



Access to Information and Targeted Transparency Policies

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Abstract*

This paper contributes to the debate around why and how access to information can be used to prevent and control corruption. Access to information can not only bring corruption cases to light, it can also be a fundamental tool for its prevention and control, given that it encourages the creation of channels of participation and helps to identify vulnerabilities in both the public and the private sectors that might become windows of opportunity for corrupt practices. The paper's conceptual framework explains how initiatives aimed at promoting access to information that are based on the concept of targeted transparency enable greater accountability in key areas of public management, by taking into consideration the effectiveness and quality of access to information channels or mechanisms, as well as the capacities and interests of the users to gain access to and use this information.

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List of Abbreviations

AAF	Anticorruption Activities Trust Fund
ADC	Asociación por los Derechos Civiles (Argentina) (Association for Civil Rights)
LAC	Latin America and the Caribbean
IDB	Inter American Development Bank
CELS	Centro de Estudios Legales y Sociales (Center for Legal and Social Studies)
IACHR	The Inter-American Commission of Human Rights
Coparmex	Confederación Patronal de la República Mexicana (Mexican Employers' Association)
EITI	Extractive Industries Transparency Initiative
GACAP	Governance and Anticorruption Action Plan (Asia Development Bank)
IFAI	Instituto Federal de Acceso a la Información Pública (Mexico) (Federal Institution for Access to Public Information)
LOTAIP	Ley Orgánica de Transparencia y Acceso a la Información Pública (Ecuador) (Organic Law on Transparency and Access to Public Information)
OAS	Organization of American States
NGO	Nongovernmental Organization
CSO	Civil Society Organization
PAACT	Action Plan for Supporting Countries' Efforts to Combat Corruption and Foster Transparency
GDP	Gross Domestic Product
SIGOB	Sistema de Gestión y Seguimiento a las Metas de Gobierno (Capacity-Building Management for Democratic Governance)
TT	Targeted Transparency
TI	Transparency International
UNESCO	United Nations Education, Scientific and Cultural Organization

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INTRODUCTION

The international community, civil society, the private sector, and the governments of Latin America and the Caribbean have recently been increasing their efforts to promote transparency and strengthen corruption prevention and control mechanisms. In line with this international trend, and within the framework of the Paris Declaration on Aid Effectiveness, the Inter-American Development Bank (IDB) has advanced towards implementing a combination of initiatives aimed at promoting integrity and transparency. These advances have taken place at both the internal level, in matters of integrity and institutional ethics, and the external level, by providing support for countries' efforts to strengthen transparency in public management and efficiency in public expenditure and service delivery.

Amongst the advances made on the external level, it is worth mentioning the activities supported by the Anticorruption Activities Trust Fund (AAF), which has been financed by the Norwegian Government since 2007, and the Action Plan for Supporting Countries' Efforts to Combat Corruption and Foster Transparency (PAACT), approved by the IDB's Board of Executive Directors in 2009. The PAACT proposes, among other initiatives, the identification of entry points for strengthening countries' institutional capacity to promote transparency and prevent and monitor corruption.

One of the entry points in the field of corruption control and monitoring, which has been subject to growing interest at both the regional and the international level, is the promotion of access to information. The scale and the growing recognition of the right to access to public information at the international, regional, and local levels are a reflection of the increased awareness among academics, civil society, and governments themselves. The principle behind the movement to promote greater access to public information is that when public and private institutions possess mechanisms that enable citizens to gain access to information about their functioning, structure, and financial balances—and when the public makes full use of these mechanisms—there is enhanced transparency and a renewed confidence in institutions and economic development.

In the last 10 years, the Latin America and the Caribbean (LAC) region has witnessed rapidly increasing growth in the number of countries having sanctioned access to information laws. This phenomenon has coexisted with scenarios of political and economic crises, as well as

corruption scandals affecting central government and legislative and judicial branches. Although these scenarios have led to growing disenchantment with politics, to indignation, and to mass social mobilizations, they have also opened a very important debate about the need to monitor compliance with international standards in matters of transparency and access to information. Moreover, they have sparked discussion about the most efficient ways of promoting the design and implementation of new tools to strengthen good governance in the key areas or sectors of public resource management.

This paper hopes to contribute to this debate, by posing the dual question of *why* and *how* access to information can be used to prevent and control corruption. The first part of the document seeks to explain *why*, by reflecting on the various uses of access to information and explaining its role within the framework of vertical, horizontal, and diagonal accountability. Access to information not only strengthens citizen participation and social control, but it can also highlight key institutional and regulatory vulnerabilities in both the public and the private sector, many of which are frequently windows of opportunity for corrupt practices.

To explain *how* access to information can be used to prevent and control corruption, the second section conceptualizes two complementary but clearly differentiated strategic approaches: the general or comprehensive approach, which is oriented towards the sanctioning and the implementation of access to information laws, and the sectoral or targeted approach, oriented towards the design and implementation of access to information or transparency systems or mechanisms in specific sectors or areas of intervention. As part of the latter approach, the paper describes the importance of targeted transparency (TT) policies, whose main characteristics are the organization, standardization, and availability of information in an area or sector of specific intervention. TT can provide precise information to support decision making for a particular political, social, or economic group. The whole spectrum of information dissemination is therefore defined upon the incentives and needs of specific audiences or information users.

THE DIMENSIONS AND USES OF ACCESS TO INFORMATION

Context

In recent years, studies have proliferated that show how corruption can adversely affect, among other aspects, economic development, the distribution of income, the legitimacy of the political system, the effectiveness and inclusion of public services, the viability of the State, and the degree of criminality (see Box 1).

Box 1. The Negative Effects of Corruption

Effect	Reference
Corruption negatively affects economic development via:	
<ul style="list-style-type: none"> • Fiscal variables. • Deterioration of the composition of public expenditure. 	Mauro (1995), Knack and Keefer (1995), Wei (1999) Tanzi and Davoodi (2002) Tanzi and Davoodi (1997, 2002)
<ul style="list-style-type: none"> • Reduction of productive investment and increase in unproductive investment. • An increase in paperwork. 	Mauro (1997, 2002), Tanzi and Davoodi (2001, 2002) and Gupta, (2001, 2002) Mauro (1997, 2002), Tanzi and Davoodi (2001, 2002) and Gupta, Mello and Sharan (2001, 2002)
<ul style="list-style-type: none"> • Reduced quality of foreign investment. • The generation of financial instability. 	Kaufmann and Wei (2000) Wei (2000) and Hellman, Jones and Kaufmann (2002).
Corruption affects the distribution of income.	Gelos and Wei (2002). Gupta, Davoodi and Alonso-Terme (2002).
Corruption erodes the legitimacy of the political system.	Center for Global Development (2004).
Corruption erodes the viability of the State.	Strange (1996); Rose-Ackerman (1999).
Corruption facilitates international crime.	Center for Global Development (2004).

Source: Authors' elaboration.

Existing evidence about the negative effects of corruption on economic development and the growing worldwide process of democratization in recent years has led to the majority of governments, including those in LAC, to express political will to tackle this problem. One

method has been through international treaties that propose a framework for institutional strengthening, which is guided by increasingly complete and ambitious standards of prevention. Likewise, various international organisms, bilateral agencies and development banks have listed the prevention and control of corruption amongst their active priorities and have formulated policy notes, strategies, and plans of action for the effective incorporation of measures to prevent corruption and foster transparency, both within these organizations themselves and throughout their respective countries. For example, the Asian Development Bank (ADB) approved the Second Governance and Anticorruption Action Plan (GACAP II) in 2006; the World Bank approved the strategy entitled “Strengthening the World Bank Group’s Engagement on Governance and Anticorruption;” and, in 2009, the IDB approved the PAACT.

With a view to implementing these standards at the local level, LAC countries have redoubled their efforts to reinforce their institutional frameworks. Measures have included the strengthening of the judicial and legislative powers, the establishment of independent monitoring bodies, and, in some cases, the formation and institutional strengthening of bureaus specialized in corruption prevention and monitoring. Within the framework of these efforts to foster transparency and prevent corruption at both the international community and country levels, one of the measures that has received greater attention in recent years is the promotion of access to information.

There has been an influx of new laws governing access to information in LAC countries in the last 10 years. Various countries in the region have sanctioned laws of this kind, such as Antigua and Barbuda, Colombia, Ecuador, Honduras, Jamaica, Mexico, Panama, Peru, the Dominican Republic, Trinidad and Tobago and, most recently, Chile, El Salvador, Guatemala, and Uruguay. Other countries, such as Brazil and Paraguay, still lack such laws, but are currently considering outline legislation, whereas countries such as Argentina and Bolivia have nationally-binding decrees that enable the public to gain access to certain information and/or possess legislations regulating the right to access to information at the subnational level.

This sudden increase in laws governing access to information originates not only in the recognition of its status as a fundamental right, but also of its role as an instrumental right, as a *sine qua non* requirement for the exercise of economic, cultural, and social rights in such diverse areas as health, the conduct of the legislative powers, gender equality, and corruption prevention and monitoring (Jagwanth, 2007).

Box 2. Access to Information as a Fundamental Right

The importance and application of access to information, understood as a fundamental right, can be identified in various areas, such as:

Democratic consolidation: access to the information that the government generates, acquires, obtains, or processes is indispensable if the citizen is to be given the necessary tools to make his or her participation in public affairs well-argued and relevant (Stiglitz, 1999). Likewise, the exercise of the right to access information has meant that actors traditionally excluded from the public policy dialogue have been brought on board.

Public management: the delivery and facilitation of access to public information influences the effectiveness of public administration management, given that the analysis of the same can provide feedback for the following aspects: i) the redesign of administrative processes; ii) cost reductions and acceleration of transaction times; and iii) improvement in the speed and quality of services provided for citizens.

Economic Growth: Feschbach (2004) points out that the availability of information allows investors and market regulators to assess each of the factors that might hamper market development. In a similar vein, Kurtzman et al. (2004) discuss the repercussions of “opacity” on a country’s GDP and conclude that the greater the degree of opacity, the higher the percentage of losses a country’s GDP per capita suffers.

For more details, see the appendix.

Source: Authors’ elaboration.

Access to Information and Corruption Prevention and Control

Corruption flourishes in the absence of clear rules and effective sanctions, when the establishment of “parallel business deals” with government employees, including the payment of bribes or influence peddling, becomes a profitable alternative and one with little chance of detection (Bettcher and Islam, 2009). Access to information has an inhibiting effect on corruption opportunities, given that it increases the chances of these parallel illegal business deals being discovered. Access to information as a fundamental right does not only bring cases of corruption to light, but it can also help to prevent them by creating stronger channels of participation, strengthening institutional capacity, and underscoring those vulnerabilities in the public and the private sectors that might create windows of opportunity for corrupt practices.

Transparency and easy access to information entail diverse positive impacts on society: i) corruption becomes riskier and less attractive; ii) better-trained personnel can be selected to occupy public positions; iii) the use of incentives to encourage honest behavior among civil servants becomes more efficient; and iv) confidence in the government's actions increases (Kolstad and Wiig, 2009). The potential for increased access to information as a tool for development therefore goes beyond a mere economic impulse or a reduction of possibilities for corruption, and becomes a key instrument for institutional strengthening (Roberts, 2002). The negative correlation between access to information and corruption takes on various characteristics according to the accountability process to which it refers. Within the framework of *horizontal accountability*, it is worth mentioning the administrative instruments and diverse institutional engineering options through which access to, and shared use of, information might enhance coordinated efforts to prevent corruption between diverse State powers.

Box 3. Information Sharing to Combat Corruption in Chile

In Chile, there is little coordination between the three principal agencies responsible for monitoring public administration: the *Contraloría General de la República* (General Audit Office of the Republic), the *Ministerio Público* (Public Ministry), and the *Consejo de Defensa del Estado* (Council for Defense of the State). This situation handicaps the fluidity and effectiveness of the fight against corruption. Likewise, it becomes difficult for citizens to gain access to timely and relevant information regarding corruption, investigation, and sanction processes underway in the public administration. In view of these problems, the AAF provides support for the technical cooperation project entitled **Shared Use of Information to Improve the Fight against Corruption in Chile** (CH-T1091). The project aims to: i) encourage the public administration monitoring agencies in Chile to effectively and opportunely share information regarding the investigations arising from lawsuits brought against cases of corruption in the public administration; ii) facilitate citizens' access to information held by the monitoring agencies regarding the progress of legal proceedings in cases of corruption, or the result of investigations into same; and iii) strengthen the technical capacities of the units specialized in investigating complaints about possible cases of corruption.

Source: IDB: Project CH-T1091.

Access to information enables the institutions that carry out horizontal accountability functions to do so more effectively. In their study on Mexico, López-Ayllón, and Haddou-Ruiz (2005) explain that the use of mechanisms to facilitate access to information and the guarantee of

an adequate flow of information among diverse actors strengthens horizontal accountability and reduces the risk of capture. Access to information allows monitoring agencies to investigate actions that are not generally visible to the public, and horizontal accountability thus becomes an important tool to share information, and serves as a base for those that subsequently carry out vertical and diagonal accountability (O'Donnell, 2004).

With regard to the process of *vertical accountability*, Rose-Ackerman (1999) points out that citizens can find out what governments are up to, and better regulate them, if they provide more transparent information about their actions. However, along with generating information, governments must also provide mechanisms to access the information, and put into practice the systems necessary for its diffusion. Through a study comprising 80 countries, DiRienzo et al. (2006) attempt to demonstrate this thesis through statistics and indicate that access to information, by providing citizens with the necessary knowledge of both public and private transactions, is inversely proportional to the level of corruption.

More recently, Barnebeck (2009) demonstrates that the increased access to information brought about by electronic government (e-government) between 1996 and -2006 has led to a decrease in corruption levels in 146 countries. Barnebeck understands e-government to be a process whereby the communication gap between citizen and government is bridged, in order for the former to gain access to information and available government services, which thereby enhances transparency and accountability. In a study applied to 122 countries, Relly and Sabharwal (2009) maintain that the perception of a government's transparency depends largely on a country's level of access to information, as well as the channels of participation existing therein. They indicate that the most important factors in those countries with greatest transparency and lowest corruption levels are e-government, freedom of the press, and significant levels of income.

Other typical vertical accountability mechanisms refer to the publication of the sources of financing and fulfillment of obligations during political electoral campaigns. This disclosure must provide voters and the public in general with readily accessible and understandable resources that allow them to discern the links among parties, candidates, or legislators and diverse interest groups. Vertical accountability mechanisms are also used within the framework of legislative management. Some well-known examples include providing access to information

systems that monitor special contributions made to legislators and the regulatory systems that govern conflicts of interest within the legislature.

Finally, although there is no clear consensus in the existing literature about whether it is a truly autonomous concept, *diagonal accountability* refers to the monitoring role given to civil society whenever oversight of civil servants is established at the institutional level. Access to information here fulfills a vital role, given that it enables, for example, social audits to be incorporated into the different phases of public budget drafting and implementation, or into public contracts and procurement processes (Goetz and Jenkins, 2001).

The following section analyzes different alternatives for using access to information as a tool for corruption prevention and control, with particular emphasis placed on targeted transparency.

TARGETED TRANSPARENCY AND ACCESS TO INFORMATION

A wide-ranging review of the initiatives currently underway in the LAC region, as well as interviews and discussions with experts in the field, affirms the coexistence of two strategic approaches to the promotion of access to information and its use for corruption prevention and control (IDB, 2008).¹ The first, and most widely spread in LAC, is related to the sanction and implementation of access to information laws (a general or comprehensive approach), whereas the second is linked to the design and implementation of systems and mechanisms in specific sectors or areas of intervention, independently of the existence of a general access to information law (sectoral or targeted approach).

¹ More information is available at: www.iadb.org/transparency

Box 4. Approaches to Access to Information

General or Comprehensive Approach	Targeted Approach
<ul style="list-style-type: none"> • Exclusive focus on the design and implementation of, and compliance with, access to information laws at the national level. • Long-term results, arising from a cultural change. • Based on the drafting of new legislation at the national level. • Requires an existing body of laws before it can be fully implemented. • Requires a coalition of various interest groups to generate sufficient political will. • The users do not perceive the goals of these laws to be of immediate or real benefit. • The results are more diffuse (cultural change) and long term. 	<ul style="list-style-type: none"> • Focus on mechanisms, systems, or procedures that enable access to information in specific areas or sectors of government. • Results over the short or medium terms, with specific impact on critical sectors. • Build upon existing legislation. • Easier to identify and benefiting from favorable political opportunities. • Does not require coalitions of interest groups to access mechanisms or systems to be implemented. • Much easier for users to perceive the real benefits of implementing the policies or mechanisms. • Greater flexibility for results measurement.

. Source: Authors' elaboration

The General or Comprehensive Approach

Initiatives focusing on the sanction and implementation of, and compliance with, transparency and access to information laws can be identified with the general or comprehensive approach (Piotrowski and Rosenbloom, 2002). The principal aim is to incorporate internationally recognized standards and principles into a country's legal legislation. These principles include, among others, maximum openness in information access, narrowly drawn exceptions that limit access to information in special cases, pro-activity by state agencies in publishing information before being required to do so, and effective implementation of the law, as well as monitoring of compliance.

One of the most important benefits of consolidating the right of access to information within a country's legal regime is that information users can count on protection from the judicial authorities that exist to defend this right, which persists beyond the term of the incumbent government. Amongst the jurisdictions available to defend this right, judicial power is the fundamental actor. However, a key role is also played by the offices of the ombudsman and,

in some cases, agencies specialized in monitoring compliance with these laws, such as Mexico's Instituto Federal de Acceso a la Información Pública (IFAI) (Federal Institute for Access to Public Information) or Chile's Consejo para la Transparencia (Transparency Council).

According to the literature available on this topic, the adoption of access to information laws is founded on the obligation of governments to take responsibility for their actions, as well as the need to increase citizens' involvement in the affairs of government that directly concern them (Sebina, 2006). The results of implementation of access to information laws differ widely and are the cause of cultural changes (Neuman, 2009). Moreover, the general approach promotes a change in the culture of public service, which thereby moves from institutional secrecy towards an attitude of openness and transparency (Michener, 2009).

In the last 15 years, LAC countries have made significant progress in promoting transparency and access to information, above all with regard to creating standards of protection and application of this right, which have been enshrined in conventions and principles of a regional scope.

Box 5. Guidelines for Access to Information at the Regional Level

- American Declaration of the Rights and Duties of Man (Bogotá, 1948).
- American Convention on Human Rights (San José de Costa Rica, 22 November 1969).
- Principles of the Declaration of Chapultepec (Mexico, DF, 11 March 1994).
- The Johannesburg Principles (South Africa, 1 October 1996).
- Inter-American Declaration of the Principles on Freedom of Expression (2000).
- The Lima Principles (Lima, 16 November 2000).
- Declaration of Nuevo León (Monterrey, Nuevo León, Mexico 2004).
- Principles on the Right to Access to Information (Brazil, 7 August 2008).
- OAS Model Inter-American Law on Access to Public Information (June 2010)

Source: Authors' elaboration.

The initial impulse in reinforcing these standards in LAC countries was given by the Declaration of Chapultepec in 1994. This declaration explicitly recognized that this right implies the possibility of gaining access to information held by public authorities. Amongst other guidelines and principles also relevant to the LAC region are the Johannesburg Principles, the Lima Principles, and the Inter-American Declaration of Principles on Freedom of Expression.

The General Assembly of the Organization of American States (OAS) has monitored the implementation of these standards and principles at the regional level and, since 2003, has adopted annual resolutions regarding access to public information. Similarly, in August 2008 the Inter-American Commission of Human Rights adopted a set of access to information principles that complement the general guidelines concerning the application of this right, adding further ideas about the exceptions and appeals regime. Finally, in June 2010, the OAS launched its first Model Inter-American Law on Access to Public Information.

Even though LAC countries have enacted a large number of laws governing transparency and access to information in recent years (Ackerman, 2006), implementation of these laws in general still presents serious challenges. According to research carried out by the Open Society Institute (2006), based on a sample of 14 representative countries from around the world, the demands for information made in European countries were satisfied in an estimated 42 percent of cases, whereas this figure fell to 28 percent in Latin America and reached only 13 percent in Africa.

The most common problems facing the implementation of access to information initiatives via the general or comprehensive approach in the LAC region are related to legislative overlap, the negligible respect shown by civil servants for their obligations regarding information dissemination, the culture of secrecy, and civil society's scant interest and/or knowledge about how to demand and/or use information (Mendel, 2009).

Michener (2009) argues that one of the causes of the ineffectiveness of these laws in the region is the lack of procedural guarantees, established sanctions, and clear exceptions, which despite being defined by regional agencies, are not being backed up by legislation in many LAC countries.

According to Mendel (2009), in the LAC region the exceptions, or in some cases the laws governing confidentiality, predominate over the access to information laws. This happens in Honduras, where the exceptions go beyond the access to information law, including in cases such as humanitarian aid in which large sums of money change hands (for example, in the aftermath of Hurricane Mitch in 1998). In Nicaragua the exceptions also prevail over the access to information legislation, whereas in Panama and the Dominican Republic the relationship between access to information and confidentiality laws is unclear, given that there are other laws that prevail in certain areas, such as in the banking sector or regarding tax evasion.

On the other hand, effective implementation of access to information laws requires an important effort with regard to infrastructure, particularly in the field of document management and in information storage and retrieval systems. In the LAC region there are disparate limitations on capacity in this respect, both between public entities and between different layers of government. Information quality is another aspect that has not yet been resolved by the sanction of these laws. Although many of them indicate that information quality is a prerequisite to be considered by both public and private entities that manage and provide public information, there is no evidence showing that the sanction and implementation of the aforesaid laws has brought about a generalized improvement in the quality of information offered to citizens.

Access to information initiatives based on the general or comprehensive approach demand that at least two aspects are considered during the legislation design stage. The first has to do with the regulatory agency responsible for monitoring compliance with the law. This agency might form part of the existing judicial system or, as in various countries, be an independent entity set up with the express purpose of ensuring that the law is applied effectively (for example, the IFAI in Mexico or the Transparency Council in Chile). The second aspect is the establishment of exceptions, which must be clearly demarcated and defined in accordance with the public interest that is being protected.

In order for the implementation of access to information laws to be effective, certain requirements must be in place. First, society must be aware of the law and its enactment. Although the commitment of the citizens is important within the context of implementation, experience also demonstrates that it is vital that the legislation design stage includes consultation and validation processes among civil servants, governments, and civil society representatives. This happened, for example, during the design process of the access to information law in Mexico, wherein one of the principal actors was the Grupo Oaxaca, representing the communications media, academia, and nongovernmental organizations (NGOs), which participated alongside political parties of both the government and the opposition (Escobedo, 2003).

If the citizens are ignorant of the law, they cannot efficiently exercise their rights. The role of the communications media therefore becomes fundamental for disseminating information and instructing all citizens about how to exercise this right. Nevertheless, on top of mere

awareness of a right's existence, it is important that information users can clearly identify the diverse benefits that exercising the right brings.

As these initiatives that focus on the sanction and implementation of access to information laws rely on the political will of various actors and the convergence of interest groups with distinct demands and needs, strong institutions are needed to ensure that access to information laws are effective, applicable, and reliable (Michener, 2009). Weaknesses in institutional capacity and shortcomings in the regulatory frameworks that govern access to information in sectors such as the financial markets limit the effectiveness of, and general compliance with, this kind of law (Levitsky and Murrillo, 2007).

The Sectoral Approach and Targeted Transparency

The sectoral approach can be understood as the promotion of access to information through the design and implementation of access to information systems and mechanisms in specific areas or sectors of intervention, such as education; justice; public budget drafting; execution and monitoring; the financing of electoral campaigns; or the extractive industries, independently of the existence of a general legislative framework governing access to information.

One of the principal characteristics of this approach is the recognition that each sector has its own weaknesses and ways of functioning, which determine the contents and forms of intervention needed to promote access to information. In other words, each particular sector's value chain must be taken into consideration. Sector-based initiatives can be generally put into practice without wide coalitions of interest groups or political parties. Instead, this approach proposes taking advantage of the existing legislative framework and the convergence of the relevant actors in each sector.

One crucial aspect for the promotion of access to information as a tool to prevent and control corruption from a sectoral approach is attention to the concept of targeted transparency. The principal characteristic of TT policies is the use of publicly required disclosure of specific information in a standardized format to achieve a clear public policy purpose. In that sense, they attempt to translate the purpose of general policy, taking into account the best way to meet the needs for transparency based on the audience via simple and efficient mechanisms that enable access to and use of information (Fung, Graham and Weil, 2007).

Box 6. Targeted Transparency Policy Design

Fung, Graham and Weil (2007) propose the following steps for TT policy design:

- (i) Identification of a clear policy goal. This goal might be, for example, the prevention of cases of corruption.
- (ii) Identification and study of the functioning and organigram of the entity or combination of entities with access to information shortcomings, and also of the intermediary groups that perform a role in the demand and distribution of information.
- (iii) Definition of policy scope, which generally involves political negotiations and decision making to establish their full extent.
- (iv) Definition of the information structure and vehicle: the information structure requires both a qualitative and a quantitative specification, and the frequency with which the information is to be divulged to the public must be determined, as well as the medium or vehicle through which it will be transmitted (for example, via Internet).
- (v) The capacity to enforce compliance with the policies: the control and monitoring agencies responsible for compliance with access to information policies must be identified.

Source: Fung, Graham and Weil (2007).

A TT policy begins with understanding the users' needs, priorities, and capacities, so much so that TT not only increases the flow or quantity of information, but also empowers users to take decisions in an informed manner. The usefulness of TT policies for corruption prevention and control is best illustrated by some examples of information management in areas such as the public budget, health, and the extractive industries. These examples are accompanied by summaries of the interventions supported by the IDB through the AAF.

Access to Information and TT in the Public Budget

The process by which a country drafts, executes and renders accountability for its budget involves multiple actors, some of whom might be tempted to influence the allocation of public money in order to benefit their own private interests. In this sense, the budgetary process has certain characteristics that offer opportunities for corruption at each one of the aforementioned stages (Dorotinsky and Pradhan, 2006). At the budget drafting stage, when the monitoring

system is weak and there is a lack of transparency, there are opportunities for higher-ranking civil servants and well-connected politicians to capture resources and/or to bestow favorable treatment on certain sectors, economic groups, or geographical areas, based on political affiliations. At this point, therefore, corruption can affect the very composition of public expenditure, with potentially negative consequences for both public investment quality and for social services (Tanzi and Davoodi, 1997).

Budget execution covers a wide range of transactions carried out by diverse public agencies in the course of their normal duties, which include the capacity of the Treasury, procurement, and revenue management. At this stage, when public resources are changing hands, the greatest opportunities for corruption arise, for example by way of extraordinary payments to certain suppliers or by favoritism in the public procurement processes, direct capture, or discriminatory treatment within the tax collection regime. Budgetary accounting and accountability represent the final stage of the budget process and are both fundamental for guaranteeing adequate control of public finances. Imprecision, the lack of technical capacity, and the presence of incomplete information in public registries and financial reports complicate accounting and the formulation of budgetary reports, which can also open up opportunities for corruption (Dorotinsky and Pradhan, 2006).

There are several types of interventions, based on TT policies, aimed at generating more complete and precise information regarding the state of public finances. These interventions can help reduce the probabilities of corruption in the budget process, thus yielding positive effects for public expenditure control and efficiency. During budget formulation, transparency with respect to the criteria of public spending allocation enables public agencies, local government entities, enterprises, and the final users themselves to monitor the real use of public funds and thereby reduce corruption opportunities (Reinikka and Svenson, 2004).

During the budgetary execution phase, TT principles can be applied to the transactions carried out by diverse agencies (including in procurement, revenue collection and internal cash expenditure) in order to improve accountability. Greater transparency in these transactions allows both the internal and the external monitoring agencies to identify cases of abuse of public resources, report on risks and make tools available that can improve public financial management.

The so-called Fiscal Transparency Portals are systems that are becoming more common in the LAC region. Countries such as Bolivia, Chile, Colombia, Guatemala, and Peru, among others, have been implementing these systems for some time with the support of institutions such as the IDB and the World Bank. The Fiscal Transparency Portals are used as vehicles for disseminating fiscal and budgetary data as well as information on investment projects. The underlying idea is to provide pertinent information to the interested parties at different stages of the budgetary process, with a view to strengthening public resource management and accountability.

Box 7. Transparency and Fiscal Responsibility in Belize

Since 2009, and with the help of the IDB, Belize has been implementing budgetary control tools based on the principles of TT. The technical cooperation project Fortalecimiento de la Transparencia y Responsabilidad Fiscal en Belice (Strengthening Transparency and Fiscal responsibility in Belize) aims to strengthen the institutional capacity of the government in order to promote transparency in the conduct of fiscal policy. One of the main activities of this initiative has been the technical support for the preparation and implementation of a Fiscal Responsibility Framework, a legal instrument that seeks to underpin the conduct of fiscal policy based on the criteria of transparency, predictability, and access to information. Furthermore, the adoption of this framework has led to the creation of a transparency portal, which is constantly updated by the country's Ministry of Finances.

Source: IDB (2008).

Despite the fact that high quality information is indispensable not only for accountability but also for providing the general public with a tool for citizen participation in the budgetary process, many of these portals lack clear and relevant information, which means that users are still restricted in their knowledge of the budget. Data provided by the Índice Latinoamericano de Transparencia Presupuestaria (Latin American Index of Budgetary Transparency) for some countries such as Colombia, Guatemala, Mexico, and Peru

show stagnation and, in some cases, a backwards step in the timeliness and quality of the budgetary information provided during the period 2003 to 2009.

Finally, TT policies can support fiscal responsibility and transparency in two ways: first, by disseminating the registers and reports that diverse governmental agencies provide for the central budget offices and for the ministries of finance. Second, the policies support via the widest possible publication of detailed and precise data that is also comprehensible to the general

public, the monitoring agencies, and the press, thereby enabling ex-post oversight to be conducted that exposes cases of corruption or inefficiency in public financial management, as well as providing incentives to improve the future use of public resources.

Access to Information and TT in the Health Sector

The health sector is one of the most vulnerable to corruption, not only because a wide variety of both public and private actors participate therein, which means that the value chain is highly complex and diverse, but also because a vast number of inelastic goods are handled in an environment in which there are great information asymmetries regarding budgetary allocations and service provision quality (Savedoff and Hussmann, 2006). These characteristics make accountability more complicated and create weaknesses that can be exploited by both private and public sector representatives.

There are opportunities for corruption in practically all of the transactions that have to do with a country's health service provision. At the micro level (for example, the doctor-patient relationship) the patients can be charged for health care services that should in theory be free. It is also common for providers to administer services and/or prescribe medicines, merely with the aim of obtaining some personal gain (Vian, 2006a). The nature of medical attention is such that there is often no way of looking for an improved service or better price, which gives the service provider a monopoly power in the majority of transactions.

Diverse opportunities for corruption occur in hospital management. The most frequent cases arise in procurement processes, internal accounting, and in the payment of bribes to either avoid and/or influence government regulation (Vian, Savedoff, and Mathisen, 2010). Likewise, the payment systems and the transactions carried out between health insurance underwriters (both public and private) are complex and open up many opportunities for corruption. In the pharmaceutical value chain, there is a risk of prescription drugs being diverted for sale in other "alternative" markets. Multinational actors are generally found to be involved in transactions of this kind.

Box 8. Transparency in Guatemala's Health Sector

The IDB has supported an initiative in Guatemala to assist the Ministerio de Salud Pública y Asistencia Social (Ministry of Public Health and Social Assistance), specifically with the aim of optimizing the procurement process. This initiative improved the employee contribution methods and the planning process for contracts and procurement at the Hospital Infantil de Infectología y Rehabilitación (Childrens' Hospital for Infectious Diseases and Rehabilitation), and thereby enhanced transparency and health service provision management, with concrete results that affect expenditure quality.

Source: Johnson et al. (2010.)

According to Nordberg (2008), the propensity towards acts of corruption in the public health care system is even higher in developing countries than in the developed world, which is a consequence of the fragility of regulatory frameworks and high decentralization of certain processes, such as: i) service provision by medical personnel; ii) the selection and management of human resources; iii) the selection and use of medicines and equipment; iv) the distribution and storage of drugs; and v) the

budget and price setting. In the majority of these examples, vulnerabilities are always accompanied by information asymmetries that facilitate the corrupt act. TT polices therefore become key tools for preventing and controlling corruption. For example, there are diverse initiatives within the setting of the doctor-patient transaction that propose the publication and dissemination of information to clients about the official tariffs for various services, and concerning policies designed to counter bribery and informal payments, whenever they arise (Miller and Vian, 2010). Likewise, there are also mechanisms for generating feedback from patients, such as evaluation reports containing information on the quality of the service provided, which might become useful for hospital managers engaged in reforms aimed at enhancing transparency. On the other hand, information systems that enable data gathering and analysis of the fees charged to users, according to the kind of service provided, are vital for identifying cases in which excessive fees have been charged (Vian, 2006a).

In all the examples mentioned, the provision of targeted, user-centered information can enhance transparency, in such a way that the final users, including the control agencies, are empowered to take decisions that favor efficiency in service delivery and reduce opportunities for corruption.

With respect to hospital management, investment in information and communications technology (ICT) systems can help to produce better information regarding the services, revenues, and accounts of every agency within the public sector, which represents a critical input for internal and external monitoring. There is evidence to suggest that, even within a context of budgetary precariousness, important improvements can be made in hospital internal management and accounting by making relatively minor investments in new technology (Musau and Vian, 2010). In the field of procurement for example, TT initiatives in hospitals have managed to reduce opportunities for corruption by identifying discrepancies between the prices paid by various entities within the same jurisdiction. Similar strategies have been applied to the system of buying pharmaceuticals on the international market (Savedoff, 2010).

Finally, when the requirements and standards of transparency are applied to medical insurance systems, these can be encouraged to improve their management and effectiveness. They can also provide key information for accountability to both internal and external auditors, governments, and public entities at the local level, as well as to civil society organizations (CSOs) (Vian, 2010).

Access to Information and TT in the Extractive Industries

The extractive industries (gas, petroleum, and mining) have characteristics that increase the opportunities for corruption and hinder accountability processes. These characteristics include the enormous scale of investments and revenue flows; the existence of natural monopolies, especially in transport and exportation; and, finally, the technical complexity of the information managed by the actors in the sector. It is highly unlikely that the general public and the CSOs, or even the civil servants and monitoring agencies, can completely understand the technical, legal, and administrative characteristics of the processes that occur in these industries (McPherson and MacSerraigh, 2007).

At the same time, there are vulnerabilities at diverse points of the sector value chain, wherein both public and private actors participate (Al-Kasim, Søreide, and Williams, 2010). Corruption can infiltrate the sector at the policy design level, for example in the approval of regulations or tax regimes that serve private interests; during the exploration process, with regard to the concession of permits and monitoring of exploration activities; in compliance with environmental regulations; and especially in the process of rewarding contracts. During the

production phase, there are probabilities of large-scale corruption, for example by manipulating data regarding volumes of production. There are also opportunities for corruption in transport infrastructure management and, primarily, in the illegal practice of differential price control (McPherson and MacSerraigh, 2007).

Box 9. Transparency in the Extractive Industries in Ecuador

The extractive industries in Ecuador are subject to the Ley Orgánica de Transparencia y Acceso a la Información Pública (LOTAIP) (Organic Law on Transparency and Access to Public Information) which demands that all entities involved in the sector publish information about their operations and finances. However, although information about the sector is in many cases placed at the disposal of the public, it is not generally presented in such a form as to facilitate its analysis and interpretation, which thereby makes accountability impossible. Since 2009, the IDB has supported the design and implementation of a series of transparency standards that seeks to ensure that the information diffused is useful for all pertinent actors, including civil society organizations, citizens, the private sector, and government agencies. The principal players from both the private and the public sectors, such as the oil company REPSOL-YPF and the Ministerio de Recursos Naturales no Renovables (Ministry of Nonrenewable Resources) took part in the process of creating and validating these standards. The executing agency for this initiative is the Grupo Faro, an Ecuadorian civil society organization.

Source: Vieyra and Baena, 2010.

One important initiative aimed at improving transparency in this field is the Extractive Industries Transparency Initiative (EITI), through which participating countries and private enterprises voluntarily commit to publishing information and statistics about the revenues resulting from activities in these industries, which is thereafter verified by an independent audit. The information gathered within the framework of the EITI has been useful for diverse actors, especially for: i) improving the countries' institutional capacity for monitoring their extractive industry sectors; ii) helping private enterprises in risk management and decision making about investments, based on greater information; and iii) allowing civil society and the communications media to gain better awareness and exercise improved monitoring of the sector.

In spite of this, the EITI has been criticized for its focus on revenues rather than on expenditures and for concentrating on data at the macroeconomic level, instead of desegregating the information according to revenue levels by district or municipality, which might offer greater

incentives for the individuals who make use of the information (Kolstad and Wiig, 2009). On the other hand, the central role played by procurement must also be recognized. Greater transparency in purchases could provide useful information for the public agencies responsible for monitoring and supervising the sector (Alba, 2008).

Various initiatives aimed at enhancing transparency in the extractive industries in LAC countries are now recognizing the importance of monitoring the social and environmental impacts that these industries generate. They also understand that obtaining information about these matters is a key aspect for local and municipal governments, as well as for citizens.

CONCLUSIONS

Access to information can not only bring cases of corruption to light, but it can also be a fundamental tool for its prevention and control, given that it encourages the creation of channels of participation and helps to identify deficiencies in both the public and the private sectors that can become windows of opportunity for corrupt practices.

The increasing proliferation of access to information laws in the region is a response to the recognition of its importance, and to concerted efforts by governments, the private sector, and the academic world in the last 10 to 15 years. These laws are key elements for enabling information users to enjoy protection from the judiciary and other agencies that exist to defend the right to information. However, the generalized enactment of access to information legislation in the LAC region also presents challenges during its implementation phase. The lack of procedural guarantees, effective enforcement systems, and clearly regulated exceptions hampers the effective implementation of these laws. Other barriers include the culture of secrecy that holds sway in the public sectors of numerous LAC countries, as well as, in many cases, structural limitations in information storage systems and data management processes.

Nevertheless, experience suggests that although information provision by the public sector and citizen access to information are necessary conditions, they are in themselves insufficient to guarantee greater transparency. In effect, civil society must have the capacity, and be given the necessary incentives, to denounce irregularities. In horizontal accountability processes, the administrative and monitoring agencies should be empowered to carry out their functions. These processes, in turn, should be framed according to the dynamics encountered in

each sector, thereby recognizing its peculiarities and the play of interests and incentives among the stakeholders involved.

The design and implementation of access to information systems or mechanisms in areas or sectors of specific intervention allows for feasible solutions to most of the aforementioned challenges. Based on the concept of TT, access to information initiatives designed and implemented according to a sectoral approach enable the understanding of transparency dynamics in specific areas of public management and the incentives of key stakeholders. This in turn allows favorable political opportunities to be identified and taken advantage of in order to strengthen and improve the management process.

Whilst the design, implementation, and reform of access to information laws generally calls for the convergence of diverse interest groups and political parties, sectoral initiatives are structured according to the existing regulatory frameworks, taking into account the interests and capacities of specific interest groups and information users. In the health sector, for example, the employment of reference price lists for the procurement of medicines does not only inhibit corrupt practices, but it can also help to reduce costs for patients, given that it reinforces transparency in terms of competition.

On the other hand, the implementation of access to information mechanisms in areas or sectors of key interest for a country's economic development, such as in the extractive industries, public infrastructure construction, or the drafting and execution of the public budget enables the practical compromises that allow this right to be exercised. This can lead to policy reforms that go beyond the sectors in which the aforesaid mechanisms were originally implanted, thereby strengthening the institutional capacities that enable the implementation of access to information laws at a general level, such as the modernization of public archives, at the national and the subnational levels; the mechanisms to share information between public sector and monitoring agencies; and the definition, validation, and implementation of transparency standards in natural resource management, among other examples.

The initiatives that seek to use access to information as a means of preventing and controlling corruption must therefore search for differentiated and flexible solutions, targeting key areas of public resource management and in line with existing legal frameworks. Likewise, they must consider both the effectiveness and the quality of the access to public information channels or mechanisms, as well as the capacities and interests of users to information to gain

access to and utilize said information. The attention to these aspects, which represent the supply and demand of information, will contribute to the design of mechanisms that enable the great potential of access to information for institutionalizing integrity, transparency, and participation in public management.

APPENDIX: ACCESS TO INFORMATION AS AN INSTRUMENTAL RIGHT

Access to Information and Democratic Consolidation

The exercise of the right to access to information is based on the principle that as governments are representatives of the people who have voted for them, their actions must therefore be open to public scrutiny (Abramovich and Courtis, 2000). Participation in the affairs of public life, including sectors as diverse as education, health, and extractive industries, is a fundamental aspect for strengthening the legitimacy of government actions, and contributes to the maintenance of basic democratic principles (Article 19 and ADC, 2007). Access to the information that the government creates, acquires, obtains, or processes is indispensable if citizens are to be empowered with the necessary tools to make their participation in public affairs well grounded and relevant (Stiglitz, 1999). Likewise, the exercise of the right to information has, in different contexts, enabled traditionally excluded actors to participate in the debate around public policy.

Box A.1. Access to Information as an Instrument of Democratic Participation

Following the discovery of large oil reserves in Ecuador, in 1967, the national authorities reached exploitation agreements via concessions made to transnational corporations. According to the Organization of American States' Inter-American Commission of Human Rights, the indigenous populations that were settled in the vicinity of these wells were not a part of the negotiations, nor were they informed of the possible negative consequences that exploitation of the oil reserves could have on their health.

In 1990, the first reports became public concerning water contamination, which directly affected the health, nutrition, and the physical and cultural survival of more than half a million indigenous people in the eastern region of the country. In 1997, a group of specialists filed a lawsuit, in the name of affected indigenous groups, against the State and Texaco in the United States, at the Inter-American Court of Human Rights (IACHPR), alleging flagrant violations of the right to life, health, and a clean environment, and of the right to participate in democratic processes. The IACHPR decided on 24 April 1997 that "access to information is a prerequisite for public participation in decision making, so that individuals can closely monitor and respond to the actions of both the private and the public sector." This case had wide-reaching consequences in Ecuador, not just because it facilitated the diffusion of information about what was happening in the Ecuadorian jungle, but also because this information provided the indigenous communities with the necessary tools to demand participation in the central government decision making process about issues that directly affected their survival, thereby reinforcing the principle of democratic participation.

Source: IACHR (1997) and Article 19 (2007).

Access to Information and Efficiency in Public Management

Delivery and facilitation of access to information is a central aspect of governmental effectiveness. The analysis of the public sector performance can facilitate, among other aspects: i) the redesign of administrative procedures; ii) a reduction in costs and acceleration in transaction times; and iii) an improvement in the speed and quality of public services.

In this sense, putting into practice tools that promote access to information does not just benefit the citizens and the private sector, who are normally considered the primary users of public information, but also the civil servants of government administration, of the judicial sector, and of the monitoring agencies, given that these are also primary users of information gathered by the public sector entities. They can use this information to identify vulnerabilities in their own management mechanisms and/or monitor specific initiatives and programs.

The availability of the Internet has led to a technological transformation that has expanded the limits of what administrations can now achieve in terms of transparency. Governments, as well as the private sector, can rely on instruments to gather previously unavailable data, and analyze and use it for improving the decision making process.

The introduction of information and communications technology (ICT), however, does not by itself imply new forms of working or managerial organization. Public information can offer the necessary conditions for enhancing public administration efficiency and effectiveness, but the scope and impact of the new technologies should be defined before they are implemented. In this sense, it is recommendable to avoid mechanization or automatization of administrative tasks without prior identification of the objectives and information needs of the data users, or without taking into consideration the possible normative obstacles that might interfere in the fluidity of the reform process.

Box A.2. SIGOB

The Sistema de Gestión y Seguimiento a las Metas del Gobierno (SIGOB) (Capacity Building Management for Democratic Governance) is a system implemented by the Colombian Presidency of the Republic that seeks to strengthen central government management capacity. SIGOB enables the Presidency to control, manage, and monitor its priority interests. It also serves as a tool to provide access to information about decision making in government, and in each one of its sectors and secretariats. SIGOB consists of various modules that complement and support the government management work plans, such as:

- Monitoring the tasks set out in the Consejos Comunales de Gobierno (Government Communal Councils).
- Monitoring the presidential instructions issued in sessions of the Council of Ministers.
- Monitoring of diverse communications media by the Oficina de Prensa de la Presidencia (Press Office of the Presidency) (Sistema de Noticias en Línea) (SNOL) (Online News System).
- Management and monitoring of the presidential goals in each sector.

All citizens can consult the updated version of the system online, which has information about more than 300 government plans of action, controlled by over 600 indicators. For further information about SIGOB see <https://www.sigob.gov.co>.

Source: Alta Consejería Presidencial (Presidential High Council), Colombia.

One of the lessons learned from the implementation of access to information systems in public administration in Latin America and the Caribbean is that every system must correspond to the organizational structure of its pertinent sector, so that the processes that affect implementation of the new instruments can be identified. In this sense, a wider process of rationalization and simplification of bureaucratic and administrative tasks; the mapping of information flows and decision making processes; as well as training for civil servants in the use and management of ICT should precede the design and implementation of such tools (Rosas, 2005).

Access to Information and Economic Development

Studying the implications of transparency for a country's economic development is not a recent phenomenon. During the mid-1990s, Mauro (1995) concluded that an increase in the standard deviation of transparency would signify a 5 percent increase in investment and a 0.5 percent increase in annual GDP. Amartya Sen (1999) identifies the existence of a correlation between

hunger, press freedom, and governmental openness or transparency in certain countries. Bellver and Kaufman (2005) take the argument even further, and, on the basis of a study of 194 countries, demonstrate that transparency is associated with the best socioeconomic and human development indicators, as well as with greater competitiveness.

Stiglitz (2002), in turn, states that information asymmetries cause market imbalances and, subsequently, stagnation in economic development, given that they impede the detection of market failures and the reduction of macroeconomic fluctuations. In a similar vein, Feschbach (2004) points out that if the risks of investing in a country cannot be clearly determined; it is difficult for the investment to go where it is really needed. The availability of information helps to minimize these risks, and allows potential investors and market regulators to evaluate each one of the factors that might place obstacles in the way of market development.

Similarly, Kurtzman et al. (2004), argue that information asymmetries have adverse effects on investment, on costs, and on the availability of capital. Using this hypothesis, they study the repercussion of “opacity” on a country’s GDP, and conclude that GDP per capita is lower in countries with higher levels of opacity, whereas for richer countries the reverse is true.

Box A.3. Opacity Index

The opacity index, developed by the Milken Institute, shows the extent to which transparent practices, which are widely accepted in the capital investment markets as a result of ethical, political, and cultural aspects that influence company behavior at the global level, are lacking.

This index is based on five variables: i) corruption, ii) the legal system and juridical security, iii) government fiscal and macroeconomic policies, iv) accounting standards and practices (including corporative governance and access to information), and v) the regulatory system.

The result reveals a strong correlation between high opacity levels and low levels of investment and growth in the markets, which lead to a risk and return expressed in an interest rate. Therefore, for example, if Mexico had the same transparency levels as the United States, its GDP per capita would increase from an annual USD 20,000 to between USD 28,000 and 34,000 per year.

Source: Milken Institute (2009).

There are various access to information initiatives that target the private sector. An initiative conducted in 2006 in Argentina by the Asociación por los Derechos Civiles (ADC) (Civil Rights Association) with the support of the British Embassy was aimed at convincing

private sector enterprises of the benefits of access to information laws, so that they could improve decision making and became the promoters of this legislation at the national level. In a similar vein, in 2005, the IFAI signed an agreement with the Confederación Patronal de la República Mexicana (Coparmex) (Mexican Employers' Association). In this agreement, entrepreneurs provide support that enables citizens to use the State-wide centers of Coparmex's infrastructure for demanding access to public information and making appeals for review through the IFAI, as well as for fostering the culture of transparency via the Índice Estatal Coparmex (Coparmex State Index) concerning the rational use of resources. Finally, Transparency International (TI) has been a pioneer in promoting private sector transparency. One of the initiatives worth mentioning is the creation and periodical update of the so-called Business Principles for Countering Bribery, the aim of which is to convince companies to join campaigns of corporate awareness-raising about the risks involved in such a practice, and to encourage them to understand the benefits of transparent game rules and to think of possible incentives to stimulate participation by diverse actors in the sector.

Access to information systems and tools can effectively help to capitalize on the positive relationship that exists between transparency and economic development. When information asymmetries are reduced through access to information, uncertainty also decreases and, thereby, investment is stimulated. Likewise, when citizens and the private sector possess information regarding the economic situation, they have more chance of maximizing their earnings and minimizing the risks of investment, which are important aspects for balanced markets and a country's economic development (Stiglitz, 2002).

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