but only one country keeps records of the total value of fees collected each year and the costs of responding to requests[30]. Moreover, information is not being collected for all institutions covered by FOI but only for some of them. For instance, while regulatory reforms have been implemented in Peru to ensure public institutions will keep

and report records on information requests to the central government, in 2012 59% of Peruvian institutions failed to do so, opening a window of opportunity for further institutional co-operation. Moreover, 45% of LACs mentioned that records are not publicly available or are only available upon request[31].

Figure 3.8. Data collected on freedom of information requests



Source: OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 2 – Question 11.4.

Notes

1. 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 2 – Question 1.1.

2. As Costa Rica has already a law bill under discussion when this report was being written (2014), the information provided here is based on the law draft.

3. 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 2 – Questions 1.2, 1.3 & 1.4.

4. Ibid. Question 1.6.

5. Ibid. Question 2.4.

6. Ibid. Question 3.1.

7. Ibid. Question 3.4.

8. See the Peruvian, Mexican, Colombian and Costa Rican laws on personal data protection and the Costa Rican Law on Non-disclosed Information.

9. Ibid. Question 3.9.

10. Ibid. Question 3.5.

11. Ibid. Question 3.6.

12. Ibid. Questions 3.6 & 3.7.

13. Ibid. Question 3.8.

14. Ibid. Question 5.1.

15. Ibid. Question 5.2

16. Ibid.

17. Ibid. Question 6.1.

18. Ibid. Question 7.2.

19. Ibid.

20. Ibid. Question 8.2.

21. Ibid. Question 4.1.

22. Ibid. Question 9.2.

23. Ibid. Question 9.1.

24. Ibid. Question 10.1.

25. Ibid. Question 10.1.

26. Ibid. Question 11.1.

27. Ibid. Question 11.2.

28. Ibid. Question 10.1.

29. Ibid. Question 11.7.

30. Ibid. Question 11.4.

31. Ibid. Question 11.5.

Bibliography

Article 19 (1999), The Public's Right to Know: Principles on Freedom of Information Legislation; International Standards Series; London, June 1999. Available on: *http://www.article19.org/data/files/pdfs/standards/righttoknow.pdf*.

OECD (2014), *Spain: From Administrative Reform to Continuous Improvement*, OECD Public Governance Reviews, OECD Publishing, Paris, *http://dx.doi.org/10.1787/9789264210592-en*.

OECD (2013), Questionnaire on the Implementation of Open Government Policies in Latin America.

OECD (2011b), *Government at a Glance 2011*, OECD Publishing, Paris, *http://dx.doi.org/10.1787/gov_glance-2011-en*.

OECD (2008), Recommendation of the Council for Enhanced Access and More Effective Use of Public Sector Information (PSI).

OECD (2001), *Citizens as Partners: OECD Handbook on Information, Consultation and Public Participation in Policy Making*, OECD Publishing, Paris, doi: *10.1787/9789264195578-en*.

Ubaldi, B. (2013), "Open Government Data: Towards Empirical Analysis of Open Government Data Initiatives", OECD Working Papers on Public Governance, No. 22, OECD Publishing, Paris, *http://dx.doi. org/10.1787/gov_glance-2011-en*.

ANNEX 3A.1.

Access to information

Questions 5.2 and 6.1. Proactive and routine information disclosure. Categories by country.

5.2) Which of the following categories of information regarding the structure, functions and activities of government institutions does the law require to be proactively published by the FOI?

6.1) Which of the following categories of information regarding the structure, functions and activities of government institutions are routinely published?

	Brazil	Chile	Colombia	Costa Rica	Dominican Republic	Guatemala	Mexico	Paraguay	Peru	Salvador	Uruguay
Annual departmental/ministry reports including accounts	●	●	●	●	●	●	●	●	●	●	●
	⊙	-	⊙	⊙	⊙	⊙	-	-	⊙	⊙	-
Budget documents	-	●	●	●	●	●	●	●	●	●	●
	⊙	-	⊙	⊙	⊙	⊙	⊙	-	⊙	⊙	-
Tenders over a stipulated threshold	-	●	-	●	-	●	●	●	●	●	-
	-	-	-	⊙	-	-	⊙	-	⊙	-	-
All tenders (no threshold)	●	●	●	●	●	●	●	-	●	●	●
	⊙	-	⊙	⊙	⊙	⊙	⊙	-	-	⊙	-
Commercial contracts over a stipulated threshold	-	●	-	-	-	-	-	-	●	-	-
	-	-	-	⊙	-	-	-	-	⊙	-	-
Freedom of information procedural information	●	●	●	-	●	-	●	-	●	●	-
	-	-	-	-	⊙	-	-	-	⊙	⊙	-
Information describing the types of record systems and their contents and uses (e.g. registers of official documents or records)	-	-	-	-	●	●	●	-	●	●	●
	-	-	-	⊙	⊙	⊙	-	-	⊙	-	-

Questions 5.2 and 6.1. Proactive and routine information disclosure. Categories by country *(Cont.)*

	Brazil	Chile	Colombia	Costa Rica	Dominican Republic	Guatemala	Mexico	Paraguay	Peru	Salvador	Uruguay
Information on internal procedures, manuals, guidelines	-	●	●	-	●	●	●	-	●	●	-
	-	-	⊙	⊙	⊙	⊙	-	-	⊙	⊙	-
All government policy reports	-	-	●	●	●	-	-	●	●	●	-
	⊙	-	⊙	⊙	⊙	-	-	-	⊙	⊙	-
Administrative data sets	●	-	●	-	●	●	-	-	●	●	-
	⊙	-	⊙	⊙	⊙	⊙	-	-	⊙	⊙	-
Audit reports	-	●	●	●	●	●	●	-	●	●	-
	⊙	-	⊙	⊙	⊙	⊙	-	-	⊙	⊙	-
Comprehensive list of public servants and their salaries (salaries for all public servants are listed)	-	●	●	●	●	●	-	●	●	-	●
	⊙	-	-	-	⊙	⊙	-	-	⊙	⊙	-
Selective list of public servants and their salaries (salaries for selected [not all] public servants are listed)	-	-	-	-	-	-	●	●	●	●	-
	-	-	-	-	-	-	-	⊙	-	-	-
Description of the structure and function of the government institution	●	●	●	●	●	●	●	-	●	●	●
	-	-	⊙	⊙	⊙	⊙	-	-	⊙	⊙	-
Annual report on the freedom of information law	●	-	-	-	●	-	-	-	●	●	-
	-	⊙	⊙	-	⊙	⊙	-	-	⊙	⊙	-

● Proactive information disclosure

⊙ Routine information disclosure

Question 7.2. For the categories of information selected in 5.2 and 6.2, where is this information made available electronically?

	Brazil	Chile	Colombia	Costa Rica	Dominican Republic	Guatemala	Mexico	Paraguay	Peru	Salvador	Uruguay
	-	-	-	-	-	-	⊙	-	-	-	-
Annual departmental/ministry reports including accounts	-	●	●	-	●	●	-	●	●	-	●
	○	-	-	○	-	-	-	-	-	○	-
	-	-	-	-	-	-	⊙	-	-	-	-
Budget documents	-	-	-	-	●	●	-	●	●	-	●
	○	○	○	○	-	-	-	-	-	○	-

Question 7.2. For the categories of information selected in 5.2 and 6.2, where is this information made available electronically? *(Cont.)*

	Brazil	Chile	Colombia	Costa Rica	Dominican Republic	Guatemala	Mexico	Paraguay	Peru	Salvador	Uruguay
	-	-	⦿	-	-	-	⦿	⦿	⦿	-	⦿
Tenders over a stipulated threshold	-	-	-	-	-	-	-	-	-	-	-
	-	○	-	○	-	-	-	-	-	○	-
	-	-	⦿	-	-	-	⦿	-	-	-	-
Commercial contracts	-	-	-	-	-	⦿	-	-	⦿	-	⦿
	-	○	-	○	○	-	-	-	-	○	-
	-	-	⦿	-	-	-	⦿	-	-	-	⦿
All tenders (no threshold)	-	-	-	●	-	●	-	-	-	-	-
	○	○	-	-	○	-	-	-	-	○	-
	⦿	-	-	-	-	-	-	-	-	-	-
Freedom of information procedural information	-	-	●	-	●	-	-	-	●	-	-
	-	○	-	○	-	-	○	-	-	○	-
	-	-	-	-	-	-	⦿	-	-	-	-
Information describing the types of record systems and their contents and uses	-	-	-	-	●	●	-	●	●	-	-
	-	-	-	○	-	-	-	-	-	○	-
	-	-	-	-	-	-	⦿	-	-	-	-
Information on internal procedures, manuals, guidelines	-	-	●	-	●	●	-	-	●	-	●
	-	○	-	○	-	-	-	-	-	○	-
	-	⦿	-	-	-	-	-	-	-	-	-
All government policy reports	●	-	-	-	●	●	-	●	●	-	●
	-	-	○	○	-	-	-	-	-	○	-
	-	⦿	-	-	-	-	⦿	-	-	-	-
Administrative datasets	●	-	-	-	●	●	-	●	●	-	●
	-	-	○	○	-	-	-	-	-	○	-
	⦿	-	-	-	-	-	⦿	-	-	-	-
Audit reports	-	-	●	-	●	●	-	●	●	-	●
	-	○	-	○	-	-	-	-	-	○	-
	⦿	-	-	-	-	-	⦿	-	-	-	-
Comprehensive list of public servants and their salaries	-	●	●	-	●	●	-	●	●	-	●
	-	-	-	○	-	-	-	-	-	○	-

Question 7.2. For the categories of information selected in 5.2 and 6.2, where is this information made available electronically? *(Cont.)*

	Brazil	Chile	Colombia	Costa Rica	Dominican Republic	Guatemala	Mexico	Paraguay	Peru	Salvador	Uruguay
	-	-	-	-	-	-	⦿	-	-	-	-
Selective list of public servants and their salaries	-	-	-	-	-	●	-	●	-	-	-
	-	○	-	-	-	-	-	-	-	○	-
	-	-	-	-	-	-	⦿	-	-	-	-
Description of the structure and function of the government institution	●	-	●	-	●	●	-	●	●	-	●
	-	○	-	○	-	-	-	-	-	○	-
	⦿	-	-	⦿	-	-	-	-	-	-	-
Annual report on the freedom of information law	-	-	-	-	●	-	-	-	-	-	-
	-	○	-	-	-	-	○	-	-	○	-
	-	-	⦿	-	-	-	⦿	⦿	-	-	-
Other(s)	-	-	-	-	-	-	-	-	-	-	-
	-	○	-	-	-	-	-	-	-	-	-

⦿ Information available in central portal

● Information available in ministry portal

○ Available in both central portal and ministry portal

Chapter 4

Harnessing the Potential for Open Data in Latin America

This chapter highlights some of the main trends in governments' strategies and initiatives related to open data and public sector information across Latin American countries. It analyses the status of open data policies across Latin American countries by looking at the objectives of existing open data strategies and programs, and available open data portals as well as mechanisms for communication, consultation and co-operation for the development and implementation open data policies. It identifies that Latin American countries are at very different stages of their open data development process. Some have longstanding experience in the area; others are just starting to design strategies and portals. Finally, the chapter points to the importance for all LACs to focus on the potential of open data for economic and social value creation, and to generate informed data release according to user needs.

The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

From PSI to the open data agenda

Public organisations generate and collect a broad range of different types of data in order to perform their tasks. Better access to and use of the extraordinary quantity and centrality of public sector data and information can lead to important value creation from economic, social, and good governance perspectives (Ubaldi, 2013). Direct use of government data and information can originate products and services, and thus contribute in a variety of ways to improved efficiency and productivity within the public sector and across the economy. But this is not all. Public sector information (PSI), open data, open government data (OGD), and big data are indeed all inter-related parts of the shift towards knowledge-based societies and economies, and potential drivers of innovation, growth, employment, as well as of improved public service delivery and more efficient, transparent and participatory governance.

In the late 1990's and early 2000's free distribution of data prevailed in the discussions around information policy. Efforts to strengthen PSI-related initiatives were greatly advocated by civil society movements - i.e., the "Right to Information" or "Freedom of Information" movement - campaigning for greater openness of datasets, information and documents produced or held by public bodies with the intent to promote a public right of access to information from a human rights perspective (Ubaldi, 2013). According to these movements, access to PSI is considered essential to improve government's transparency and accountability.

In the 2000s public sector information and open data issues entered the discussion more predominantly. A clear indication of this development was the launching of the European PSI Directive (Directive 2003/98/EC on reuse of PSI, amended in June 2013 as Directive 2013/37/EU), which required that PSI of member states' organisations, if accessible, must be available for commercial and non-commercial use. These developments mirrored important developments in other parts of the world, e.g. the passing of the Electronic Freedom of Information Act (e-FOIA) of 1996 in the US.

Government PSI-related strategies, policies and initiatives have been largely driven by the aim to generate national value through PSI use in the private sector and the market economy environment. The OECD PSI market was estimated to be around USD 97 billion in 2008 and may have grown to around USD 111 billion by 2010. Aggregate OECD economic impacts of PSI-related applications and use were estimated to be around USD 500 billion and there could be close to USD 200 billion of additional gains if barriers to use were removed, skills enhanced and the data infrastructure improved (OECD, 2014).

As the focus on the potential for economic and social value creation in a broad sense is constantly increasing, we are witnessing a broadening of

government PSI strategies to open data strategies. This is mostly due to the "open government data" movement, which has grown significantly worldwide, as well as to the fact that, instead of building on a legalistic approach, the strategies mainly use social and economic arguments to encourage the release of government data as open data, i.e. in formats that enable easy access, use, re-use and distribution by anyone and in a non-discriminatory way. This shift reflects a focus on raw data that can conceptually be seen as the lowest level of abstraction and granularity from which information and knowledge are derived. The essential aim of the open data movement is to increase and enhance public and free access to datasets of various sources, including government data, e.g. administrative, statistical, research. Policy makers focusing on enabling PSI use as a source of economic value have from the start placed emphasis on commercially valuable datasets such as meteorological and geographic information and microdata, thus paving the way to the increasing relevance attached to raw data.

Mainly, value can stem from the re-use of public sector data by any user within or outside public sector bodies. Therefore, removing any type of disincentive to data access and re-use is beneficial. Impediments may include dissuasive pricing and licensing practices, differences in licensing systems across national institutions, lack of information, poor standards and interoperability, organisational and cultural obstacles within the public sector, as well as legal constraints impeding easy access, use, re-use and data sharing within and across different levels of government.

Even though policy strategies and implementation maturity differ, OECD countries in general are working to make government data – except for personal, confidential and security/defence data - available in a machine-readable and interoperable format, and are moving to free (creative common or similar), open and non-exclusive licensing regimes. Additionally, as government data are progressively seen as a potential public value generator for the public sector as well as for the wider economy and society, rather than as a source of government revenue, the pricing practices are shifting towards making data accessible for free or at a marginal cost (e.g. the cost of reproduction when necessary).

At the same time, countries are increasingly strengthening individuals' autonomy regarding personal data generated or registered by the government. Personal data in aggregate and anonymous form can be of high value for society, e.g. statistical research. But personal data in identifiable form is also of great value for businesses of all sorts (as discussed in other chapters). Therefore, movements such as the "midata"[1] initiative in the United Kingdom aim to build solid frameworks that determine the conditions under which personal data can become part of open government or big data; and empower individuals to understand how their data is used and to provide or refuse consent.

Nevertheless, open data comes not only with potential prospects but also with many challenges for governments. This is why at times of budget cuts and financial constraints governments feel the need to clearly articulate a business case and identify funding models to open up and digitise government data without penalising data providers. For similar reasons, great emphasis is now placed on devising more solid methodologies to assess the impact caused by open data. The purpose of this chapter is to highlight some of the main trends in open government data and public sector information strategies and initiatives across Latin American countries.

Creating value through open data

Open data is not a sudden or immediate achievement. It is a gradual process, and value creation calls for the participation and involvement of all related stakeholders. Active public involvement is pivotal, on the one hand, to learn of the data demand and to guide the data supply, its main sources and the work that has to be done to make it publicly available; and, on the other hand, to create value.

Higher citizen engagement in, and awareness of, public affairs can increase trust in government. Access to information represents a first yet crucial step on the path that allows citizens to be informed about and monitor the government's activities. However, making information publicly available is not enough to create the value mentioned in the section above. The creation of economic, social or good governance value requires indeed active public participation. As a matter of fact, while access to public information fosters transparency and public accountability, the use and re-use of data generated by governments are essential to bring about added value.

The existence of a central government cross-cutting open data strategy is crucial to take the steps needed to move from access to information to fostering open data programmes across public institutions and to create knowledge and benefits for the society in general.

Openness relates not only to the provision of static informative documents about governments' activities. This old concept builds on a one-sided policy making and on a non-collaborative relationship between government entities and governed individuals. Government openness is a dynamic process that calls for the continuous interaction of involved actors. Limiting open government to a merely informative process undermines open data's potential value.

As highlighted in Chapter 2, public institutions generate and different public and private sources offer data on a daily basis. Individuals, the academia, private organisations and other public and international institutions, are all involved in this continuous and non-stop exchange process. However, despite the daily amount of gathered data, it might not be accessible to everyone and everywhere.

Open data goes beyond information disclosure. Open data means opening up a much broader range of data, often based on active requests of the data users community, and implies exposing governments to a higher public scrutiny. High accountability needs to be shown not only by simply providing data, but also by providing quality data. Hence public officials and policy makers might be reluctant to change. Countries that have dealt with public sector integrity and anti-corruption issues in the past, might find this process even more difficult. Policy makers should first identify valid arguments and incentives to overcome institutional resistance to release data, and public institutions should recognize the value of open data to strengthen open government. While a strong political support is highly beneficial to do so, it is important to bear in mind that open data and access to public information should be institutionalized to be an integral component of the government's culture.

The OECD identifies three broad sets of values targeted by governments through open data initiatives: economic value, social value and good governance value. Open data benefits include among others[2]:

- Improved decision making for the public, private and social sectors.
- Smarter and more innovative and efficient public service delivery.
- Increased government accountability and public trust.
- Citizen and civil society empowerment.
- Higher public participation and engagement.
- Entrepreneurship and social innovation.

Box 4.1. What is open data?

It is widely acknowledged that in order to be considered open, government data should be available to anyone who wants to access it and re-use it, should be provided to the greatest detail possible, and in a timely manner. To do so, on the one hand, data has to be available and accessible and, on the other hand, has to be authorised for reuse and redistribution.

In order to be available and accessible, the entire dataset must be offered, preferably for free (or at no more than a reasonable reproduction and distribution cost), and be downloadable over the Internet. Specific criteria for availability and accessibility include:

Data are easily accessible, e.g. it is available in disaggregated forms and in electronic format, and the right to access data in electronic format is acknowledged.

- Data are available in a convenient and modifiable form.
- Data are easy to locate and find. For example, government data catalogues (e.g. in the United States, the United Kingdom, Australia), information asset registers (IARs) (e.g. in the United States, United Kingdom, Australia, Canada) and citizen-driven catalogues (e.g.

Box 4.1. What is open data? *(Cont.)*

in Canada and Germany). Formats and tagging also make data easier to locate and re-use, e.g. ”metadata”,”micro formats”.

In order to ensure re-use and redistribution, the data must be provided under terms that allow their reuse and redistribution, including intermixing with other datasets. The core of a ”commons” of data is indeed the fact that one piece of ”open” material can be freely intermixed with other ”open” material. The ability to combine different datasets together is one of the key conditions that allow the development of more and better products and services. New combinations of data can create new knowledge and insights, which can lead to whole new fields of applications. In relation to this aspect, specific criteria include:

- Data are in machine-readable format – as ”screen scraping” can be time consuming. For example, PDF files are not machine-readable (i.e., data cannot be processed on PCs using databases or spread sheets software), whereas formats such as XML, XSLT are machine-readable.
- Data are released in open formats (specifications have been made public and it is not necessary to have a specific software to use the information), which are machine-readable. Even though no access to information legislation grants the right to access it in open formats, most OGD initiatives are now being accompanied by policy documents stipulating that official information must be available in open format.
- Data are available through bulk downloads, thus enabling access not just to one or two pieces of government data, but to full datasets, as programmers can use these to develop applications that make the most of publicly generated data, and for the highest number of users.
- Data are released in a timely fashion: rapid disclosure allows builders of apps to have access to the very latest data.
- Data are linked: more sophisticated user queries require the creation of structured relationships between government databases enabled by semantic web technologies that convert large quantities of data to linked data formats.
- Users have the right to re-use data without discrimination.

In order to enable exploitation of OGD to develop new business and create new economic opportunities it is imperative to provide unstructured data in the most easily accessible formats to all companies regardless of their size. This is a key precondition to avoid creating new forms of economic exclusions.

Source: Ubaldi, B. (2013), “Open Government Data: Towards Empirical Analysis of Open Government Data Initiatives”, OECD Working Papers on Public Governance, No. 22, OECD Publishing, Paris.

In this journey towards further open data implementation, governments will face the challenge of deciding which datasets should be released first. Prioritisation of data released in open formats is essential. Policy makers often reduce the scope of datasets released during initial stages, as they decide to focus only on data considered in their perspective. Nevertheless, these datasets

might be not relevant according to users' needs. As noticed across countries implementing open data policies and programmes, sometimes policy makers will find that released data is not to the data that data users seek. Close co-ordination and consultation with stakeholders are necessary to detect their needs and to avoid a strictly top-down approach to guide choices on data release, especially if governments would like to ensure long-term interest and involvement to deliver the expected value.

The objective is not to release as much datasets as possible, but to make data valuable for users. Close horizontal and vertical co-operation is a basic requirement to achieve this. Open data is useless if no one is willing to use it and re-use it, and if its potential value is neither perceived nor exploited. This is why activities such as *hackatons* are of key importance, but countries require to go further. The relevance of those and similar initiatives lies in their role as enablers of co-operation and co-ordination to create economic and social value by bringing governments closer to the general population and stimulating data re-use.

Similarly, governments worldwide have tried to organise "national challenges" in which they invite all actors to use data in order to find solutions that address key social and economic problems. For example, NESTA and the Open Data Institute in the UK launched in August 2014 the "Food Open Data Challenge" asking the key question "How can we use open data to help people eat more healthily, eat more sustainably and/or have a more secure food chain?" The whole process is built on a collaborative approach between the public sector and the society as a whole. A Challenge Definition Workshop was organised to capture experts' advice with the purpose of informing about the question chosen, and individuals or teams were invited to put forward ideas to solve any one or a combination of the issues outlined in the challenge question by creating a specific product or service powered by open data. Hence, open data can nurture the type of collaborative approach that supports civic engagement to "crowd source" solutions to social and economic problems.

Creating value: The status of open data policies across Latin American countries

This section presents the results for the region considering:

- **Which purpose?** Objectives of the open data strategy
- **What is being done?** Available open data programs, actions and data publicly available
- **Where is data available?** Centralised, sectoral and ministry open data portals

- **How do they co-ordinate?** Communication, consultation and co-operation, policy alignment and integration

While access to public information is more developed in Latin America, there is a great deal of improvement regarding open data. Evidence shows that across LACs the availability of central open government data strategies is heterogeneous. LACs present different levels of development regarding open data policies[3]:

- Seven out of 11 countries report having an on-going central OGD strategy (OGDS) (Colombia, Dominican Republic, Mexico, Uruguay, Chile, Brazil and Costa Rica).
- In Guatemala and Paraguay OGD strategies are not yet available but in these two countries line ministries have separate strategies in place.
- Two countries (Peru and El Salvador) report the absence of both ministry and central open government strategies (see Figure 3.5).

Nonetheless, one should note that, as observed by the OECD team during field missions in Latin America, public institutions might be implementing open data without being aware of doing it. These programmes and/or initiatives might not be identified as ”open data” but presented as part of the ministry efforts to spur access to information. This seems to show inadequate awareness among public institutions in LACs regarding central OG and OGD policies and programmes, as well as a lack of knowledge related to the open government conceptual framework.

Central OGD strategies may fail to permeate public institutions due to the absence of a whole-of-government approach, limited inter-institutional co-ordination, low institutional capacities (i.e. limited technical human resources) or institutional resistance due to a sentiment of “data-ownership”. The existence of a central OGD strategy may not ensure institutional buy-in or the development of ministry OD strategies. In addition, as discussed during the Seminar on Open Government Policies in Latin America, held in Bogota on March 2014, this issue might have larger proportions at the local level. LACs could be benefited by the creation of a national Chief Data Officer (CDO) position in charge of improving open data policies and inter-institutional co-ordination. Currently, this position is only available in four out of 11 countries[4].

Among LACs with on-going OGD strategies, the availability of ministry open data strategies is uneven: While Colombia reports 100% of ministries have open data strategies in place (see also the case study on Colombia in Chapter 5), three countries (Chile, Uruguay and Mexico) report that less than 25% of ministries have their own OGD strategy. Brazil has both ministry and central OGD strategies but the percentage of ministry strategies is unknown.

From those four countries reporting no central strategy in place (Peru, El Salvador, Paraguay, and Guatemala), only Guatemala and Paraguay answered that there are ministry strategies in place for some ministries (see map in Figure 4.1). Low availability of ministry OG strategies is also an issue across OECD countries. Eight out of 11 countries report OGD strategies are available in less than 45% of central ministries[5].

Figure 4.1. Central open government strategies among LACs and percentage of ministries with OGD strategies in place



Note: This map is for illustrative purposes and is without prejudice to the status of or sovereignty over any territory covered by this map.

Source: 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 3 – Questions 1.1 and 8.2.

Commonly, ministries finance their own open data portals[6] and only five LACs have identified funds to finance the development of selected high-priority OGD initiatives[7]. Yet, while funding may play an important role for the development and continuity of ministry open data strategies and programmes, as well as policy implementation across LACs, challenges seem to be mostly related to policy and institutional capacity issues and not to funding issues[8].

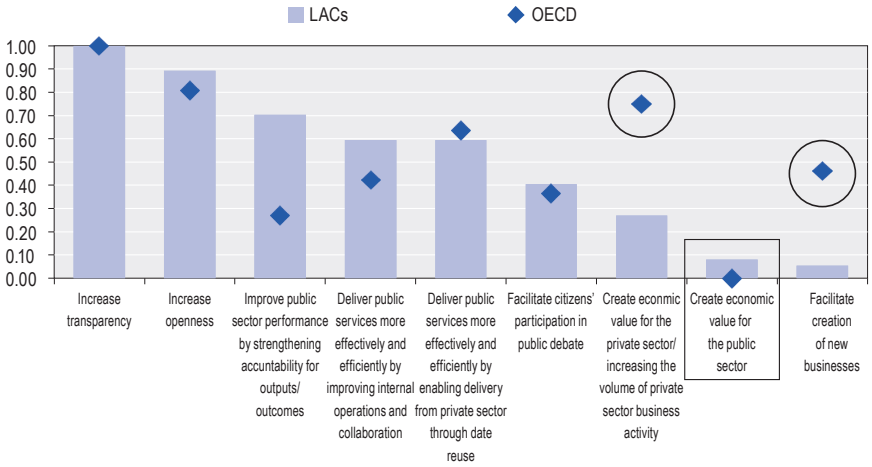
In addition, as it occurs in OECD countries[9], existent ministry strategies might not be aligned or integrated to the central OGD strategy (OGDS). For those LACs with central OGD strategies (seven countries), 60% report ministry strategies are aligned to the central strategy and 40% said this only applies for some ministries[10].

OGD strategy objectives: What are LACs aiming to achieve?

Evidence is conclusive: In general, LACs maintain an access to information approach when referring to open data policies. In other words, public institutions might fail to differentiate access to public information from open data.

Figure 4.2. OGD Strategy objectives by level of relevance: LACs and OECD countries

Index: 1.0: Highest relevance, 0.0: Lowest relevance



Notes: Objectives listed from highest level of relevance to lowest based on information provided by LACs. Index based on information provided by 10 LACs and 24 OECD countries.

Source: 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 3 – Questions 4.1 and 2013 OECD Survey on Open Government Data – Question 4.

As shown in Figure 4.2, OECD countries and LACs concur on the benefits of using OGD to increase public transparency and openness. Nonetheless, the benefits of using OGD to create economic benefits and added value for the private and public sectors scored the lowest levels of relevance among LACs. These results are opposite to those reported by OECD countries, which identify them as key objectives of OGD strategies. Regarding citizen participation in public debate, it is worth mentioning that LACs provided also the lowest scores.

While an approach led by access to information components has no detrimental effect *per se* on open data policies, LACs should recognize the importance of OGD as a tool to create added value to ensure the efficiency of open data policies and exploit the full potential of re-using data. In addition, both LACs and OECD countries should also acknowledge the benefits open data brings to the public sector (i.e., data to feed a more informed decision making, more efficient use of institutional resources, innovative ways to deliver services).

OGD strategy elements: Which components integrate open data strategies?

OGD strategy elements should build on the objectives governments wish to achieve. Hence, consistency between these two components is key for policy efficiency.

Evidence indicates that LACs are working on building institutional capacities and knowledge towards the implementation of open data policies aiming to increase citizen engagement.

In order of relevance, the most important elements of central OGD strategies across LACs are focused on (see Figure 4.3):

- Increasing data user's engagement
- Establishing standards/guidelines on data formats and information and data disclosure
- Training for public servants
- Implementing policy communication or awareness initiatives targeting firms and citizens (including use of social media)

The inclusion of guidelines on information disclosure and data formats is not only useful to support government institutions during the process of opening public data but also to standardise processes and to increase public efficiency. In addition, these internal institutional processes are leveraged when public officials receive training on open data subjects, contributing to build and reinforce internal institutional capacities[11].

LACs are working on supporting public entities on the process of opening data. Practices such as the Dominican Open Data Normative and the Colombia e-Government Manual illustrate the efforts of LACs to further develop open data programmes. These two initiatives aim to help public institutions during the opening data process by providing guidelines while standardizing inter-institutional processes. The definition of guidelines follows the trend that is also observed in OECD countries. Indeed, among OECD countries responding to the 2013 OECD Survey on Open Government Data, the top three elements of the OGDS are focused on defining standards and/or guidelines for information disclosure and guidelines on licensing/copyrights and data formats. Unlike LACs, data user's engagement was identified as an element only by 55% of OECD countries responding to the survey (11 out of 20)[12]. This may reflect a higher development on building a more participative society and more developed open data policies across OECD countries.

While OGD elements are practically homologised across LACs, particularities emerge when information is disaggregated based on the availability of a central OGD strategy (Group A: central OGDS in place; Group B: No central OGDS). For instance, definitions of metadata and privacy standards are provided by six out of seven countries in Group A, but no country in Group B. A similar situation arises regarding data re-use requirements for public agencies: 6 out of 7 countries in Group A included this element as a component of the OGDS, but it was not included by any of the countries in Group B[13] (see Figure 4.3).

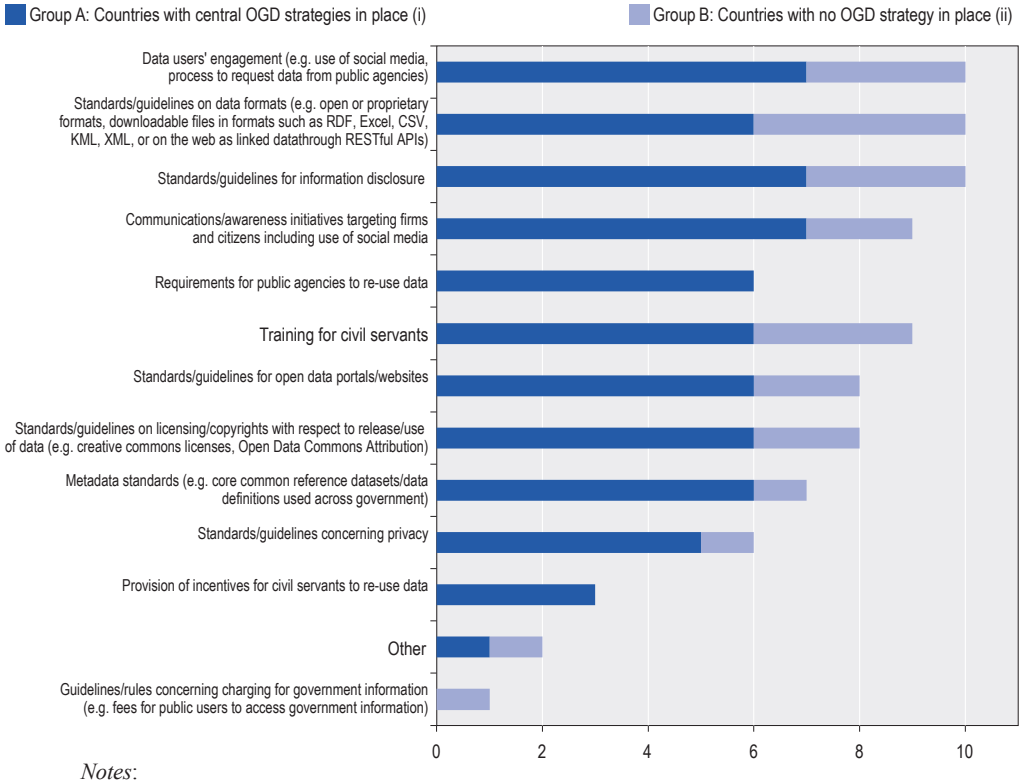
The key goals: An informed data release according to user needs and greater citizen participation

OECD experience shows the benefits of greater citizen participation. Citizens' involvement is beneficial to perform a more efficient evidenced-based decision making and increase trust on government. Additionally, public engagement is essential to spur data reuse and hence generate value. However, the lack of public awareness about government open data policies and programmes acts as a barrier for an effective government-citizen co-ordination and co-operation.

LACs are keen to increase data user's engagement. The latter is relevant considering the low levels of population awareness about the OGP initiatives across LACs, as mentioned earlier.

Implementing consultation is useful to improve policy making. The inclusion of stakeholders and data users' inputs is beneficial to define policy objectives hence increasing policy efficiency and effectiveness. Performing consultation is of paramount importance to increase user awareness. Maintaining user's interest on public data is key to achieve policy objectives. The supporting argument is simple: if released data does not match users' needs, users will lose interest in it and no added value will be created.

Figure 4.3. Elements of the central government OGD strategy across LACs



Notes:

(i) Seven countries: Colombia, Dominican Republic, Mexico, Uruguay, Chile, Brazil and Costa Rica

(ii) Three countries: Guatemala, Paraguay, and El Salvador. No available information for Peru.

Source: 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 3 – Question 3.1.

This issue was mentioned in meetings during the visit of the OECD team to Colombia. In 2011, the Ministry of Information Technology and Communications (*Ministerio de Tecnologías de la Información y las Comunicaciones*, MinTIC) performed consultations with entrepreneurs. Contrary to MINTIC's expectations prior to the exercise, users were interested on data related to education, health, housing or employment and not only on financial data as expected by the Colombian government. In parallel, as also mentioned in Chapter 3, the MinTIC conducted focus groups discussions with citizens and the private sector in order to identify open data priorities and to jointly design and develop apps based on public data. Colombia has also

provided financial incentives to the private sector and local governments with the purpose of increasing their engagement and willingness to re-use data and develop new applications[14].

Other LACs are also making efforts towards a more informed decision making process. Mexico conducted a two-month public consultation to develop its National Policy of Open Data receiving around 1000 inputs through the portal *www.datos.gob.mx*. Three "draft document editing" live events were also conducted (two in academic institutions and one on line). In Brazil, the Open Data National Infrastructure Committee (*Comité de la Infraestructura Nacional de Datos Abiertos,* INDA) provides a permanent wiki to allow public participation during work groups activities and the Brazilian open data portal was designed integrating citizen inputs. In Uruguay, the central government organised working sessions with the participation of stakeholders from the Academia, civil society and public institutions in order to elaborate the 2012-2013 Uruguayan Open Data Action Plan[15].

In Peru, the central government conducted three workshops at the local level in 2014, addressed to increase the participation of population outside Lima and incorporate their contributions to the second Peruvian Open Government Action Plan. In fact, the Peruvian experience is not an isolated case. The limited participation and co-ordination with local governments was identified as one of the most urgent issues regarding policy implementation among LACs.

Ten out of 11 countries (not including Peru) use social media platforms such as Facebook and Twitter to interact with citizens and potential users[16]. While evidence is limited to assess the efficiency of these tools, their potential benefits are not questioned across LACs. For instance, in Mexico, Twitter has been used as a public consultation and policy making tool. In 2013, the Mexican government implemented a consultation process to identify which public data had to be released first, based on citizens' priorities and inputs[17]. The central government received more than 30 000 inputs from citizens during this exercise.

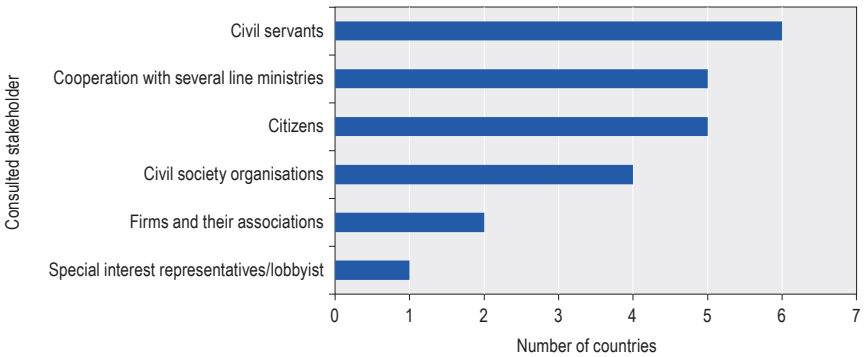
While the previous examples illustrates the importance of migrating from a strict "data-supply" release perspective to a more balanced and interactive "data demand" approach, consultation for OGD policies among LACs still has a strong horizontal focus.

Eight countries informed that they consulted relevant stakeholders. However, as observed in Figure 4.4, consultations aim to obtain inputs from civil servants and other line ministries leaving behind relevant stakeholders such as the private sector[18]. Only two countries consulted firms to define their OGDS. This limited level of consultation with private sector actors and data users seems to be in line with the low relevance LACs attribute to open data as an opportunity to create economic value for the economy as a whole.

LACs are not alone in this respect. Among OECD countries, only nine consulted the private sector[19]. Building stronger links with businesses, chambers of commerce and Small and Medium Enterprises (SMEs) is a shared challenge across OECD countries and LACs. In two countries (El Salvador and Guatemala), consulted stakeholders are limited only to civil servants and other public ministries (see Annex C, Section III,- Question 5.1).

Furthermore, institutionalising regular consultation during policy implementation ensures OGD strategies will be continually adapted according to the needs of data users and an evolving policy environment.

Figure 4.4. OGD strategy/policy development: Consulted stakeholders



Source: 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 3 – Question 5.1.

Feedback is key to adapt policies and select datasets for prioritised release in open formats. Implementing regular consultations is useful to integrate stakeholders' feedback, select high value datasets for release and, if necessary, adjust measures towards a more effective implementation.

Evidence shows that regular consultation exercises are being implemented in Latin American countries. Eight LACs report that they conduct regular consultations with citizens and civil society organisations[20]. For instance, in Brazil the INDA organises yearly meetings with stakeholders to discuss on open data strategies in the country. These meetings allow the INDA to discuss on the achievements of the OGD strategy in the country, implementation issues requiring attention and next steps. Practices like these allow continual policy adaptation and the inclusion of a stronger bottom-up approach for policy making.

One should note that while two LACs carried out *ex-ante* consultation exercises to obtain input from the private sector and businesses, six countries performed regular consultation with them. Regarding the role of the private

sector on open data strategies, this evidence may show that LACs are keeping a strong horizontal approach for policy making but a more inclusive – perhaps corrective – approach during policy implementation.

Making data work: Open government data portals and data offer among LACs

Centralised open data portals

Currently, the development of centralised open data portals is diverse. Across LACs, one could divide countries in three categories based on the availability of open data portals[21]:

- **Fully-functional centralised OD portals: *Brazil, Colombia, Costa Rica, Chile and Uruguay*** are the only countries with functioning centralised open data portals. These centralised portals provide data in machine-readable formats such as excel or comma separated values (csv)[22]. According to information provided, currently OD portals provide functionalities such as search tools or ranking of the most requested datasets. However, more specialized functions options such as accessibility tools for the visually impaired or geospatial tools require further development[23] (see Table 4.1).

Table 4.1. Functionalities and features of available centralised data portals across LACs

	Centralised open data portal website	Search function	Ranking of most popular datasets/tools	User feedback (e.g. to request datasets, etc.)	Complaints on data quality (e.g. completeness, relevance, timeliness)	Forums	Accessibility options for the visually impaired	Different language options for content	Geospatial tools	Blogs on best practices
Brazil	*www.dados.gov.br*	●	●	●	●	●	●	○	○	○
Chile	*http://datos.gob.cl/*	●	●	●	●	○	○	○	○	○
Colombia	*www.datos.gov.co*	●	●	●	●	○	○	○	○	○
Costa Rica	*http://datosabiertos.gob.go.cr*	●	●	●	●	○	○	○	●	○
Uruguay	*www.datos.gob.uy*	●	●	○	○	○	○	●	○	○
Mexico	*www.datos.gob.mx*	●	●	●	○	●	○	○	●	●

● Available
○ Not available

Source: 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 3 – Question 10.6.

- **Centralised OGD portals with tested** online **platforms but no datasets yet available or fully functional:** The ***Dominican Republic*** launched the website *http://datosgobdo.cloudapp.net* as a beta version of its OGD portal (not yet available). This one-time open data portal was used by the Dominican government during a hackathon exercise conducted with one civil society organisation.
- **Centralised OGD portals under development: *Guatemala, El Salvador and Peru*** are currently working on developing their centralised open data portals but no online platform has been launched or publicly tested. However, these countries are currently working on setting ground towards open data[24].

Despite the fact that centralised OGD portals are mostly under development across LACs, this evidence does not indicate the absence of publicly accessible OGD. As observed in Table 4.2 and Figure 4.5, national governments and central public institutions are co-ordinating and carrying out efforts to make data available on individual OD portals.

Table 4.2. Individual open data portals across LACs

	Individual open data portals (2)									
Country (1)	Public procurement (overall spending, contracts, tenders, etc..)	Fiscal spending/ budgetary data portal	Public grants, including social welfare	Elections/voting data portal	Public posts appointments	Assets disclosure	Other	Crime data portal	Stimulus spending/industry bailouts open data portal	Political parties
Chile	●	●	●	●	●	●	○	●	○	○
Brazil	●	●	●	●	●	○	●	○	○	○
Mexico	●	●	●	●	●	○	○	○	○	○
Costa Rica	●	●	●	●	○	○	○	○	○	○
Dominican Republic	●	○	○	●	○	●	○	○	○	○
Salvador	●	●	●	○	○	○	○	○	○	○
Guatemala	●	●	○	○	○	○	○	○	○	○
Colombia	○	○	○	○	○	○	●	○	○	○
Uruguay	●	○	○	○	○	○	○	○	○	○
Paraguay	○	○	○	○	○	○	○	○	○	○
Peru	○	○	○	○	○	○	○	○	○	○

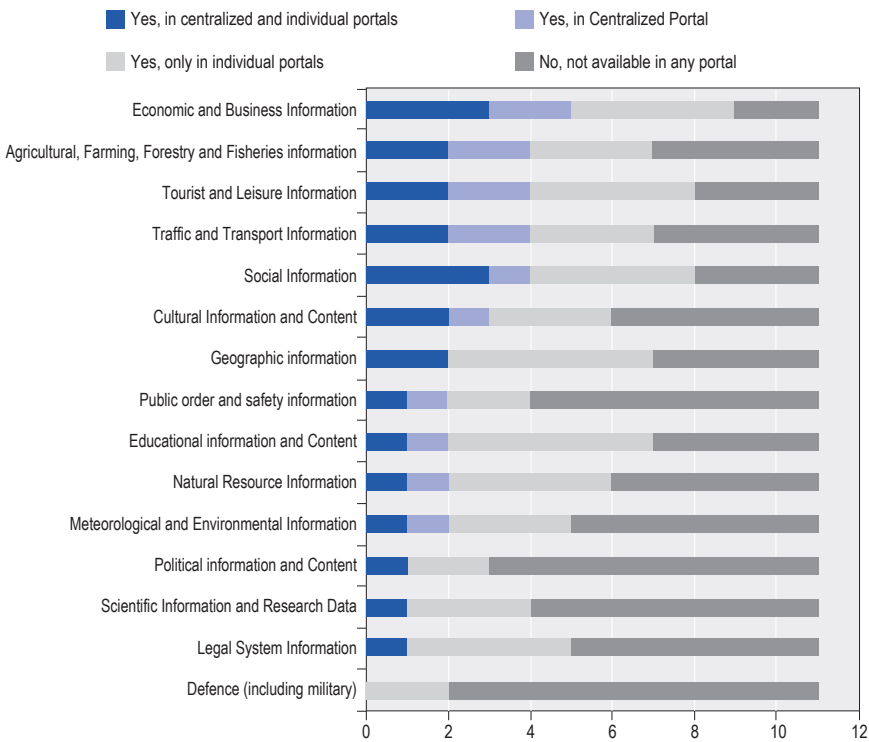
● Open data portal is available

○ Not available

Notes:
(1) Listed from higher number of reported individual open data portals
(2) Listed from highest to lowest aggregated availability
Source: 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 3 – Question 10.4.

For instance, in Mexico, before the establishment of the centralised OGD portal, data on public finance was already accessible and downloadable in individual portals (*http://www.transparenciapresupuestaria.gob.mx/*). Individual portals are also available in Uruguay offering data on public procurement (*http://www.comprasestatales.gub.uy/inicio/datos-abiertos/*).

Figure 4.5. Types of datasets generally available in centralised and/or individual open data portals

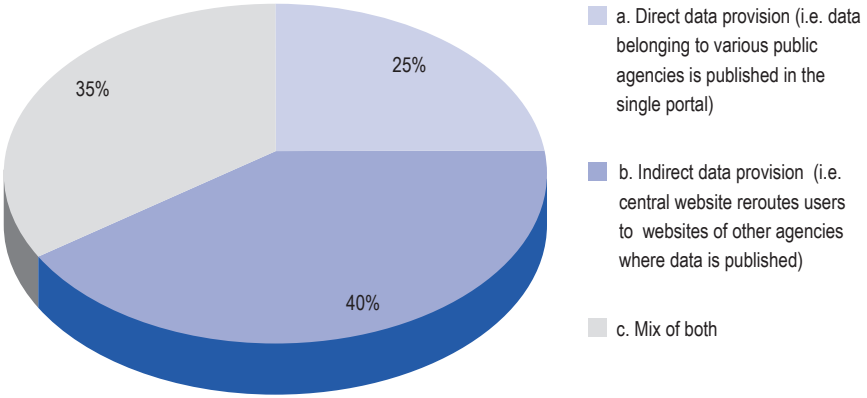


Note: For information by country see Annex C, Section III, Question 10.1.

Source: 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 3 – Question 10.8.

In some cases central or individual open data or transparency portals may work as the "gate" to access data available in other portals; an example is the transparency portal of Brazil *http://www.portaltransparencia.gov.br*. In fact, indirect data provision (i.e., central website reroutes users to websites of other agencies where data is published) is used by 40% of OECD countries. Direct data provision (data belonging to various public agencies is published in the single portal) is available only in 25% of OECD countries (see Figure 4.6).

Figure 4.6. Direct and indirect data provision: OECD countries



Source: 2013 OECD Survey on Open Government Data – Question 13c.

The key goal: Taking open data to other policy sectors

The potential of exploiting open data in Latin America is wide considering the amount of data already available in individual portals, as previously shown in Figure 4.6. But this will require higher inter-institutional co-operation and greater institutional policy awareness.

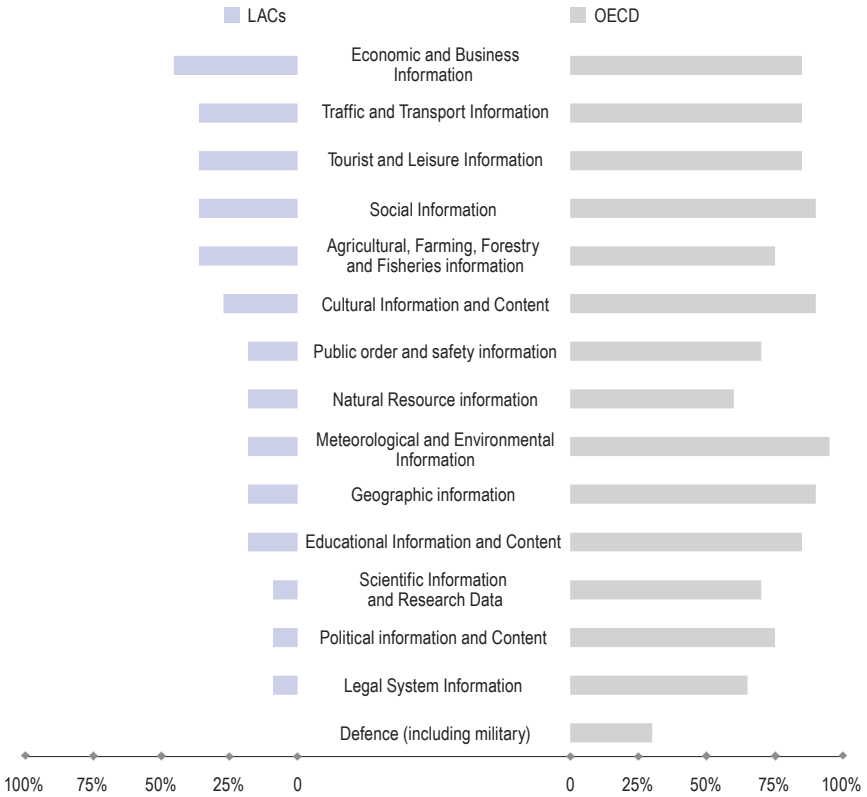
Ministries held data and strong leadership will be required for further co-operation. When migrating from an access to information perspective to an open data approach, the Centre of Government (CoG) should ensure ministries will co-operate to release their data and to create the internal capacities and awareness among civil servants for data re-use. For instance, data on categories such as housing and public safety are not released in ministry or central portals in 63% of LACs[25]. Regarding data on general public service and recreation and culture, in 54% of LACs a situation similar to those in the previous data categories prevails[26].

Briefly, among LACs, non-financial data is not being fully released and its potential is not being fully exploited. Stronger co-operation with ministries has to be strengthened across LACs to further develop both central and individual open data portals.

As shown in Figure 4.7, there is a big gap in open data availability between LACs and OECD countries. For instance, while meteorological data is available in central portals in 95% of OECD countries, it is only available in 18% of LACs. This is also true of social, cultural and geographic data. This is quite important as many of these datasets, when widely re-used, enable the generation of economic and social value.

Figure 4.7. Datasets available in central OD portals: LACs and OECD countries

Percentage of responding countries



Notes: Percentages based on information provided by 11 LACs and 20 OECD countries.

Source: 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 3 – Question 10.8 and 2013 OECD Survey on Open Government Data – Question 13i.

While working on developing central OGD portals, LACs should aim to implement a comprehensive policy to expand OGD policies to additional policy sectors besides public finance, such as public safety and crime, science or political parties, or public transport[27]. Incorporating the open data component to other policy sectors is key to further develop open data programmes in Latin America.

The road to open data

Developing centralised and individual portals will require LACs to further work on four crucial activities: inter-institutional data sharing, data quality control, user-engagement activities and refined focus on open data outcomes.

Inter-institutional data sharing and institutional capacities

As previously mentioned, ministries and public institutions across LACs are not fully releasing data. For instance, data on housing, health, culture and education is available only in ministry websites in 36% of LACs or it is not available at all[28].

Thus, data exchange mechanisms should be implemented by central governments in order to set ground towards centralised and individual portals in co-operation with central ministries. The challenge is big considering that LACs see policy, institutional, organisational and technical issues as the most important challenges for the implementation of open data policies and programmes[29]. An efficient co-ordination and co-operation is thus harder to achieve when ministries simply don't have enough capacities to implement open data programmes.

Data quality control

Improving and assuring data quality in terms of accuracy, consistency, and timeliness is among the most important tasks government face to pave the way for value creation. The wide range of stakeholders involved in the fast-changing OGD policy environment makes it more difficult to determine and maintain quality standards, increased risks for data quality (i.e. outdated, inaccurate or incomplete data) (Ubaldi, 2013). LACs and OECD countries face a common challenge in this respect. While three LACs report the existence of parallel systematic processes at the central and ministry levels for collecting, cleaning and managing data, six countries inform that data quality control processes are not yet available[30]. In parallel, 56% of OECD countries also report that data quality control mechanisms are not yet available[31].

One of the ultimate purposes of OGD policies is to allow users to re-use data to create added value. Hence, establishing control mechanisms to address low data quality is highly relevant to facilitate users' engagement thus boosting data re-use.

User-engagement activities

Engagement activities are crucial to attract and motivate current and potential users to access and re-use data. Among OGP LAC countries, the most common used initiatives are organisation of co-creation type events such as hackathons and software development contests useful to create apps or widgets based on public data. For instance, Colombia, the Dominican Republic, Costa Rica and Chile held hackathons useful for the creation of apps to improve public

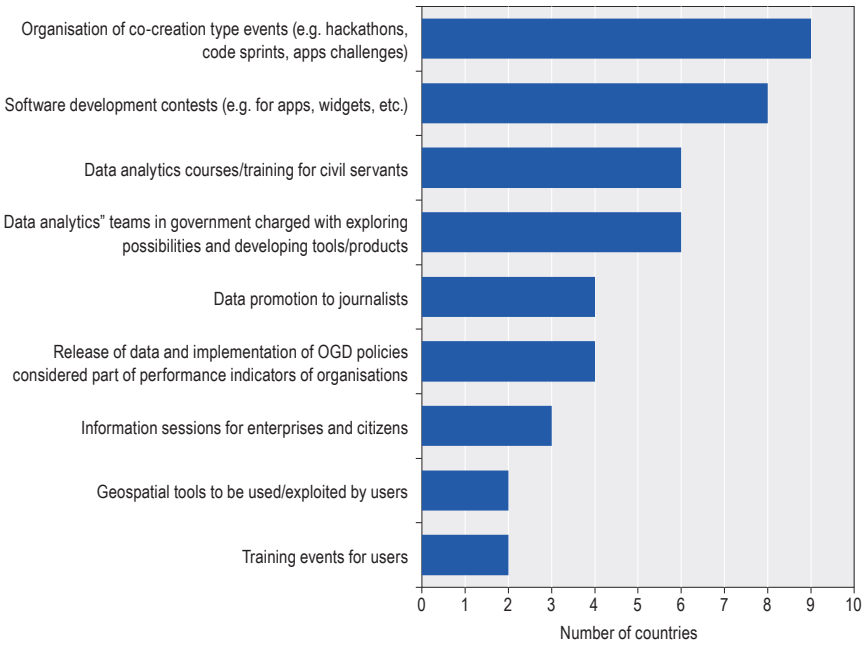
service delivery, or to provide data and information on public expenditure, transport and consumer protection (see Chapter 5 for a description of hackathon events in Colombia).

Nonetheless, one could say that hackatons and app-development contests frame engagement activities across LACs.

There is however a need to go further. The previously mentioned initiatives aim to reach a population segment with a mid/high level of technical expertise and ICT knowledge, but other initiatives should be equally implemented to attract new users with more limited technical skills and knowledge. As experienced in OECD countries[32], governments could further benefit from training events for users and information sessions for companies and citizens[33].

Training sessions should also aim to attract and train other specialized users such as journalists. Indeed, this user sector is of key importance according to LACs, as expressed during the Seminar on Open Government Policies in Latin America held in Bogotá in March 2014, aligning again the challenges faced by most of OECD countries and LACs.

Figure 4.8. Existing government-led initiatives aimed to promote the (re)use of publicly released data and information across LACs



Source: 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 3 – Question 12.1.

Monitoring the benefits of open data

Monitoring the outcomes and benefits of open data initiatives is useful to measure their efficiency and to apply modifications to policies and programmes when needed.

For instance, seven LACs are keeping track of developed apps based on public open data[34]. The cases of Colombia, Chile and Uruguay stand out among LACs when referring to following-up developed apps. These three countries launched web platforms where users can consult and download OGD-based applications.

On the contrary, there is room for improvement regarding tracking economic and/or social gains from the (re)use of open government data as none of the LACs is currently keeping track of these indicators[35].

Notes

1. *http://www.gov.uk/government/policies/providing-better-information-and-protection-for-consumers/supporting-pages/personal-data*
2. Ubaldi, B. (2013), "Open Government Data: Towards Empirical Analysis of Open Government Data Initiatives", OECD Working Papers on Public Governance, No. 22, OECD Publishing.
3. 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 3 – Questions 1.1.
4. Ibid, Question 9.1.
5. 2013 OECD Survey on Open Government Data – Question 9.
6. 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 3 – Question 10.5.
7. Ibid. Question 6.1.
8. Ibid. Question 14.
9. 2013 OECD Survey on Open Government Data – Question 11.
10. 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 3 – Question 8.3.
11. Ibid. Question 3.1.
12. 2013 OECD Survey on Open Government Data – Question 3a.
13. 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 3 – Question 3.1.
14. Ibid. Question 3.2.
15. Ibid. Question 5.2.

16. Ibid. Question 3.2.

17. Ibid.

18. Ibid. Question 5.1.

19. 2013 OECD Survey on Open Government Data – Question 5a.

20. 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 3 – Question 7.1.

21. Ibid. Question 10.2.

22. Ibid. Question 10.3.

23. Ibid. Question 10.6.

24. In July 2014, the open data portal of the Paraguayan Ministry of Education and Culture (*Ministerio de Educación y Cultura*) was published. The website (datos.mec.gov.py) includes data in an open format. Information about this portal could not be included in this report.

25. Ibid. Question 11.1.

26. Ibid.

27. Ibid. Questions 10.4 and 10.8.

28. Ibid. Question 11.1.

29. Ibid. Question 14.

30. Ibid. Question 13.1.

31. 2013 OECD Survey on Open Government Data – Question 18a.

32. 2013 OECD Survey on Open Government Data – Question 15a.

33. 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America. Section 3 – Question 12.1.

34. Ibid. Question 12.2.

35. Ibid. Question 12.3.

Bibliography

OECD (2014), *Spain: From Administrative Reform to Continuous Improvement*, OECD Public Governance Reviews, OECD Publishing, Paris, *http://dx.doi.org/10.1787/9789264210592-en*.

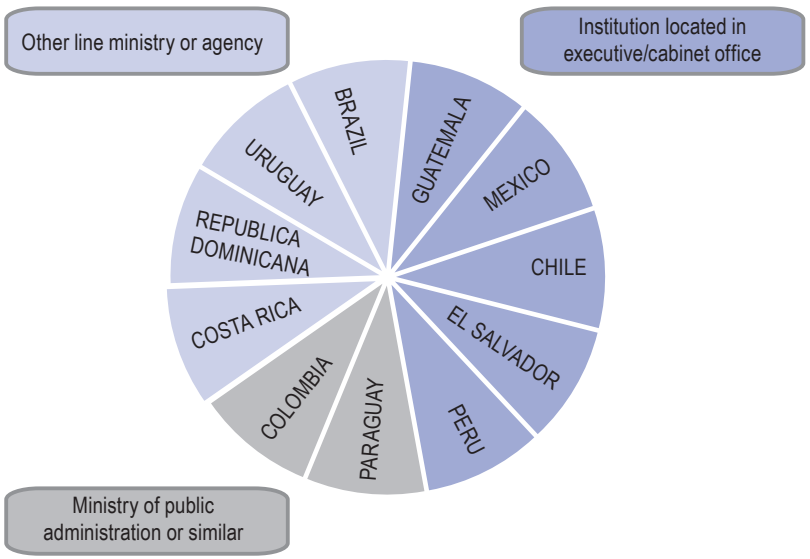
OECD (2013), Questionnaire on the Implementation of Open Government Policies in Latin America.

Ubaldi, B. (2013), "Open Government Data: Towards Empirical Analysis of Open Government Data Initiatives", OECD Working Papers on Public Governance, No. 22, OECD Publishing, Paris, *http://dx.doi. org/10.1787/5k46bj4f03s7-en*.

ANNEX 4A.1.

Open data

Question 2.1. Please indicate the line ministry/agency responsible for formulating the central open data policy.



Question 3.1. Please indicate which of the elements below are part of the central government OGD strategy/policy:

	Standards/guidelines for information disclosure	Standards/guidelines on data formats (e.g. open or proprietary formats, downloadable files in formats such as RDF, Excel, CSV, KML,XML, or on the web as linked data through RESTful APIs)	Data users' engagement (e.g. use of social media, process to request data from public agencies)	Communications/awareness initiatives targeting firms and citizens including use of social media	Training for civil servants	Standards/guidelines on licensing/copyrights with respect to release/use of data (e.g. creative commons licenses, Open Data Commons Attribution)	Standards/guidelines for open data portals/websites	Requirements for public agencies to re-use data	Standards/guidelines concerning privacy	Metadata standards (e.g. core common reference datasets/data definitions used across government)	Provision of incentives for civil servants to re-use data	Guidelines/rules concerning charging for government information (e.g. fees for public users to access government information)	Other
Brazil	●	●	●	●	●	●	○	●	○	●	●	○	○
Chile	●	●	●	●	○	●	●	●	●	●	○	○	○
Colombia	●	●	●	●	●	○	●	●	●	●	○	○	●
Costa Rica	●	●	●	●	●	●	●	●	●	●	○	○	○
Dominican Republic	●	●	●	●	●	●	●	○	○	●	○	○	○
Guatemala	●	●	●	●	●	○	●	○	○	○	○	●	○
Mexico	●	●	●	●	●	●	●	●	●	●	●	○	○
Paraguay	●	●	●	●	●	●	●	○	●	○	○	○	○
Salvador	●	●	●	○	●	●	○	○	○	○	○	○	●
Uruguay	●	●	●	●	●	●	●	●	●	○	●	○	○

Question 5.1. Was the central/federal OGD strategy/policy developed in consultation with:

	Citizens	Civil society organisations	Firms and their associations	Civil servants	Co-operation with several line ministries	Special interest representatives/ lobbyist
Brazil	●	●	●	●	●	○
Chile	●	○	○	○	○	○
Colombia	●	○	○	●	○	○
Costa Rica	●	●	●	●	●	●
Dominican Republic	○	○	○	○	○	○
Guatemala	○	○	○	○	●	○
Mexico	●	●	○	●	●	○
Paraguay	○	○	○	○	○	○
Peru	○	○	○	○	○	○
Salvador	○	○	○	●	○	○
Uruguay	○	●	○	●	●	○

● Yes

○ No

Question 10.1. Please indicate which types of datasets (in terms of content/policy domain) are generally available in centralised and/or individual OD portals:

	Brazil	Chile	Colombia	Costa Rica	Dominican Republic	Guatemala	Mexico	Paraguay	Peru	Salvador	Uruguay
	-	●	-	●	-	-	-	-	-	-	●
Economic and Business Information	⊙	-	⊙	-	-	-	-	-	-	-	-
	-	-	-	-	◉	◉	◉	-	-	◉	-
	-	-	-	-	-	-	-	○	○	○	-
	●	-	-	-	-	-	-	-	-	-	●
Geographic Information	-	-	-	-	-	-	-	-	-	-	-
	-	◉	◉	-	◉	◉	-	◉	-	-	-
	-	-	-	○	-	-	○	-	○	○	-
	●	-	-	-	-	-	-	-	-	-	-
Legal System Information	-	-	-	-	-	-	-	-	-	-	-
	-	◉	-	◉	◉	-	-	◉	-	-	-
	-	-	○	-	-	○	○	-	○	○	○
	●	●	-	-	-	-	-	-	-	-	●
Meteorological and Environmental Information	-	-	⊙	-	-	-	-	-	-	-	-
	-	-	-	◉	◉	-	-	◉	-	-	-
	○	-	-	-	-	○	○	-	○	○	○
	●	●	-	-	-	-	-	-	-	-	●
Social Information	-	-	⊙	-	-	-	-	-	-	-	-
	-	-	-	-	◉	◉	◉	◉	-	-	-
	-	-	-	○	-	-	-	-	○	○	-

Question 7.2. For the categories of information selected in 5.2 and 6.2, where is this information made available electronically? *(Cont.)*

	Brazil	Chile	Colombia	Costa Rica	Dominican Republic	Guatemala	Mexico	Paraguay	Peru	Salvador	Uruguay
	-	●	-	-	-	-	-	-	-	-	●
Traffic and Transport Information	⊙	-	⊙	-	-	-	-	-	-	-	-
	-	-	-	◉	◉	-	-	◉	-	-	-
	-	-	-	-	-	○	○	-	○	○	-
	-	●	-	-	-	-	-	-	-	-	●
Tourist and Leisure Information	⊙	-	⊙	-	-	-	-	-	-	-	-
	-	-	-	◉	◉	◉	-	◉	-	-	-
	-	-	-	-	-	-	○	-	○	○	-
	●	●	-	-	-	-	-	-	-	-	-
Agricultural, Farming, Forestry and Fisheries Information	-	-	⊙	-	-	-	-	-	-	⊙	-
	-	-	-	-	◉	◉	-	◉	-	-	-
	-	-	-	○	-	-	○	-	○	○	○
	●	-	-	-	-	-	-	-	-	-	-
Natural Resource Information	-	-	⊙	-	-	-	-	-	-	-	-
	-	-	-	◉	◉	◉	-	◉	-	-	-
	-	○	-	-	-	-	○	-	○	○	○
	-	-	-	●	-	-	-	-	-	-	-
Scientific Information and Research Data	-	-	-	-	-	-	-	-	-	-	-
	-	-	-	-	◉	◉	-	◉	-	-	-
	○	○	○	-	-	-	○	-	○	○	-
	●	-	-	-	-	-	-	-	-	-	-
Educational Information and Content	-	-	⊙	-	-	-	-	-	-	-	-
	-	◉	-	-	◉	◉	-	◉	-	-	◉
	-	-	-	-	-	-	-	-	-	-	-
	-	●	-	-	-	-	-	-	-	-	-
Public Order and Safety Information	⊙	-	-	-	-	-	-	-	-	-	-
	-	-	-	-	◉	-	-	◉	-	-	-
	-	-	○	○	-	○	○	-	○	○	○
	-	-	-	-	-	-	-	-	-	-	-
Defence (including military)	-	-	-	-	-	-	-	-	-	-	-
	-	-	-	-	◉	-	-	◉	-	-	-
	○	○	○	○	-	○	○	-	○	○	○
	●	-	-	-	-	-	-	-	-	-	-
Political Information and Content	-	-	-	-	-	-	-	-	-	-	-
	-	-	-	-	◉	-	-	◉	-	-	-
	-	○	○	○	-	○	○	-	○	○	○
	-	●	-	●	-	-	-	-	-	-	-
Cultural Information and Content	-	-	⊙	-	-	-	-	-	-	-	-
	-	-	-	-	◉	-	-	◉	-	-	◉
	○	-	-	-	-	○	○	-	○	○	-

● Data available in centralized and invididual portals
⊙ Data available only in Centralized Portal
◉ Data available only in individual portals
○ Data is not available in any portal

Chapter 5

Open government policies and initiatives in Colombia

This chapter analyses open government policies and initiatives in the Republic of Colombia. It first discusses the extensive legal framework for open government in Colombia highlighting in particular the new Law on Transparency and Access to Information and the new Anti-Corruption Statute. It then introduces the main institutions involved in open government policy making, implementation and evaluation and discusses the government's main open government policy achievements including the Anti-Corruption Observatory, the Economic Tranparency Portal and the National system to evaluate public management results (SINERGIA) that is advanced by OECD standards. Finally, the chapter presents specific recommendations to help the country sustain the progress achieved and address the remaining challenges. Recommendations include to enhance the focus on the implementation of the legal framework particularly the new Law on Transparency and Access to Information and to improve open government communication by involving the media.

The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

Introduction

Beginning with the adoption of the Political Constitution of 1991, a significant political and economic reform has been undertaken in Colombia (OECD, 2013a). Consecutive waves of structural reforms to the State have been implemented in an effort to address deep damages caused by violence and insecurity, poverty and inequality, as well as by corruption and patronage. In 2012/2013, the OECD performed a Public Governance Review (PGR) of Colombia (OECD, 2013a), which analysed the reform efforts of the past 20 years. The PGR found that the country has demonstrated progress in several areas of good governance and openness. The areas of rule of law, political accountability and giving voice to citizens represent clear and significant advances. However, the review also noted that the development has been less clear in other areas, particularly regarding corruption and control of corruption (OECD, 2013a)[1].

Elements of "good governance" such as efficacy, efficiency, transparency, fight against corruption and accountability have been some of the main tools of President Juan Manuel Santos Calderón's Administration to achieve the goal stated in the 2010-2014 National Development Plan: "Prosperity for All". Initiatives taken include an ambitious e-government programme, the drafting of a new law on access to public information, as well as the creation of new commissions such as the National Moralisation Commission and the National Citizens Commission. Today, Colombia ranks 43rd worldwide (and 2nd in Latin America) in the United Nation's E-Government Development Index and is at the same level as Sweden when it comes to online services (United Nations, 2012). In the World Economic Forum's (2014) Global Information Technology Report the country ranks 66th (out of 144 countries).

This laudable progress can only be sustained if challenges like the persisting regional disparities, the limited degree of civil participation, the "secrecy culture" and corruption are addressed. The creation of the Open Government Partnership (OGP) represented an opportunity to develop a more integrated approach to these challenges, reinforce and promote Colombia's commitment to good governance and open government principles, and enhance inclusiveness. The country began the process to join the OGP in September 2011. It became a member as part of the second group of acceding countries and presented its first Action Plan in April 2012. As of May 2014, Colombia is in the process of developing a second OGP Action Plan. A first self-assessment and the report of the Independent Reporting Mechanism (IRM) have been published and are available online.

This chapter will analyse Colombia's current legal, institutional and policy framework as regards open government and present specific recommendations

to help the country sustain the progress achieved and address the remaining challenges.

Legal framework for open government

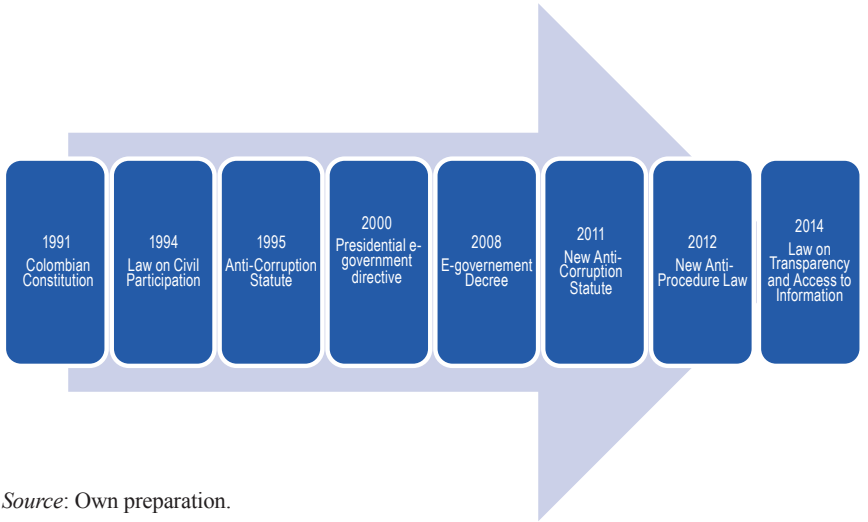
Colombia's extensive legislation provides the basis for a transparent, accountable, participatory and open government. The country is signatory to many international conventions and treaties that are important for open government. Besides the Open Government Partnership (OGP), agreements signed and ratified by Colombia include the Ibero-American Electronic Government Charter (*Carta Iberoamericana de Gobierno Electrónico*), the Ibero-american Charter on Citizen Participation (*Carta Iberoamericana de Participación Ciudadana*), as well as anti-corruption conventions like the United Nations Convention to Combat Corruption, the Inter-American Convention against Corruption and the Follow-Up Mechanism for its Implementation (*Convención Interamericana contra la Corrupción y el Mecanismo de Seguimiento de su Implementación*, MESICIC). The country is also a signatory of the OECD Anti-Bribery Convention and has presented its action plan for becoming a member of the Extractive Industries Transparency Initiative (EITI).

Internally, laws like the new Law on Transparency and Access to Information, the Anti-Corruption Statute, and the different e-government decrees are in line with international good practices. However, just like many other Latin American countries, Colombia faces the challenge to have the drafting of legislative acts be followed by effective implementation and enforcement, particularly at the local level.

Constitution

The 1991 Constitution is the source of all legislation. It establishes that "Colombia is a Social State of Law organised as a unitary republic, decentralised, with autonomy of its territorial units, democratic, participatory and pluralistic" (Article 1). As occurs with other Latin American Constitutions, it expresses at length the core public-service values such as the defence and promotion of human rights and the protection of public interest. It further makes provisions for a number of supervisory agencies responsible of ensuring compliance with these values, including the National Attorney General, the Ombudsman, public prosecutors and the Comptroller General (OECD, 2013a). As described in Chapter 2, Colombia is one of the 11 LACs analysed in this report that have included open government and transparency provisions in their Constitutions[2], which is a key element to ensure access to public information as a public right.

Figure 5.1. Timeline of relevant legal documents



Source: Own preparation.

Statutory Law on Transparency and Access to Public Information (Law 1712 of 2014)

Colombia was among the first countries in the world to formally acknowledge the right to access public information. The 1886 Political Constitution declared that "(e)veryone has the right to submit respectful petitions to the authorities, either for reasons of general interest or particular interest, and to obtain a prompt resolution" (Republic of Colombia, 1886, Art. 45). Colombia was also the first State in Latin America to establish some sort of freedom of information law (FOI) (Mendel, 2010: 61). Already in 1985, Law 57 formally defined the right. Article 12 of the Law stated that "(e)veryone has the right to see the documents held in public offices and to be issued copies thereof, provided that such documents are not confidential under the Constitution, or do not regard defence or national security".

However, compared with laws that were adopted in its neighbouring countries in the early 2000s (see Chapter 3), Law 57 of 1985 was very brief and failed to elaborate on many matters that are normally included within the scope of this kind of laws (Mendel, 2010). Therefore, different norms had to complement Law 57of 1985. While these laws did not elaborate on the right to access public information as a central issue (Foundation of Freedom of the Press, 2011: 9), they were useful to define a secondary regulatory framework that lay the groundwork for a more developed regulatory framework on transparency. For instance, the Public Archive Law (*Ley General de Archivos)*

(Law 594 of 2000) highlights the conditions of access of citizens to public documents and Law 1266 of 2008 regulates the "habeas data".

With the financial support of the Embassies of the United Kingdom and the Netherlands, a consortium formed by congresspersons, the government and civil society organisations (CSOs)[3], drafted a new FOI. Based on the Access to Information Model Law developed by the Organisation of American States (OAS)[4] and taking into account the experience of Mexico and Chile, in 2011 the Senate submitted Draft Law 156 of 2011 and Congress submitted Draft Law 228 of 2012. Approved by Congress in June 2012 and declared valid by the Supreme Court, the new Law 1712 of 2014 was finally signed by the President in April 2014.

The new law contains a great number of significant innovations, including the definition of "compelled subjects" (*sujetos obligados*). In addition to the three branches of government, the Law applies, for example, to political parties and movements, as well as entities that administer funds or resources of public nature or origin (Article 5). As mentioned in Chapter 3, Colombia is one of eight LACs included in this report in which private actors administrating public funds are compelled by law to provide access to information. The Colombian law also offers a list of different types of information that has to be proactively published by the compelled subjects (Article 9) and stipulates which entities are responsible for its implementation as well as co-ordination mechanisms. Other major innovations include the change of the maximum period of legal reserves from 30 to 15 years (Article 22) and the extension of the list of legal exceptions for information that can cause damage to public interests (access has to be prohibited by Law or the Constitution), which now also includes "Documents containing opinions or viewpoints that are part of the deliberative process of public servants" (Article 19).

As regards requests of information, the Colombian FOI stands out from other transparency laws in the region, as Colombia is the only LAC in which requestors are not compelled to provide any kind of personal information or to present an ID when requesting public information (see Chapter 3). The law further eases access by establishing that the response to a request should be free or subject to a cost that does not exceed the cost of reproduction and delivery of the information asked for (Article 26). In this respect, the new FOI has a clear potential to advance open government in Colombia. The government should now focus on building citizens' capacity to make use of their right to access information and on improving access channels. It is in this context that ICTs can play an important role.

In contrast to many other FOIs in Latin America, the Colombian law also includes a reference to the concept of open data. The Law establishes that the implementation of open data is compulsory for the compelled entities

(Article 11). By law, all information of public interest that is generated, handled and disseminated by compelled entities must be "timely, objective, accurate, complete, reusable, actionable and *available in accessible formats* to applicants" (Article 3) (emphasis added). Article 3 further states that "regarding the technical conditions for publication, the requirements established by the national government through the Ministry of Information Technology and Communications have to be taken into account".

The biggest challenge the government will have to face for the Law to actually enhance transparency and accountability will be to ensure its effective implementation and to strengthen institutional capacities both at the sub-national and the central levels. In order to do so, strong co-ordination mechanisms as well as tools for monitoring and evaluating implementation will be needed. Eight government agencies, as well as civil society, are involved in the implementation of the Law. The Secretariat of Transparency is co-ordinating the overall implementation. The Public Ministry is in charge of overseeing the fulfilment of the law mandates (Article 23) and, supported by civil society, it is also responsible of training compelled entities and society (Article 30). The Ministry of Education, also with the support of civil society, is responsible for formal education in the area (Article 31). The design, promotion and implementation of public policy on access to public information, will be provided by the Secretariat of Transparency of the Presidency of the Republic, the Ministry of Information Technology and Communications, the Administrative Department of Public Service (DAFP), the National Planning Department (DNP), the General Archive of the Nation and the National Administrative Department of Statistics (DANE) (Article 32).

The Colombian Law on Transparency and Access to Information is one of the last FOI that has entered into force among LACs, but the Colombian Government has shown a strong commitment to catch up with its neighbours building capacities across the open government ecosystems. Working sessions have been organised in all entities responsible of its implementation, including civil society. As a result of these working sessions, an inventory of the main challenges for the implementation of the Law was built up. The working sessions have also resulted in draft decrees that will regulate the provisions of the Law in detail. For instance, the Minister of Information Technology and Communications is working with the Presidency and other public entities including the National Archive, the Public Procurement Agency, the DNP and the DNP on a decree to regulate Information Management. Each institution involved has further created a technical group (Committee) that works on the design of the implementation process, the financial plan and the creation of guidelines and legal instruments for the regulation of the Law. These activities have been crucial for the development of open government and open data strategies across Colombian central institutions. Indeed, Colombia is the only

LAC reporting that all ministries at the central level have an open government data strategy in place. However, this is not an immediate event. As mentioned in Chapter 3, even though the Colombian FOI is fairly recent, the availability of strategies and policies on digital government in the country dates from the early 2000s and fosters the efficiency of the regulatory framework being developed by the Colombian Government.

Box 5.1. Role of the Ministry of Information Technology and Communication in the promotion of open government and the Law on Transparency and Access to Information

The e-Government Office of the Ministry of Information Technology and Communication has designed an action plan, which will be implemented during the second semester of 2014. The plan foresees three types of activities:

- **Design**: The design includes activities related to drafting decrees and guides that will facilitate the implementation of the Law. The next activity is public discussion of the information management decree that seeks to articulate different instruments established and to regulate the use of ICTs. These activities are linked with the agenda of the national government, and the goal is to reach its implementation during the last trimester of 2014.
- **Implementation**: This activity includes promotion through the Crystal Urn (*Urna de Cristal*), involving socialization of guides, laws and decrees. Citizens will send proposals directly to government entities, interacting and learning about public administration in order to build a better Government. For national entities this activity will be held during the third quarter of 2014 and for local entities during the last quarter of the same year. The e-Government office of the Ministry will train government agencies that are part of the e-Government strategy. The purpose of the training is to raise compelled entities' awareness of their commitments and how to implement them. These training activities are planned for the second semester of 2014 and during the process of implementation of the law.
- **Monitoring and Measurement**: The objective of this activity is to establish the necessary tools to carry out an assessment of the law's implementation and enforcement. This measurement will start in 2015.

Source: Information provided by the Ministry of Information Technologies and Communications

Anti-Corruption Statute (Law 1474 of 2011) and CONPES 167 of 2013

Corruption is a common concern across Latin American countries (see Chapter 2). The coming into effect of a new Anti-corruption Statute (Law 1474 of 2011) and the elaboration of the National Strategy for Integrated Anti-

Corruption Public Policy (CONPES 167 of 2013) are important achievements of the Colombian government, being a key element of the overall set of policies and regulations on open government.

Complementing the old Anti-Corruption Statute (Law 190 of 1995), the new Statute is part of the government's comprehensive policy initiative to strengthen mechanisms to prevent, investigate and punish acts of corruption and control effectiveness of public administration (Konrad Adenauer Stiftung, 2011: 5). The Statute criminalises extortion, active and passive bribery, foreign bribery, political corruption, trading with confidential state information and money laundering, and establishes administrative, criminal, and fiscal sanctions (Transparency International, 2013). Entailing all citizens, the Statute not only promotes transparency but also a culture of legality and establishes a methodology to implement anti-corruption plans in each national and local entity. It also incorporates instruments of international anti-corruption conventions.

When compared with its predecessor, certain changes stand out. The new Statute defines corruption between private persons (Law 190 was only focused on corruption of public servants), presents a series of reforms in disciplinary proceedings and criminal matters, and changes and introduces new offenses and increases penalties (Konrad Adenauer Stiftung, 2011). It also creates the National Commission of Moralization, the National Citizens Commission for the Fight against Corruption and Regional Commissions for the Fight against Corruption to tackle corruption (see description of institutions below). This creation of specific public bodies in charge of fighting corruption is also observed in other LACs (i.e. the High-level Anti-corruption Commission in Peru). Finally, it foresees increased research on corruption and mandates the implementation of preventive and educational policies.

The Colombian comprehensive anti-corruption framework is complemented by CONPES 167 of 2013, drafted by the National Council on Economic and Social Policy (*Consejo Nacional de Política Económica y Social*, CONPES)[5], the most important policy co-ordination council in the government. CONPES 167 of 2013 sets out the National Strategy for Integrated Anti-Corruption Public Policy. The central objective of the document is to strengthen the tools and mechanisms for the prevention, investigation and punishment in the fight against corruption in both the public and private sectors. The document consists of five core strategies: improving the access and quality of public information to prevent corruption; improving public management tools to prevent corruption; increasing the incidence of social control in the fight against corruption; promoting integrity and a culture of legality in the State and society; and reducing impunity for acts of corruption.

The Action Plan of CONPES 167 of 2013 contains 110 actions that were agreed upon with 18 entities and 24 units of the national executive and the supervisory bodies. This includes, for instance, economic transparency portals at the local level, and the general revision of territorial fiscal control.

The main task for the government is to ensure effective implementation of this complex anti-corruption legislation, which also includes the international anti-corruption conventions ratified by Colombia. In order to create links with other areas of open government that have a strong connection with the anti-corruption agenda, the Secretariat of Transparency, as the main co-ordination entity of open government policies, could link the implementation of the new Anti-Corruption Statute and of CONPES 167 of 2013 with the implementation of the Law on Transparency and Access to Information.

Anti-Procedure Decree (Decree 19 of 2012)

The Anti-Procedure Decree (*Ley Antitrámites*) complements Anti-Procedure Law 962 of 2005. The law was issued mainly to decrease the burden of governmental processes and procedures. Aiming at improving the citizens' quality of life in their relationships with the public Administration, including through the use of ICTs (enhancing quality and efficiency of services, lowering the costs, etc.), the Law has an important open government dimension. For instance, Article 26 determines that the public Administration's entities "should enable electronic data transmission systems in order for users to send or receive the information required in their actions against the Administration".

Code of Public Administration and Administrative Procedures (Law 1437 of 2011)

Law 1437 of 2011 which issues the Code of Public Administration and Administrative Procedures (the "Contentious-Administrative Code") establishes the right by citizens to access and consult information. The law further establishes that entities may determine at their own discretion the procedure for consulting citizens on specific draft regulations, with the purpose of collecting opinions, suggestions, or alternatives and it enable citizens to require information by means of their "Right to petition".

Statutory Law on Civil Participation

Effective mechanisms for civil participation are a crucial element of an open and participatory government and are part of the four core open government principles of the OGP. Citizens' engagement in policy making contributes to

foster transparency and accountability and can help build trust between the government and civil society.

In Colombia, Law 134 of 1994 foresaw the participation mechanisms that exist in most participatory and representative democracies (legislative initiatives, referendum, revocation of mandates, plebiscite, etc.)[6]. Since the adoption of Law 134 in 1994, society has changed and technology has evolved considerably. In order to reflect these evolutions, a new draft Statutory Law on Civil Participation (*Ley Estatutaria de Participación Ciudadana*) entitled "Provisions for the promotion and protection of the right to citizens' participation, transparency in public procurement and accountability" (*Por la cual se dictan disposiciones en materia de promoción y protección del derecho a la participación ciudadana, transparencia en la contratación pública y rendición de cuentas*) was drafted by the Ministry of the Interior with the participation of civil society. National workshops of Citizen Participation (*Mesa Nacional de Participación Ciudadana*) were held in Bogotá and in 12 municipalities in order to get inputs on preferences from all relevant actors in areas such as institutional design and participatory budgeting.

The Law was approved by Congress in 2012 (Law 227 of 2012 of the Senate, Law 134 of 2011 of the House) and sent to the Constitutional Court for its constitutional review. The Court returned the Law to Congress upon identification of procedural failures. Since then, Congress has approved a new draft of the Law and sent it back to the Constitutional Court to continue with the approval procedure.

Once adopted, the new Law will introduce a certain number of important innovations. It aims to strengthen accountability of the public Administration at the national and the regional levels by modifying certain procedures like the recall of mandates and popular national and local consultations. Furthermore, the new bill would clarify civil participation mechanisms foreseen in the Constitution and allocate more public resources to citizen's participation processes.

Public Procurement Decree (Decree 1510 of 2013)

Government procurement is amongst the most vulnerable areas to corruption (OECD, 2013b). Enhancing transparency through access to consistent information and clear public procurement rules is an important element of an open government (OECD, 2013b).

Public procurement in Colombia is regulated under a detailed regulatory framework[7]. Basic principles regarding procurement are stated in the General Statute for Public Procurement (Law 80 of 1993). The Statute was amended by

decree 1150 of 2007, which made it mandatory to disclose public procurement documents in the Single Suppliers Register (*Registro Único de Proponentes*, RUP), and the System for Electronic Public Procurement (*Sistema Electrónico para la Contratación Pública*, SECOP). In 2011, decree law 4170 created a new central public procurement agency, *Colombia Compra Eficiente*.

As stated in the OECD Public Governance Review of Colombia, "this framework is complex, with many overlapping rules, and often not easy to implement" (OECD, 2013a). The new Procurement Decree 1510 of 2013 is an initiative to consolidate rules on public procurement principles and objectives, procedures, awards, conclusion and execution of contracts and related matters. However, there are still many measures that could be implemented to promote proactive disclosure of information and used to enhance transparency and accountability in public procurement, as well as to ensure an evidence-based approach to procurement (OECD, 2013a).

E-Government and open data laws

The implementation of e-government strategies to sustain the use of ICTs within the public sector and the opening-up of public sector data can improve citizen's access to information, enhance participation and collaboration and create important economic opportunities. Colombia was among the first countries in Latin America to recognise the enormous potential of e-government and ICTs. Since 2000, the country has designed a detailed and highly developed legal framework that provides the basis for the great number of ambitious policy initiatives undertaken by the government in recent years (see policy section below). The legal framework with regard to digital government is at level with OECD countries, including all major e-government components.

Presidential Directive No. 2 of 2002 stated the following: "Information Technologies offer a unique opportunity for developing countries to advance their economic, political, social and cultural development, bridging the gap that separates them from the developed countries". Decree 1151 of 2008 defined the general objective of the e-government strategy (Article 2): "The aim is to contribute to build a more efficient, transparent and participatory state, and to provide better services to citizens and companies through the use of Information Technology and Communications". In 2010, Document CONPES 3650 declared the structural importance of the e-government strategy's implementation in Colombia and urged the Ministry of Information Technologies and Communication to formulate, with the support of the National Planning Department, policy guidelines that contribute to the sustainability of the e-government strategy.

Since 2011, e-government has become a cross-cutting tool for facilitating good governance. Article 230 of the Law on the National Development Plan (Law 1450 of 2011) entitled "E-Government as a Strategy for Good Governance" urged all entities of the public Administration to bring forward the e-government strategy. The e-government strategy is further set out in Decree 2693 of 2012, establishing the priorities of Colombia's e-government agenda: Provision of procedures and services through multiple channels and use of information and communication technologies in administrative procedures; Interoperability, procedures chains and the single virtual window; Technology and environment; and Open data and open government (Article 6).

As regards open data, Decree 2693 aims to encourage the use of open government data (OGD) by third parties, in order to "create new value-added services, with commercial or non-commercial purposes, for entities, citizens and businesses" and to "promote the use of social networking and collaboration platforms for transparency, participation and collaboration". As mentioned above, the FOI (Article 11 of Law 1712 of 2014) also establishes that the implementation of open data is compulsory for entities compelled by the Law.

In 2012, Decree 2618 established the position of Deputy Minister for IT and Information Systems within the Ministry of Information Technologies and Communications, whose duties include providing guidelines for the implementation of policies related to e-government and open data and operating as the country's Chief Information Officer (CIO) (see the section on the institutional framework below).

Institutional framework for open government

A well-functioning institutional framework is important to ensure policy results. Overlapping competences and co-ordination challenges between institutions can complicate the drawing up and implementation of coherent policies. This is particularly true for national open government strategies, whose design usually involves many different actors.

In Colombia, historically, many stakeholders have adopted independent initiatives with open government components (such as anti-corruption strategies, e-government, etc.) but with weak mutual links. This has slightly changed with the accession of the country to the OGP. This section will present the institutions involved in open government policy making in Colombia focusing particularly on those that implement the OGP Action Plan.

OGP Steering Committee

The initiatives taken in the framework of the Open Government Partnership are overseen by a Steering Committee that meets every three months and defines the strategy for the development, implementation, monitoring and dissemination of the country's OGP Action Plan. The Committee is made up of institutions of the government, civil society and the private sector. For the government, the leading institution is the Secretariat for Transparency of the Presidency of the Republic. Civil society is represented by Transparency for Colombia (*Transparencia por Colombia,* TC), *Somos Más* and the Association of Corporate Foundations (*Asociación de Fundaciones Empresariales*). The private sector is represented by the Colombian Federation of Chambers of Commerce (*Confederación Colombiana de Cámaras de Comercio,* Confecámaras). So far the Committee operates on the basis of a Presidential decree. In order to increase its visibility and long-term strategic outlook, the government could envisage giving it a strong legal mandate.

Besides its quarterly committee meetings, the steering committee can set up working groups (*mesas de trabajo*) in order to implement its guidelines and to monitor the commitments made in the Action Plan. These working groups are open to all interested CSOs and private sector organisations and are headed by the Secretariat of Transparency (*Secretaría de Transparencia*) of the Presidency of the Republic.

Just like in many other LACs, the local level of government is not included in the meetings of the Steering Committee (see Chapter 2). While the Committee certainly includes many relevant actors for open government policy making in Colombia, inclusiveness could be strengthened by opening the Committee to the participation of local actors, like local government and CSOs. As the Costa Rican case shows, the Committee's inclusiveness could also be strengthened by building links with the Legislative and the Judiciary.

Presidency of the Republic (Secretariat of Transparency)

As also observed in other LACs like Peru, the implementation and the co-ordination of open government policies is led by the Centre of Government (CoG). The Presidency of the Republic of Colombia (*Presidencia de la Répública de Colombia)* co-ordinates and leads the drafting and implementation of open government policies in the country. Like in many other LACs, open government subjects are one component of the wider institutional portfolio of the Presidency (see Chapter 2). Within the Presidency, the Secretariat of Transparency - created in 2011 - is the leading open government agency. Its tasks include advising and directly supporting the President in the design of

a comprehensive policy on transparency and on the fight against corruption (as foreseen by Decree 4637 of 2011 and Law 1474 of 2011). Given the cross-cutting nature of open government policies, other Secretariats of the Presidency are also involved in OG policy making on an ad-hoc basis.

Formerly, the High Presidential Advisory Office for Good Government and Administrative Efficiency (*Alta Consejería Presidencial para el Buen Gobierno y la Eficiencia Administrativa*) led the country's open government efforts. However, in order to simplify the institutional framework, the Advisory Office was dissolved by Decree 2069 of 2013 and the responsibilities for its portfolio's elements migrated to different entities within the Presidency and within other national institutions.

The co-ordinating role of the Presidency is crucial for the design and implementation of open government in Colombia. Since its creation in 2011, the Secretariat of Transparency has taken on the institutional leadership role as regards the country's OGP Action Plan. While the Secretariat's institutional anchorage within the CoG represents many advantages, the rather narrow institutional portfolio of the Secretariat focusing on Transparency and Anti-Corruption policies makes horizontal and particularly vertical policy co-ordination more important than ever. In this context, the Ministry of Information Technology and Communications, the National Planning Department (DNP) and the Civil Service Administrative Department (DAFP) are the Secretariat's key governmental "allies".

Ministry of Information Technologies and Communications

The e-government office of the Ministry of Information Technologies and Communications (MinTIC) is responsible for formulating the open data and e-government strategies of the government and for monitoring their implementation across the public sector. The MinTIC has been driving the country's e-government agenda since its beginning and has been actively involved in the preparation of different legal documents and policy initiatives in the area.

Under the OGP framework, the MinTIC's e-government office is in charge of implementing different commitments that have an e-government/open data component. The MinTIC's driving role as co-ordinator of the information society in Colombia has been even more emphasised after an internal restructuring process in 2012 by Decree 2618 of 2012 (see above),which included the nomination of the National CIO within the ministry.

As also evidenced in the OECD Survey on Open Government in Latin America (Chapter 2), the MinTIC has become one of the key actors in the

implementation of open government policies in Colombia. The Ministry's technical support for public institutions has been crucial to underpin the development of OG, and particularly for e-government and open data programmes across the Colombian public sector. The Ministry could benefit from further developing its capacities to become a co-ordinating ministry with Centre-of-Government institutional capacity to maximise its cross-governmental relevance (OECD, 2013a).

Chief Information Officer

Across LACs, only four out of 11 countries have a Chief Data Officer (CIO) and Colombia is one of them (see Chapter 4). According to Decree 2618 of 2012, the Vice-Minister of Information Systems and Technology (*Viceministro de Tecnologías y Sistemas de la Información*) also holds the position of National Chief Information Officer. The role of the CIO is to accelerate and direct the operation of information systems and ICTs for policy making and service delivery (OECD, 2013a). As many countries have not yet established the Chief Data Officer (CDO) position, it is often the CIO who, given his/her competencies related to the use of technological data and information, plays a crucial role in relation to the definition and implementation of open data policies and initiatives. As the national CIO, the Colombian Vice-Minister works with the sector CIOs within a national network of CIOs from all 24 central administrative sectors, with the aim to increase awareness of the political and administrative benefits of digitisation in the different sectors and policy areas (OECD, 2013a). This CIO network is not a decision-making forum that complements the National Commission for Digital and State Information (see below), but rather a venue to ensure increased awareness and the more strategic use of information and ICTs. The CIO further co-operates with private sector CIOs (OECD, 2013a). In his/her co-ordinating role the CIO has the potential to considerably advance the country's strategic use of ICTs and provide support in capturing the full potential of open data.

National Commission for Digital and State Information

The National Commission for Digital and State Information (*Comisión Nacional Digital y de Información Estatal*), created by Decree 32 of 2013, is a more recently created institutional actor very important for the improvement of the national governance structure for ICTs and for ensuring more effective co-ordination among key players. The Commission's goal is to ensure national co-ordination of information systems and public use of ICTs, including establishing common policies, standards, and implementation framework (OECD, 2013a).

The Commission is part of a governmental effort to pay increased attention to coherent government service delivery, and in particular the use of information across the public sector (Ibid.). As the primary co-ordination forum for the National ICT strategy, the Commission constitutes an important element for improving the national governance of the use of ICTs in the public sector (Ibid.).

The Commission's meetings are chaired by the Minister of Information Technology and Communications. The Vice-Minister of Information Systems and Technology in his/her capacity as National CIO acts as Technical Secretary of the meetings (Ibid.). Members of the Commission also include the Directors of the National Planning Department (DNP) and of the National Statistics Department (DANE), the Director for Economic Regulation of Social Security of the Ministry of Finance, as well as a representative of the Presidency (Ibid.).

National Planning Department

The National Planning Department (*Departamento Nacional de Planeación,* DNP) is an administrative department belonging to the executive branch of the government that reports directly to the President of the Republic (Departamento Nacional de Planeación, 2014). The DNP is a technical organization that promotes the implementation of a strategic vision of the country's social, economic and environmental policies. It does so by designing, guiding and evaluating national public policies and the management and allocation of public investment (ibid.). It also prepares and evaluates government plans, programs and projects. The DNP prepares the NDP and co-ordinates the implementation, monitoring, evaluation and results-management of its content (Ibid.). Hence, the work of the DNP touches on many open government related policy areas. Therefore, the DNP is in charge of the implementation of different commitments to improve public services and increase public integrity in the framework of the country's first OGP Action Plan (see Table 5.1).

Public Ministry

The Public Ministry (*Ministerio Público)* consists of the Office of the Inspector General (*Procuraduría General de la Nación*), the Ombudsman (*Defensoría del Pueblo)*, and the District and Municipal *Personerías*. The Ministry is responsible for defending and promoting human rights, protecting the public interest, and overseeing the official conduct of those who perform public functions (Article 118 of the Constitution). It is also the guarantor of access to information in Colombia and the different entities that make it up play an important role in the implementation of the new FOI (see Article 24 of Law 1712 of 2014).

The **Inspector General of Colombia (*Procuraduría General*)**, who is elected by the Senate, is the supreme director of the Public Ministry (Articles 275 and 276 of the Constitution). Not being a judicial institution, the Inspector General is mandated to safeguard the rights of citizens, guarantee human rights protection and intervene in the name of the people to defend the public interest (OECD, 2013a). As such, the Inspector General is an independent public institution that oversees the conduct of those officials occupying public office and exercising a public mandate.

The Inspector plays an important role in Colombia's open government agenda. Initiatives undertaken by the Inspector General include the Open Government Index (*Indice de Gobierno* Abierto, IGA) and the Integrity Index "INTEGRA" (see policy section below). The Inspector General also promotes transparency in the public sector, ensures the compliance with the FOI (see above), and disseminates the right to access to information to the wider public.

The **Ombudsman (*Defensoría del Pueblo)*** is elected by the Chamber of Representatives and exercises his/her tasks under the authority of the Inspector General (Article 281 of the Constitution). The ombudsman is an independent body that deals with complaints against the Administration. It operates as the national human rights institution and guides and instructs the inhabitants of the national territory, as well as Colombians abroad, in the exercise and defence of their rights before the competent authorities or private entities (OECD, 2013a).

The **Personerias *(Personerías distritales, departamentales y municipales)*** are "watchdogs", which are responsible for exercising administrative control at the municipal and district levels (Ibid.). Having budgetary and administrative autonomy, they constantly monitor the conduct of public officials of the Administration and verify the implementation of laws, agreements and orders of the authorities. According to Law 03 of 1990, the *Personerías* ensure access to the information at the local level.

Comptroller General

The Office of the Comptroller General of the Republic of Colombia (*Contraloría General de la República de Colombia*) is an independent government institution that acts as the highest level of fiscal control in the country. It contributes to open government by overseeing the proper allocation of public funds and by assuring a continuous improvement in fiscal management of public entities. Its activities are overseen by the Auditor General's Office *(Auditoria General de la República)* (OECD, 2013a).

National Citizens Commission for the Fight against Corruption

The National Citizens Commission for the Fight against Corruption (*Comisión Nacional Ciudadana para la Lucha contra la Corrupción*) was created by means of the new Anti-Corruption Statute (Articles 66-71) in 2011. Its primary mission is to monitor policies, programs and actions drafted and implemented by the State and the National Government for the prevention, control and punishment of corruption. According to Decree 4632 of 2011, which regulates the tasks and membership of the Commission, it shall ensure compliance with the former (Law 190 of 1995) and the new Anti-Corruption Statutes (Law 1474 of 2011) (Article 14a). It further prepares an annual monitoring report and provides evaluations and recommendations for policies, plans and programs for the fight against corruption, which must be submitted at least once a year (Article 14b). The Commission conducts campaigns in educational institutions to promote ethical values (Article 14c) and fosters the development of codes of conduct for ethical and transparent private sector activities (Article 14d). In accordance with Article 92 of the Constitution, the Commission further reports to the appropriate authorities any act of corruption or improper conduct by public servants of which it is aware (Article 14i).

As foreseen by CONPES 167 of 2013, the Commission meets at least once every trimester. It includes representatives of business associations, NGOs, universities, media, a civilian review board, the National Planning Council, Unions, and the Colombian Confederation of Religious Liberty, Conscience and Religion. The technical secretariat of the Commission is provided by *Transparencia por Colombia*, Transparency International's Chapter in Colombia.

In the years since its creation, the Commission has already suggested different specific actions for the fight against corruption in the public sector, the private sector and civil society, and has made several statements on issues of actuality. For instance, in February 2014 the Commission published a statement reminding the new Congress and the presidential candidates of the importance of making commitments and ensuring the co-ordination between the authorities responsible of investigating and punishing corruption, confronting more decisively the links between political finance, procurement and organised crime, and showing specific results that include legal, economic and political sanctions.

The Commission can be a very important tool to enhance inclusion, participation and collaboration in the design, implementation and evaluation of open government policies. For that purpose, the Commission should be actively involved in the drafting of the second OGP Action Plan of Colombia.

National Moralisation Commission and Regional Moralisation Commissions

The National Moralisation Commission (*Comisión Nacional de Moralización*) is important for the co-ordination of government-wide anti-corruption policies. The Commission was created under Article 67 of Law 190 of 1995 (former Anti-Corruption Statute). In 2011, its powers were amended by the new Anti-Corruption Statute. Its tasks include ensuring compliance with and enforcement of the old and new Anti-Corruption Statutes. It co-ordinates the implementation of joint actions to fight corruption in institutions at national and territorial levels; also, it is in constant contact with public and private entities in the country and abroad for the exchange of good practices for fighting administrative corruption (Article 64 of Law 1474 of 2011).

Decree 4632 of 2011 regulates that the Commission's chair is the President of the Republic. Its members includes the Minister of the Interior, the Minister of Justice and Law, the Inspector General's Office, the Comptroller General of the Republic, the Auditor General of the Republic, the President of the Senate, the President of the House of Representatives, the Attorney General's Office, the President of the Supreme Court, the President of the State Council, the Secretary of Transparency, and the Ombudsman (Article 2).

For each department, Regional Moralisation Commissions (*Comisión Regional de Moralización*) have been established aiming to co-ordinate the actions of territorial level bodies in the prevention, investigation and punishment of corruption. As mentioned in CONPES 167, so far there are 32 Regional Moralisation Commissions.

Civil Society Organisations

Civil Society Organisations in Colombia are active in different areas of open government. For example, Transparency for Colombia (*Transparencia por Colombia*) works mainly on transparency and anti-corruption policies; the Foundation for Liberty of the Press (*Fundación para la Libertad de Prensa*) focuses on access to information; *Somos más* has experts in the area of civil participation, and the Institute for Political Science (*Instituto de Ciencia Política*) deals with public policies in general. Other CSOs that deal with open government issues include Visible Congress (*Congreso* Visible), which provides detailed information about the Colombian Congress, and *De Justicia*, which deals mainly with justice issues. All these CSOs work mainly at the central/national level.

These CSOs participate in the design, implementation and evaluation of open government policies on a case-by- case basis. For instance, *Transparencia por Colombia* and the *Fundación para la Libertad de Prensa* played a crucial role in the drafting of the new Law on Transparency and Access to Information.

Transparencia por Colombia, *Somos Más* and the *Asociación de Fundaciones Empresariales* were also chosen by other CSOs to represent civil society in the Open Government Steering Committee and are involved in its implementation.

CSOs have undertaken different open government initiatives that are worth mentioning. For example, the National Transparency Index (ITN), developed by *Transparencia por Colombia*, measures the level of transparency and corruption risks faced by public entities at the central level, including the three branches of government and the supervisory bodies[8]. The index further measures the *objective existence* of institutional conditions that favour transparency and control risks of corruption, but it does not measure corruption as such.

Despite these important achievements, according to an assessment of the Independent Reporting Mechanism (IRM) of the OGP, the participation of CSOs in open government policy making remains generally weak. In the preparation of the first version of Colombia's OGP Action Plan, CSOs were only consulted to a limited degree. So far, open government policy making also excludes local CSOs which are independent from those working in Bogota. In order to enhance inclusiveness, the government should ensure the participation in open government policy making of civil society organisations from all regions.

Other institutions involved in the elaboration and implementation of open government policies

Many other institutions have specific functions when it comes to the implementation of open government policies, mainly under the OGP Action Plan (see Table 5.1). For instance, the Ministry of Mining and Energy (*Ministerio de Minas y Energía)* and the Ministry of Finance (*Ministerio de Hacienda y Crédito Público)*, together with the National Planning Department are in charge of implementing a commitment aimed at guaranteeing transparency in the investment of royalties by publishing and disclosing the use of funds transferred to the regions, so that civil society effectively controls investment in the local agencies.

Other institutions that are involved in the implementation of specific open government policies include the Administrative Department of the Public Service (*Departamento Administrativo de la Función Pública,* DAFP), the Ministry of Interior, Superintendences (*Superintendencias*), and the Agency of Public Procurement *(Colombia Compra Eficeinte)*.

Main policy framework

While the term "open government" is fairly recent (see Chapter 1), policies containing an open government dimension have been implemented for a long time. For instance, Colombia's first access to information policies goes back to the 1980s and the e-government strategy dates back to the early 2000s. The accession of Colombia to the Open Government Partnership (OGP) provided an opportunity to streamline the policy dynamics and to unify the disperse access to information, open data, e-government, anti-corruption and transparency sector plans under a common "open government roof".

This section will discuss Colombia's open government policy framework. It will first look at the National Development Plan, the guidelines of the President's term in office. It will then present commitments made in the framework of the Open Government Partnership Action Plan and the government's successful open data strategy. Finally, it will look at policy implementation successes of the past years.

National Development Plan

The National Development Plan (NDP) is the blueprint for the term in office of a President. The NDP is a formal legal instrument that legitimises any and all strategic initiatives of any consequence to be implemented by the government over the President's term in office (OECD, 2013a: 20). Its drafting is regulated by Articles 339-344 of the Constitution and Law 152 of 1994. It is prepared in consultation with a wide range of civil-society organisations and citizens' groups, including representatives of the country's ethno-cultural minorities, and then presented to Congress for its enactment into law during the first semester of the President's mandate (Ibid.).

The NDP 2010-2014, entitled "Prosperity for All" (*Prosperidad para Todos*) (enacted as law by Law 1450 of 2011), represents a strong commitment to the principles of good governance and includes many important elements of an open government strategy. Despite making no explicit reference to "open government", Chapter VII, entitled "Cross-cutting Supports of Democratic Prosperity" (*Soportes Transversales de la Prosperidad Democrática*), provides the strategic direction for the country's open government agenda as further set out in the OGP Action Plan.

Section C of Chapter VII is devoted to "Good governance, fight against corruption and citizen participation". The section discusses the different principles that guide good governance and – among others – lays out the government's transparency, accountability and anti-corruption strategies, strongly promoting the use of ICTs. For instance, the plan states the objective of

"stimulating the development of online services by third parties based on public data" and establishes the priority of supporting local authorities in advancing their e-government strategy in order to ensure a homogeneous national progress (National Planning Department, 2010).

The NDP sometimes remains vague as regards concrete actions to be tackled. The preparation of the OGP Action Plan provided an important opportunity to complement the NDP and make specific commitments on how to progress in the different areas of open government. It is advisable that next NDP is directly linked with the country's OGP efforts and includes a more marked open government dimension by incorporating for instance the second OGP Action Plan.

Open Government Partnership Action Plan

In 2011, Colombia joined the Open Government Partnership with the stated intention of developing "initiatives that are already in place, in areas such as: transparency, social control, participation, access to information and the fight against corruption" (Republic of Colombia, 2012). After joining, Colombia presented its first "preliminary" Action Plan in Brasilia in April 2012. An interagency working group was created to draft this Plan, co-ordinated by the now abolished High Presidential Advisory Office for Good Government and Administrative Efficiency, with the participation of the Secretariat of Transparency of the Presidency of the Republic, the e-government program of the Ministry of Information Technologies and Communications and the National Planning Department (Republic of Colombia, 2013b).

The version presented in Brasilia was "preliminary", since civil society and the private sector had only participated in the preparation stage to a limited degree. Therefore, during 2012, the Plan was disseminated through the Crystal Urn (*Urna de* Cristal) (see below) and seven workshops were held with leaders from civil society and the private sector, in order to analyse and adjust the commitments initially submitted (Government of Colombia, 2013b).

As a result of the consultations, workshops and meetings of the OGP Steering Committee, the Action Plan initially submitted was reorganised and a second version of the First Plan was proposed in 2013. The commitments were grouped in three categories: "Improving Public Services", "Increasing Public Integrity" and "More Effective Management of Public Resources". Moreover, the number of commitments was reduced from 27 to 17 and some of the objectives were adjusted. Some commitments would be undertaken as pilot, sector-based, regional and/or population-based programs. The "open government at the local level" commitment was abolished since it was implicit in all others. Overall, the Action Plan is very broad and includes commitments that are not strictly limited to "open government" but are part of a larger public sector reform agenda.

Table 5.1. Open government commitments and institutions responsible for their implementation

	Ministry of Housing	Superintendencies	Administrative Department of the Public Service	National Planning Department	MinTIC	Secretariat of Transparency	Ministry of the Interior	Colombia Compra Eficiente (Procurment Agency)	Ministry of Finance	Territorial Entities	Ministry of Mines and Energy
1. IMPROVING PUBLIC SERVICES											
E-Government					■						
Open data				■	■						
Public Services Regulation				■							
Consumer Protection		■									
Improved Citizen Services			■	■							
More Efficient Agencies			■		■						
2. INCREASING PUBLIC INTEGRITY											
Access to Public Information						■					
Improved Government Performance and Accountability				■	■						
Transparency and Anti-Corruption Policy						■					
Observatory for the Fight against Corruption						■					
Citizen Participation			■	■	■		■				
3. IMPROVED PUBLIC INVESTMENT MANAGEMENT											
Efficient Procurement								■			
Economic Transparency Site									■	■	
Online Control					■	■					
Royalties											■
Follow-up Plan for Utilities Project	■	■				■					
Government - Private Sector - Civil Society Partnerships						■					

Source: Government of Colombia (2013b), *Colombia Self-Assessment Report: Open Government Partnership*, *www.opengovpartnership.org/sites/default/files/Self%20Assesment%20Report%20-%20Englis%20V.%20Sept%2030.pdf*.

The preparation of the First Action Plan's first version shows that there is still a strong necessity to enhance inclusion, participation and collaboration in the design, implementation and evaluation of open government policies. Conducting ex-post consultations of important stakeholders is not enough. Only increased involvement can guarantee citizens' identification with policies and will make them regain trust in public institutions. However, the government should also keep in mind that while consultation of CSOs is important, focusing too closely on these organisations might exclude other voices, particularly at the local level. The government should directly consult citizens on the drafting of the Second Action Plan, as they could be a valuable source of information and enhance inclusiveness.

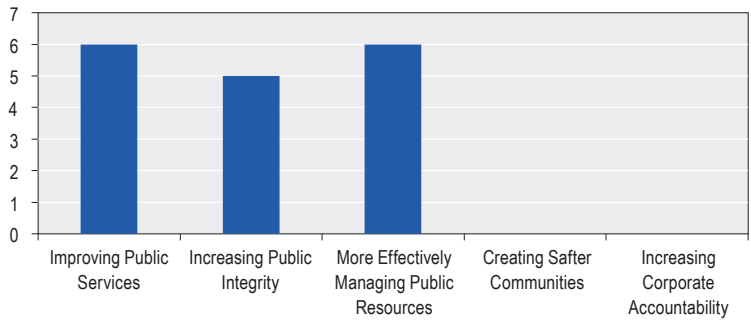
The lack of direct engagement of important stakeholders was also a much-criticised aspect of the IRM that in February 2014 published its assessment of the first version of the OGP Action Plan introduced in Brasilia. According to the report, the assessment could not be based on the second version of the First Plan because the finalised action plan with specific implementation steps was not available before the government published the self-assessment (IRM, 2014). While acknowledging the progress made by the country, the IRM strongly criticises the lack of involvement of civil society in both the preparation and the implementation of the Action Plan. The IRM argues that the significance and interest of the 27 commitments included in the First Plan addressed the government's interests without considering the opinion or validation of civil society. The IRM also points out that the government only "offers a seat at the table" to civil society organizations that have a favourable opinion of the current Administration's performance (IRM, 2014). Therefore the IRM recommends that the government should foresee more and better participation in the drafting and implementation of the Second Action Plan (IRM, 2014).

When asked about this issue, the Colombian government expressed its appreciation of the IRM report and acknowledged the recommendations as an important first step to develop and implement the Second Action Plan. However, it suggested that the IRM report should have assessed the second version of the First Action Plan, arguing that at that time the consultation process was sufficiently developed. The government further argued that the methodology of the IRM was based on new guidelines for consultation processes. When the country started to draft its first Action Plan, these guidelines were not yet in place.

As mentioned in Chapter 2, one could say that LACs (Colombia included) are learning from their own achievements and challenges on the go, modifying the approach originally applied to their Open Government Action Plans. All LACs agree on the urgency of providing a more inclusive approach to the open government policy making. As also mentioned earlier in this report, consultation processes should not remain as one-time exercises and the Colombian government should keep implementing efforts to widen the range of consulted actors in addition to CSOs and general population.

Being part of the second cohort of countries that have joined the OGP, Colombia should have presented its second OGP Action Plan in April 2014. However, due to the presidential elections that took place in May and June 2014, the development was behind schedule at the time of writing. The Second OGP Action Plan is supposed to be aligned with the policies of the incoming government and it is foreseen that it will be presented in December 2014. For the preparation of the second Action Plan, the OGP Steering Committee reports that it is planning to continue with the working meetings in order to involve all relevant actors. Reforms that could be considered by the government include the creation of an autonomous observatory for the OGP Action Plan, as also recommended by the IRM, and the improvement of indicators for measuring open government commitments. In addition to enhancing consultation and participation, the government – like many of its peers – should also work on its open government communication strategies, as there are still low to medium levels of awareness of OGP initiatives within the government, civil society organisations, the private sector and the general population). Particularly, the private sector and the general population seem to be largely unaware of the OGP process and its potential (see also Chapter 2 on this).

Figure 5.2. Classification of Commitments in the OGP Action Plan according to OGP Grand Challenges



Source: Ramírez-Alujas, A. and N. Dassen (2014), *Vientos de cambio - El avance de las políticas de gobierno abierto en América Latina y el Caribe*, Inter-American Development Bank, *http://www10.iadb.org/intal/intalcdi/PE/2014/14071.pdf*, adjusted to the second version of the first OGP Action Plan.

Open data strategy

As mentioned in Chapter 4, Colombia is one of those LACs that have an on-going OGD strategy in place which is parallel to its OG efforts. Colombia's Open Data Strategy had originally been aligned with the e-Government Strategy that provided the framework, the goals and the (technological and human)

support to enhance the openness of data in public organizations at both the central and the local levels. The open data and access to information agendas have been linked closer with the country's accession to the OGP. Since the adoption of the new FOI in 2014, open data has played an even more prominent role in the transparency agenda.

Currently, an Open Data Assessment Methodology is being designed to measure the strategy's outcomes and impact. Impact indicators are economic (creation of jobs, creation of new business, creation of new goods or services), good governance (increased transparency and accountability, enhancement of political awareness and participation) and social (increased inclusion and empowerment, increased civic participation, increased access to information) (Government of Colombia, 2014c). Hence, in its open data strategy, the government is trying to balance the achievement of economic, social and good governance values.

The Open Data Strategy is funded with USD 1.6 million[9]. These resources have been devoted to multiple activities. Several events have taken place, for example, events to promote the use of data as an opportunity for new business models, training courses for public entities at both the central and local levels, and hackathons to develop applications by third parties aimed to improve public services for the citizens. When it comes to open data strategies of ministries, Colombia stands out from its regional peers as every ministry has its own open data plan which is aligned with the overall strategy[10]. Furthermore, financial support is given to local authorities to develop open data initiatives[11].

The entry into force of the new Law on Transparency and Access to Information has empowered the open data process. In 2014, the Minister of ICT and the national CIO presented the "Enterprise Architecture Framework for the Management of IT in the State", which seeks to transform governance of the State through ICTs and to simplify the lives of citizens. The Standards and Architecture Office of the MinTIC is further creating a control panel in order to measure and monitor the effectiveness in IT policies' implementation and IT management's progress, including information management in public entities, and the different open data guides are being updated in order to align them with the new LTAI.

Vive Gobierno Móvil

In 2013, the e-government office of the MinTIC established the *Vive Gobierno Móvil* initiative, which seeks to enhance the use of public information by developing applications that benefit both citizens and the private sector. *Vive Gobierno Móvil* has two main focuses: Firstly, it is aimed at Colombian

Box 5.2. Open data awareness events

Different forms of open data awareness events promoting both data publication and usage have also taken place. Government-led initiatives to promote the (re)use of publicly released data and information include courses on data analysis for civil servants, information sessions for enterprises and citizens, as well as data promotion for journalists (see Chapter 4). The Ministry of ICTs, through the e-Government Office, provides training and formal education to civil servants that contributes to capacity building:

- In terms of training, there are short online courses on e-Government. One of these courses is particularly tailored to the use of open data. In 2013, the e-Government Office, through the National University of Colombia, designed and provided 10 different online courses, including open data. As a result, nearly 2 900 public officials were trained.
- Three Diploma courses on open data were released in 2013, which were attended by students from Bogotá, Medellín and Manizales, and by 91 public servants.
- In 2014, 27 workshops to promote awareness about open data have been carried out with local authorities, including majors and planning officers; 399 public servants from several municipalities received information and were advised to enhance the use of technology in order to improve their management processes and outcomes.
- A postgraduate program on e-Government was recently approved and will be held by the National University of Colombia. Open data is a relevant subject in this program.
- In 2014, the e-Government Office, with the support of academics, has led four regional workshops for private sector representatives, aiming to promote the use of data available on the Open Data Catalogue.

Source: Government of Colombia (2014c), Background Report (unpublished working paper).

developers that use data released by public agencies to create apps that fulfil Colombian citizens' needs. Secondly, it is designed to contribute to the automation of the government's procedures and services.

Under this initiative, events are organised to find solutions to different government challenges. Four hackathons were held in the second semester of 2013. In 2014, so far three of the seven planned events have been carried out. Up to now, 31 public agencies, more than 500 developers, designers and collaborators, and over 600 members of civil society have participated. Applications created within the Vive Gobierno Móvil model have solved more than 40 government challenges in areas such as of human rights, post-conflict management, education or environmental care. So far the project has developed almost 40 applications. From these, 12 are published at the Google Play store and the Apple App Store and have had more than 30 000 downloads.

Box 5.3. White Elephants Application (Elefantes Blancos)

"White Elephants" is a mobile application launched by the government of Colombia that seeks to identify and track public construction works that have been abandoned. The application allows users to take pictures of these unfinished public works and enter information about the entities responsible for them, their value, and other items that may also be completed by other people. The stated aim is to get a complete inventory of abandoned public work and encourage social control through the use of information technology and communications.

Source: Ministry of Information Technologies and Communications (2014), *Comenzó cacería de "Elefantes Blancos" http://www.mintic.gov.co/portal/604/w3-article-6324.html*

As an example, in June 2014, the Ministry of Agriculture and Rural Development, the MinTIC and agricultural organisations held the co-creation marathon "Agroton" (Agriculture + Marathon) to define and solve important challenges of the agricultural sector[12]. For 48 hours, 150 software creators, 20 young agricultural leaders, more than 20 representatives of the agricultural chain and 18 public agencies worked together to solve problems such as the asymmetry of information exchanged by producers and intermediaries, better ways to sell or buy products, solutions for plagues or damages in the harvests, or how to find better financial options (Government of Colombia, 2014c).

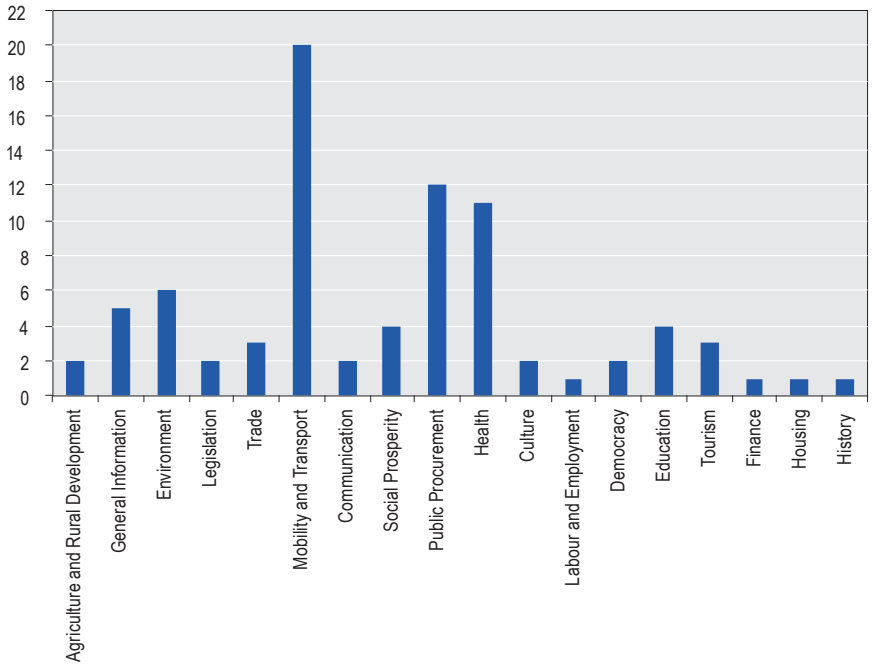
Applications Portal

The **Applications-portal** *www.aplicaciones.gov.co* allows the public to download applications developed by State entities or third parties. More than 80 applications can be found in the portal, covering sectors such as agriculture, health, defence, finance, education and mobility (Republic of Colombia, 2013b). The portal includes applications resulting from the different hackathons and those that have been developed by public agencies.

Open data portals

Colombia is one of four Latin American countries that have successfully implemented a centralised open data portal. The government's main open data portal is *www.datos.gov.co*. The portal enables the search and retrieval, in an open format, of all data published by public entities in Colombia. The stated aims are to offer citizens the opportunity to develop value added applications or services, to conduct analyses and research, to exercise supervising tasks, and to use the data for any kind of commercial or non-commercial activity

Figure 5.3. Applications developed by areas



Source: Government of Colombia (2014a), *Tienda de Aplicaciones, http://tiendaaplicacionescolombia.cloudapp.net/frm/home/frmHome.aspx*, accessed 10 July 2014.

(Government of Colombia, 2014e). Currently, more than 600 datasets are posted in the portal (ibid.), 351 public agencies are participating in the portal and 58% of the data is local.

At the time of writing, the datos.gov portal was being updated in order to enhance the openness of data and to improve the collaboration with citizens and re-users. The new platform is expected to be available in the second semester of 2014. In this context, Colombia is one of only three LACs that ensure parallel systematic processes at the central and ministry levels for collecting, cleaning and managing data (see Chapter 4).

Colombia is well aware that open data has no use if its potential is neither perceived nor tapped by relevant actors. Therefore, information is published only after identifying the needs of different actors. This guarantees the release of datasets that can generate a higher value for citizens and companies. In 2010, a first study was carried out by the e-Government Office of the MinTIC. The study established that the type of services that citizens demand based on open

data were mainly associated with education, health and employment. In 2012, a further study found that citizens mainly use open data for research, access to public services and development of apps. Citizens create apps for health, education, employment, housing and safety, and to simplify administrative procedures; meanwhile, the private sector needs apps in areas such as sales, finances and customer service. The private sector wants to have access to information in an open format on commerce, ICTs, public finances and statistics, price indexes and costs, housing and the labour market. In addition to the studies, the MinTIC has conducted focus group discussions with citizens and the private sector in order to detect open data priorities.

Those trends clearly show that the country has started to migrate from a data-supply to a data-demand approach. Colombia has one of the most advanced policy frameworks for open data in Latin America. The government should continue its successful trajectory and at the same time strengthen links between the open data and access to information agendas. There is still great potential to create more social, economic and good governance value. The way citizens understand the value added of open data can be enhanced by using communication and building capacity tools, particularly at the local level. The government should formulate more explicit and context-specific objectives on how ICTs can be used to empower vulnerable parts of the population. At the same time, the government should not only enable citizens to gain access to data on line, but should also focus on providing practical access and active uptake of the data provided. The MinTIC's will have to play a leading role in these efforts.

Open government achievements

The government of Colombia has many important open government achievements and good practices that can inspire other countries. This section will discuss some of the most recent good practices developed by different public institutions.

Crystal Urn

The Crystal Urn (*Urna de Cristal*) is a multi-channel instrument to engage citizens (through the Internet, TV, social media, radio) in public-policy issues. The *Urna* provides a multi-channel, citizen oriented platform for communication with and about the government (OECD, 2013a). It is one of the government's key initiatives to use ICTs to empower and engage citizens, and to enhance political accountability (OECD, 2013a). The Crystal Urn could be an important tool to improve open government communication. The use of the *Urna* as a tool for engagement should therefore be strengthened.

Prosperity Agreements

The Prosperity Agreements (*Acuerdos para la Prosperidad)* were another via to enhance citizen participation. Until December 2013, these direct public dialogues were held in different regions of the country. The agreements are led by sectoral ministries and address specific issues included in their policy agenda. The goal is to achieve social cohesion and to speed up regional development from a sectoral perspective. Community or industry stakeholders directly involved in the subject under discussion are invited to participate. As previously mentioned, the Prosperity Agreements should play an important role in the government's efforts to enhance direct consultation for open government policy making.

Portal of the Colombian State

The Portal of the Colombian State (*Portal del Estado Colombiano*) (*www.gobiernoenlinea.gov.co*) aims to unify access-to-information procedures and services of governmental agencies. The portal is directed to Colombian citizens and businesspersons, as well as public servants. It contains the following information: Directory of government agencies at national and local levels, procedures and services of all state agencies, relevant information for public servants, campaigns implemented by the State and news about services, as well as information on Colombia (History, Geography, Investment, Museums, Maps). It also provides an opportunity to participate through various mechanisms such as the Crystal Urn and social networks. In order to facilitate access to procedures and services, the Portal displays formats and procedures on line and provides information about applications that have been developed to provide services (Government of Colombia, 2014d).

Anti-Corruption Observatory

The Anti-Corruption Observatory (*www.anticorrupcion.gov.co*), created by the Secretariat of Transparency of the Presidency of the Republic, was first launched in 2013. The Observatory identifies corruption-related risks and aims to prevent them by opening the possibility for citizens to participate. It also generates information and education on corruption-related issues. The portal was in the development stage at the time of writing. A second version is supposed to be launched soon.

Economic Transparency Portal

The Economic Transparency Portal (*Portal de Transparencia Económica*) was developed by the Ministry of Finance with the purpose of providing information for improving financial oversight and the effectiveness of public spending, and to help citizens hold the government accountable for its spending. Most information is available in an open data format. The portal holds information on the execution of the annual budget, including sectoral ministries, administrative departments, the Congress, the Judiciary, public entities, autonomous corporations and electoral control entities budgets. In 2012, data and information from 185 separate budget units were recorded (Government of Colombia, 2013c).

National system to evaluate public management results (SINERGIA)

Colombia's national system to evaluate public-management results, SINERGIA, is an elaborate and well-designed performance-evaluation tool of high quality that has been developed to exacting standards. It is an elaborate accountability and reporting tool that is used systematically by the government to evaluate and monitor the performance of public policies and programmes that are related to the NDP. The system provides performance information on whether and how public policy objectives are being reached (OECD, 2013a). The use of performance information through SINERGIA is well above the Latin American average and the system stands out as an international good practice that is advanced by OECD standards.

Integrated Model of Planning and Management

The Integrated Model of Planning and Management was elaborated by the Administrative Department of Civil Service (Departamento Administrativo de la Función Pública) in 2012. It aims to simplify and rationalise the management performance of national entities. Among other functions, the Model allows to align programmes to the goals of the National Development Plan.

Open Government Index and INTEGRA

The Inspector General has developed an Open Government Index (Índice de Gobierno Abierto, IGA), based on reports sent by municipalities to the control agencies and the national government. Its goal is to ensure the transparency and legality of public processes for the local protection of public property and prevention of corruption. The IGA also aims to ensure the compliance with the

national anti-corruption legislation at the local level. The index was implemented in 2010 as a pilot program in the 87 municipalities of Santander. In 2011, it was extended to the 1,133 municipalities of the country. The methodology and results are presented in the publication "Open Government Index (IGA)"[13].

However, the IGA is not only a measurement mechanism (Safra, 2014). Results also show the strengths and weaknesses of each local government. The IGA has the potential to strengthen the control mechanisms at the local level and can serve as a decision making input for local government (ibid.). Surveys show that 80% of participants see the IGA as an important tool for controlling local public management (ibid.). The Inspector's Office has recently identified challenges to improve the sustainability of the IGA (Government of Colombia, 2014c). The Inspector argues that national entities in charge of monitoring the implementation of anti-corruption laws should improve their indicators and make them more challenging, accurate and sustainable. They should also design result-based trainings and advisory services for local governments. According to the Inspector General, disciplinary sanctions could also be applied (ibid.).

INTEGRA is another index developed by the Inspector General. It is part of the Open Government Index and is addressed to increasing co-ordination between state agencies. INTEGRA evaluates the likelihood of compliance by the 9 041 Colombian public entities of theirs administrative tasks. Using different indicators it identifies weaknesses in the Planning, Financial Management, Human Resource Management, Internal Control and Contracting processes in different institutions.

Recommended actions for Colombia

The analysis of the strategic enablers of open government in Colombia has shown that the country has made great progress in becoming more open and transparent. The country has to be applauded for the various legal and policy initiatives taken in recent years. Different surveys show that regarding e-government Colombia has become one of the leaders in Latin America and the new 2014 Law on Transparency and Access to Information is comparable to the legislation of most OECD countries.

However, making the state more transparent is only the first step. Enabling citizens to gain access to public information and data is certainly very important, but great potential remains to enhance *ex-ante* and continuous consultation mechanisms and the involvement of citizens, academics, the private sector, and the organised civil society in policy making and law making processes. Similarly, public awareness should be increased of existent OG and OGD policies in the country and their benefits. People need to *know* that the government is "open" and understand how they can get involved and benefit from it.

Most importantly, corruption remains an issue (Gutiérrez, 2013). While the Colombian law foresees one of the strongest legal anti-corruption mechanisms in the world, this mechanism still evidences relatively low levels of implementation (Remolina, 2014). *Latinobarómetro* (2011) found that people in Colombia felt that the most important factors to strengthen their democratic system would be reducing corruption (63%) and improving the transparency of the state (54%). In the Global Corruption Barometer, 56% of respondents had the impression that corruption in Colombia even increased in the past two years and 62% of the people still perceive corruption as a serious problem in the public sector (Transparency International, 2013b).

In order to support the country in its open government efforts, this report recommends to:

Ensure effective implementation and dissemination of the complex legal framework, including co-ordination between implementing agencies, to increase transparency and fight corruption.

Specific actions include:

- **Ensure effective implementation of the new Statutory Law on Transparency and Access to Information.** The entry into force of the statutory law provides an important opportunity to improve government's accountability and to give citizens the opportunity to proactively collaborate in the definition of policies. As regards implementation, countries like Mexico have created independent implementation agencies. The absence of such an entity in Colombia and the great number of institutions involved creates a strong need to ensure effective co-ordination between the entities involved and to monitor and evaluate mechanisms. The institutional framework has to guarantee compliance with and enforcement of the Law.
- **Enhance the linkages between the transparency and anti-corruption agendas.** The implementation of the Law on Transparency and Access to Information should be linked with the implementation of the Anti-Corruption Statute and CONPES 167. The Secretariat of Transparency could play the leading role in these efforts. The elaboration of CONPES 167 and the Anti-Corruption statute as well as the creation of the National Citizens Commission and the National Moralization Commission are important steps to fight corruption.
- **Strengthen citizens' ability to make use of their right to access information by building capacities, particularly at the local level**. The government should provide guidance to ensure that citizens have access to usable, relevant, reliable and easily understandable public information.

- **Improve channels for access to information**. The Government should make use of the full potential of ICTs to ensure that citizens have access to information while at the same time guaranteeing other access channels - such as phone and paper enquiries - for people that do not have / do not want to use online opportunities.
- **Take next steps to launch the Single Window to gain citizen's trust and reinforce accountability**. The Single Window is a portal that allows citizens to electronically denounce corruption in the public sector. It is currently in a beta status of development. The government should continue working on the portal as it could allow regaining trust and reinforcing accountability.

Enhance inclusion, participation and collaboration in the design, implementation and evaluation of open government policies. Public consultation and participation in the design of open government policies have to be improved in order to enhance citizens' identification with policies and to regain trust in public institutions. In the implementation of open government policies, the government should consider involving citizens more directly by means of the existing e-government and IT enabled initiatives such as the *Urna de Cristal*. Citizens should also have the opportunity to evaluate policy results by assessing satisfaction or quality.

Specific actions include:

- **Ensure ex-ante consultation and participation of representatives of the general public, the private sector, the civil society and the academia and consider improving and standardising the use of public consultation**. The Government should consider making consultations compulsory for all institutions in the national administration, establishing clear methodological criteria and deadlines for accepting comments. Furthermore, the consultation of CSOs is certainly very important but a narrow focus on these organisations might exclude other voices, particularly from the local levels. Direct consultation between the Government and citizens could be a valuable source of information and enhance inclusiveness. Consultation processes should also foresee "feedback-loop" mechanisms.
- **Improve open government communication and involve the media.** The Colombian government could elaborate and implement a communication strategy on open government to improve interaction with the public and to provide citizens with an account of the progresses of open government policies, in particular those related to the OGP Action Plan. Improved communication could help maintaining and consolidating civil society's support for open government reforms. This should include raising people's awareness of the benefits of open government tools like the Economic Transparency Portal.

- **Include stakeholders at the local level - such as local governments and civil society organisations - in the elaboration of open government policies and plans of action**. There is currently an important divide between the organised civil society in Bogota which is engaged in the design and implementation of open government policies and organisations from the rest of the country. In order to enhance inclusiveness, the government should ensure the participation of civil society organisations from all regions in policy making. At the same time, local governments have a key role in implementing open government as they are at the forefront and in direct contact with the communities. Their performance shapes people's perception about the quality of the entire government and their proximity with people and with their needs spurs citizens' scrutiny, engagement and participation. Open government workshops at the sub-national level in Peru provide a good example. In building commitments with all relevant actors at the local level in the elaboration of the second OGP Action Plan, the Crystal Urn could be an important tool. The second OGP Action Plan should further include an explicit commitment to engage the local level.

Leverage e-government and open data programmes to improve transparency, accountability and create economic opportunities. The Government should continue its ambitious e-government and open data strategies making use of the great potential of ICTs to sustain inclusive growth. When implementing these strategies, the government should also ensure alternative ways to engage citizens to avoid forms of digital exclusion.

Specific actions include:

- **Increase the understanding of the added value of open data**. Open data can bring about large economic, social and good governance value. The Government should enhance citizens' understanding of the potential of open data building on successfully organised events such as hackathons.
- **Increase availability of data in open format**. A large amount of data is still only available in a "transparent digital format" (*transparencia digital de información*). The Government should work on the effective implementation of its open data guidelines. This includes ensuring usability of data by improving datos.gob. Hence, the Government should not only focus on enabling access to data, but also in providing data in conditions – legal and technical – that enable use and re-use.
- **Raise citizen's awareness about the Portal of the Colombian State (www.gobiernoenlinea.gov.co).** The government should focus on increasing the ease of use for citizens and facilitating continuous improvement in website quality and content.

- **Continue the migration from an access to information perspective to an open data approach while strengthen linkages between the two agendas**. When compared with other countries in the region, the Colombian government has an advanced open data strategy. With the establishment of individual open data strategies in every Ministry and an overarching central government strategy, the government has built the basis for the migration from an access to information perspective to an open data approach. The inclusion of a definition of open data in the FOI was an important step to build further connections between the two agendas. Building on these efforts the Government should include precise open data commitments in the second OGP Action Plan.

Build on the successful trajectory started with adhesion to the Open Government Partnership (OGP).

Specific actions include:

- **Empower the OGP Steering Committee**. Strengthening the mandate of the Steering Committee could increase its visibility and long-term strategic outlook. The government should also consider including a clear definition of its competences in the Law.
- **Create an autonomous observatory for the OGP Action Plan as recommended by the IRM.** This entity should be independent from the government. Inspiration for this kind of entity can be found in neighbouring countries.
- **Improve indicators for measuring open government commitments.** The government should work on a clear methodology to measure advances in the implementation of its second OGP Action Plan.
- **Include open government commitments in the National Development Plan.** The inclusion of the second OGP Action Plan as part of the NDP would considerably raise its standing on the country's political agenda. Goals of the NDP, the country's guiding policy instrument, are constantly monitored and evaluated. The elaboration of the NDP would also give multiple stakeholders the opportunity to participate in the formulation of open government goals. Indonesia provides an excellent example of how this could be achieved.
- **Strengthen links with the Legislative and the Judiciary.** Countries like Costa Rica provide excellent examples of how the Judiciary can be incorporated in open government policy making.
- **Communicate the linkages between open government and general public sector reforms.**

Notes

1. These finding are confirmed by the World Bank's Worldwide Governance Indicators (WGI), which, in the area of "Control of Corruption", put Colombia in the 41.6 percentile rank among all countries (scale 0 to 100). The same indicators also show that in the area of "Rule of Law" the country has greatly improved from 25.8 in 2002 to 43.6 in 2012 (World Bank, 2014).

2. It states for instance that "(t)he essential goals of the State are (…) to facilitate the participation of all in the decisions that affect them and in the economic, political, administrative, mid cultural life of the nation (…)" (Article 2). The Colombian Constitution is also particularly extensive as regards to freedom of expression and access to government information. According to Article 20 "(e)very individual is guaranteed the freedom to express and diffuse his/her thoughts and opinions, to transmit and receive information that is true and impartial, and to establish mass communications media". The Constitution states that "(e)very person has a right to gain access to public documents except in cases established by law (…)" (Article 74). In order to gain access, "(e)very person has the right to present petitions to the authorities for the general or private interest and to secure their prompt resolution (…)" (Article 23). Article 15 further provides that "individuals have the right to know, update, and rectify information gathered about them in data banks and in the records of public and private entities" (right of "habeas data"). Article 78 regulates consumer product information, and Article 112 gives political parties the right of "access to official information and documentation" (Banisar, 2006: 57). Article 135(3) protects the right of each chamber of parliament to solicit such information as it may need from government, although this does not extend to "information regarding instructions in diplomatic matters or negotiations of a classified nature" (Mendel, 2010: 61).

3. These CSOs created the "Alliance More Information More Rights" (*Alianza Más Información Más Derechos*), with the participation of Transparencia por Colombia, Fundación para la Libertad de Prensa, Dejusticia, PAN and Ocasa.

4. The Model Law can be found here: *http://www.oas.org/dil/AG-RES_2607-2010_eng.pdf*.

5. The Consejo Nacional de Política Económica y Social (CONPES – the National Council on Economic and Social Policy) is arguably Colombia's most powerful Council. CONPES is the most important policy co-ordination institution in the government. It is the highest national planning authority and the advisory body to the government on all policies related to the country's economic and social development. It co-ordinates and guides the array of government agencies and entities responsible for the government's economic and social policy. It studies and approves documents regarding general economic and social policy development. Most importantly, it endorses for subsequent consideration and approval by Congress the four-year National Development Plan, the President's vision-based policy agenda for his/her four-year term for managing the implementation of the government's national development strategy and the capital investments required to give effect to it.

6. Civil participation is foreseen by Article 270 of the Constitution, which reads: "The law will organise the forms and rules of citizen participation that allow their participation in the supervision of public management which occurs at the various administrative levels".

7. These include Law 80 of 1993 on public administration contracting, Law 816 of 2003 on supporting national industry through public contracting, Law 1150 of 2007 amending Law 80 of 1993, Law 1474 of 2011 (the Anti-Corruption Statute), Decree-Law 19 of 2012 on regulations, processes and procedures applicable to the Administration, Decree 1510 of 2013 which simplifies public procurement regulations, Decree 791 of 2014 on contractor capacity for public works, and Law 1508 of 2012 and Decrees 301 of 2014 and 1553 of 2014 on public-private partnerships. There are also two public policy guidelines on procurement: Conpes (Consejo Nacional de Política Económica y Social (National Council of Economic and Social Policy) 3249 of 2003 and Conpes 3714 of 2011.

8. *http://www.transparenciacolombia.org.co/index.php?option=com_content&view=article&id=88&Itemid=497*.

9. Answer provided to question 6.2 of Section 3 of the OECD Survey on Open Government in Latin America.

10. Answer provided to question 8.1 of Section 3 of the OECD Survey on Open Government in Latin America.

11. Answer provided to question 3.1 of Section 3 of the OECD Survey on Open Government in Latin America.

12. Detailed information about the event is available here: *http://agroton.gobiernoenlinea.gov.co/es/que-es-la-agroton*.

13. The publication can be found here: *http://www.procuraduria.gov.co/portal/Indice-de-Gobierno-Abierto.page*.

Bibliography

Banisar, D. (2006), *Freedom of Information around the World 2006 - A Global Survey of Access to Government Information Laws, Privacy International*, *http://www.freedominfo.org/documents/global_survey2006.pdf*.

Bilbao-Osorio, B. et al. (ed.) (2014), The Global Information Technology Report 2014 Rewards and Risks of Big Data, *World Economic Forum and INSEAD, http://www3.weforum.org/docs/WEF_GlobalInformationTechnology_Report_2014.pdf*.

Departamento Nacional de Planeación (2014), *About the Entity, https://www.dnp.gov.co/DNP/Paginas/acerca-de-la-entidad.aspx#googtrans/gl/en*, accessed 10 August 2014.

Foundation of the Freedom of the Press (2011), *Access to Public Information in Colombia, Between Secrecy and Leakage*, *http://flip.org.co/resources/documents/cbc7f97339754f2564764efa646b2ae8.pdf*.

Government of Colombia (2013a), *Colombia Action Plan, Open Government Partnership*, *docs.google.com/viewer?url=https%3A%2F%2Fdl.dropboxusercontent.com%2Fu%2F42450478%2FAction%2520Plan%2520English%2520Version%2520Sept%252030.pdf&embedded=true*.

Government of Colombia (2013c), *Resumen Portal de Transparencia Económica v3* (unpublished working paper), as cited in OECD, 2013a: 480.

Government of Colombia (2013b), *Colombia Self-Assessment Report: Open Government Partnership*, *www.opengovpartnership.org/sites/default/files/Self%20Assesment%20Report%20-%20Englis%20V.%20Sept%2030.pdf*.

Government of Colombia (2014a), *Tienda de Aplicaciones, http://tiendaaplicacionescolombia.cloudapp.net/frm/home/frmHome.aspx*, accessed 10 July 2014.

Government of Colombia (2014b), *Datos Abiertos, http://wsp.presidencia.gov.co/dapre/atencion/Paginas/datos-abiertos.aspx*, accessed 14 July 2014.

Government of Colombia (2014c), *Background Report* (unpublished working paper).

Government of Colombia (2014d), *Portal del Estado Colombiano, https://www.gobiernoenlinea.gov.co/web/guest/que-es-pec*, accessed 27 July 2014.

Government of Colombia (2014e), *Catálogo de Datos Abiertos*, *http://datosabiertoscolombia.cloudapp.net/frm/Acerca/frmAcercaDe.aspx*, accessed 15 June 2014.

Gutiérrez, H. (2013), *Colombia: Overview of corruption and anti-corruption*¸ U4 Helpdesk, *http://www.u4.no/publications/colombia-overview-of-corruption-and-anti-corruption/*.

Konrad Adenauer Stiftung (2011), *Alcances y limitaciones del Estatuto Anticorrupción: recomendaciones para una reglamentación efectiva y eficaz*, KAS Paper No. 14, *http://www.kas.de/wf/doc/6983-1442-4-30.pdf*.

Latinobarómetro (2011), *Informe Latinobarómetro*, *http://www.latinobarometro.org/latino/LATContenidos.js*.

Mendel (2010), *The Right to Inform in Latin America, A Comparative Legal Study,* United Nations Educational, Scientific and Cultural Organization, Quito, *http://unesdoc.unesco.org/images/0018/001832/183273e.pdf*.

OECD (2013a), *Colombia: Implementing Good Governance*, OECD Public Governance Reviews, OECD Publishing, Paris, *http://dx.doi.org/10.1787/9789264202177-en*.

OECD (2013b), "Towards open government: Promoting transparency in public procurement in ISSSTE", in Public Procurement Review of the State's Employees' Social Security and Social Services Institute in Mexico, OECD Publishing, Paris. *http://dx.doi.org/10.1787/9789264197305-13-en*.

Ramírez-Alujas, A. and N. Dassen (2014), *Vientos de cambio - El avance de las políticas de gobierno abierto en América Latina y el Caribe,* Inter-American Development Bank, *http://www10.iadb.org/intal/intalcdi/PE/2014/14071.pdf*.

Remolina, J.P. (2014), *The Open Government Index Initiative: A Colombian Tool for Preventing Institutional Corruption,* Edmond J. Safra Working Papers, No. 34, *http://dx.doi.org/10.2139/ssrn.2377021*.

Republic of Colombia (1886), *Constitución Política de la República de Colombia , 1886, http://biblio.juridicas.unam.mx/libros/5/2212/13.pdf.*

Safra, E.J. (2014), *The Open Government Index Initiative: A Colombian Tool for Preventing Institutional Corruption,* Edmond J. Safra Working Papers, No. 34, *www.ethics.harvard.edu/lab.*

Transparencia por Colombia (2010a), Índice de Transparencia Departamental 2008-2009, *http://transparenciacolombia.org.co/images/publicaciones/ITEP/itd_2008-2009.pdf*.

Transparencia por Colombia (2010b), Índice de Transparencia Municipal 2008-2009, *http://issuu.com/transparenciaporcolombia/docs/itm_20 08-2009*.

Transparencia por Colombia (2010c), Índice de Transparencia Nacional, Resultados 2008-2009, *http://transparenciacolombia.org.co/images/pTransparency*

International (2013), *http://www.transparency.org/files/content/corruptionqas/373_Colombia_Overview_of_corruption_and_anti-corruption.pdf.*

Transparency International (2013b), *Global Corruption Barometer*, *http://www.transparency.org/gcb2013/report*.

United Nations (2012), "United Nations E-Government Survey 2012 E-Government for the People", *http://unpan1.un.org/intradoc/groups/public/documents/un/unpan048065.pdf-*.

Chapter 6

Open government policies and initiatives in Costa Rica

Chapter 6 introduces open government policies and initiatives in Costa Rica. It provides a detailed analysis of the country's extensive legal framework that establishes the basis for an open, transparent and participatory government and provides concrete recommendations to strengthen this framework including via the drafting of a Law on Access to Information. It highlights the importance of the Inter-Sectoral Commission for Digital Government and of the Digital Government Technical Secretariat for the country's open government agenda and points to the successful exploitation of the value added of open government data by means of the centralised open data portal and the organisation of hackathon events.

The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

Introduction

The Republic of Costa Rica has a population of 4 301 712 inhabitants (INEC, 2014) on an area of 51 100 km². Its territorial organisation comprises seven provinces, 81 cantons (municipalities), and 464 districts. Costa Rica is considered as one of the most consolidated and long-standing democracies in Latin America. It features a 96.3% adult literacy rate (UNICEF, 2014) and a life expectancy at birth of 79.4 years (ranked 31st worldwide).

With a GDP per capita income of USD 9 402 (CEPAL, 2014), it is ranked 54th in the Environmental Performance Index (2014) (EPI, 2014) and 62nd in the UNDP Human Development Report 2013 (UNDP, 2013). According to the 2014 Ease of Doing Business Index, it is ranked 102nd among 189 evaluated countries.

In the United Nation's E-Government Development Index 2014 Costa Rica is ranked 54th and first in Central America (United Nations, 2012). In the E-Participation Sub-Index, Costa Rica is ranked 14th (Ibid.)

The World Economic Forum's Global Information Technology Report places Costa Rica in 53rd place and, along with Panama (46th), the country is also regarded as a leader in the implementation of information technologies in Central America. In Transparency International's latest report, Costa Rica is one of the countries with the lowest perception of corruption (49th among 177 countries globally).

According to the section on ownership and use of Information and Communication Technologies of the National Household Survey (*Encuesta Nacional de Hogares*, ENAHO), implemented by Costa Rica's National Statistics and Census Institute (*Instituto Nacional de Estadística y Censos de Costa Rica*, INEC), as of July 2013, 46.7% out of a total of 629,696 households have access to the Internet (INEC, 2013). The main connection means are cable (37.8%) in urban areas and portable devices (59.3%) in rural areas.

Regarding the State's digital services, the government's strategic plan have envisioned the country as a leader in e-government in Latin America with citizen-centred, transparent services and an interconnected government based on a favourable, user-friendly environment for the development of a safe and equitable society.

In January 2012, the country joined the Open Government Partnership (OGP) and later, in July 2013, it ratified the Open Government Declaration. Costa Rica developed an Action Plan for 2013-2014 (Government of Costa Rica, 2013) whereby it undertook commitments related to OGP's founding principles: transparency, collaboration, participation, accountability and innovation through the use of information and communication technologies.

By 30 June 2014, Costa Rica concluded the implementation stage of its first action plan for the Open Government Partnership (OGP), which included 23 commitments. As of now the country is starting the self-assessment report on the activities related to the plan and its implementation process.

As of July 2014, the bill on transparency and access to public information was analysed by the Government and Administration Committee of the Congress. The purpose of this bill is to regulate the public information request and delivery procedures, as well as to set response times.

Legal Framework

A comprehensive legal and regulatory framework is essential to support the overall governmental efforts aimed to strengthen open government. Relevant laws and regulations are all those setting for instance the conditions for public access to government's information, participation, transparency, fight against corruption and the use of ICTs within the public sector.

The elements inherent to a legal framework for the establishment of an open government may be found in Costa Rica's Constitution, as well as in several laws referring to principles linked to topics such as access to public information and accountability. Even though Costa Rica does not have a legal framework regulating access to information, it does have many laws with provisions for the regulation of such access.

The following sections highlight some of the key elements of the open government legal framework in Costa Rica. These elements are analysed *vis-à-vis* OECD practices and practices used across the Latin American region. The final section will provide a brief analysis on the status of e-procurement in the country.

Open government in the Constitution

Setting a clear legal framework on access to public sector information (PSI), open government (OG) and, wherever possible, on open government data (OGD), is crucial to ensure a strong basis for the development of open government policies.

As other nine Latin American and Caribbean countries members of the OGP (LACs), Costa Rica has been successful in including key concepts on OG in its constitution (see Chapter 2). The latter is a basic requisite to ensure access to information as an essential right.

Costa Rica has a rather coherent set of constitutional principles that enable access to information rights and set the ground for open government in Costa Rica. Article 9 of the Constitution, recently amended, represents an important starting point at the constitutional level, and includes among its principles: "The Government of the Republic is popular, representative, participative, alternative and responsible (…)", laying the would-be bases for open government. On the other hand, Article 11, amended in 2000 by Law 8003, refers to the principle of administrative transparency and accountability, generating the personal liability of public officers, who are no longer just authority holders. They are compelled to comply with the duties set forth by law and cannot claim any power not specifically granted therein. They must be sworn in and pledge to observe and abide by the Constitution and the Law. Actions to demand criminal liability on account of their actions are public.

Article 30 strengthens access rights, guaranteeing "free access to the administrative departments for informational purposes regarding public interest issues. State secrets are safeguarded". Finally, Article 27 - on petition and prompt response rights - guarantees the "freedom of petition, individually or collectively submitted before any public officer or official entity, and the right to a prompt resolution". Additionally, from the "democratic" perspective, Articles 24 (right to intimacy), 28 (freedom and autonomy principle), 29 (freedom of speech), 33 (equality principle), 41 (justice principle), and 46 (consumer and users' right to receive appropriate and truthful information regarding consumer protection) help strengthen the design of a common framework.

Linking transparency and open data agendas

The body of laws creating the context for access to information in Costa Rica includes Law 7202 of 1990 that created the National Archive System (*Sistema Nacional de Archivos*), which comprehends all of Costa Rica's public archives, including the Legislative, Judicial and Executive branches, as well as files containing documents with scientific and cultural value in all kinds of formats and media. Article 10 of this law states: "Free access is guaranteed to all documents generated or held by the institutions referred to in article 2 of this law. Whenever the documents are classified as State secrets, or restricted access files, they will cease to have this classification 30 years after its generation, and may be provided for research of a scientific cultural nature, duly proven, provided other constitutional rights are not breached". This legal provision could be a great starting point on which to ground the implementation of an open data policy. In fact, as the experience across Latin American countries shows, greater co-operation with public bodies in charge of national archives and statistics is key to foster open government and open data policies.

A draft bill on access to information was submitted to the OECD Secretariat during the fact finding mission in December 2013 was prepared upon request of the then Vice-President. The drafting of the law started in July 2012 through an inclusive process involving several stakeholders. This process started with the establishment of an inter-institutional committee led by the Vice-President and with representatives of the National Ombudsmen Office (the *Defensoría*), the Public Ethics Attorney General's Office (the *Procuraduría*), the General Comptroller's Office, the Ministry of Planning and Economic Policy, the Digital Government Technical Secretariat, the Electoral Supreme Court, and the Judiciary Branch. The committee worked on the first drafts and carried out consultation activities and meetings with civil society organizations, academia and private sector. As a result, by July 2014 the bill on transparency and access to public information was being analysed by the Government and Administration Committee of Congress.

Most modern laws on access to information often encompass the legal requirements necessary to enable and foster open data policies and programmes (see Chapter 4 on open data). Often, freedom of information laws (FOI) do not set clear guidelines concerning the format in which governments should release data and information. Releasing it in a format that enables not only accessibility, but also data usability and re-usability is essential to establish the conditions for value creation, not only from a good governance perspective, but also in economic and social terms. Other LACs and OECD countries with FOIs in place have managed to integrate provisions on open data (see Chapter 5 on Colombia).

For instance, in November 2013 the Spanish Government adopted the Law on Transparency[1]. The Law has three purposes: to increase and strengthen government transparency, to recognize and guarantee citizens' right of access to information and to establish good governance obligations to be met by public officials and the legal consequences of non-compliance.

The Spanish law was drafted after acknowledging that transparency and good governance are essential elements to spur economic and social development. Such law is crucial to sustain the growth of an open data impact, not only to deliver good governance value - i.e., accountability, transparency and integrity –, but also to produce economic value (e.g. stimulation of the creation of new companies, achievement of efficiency within the public sector) and social value (e.g. citizens' engagement in service design and policy-making, social innovation) (OECD, 2014). Therefore, access is a necessary but non-sufficient condition, as in most cases value creation implies data re-use. In order to enable the production of economic and social value, it is essential that data – and not only information and content – that are relevant to those interested in re-using them are increasingly made available and are released as open data (e.g. accessible, usable and re-usable data) (Ubaldi, 2013).

Box 6.1. Linking the transparency and open data agendas in Spain

The Spanish Law on Transparency (No. 274/2013 of 26 November) did not fill an absolute vacuum but delved into what had been achieved so far correcting deficiencies and creating a legal framework to grant certainty to citizens' rights concerning data and information access and use. The Law establishes for instance a series of obligations to sustain proactive dissemination of certain information without waiting for specific requests by citizens. For example, this refers to data and information of an institutional, organisational and planning, legal relevance and economic, budgetary and statistical nature. Additionally, it broadly establishes the right of access to public information, which may be exercised without having to justify the request.

To channel the publication of such an enormous amount of information, to facilitate compliance with the obligations of active publishing, and to facilitate access to the information disclosed, the Law relies on the use of ICTs and provides for the establishment and deployment of a Transparency Portal. This will include, besides the information that must be actively advertised, the one whose access is requested more frequently. Therefore, ICTs and new technologies in particular, are seen as strategically instrumental to fulfil the provisions of the Law. The portal will indeed allow to have a single access point for citizens to obtain all available information. Thanks to the support of new technologies the portal will be a virtual meeting point and broadcast showing a new way of understanding the right of citizens to access public information. The foreseen format of the portal is interoperable to facilitate the agencies to proactively upload information. As it won't be compulsory to publish data on the portal at first it will be very important to provide incentives and to foster involvement of all authorities also at the local level of government.

Chapter II of the Law foresees also that newly available data and information accessible through the portal will have to be made available as clear, structured, understandable data and preferably in re-usable formats. But the law does not make it compulsory for the public sector to change the format of already available data and information to make it reusable. It will be crucial to ensure integration of the transparency portal with the open data portal *http://datos.gob.es/datos/*., managed by the Ministry of Finance and Public Administration, to make sure that data available will be re-used and that the development of the new portal will build on previous experiences.

Source: OECD (2014), Spain: From Administrative Reform to Continuous Improvement, OECD Public Governance Reviews, OECD Publishing. *http://dx.doi.org/10.1787/9789264210592-e*.

Once the Law on Access to Information is passed, it will be pivotal for the Government of Costa Rica to focus on its implementation. Lessons from across Latin America indicate that governments in the region have been quite active in updating their legal and regulatory frameworks, but these efforts have not always been complemented with an equally focused set of actions aimed to ensure adequate implementation. This requires identifying a clear institutional framework to support implementation that does not necessarily imply creating

new institutions. For example, identifying an existing one with a clearly recognised mandate and responsibility to co-ordinate law implementation would be a good alternative, e.g. the *Procuraduría* and the *Defensoría*.

Box 6.2. Co-ordination of transparency and open data agendas in Mexico

In Mexico the transparency issues are handled by the Federal Institute for the Access to Public Information (IFAI), which is an autonomous constitutional body currently focusing on implementing the Law on Protection of Personal Data in Mexico, which involves regulations concerning the private and public sectors, as well as individual citizens. The adoption of the above-mentioned law, which has one of the broadest scopes in the world, reflects the commitment of the Mexican government with transparency and access to public information.

The government of Mexico has focused on the implementation of the transparency and open data agendas through the collaboration of the *Presidencia*, the National Institute of Statistics and Geography (*Instituto Nacional de Estadística y Geografía*, INEGI) and IFAI to adopt a general standard for the publication and access to government data and information in accordance with the principles of open data.

The government intends to ensure a collaborative and participatory approach in the implementation of a comprehensive set of measures and to link several initiatives to sustain the development of a transparent and enabling environment for open data by bringing together different stakeholders.

For example, the Transparency portal *http://portaltransparencia.gob.mx/*, managed by IFAI, and the open data portal, under the responsibility of the federal fovernment *http://datosabiertos.gob.mx/*, are linked.

Source: Own elaboration.

It is worth highlighting Ruling 2006-08995 (June 23, 2006) of the Constitutional Chamber of Costa Rica because it clearly indicates the public Administration's obligation to use open formats and technological neutrality. The ruling indicates that the use - by public administrations and private organisations that perform public tasks - of electronic formats which prevent free access to information and whose usage depends on the conditions imposed on the users by the companies that own such electronic editions, is opposed to the right to information set forth by Article 30 of the Political Constitution. According to the ruling "[public entities] must use (…) an open format guaranteeing universal access to information and also providing full accessibility to all public information to people with disabilities, starting as of their access to the web page without any additional requirements; thus enabling text conversions into electronic formats and data storage through the use of their desired software and according to their needs[2]".

Article 6 of the General Law 6227 on the public Administration regulates the documents that are part of the administrative offices. Article 272.1 states that "The parties and their representatives, including any attorney, will have the right, during any phase of the procedure, to examine, read and copy any item of the file, as well as to request a certification thereof, with the exceptions set forth in the following article (…)". In turn, Articles 273 and 274 refer to the limitations thereof due to State secret or duly grounded reasons.

In addition to the foregoing aspects of Article 11 of the Constitution regarding administrative responsibility and accountability of public officers, Article 110 of the Law on Financial Administration and Public Budgets (*Ley de Administración Financiera y Presupuestos Públicos* [Law 8131 of 2001]) sets forth the facts that establish administrative liability, specifying: "The provision or use of confidential information which the public officer has access to on account of his/her position and which confers a privileged situation resulting in undue benefit of whatsoever nature for him/her or for third parties, or which affords the opportunity to illegitimately harm the State and other public bodies or private parties."

A legal framework of transparency and accountability

Law 8220 of 2002 on citizen protection against excessive requirements and administrative formalities underscores the importance of simplifying procedures for citizens and businesses. At the same time, it calls for making the process transparent for the whole public Administration, both at the central and local levels, including municipalities and State-owned companies, among others. Thus, "Every public officer, entity or body is compelled to provide citizen with the information regarding the formalities and requirements carried out at the respective administrative unit or office," also setting forth in the law the way in which this should be done.

Along the same line, in regard to accountability, the Organic Law of the General Comptroller of the Republic's Office (*Ley Orgánica de la Contraloría General de la República*), Law 7428 as amended, provides in its Article 13 rights of access to any source or information system, record, document, account or statement included in any kind of document, to the General Comptroller's Office (with the applicable constitutional or legal exceptions).

Finally, Law 8422 of 2004 against corruption and illicit enrichment in public duties is particularly important, as it incorporates several articles related with access to information. Regarding what one may categorise as "active transparency", Article 7 defines a set of subjects on free access, considered to be of "public interest", namely information related to the "income, budgeting, custody, oversight, administration, investment and expenditure of public

funds." Additionally, there is a series of articles aimed to protect the informant of acts of corruption, the limitation of access to files in the course of an investigation, and the access authorisations thereto by the General Comptroller of the Republic's Office. On the other hand, the 2005 rules, as amended in 2006, specify that institutions must "organise this information in such a manner that it is computerised, in order to facilitate citizen access in a widespread and transparent manner, reason for which the statistics created should take such needs into consideration."

With regard to the legal framework for Public Procurement and the use of electronic media, the Law on Financial Administration (*Ley de Administración Financiera*), Law 8131 and its rules, and the Law on Administrative Procurement (*Ley de Contratación Administrativa*), Law 7494[3], contain provisions entitling the Administration and private citizens to use any electronic media that guarantees the document's integrity and the identity of the issuer; and affords these acts with the same legal validity and efficacy as that of those conducted via physical media.

A legal framework for citizens' participation

As observed with other LACs, Costa Rica aims to increase citizen's participation and engagement. Law 8491 of 2006 – created building on a popular initiative - states that "During the ordinary session period of the Legislative Assembly, at least five per cent (5%) of the citizens registered in the electoral roll may exercise the initiative to draft laws or partially amend the Political Constitution." This will not be applicable in regards to bills related to budgetary, tax or fiscal matters, loan approvals and contracts or acts of an administrative nature."

Along the same line, Law 8492 of 2006 regulating referendums "is aimed at regulating and implementing the participatory democracy instance called referendum, by means of which the people exercise the power to approve or repeal laws and make partial amendments to the Political Constitution." This law is linked to the one previously mentioned since the referendum may be called upon at the initiative of citizens or at the initiative of the Legislative or Executive branches. It regulates the matters, method and binding nature of the referendum.

Furthermore, Law 9097 of 2013 on the right of petition sets forth that any citizen may exercise the right of petition, without prejudice or penalty, before any public institution, Administration or authority, on any subject, matter or information of public matters.

Also, the overall framework establishing the conditions for the use of ICTs in the public Administration is fairly solid. Executive Decree 33147 dated May 8, 2006 is the institutional framework for digital government (e-government), where the Inter-Sectoral Commission for Digital Government (*Comisión Intersectorial de Gobierno Digital*) and the basic structure of the Digital Government Technical Secretariat of Costa Rica (*Secretaría de Gobierno Digital de Costa Rica*), along with the publication in 2009 of Decree 35139-MP-Mideplan, whereby the Secretariat is transferred to the Costa Rican Telecommunication Company (*Instituto Costarricense de Electricidad*, ICE).

Finally, according to this background, the current regulatory framework of the Costa Rican government has the necessary components for the development of an open government and open data policy, even though the legal and regulatory elements on transparency and access to public information are not merged into a single legal body. A similar situation occurred in Colombia (see Chapter 5) where the central government was able to develop open government practices despite the lack of a single legal instrument on access to information, which was not available until 2014. The principles of transparency, collaboration and participation for the development of this kind of policies are present and on the other hand their legal and regulatory framework includes the basic elements for the establishment of an open data policy.

Institutional Framework

Establishing a clear institutional framework to co-ordinate the adoption of key decisions and actions related to open government is essential to create the right synergies, avoid incoherency and align efforts for the achievement of common goals. This section introduces a group of the Costa Rican institutions that can play a key role in providing support for the development of open government and open data in the country. They do have key responsibilities in relation to initiatives on access to information, open data and co-ordination in the execution of open government projects.

Inter-Sectoral Commission for Digital Government and Digital Government Technical Secretariat of Costa Rica[4]

The Inter-Sectoral Commission (*Comisión Intersectorial de Gobierno Digital*) was created by an executive decree of 2006[5], in which the basic structure of the Digital Government Technical Secretariat of Costa Rica (*Secretaría de Gobierno Digital de Costa Rica*) is defined.

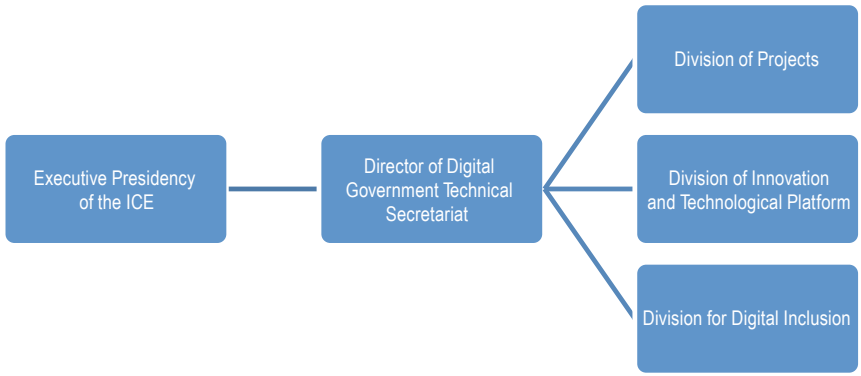
Said decree creates the Commission "as a high level policy co-ordination and definition body in charge of designing and planning public policies on

digital government matters", co-ordinated by the First Vice-Presidency of the Republic. Likewise, the Technical Secretariat is to be headed by a Secretariat Director, who "shall serve as general co-ordinator" and who shall have authority to appoint the necessary supporting officers.

The Digital Government Technical Secretariat is in charge of several responsibilities that range from providing critical services for the population, to facilitating active citizenship mechanisms for interacting with the government, and to increasing transparency and access to governmental information. Some examples on how these responsibilities have been executed are inter alia: promoting the use of e-services amongst public institutions through a yearly website national independent evaluation (held in partnership with INCAE Business School), the development of a citizen portal (Single Window Portal: *www.gob.go.cr*), the deployment and operation of a Public e-Procurement platform (Mer-link System), the development and implementation of the G2B platform that included all processes related to establishing a company and starting its operation.

In line with the practice of many OECD countries, the Technical Secretariat is responsible for promoting the use of digital technologies to simplify procedures and formalities with the public Administration and increase efficacy, ensuring efficient use of the resources managed by the State in order to support digital government projects, while fostering access to digital technologies among citizens. The Secretariat was transferred in 2009 to the Costa Rican Electricity Institute (*Instituto Costarricense de Electricidad*, ICE), and its organization was restructured (see Figure 6.1).

Figure 6.1. Digital Government Technical Secretariat Organisation Chart



Source: OECD based on information provided by the Costa Rican government, *http://www.gobiernofacil.go.cr/e-gob/gobiernodigital/quienessomos3.htm*.

Operationally, the Digital Government Technical Secretariat worked with the different public institutions in the development of the OGP action plan's commitments and is in charge of looking after the execution of most of Costa Rican OGP action plan's initiatives. Given the relevance of digital technologies as a key enabler of open government, the work of the Technical Secretariat, which collaborates with the Commission on the tasks it may assign for the fulfilment of its purposes, is essential to ensure a strategic use of technology within the public Administration that complements the general efforts supporting broader open government objectives. However, this needs to be balanced by the constant involvement of relevant stakeholders at all stages of the preparation of commitments' definitions and the drafting of the action plan.

There are important advantages of having a very structured and operational institution such as the Technical Secretariat coordinate open government. These include for instance the possibility to rely on the efficiency and effectiveness of co-ordination efforts. Nevertheless, the fact of not having the mandate for open government co-ordination at a more central and or/political level may create some challenges in ensuring the political support and policy strategic foresight needed to involve all key players across the Administration for a wide sense of ownership and achievement of long-term sustainable results.

General Comptroller of the Republic's Office (Contraloría General de la República)

Created by the Political Constitution of 1949, it is the constitutional body, auxiliary to the Legislative Assembly, which oversees the use of public funds to improve the management of the Public Treasury and contributes towards political and citizen control.

The main functions of the Comptroller's Office that are key in relation to open government include ex-ante and ex-post control of institutional expenditures, budget approvals, contract reviews and public institution audits. As set forth in Article 184 of the Constitution of the Republic, the Comptroller's Office has the duty and the attributions to audit the execution and settlement of the Republic's ordinary and extraordinary budgets; to examine, approve or disapprove the budgets of the municipalities and autonomous entities and audit their execution and settlement; to deliver to the Legislative Assembly on an annual basis, in its first ordinary session, a report on the movements corresponding to the preceding fiscal year; and to examine, annotate (gloss) and close the accounts of State institutions and public officers. In particular, the General Comptroller's Office is compelled to approve the budgets of decentralised bodies (68% of the total national budget[6]), municipalities, autonomous institutions (universities, CCSS), public companies (ICE, Recope) and public funds managed by private parties.

Among the actions carried out by the General Comptroller's Office relevant to transparency and accountability, it is important to mention the Internet posting of the budget lists of the State branches, an information platform reporting how public money is spent (*Conozca en qué se gasta su dinero*) (see Box 6.3), its participation in the Inter-institutional Transparency Network (*Red Inter-institucional de Transparencia*) and its transparent comptroller's initiatives.

Box 6.3. Aiming to increase citizen monitoring of public expenditure: The "*Conozca en qué se gasta su dinero*" platform

The *Conozca en qué se gasta su dinero* initiative (Know how your money is spent) allows citizens to monitor public spending through the information provided in the website of the General Comptroller's Office.

This initiative aims to increase citizens' engagement and social control of public expenditure while increasing public trust. The platform is fed with information from the Integrated System of Contractual Activity (*Sistema Integrado de la Actividad Contractual,* SIAC) and the Information System on Planning and Budget (*Sistema de Información sobre Planes y Presupuestos,* SIPP).

On the one hand, the SIAC is an automated system for recording and processing information of contractual activity undertaken by all public entities, with the purpose of providing information for management, control and supervision, as well as covering information needs of the different national and international stakeholders. On the other hand, the SIPP provides information on budget planning and execution by the public bodies in charge of managing public funds.

By centralising information from these two information systems, the Costa Rican government was able to develop a user-friendly online tool providing information on the use of public funds. The main objective is to promote transparency in the use of public resources with an open approach. This tool was built with the idea of offering citizens useful, timely, easily accessible and accurate information by simplifying and easing the terminology and data already provided by the SIPP and the SIAC systems. Information can be also represented graphically for better understanding and interpretation of the data.

Source: 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America.

Office of the Public Defender of the People of the Republic of Costa Rica (Defensoría de los Habitantes de la República de Costa Rica

The Office of the Public Defender of the People of the Republic (the National Ombudsmen Office) is the body in charge of protecting the rights and interests of the population. It was created upon approval of Law 7319 (November 17, 1992) as a result of a lengthy legislative discussion process initiated on November 5, 1985, with the submission of the bill under the

initiative of the Executive Branch. Its mission is to look after the operation of the public sector in compliance with moral principles; justice; the Political Constitution; the law; the agreements, treaties and pacts entered into by the Government, and the general principles of Law. Also, it is responsible for promoting and disclosing the people's rights.

In its efforts aimed at strengthening transparency in Costa Rica, the Office of the Public Defender has promoted the following initiatives:

- The establishment of the Inter-institutional Transparency Network (*Red Interinstitucional de Transparencia, RIT),* whose purpose is to facilitate citizens' access to information related to the management of public resources, through their publication on the Internet.
- Preparation of the Public Sector Transparency Index (Índice de Transparencia del Sector Público, ITSP*)* (which includes 186 institutions): the index variables will measure, among others: the kind of information available to the citizen on the web site, public procurement planning, information on salary index, public works' contracts, tenders, annual reports, minutes, agreements and circulars, among other aspects. A pilot program was conducted in 2013, involving 44 institutions.
- Participation in the drafting of the Bill on Access to Public Information, where it is granted oversight powers in compliance with the law[7].
- Participation in the development of Costa Rica's action plan for the Open Government Partnership.

Attorney General's Office of the Republic, Public Ethics Attorney General's Office (Procuraduría General de la República, Procuraduría de la Ética Pública)

The *Procuraduría* is the highest ranking, technical-legal consultative body of the Public Administration. Its powers - as set forth in Law 8242 dated April 9, 2002 (creating the Public Ethics Attorney General's Office) – are pivotal for the fight against corruption. It represents Costa Rica within the Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption (*Mecanismo de Seguimiento de la Implementación de la Convención Interamericana contra la Corrupción,* MESICIC), and is in charge of compliance with the recommendations contained in the Final Report of the Expert Committee.

Given its responsibilities, the Public Ethics Attorney General's Office has therefore a significant role in relation to open government, particularly in regard to the adoption of the necessary administrative actions to prevent, detect and eradicate corruption; report and charge public officers and private

citizens before the judicial courts for acts of corruption, and increase ethics and transparency in the public function.

General Directorate of the National Archive (Dirección General del Archivo Nacional)

Achieving the potential value of open data requires the involvement of all key actors of the open data ecosystem. This includes the entities dealing with public data, information and knowledge production, management, and sharing. The entity in charge of national archives is certainly a key player in this sense. In Costa Rica, the National Archive System[8] (*Sistema Nacional de Archivos*), which is part of the Ministry of Culture and Youth (*Ministerio de Cultura y Juventud*) is in charge of managing the nation's documentary heritage and contributing to the control of notarial functions in the country. Its goals are to preserve and disseminate the nation's documentary acquis, guarantee peoples' access to information, favour transparency in the administrative management and support informed decision making.

Among its multiple functions, several are noteworthy in relation to open data, transparency and participation. Establishing the country's archival policies and recommending strategies for the proper development of the National Archive System, as well as looking after the optimal organisation of Costa Rica's public archives, are some of the more institutional ones. In relation to implementation, the provision of technical recommendations on the production and management of documents, including those generated by automatic media, are some of the key tasks, in addition to the organisation of congresses, seminars, and conferences to ensure the participation of national and international archivists and other specialists or technicians in archive-related sciences.

Policy framework

Main policies

Costa Rica decided to join the Open Government Partnership (OGP) in January 2012, declaring that this commitment would enable the country to consolidate the efforts made over recent years in relation to transparency, access to information and fight against corruption.

These previous efforts are reflected in the implementation of:

- Mer-link, e-Public Procurement platform.

- The Law Against Corruption and Illicit Enrichment in the Public Function (Ley Contra la Corrupción y el Enriquecimiento Ilícito en la Función Pública)[9].
- Adhesion to the Convention of the OECD on Combating Bribery of Foreign Officials in International Business Transactions, where the essential purpose is for the States to adopt the necessary measures to typify the offense of bribery of foreign officials in international transactions.
- Adhesion to the Inter-American Convention against Corruption, legal instrument that acknowledges that corruption has a transcendental incidence in the continent, typifies corruption events and establishes agreements related to international co-operation.
- Participation in the mechanism established by the Organisation of American States (OAS) to follow-up on the Implementation of the Inter-American Convention against Corruption, aimed at following up on the commitments acquired by the Member States upon signing the Convention and at analysing the way they are being applied in practice.
- Adhesion to the United Nations Convention Against Corruption, whose purposes are: to promote and strengthen measures aimed at preventing and fighting corruption more effectively and efficiently; to promote, facilitate, and support international co-operation and technical assistance in preventing and fighting corruption, including the recovery of assets; to promote integrity, accountability obligations and the proper management of public issues and goods.

Moreover, the line of "State Modernisation" of the 2011-2014 National Development Plan laid out by the Government of Costa Rica supports its Open Government Plan. It sets the strategy for a modern public sector indicating that "the entire public sector needs to become increasingly efficient and effective in order to articulate agreements and make timely decisions and foster increased citizen participation in solving national problems, through the construction of development agendas based on dialogue and integration."

Another important enabling policy is the 2011-2014 Master Plan on Digital Government (*Plan Maestro de Gobierno Digital 2011-2014*), which incorporates a great deal of the initiatives that are part of the Open Government Plan and defines projects and institutions responsible for ensuring their realisation.

Achieving results implies coupling policies with concrete and measurable actions. Upon joining the OGP, Costa Rica declared that it would focus its efforts towards the fulfilment of initiatives in three areas:

- **Public service improvements:** including strengthening the citizen portal *www.gob.go.cr*; using the enterprise creation platform (*Crea empresa*) in all of the country's municipalities; broadening services in the Electronic Service Counters (*Ventanillas Electrónicas de Servicio - VES*); implementing the electronic health registry platform for products *www.registrelo.go.cr* fostering the inter-operability framework but also fostering the application of the positive silence system (time-wise), and conducting a feasibility study for the modernisation of Costa Rica´s postal service.
- **Increasing public integrity, transparency, accountability and citizen participation:** including implementing the Open Budget; developing a Transparency Index of Costa Rica's public institutions; submitting the bill for the Law on Access to Public Information; defining and implementing the national open data policy to boost data openness in public institutions and follow-up on the benefits of the hackathons by organising similar events; creating a conducive culture by disseminating the concept and philosophy of open government among public institutions, citizens, the private sector and the public opinion; developing a manual for the use of social networks in the public institutions, and empowering the population through access to information and citizen participation spaces.
- **Managing public resources more effectively:** including implementing the pension system in the National Pension Directorate (*Dirección Nacional de Pensiones*)**,** a single public procurement platform in the State, and the "Digital Citizen Safety" (*"Seguridad Ciudadana Digital"*) Project.

Costa Rica's clear aim to support the intentions and official commitments of the State with actions to achieve concrete results, e.g. public consultation on the Law on access to public information, is interesting. The section below highlights some of the policy implementation results.

Policy implementation and results

As previously explained, Costa Rica has not yet enforced a freedom of information law addressed to establish the rights of access to information and regulate the implementation of legal requirements. Nonetheless, co-ordinating instances have been created in the country to facilitate the execution of the available set of laws and regulations that ultimately safeguard these rights. Thus, for instance, public institutions should look after the fulfilment of these rights set through the constitutional principles and the laws that regulate them, doing so on their own.

Hence, for the time being, making information available depends on each institution's capacities and means at hand. The institution decides on all relevant matters ranging from deciding on the information request forms, to determining deadlines and complaint procedures, etc. As a result, the current situation is characterised by a heterogeneous offering of access to information levels and institutional linkages with citizens. In this regard, the first line of operation is self-regulation and the oversight task entrusted to institutions such as the General Comptroller of the Republic's Office, due to the lack of a specific institution in charge of monitoring and enforcing access to PSI. The obvious disadvantages of this arrangement are the lack of incentives to make information available, the lack of specific channels and common standards (as observed with the standardised portals in Peru), and a heterogeneous policy implementation which will vary depending on the political will, budgetary availability and degree of technological maturity of the institutions.

On the other hand, Costa Rica's national open government strategy - based on the Action Plan submitted to the Open Government Partnership (OGP) – is tightly linked to the Digital Government strategy whose Technical Secretariat plays the co-ordinating role as mandated by the Presidency of the Republic. Along this same line, the Open Government Action Plan has an important intersection with the 2011-2014 Master Plan on Digital Government, whose items related with open government contain many of the initiatives that are part of the Open Government Plan. The adoption of an international commitment holds the country accountable for the compliance with these commitments before the international community, creating an important incentive for the fulfilment of the goals set forth in the plan.

The establishment of an Open Government Inter-Sectoral Commission to follow up on the OGP commitments, comprises the Digital Government Technical Secretariat (*Secretaría de Gobierno Digital*), the Ministry of Foreign Affairs (*Ministerio de Relaciones Exteriores*), the Ministry of Planning (Ministerio de Planificación), the Ministry of Science, Technology and Telecommunications (*Ministerio de Ciencia, Tecnología y Telecomunicaciones*), as well as representatives of the civil society and the private sector. Its creation was formalised on April 2014 through Presidential Decree and it is expected to further facilitate the follow-up and monitoring of the open government commitments made by the stakeholders involved in OG and OGD policies. This is a very important development in the establishment of the institutional arrangements supporting open government. One of its main responsibilities will be the development of the second action plan for the Open Government Partnership (OGP).

The responsibility for co-ordination with the Digital Government Technical Secretariat as a directorate within the ICE is a complex issue – even though the President is part of its committee –, since the risk of assigning such a strategic

role to a technical agency may risk diminishing the political clout. Hence, the formalisation through decree of the Inter-Sectoral Commission for Open Government, which operates as a presidential advisory committee and reports to the Presidency, and the establishment of a formal follow-up mechanism for the open government action plan, are essential measures to obtain the support required for an effective co-ordination. Given this structure and the fact that the design of the current Open Government Action Plan – whose origin is strongly linked to digital government – will depend on the control mechanisms established by the Digital Government Technical Secretariat as part of its own master plan, for the Action Plan to be operational great emphasis should be placed on the actual execution of the projects it contains. Particular relevance should be assigned to the following initiatives:

- **Positive silence application system, "time-wise":** In seeking to strengthen institutional responsiveness to the requests for access to information, this platform allows the citizen to demand the application of the positive silence to the institution in charge of a procedure or formality if the request was not dealt with within the period of time set forth in the relevant legislation for its solution. Since this measure is applicable across the Administration, it becomes a catalyst and an "orchestrator" factor for the enforcement of the law that protects citizens against excessive requirements and formalities, as well as for the enforcement of the legislation relative to access to information requests.
- **Single procurement platform:** Public procurement platform enables State's entities to procure goods and services in a digital and simplified manner. It facilitates the processes' transparency and the disclosure of information that should legally be made available to citizens regarding this kind of operations. Currently, there is not a single procurement platform operating in the Administration as a whole. Merlink, Compr@Red and specific platforms belonging to some entities (e.g National Bank of Costa Rica) which perform similar functions are in place. If all of them were to be integrated into a single procurement platform, the model would allow institutional co-ordination in regard to the transparency of the State's procurement transactions, facilitating active and increasing bidders' participation. However, the platform's functioning and operations should be transparent for the institutions and its funding model to be clear.
- **Open data portal**: Costa Rica is one of the six LACs with a central OGD portal in place. The Costa Rican centralised open data portal, *datosabiertos.gob.go.cr*, is headed by the Digital Government Technical Secretariat and stimulates institutions to release data for their reuse. This initiative allows for the information and data to be made available,

providing transparency to the availability of information deemed public; this could be addressed in the law on the national archive. While this is not an institutionalised initiative, its inclusion in the plan, along with a series of complementary measures such as raising awareness about public services, providing a simple posting platform and organising applications contests (hackathons), has facilitated the current existence and use of more than 1,000 datasets from 20 institutions. An initiative such as this one, with greater political will (presidential directive), could generate active data posting and thus foster transparency.

- **Citizen-centred initiatives**: along the line of simplifying procedures and formalities for citizens and improving public services as well as its operation's transparency, there are a series of initiatives that once

Box 6.4. Exploiting OGD value added: The Costa Rican Centralised Open Data Portal and hackathons

In 2012, the Costa Rican government launched its centralised open government data portal datosabiertos.gob.go.cr. The portal is a direct result of the adhesion of Costa Rica to the Open Government Partnership and of its 1st Open Government Action Plan, containing datasets from 20 public institutions, including:

- Ministry of International Trade
- Ministry of Culture and Youth
- Ministry of Science, Technology and Telecommunications
- Ministry of National Planning and Economic Policy
- Ministry of Economy, Industry and Commerce
- Municipalities of Palmares and Alajuelita

The government held two hackathons with app developers in 2012 and 2013 aiming to foster the use of the datasets published in the portal. As a result, app-proposals were created for sectors such as health, safety, agriculture and citizen participation. The Digital Government Technical Secretariat provided economic support to hackathons' winners in order to support the design and launching of the most beneficial applications for the Costa Rican population such as *Epicentro* (app with seismic activity information in Costa Rica) and *Ahorre Más* (aiming to improve household economy by providing comparisons of the prices of different products). Hackathons represent good examples of ways in which governments can promote the use of open data and citizens can take advantage of data released to create economic, social and public governance value.

Source: 2013 OECD Questionnaire on the Implementation of Open Government Policies in Latin America.

again allow for the co-ordinated centralisation of access points that used to be scattered and confusing for citizens. Projects such as the citizen service portal, the enterprise creation platform and the electronic service counter, facilitate the management process for requesting services from the institutions, facilitating and making citizen relationships with them more transparent. Along the same line, fostering interoperability to avoid forcing the citizens to engage in unnecessary formalities (lowering corruption risks in the process), simplifies the processes for the citizen from a common platform, thus increasing the degree of consistency and co-ordination.

Clearly, through the use of technology, these initiatives enable the creation of a sort of uniform "presentation layer" which eases citizens' interaction with public institutions and allows them to demand the enforcement of rights such as access to information, active transparency, simplification of procedures and formalities, meeting deadlines, disclosure of commercial transactions and other actions aimed to strengthen transparency and to stimulate practices such as the publication of open data. The downside of such a situation is that co-ordination requires an outreach and awareness process and depends on each institution's will for a greater or lesser participation, in view of the lack of more political co-ordination instances or incentives such as presidential directives or decrees and follow-up systems.

Additionally, the creation of the Inter-Sectoral Commission for Open Government, and the work already carried out by the Inter-Sectoral Commission for Digital Government, has begun a co-ordination process with the Congress, the Judiciary and the municipalities for the development of citizen participation and transparency initiatives. On the other hand, in parallel, there were two transparency-related co-ordination mechanisms already in place that should now be integrated in the newly established mechanism for co-ordination, which includes the setup of the Inter-Ministry Commission for Open Government, such as:

- Action plan for the implementation of the recommendations made to the Republic of Costa Rica by the expert committee of the Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption. This is an inter-governmental instrument established within the OAS framework to support the member States in the implementation of the Convention's provisions, through a process of reciprocal evaluations and under equal conditions, which provide specific recommendations in relation to the areas where there are loopholes or further progress is required.
- The Inter-institutional Transparency Network, established in 2004 and fostered by the Office of the Public Defender of the People of the

Republic (*Defensoría de los Habitantes de la República,* DHR) to facilitate citizen access to information related with the management of public resources, through its posting on the Internet. The purpose of this network is for institutions to make public interest information available to citizens, such as: budgets, revenues, expenditures, investments, payrolls, tenders, procurements, purchases, suppliers, operational plans, performance and audit reports, minutes, agreements, conventions, and projects, among others, acting as a voluntary policy on active transparency. Along the same line and as previously mentioned in regard to institutional self-regulation, this is a way to comply with the obligation to make information available, which, being voluntary, has the disadvantages inherent to the rather unclear incentives for adhering to it, and the heterogeneity of the presentation forms according to the institution's budgetary availability or technological maturity.

If we were to summarise, the operational model for the implementation of open government initiatives in Costa Rica is a mix between an institutional self-organisation based on complying with the current legal regulations, in favour of the transparency and access to information agenda, and the political/technical co-ordination of the authorities related with the open government action plan undertaken by the Open Government Partnership. The Plan works as a guiding principle for open government policies and for the integration of initiatives based on technology that help lower the entry barriers to the institutions for the performance of their duty, in order to increase the simplicity, transparency and availability of the State for its citizens.

The advantages of a model that incorporates practices to make it easier for institutions to implement open government policies through tools, awareness and support are evident, since they prevent stumbling with budgetary, co-ordination or technological maturity barriers. However, clearly a greater political support than the follow-up and co-ordination of the Digital Government Technical Secretariat is required, since its purpose, even though it includes open government policies, is not exclusively focused on them and lacks the political/legal grounding to enable it to empower itself with the necessary clout.

For that purpose, it may be necessary to formalise the same centralising initiatives such as open data, positive silence or others, but through the issuance of presidential directives or decrees, with specific deadlines and public, transparent and participatory follow-up and accountability mechanisms, integrating the citizens themselves in the process.

Finally, the establishment of the Inter-Sectoral Commission for Open Government is an essential step to define responsible parties, indicators, and commitments enabling impartial reports on the follow-up and implementation of the plan's commitments. This is relevant in the current process of development

of the self-assessment report on the activities included in the first action plan of open government and the whole implementation process, and this report must be submitted for civil society discussion and review.

Recommended actions for Costa Rica

The analysis included in this case study on the enabling elements for open government in Costa Rica, underlines that in spite of the fact that a legal framework consolidating transparency and access to information is still missing, a favourable scenario is being configured which, starting with the Constitution itself, creates a context where the citizens may exercise control over the State's actions, including those ensuring transparency and accountability. Taking this context into consideration the actions recommended below aim to further strengthen and support the Government of Costa Rica's efforts to advance open government.

- **The Government should concentrate its focus on moving forward the development of a framework law on transparency and access to information**, integrating elements on accountability, access to information and proactive information disclosure in a single regulatory body affecting all institutions. The Law should establish also clear control mechanisms; an institutional setting capable of following-up on compliance, with actual attributions to impose its enforcement; and aim to address potential barriers to access to public sector information (i.e. provisions on anonymous requests and fee waivers). The examples of the laws adopted by Mexico, Chile and Spain provide relevant models. Additionally, it would be recommendable for the Law to contain provisions and to develop specific regulations concerning open data. Setting regulations for data release in formats that do not only allow access but also use and re-use with no discrimination is essential to enable public participation in public value creation.
- **It would be advisable to move beyond in the proactive disclosure and delivery of information and data (active or proactive transparency).** This could be done for instance by: a. taking advantage of the existing National Archive Law, which provides a framework for making information available; b. integrating an amendment into the draft framework law on access to information specifying the release of data by the institutions, categorising them and instructing their release in open formats and publication on the national open data portal, which could be jointly managed with the Digital Government Technical Secretariat. In fact, there is a worldwide trend whereby, rather than thinking in transforming data into open formats, the line of

thought should be directed at "open data by default" or "by design". This means that all institutions are required, when developing their systems, to design them so as to be capable of producing open data since their inception, whenever suitable (e.g. except in cases of security and privacy). For example, this is something that could be incorporated as part of the duty to generate information for the archive.

- **Creating a solid institutional framework for open government**. The recent establishment of the Open Government Inter-sectoral Commission is a key step forward in this sense. However, to ensure continuous support for sustainable results in the long run it will be essential **to secure effective co-ordination** with the Digital Government Technical Secretariat that plays the co-ordinating role for open government in Costa Rica as mandated by the Presidency of the Republic and with the 7 local *Provincias* to avoid a strong top-down approach and foster OG and OGD practices at the local level. Implementing and institutionalising consultation to bring input from population at the local level would be necessary to ensure the continuous evolution of the general open government and open data strategy.

- As Costa Rica's efforts are geared towards creating solid institutional arrangements for open government **the Government could consider adopting a directive or decree providing clarity on the institutional arrangement of the inter-institutional commission for open government.** Top level and continuous political support is key. Along the same line of thought, and as a way to gain ground in anticipation of major legislative initiatives, good practices of President Obama in the United States or President Piñera in Chile have been the issuance of a presidential directive defining an open government policy including the elements of open data and citizen participation. It also sets deadlines for the institutions to comply with a set of tasks such as: publication of datasets, publication of active information, enabling access to information or public consultation forms. With similar specific goals and an action plan including support measures for the institutions - such as accompaniment and the provision of technological platforms by the Digital Government Technical Secretariat - a directive of this sort would have the necessary clout especially if combined with a public follow-up mechanism available for all citizens.

- **It would be recommendable** – even through the directive mentioned above - **to institutionalise the creation of an open government portal** centralising all the action plan's information and initiatives in a single, citizen-friendly "one stop shop". Good practices in the development of this one stop shop model include South Korea and Chile with its open government portal. In this portal, various services or functionalities

could be enabled and consolidated, such as: Direct access to the open data portal, direct access to institutional complaints systems; centralised access system to public information redirecting the user to the responsible institution (indirect information and data provision); access to an active transparency search engine to see proactively released information (for which purpose formats should be defined); access to citizen participation instances and to awareness and educational activities on transparency, access and participation.

- **A portal with these features, with simple, guided information architecture, would reduce information asymmetries among the citizens and the state**, making the relationship with the latter more transparent and accessible. In the same portal, based for instance on the directive previously suggested that would establish deadlines and obligations, a compliance observatory could be set up with graphic status progress (via dashboards), where the people can see the openness "level" of each public institution. While the adoption of the measures may be voluntary, it´s proven that the institutions will not want to be unprotected from public scrutiny and labelled as non-transparent institutions.

- **The Government should take further advantage of the important synergies between the digital government and the open government plans**. This could be done by defining initiatives aimed to lower the entry barriers in public institutions for the adoption of transparency and participation standards. Some measures implemented in other countries like Colombia and the Dominican Republic include the creation of standards for the publication of proactive information, facilitating its indexation and search, as well as standardised access to information systems and portals (See Chapter 7 on Peru and Chapter 2 for Dominican Republic). This could enable the implementation of platforms such as:

- **Active transparency management system** (for the publication of information by the Inter-institutional Transparency Network): publication standards are defined to enable a homogeneous information indexation and search among institutions. With these standards, information collection templates and format converters are created to transform the information entered into open, web-ready files, which may be published under a common URL in formats that can be indexed using automated mechanisms. Once this is done, a search engine is developed to index that information and enable searches about this information throughout the state.

- **Passive transparency or access to information management system**: Along the same line as the "time-wise" platform, Costa Rica could

develop a platform for managing access to information requests, with a standard format for all services, accessible and easy to use by the citizens, and enabling the Inter-Sectoral Commission to monitor the requests. While adherence may be voluntary, as no framework law is in place, its use may be facilitated by making it available as public software, supporting the institutions in its implementation, and integrating it as compliance measurement metrics in the open government follow-up portal for public scrutiny. By way of example, in Chile, the definition of an implementation model with this kind of technology enabled the application of the law throughout the entire central administration in less than 5 months.

- **Spurring active participation of citizens and businesses (especially Small and Medium Enterprises and entrepreneurs)** is important in a context where there are laws enabling the generation of bills emerging from citizen-initiative and the possibility of referenda. In that sense, a possible measure would be to create a citizen proposal system, where the citizens may submit proposals, collect signatures, with a "feedback loop" mechanism according to which the Government would be committed to respond. Some initiatives could encompass:

- **Identify citizens' needs and generating new citizen participation spaces**. Initiatives similar to the "e-petitions" in the United Kingdom and "We the people" in the United States can spur public interest and, if properly oriented, they can be an important source to improve public involvement.

- **Include citizen participation in the same design of the open government initiatives.** For example, in the definition of technical guidelines and standards for open data, it would be essential to conduct public consultations on the design and architecture of the technological platforms such as the data or open government portals. The experiences in the United Kingdom and Chile through the launching of "alpha" or "beta" programs for the citizens to voice their opinions about the design has allowed the improvement of user interfaces, in order to facilitate the adoption and generate trust with the citizens.

- **Strengthen transparency of the public administration processes for the general population and businesses and prevent corruption**. Taking advantage of the strong linkage between the open government and digital government initiatives, and in the context of the laws aimed at simplifying procedures and formalities or eliminating unnecessary ones, an initiative could be created, similar to that carried out by the government of Colombia through the "Crystal Urn" ("Urna de cristal") or "Chile without paperwork" ("Chile sin papeleos"), where the

prioritisation of the procedures or formalities to be digitised, re-designed or eliminated is done by the citizens themselves. For this purpose, in the same citizen portal, citizens and businesses, in a simple manner, are offered the chance to vote for those procedures or formalities they wish to eliminate or digitise, making the results publicly available for the institutions. The objective should be to design processes and formalities with a citizen-driven approach and to simplify formalities. Based on this information, a digitisation plan can be developed, which may be supported by a presidential directive (as in Chile). This is a tremendous step forward to: improve transparency of the public administration processes for the people; prevent corruption in key processes such as business start-up and public procurement; eliminate unnecessary processes and red tape.

- **The Government should further implement open data policies and initiatives.** These efforts could include a number of actions:

- The Government should consider the **establishment of the position of a Chief Data Officer** as a promoter of open data. This would provide the proper political support to secure that an open data policy permeates and is implemented across the different government structures. It would be even better if those attributions could be clarified in a Decree similar to the one adopted to set up the Inter-sectoral Commission for Open Government.

- As observed with most OECD countries, **the Costa Rican Government should work on migrating from a static information provision approach while designing open data programmes in order to fully exploit the benefits of OGD for the public and private sectors, and the society as a whole**.

- **The Government should nurture the development and involvement of open government and open data ecosystems to produce the desired impact.**

- Costa Rica has been successful on performing consultation and co-ordination events with general population with technical expertise but **greater involvement of the private sector (Small and Medium Enterprises) in open data programmes and initiatives is required**. The Central Government is making efforts in this respect by including the private sector in the open government steering group but ensuring the continuous involvement of the private sector on consultation activities will be keen to foster the development of programmes with comprehensive benefits to all stakeholders involved. The participation of SMEs will be equally important to better design procedures related to businesses on-line start-ups and regulatory simplification.

- **Stronger media's involvement could help raising citizen awareness about open government and open data initiatives**. Costa Rica shares this issue with practically all LACs (See Chapter 2). Without a communication strategy with clear goals and effective communication channels with the NGOs and civil society, it will be extremely difficult to earn the recognition and acknowledgement for the actions carried out and to obtain the subsequent support.
- **The Government should also consider the establishment of mechanism for citizen participation in the preparation and subsequent evaluation of the commitments set forth in the open government action plan**. It is important to acknowledge the recommendations provided by civil society actors and learn from the mistakes in the preparation of the first plan. It would be even more efficient if the participation spaces and mechanisms were to be recognised by a Decree.

Notes

1. Spanish Law No. 274/2013.

2. Ruling number 2006-08995 entered at 11:28 hours on June 23, 2006.

3. Published in update No. 20 to La Gaceta (Official State Gazette) No. 110, dated June 8, 1995.

4. *http://www.gobiernofacil.go.cr/e-gob/gobiernodigital/quienessomos.htm*

5. Executive Decree No. 33147. May 8, 2006. *http://www.pgr.go.cr/scij/scripts/TextoCompleto.dll?Texto&nNorma=57167&nVersion=73630&nTamanoLetra= 10&strWebNormativa=http://www.pgr.go.cr/scij/&strODBC=DSN=SCIJ_NRM;UID=sa;PWD=scij;DATABASE=SCIJ_NRM;&strServidor=\\pgr04&strUnidad=D:&strJavaScript=NO*

6. For more information see: *http://www.hacienda.go.cr/docs/5228c0e0637a1_Folleto_Presupuesto_Nacional.pdf*

7. "Article 8 – Oversight of mandatory publication. The Public Defender's Office of the People of the Republic will oversee the compliance with the provisions set forth in article 6 of this law, wherefore it shall determine the necessary internal administrative actions within the scope of its competencies. For these purposes, it shall include a chapter in the Annual Report submitted to the Legislative Assembly, every year in June, as set forth in Article 15 of Law No. 7319, regarding the results and findings on the matter and the activities carried out during the reported period." Furthermore, it proposes to provide the suggested resources needed to fulfil the obligation stated in Article 7 of this bill.

8. The entity is headed by an administrative board established by Law No. 5574, dated September 6, 1974. According to article 12 of the Law of the National Archive System, Law No. 7202.

9. Law No 8422 dated October 6, 2004.

Bibliography

CEPAL (2014), *Costa Rica: Perfil Nacional Económico*, *http://interwp.cepal.org/cepalstat/WEB_cepalstat/Perfil_nacional_economico.asp?Pais=CRI&idioma=e*.

Government of Costa Rica (2013), *Open Government Partnership, 2013-2014 Action Plan of Costa Rica*, *http://www.gobiernofacil.go.cr/e-gob/gobiernodigital/Gobierno_Abierto/PlanAccionGobiernoAbiertoCosta%20Rica2013_2014.pdf.*

INEC (2014), *Provincias de Costa Rica*, *http://www.inec.go.cr/Web/Home/pagPrincipal.aspx.*

INEC (2013), *Encuesta Nacional de Hogares*, *http://www.inec.go.cr/enaho/result/tics.aspx.*

UNDP (2013), *Informe sobre Desarrollo Humano 2013 - El ascenso del Sur: Progreso humano en un mundo diverso, http://hdr.undp.org/sites/default/files/hdr2013_es_complete.pdf.*

UNICEF (2014), *Panorama Costa Rica, http://www.unicef.org/spanish/infobycountry/costarica_statistics.html.*

United Nations (2012), "United Nations E-Government Survey 2012 E-Government for the People", *http://unpan1.un.org/intradoc/groups/public/documents/un/unpan048065.pdf-*.

EPI (2014), *Country Profile: Costa Rica,* Yale University, *http://epi.yale.edu/epi/country-profile/costa-rica*.

World Bank (2014), *Doing Business 2014 Understanding Regulations for Small and Medium-Size Enterprises*, *http://www.doingbusiness.org/reports/global-reports/doing-business-2014*.

Chapter 7

Open government policies and initiatives in Peru

This chapter assesses the capacity of the government of Peru to produce, implement and evaluate high quality open government policies. The chapter illustrates the country's strong legal framework for transparency and access to information and identifies progress that has been made within the institutional framework, in particular with the establishment of the Permanent Multi-Sectoral Commision in 2013. The chapter then recommends developing a clear open data action plan to link the already highly developed access to information agenda with the open data agenda and expanding efforts to include local governments and institutions such as Parliament in open government policy making.

The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

Introduction

In Peru, the development and implementation of transparency and anti-corruption policies since 2000 and the 1993 Constitution set the initial ground towards a more open government.

After Peru's political turbulence and the struggle of public powers in 1992, Peruvian authorities decided to restructure public institutions. The 1979 Constitution was derogated, the Parliament was dissolved and a new constitution entered into force in 1993. The end of the 90s represented the end of an historic period in Peru and the year 2000 opened an opportunity window to tackle key political, policy and social issues, and to develop a stronger legal framework on transparency. Efficient horizontal and vertical co-operation and the implementation of cross-cutting policies were necessary to rebuild the Peruvian state; redesign, strengthen and consolidate public institutions; and recover public trust. Co-ordination between Peruvian public authorities, political leaders and civil society was crucial in this respect. The result was the establishment of the *Acuerdo Nacional* (National Agreement, AN) in 2002. Since then, anti-corruption and institutional ethics have been in the centre of the government's debate on how to strengthen public integrity.

The AN provided a policy framework to address cross-cutting policy issues requiring vertical and horizontal co-operation. Thus, national actors engaged in dialogue. The result: 30 national policies were defined and framed under four main objectives: a) democracy and rule-of-law; b) equity and social justice; c) competitiveness; and d) decentralization and transparency (Peruvian Government, 2004). By finding a consensus among political and social leaders, the *Acuerdo Nacional* aimed to address policy continuity and institutional issues in the long term.

In parallel to the AN, the national modernisation program defined seven policy objectives focused on improving institutional co-ordination and leveraging the decentralization process, among others. Information and communication technologies were identified as compelling components of this process. These elements were underpinned by national regulations being created in subsequent years and by Peru's participation in international fora.

Peru's adhesion to the Open Government Partnership in April 2013 could be perceived as an expected result. The central government defined an Open Government Action Plan (Plan de Acción de Gobierno Abierto, PAGA), with clear institutional leadership. Stakeholders from the public, private and social sectors were involved in the PAGA's definition. Then, a multi-sectoral commission was established to provide a forum for institutional co-ordination and to monitor the implementation of OG policies.

Currently, decentralization is in the national agenda. To define its second action plan, the central government is expanding its efforts to the regions and municipalities. Its objective is to define and implement more comprehensive and inclusive policy. While facing challenges such as a centralised public Administration, isolated communities and social disparities, the involvement of local governments on policy definition, implementation and feedback is mandatory to move towards an effective open government and open data policy. Open data by itself has no value and major social participation and awareness is necessary in Peru to use it and make use of its potential.

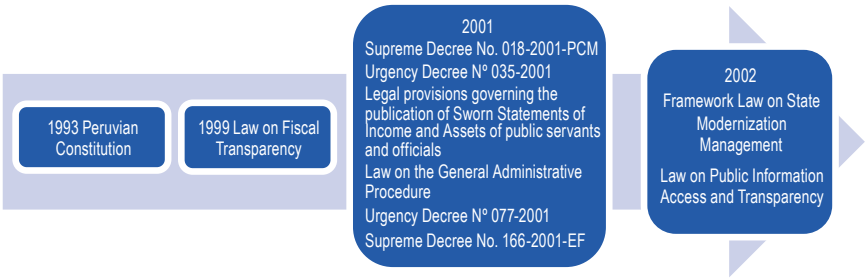
Peruvian public institutions may be implementing isolated efforts that might not be aligned to the central government policy. In addition, the absence of relevant stakeholders in open government policies' co-ordination forums may act as an obstacle for policy implementation and awareness and practices exchange. Hence, the central government is challenged to widen the scope of open government policies including a broader range of policy sectors, to align isolated institutional efforts and to implement better-designed indicators to measure policy efficiency.

Legal framework

The 1993 Peruvian Constitution (*Constitución Política del Perú*) included specific provisions on the right of citizens to access and request public information[1], government's accountability[2] and transparency[3]. While the Constitution does not include any direct references to open government, the conceptualization and recognition of OG's components as constitutional rights were useful to leverage the establishment of transparency mechanisms by the central government and to empower citizens. For instance, the written inclusion of the *Hábeas Data*[4] prerogative writ empowered citizens acting as a legal personal privacy protection tool. The inclusion of these components in the Peruvian supreme law constituted an important starting point to develop national and sectoral policies and programmes in the early 2000s. This legitimates the government's efforts to address integrity and anti-corruption issues and supports the right of population to have a more accountable and transparent government.

In the 2000's decade, public transparency, accountability and decentralization became relevant for Peruvian policy makers. The latter stressed the urgency of developing a supportive regulatory framework in the country. From 2001, the Peruvian government published several laws and decrees mostly focused on setting the ground for access to information and fiscal transparency (see Figure 7.1).

Figure 7.1. Peru's main legal framework on access to information and transparency 1993 - 2002



Note: See Annex A for more information on the main provisions by law or decree

Source: OECD with information obtained from answers to the OECD questionnaire on OG for Peru.

These laws built on the Law on Fiscal Transparency (*Ley de Transparencia Fiscal*, LTF) which entered into force in 1999. Its mandates created specific responsibilities for the Ministry of Economy and Finance (*Ministerio de Economía y Finanzas*, MEF), such as the publication of multi-annual economic projections and reports on the fulfilment of fiscal objectives.

In 2002, the Framework Law on State Modernisation Management (*Ley Marco de Modernización de la Gestión del Estado, LMM*) and the Law on Public Information Access and Transparency (*Ley de Transparencia y Acceso a la Información Pública, LTA*) entered into force. Building on the political momentum at the end of the 90s and the *Acuerdo Nacional*, these laws were a starting point to define the rules of horizontal co-ordination and to improve the transparency and anti-corruption legal framework in the country.

Framework Law on State Modernisation Management

Entered into force in 2002, the LMM was an important step to develop institutional leadership and co-ordination capacities. The Directorate-General of Public Management (*Dirección General de la Gestión Pública,* DGGP), within the Presidency of the Council of Ministers (*Presidencia del Consejo de Ministros,* PCM), emerged as a relevant public actor in charge of co-ordinating the implementation of cross-cutting policies. As discussed later in this report, while the decentralization process in Peru has led to new institutional arrangements, the DGGP – now the Secretary of Public Management (*Secretaría de la Gestión Pública, SGP*) - still remains as a key institutional co-ordinating actor: the SGP leads the development of open government and open data policies in Peru.

State modernisation is framed under seven core actions driven by country's historic fight against corruption (see Box 7.1). Among others, the LMM identified technology as a fostering accountability and transparency tool contributing to Peru's good governance.

Box 7.1. The Framework Law on State Modernisation Management

In 2002, the LMM defined seven core actions to support the modernisation process in Peru:

Prioritisation of social development with a strong focus on public service delivery.

- A shared vision and dialogue between civil society and political forces to define long-term, strategic and sustainable planning.
- Decentralization, strengthening of local and regional governments and increase of responsibility transfers.
- Efficient use of public financial resources and elimination of duplicities across institutions.
- Reappraisal of public service with a strong approach on public service ethics and professionalization and rule-of-law.
- Institutional establishment of goal-oriented public administration assessment through the use of technology, strategic planning, accountability, transparency.
- Regulation of cross-cutting sectoral relationships.

Source: Based on Article 5 of Framework Law on State Modernisation Management.

Law on Public Information Access and Transparency

Peru's national historical background is key to understanding the drafting of open government laws and policies. High corruption levels inside Peruvian institutions in the 90s triggered anti-corruption public measures since the year 2000. Public integrity has been at the core of the government's debate since then, creating a policy inertia driven by anti-corruption fight and public finance transparency. Understanding this context is relevant to detect why open government policies have been used to address transparency and corruption issues in the country, with public finance as the most relevant issue. In Peru, the strong nexus linking the concepts of transparency, anti-corruption and public resources management with the concepts of open government and open data is highly related to the initial development of the transparency legal framework in the country. The Law on Public Information Access and Transparency (FOI) is the flagship of this process.

As the OECD survey's results show, Peru follows the emerging trend among Latin American countries to focus on information release on public finance and expenditure (see Chapter 4). The Peruvian FOI has a strong focus on public finance and dedicates one of its four sections to public finance transparency. Its legal provisions refer not only to the Ministry of Finance, but to all entities of the Peruvian public Administration. Public institutions are compelled to make information on their budget, expenditure, public investment projects, number of employees and total expenditure on public officials' remunerations, available to citizens. Information on public procurement and State contracting is also included in these categories. Regarding MEF's responsibilities, the law also defines the importance of providing information on the methodology that was used to calculate financial information and reports. The inclusion of this mandate aims to facilitate users' information analysis.

Peru's background and willingness to increase transparency help explain the strong FOI's focus on specific subjects. Nonetheless, this policy inertia may affect open data policies: when deciding which public data should be released, policy makers may leave non-financial relevant data outside policy's focal point (i.e., transportation or meteorological data). This is more relevant when policy making has a strong top-down approach. As discussed later in this publication, Peru is doing efforts to establish more inclusive policy making trough consultations at the local level or open parliament initiatives.

Box 7.2. Law on Public Information Access and Transparency

The 2002 Law on Public Information Access and Transparency (FOI) is a milestone in Peru's path to open government. It is an achievement by itself building on the *Acuerdo Nacional* and the LMM's framework on public transparency, accountability and decentralization[5]. It framed Peru's increasing efforts on public sector transparency and complemented the legal framework on access to information defined by the 1999 Constitution.

The FOI established a maximum of seven working days as the limit to provide information to the requestor. This period might be extended five additional days if so required. Indeed, by law, Peru has the shorter response time among OGP LAC countries[6]. By defining response times, Peru aimed to avoid endless procedures and to provide certainty to citizens regarding timeframes. Moreover, its inclusion in the FOI could play as an efficiency self-assessment tool by the Peruvian government.

The transparency law does not consider the possibility of anonymous requests but protects citizens from retaliation, as they are not compelled to further explain their motivation to access public information[7]. The FOI incorporates instruments like the *negative ficta*[8] and sets the responsibility of public institutions to appoint a public official in charge of providing information. If no public official has been appointed, the official managing the information will be in charge of heeding the request[9].

Box 7.2. Law on Public Information Access and Transparency *(Cont.)*

While considering the principle of maximum information disclosure, the law successfully established class and harm information tests to restrict the access to sensitive public or private information. Exemptions such as banking secrecy, personal privacy, national security and the potential harm to commerce activities, are clearly included in its provisions. The law also provides the possibility of a partial disclosure of information.

Should information access be denied, the requestor could appeal through administrative processes, having the right to be informed by letter about the reasons for the refusal, and the institution will be responsible of doing so. Despite its relevance in the defense of the rights of citizens to access public information access, the Ombudsman (*Defensoría del Pueblo*) is not mentioned in the law as an institution that could receive citizen complains on access to information and could provide support.

One of FOI's achievements regarding open government was the definition of the Internet as a tool to improve citizen-government communication and to facilitate access to information. The law mandates institutions to establish their own institutional transparency portals (*portales de transparencia institucionales*) containing general information on their work, activities, legal framework, financial resources, budgeting and expenditure.

The FOI is a driving force to develop transparency´s good practices in Peru. Nonetheless, the Peruvian government faces the challenge of ensuring FOI's implementation, but this may depend on factors such as institutional buy-in and the development of internal institutional programs and capacities. Increasing public institutions' understanding on the public, social and economic benefits of open government and open data emerges as a challenge in this respect.

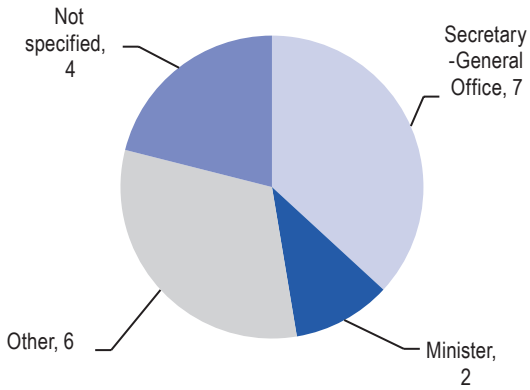
FOI's compliance and enforcement remain an issue that needs to be tackled. For instance, establishing short response times may not ensure that timeframes will be complied with in practice. In 2013, the Peruvian Ombudsman (*Defensoría del Pueblo*, DP) published an assessment report on the implementation of the LTA from 2003 to 2013. According to this report, for the period 2003-2012, 60% of public complaints were related to lack of institutional compliance to provide the requested information within the times determined by law[10,11].

In addition, according to the 2003 FOI's Harmonized Text (*Texto Único Ordenado*)[12], the Presidency of the Council of Ministers (*Presidencia del Consejo de Ministros*, PCM) (through the SGP) is responsible for providing a yearly report to the Parliament on the number of information requests that were received, heeded and refused by public entities. These mandates challenge Peruvian institutions to implement clear internal processes and responsibilities. Nonetheless, it is not clear to which extent Peruvian institutions have been able

to dedicate internal bodies or appoint public officials to deal with information requests. According to the Ombudsman report, 32% of Peruvian Ministries lack internal regulations and procedures on public access to information. By 2013, 16 of 19 Peruvian ministries had not yet appointeda specific public official in charge of dealing with information requests (DP, 2013).

Regarding citizen complaints related to refused requests, the Ombudsman also highlights the existence of an internal institutional heterogeneity related to the responsible public official in charge of processing them (see Figure 7.2). In seven of the 19 ministries the Secretary-General's Office is responsible for claim solving, while six ministries provided various answers.

Figure 7.2. Area in charge of dealing with claims on information requests' refusals



Source: Defensoría del Pueblo, DP (2013), *Balance a diez años de vigencia de la Ley de Transparencia y Acceso a la Información Pública*, Informe Defensorial No. 165, Lima, Perú, 2013, pp. 53, *http://www.defensoria.gob.pe/modules/Downloads/informes/defensoriales/informe-165.pdf*.

This evidence could reflect that Peruvian institutions may lack well-defined and clear internal processes and capacities. Institutions might be following informal and non-established procedures that may affect efficiency. Furthermore, as the LMM's regulations[13] establish that no additional budget will be allocated for institutional modernisation, Peruvian institutions may find budgetary restrictions for policy implementation.

Legal framework developments since 2003

After the FOI entered into force in 2002, the country published several decrees and laws related to information access[14]. In parallel with several

text amendments to the transparency law, in 2003 the Peruvian government published regulations to complement FOI's provisions[15]. For instance, while the FOI set clear responsibilities for public officials, it didn't include any references to their protection against possible retaliation. This gap was filled by the FOI's regulations protecting officials from sanctions, relocation or cessation of their activities as civil servants[16].

Later on, the 2005 General Law on Environment (*Ley General del Ambiente*, LGA) provided a specific chapter on access to environmental information and citizen participation. The LGA managed to broaden the notion of access to information, previously limited only to the areas of public finance, expenditure and public procurement. The LGA made access to information and public openness valuable to other policy sectors such as environmental policy.

Apart from setting up institutional responsibilities, the LGA defines the concept of environmental information, comprising not only written or visual mechanisms but also databases. Public institutions generating this information must provide it to the Peruvian Ministry of Environment (*Ministerio del Ambiente*, MINIAM), in charge of feeding and managing the National Environmental Information System (*Sistema Nacional de Información Ambiental*, SINIA) (see Box 7.3).

Despite the lack of a national open data policy and a centralised open data portal, the SINIA is an example of the existing open data efforts being implemented by Peruvian institutions. However, as detected during the fact-finding missions to Peru, in some cases Peruvian institutions might not recognize these efforts as "open data" but as "access to information" and some institutions do not recognize the difference between the two concepts. Additionally, public officials do not always seem to be aware of the PAGA's existence and of how open data and access to information relate to it. In this respect, Peru is challenged to work not only with the society, but with public officials, helping them understand open government and open data and align isolated institutional efforts to the central government's strategy.

Box 7.3. Accessing open environmental data: The SINIA

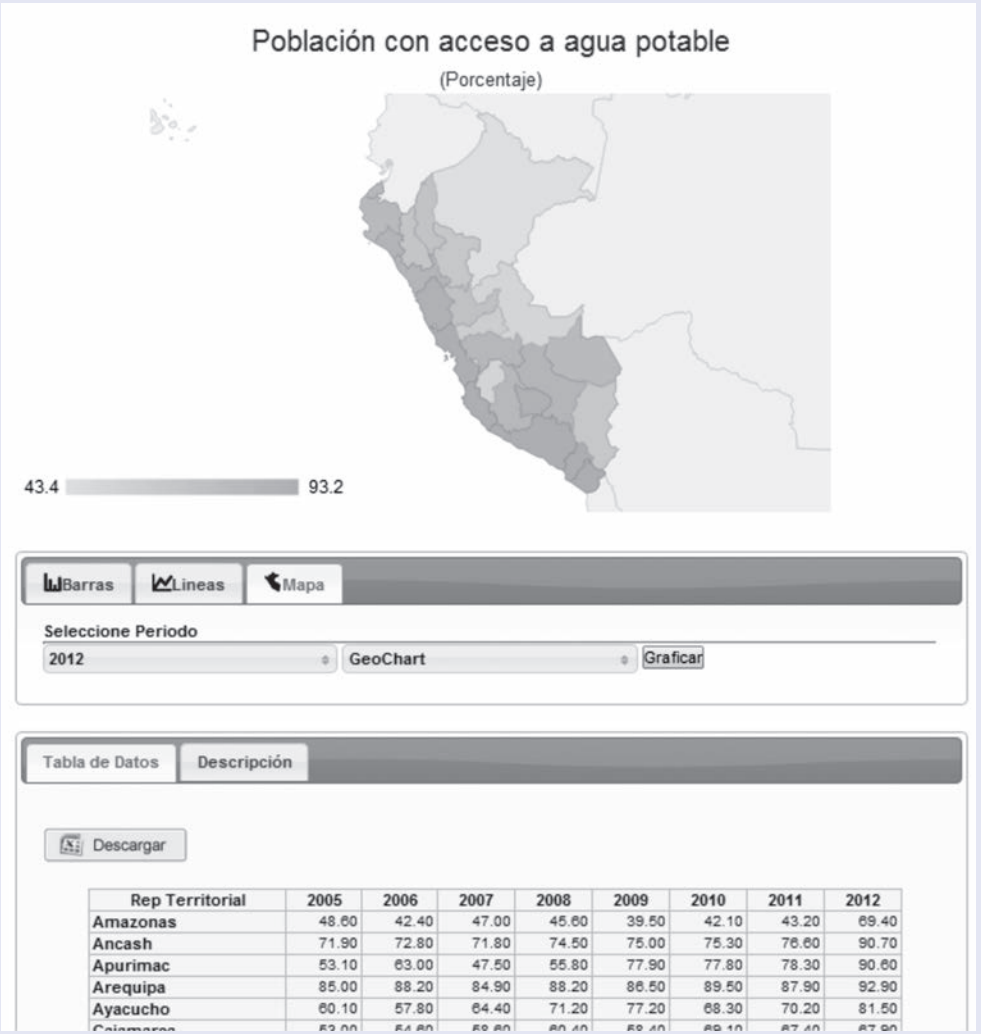
Created in 1998, the National Environmental Information System (*Sistema Nacional de Información Ambiental*, SINIA) is managed by the MINAM. The purpose of this web platform is to centralise environmental information generated by national, regional and local institutions. It was created to work as a technological, institutional and human integrating network. Its purpose is to ease the systematization, access, distribution and exchange of environmental information.

The website provides information on environmental legal framework, documents, indicators and interactive maps, among others. The user has the possibility not only to consult

Box 7.3. Accessing open environmental data: The SINIA *(Cont.)*

data and indicators, but also to download the information on machine-readable formats such as Excel (see image below), allowing the possibility to re-use and mash up data from other sources. With this perspective, the SINIA works as a tool to ease the decision-making process of the public and private sectors with an evidence-based approach.

SINIA website screenshot: Population with access to drinking water



Rep Territorial	2005	2006	2007	2008	2009	2010	2011	2012
Amazonas	48.60	42.40	47.00	45.60	39.50	42.10	43.20	69.40
Ancash	71.90	72.80	71.80	74.50	75.00	75.30	76.60	90.70
Apurimac	53.10	63.00	47.50	55.80	77.90	77.80	78.30	90.60
Arequipa	85.00	88.20	84.90	88.20	86.50	89.50	87.90	92.90
Ayacucho	60.10	57.80	64.40	71.20	77.20	68.30	70.20	81.50

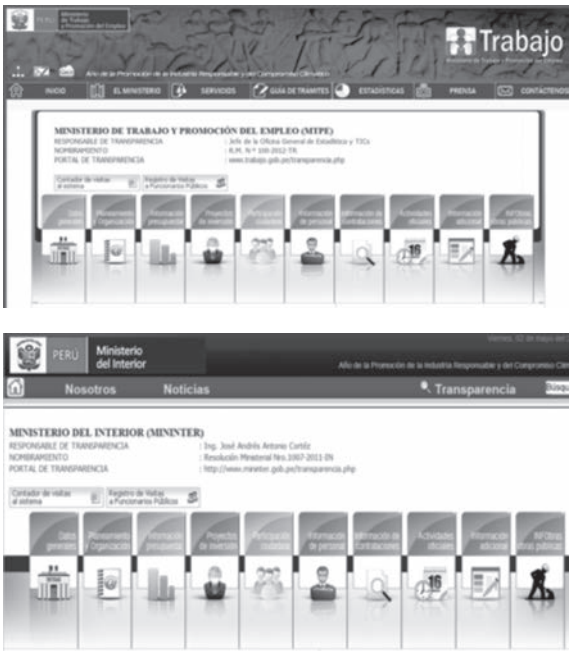
Source: Sistema Nacional de Información Ambiental (2014), *http://sinia.minam.gob.pe/*, consulted on 30 April 2014.

The Standardized Transparency Portals

Building on the LTA's mandate related to institutional transparency portals, the Peruvian government aimed to ease law implementation. Thus, it harmonized transparency portals across Peruvian public institutions. In 2010, Peru approved the implementation of the institutional Standardized Transparency Portals (*Portales de Transparencia Estándar,* PTE)[17]. The PTEs allow citizens to consult information on institutional activities, budget, investments and employment with a user-friendly visual interface (see Figure 7.3). As information on institutional finance has to be provided by the MEF, the PTEs also set a basis for institutional co-ordination and data sharing in Peru. Financial data is downloadable on Excel format.

Each Ministry should appoint a specific official in charge of managing the portal. By 2013, all Peruvian central ministries (19 of 19) have successfully implemented this provision. The name or position of the public official in charge of the portals should be publicly available on each PTE.

Figure 7.3. Peruvian Ministry of Labour (a) and Ministry of the Interior (b) Standardized Transparency Portals (screenshots)



Source: Ministerio del Interior (2014), *https://www.mininter.gob.pe/*, consulted on 30 April 2014 and Ministerio de Trabajo y Promoción del Empleo (2014), *http://www.trabajo.gob.pe*, consulted on 30 April 2014.

Harmonization as a tool to ensure data quality and internal control

Implementing inter-institutional data-sharing mechanisms is only an early step in the open government process. Before making information and data publicly available, governments face the challenge of ensuring their quality. Data and information quality hence translates into higher public trust. Building on the PCM's responsibility to provide annual reports on information requests to the Parliament, in 2009 the SGP harmonised the inter-institutional reporting formats[18]. The latter aimed to make inter-institutional information sharing and reporting easier to the SGP, thus leveraging the quality of public information and OGD.

However, these efforts seem to be mostly focused on inter-institutional information sharing, leaving behind the effectiveness of government-citizen communication tools that are crucial for public data gathering. According to the Ombudsman report, 99% of citizens' information requests are received on paper format, but 79% of these requests do not use the official –yet optional – information request format established by FOI's regulations[19].

From this perspective, complicated, non-harmonised and long information-request formats may be obstacles for efficiency that might go unnoticed by public servants and government technicians. These obstacles not only have a direct impact on public service delivery and efficiency, but also on internal institutional registers and horizontal reporting. Therefore the next step should be to re-design external information request processes across institutions with a citizen-centred approach and to further work on the homologation of formats, hence facilitating formalities on access to public information to ease citizen's life.

Citizen's engagement and participation would be benefited by these measures focusing on better-designed public service delivery. As illustrated later, the Inter-institutional Statistical Committee on Crime (*Comité Estadístico Interinstitucional de la Criminalidad*, CEIC) of the Ministry of Justice is an example of on-going inter-institutional sectoral efforts in this regard. However, it is not clear if this is a common practice across central institutions. In addition, considering that in Peru it is not possible to monitor the status of one's request, redesigning or implementing modifications to these processes becomes even more relevant.

With the 2013 amendments to FOI's regulations, public institutions should maintain an internal register on requests for public information containing at least information on the request's date, the requestor name, the information being requested, response times and the reason of the delay (if applicable)[20].

Table 7.1. Data collected on freedom of information requests in Peru

Data Item	
Number of requests received each year	◉
Number of requests pending at the beginning and end of the year	●
Number of requests processed during the year	◉
Number of requests fully and partially granted each year	◉
Number of requests denied each year	◉
Frequency with which exemptions are used to refuse requests each year	●
Reasons why requests were refused (frequency of each reason used)	◉
Number of times fee waiver is used	●
Total value of fees collected each year	●
Percentage of requests processed each year that meet timeliness standards	◉
Costs of responding to requests	●
Number of appeals	●
Number of appeals upheld	●

● Do not collect

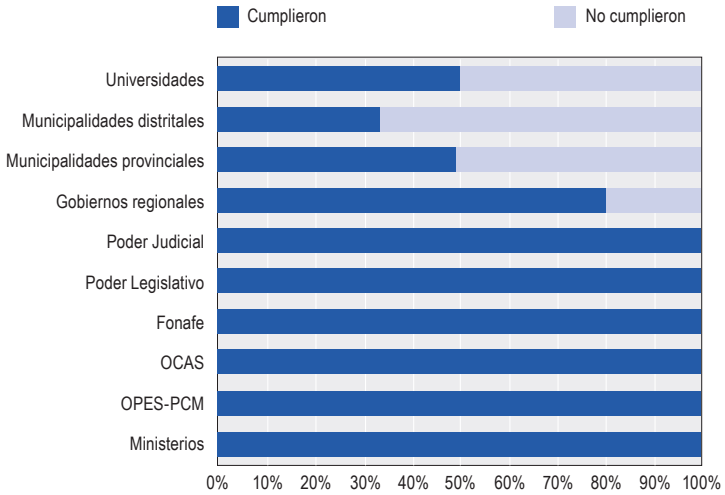
◉ Collect for some but not all institutions covered by the Freedom of Information law/policy

○ Collect for all institutions cincluded in the freedom of information law/policy

Source: 2013 OECD Questionnaire on the Implementation on Open Government Policies in Latin America.

Annually, more than 1 900 public entities should provide this information to the SGP (Oré, 2010). In 2012, the Peruvian public Administration received a total of 113 000 information requests. 94% of them were heeded. However, only 782 entities from the four levels of government provided information to the SGP that year. While all the central level's entities provided information, 67% of District Municipalities and 50% of Provincial Municipalities[21] failed to do so. This may reflect low multi-level co-operation that might be translated as a lack of incentives to co-operate and capacities at the local level (see Figure 7.4).

Figure 7.4. Number of public entities that sent information on requests to the SGP



Source: PCM (2012), *INFORME ANUAL 2012 Ley N° 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*, *http://sc.pcm.gob.pe/web/files/info_anuales/transparencia2012.pdf*. Accessed on 2 May 2014.

Facing risks: Data security

Data security is a growing concern among policy makers. Hazards such as possible information leaks or unauthorized access to public information are feared risks in a digital era. In this respect, Peru has done efforts to protect personal data and provide security to citizens and businesses:

- The 2011 Law on the Protection of Personal Data (*Ley de Protección de Datos Personales*, LPDP)[22] set eight ruling principles around data use and sharing. In parallel, the LPDP contains provisions on trans-national data flows, the rights of the data's owner, the data comptroller's obligations, data banks and sanctions, among others. The LPDP is a recent yet important attainment of the Peruvian government to protect privacy and it is aligned with international practices and guidelines on data protection such as *the OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data*.
- The 2013 Law on Cyber Crimes (*Ley de Delitos Informáticos*, LDI) criminalise unauthorized or illicit use of public or private information

and data. Illicit activities include unauthorized access, modification or blocking of data. The LDI also includes provisions on data illicit trade, fraud and non-authorized interception, including data electromagnetic transmission. The latter is relevant due to the increasing use of wireless or Radio Frequency Identification (RFID) technologies across the public, private and social sectors.

While some government's actions such as the Law on Personal Data Protection aim to protect data privacy, others – like the LDI – have generated controversial debates in the country. Some civil associations such as the Press and Freedom of Speech Institute (*Instituto de Prensa y Libertad de Expresión*, IPYS) were concerned about the potential implications or limitations of the LDI for the access and use of public databases. In parallel, the Peruvian Ombudsman has submitted legal claims against public decrees that, according to them, may also affect access to information.

Peru faces the challenge of finding a balance between the principle of maximum information disclosure *vis-a-vis* regulations on privacy and security of information and data. If security regulations exceed needs, red tape might be created, discouraging citizens and organisations to access and use public information. By definition, the latter is contradictory to objectives of open government and open data such as higher citizen engagement and public accountability.

Institutional Framework

The Peruvian Open Government Action Plan

At the Latin-American regional level, Peru has approved different documents since 2003, such as the Ibero-American Electronic Government Charter (*Carta Iberoamericana de Gobierno Electrónico,* CIGE) in 2007 and the Ibero-American Charter on Citizen Participation (*Carta Iberoamericana de Participación Ciudadana*) in 2009. In general, these documents aim to improve public Administration and increase the use of technology for citizen engagement building on the efforts lead by the Latin American Centre for Development Administration in the region (*Centro Latinoamericano de Administración para el Desarrollo*, CLAD).

As a result of this national and regional involvement and the Peruvian government's high interest in modernising its public Administration, Peru expressed its willingness to join the Open Government Partnership (OGP) at the 66th United Nations General Assembly in 2011.

Following OGP guidelines, a working group was created to prepare a proposal for the 2012-2013 Peruvian Open Government Action Plan (see Box

7.4). This working group was made up of public, private and social stakeholders. While the Judiciary, the Peruvian Parliament, regional and local government associations and other ministries were not included in the first proposal drafting stage, their inputs were incorporated after an *ex-post* consultation. The SGP was in charge of co-ordinating activities. The plan was approved in April 2012[23] and presented at the 2nd OGP Meeting. Peru joined the OGP the same year.

Box 7.4. The 2012-2013 Open Government Action Plan

In September 2011, the Government of Peru expressed its willingness to join the "Open Government Partnership" initiative, pledging to increase public transparency, to support and promote citizen participation and public integrity, as well as to increase population's access to and use of ICTs.

To develop the 2012-2013 Open Government Action Plan (PAGA), the Presidency of the Council of Ministers and the Ministry of Foreign Affairs created a working group made up of public institutions with expertise on transparency and government accountability: the Presidency of the Council of Ministers, the Ministry of Foreign Affairs, the Comptroller General of the Republic, and the Peruvian Ombudsman were members of this group. Eight civil associations were also invited to participate in the discussions. The final text of the open government plan was approved on April 9, 2012.

PAGA's objectives aim to address four key challenges for the country:

- To revise and improve the regulatory framework on transparency, information access, accountability and anti-corruption, and its implementation mechanisms.
- To promote citizens' informed and continuous participation and monitoring.
- To increase public integrity in order to ensure a modern career civil service, corruption-protected procurement systems, and an effective deterrent control.
- To improve the quality of public services, particularly of those delivered to poor population, and to ensure the availability of mechanisms to monitor government's performance and accountability.

The PAGA aims to restore public trust, being an opportunity to foster the benefits of ICTs; to increase participation and dialogue, thus promoting transparency and accountability; and to strength fight against corruption.

Source: OECD with information from Gobierno del Perú, *Alianza para una Sociedad de Gobierno Abierto: Plan de Acción del Perú 2012 – 2013*, Lima, 2013.

Permanent Multi-Sectoral Commision

In 2013, the Peruvian central government established a Permanent Multi-Sectoral Commision (PMC) to monitor the implementation of the PAGA[24] (*Comisión Multisectorial de naturaleza permanente para el seguimiento de la implementación del Plan de Acción de Gobierno Abierto*).

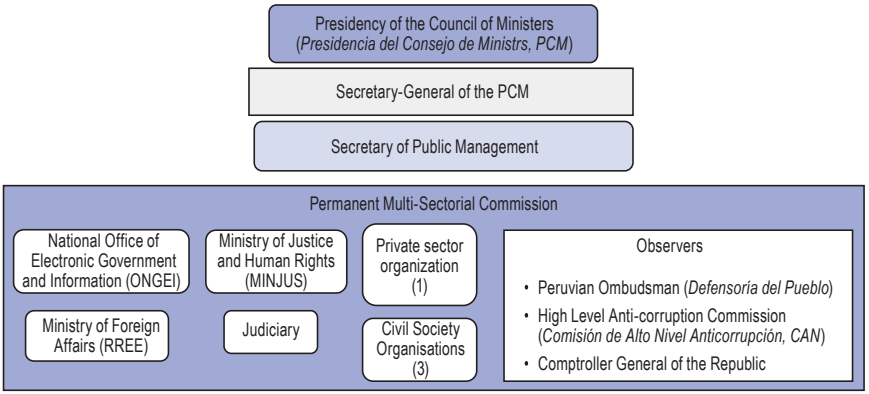
The commission is co-ordinated by the SGP, chaired by the Secretary-General of the PCM, and made up of stakeholders from the public, private and social sectors (see Figure 7.5). Its composition has a strong focus on transparency and anti-corruption: the Ministry of Justice, the Judiciary, the Ombudsman, the High-Level Anti-Corruption Commission (CAN) and the Comptroller General of the Republic are members of the commission. This is not surprising considering Peru's historical background and the fact that 44% of Peruvians identify corruption as the second social problem in the country (Proética, 2013). In fact, 78% of the commitments included in the 2012-2013 Peruvian PAGA (37 out of 47) focused on increasing public integrity (IADB, 2014).

On the other hand, as preventing policy continuity issues was a common subject raised during meetings, the fact that the commission has a permanent status represents an effort to ensure policy continuity despite changes in political Administration.

The National Office of Electronic Government and Information (*Oficina Nacional de Gobierno Electrónico e Informática*, ONGEI), the Ministry of Foreign Affairs (RREE), three civil organisations and one private sector organisation are also members of the commission. With this membership, Peru made an effort to integrate technical advice and expertise for policy definition and to get closer to civil society and companies.

The following paragraphs will define the institutions involved in the PMC, their role in the implementation of open government policies in Peru and the challenges they face.

Figure 7.5. Stakeholders represented in the Permanent Multi-Sectorial Commission



Source: OECD with information from the SGP.

Secretary of Public Management

Similarly to many OECD member countries, in Peru the responsibility to co-ordinate the open government and the open data agenda lies with the Centre of Government (CoG), having the Secretary of Public Management (*Secretaría de la Gestión Pública*, SGP) as the leading body.

The SGP is an internal body the Presidency of the Council of Ministers (*Presidencia del Consejo de Ministros,* PCM), which is in charge of co-ordinating central ministries for an efficient policy implementation. This high-level policy co-ordination and the closeness of the PCM to the Presidency of the Republic make the role of the SGP crucial for the implementation of open government policies. At the same time, the role of the SGP as the institution in charge of co-ordinating the implementation of the modernisation policy in Peru underlines the opportunity of attaching the open government component to other sectoral and individual policies.

From a governance perspective, the fact that the responsibility is under the CoG is a clear and important indication of the Government's recognition of open data's strategic value in relation not only to open government, but also to overarching policy goals, including State Modernisation. Nevertheless, it is critical to avoid translating this into a top-down approach, which could limit the broader sense of buy-in and ownership of the governmental actors that are part of the open data ecosystem and whose involvement is essential to render the expected outcomes.

In terms of institutional capacities, there seems to be a shortage of staff leading the work on open data and the related initiatives. Limited SGP staff has been assigned to follow this agenda together with the Director of the National Office of Electronic Government and Information, who has the mandate to develop the national open data portal. The unit in charge of co-ordinating the adoption and implementation of an open data policy and strategy, should have the capacity, resources and mandate required to properly carry out its role. Under the current circumstances, the SGP may not have enough capacity to capture the full potential of open data. In fact, according to the Peruvian government, the lack of human resources and capacities of the SGP is one of the most important challenges for the definition and implementation of OG and OD policies in Peru[25].

Strengthening the governance framework and institutional capacities to support a structured approach to the definition and implementation of the open data strategy is a key step in regard to ensuring good co-ordination, efficient and effective implementation and maximisation of synergies. The institutionalisation of both responsibilities and mandate for open data co-ordination would be an important initial step. This could translate, for example, in the identification of a unit within the SGP with clear authority for, and the primary mission of,

preparing an open data strategy and developing an implementation plan to promote a common sense of ownership of open data initiatives government-wide and to co-ordinate its implementation.

The establishment of institutional mechanisms - e.g. an interagency committee, working groups - collaborating horizontally in the deployment of the plan would support wide engagement and better results. Some OECD countries have complemented these actions with the creation of Chief Data Officers, or equivalent positions, in key ministries that also participate in these working groups. Currently, this position is not available in Peru[26].

Ministry of Justice and Human Rights

The Ministry of Justice and Human Rights (MINJUS) develops and implement cross-cutting public policies of justice in Peru. The membership of the MINJUS in the PMC brings open government closer to the Peruvian Judiciary, increasing the opportunity to attach the OG and OGD component to the exercise of justice. One should note that among LACs, formal co-ordination links between the co-ordinating OG institution and the Judiciary are only available in four out of 11 countries (including Peru).

In 2012, the Vice-Ministry of Human Rights and Access to Justice (VHR) was created within the MINJUS' organic structure to provide a stronger human rights and social inclusion approach to policy making. MINJUS's work (through the VHR) in areas related to human rights and anti-corruption illustrate the opportunity to further develop co-operation with the Judiciary. Practices such as the Human Rights Observatory (*http://observatorioderechoshumanos.pe/*) have been useful to inform citizens on legislation and government activities related to human rights. However, while the observatory provides statistics only in PDF format, there is room for improvement in order to migrate from the access to information static concept currently implemented by the Peruvian Government to the dynamic exercise of open data.

The Peruvian Judiciary is already implementing open data practices. In 2013, the National Criminal Policy Council (*Consejo Nacional de Política Criminal*, CONAPOC) agreed to create an Inter-institutional Statistical Committee on Crime (*Comité Estadístico Interinstitucional de la Criminalidad*, CEIC) (see Box 7.5). The CEIC performed a horizontal analysis to assess crime data collection procedures among different public institutions. One of its main conclusions focused on eliminating institutional data discrepancies on murder incidents in the country and harmonising data gathering formats provided to citizens. Besides easing inter-institutional data exchange, practices like this could be used as a starting point to further develop open data individual portals based on the existent (and valuable) institutional willingness to co-operate.

Box 7.5. The CEIC: Inter-institutional Statistical Committee on Crime

The Inter-institutional Statistical Committee on Crime (*Comité Estadístico Interinstitucional de la Criminalidad*, CEIC) seeks to harmonise the information gathering criteria used by public institutions working on crime related subjects in Peru. Internal institutional areas of the National Institute of Statistics and Computing (INEI), the Ministry of the Interior, the Public Prosecutor, the Judiciary and the Peruvian National Penitentiary Institute (INPE) make up the committee. These areas are directly or indirectly involved in generating and managing crime data and information.

The CEIC assessed the state of information sources and institutional internal units in charge of information analysis. In parallel, it analysed the capacity of institutions to collect information that is used to assess and design policies to prevent and reduce crime. The comparative analysis focused on:

- Institutional regulations
- Analysis of Institutional information flow
- Collection and processing of information
- Scope of available information

CEIC's assessment prioritised information on homicide, robbery and theft, legal status and victimisation. The report identified horizontal capacity gaps such as the absence of specialised statistical offices and different data collection methods or formats. Later, the council focused on standardising the data available to ensure a higher quality, and avoiding data discrepancies across public institutions.

The CEIC's creation and activitiesare examples of inter-institutional co-ordination efforts to address sectoral challenges. They highlight the importance of tackling institutional and technical challenges to harmonise public data and to provide a better public service delivery in Peru.

Source: OECD with information from MINJUS, *"Informe de los Registros de Información de las Unidades Estadísticas del Comité Estadístico Interinstitucional de la Criminalidad"*, Comité Estadístico Interinstitucional de la Criminalidad – CEIC, Documento de Trabajo No. 02, Mayo 2013, *http://www.minjus.gob.pe/wp-content/uploads/2013/07/Docuento-de-Trabajo-No.-02.pdf*.

High-Level Anti-Corruption Commission (CAN)

Created in 2010[27], the High-Level Anti-Corruption Commission (*Comisión de Alto Nivel Anticorrupción*, CAN) defines and co-ordinates anti-corruption prevention and fighting policies in Peru. The CAN is also part of the PCM's organic structure. The CAN's membership ensures high-level political support fostering institutional buy-in across central level public institutions. Its voting members include[28]:

- The Presidents of the Parliament, the Judiciary, the Constitutional Court, the National Council of Magistrates, the National Regional Governments Assembly and the Peruvian Municipalities Association.
- The Heads of the Presidency of the Council of Ministers, the Ministry of Justice and Human Rights and the Colombian Attorney General.
- The Secretary Executive of the National Agreement Forum.

As the CEIC, the CAN is another example of successful high-level inter-institutional co-operation in Peru. The CAN's 2012-2016 Anti-Corruption National Plan (ANP) aligns institutional efforts around five core objectives focused on fighting corruption and increasing society's involvement. However, beside the evident benefits of CAN's work to strengthen open government, transparency and public accountability in the country, its work identifies two key opportunity areas:

- **The value of CAN's regional offices network to bring local voices closer to the CoG.** The Commission has established regional representations in 18 of the 25 regions in Peru to improve vertical co-ordination[29]. In this respect, the CAN's network of regional offices is an important multi-level communication channel, as it could be used by the central government to address multi-level policy co-ordination and co-operation issues. As observed during OECD's field missions, Peru is a highly centralised country and, most of the, policies are successfully implemented only in Lima and its metropolitan area, leaving local governments behind. In fact, the PMC has not yet included representations from regional and local governments. Using CAN's local network is useful to ease not only top-down policy implementation, but also bottom-up policy definition, bringing the voices of local population closer to the centre of government in Peru. Using these networks would be useful especially during the PAGA's implementation stage, as the SGP has limited institutional capacities to deploy permanent staff at the local level.
- **The SGP could be benefited by further co-operation with the CAN regarding public official training and information requests management towards a more open and modern public administration**. SGP's capacity seems to be surpassed. Among others, the ANP defines specific actions focusing on i) institutional register, management and monitoring of access to information requests and ii) increasing public officials' knowledge on transparency and access to information procedures. The CAN's high-level institutional co-ordination opens an opportunity window to link SGP's work on open government and public sector modernisation CANs activities, thus taking advantage of their closeness to the CoG. Synergies should be established between the Peruvian open government policy and anti-corruption individual policy.

At the same time, CAN's work in areas such as management and register of information requests and public official's training on access to public information could be useful to support SGP's activities while a stronger institutional framework is developed.

In addition, CAN's web-platform could be used as an open data blast-off. As noticed in the Human Rights Observatory website, CAN's website also provides information and statistics on corruption in Peru. Nonetheless, information is only available in PDF, PPT and other image formats. Open data could be further developed in CAN's website aiming to implement an open data portal on anti-corruption fighting in the country, centralising information from CAN's members and taking advantage of CAN's high-level membership. SGP-CAN co-operation is crucial to align these efforts to the general open government strategy of the central government.

Comptroller General of the Republic

The Comptroller General of the Republic (*Contraloría General de la República*, CGR) directs and monitors government control activities focusing on strengthening public transparency. The CGR's work has been useful to develop transparency tools in Peru such as online platforms allowing citizens to be informed of the allocation of public budget and public expenditure:

- **INFOBRAS:** The Public Works National System (*Sistema Nacional de Obras Públicas*) (*https://apps.contraloria.gob.pe/infobras/*) provides financial information on public infrastructure to citizens and public institutions. Among others, INFOBRAS platform contains data on budget allocation, the progress of on-going works, and information on private contractors. The system shows infrastructure photos and the geo-referenced location of infrastructure using the Google maps platform. INFOBRAS has enabled the inter-connection of other public budget, expenditure and procurement systems as the National Public Investment System (*Sistema Nacional de Inversión Pública,* SNIP) (*http://www.snip.gob.pe*), the Electronic System of State Procurement (*Sistema Electrónico de Contrataciones del Estado,* SEACE) (*http://www.comprasestatales.org/*), and the Integral Financial Management System (*Sistema Integral de Administración Financiera*, SIAF).
- **Public Management Barometer:** The Public Management Barometer (*Barómetro de Gestión Pública,* PMB) is a supporting transparency and accountability tool within the framework of the decentralization process in Peru. As an online and free-access information tool (*https://apps1.contraloria.gob.pe/barometro/default.aspx*), it focuses on providing information on public budget, procurement and investment at the

regional, provincial and district levels. There is information available since 2009 and it allows users to access fact sheets with indicators on executed budget, to perform horizontal comparatives of indicators between local governments, and to consult the allocation of budget by type of infrastructure (roads, water, electricity, etc.).

- **SINAD:** The National Processing Complaints System (*Sistema Nacional de Atención a Denuncias,* SINAD) allows citizens to report corruption cases in public Administration. Such acts may be related to public procurement, infrastructure, social programs or public officials' nepotism. Complaints can be submitted in person or through the SINAD website *https://apps1.contraloria.gob.pe/sinad*. In parallel, the CGR website provides annual statistics and aggregated data on a series of complaints received by government level or institution or by type of complainant (citizen, public official, etc.). The information is presented in PDF format. There is room for improvement to a potential integration of the information and data generated by the SINAD, the CAN and the MINJUS in one single anti-corruption open data individual portal.

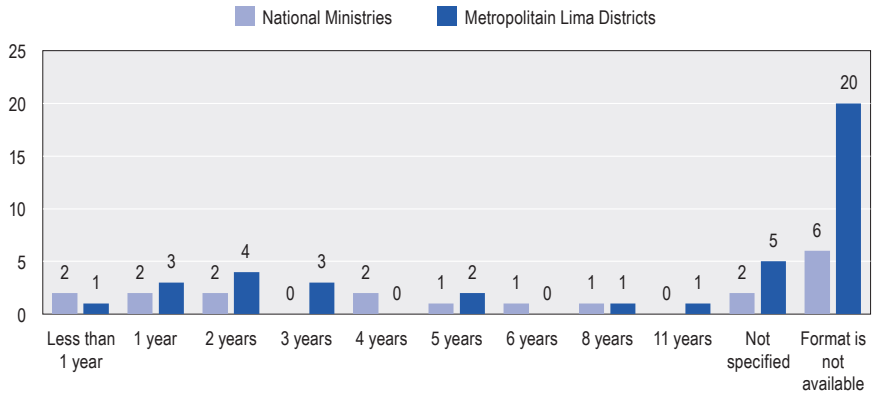
Peruvian Ombudsman

Created by the 1993 Constitution, the Peruvian Ombudsman (DP) is an autonomous body of the Peruvian government with 38 local representations across Peru. The role of the Ombudsman is crucial to protect fundamental rights and to monitor public Administration effectiveness and the efficient delivery of public services (DP, 2013).

In 2013, the Ombudsman published an assessment of advances since the transparency law entered into force in 2003[30].The report provides a deep analysis of the current situation and challenges on transparency in Peru. For instance, the report highlights institutional disparities on the availability of ICT tools and capacities across public institutions. Figure 7.6 shows that, although six out of 19 central ministries lack of online information request tools, there has been a gradual increase in recent years. However, there is a wider gap at the district level, as observed among Metropolitan Lima districts: By 2013, 50% (20 out of 41) did not offer the possibility to submit online requests.

This lack complicates the process of requesting public information. While central institutions are legally mandated to implement their own standardized transparency portals (PTE), it seems that these portals are mostly focused on proactive information disclosure, limiting the possibility to file requests to access information not included in the portals. Lacking of the possibility to file requests on line is opposite to the principles of public sector efficiency and transparency; requiring the requestor to do the request *in-situ*.

Figure 7.6. Availability of online information request formats in the websites of national ministries and districts in Metropolitan Lima



Source: OECD with information from Defensoria del Pueblo (2013), *Balance a diez años de vigencia de la Ley de Transparencia y Acceso a la Información Pública*, Informe Defensorial No. 165, Lima, Perú, 2013, pp. 43-44, *http://www.defensoria.gob.pe/modules/Downloads/informes/defensoriales/informe-165.pdf*.

Again, this might illustrate there is still work to do regarding the implementation of FOI's provisions *vis-à-vis* real institutional capacities, especially at the local level. As mentioned earlier in this report, Peru is one of the countries where users can file information requests on line, but according to the Ombudsman's report, it seems that not all Peruvian institutions have been able to implement these mechanisms, showing disparities between the mandate and the practice.

The Ombudsman issues recommendations to public authorities, but it does not have an enforcement role. Hence it is not empowered to impose institutional sanctions. In fact, Peru lacks a specific institution in charge of enforcing information access and transparency policies, as well as law compliance, such as the Mexican Federal Institute of Access to Information and Data Protection (*Instituto Federal de Acceso a la Información y Protección de Datos* – IFAI). This reflects that the national institutional framework supporting transparency and access to public information is still under development in Peru.

National Office of Electronic Government and Computing

OECD's experience on digital government and ICT policy acknowledges the value of parallel policy co-ordination and policy implementation. Additionally, it underlines that the availability of institutional capacities and the work of institutions providing technical support and knowledge are crucial for supporting policy implementation. For instance, as mentioned earlier, the work

of institutions such as the MINTIC in Colombia is key to underpin institutional open government practices across Colombian entities. Nonetheless, capacities like these might depend on the development of strong human capital and institutional empowerment.

In Peru, the National Office of Electronic Government and Computing (ONGEI) was created in 2003[31]. Among other activities, the ONGEI is responsible for directing and supervising e-government policies in Peru while proving technical advice on ICTs. A member of the multi-sectoral open government commission and also an internal body of the Presidency of the Council of Ministers (like the SGP and the CAN), ONGEI's closeness to the CoG is vital to foster technical support for the development of open government practices at the ministry level in Peru. Nonetheless, apparently ONGEI's potential to support open government policies may not be fully used in Peru and continuous human capital loses might undermine ONGEI's work and leadership for policy implementation.

ONGEI's activities include but are not limited to[32]:

- Proposing and overseeing the implementation of the National E-Government Strategy.
- Co-ordinating and overseeing the integration of State's IT systems and public institutions portals.
- Managing the Peruvian State Portal.
- Providing technical assistance to public Administration entities.

In 2004, the ONGEI developed the State Procurement Electronic System (*Sistema Electrónico de Adquisiones y Contrataciones del Estado*[33], SEACE) (see Box 7.6).

Box 7.6. The State Procurement Electronic System, SEACE

The SEACE is an online public procurement information system (*http://www.comprasestatales.org*). It allows public institutions to exchange and disseminate information on public contracts.

Through the system, the user can make queries on public procurement and public contracts, accessing information on openings, contractors and regional statistics on allocation of budget and number of projects. The platform allows performing electronic processes for the selection of contractors for small projects.

Migration to version 3.0 began in June 2013, becoming operational in November of the same year. The SEACE 3.0 expanded electronic selection processes to projects over 40,000 Peruvian soles, awarded through direct selective selection or trough public tendering.

Source: OECD with information of the Public Contracting Monitoring Body (*Organismo Supervisor de las Contrataciones del Estado*, OCE), *http://portal.osce.gob.pe/osce/node/332*, and from SEACE's website.

As illustrated in Table 7.2, the ONGEI has developed and provided technical support and guidance to several e-government projects in Peru:

Table 7.2. Electronic government projects developed by the ONGEI

Name	Year of creation	Objective	Website
Peruvian State Portal (*Portal del Estado Peruano*, PEP)	2001	General information on the Peruvian State. Links to public ministries, laws and regulations and public institutions directory.	*www.peru.gob.pe*
Citizen and Business Services Portal (*Portal de Servicios del Ciudadano y Empresas*, PSCE)	2006	Main one-stop-shop of the Peruvian government. Provides information on formalities, online services and formats. Among others: passport renewal, issuing of the official identity card (*Documento de Identidad Nacional,* DNI), consultation and modification of marital status, etc.	*www.serviciosalciudadano.gob.pe*
One-stop-shop for business start-up	Varies	Business start-up in 72 hours. It is only available in some regions. The website aims to legalise informal employment in the country.	*www.empresas.gob.pe*
Standard Transparency Portals (*Portales de Transparencia Estándar,* PTE)	From 2010	Established by supreme decree in 2010, the portals harmonised information provided by public institutions.	Varies according to the public institution
Municipality Portals	Varies	Providing support to municipalities to develop local transparency portals and one-stop-shops.	Varies according to the municipality
Public Software Portal (*Portal de Software Público*)	n.a.	Providing information and sharing software among Peruvian public institutions.	*www.softwarepublico.gob.pe*

Source: ONGEI (2013), *Una mirada al gobierno electrónico en el Perú: La oportunidad de acercar el Estado a los ciudadanos a través de las TIC,* Primera Edición, Presidencia del Consejo de Ministros, Lima, 2013, *https://s3.amazonaws.com/ongei/libro_ongei.pdf*.

Concurrent institutional efforts on public integrity and anti-corruption such as the SINAD, the MINJUS Observatory and the CAN website have led to the need of creating inter-institutional data-sharing platforms not only at the central level, but also connecting the regional and local levels. Some ONGEI's initiatives such as the State Interoperability Platform (*Plataforma de Interoperabilidad del Estado)* work this way (see Box 7.7), but initiatives like this could be extended to other sectors and policy areas.

Decentralisation and State modernisation requires continuous communication between the population outside Lima, regional and local public institutions and the Centre of Government, in order to better co-ordinate, co-operate and foster incentive policy making. Modernisation, decentralisation and inclusion require developing capacities at the local level as well. In Peru, the objectives of open government and open data policies won't be fulfilled if specific population sectors are left behind and if local public institutions lack technical skills and knowledge on OG and OGD.

Box 7.7. The Government Interoperability Platform

The State Interoperability Platform (PIDE) was created by the central government in 2011 in order to increase the efficiency of interagency communication processes in Peru. Its main objective is to facilitate the exchange of data between public institutions by using shared databases, thus easing formalities for citizens. The PIDE serves as an interoperability platform for the operation of the Citizen and Business Services Portal (PSCE). The PSCE works as a one-stop-shop where citizens can search for information and carry out online formalities. The PSCE is an example of government processes and policies designed with a citizen-centred approach.

While formalities included in PSCE's webpage depend on the will of each institution to co-ordinate with the ONGEI in order to make them available on line, their inclusion in the PIDE enhances institutional efficiency and reduces costs while facilitating citizens' life.

Source: OECD Secretariat.

In this respect, ONGEI's institutional programmes, such as the Yachaywasi Digital Plan *http://yachaywasidigital.wordpress.com/ (local population training)* and the Public Software web platform *http://www.softwarepublico.gob.pe/* (promoting open-sourced software), represent positive progress. But supporting and enhancing ONGEI's capacities is key to foster impact at a wider scale, including regional and local governments and their capacities. In parallel, co-operating with other stakeholders such as the private sector could be beneficial to find cost-efficient capacity-building alternatives (i.e., public-private partnerships).

In addition, population training could be also benefited by ONGEI's closer co-operation with the Academia and the availability of high-quality education programmes. In this regard, the certification of training courses by the central government could help ensure the quality of education programmes hence strengthening the skills and capabilities of the general population and public officials at all levels of government.

Civil Society Organisations

The 2013 supreme decree creating the Permanent Multi-Sectoral Commission defined the mandate for three civil organisations (CSO) to be included as voting members. The Peruvian Press Council (*Consejo de la Prensa Peruana,* CPP[34]), *Ciudadanos al Día* (CAD) and Proetica were selected by agreement between different civil organisations involved in the process. CSO inclusion in the multi-sectoral open government commission has ensured the involvement of organised society in policy making.

In addition, CSO's individual work and experience on areas related to freedom of speech, citizen trust and anti-corruption are useful to strengthen an informed decision making. For instance, *Ciudadanos al Día* issues fortnightly bulletins (*BoletínCAD*) showing statistics and indicators on different issues related to public Administration. In November 2013, the CAD issued a bulletin on corruption at the regional level based on the 2013 RankinCAD. Its results showed low citizen trust on regional governments and results varied widely across regions. On average, only 20% of local inhabitants think that regional governments are honest (CAD, 2013).

Since 2002, Proetica conducts the National Survey on Corruption Perception in Peru (*Encuesta Nacional sobre Percepciones de la Corrupción en el Perú*). According to the eighth edition of the survey (2013), the Peruvian population perceive the Judiciary, the National Police and the Congress as the most corrupt institutions in the country. In contrast, 55% of the population trust the Peruvian Ombudsman's work on anti-corruption (Proética, 2013).

Proetica's website provides ready-to-download raw data on the survey results in different formats such as Excel and other statistical software, allowing users to re-use data in order to perform their own analysis; this is an example of open data practices in Peru. The Proetica survey case illustrates the concepts of open government itself allowing users not only to consult data but also to download and reuse it in the creation of knowledge and value. While providing relevant information on corruption, the statistics available on different public institutions' websites such as those of the CAN, the SINAD and MINJUS Observatories, are limited to providing information, excluding data reusability. As some of these databases present information obtained in the INEI or *Proética* databases, an option could be to link the informative source with the data source itself. A minor modification to the websites could represent a big improvement to the user in regard to time saving and data accessibility, especially for new users gathering experience on how to use online databases and sources.

On the other hand, the role of civil associations such as the Press and Freedom of Speech Institute (*Instituto de Prensa y Libertad de Expresión*, IPYS) to build stakeholders' skills and knowledge on open government requires wider support. For instance, other stakeholders such as journalists and the media play a key monitoring role regarding transparency and anti-corruption in the country. But at the same time, they have great responsibility as public opinion shapers.

To strengthen the ecosystem of open government and transparency in Peru, it is necessary to increase and enhance the knowledge of national and local journalists in relation to online availability of information and data, the potential of using and re-using data, available analytical tools, the legal transparency framework and their role as *vigilantes* of law compliance. However, the capacities of civil associations for these and other activities are limited and

thus they are challenged to find alternative financial sources such as private or international donors.

Private Sector

Two private sector organizations are involved in PCM's activities: the National Conference of Private Business Institutions (*Conferencia Nacional de Instituciones Empresariales Privadas*, CONFIEP) and the Lima Chamber of Commerce (*Cámara de Comercio de Lima*, CCL). The CCL only performs as a substitute member in the absence of CONFIEP.

CONFIEP performs a co-ordination work between different organizations of Peru's private sector. It comprises business associations (not individual businesses) from sectoral areas such as commerce, fishing or mining. On the other hand, the CCL is mostly made up of micro and small sized companies (MyPES). While the CCL is not a national but a local organization from Lima, it integrates most of Peruvian companies due to Peru's high centralisation around that city.

The CCL is a founding member of the Private Council for the Digital Agenda (see Box 7.8). In Peru, the private sector's interest on accessing public information is clear: faster, easier and more efficient formalities. As discussed earlier, in this regard, some initiatives of the central government represent a step forward in this respect (see ONGEI section). However, while there is still work to do on this field in the country, what is not clear is if the private sector recognizes open government and open data as an opportunity to create value.

Box 7.8. Private Council for the Digital Agenda

A group of private associations established the Private Council for the Digital Agenda (*Consejo Privado para la Agenda Digital,* CPAD) to foster and monitor the implementation of the Peruvian government digital agenda. CPAD's work is focused on four action levels and five cross-cutting areas framed under their own digital agenda (*Agenda Digital Privada*).

The four action levels are focused on (a) citizens' access to ICTs as a mechanism to access globalization, (b) MyPES access to ICTs, (c) sectoral and national integration based on ICT access and the efficient use of public resources, and (d) how to take advantage of the potential of citizens and Peru within the globalization process. CPAD's cross-cutting work areas are related to education, infrastructure, info-structure, the offer of digital services and institutional framework.

Source: Consejo Privado para la Agenda Digital (2014), *https://sites.google.com/a/agendadigital.org/cpad/home*, consulted on 30 April 2014.

Despite the initial consultation to develop the first national OG plan, apparently the private sector and unions did not fully participate in the implementation process. To develop the second PAGA, Peru is achieving great progress by consulting local inhabitants, but greater interaction and co-operation with the private sector are equally necessary, especially regarding open data potential to create economic value.

A more inclusive process: expanding efforts to local governments and public institutions

Together with its monitoring role, the PCM is also in charge of co-ordinating with the CAN and with the regional and local governments to support their activities. Nonetheless, although representative organisations of the regional and local governments were consulted during the definition of the first PAGA, they had a limited participation during the implementation process.

Currently, Peru is working on addressing multi-level issues. In 2014, three consultation work groups were organised at the regional level in Piura, San Martin and Ayacucho. Their purpose was to draft the second version of the PAGA in a more inclusive and participative manner. This is aligned with the country's current decentralization policy. However, as the first PAGA showed, it will be a challenge to continue this close co-operation during policy implementation to provide ongoing central support and to obtain feedback from local governments.

In addition, other relevant stakeholders, like the Parliament or the Ministry of Economy and Finance (MEF), the Ministry of Development and Social Inclusion (*Ministerio de Desarrollo e Inclusión Social,* MIDIS) and the Ministry of Environment, are not members of the PCM. This limited involvement may limit institutional awareness on PAGA's objectives, the exchange of best practices and the implementation of OG and OD sectoral programmes.

Indeed, there is low awareness among Peruvian public officials about the OGP and OG reforms being implemented by the central government[35]. This might be a direct result of the limited composition of the PCM. The purpose should be not to get all national and local stakeholders together in all the meetings, but to co-ordinate, co-operate and communicate better. For instance, during the OECD-MEF meeting, the MEF showed low awareness of the central open government policy, but it has implemented important open government and open data efforts:

- In 2003, the MEF introduced **participatory budgeting (PB)** aiming to increase fiscal openness, accountability and efficiency. The PB allows regional and local governments and the general population to

contribute and participate on how public budget should be used and which projects, objectives and results should be prioritised. In this respect, the participation and involvement of the heads of regional and local governments are crucial to organise local actors. Once a general agreement is reached, an online web platform (*http://presupuesto-participativo.mef.gob.pe/*) is used to provide regional, local and citizen inputs. Then, these inputs feed the Agreed Development Plan (*Plan de Desarrollo Concertado*, PCD), which is useful to reach a final agreement on how public resources should be spent.

- Created in 2001, the **Economic Transparency Portal** (*Portal de Transparencia Económica*, PTE) is a web platform that provides public finance information to the users. In fact, as observed with the SINIA of the Ministry of Environment, the PTE illustrates another good practice of the Peruvian government regarding open data, as it offers downloadable data not only on national public finance but on local governments' finance as well. Considering that, and according to the Ombudsman, 32% of requests to access information focused on public budget[36]; the availability of this tool is an important effort to fulfil the population's need (and right) to obtain information on public finance and budget.

On the one hand, one could assume that the understandable strong focus on public finance transparency in Peru and the creation of both mechanisms by decree in 2001 and 2003 may have worked as strong key drivers to develop these practices. But it is not clear why relevant ministries like the MEF are not members of the PCM despite its importance. On the other hand, while the PTE and the SINIA may not reflect the reality of OG's efforts across other Peruvian institutions - particularly at the local level –, they widely illustrate the potential of open data in Peru.

At the same time, the central government may need to define better policy communication tools to increase knowledge on its open government policy across public institutions and the social and private sectors.

Low co-operation with other sectors might leave aside potential progress on transparency and accountability. This issue was raised during mission meetings, particularly related to expenditure on social programmes, which requires a closer institutional co-operation and the involvement of central ministries and bodies in charge of social and inclusion policy. A similar situation was witnessed regarding Parliament's involvement in central open government policies.

Parliament's participation and co-operation in open government is key to foster transparency in the country. A wider openness of law-making parliamentary processes and a higher collaborative dialogue are useful to bring citizens closer to the government and to increase Parliamentary accountability.

Table 7.3. Policy communication mechanisms used to inform on open government reforms in Peru

	Public Officials	General Public
Internal circulars	™	™
Training seminars	˜	™
Publication in official gazette	˜	˜
Manuals/guidelines	˜	˜
Traditional media (print, radio, TV)	™	™
Online media	˜	˜
Conferences	™	™

˜ Yes

™ No

Source: 2013 OECD Questionnaire on the Implementation on Open Government Policies in Latin America. Section I. Question 6.

While the national situation regarding public trust in Parliament is sensitive, expanding efforts to the Parliamentary arena could benefit citizen trust. The challenge is big considering that Parliamentary accountability depends on the willingness of Parliamentarians to co-operate.

The Peruvian Parliament has been making efforts to increase transparency. For instance, the 131 Voices Initiative (*http://131voces.pe/*) aims to increase citizens' participation and involvement during the legislative process by allowing them to comment on law bills. By using the initiative's website and media tools such as Twitter (@131Voces), citizens could participate and obtain information on the work of Parliament and its members. However, with less than 300 followers and a website that seems to be outdated, this important initiative has lacked institutional support, resources and the Peruvian population's interest. In addition, the fact that citizens cannot make online requests to access parliamentary information complicates citizens-Parliament interaction. The mix of complicated and time-consuming processes with low citizens' involvement, interest and trust creates a challenging policy environment. In this regard, the support of Peruvian civil associations is of paramount importance to increase the success of these initiatives aiming to increase citizens' participation. CSO's networks and social fabric are crucial to bring citizens closer to the Parliament.

Civil associations are an important component of the open government ecosystem. Nonetheless, their capacity to represent all social voices might be restricted. CSO's role as a bridge between the Parliament and citizens is important, but it is equally important to educate citizens on their intrinsic responsibility to monitor legislative and government activities.

Policy framework

While progress has been made within a governance and institutional framework, from a policy perspective a clear open data action plan is still to be developed. The adoption of a "National Action and Development Plan for Open Data" is to be regarded as essential to support a national vision, to staff the SGP with an adequate skilled work force, and to raise awareness and understanding of the national context for open data.

Box 7.9. The French National Open Data Portal: a cornerstone of the open data strategy

The recent version of the French National Open Data Portal (*http://www.data.gouv.fr/*) released in late 2013 is considered a cornerstone of the national open data strategy. The principle backing up further development of the first version is that it should facilitate easy data sharing, participation and collaboration among governmental and non-governmental actors to increase open data's impact and relevance for the community. Key features include the following:

- It enables data producers to share data in one minute.
- It makes reference to existing open data portals managed by individual institutions to improve their visibility.
- It is a unified access point to datasets and portals of more than 50 local governments.
- It aggregates data improvements made by citizens differentiating between the data released by public institutions and certified as such and the data provided by the community.
- It showcases how data is being re-used.
- It was co-designed engaging innovators, developers and civil society.
- It opened up data of public interest and after two months it has four times more data than data available in the previous version, with a total of 255 generators and 760 reuses.

Source: Government of France (2014), Données Publiques, *https://www.data.gouv.fr/fr/*, consulted on 30 April 2014. .

It will also be important to integrate the technical team in charge of developing the open data portal with the team responsible for developing the policy and the related action plan. As a result, the website would become a tool to enable the use of data in the achievement of overall policy priorities and objectives, and not just a repository and/or a catalogue of datasets. ***Mexico*** recently launched the draft version of the National Policy on Open Data. The platform was developed in partnership with the Argentinian team of

Democracy.OS, which is an open source interface for deliberation and voting on political proposals that focuses on users' experience. The content was divided into five main sections related to the policy and used a citizen-centric language to highlight the key aspects: 1) Main objectives of the Mexican strategy, 2) Open Data Standards, 3) Institutional Framework, 4) Publication Guide and Protection of Privacy, 5) Fostering Use of Data.

For the time being, Peru not only does not have a national open data portal, but there is no clear understanding of the needs related to data generation to support for instance data analytics in relevant policy areas. Furthermore, there is no agreement on standards for data collection and on metadata. Data and information are dispersed; defining a policy and designing an action plan can help reach a common agreement to support joint actions, a shared understanding and an efficient sharing of practices. More clarity at the policy level may also help to correctly address issues related to open data supply and demand. In line with these suggestions, Peru could focus on designing an overall strategy and action plan for open data and in finding a high-level government champion, or an "open data evangelist" as in the US, to launch the plan addressed to obtaining political support. This champion could be someone who recognises the value of open data not only in relation to the transparency agenda, but also for social and economic development, as well as a tool to sustain the public sector's modernisation agenda.

There are a number of good examples of open data practices in Peru carried out by different sectors of the public Administration, but they are not widely known and acknowledged. This is particularly relevant as the limited knowledge about them may limit their impact. The scaling up and replication of initiatives, are important conditions to increase impact and maximize its strategic value, and having a common plan can support this knowledge transfer and channel efforts towards shared goals.

Linking "access to information" and the open data agenda

The 2013 OECD Survey on Open Data, in addition to the analysis of national practices conducted by the OECD, show that governments' open data programs target three main sets of value: social, economic and political value. Open data is seen as an opportunity for increasing internal efficiency within the public sector through improved service delivery and/or stronger cross-government collaboration (e.g. promoting better government's interoperability), for fostering new possibilities within the broader economy (e.g. fostering entrepreneurship), for empowering individuals by enabling more informed personal decisions, for facilitating their participation in policy making and services design, and for increasing government's transparency and accountability. Clarifying the

targeted goals is critical to support strategic decisions on actions and resource allocation, which are prerequisites to yield the expected value and to monitor its creation (Ubaldi, 2013).

In Peru, there is a clear link between efforts aimed to foster open data and the government's transparency agenda. The 2014-2016 PAGA makes clear reference to public information as a key asset to strengthen transparency and participation. Together with the efforts addressed to strengthen results in terms of access to information, the government considers open data as a critical factor for increasing public access to government's actions and decisions. As a result, it is seen as an important means to improve transparency. However, open data still seems to have a shy presence in the agendas of both the government and other actors (e.g. civil society organizations, private sector) as a tool to achieve economic and social value.

As in some OECD countries, this may be the result of the significant efforts made by the government prior to, and independently from, the open government agenda to recognise the right of access to information and follow up on legal requirements, i.e. those set by the 2002 FOI. As a result, open data seems to be a "chapter" of the access to information and transparency agenda and policies, rather than having its stand-alone strategic value and related implementation plan.

Even though the open data movement's activists have benefited from the pathways opened, and the results achieved, by the access to information advocates worldwide, open data and access to information are not synonyms. Therefore, the actions needed to implement the reciprocal agendas, and to maximise their impact, must be considered as separate, although linked and complementary. In order to make use of the strategic relevance and impact of open data, the Peruvian government could build on the extensive work and considerable efforts made so far to create the right conditions to enable access to information as foreseen by the FOI, and to foster government's transparency.

A stronger link between the access to information and open data agendas could help strengthen the common understanding of the strategic value of public sector information at its highest level of granularity, i.e. administrative data. The adoption of a "Government Data and Information Management Strategy" could for instance bring coherence and strengthen the individual efforts of all actors within the administration involved with data generation, collection and/or management. This could also facilitate the mapping of relevant datasets for the delivery of values, and thus guide the prioritisation of the selection of the datasets to be released as open data; i.e., government data is open when it can be freely used, re-used, and distributed by anyone, only subject to (at the most) the requirement that users give credit to data sources and make their work available to be shared as well (Ubaldi, 2013).

Shifting from a mainly "access to information" focus to an "open data" perspective implies, however, the adoption of a broader view encompassing a larger set of potential goals and foreseeing a comprehensive set of actions needed to achieve them. What open data is should be clear to all relevant actors not only within the PCM, but across and within all levels of government. Specific actions should aim to raise awareness and develop the adequate capacities to take full advantage of the opportunities created by open data. For example, OECD member countries such as ***Estonia***, ***New Zealand*** and the ***UK***, are focusing on increasing the availability of the civil servants' skills required for conducting data mining and data analytics, on using data in order to spot trends and identifying potential for greater efficiencies in policy making and public service design and delivery. As in most countries, in Peru there is still a challenge to be faced in educating public officials. The understanding of open data's potential benefits is still not fully spread among the administration's decision makers and that creates a barrier in prioritizing open data policies.

The government of Peru could expand efforts conducted by the National Statistical Institute (*Instituto Nacional de Estadística y Censos, INEC*) to organise events targeting civil servants at the central and local government levels, with the purpose of spurring a data-driven decision-making culture within the public sector. INEC has a capacity-building school that could be used to develop skills, as well as to raise the awareness on the relevance of using statistical and technical data to foster the growth of a data-driven culture. INEC could become a key partner to build capacities, stimulate and boost data re-use, and to understand data demand.

Additionally, the governments of OECD countries like the ***US*** and ***France***, to name a few, hold contests to stimulate the re-use of government open data for the development of new services. These initiatives are seen as critical not only to increase the impact of open datasets' release, but also to enable the public sector to better understand public needs in terms of data, and to know more about data owned by different sectors of the Administration. For instance the Peruvian Ministry of Agriculture has run a contest to stimulate the use of available data in research and analysis tasks, in order to improve policy and decision-making processes. This initiative, conducted with the support of external consultants, could be easily replicated in other policy areas. Making these efforts sustainable would however require the development of public sector's internal capacities. Additionally, to stimulate data analytics and diagnostics, the government could identify thematic priorities (e.g. social inclusion) to guide investigations and encourage the re-use of existing databases currently out of use.

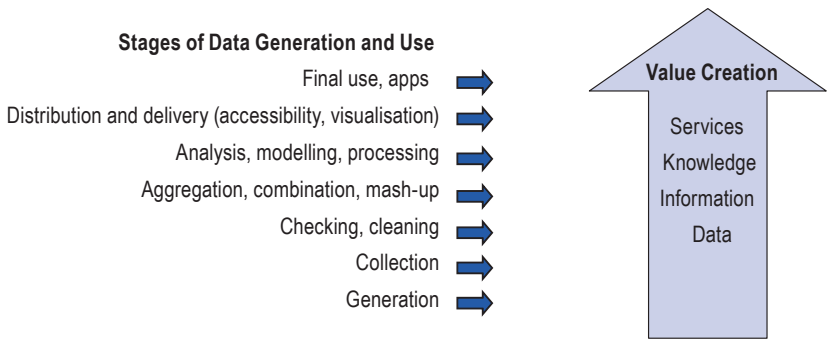
Finally, in addition to the absence of an overall policy on open data clarifying the targets and supporting good co-ordination of the initiatives, the lack of a licensing regime arises uncertainty on the value that stakeholders can create by re-using the data generated by the government. In Peru the

administrative culture is characterised by a fairly legalistic approach, which provides regulatory expertise among policy makers. This could be leveraged in order to establish a clear and complete legal and regulatory framework (e.g. standards adoption, licensing regime) to enable an efficient use and re-use of open data and support by all sectors of society.

Establishing and managing the ecosystem to sustain value creation

In the context of open data, the concept of ecosystem applies specifically to the provision and use of open government data. It will be necessary to implement the ecosystem r that would allow for the actors' involvement required to sustain the expected impact and value creation. This is essential to make sure that relevant actors participate in the relevant stages of data generation and use in a way that contributes to the public service value chain (Ubaldi, 2013). Additionally, actors' involvement enables the transfer, replication and scaling up of initiatives and practices when possible. Peru could for instance concentrate first on some sectors and actors that have been implementing relevant initiatives to increase the focus on achieving the targeted value.

Figure 7.7. The contribution of government's open data to the public service value chain



Source: Ubaldi, B. (2013), *Open Government Data: Towards Empirical Analysis of Open Government Data Initiatives*, OECD Working Papers on Public Governance, No. 22.

The INEC certainly plays a key role in relation to data collection, provision and dissemination - at the national, local, macro and micro levels – for improving public sector performance and supporting statistical analysis and data analytics. INEC's website SIRTOD and the System for Geographic Information (*Sistema de Información Geográfica*, SIGE) are two good examples of databases that support better decision making. Similarly, the National Census System enables

cross analysis of data and information concerning population distribution to guide decisions on public sector investments. This wealth of data is available for free, except in a few cases for which a fee can be applied. However, the INEC holds data archives and issues newsletters with statistical data, for instance on environmental and economic development, which are potentially very important for social and economic value creation, and that are available only in PDF, not in open formats.

The Ministry of Justice and the Ministry of Health provide good examples of data analytics practices. For instance, the platform used to issue birth certificates in hospitals, both public and private, at the time of birth, which is also used to register basic health data for each newborn to help understand geographically based health trends and spot the need for targeted policy interventions, is a very interesting example of data management and use to sustain more targeted policy making. Similarly, the Ministry of Health has a good IT-enabled platform to submit online requests of data that could be shared with other authorities. Strategic alliances have been established in the health area to improve data quality, data availability and data collection in order to support better real-time decision making and change management.

Future steps aimed to progress in this direction should focus on tackling the issue of interoperability and developing agreements, joint actions and planning among authorities and institutions, e.g. the platform with information on the newborn would be very beneficial for the Ministry of Social Inclusion and the Ministry of Education, which are not using these data and instead have their own data collection method and system. These actions could help emphasise the value added of joint information management and increase the understanding of the relevance of fostering a data-driven culture based on data use and re-use. Boosting awareness of this value could help overcome a certain institutional resistance to let go control over data. The limited IT infrastructure development (limited access and speed of access due to low broadband penetration) in some Peruvian regions may explain the limited use of some of the available platforms across the country. Still, the high level of mobile penetration could make up for it, if those platforms were to be made accessible through mobile technology.

In regards to justice, Peru has a sophisticated information system with statistics concerning criminality. This creates a wealth of data that could potentially support important data analytics by various entities of the Administration, such as the "National Observatory of Crime", provided that progresses in terms of standardisation and interoperability are made to facilitate data access for all actors of criminal justice that have to make relevant decisions – e.g. the Judiciary Branch and the penitentiary system. However, for now each institution of the Judiciary Branch has its own data system and uses its own metadata. The "Statistical Committee on Criminality", which is led by INEC, has the mandate to standardise the variables to identify and collect data

and information. The Peruvian authorities are aware of the relevance of this initiative in relation to the transparency agenda, but it is still not strategically linked to the broader open data agenda. This limits the use of its full potential. Similarly, the Ministry of Justice is working on the development of a public registry on legal persons' criminal liability and of data on anti-corruption. These data should sustain the work of the "National Criminality Council" (*Consejo Nacional de Criminalidad*), as the ultimate objective is to have a single database on criminality to enable diagnostic studies, including on property offenses.

Other good examples are the initiatives under the responsibility of the General State Comptroller (*Contraloría General del Estado*). These include the INFOBRAS system with relevant data on public works, as well as the smartphone application with data on electoral campaigns, still under development.

These examples demonstrate how, although open data is not yet high in the open government agenda in a structured manner, much is already being implemented at the level of individual institutions and/or policy areas. As highlighted earlier, ONGEI, in collaboration with the SGP, could map the good practices implemented in several policy sectors and government levels. For the time being, there is no mechanism to share and transfer good practices, nor to transfer relevant skills if available. Spreading the knowledge and awareness on these good practices government-wide could sustain the development of similar initiatives, but, even more, it could foster the development of a data-driven culture and approach within the public Administration. Additionally, international donors are mainly in charge of the use of data for diagnostic analysis. To increase the relevance and impact of open data use it would be extremely beneficial to develop a methodology and build internal capacities within the Administration to support diagnostic activities.

Political leadership in the design of a roadmap to set diagnostic priorities and key investigation questions, map data, identify the data collection method, and develop skills would help concentrate on implementing, structuring efforts and achieving results that could be shared across and within levels of government. It could also be beneficial in fostering a decision-making culture within the Administration built on information and knowledge management, and increasing the sustainability of initiatives. This leadership could help as well evaluating and prioritizing the release of valuable datasets in strategic agencies that are heavy producers or consumers of data. The existence of the legal environment required and the availability of necessary resources are indeed not sufficient to strengthen sustainability, which, as stated in the OECD draft Recommendation on Digital Government Strategies, also calls for a culture of data re-use.

Similarly, in regard to access to information and related efforts to fight corruption and increase transparency, some activities and the related generated data are not used to better understand trends and the need to improve data availability and quality. Examples include authorities responsible for access to information within the various agencies that – according to the Law on Access to Information – have to report every three months on the information more frequently requested, as well as the survey on "transparency and corruption" conducted regularly with the support of the World Bank. These activities could be used to strengthen knowledge and awareness of the type of data and information needed by users. This requires a better understanding of the strategic value for open data of these activities and a more structured use of data and statistics already available.

Reaching out to civil society as a strategic partner for value creation

As key actors of the mentioned ecosystem civil society organisations should be considered key strategic partners in achieving the value of open data. For example, some civil society organizations, also members of the Permanent Multi-Sectoral Commission responsible for monitoring the PAGA, are involved in open data initiatives or have a clear understanding and advocate for open data in Peru. Yet it seems that awareness of the benefits of open data and capacity building not only inside but also outside government could be reinforced.

The Peruvian government could boost its open data generation and usage by encouraging government-civil society dialogues. Many countries have successfully started by using hackathons to provide learning experience for all actors. Even if those initiatives often fail to promote long-term applications they have been instrumental in creating open data communities. Since organisations currently working with open data do not have a strong institutional presence, they should be somehow connected with the organisations officially involved in the work of the Commission to maximise the impact of their efforts. In Brazil, universities were involved as well to allow IT students to learn about open data's potential and usage.

Another key group of actors that could be involved in a more structured way are journalists. In OECD countries journalists play a key role in promoting the use of open data and in creating a community of infomediaries that can help increase awareness of available open datasets and/or foster their reuse. They can also participate in showing the value of open data, and making data understandable, accessible, relevant and "digestible" to a broader audience. There seems to be an advanced notion of the potential for data journalism. However, there are concerns regarding journalists' capacities to

act as infomediaries and as resources of government, or to be able to deliver a cohesive strategy around open data targeting the needs of different data users' including journalists. To overcome these limitations, and in order to build relevant capacities, increase awareness and communicate the relevance of open data, the government could foresee collaboration with media owners and journalists already sensitised, to support for instance the organisation of open data workshops in collaboration with the national journalists' network. There is for example a program with international funding to host Media Trainings organised by the national journalists network across the country.

Another way to quick-start open data experiences engaging civil society actors in the country is to release datasets for applications that were created using data from other countries, like Open Spending (which shows government's spending data) and Open Corporates (which uses company ownership's data). This allows for faster solutions while also helps develop international scale communities. To develop open data communities the government of Mexico targeted a better response for their releases of data by creating a survey for users and defining publishing priorities; the Brazilian government used wiki tools, while countries like the United Kingdom developed stronger dialogues by creating a formal Open Data User Group.

Linking implementation to priority areas and goals

A possible way to increase the impact of open data is to link open data initiatives to national priority programs and policy goals. This can help ensure political support and find the resources to finance initiatives' start-up and ensure their long-term sustainability. In Peru open data agenda and targeted goals could be linked for instance to the social inclusion plan. This approach could help create a business case for open data initiatives, and guide selection of high impact initiatives to demonstrate and support delivery of open data value**.** This could also improve evidence-based policy making in partnership with all relevant actors of the ecosystem, e.g. civil society, academia or journalists.

Box 7.10. Using priority programs to increase impact of open data in Mexico

In Mexico, for example, *ReconstrucciónMX* uses priority programs to sustain open data publishing, In September 2013, several zones of Mexico were heavily flooded by the tropical storms Ingrid and Manuel. Following these events, disaster declarations were announced and economic resources and materials were transferred from the federal government to various states and municipalities. Responding to a Presidential mandate to improve the transparency and use of these resources, the Co-ordination of National Digital Strategy developed the website *http://www.presidencia.gob.mx/fonden/* to publish data on: The cost of resources

Box 7.10. Using priority programs to increase impact of open data in Mexico *(Cont.)*

received by each state, like medicaments and tools; the resources needed to repair hydraulic, educative and dwelling infrastructure; and the process to obtain federal support.

This example proves that publishing data on the funds transferred by the Federal Government can be an important tool to monitor their use and promote transparency and accountability, but also to raise attention on good practices that can be replicated at the local level of government, thus increasing the impact of initial investments. The government of the state of Puebla in Mexico decided to use a similar model to monitor the use of resources in affected municipalities. Building on the efforts of *ReconstrucciónMX*, Puebla decided to add data gathered by Social Auditors, which will help increase the body of data used for a wide range of analyses.

Source: Government of Mexico.

"Going local" to increase impact

"Going local" can help increase the value of open data. When we look at the open data economic and social value achieved through improved service delivery, much of the impact is produced at the local government level, where authorities responsible for service delivery have better access and understanding of users' preferences and needs, as well as of opportunities for obtaining higher efficiency in service delivery. This is why in a series of OECD countries, such as France and the United States, many of the interesting examples of open data initiatives generating value can be found at the local level. In France, Etalab – the Open Data Task Force that is attached to the General Secretariat for State Modernisation – has focused particularly on working with sub-national levels of governments to progress in the implementation of open data.

Peru could start by working with sub-national levels of government to draw up a simple template of the license that could be adopted by cities to fit their jurisdiction. A similar approach can be found in Canada, where the government created a city board to co-ordinate open data efforts at both federal and sub-national levels. In this group, they collectively worked on a license to be applicable to all regions. The license was intentionally designed to be very broad and simple enough, but able to guarantee the legal certainty of the types of use around each dataset. Also, the license content was turned into a template that made each city adapt its content to the local characteristics in a simple manner.

The Municipality of Lima seems to be fairly strong in terms of open data initiatives. Local authorities have already developed an open data website, *http://lima.datosabiertos.pe*, and have hosted a few local hackathons to foster

open data use and better understanding of data demand. These initiatives have led to some successful projects and the local government is further supporting their implementation. It is important to increase the focus of these initiatives beyond transparency to create economic and social value and to foster higher participation, for example, by increasing the use of social media that can be useful for reaching out more broadly. Additionally, the municipality of Lima has recently started analysing the information and data request to understand data demand needs and preferences. The Government could envisage ways to transfer these experiences to other municipalities, and to raise local awareness and capacities.

Besides ensuring the right political leadership also at the local level of government, value creation could be increased by strengthening the capacity to measure the impact, to be able to map and share "stories" of what works to support transfer good practices when adequate, and to enable interoperability of databases and information systems managed by individual local authorities. As a matter of fact, to prevent the generation of new forms of digital divide by open data, it will be critical for the Peruvian government to also pay close and permanent attention to local zones across the country which are less advanced in terms of open data; thus it would avoid favouring those regions digitally enabled while impeding those already disadvantaged from taking full advantage of open data as an opportunity and a source of social and economic development.

The Ayacucho region is a good example. It is one of the local governments included in the initiatives of the central government aimed to create more collaborative, engaging and transparent dynamics, as foreseen in the Peruvian Open Government Action Plan 2014-2016. Even though t local actors and the central government seem to have very different perspectives on these issues, the local ecosystem can count on a number of civil society organisations such as those representing the interests of women, the agricultural community and the young who are close to the needs of specific segments of the local population and that could be key partners in spotting and collecting relevant data as well as in supporting analysis of relevant datasets. They could help translate data into relevant policy decisions and actions. Regardless of their active involvement with local communities, they seem to be quite disconnected from the Inter-Sectoral Commission, which is where their contribution would be most useful. Also, as highlighted earlier in this section, it is necessary to find the way to support the engagement and voicing out of the perspective of a higher number of civil society organisations as a way to prioritise the release of datasets that are meaningful to different segments of the population in different parts of the country.

Recommended actions for Peru

While the transparency and anti-corruption efforts of the government of Peru are commendable, the leveraging of other policies such as open data and e-government as strategic tools for improved open government is not optimal. The Recommendations included in this case study aim to assist the Peruvian government in taking strategic decisions to establish the institutional and policy frameworks necessary to support effective development of open government.

The Peruvian government should implement a more comprehensive open government policy based on a whole-of-government approach.

Specific actions include:

- Increasing institutional knowledge and policy awareness across central institutions on Peru's general open government strategy and the Open Government Action Plan.
- The composition of the Permanent Multi-sectorial Commission centring on anticorruption policies could be expanded to other policy sectors. The inclusion of additional key central ministries participating in the Presidency of the Council of Ministers such as the Ministry of Social Inclusion and the Ministry of Finance could create a greater institutional buy-in and policy awareness, and could facilitate policy co-ordination and the development of ministerial OG programmes, strategies and initiatives.
- The Centre of Government (CoG) should identify the benefits of access to information and OGD for other policy sectors and work closer with Peruvian institutions in their implementation. In this respect, the CoG could consider improving OG regulatory framework to underpin open government and open data activities. It could be useful to adapt and amend the Peruvian FOI and its regulations to include key concepts related to open data and to set legal mandates to public institutions related to their responsibility and role within the framework of the OGDS. FOI could be also strengthened by the inclusion of provisions on the possibility to file *in-situ* and on-line anonymous requests. In addition, as observed with the LGA, the central government may need to work closer with the Parliament and other ministries in order to adapt secondary legal framework regulating other policy sectors to support the development of OG practices.

The Government should foster greater institutional co-operation to help complement SGP's capacities to provide support to Peruvian institutions. Strengthening the supporting roles of the National Office of Electronic Government and Information (ONGEI) and the High-Level

Anti-Corruption Commission (CAN) and exploiting local networks of CSOs is crucial to further develop open government (OG) and open government data (OGD) programmes at the central and local level.

Specific actions include:

- Develop greater institutional capacities and invest in technical expertise to implement open government and open data strategies. This issue is relevant considering the SGP's and ONGEI's human capital losses, which might have a direct impact on policy co-ordination and implementation; undermining ONGEI's work and leadership for policy implementation. ONGEI's role could be further strengthened to fully exploit its function as the technical arm of the Peruvian Government, taking advantage of its closeness to the CoG. Fostering ONGEI's capacities and building greater internal human capital would help balance GOG's institutional responsibilities for co-ordination and implementation. If possible the Government should work with the academia, to acquire input around specific projects related to the Action Plan.
- Work not only with the general society but also with public officials to help them to understand open government and open data and to align isolated institutional efforts to the central government strategy. Implementing practices such as the "open government squads" in Mexico could help to increase institutional capacities across Peruvian institutions. In addition, the Peruvian government could follow practices of other LACs like creating a Manual on Open Government with clear guidelines for the implementation of OG and, especially, OGD. Strengthening the role and support of the ONGEI would be crucial in this respect. In addition, institutional capacities could be equally benefited by a closer co-operation with the Academia and its potential complementary training role.
- While the Peruvian government is implementing efforts to increase social involvement on policy making, private sector's participation seems to be left behind. The SGP could consider expanding the range of stakeholders included in its direct consultation practices to increase private sector's participation and input. This would be particularly beneficial during the policy implementation and feedback stage and to exploit open data added-value.
- Implement mechanisms to perform continuous consultation and feedback. One of the key challenges faced by Peru relates to multi-level governance, which are framed within the decentralization policy being implemented by the CoG in recent years. Direct consultation exercises such as the ones performed in 3 Peruvian regions should not be limit to one-time practices.

- Use IT tools for more direct engagement channels – even if the digital divide will not allow for a full participation – to improve the possibilities of participation and create opportunities for cities where meetings cannot be held. Combined with improving transparency on the elections of the representatives in the commission, these actions should improve the general participation and the legitimacy of the current members.
- While ICTs are a key component of the consultation process, not all population sectors may have access to these tools. Hence, exploiting regional and local networks of the CAN and CSOs would help obtaining continuous and regular input from the population at the local level. In addition, initiatives such ONGEI's Yachaywasi Digital Plan would require greater support due its relevance for social inclusion.
- Improve connection between the civil society organizations (CSOs) represented in the Commission that oversees the action plan and the smaller organizations very active at the local level. By having them represent the CSOs in a permanent way as channels to reach the government, Peru will dialogue more easily with civil society avoiding the costs of having to outreach individually organizations when needed.
- Clearly define how open government can impact policy priority issues for Peru. This could be done by collaborating with the Social Inclusion Ministry (MINIS) to articulate goals around social inclusion into the open government agenda.
- Highlight stories and personal accounts from reformers, both inside and outside government, that have specific projects that are helping to open up governments and produce impact. Focus on understanding particular participation mechanisms that have been successful and link these processes with desired outcomes.
- Develop indicators linked to each commitment of the Action Plan. This would permit to strengthen the key systemic goals that the commitments in the Action Plan are trying to achieve by adding qualitative evaluations along the process of deployment.

There is wide room for development and improvement regarding open data policies in Peru. Building on current open data initiatives, the Peruvian government could continue setting ground towards the definition and implementation of a general open data strategy.

Specific actions include:

- Identify a unit within a Ministry with clear authority and primary mission to coordinate open data development and implementation in Peru.

- Develop OGD policy and action plan to support implementation and address supply and demand of open data. Find a high-level government champion to launch the plan in order to obtain political support.
- Solicit the development of an action plan to approach open data within each ministry to promote the adoption and sense of ownership of OGD policy government-wide.
- Establish an interagency committee to spur horizontally collaboration in the deployment of an OGD action plan.
- Create a Chief Data Officer, and similar positions in key ministries, to be part of the interagency committee.
- Integrate de technical team in charge of developing the open data portal into those responsible for creating a policy or action plan, so that the website becomes a tool to enable the priorities and objectives of Peru and not just a repository and catalog of datasets.
- Develop an open license that takes advantage of the regulation expertise in Peru to create a clear framework and legal certainty around the use of open data for all sectors of society.
- Work with subnational levels to produce a simple template of that license that can be easily adopted by cities to fit their jurisdiction.
- Collaborate with journalists and support open data workshops with the national journalists' network that already exists to foster data re-use to create social and economic value.
- Link open data initiatives to priority programs for the country, such as the social inclusion plan. Create an internal case that analyses a high impact program to improve evidence-based policymaking in partnership with civil society, academia or journalists, to show the action-oriented value of open data.
- Evaluate and prioritize the release of valuable datasets in strategic agencies that are heavy producers or consumers of data.
- Boost the open data production and usage by encouraging government-civil society dialogues. Many countries have successfully started by using hackathons to provide learning experience to all actors. Even if those initiatives often fail to promote long-term applications they have been instrumental in creating open data communities and in strengthening the open data ecosystem. In Brazil, universities were involved as well to allow IT students to learn about open data potential and usage.
- Release data sets for applications that were created to use data from different countries, like Open Spending (that shows government

spending data) and Open Corporates (that uses company ownership data). This allows for faster response while also helping develop international scale communities. Instead of looking for outside solutions, the government of Mexico targeted a better response for their releases of data by creating a survey with users and defining priorities for publishing. Help develop communities in other ways is also helpful. Some countries, like Brazil, had communities created by the government itself using wiki tools, while countries like the United Kingdom developed stronger dialogues by creating a formal Open Data User Group.

- Use open data to help fostering business development.
- Educate public officials on the standards and potential benefits of open data as they are still not fully spread among decision makers which creates a barrier in prioritizing those policies.
- Strengthen institutional co-operation to develop an open data public safety and anticorruption portal feed with information from the SINAD, the CAN, the MINJUS and CSOs. In addition, while Peru has been successful on implementing internal inter-institutional data sharing and quality control mechanisms homogenised information and data gathering tools should be enforced.
- Develop open data sectorial practices building for instance on CoG's current co-operation with the Judiciary. The activities of the Inter-institutional Statistical Committee on Crime have set ground towards the implementation of data quality control mechanisms. The Peruvian government could further exploit current institutional willingness and co-operation to expand the current focus of OG and OGD on public finance and public procurement to other sectors including public safety.

Improve the management of access to information policies.

Specific recommended actions include:

- Collecting data and creating standard indicators for each organization in the government, to help them improve their operations and the general policies. This would also help generate greater accountability on compliance. Providing more tools and proactively offering information online helps identifying champions for access to information and those strategies should be intensified even in countries with significant digital divide.
- Have a more formal institution to oversee implementation of the law on access to information in the Executive and push for more aggressive policies in proactive disclosure. Even though the *Defensoría del Pueblo*

is the organization trying to push for better management of those policies there is room to increase this leadership amidst other organizations.

- Address concerns regarding a barrier created by the use of technical language in disclosed information.
- Exploit the open government approach to create the opportunity to put government and civil society organizations to work together and find better ways to communicate on matters concerning access to information.

Notes

1. Article 2.

2. Article 31.

3. Article 40

4. Article 200

5. Objective IV of the *Acuerdo Nacional* comprises a set of seven state policies focused on public efficiency and transparency, drug production, consumption and traffic, human rights, justice, information access, free press and terrorism, among others.

6. Considering the 11 countries that provided information to the OECD questionnaire.

7. Article 7 of FOI.

8. Article 11 of FOI.

9. Idem.

10. DP, 2013. Pp. 107. Only considering complaints received by the Ombudsman.

11. Including requests from individuals (men 75%, women 70%), entities (77%) and procedures ex-officio (4%).

12. Supreme Decree 043-2003-PCM. Article 22.

13. Supreme Decree Nº 030-2002-PCM

14. Based on the 2013 OECD Questionnaire on Open Government Policies in Latin America. Responses for Peru. Section II. Question 1.1.

15. Supreme Decree 072-2003-PCM

16. Supreme Decree 070-2013-PCM, Article 5a.

17. Guidelines 004-2008-PCM/SGP and 001-2010-PCM/SGP. Supreme Decree No. 063-2010-PCM.

18. DIRECTIVA N° 003-2009-PCM/SGP

19. Article 116 of FOI's regulations

20. Decreto Supremo 070-2013-PCM. Article 3.

21. Information provided by the Peruvian government. 2013 OECD Questionnaire on the Implementation on Open Government Policies in Latin America.

22. Law No. 29733.

23. Ministerial Resolution No. 085-2012-PCM

24. Supreme Decree No. 003-2013-PCM

25. Information provided by the Peruvian government. 2013 OECD Questionnaire on the Implementation on Open Government Policies in Latin America. Section I. Question 4.

26. Information provided by the Peruvian government. 2013 OECD Questionnaire on the Implementation on Open Government Policies in Latin America. Section III. Question 9.8 .

27. Supreme Decree No. Nº 016-2010-PCM / Law 29976

28. The CAN is also integrated by the Co-ordinator General of the CAN, the Controller General of the Republic, the Ombudsman,the National Assembly of Deans, the Presidents of the National Council of Public Ethics and the National Conference of Private Bussiness Institutions, one representative of the Catholic Church, the Evangelist Churchs and the Peruvian Workers

Union and by the Director Executive of the Peruvian Press Council. These members are not entitled to vote but only to participate during discussions.

29. Apurímac, Arequipa, Ayacucho, Cajamarca, Callao, Huancavelica, Huánuco, Junín, Lambayeque, Lima, Madre de Dios, Moquegua, Piura, Pasco, Puno, San Martín, Tacna and Ucayali.

30. Available on-line. *http://www.defensoria.gob.pe/modules/Downloads/informes/defensoriales/informe-165.pdf*

31. Supreme Decree Nº 067-2003-PCM,

32. Ibid.

33. ONGEI (2013)

34. The Peruvian Press Council (Consejo de la Prensa Peruana, CPP) is integrated by different Peruvian press institutions. Created in 1997, CCP's objectives are focused on (a) strengthening the ethics of journalists, (b) protect and monitor the right of free press and freedom of speech in Peru and (c) defend citizen's right to be informed and to access public information, among others. The Access Initiative. Information on Peru. Accessed 11 February 2014. *http://www.accessinitiative.org/partner/cpp*.

35. Information provided by the Peruvian government. 2013 OECD Questionnaire on the Implementation on Open Government Policies in Latin America. Section I. Question 9.8.

36. Ombudsman report. Page 147. Chart 17.

Bibliography

República del Peru (1993), Constitución Política, *www.peru.gob.pe/docs/PLANES/10402/PLAN_10402_Constituci%C3%B3n_2010.pdf*.

Gobierno del Perú (2004), *Para qué sirve el Acuerdo Nacional*, Journalistic Supplement, Lima, June, 2004, *http://www.acuerdonacional.pe/sites/default/files/Suplemento-ParaquesirveelAN-junio2004.pdf*.

Gobierno del Perú (2004a), *Acuerdo Nacional: Qué propone el AN (Objetivos III y IV)*, Journalistic Supplement, Lima, 11 september 2004, *http://www.acuerdonacional.pe/sites/default/files/SuplementoobjetivosIIIyIV.pdf*.

Ley No. 27245, Ley de Prudencia y Transparencia Fiscal, *http://www.mef.gob.pe/index.php?option=com_content&view=article&id=822%3Aley-nd-27245&catid=298&Itemid=101008&lang=es*.

Decreto Supremo No. 018-2001-PCM, Dispuso que las entidades del Sector Público incorporen en sus Textos Únicos de Procedimientos Administrativos, un procedimiento para facilitar a las personas el acceso a la información que posean o produzcan, *http://www.une.edu.pe/transparencia/informacion/DS_018-2001.pdf*.

Decreto de Urgencia No. 035-2001, Acceso ciudadano a las Finanzas Públicas, *http://www.mef.gob.pe/index.php?option=com_content&view=article&id=826%3Adecreto-de-urgencia-nd-035-2001&catid=298&Itemid=101008&lang=es*.

Decreto Supremo No. 039-200-EF, Reglamento de la Ley de Prudencia y Transparencia Fiscal, *http://www.mef.gob.pe/index.php?option=com_content&view=article&id=823%3Adecreto-supremo-nd-039-200-ef&catid=298&Itemid=101008&lang=es*.

Ley No. 27482, Ley que regula la publicación de la declaración jurada de ingresos y de bienes y rentas de los funcionarios y servidores públicos del Estado, *http://www.oas.org/juridico/PDFs/mesicic4_per_ley27482.pdf*.

Ley No. 27444, Ley del Procedimiento Administrativo General, Art. 110.1, El derecho de petición incluye el de solicitar la información que obra en poder de las entidades, siguiendo el régimen previsto en la Constitución y la Ley, *http://www.peru.gob.pe/docs/PLANES/14110/PLAN_14110_LEY_N%C2%BA_27444_Ley_del_Procedimiento_Administrativo_General_2012.pdf*.

Decreto de Urgencia No. 077-2001, Creación del Portal de Transparencia Económica y Oficina de Información Económica y Ciudadanía, *http://www.mef.gob.pe/index.php?option=com_content&view=article&id=827%3Adecreto-de-urgencia-nd-077-2001&catid=298&Itemid=101008&lang=es*.

Decreto Supremo No. 166-2001-EF, Aprobación de Incorporación de la Oficina de Información Económica y Ciudadanía en la Estructura Orgánica del Ministerio de Economía y Finanzas, *http://www.mef.gob.pe/index.php?option=com_content&view=article&id=829%3Adecreto-supremo-nd-166-2001-ef&catid=298&Itemid=101008&lang=es*.

Defensoría del Pueblo, DP (2013), *Balance a diez años de vigencia de la Ley de Transparencia y Acceso a la Información Pública*, Informe Defensorial No. 165, Lima, Perú, 2013, *http://www.defensoria.gob.pe/modules/Downloads/informes/defensoriales/informe-165.pdf*.

Resolución Ministerial No. 301-2009-PCM, *http://www.peru.gob.pe/normas/docs/RM_301_2009_PCM.pdf*.

Ley No. 29976, Ley que crea la Comisión de Alto Nivel Anticorrupción.

Ley No. 29733, Ley de Protección de Datos Personales, *http://www.pcm.gob.pe/transparencia/Resol_ministeriales/2011/ley-29733.pdf*.

MINJUS, *"Informe de los Registros de Información de las Unidades Estadísticas del Comité Estadístico Interinstitucional de la Criminalidad"*, Comité Estadístico Interinstitucional de la Criminalidad – CEIC, Documento de Trabajo No. 02, Mayo 2013, *http://www.minjus.gob.pe/wp-content/uploads/2013/07/Docuento-de-Trabajo-No.-02.pdf*.

Decreto Supremo No. 016-2010-PCM, Decreto Supremo que crea la Comisión de Alto Nivel Anticorrupción, https://dl.dropboxusercontent.com/u/75494737/DS-016-2010-PCM.pdf.

Comisión Nacional Anticorrupción, *Plan Nacional de Lucha Contra la Corrupción 2012-2016, http://can.pcm.gob.pe/category/plan-nacional-2012-2016/*.

Proética (2013), VIII Encuesta Nacional sobre Percepciones de la Corrupción en el Perú 2013, http://www.proetica.org.pe/viii-encuesta-nacional-sobre-percepciones-de-la-corrupcion-en-el-peru-2013/.

Ley Orgánica del Sistema Nacional de Control y de la Contraloría General de la República, Ley No. 27785.

ONGEI (2013), *Una mirada al gobierno electrónico en el Perú: La oportunidad de acercar el Estado a los ciudadanos a través de las TIC,* Primera Edición, Presidencia del Consejo de Ministros, Lima, 2013, *https://s3.amazonaws.com/ongei/libro_ongei.pdf*.

Boletín CAD No. 161, Corrupción en Gobiernos Regionales 2013, http://www.ciudadanosaldia.org/publicaciones/boletines-cad/item/585-bolet%C3%ADn-cad-n%C2%B0-161-corrupci%C3%B3n-en-gobiernos-regionales-2013.html#sthash.JYmP4tw4.dpuf.

Reglamento de la Ley de Transparencia y Acceso a la Información Pública, Supreme Decree 072-2003-PCM.

Ley 28611, Ley General del Ambiente.

Decreto Supremo No. 043-2003-PCM: Texto Único Ordenado de la Ley No. 27806, Ley de Transparencia y Acceso a la Información Pública.

Oré Saravia, Milushka (2010-10-15); "*Implementación de la Directiva No. 003-2009-PCM/SGP*". Powerpoint presentation during the workshop on "*Transparencia y Acceso a la Información Pública, Implementación de la Directiva 003-2009-PCM/SGP*", Secretaría de Coordinación, Presidencia del Consejo de Ministros, Tarapoto, San Martín, Perú, 2010, *http://sc.pcm.gob.pe/web/index.php?option=com_content&view=article&id=92&Itemid=29*.

Directiva No. 003-2009-PCM/SGP, Lineamientos para el Reporte de Solicitudes de Acceso a la Información a ser Remitidos a la Presidencia del Consejo de Ministros.

PCM (2012), 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, *http://sc.pcm.gob.pe/web/files/info_anuales/transparencia2012.pdf*. Accesed 2 may 2014.

Decreto Supremo 070-2013-PCM. Decreto Supremo que Modifica el Reglamento de la Ley de Transparencia y Acceso a la Informacion Pública.

OECD (2013), Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data, The OECD Privacy Framework, *www.oecd.org/sti/ieconomy/2013-oecd-privacy-guidelines.pdf*.

Inter American Development Bank (IADB) (2014), Ramírez, Álvaro & Nicolás Vicente Dassen, "*Vientos de cambio: el avance de las políticas de gobierno abierto en América Latina y el Caribe",* IADB Technical Note, 629.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

The OECD is a unique forum where governments work together to address the economic, social and environmental challenges of globalisation. The OECD is also at the forefront of efforts to understand and to help governments respond to new developments and concerns, such as corporate governance, the information economy and the challenges of an ageing population. The Organisation provides a setting where governments can compare policy experiences, seek answers to common problems, identify good practice and work to co-ordinate domestic and international policies.

The OECD member countries are: Australia, Austria, Belgium, Canada, Chile, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States. The European Union takes part in the work of the OECD.

OECD Publishing disseminates widely the results of the Organisation's statistics gathering and research on economic, social and environmental issues, as well as the conventions, guidelines and standards agreed by its members.

OECD PUBLISHING, 2, rue André-Pascal, 75775 PARIS CEDEX 16
(42 2014 24 1 P) ISBN 978-92-64-22360-8 – 2014

OECD Public Governance Reviews

Open Government in Latin America

Contents

Assessment and recommendations
Chapter 1. The context of open government in Latin America
Chapter 2. Open government strategies and governance frameworks in Latin America
Chapter 3. Access to public information in Latin America
Chapter 4. Harnessing the potential for open data in Latin America
Chapter 5. Open government policies and initiatives in Colombia
Chapter 6. Open government policies and initiatives in Costa Rica
Chapter 7. Open government policies and initiatives in Peru

Consult this publication on line at ***http://dx.doi.org/10.1787/9789264223639-en.***

This work is published on the OECD iLibrary, which gathers all OECD books, periodicals and statistical databases.Visit ***www.oecd-ilibrary.org*** for more information.

OECD*publishing*
www.oecd.org/publishing

Foreign & Commonwealth Office

ISBN 978-92-64-22360-8
42 2014 24 1 P