THE
CARTER CENTER

African Regional
Conference on
the Right of Access
to Information

February 7–9, 2010

# Working Group Guidelines & Descriptions

## Objectives

The goal of each working group is to provide space for in-depth discussions on a specific issue critical for the advancement of the right of access to information and to allow for the sharing of experiences across the region. Together, each group will identify the challenges and consider potential solutions, ultimately agreeing upon a series of findings and action points that will later culminate in the *African Regional Findings and Plan of Action*, an appendix to the *Atlanta Declaration and Plan of Action for the Advancement of the Right of Access to Information*.

## Methodology

The second day of the conference, Monday, February 8th, will be dedicated to working groups. An expert facilitator and rapporteur have been assigned to each working group to assist in chairing and recording the discussions. The working groups will comprise participants from the various stakeholder groups and different countries, encouraging more vibrant and strategic discussions. The morning and early afternoon of this day will be dedicated to open discussion guided by questions provided in the working group concept notes and the experience and interests of the participants. During the last part of the day, the working groups will concretize the discussion, striving to reach consensus on a set of findings and action points in light of the African region's realities.

Each working group will be equipped with four Power Point slide templates on which it will capture the following:

1. the issue statement
2. the groups main discussion/considerations
3. the findings
4. the action points

On Tuesday, February 9th, utilizing the power point slides, the facilitator of each working group will present the results in plenary session to the conference participants for discussion. From the hard work and discussions of each group, the presented slides, and the final plenary discussion, we will craft the *African Regional Findings and Plan of Action*, which along with the *Americas Regional Findings and Plan of Action* will be annexed to the more global 2008 *Atlanta Declaration and Plan of Action for the Advancement of the Right of Access to Information*.

In collaboration with:

AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS
COMMISSION AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES

ODAC
Open Democracy Advice Centre

**Group Assignment**

Designation to each working group was carefully decided with consideration to the following factors:

1.  Working group preferences
2.  Strong blend of various stakeholders
3.  Working languages
4.  Country diversity
5.  Gender

For this reason, it is imperative that all members of each group remain within their assigned working group. Please do not change your working group for any reason. We apologize in advance if we were not able to assign you to one of your top choices.

**Working Group Descriptions**

Below is a brief summary of the working group topics. These may be further adapted/focused based on the direction of the facilitator and the evolution of participant discussions.

**Group One:** *Politics and Economy: shifting the balance toward openness*

This group will discuss the political context and conditions ("politics of policy") under which a transparency regime thrives, considering the incentives and disincentives to establishing and implementing transparency regimes in Africa. Discussion might include the various political contexts and processes under which access to information laws have succeeded or failed, identifying political obstacles (such as political will, fear, cost etc.), and considering viable recommendations for overcoming these challenges. Further, this group will touch on the particular economic burden of transparency on developing nations and consider responses to minimize the burden.

**Group Two:** *Structural and Cultural Context: creating an environment for transparency*

This group will examine the necessary framework (legal and institutional) and structural environment for a transparency regime to flourish , such as administrative capacity, judicial independence, a free and capacitated media, and legislative or independent oversight mechanisms, and basic record-keeping, technology and resources. Questions may be raised as to the viability of an access to information law in the face of these deficits, and whether other mechanisms for advancing the right should be explored. Additionally, this group will discuss the cultural factors that affect the right to information, including the culture of secrecy, tradition of not asking questions and fear of reprisals.

**Group Three:** *Non-State and Multi-lateral Actors: examining roles and responsibilities*

Group three will focus on the role and responsibility of the international and regional development banks, private sector and other non-state actors with regard to the right of access to information. Participants may consider the arguments for and against extending the reach of the right to information requirements, and identify under what conditions, if any, non-state actors should be covered by access to information regulations and how this will work in practice. This group also will contemplate ways to positively motivate the engagement of non-state actors, including private

companies that can encourage governments to pass laws and can support effective implementation and may discuss the effects of the emergent multi-stakeholder forum initiatives.

## Group Four:  *Regional Norm-building: considering regional instruments and standards*

This group will consider the necessity of a regional convention or treaty to establish norms on the right of access to information in Africa and the potential mechanisms for monitoring. The group will explore such issues as whether it is the role of the regional bodies to set the standards, whether the time and effort would be worth the potential benefits, and how to insure implementation of existing Declarations and any future regional instruments. Other regional instruments for establishing the right of access to information in Africa might be measured, with discussion centered on application of existing norms and key judicial opinions and consideration of lessons learned from related treaties (such as Aarhus and/or the European Convention on Access to Information) .  Moreover, this group may discuss the role and composition of a regional transparency community, and how to create a regional network to share experience and lessons learned.

## Group Five:  *Demand and Use of New Technology: engaging citizens and increasing awareness*

Group five will explore issues of demand and the use of new technologies to stimulate citizen engagement and as a mechanism for governments to meet the desire for increased information.  This group may focus on the importance and means of increasing awareness, sustaining advocacy efforts and shifting perceptions of access to information as only a media issue.  As technology becomes more advanced and available, this group will consider how governments may harness the new technologies, insuring that they serve as a support rather than a panacea for true access to information, and examine how technology may be effectively utilized to increase demand.

# Working Group One
## Politics and Economy: shifting the balance toward openness

Facilitator: Richard Calland
Rapporteur: Elaine Geyer-Allely


A. Working Group Concept Note
B. Summary of Group Work from 2008 International Conference
C. Suggested Reading
   ➢ Stein, Ernesto, Mariano Tommasi, Koldo Echebarría, Eduardo Lora, and Mark Payne. *The Politics of Policies: Economic and Social Progress in Latin America*. Chapter 1. The Inter-American Development Bank, 2006 Report. http://www.iadb.org/res/ipes/2006/PDFs/chapter1.pdf
   ➢ Rosendorff, Peter B. "Democracy and the Supply of Transparency." University of Southern California, Typescript, 2004, homepages.nyu.edu/~bpr1/papers/Transparency.pdf.
   ➢ *Reforming Governance Systems Under Real-World Conditions: Citizens, Stakeholder and Voice*, Brief for Policymakers, Communication for Governance & Accountability Program, The World Bank, 2008.
   ➢ http://siteresources.worldbank.org/EXTGOVACC/Resources/CommGapGovernancePolicyBrief_e.pdf
   ➢ Azubuike, Abraham. "Accessibility of Government Information as a Determinant of Inward Foreign Direct Investment in Africa." August 2006. http://www.ifla.org/IV/ifla72/papers/100-Azubuike-en.pdf
   ➢ Taylor, Benjamin J. and John S. Wilson. *Transparency Reform Could Raise Trade by $148 Billion in APEC*. Issue brief no. 45161. World Bank, 2008. http://siteresources.worldbank.org/EXTTRADECOSTANDFACILITATION/Resources/Transparency_Refom_Issue_Brief_Jul08.pdf

## Group One
## Politics and Economics: Shifting the Balance toward Openness
## Concept Note

As Andrew Puddephatt posited for the international conference on the right of access to information in 2008, there is now a widespread consensus that transparency and accountability are essential underpinnings for accountable governance and that this, in turn, is a pre-condition for tackling poverty and inequality and achieving the Millennium Development Goals (MDGs). There also are widespread assumptions that transparency and accountability of public administration is necessary for sustainable economic development and the achievement of socio-economic rights.

One of the primary obstacles to transparency is what is often known as an asymmetry of information in that governments and public officials tend to know much more than citizens and hold onto information as a source of power. Yet, notwithstanding the historical secrecy of governments, in recent years there has been a substantial move towards greater openness with over 80 countries adopting access to information (ATI) laws of some kind. However, this trend has not reached Africa. At present there are only five countries with a statutory right to information (7.5% of the Continent), and in each case – to varying degrees – there are concerns regarding the law's application and implementation. In Africa, it is argued, that progress has been stymied as the issue is often framed as a media right or part of the anti-corruption agenda, rather than seen as a fundamental human right or part of the quest for sustainable development.

If progress is to be made we will need a more rigorous analysis of what might be termed the politics of policy in this field. Policy-making in the real world is rarely shaped by rational, objective considerations. Rather, there are multiple factors that combine or clash to create policy, such as the level of socio-economic development, the strength and weakness of particular institutions, the type of political system/democracy and its stability, the perceived self interest of political actors, specific national and regional histories and cultures, the wider international dimension and contingent factors of both personalities and events, including national security concerns and recent economic crisis. Identifying common factors that spur and sustain transparency is not easy, and one might even question its usefulness, as the process of establishing the policy may be more important than the actual structure of the policy - a timely reminder that there are no "universal policy recipes" or one-size-fits all answers.

Thus, the most productive approach may be to consider how to incentivize the variety of political and social actors to support transparency and access to information, and to identify which process ingredients have worked. It is obvious that in considering the interests of government, legislature, the media, business interests and civil society – to take some obvious constituencies – different arguments will have purchase at different times. A reforming government in an unstable political culture may be comfortable with transparency framed as an anti-corruption or good governance measure; an established government in a stable political culture is unlikely to be so receptive to that argument. Business will want a stable macro-economic framework and may respond to arguments about transparency that ensure a level playing field in a competitive market. The media may see transparency as an asset to its ability to gather news, or as threatening its privileged back door channels to government. In some cases it may be necessary to frame the issue in different ways for different audiences, requiring a sophisticated campaign approach that can, in turn, risk accusations of duplicity.

Moreover, economic considerations may play a critical role in determining the policy options and the advancement that is made in implementation. In countries where the bureaucracy already is considered bloated or there are competing financial priorities, the potential to add new independent bodies or assure necessary budget allocations may be limited. And when appropriate resources are not made available, implementation efforts may stall. Innovation may have to be the driving imperative.

In the recent survey sent to the participants of the upcoming conference, we asked what were the greatest challenges facing the establishment of the right of access to information in Africa. Responses varied, but overwhelmingly, respondents mentioned political fear, hostility (executive and parliament), and a lack of political will as the leading obstacles. Others mentioned the politics of patronage, the culture of secrecy, imbalance of power relationships, and the absence of recognized political champions. In other parts of the survey, participants noted the Parliament's unwillingness to consider the issue or to work with the executive to pass the law.

This working group will explore these political economy questions focusing on the necessary political contexts for ATI laws to be established, implemented, and sustained and a transparency regime to thrive in the current circumstances. The kinds of questions we might consider are:

1.  Is there agreement on the proposition that transparency and openness are essential for good governance and development? Are there conceptual challenges that need to be tackled?'
2.  How should arguments for ATI be couched – in broad human rights terms or more instrumentally as a means of achieving more effective public administration? Many ATI campaigns are couched in terms of tackling corruption and holding government to account – are these the best arguments in stable countries with entrenched political elites? How has the framing of this issue as a "media right" affected its progress? Should it be part of a media law?
3.  Who and what are the obstacles/impediments to passage and implementation of ATI laws and what are potential solutions? (i.e.national security argument, too many competing priorities, privacy, fear that information will destabilize fragile democracies etc.)
4.  How can we incentivize the passing and implementation of ATI laws, and are there practical examples of these succeeding in practice? What specifically can be done to diminish the disincentives? Who are the allies? Are there specific roles for the business community, media and civil society organizations?
5.  Is there a particular economic burden on developing nations in implementing an ATI regime, and if so, can this burden be minimized while retaining the essentials of an ATI system?
6.  What are economic incentives for transparency and how can we shift the political and economic balance so that benefits of transparency outweigh opacity?
7.  What is the role of external agencies in these processes, including external donors, the World Bank or AfDB, the African Union, and regional or international NGOs. Do they play a positive or negative role?
8.  And what of non-state actors, should they be included in the scope of our deliberations on the political economy of access to information and the legal regime that might best govern the disclosure of information?
9.  Do we have sufficient data to arrive at definitive conclusions? Is more research needed – if so what kind?

## International Conference on Access to Public Information
## Summary of Discussion and Findings

## Politics and Economy

This working group dedicated to the topic of the political economy of access to information considered the issue both at the international and state level. Broadly, the group discussed the benefits and challenges of passing and implementing access to information laws, the role of citizen demand, relevant political processes, national security issues and communications technology. They sought strategies to incentivize governments and bolster the argument for establishment of an access to information regime. The group agreed that there is a need to present the case for access to information differently depending on the situation, as some arguments resonate differently depending on the context and actor. Some viewed the case for access to information within the human rights discourse, while others pointed out that if the connection is made only to human rights, the value of access to information becomes abstracted. For example, in the case of stable countries with entrenched political elites, the human rights approach might not be the most effective. Yet, they concurred that the discourse around access to information need not be either-or; it can be promoted as both a fundamental human right and also as a tool for administrative reform. The group recognized the congruence of multiple arguments, ranging from the moral to the technical, and the value of engaging all potential justifications.

A major challenge to any access to information effort is incentivizing public officials when they have competing priorities. Due to the variation in political structures around the world, it is essential to determine the nature of the power politics and obstacles associated with access to information. National security is one such conflict, and the group found a need to redefine the paradigm so that transparency is seen as contributing to security rather than endangering it. The group identified incentives, as well, such as a potential increase in the country's facility for attracting foreign direct investment, improving internal policy deliberation by advancing the government's ability to share information and assuring policy uniformity, bettering its reputation and increasing its legitimacy. Interestingly, the group agreed that when access to information is imposed externally, the legitimacy of that government is not increased. Thus, when transparency is a condition of an IFI loan rather than being demanded by citizens, the effects of these external drivers can inhibit some of the sought after benefits. Such institutions promote a public ethos yet undermine it by defying transparency in their own operations.

There was agreement that in order to ensure that citizens are empowered and equipped to drive an agenda, the community of practice must find ways to make information meaningful and accessible for all, including the involvement of local communities. Ultimately, the key policy indicator is that ordinary citizens have access. Communications technology may provide opportunities to promote ATI to a wider swath of the population. The field is growing rapidly, and it is necessary to ensure that it continues to serve a public interest and remains equal and accessible.

**Consensus on the Crux of the Issue:**
Government
  ➢ ATI is an important priority for attracting FDI.
  ➢ ATI can improve internal policy deliberation and establish legitimacy.

- ➢ Growth of the digital network offers new possibilities for public administration's capacity to communicate with its citizenry.
- ➢ Effective regulatory environment can help provide a diverse and pluralistic environment.

Citizens
- ➢ ATI must be driven by the needs of citizens, which obligates government to make information available and accessible.
- ➢ Citizen-driven change makes advocacy efforts sustainable and legitimate.

International bodies
- ➢ International institutions that promote a public ethos yet defy transparency pose a challenge.

**Recommendations and Action Points:**

Government
- ➢ Redefine the national security paradigm – transparency promotes security
- ➢ Create standards for private organizations

Citizens
- ➢ Greater research needed regarding the issue
- ➢ Public should more closely scrutinize policies

International Institutions
- ➢ Public should more closely scrutinize policies
- ➢ Lead by example
- ➢ Other international and regional bodies (IACHR, UN Convention on Bribery) should act as change leaders

All stakeholders
- ➢ Greater sharing of information and best practices
- ➢ More effective monitoring and lobbying, especially from government and civil society
- ➢ Multiplicity of Arguments to Support Greater Transparency
- ➢ Embrace the range of moral and instrumental arguments
- ➢ Create channels of communications among different organizations and stakeholders
- ➢ More research to strengthen empirical arguments

# Working Group Two
## Structural and Cultural Context: creating an environment for transparency

Facilitator: Shekhar Singh
Rapporteur: Suzanne Piotrowski

A. Working Group Concept Note
B. Summary of Group Work from 2008 International Conference
C. Suggested Reading

- Neuman, Laura and Richard Calland. "Making the Law Work: The Challenges of Implementation." In The Right to Know: Transparency for an Open World ed. Ann Florini (2007): 179-213, http://www.cartercenter.org/accesstoinformation.html.
- Roberts, Alasdair, "Dashed Expectations: Governmental Adaptation to Transparency Rules" In Transparency the Key to Better Governance, Ed. Christopher Hood & David Heald (2006) 107-125, first page free: http://www.proc.britac.ac.uk/cgi-bin/somsid.cgi?page=135p107&session=208967B&type=header.
- Neuman, Laura. "Enforcement Models: Content and Context." World Bank Institute Working Paper Series, 2009, www.right2info.org/resources/publications/World%20Bank%20Institute.pdf.
- "Fostering trust and transparency through information systems," *PREM Notes/Public Sector,* The World Bank, No. 97, February 2005. http://www1.worldbank.org/prem/PREMNotes/premnote97.pdf.
- Snell, Rick and Peter Sebina, "Information Flows: The real art of Information Management and Freedom of Information," Archives and Manuscripts, Vol. 35 No. 1, 2006, pp. 56-80. http://www.ricksnell.com.au/Articles/am.pdf.
- Mutula, Stephen and Justus Wamukoya, "Public sector information management in east and southern Africa" Implications for FOI, democracy, and integrity in government," *International Journal of Information Management,* Vol. 29, pp. 333-341, 2009. http://www.sciencedirect.com/science?_ob=MImg&_imagekey=B6VB4-4WY5BN2-4-1&_cdi=5916&_user=655046&_pii=S026840120900053X&_orig=search&_coverDate=10%2F31%2F2009&_sk=999709994&view=c&wchp=dGLbVlW-zSkzS&md5=b731cbf1d6ad4ed7b6ed48606ae387cd&ie=/sdarticle.pdf.

## Group Two
## Structural and Culture: Creating an Environment for Transparency
## Concept Note

At a conference in New Zealand in 2007, colleagues engaged in a heated debate about whether every country should have an access to information law. Some argued that as a human right, it is imperative upon each nation to pass a statutory right of access to information. Others countered that without the requisite public institutions capable of implementing and overseeing the enforcement of the law, the mere passage would be meaningless, or worse, could further destroy public confidence in its government.

In the latter argument, based on practical considerations of assuring the application and enforcement of the right, the structural framework within which the access to information law will function is considered paramount. Pragmatic voices often refer to the necessity of an enabling environment, including elements such as administrative capacity, judicial independence and oversight mechanisms, a free and capacitated media, and basic record-keeping and technological support. These aspects are deemed determinative in assuring the law's overall functionality. Yet this focus on institutional aspects may neglect the basic tenets of every person's fundamental right to information. Are there other considerations beyond the mechanical?

At the 2008 international conference on access to public information, Shekhar Singh posited that perhaps more important to the regime's performance than the technical is the community's sense of empowerment, especially in terms of holding their government answerable and, where necessary, of challenging the system and the powers that be. However, for transparency to flourish, it also appears that this sense of empowerment needs to be tempered with an ability and inclination to resolve issues through reason and negotiation, rather than through violence. Additional advantage seems to be drawn from social institutional structures that have historically promoted a tradition to collectively support individual action and, where required, to act together. Also of relevance seems to be the level of cynicism affecting the society and the expectations that the people have from the system (especially from the government).

Perhaps more important is the political system prevailing in a country, especially in terms of its democratic consolidation and representativeness. Independence of, and interaction between, the various wings of the government – especially the executive, legislature and judiciary (and, often, the armed forces as an independent power) – appear to be other critical factors. Diversity of views, ideologies and approaches (and even conflicts) within each wing of the government contribute to a transparency regime, as do other aspects of cultural and ideological diversity. Of great importance is the extent to which media is independent of government, corporate, and political interests, and how diverse are its loyalties and how progressive is its agenda.

The legal framework within which the access to information law functions and its components and provisions will have great bearing on its ultimate impact. For example, transparency regimes are often affected by the relative primacy of other laws antagonistic to transparency vis-à-vis the access to information law, especially laws protecting official secrets. As well, provisions within the law consistent with effective implementation and enforcement serve as a roadmap for future success.

Increasingly, advocates are turning to litigation strategies to assert their constitutional rights to information and advance implementation and enforcement efforts, or finding proxy laws and policies to achieve transparency and accountability. New technologies also can assist in seeking creative ways to advance implementation, assist in proactive publication, and aid requesters – particularly in small state societies where fear of retribution for making a request serves as a deterrent.

When asked in the recent survey sent to all participants in the upcoming African Regional Conference about the greatest obstacles to establishing the right of access to information respondents often cited the lack of an enabling environment. For example, many participants mentioned deficient record-keeping systems, restrictive historical legislation, absence of legal and institutional frameworks, and the lack of a strong independent judiciary. One respondent noted the negative impact of a culture of secrecy on one hand and the weak bureaucracy on the other. Yet more than 85% of respondents still believed that an access to information law is appropriate for every country and 73% felt it a priority in their country.

Lastly, in considering the context within which access to information laws function, cultural factors may play a decisive role. Governments continue to perceive an ownership interest in the information that they control, and that requests for these documents is a breach of their authority. Equally, citizens may abide by the historical culture of not asking or "questioning the big man," as one survey respondent stated. Issues of illiteracy or lack of formal education, rural versus urban dwelling, gender, and marginalization may impact citizen's ability and interest in the right of access to information and government's response.

This working group will explore these potentially conflicting responses, with a particular emphasis on the structural and cultural factors that affect the functioning of transparency and access to information regimes.

Some questions that we might consider include:

1. What are the necessary structural characteristics for an access to information regime to thrive? What are the structural impediments to implementation and enforcement? How can we promote the necessary factors where they are missing or weak?
2. Should transparency regimes be attempted if critical support factors are weak?
3. In the absence of enabling legislation, what proxies may be used to advance transparency and access to information? How might these transparency policies get put into practice?
4. What, if any, could be the role of technology in facilitating transparency? How can the potential harms (privacy, digital divide, information dumping) be mitigated?
5. What role does culture play in the establishment and effectiveness of the right?
6. What role does litigation – either national or supranational – play?
7. What influence can the international and regional community bring to bear in these issues – and how?
8. How can structural solutions apply to address political, economic and institutional constraints?

**International Conference on Access to Public Information**
**Summary of Discussion and Findings**

**Structural and Cultural Context**

The working group tasked with concentrating on the structural and cultural factors that affect transparency spent their time discussing the necessary infrastructure and administrative environment for transparency regimes to thrive. They debated potential solutions to various constraints, such as structural impediments to implementation, the role of technology, and cultural factors. The group agreed that the right to information is a fundamental human right, asserting that the nomenclature needs to be changed to the right to information (RTI), that "public records" should be used rather than "government records," and that "persons" should be emphasized over citizens.

In their discussions, this group first considered the necessary components of a transparency regime, including a law or other mechanism, and then highlighted the importance of implementation. The group explored the role of technology as well as how culture factors affect the advancement of the right of access to information. In considering the components of an effective transparency regime, they highlighted the need for a law with provisions for an independent enforcement mechanism, i.e. an ombudsman or a mediation process and an independent judiciary; an effective feedback/oversight mechanism; and incentives and sanctions for public servants.

Building and strengthening RTI regimes requires political space for different stakeholders, and the onus is on the state to protect this space. The government must pair the act with strong regulations such as records keeping and administrative laws. Ideally the act is not impacted by the primacy of other laws, such as state secrets laws. Although an RTI law is often the dominant mechanism, the group cautioned that we must be careful in thinking that the right to information begin and end with a law. There are alternative routes to transparency through bolstering elements of transparency in other laws or instituting other mechanisms (such as voluntary transparency strategies). In the process of instituting access to information, there are supply- driven, demand-driven, and mosaic models. In some countries, having a demand driven movement is not feasible. External bodies can force access to information regimes into place, and though not always the optimal scenario, it can provide opportunities for domestic actors to take advantage of the momentum.

Implementation must be viewed as an ongoing process requiring continuous attention, and some in the working group posited that it is most effective when done through a phased-in approach. Information providers must be aware of and favorable to the law or it will have little impact. A major problem is a lack of resources and proper budgeting, and the international donor community could impact the advancement of access to information regimes by supporting countries financially. The working group agreed that keeping demand strong and consistent is perhaps the most important part of maintaining an access to information regime, although many places struggle with communities and people that are unaware of the law or how it functions. Social mobilization can drive high demand for public information. Ultimately, transparency regimes do best when people feel a sense of empowerment that is tempered with an inclination to resolve issues nonviolently.

Technology can be a great asset, and we need to look toward innovative opportunities to eventually reach three main goals: all government documents should be digital and electronic, easily accessible (if not exempted or confidential), and free to citizens. When a government is commissioning a piece of technology infrastructure, there needs to be some analysis of how data could be accessed by the public.

Computer technology and cell phones have an important role to play, although technology should not be viewed as a panacea, and we must be cognizant of the digital divide. Access to information regimes should promote the use of new technology where it furthers but does not frustrate RTI**;** these efforts must not exclude traditional information dissemination mechanisms.

Some participants argued that every country should have RTI legislation even if it is unable to effectively implement  Other countered that there must be some basic institutionalism in advance of the RTI regime as without that it could be counterproductive to push for access to information as states are unprepared or lack capacity to fulfill their transparency commitment.

In nonwestern countries, there may be tension between transparency, culture, and tradition. Some may believe that transparency is an imposed foreign idea; although the real problem is the way it is presented. In every culture there are elements of transparency, though they may manifest themselves differently. Regardless of cultural concepts of information, we must envision this as a process that individual societies go through. Taboo or not, cultural issues should not hold back progress.

**Consensus on the crux of the issue:**
Structural Necessities for an effective transparency regime:
- Independent appellate mechanism
- Incentives and penalties
- Provision for proactive disclosure
- Independent judiciary
- A public that is informed, motivated, and with the capacity the use the act
- Transparency-sensitive information providers with requisite facilities
- Effective record creation and maintenance systems
- Effective feedback mechanisms
- An independent, investigative media

**Recommendations and action points:**
- The right to information must be treated as a fundamental human right with an obligation on the state to ensure that it is exercised equitably.
- Being a fundamental human right, it must be accessible to all citizens of the world, irrespective of the political system in which they live.
- Various types of transparency imperatives are inherent in cultures across the world---these need to be recognized, strengthened, and supported.
- Utilizing the potential of new technologies without adversely affecting those without access to it.
- The RTI Act should cover all private parties that receive substantial government funds.
- All persons can access any information the government can access from private organizations.

# Working Group Three
## Non-State and Multi-lateral Actors: examining roles and responsibilities

Facilitator: Nana Oye Lithur
Rapporteur: Patrick Schmidt


A. Working Group Concept Note
B. Summary of Group Work from 2008 International Conference
C. Suggested Reading
   - Blanton, Thomas. "The Struggle for Openness in the International Financial Institutions." The Right to Know: Transparency for an Open World. Ed. Ann Florini (2007): 214-242, http://cup.columbia.edu/book/978-0-231-14158-1/the-right-to-know/tableOfContents.
   - Calland, Richard. "Prizing Open the Profit-Making World." The Right to Know: Transparency for an Open World. Ed. Ann Florini (2007): 243-278, http://www.cartercenter.org/accesstoinformation.html.
   - Global Transparency Initiative Commentary on World Bank Disclosure Policy, November 2009.
   - Transparency and Accountability in Africa's Extractive Industries, The Role of the Legislature, NDI 2007.
   - Le Billon, Philipe. "Securing Transparency: Armed Conflict and the Management of Natural Resources Revenues," *International Journal*, Vol. 62.1, pp. 93-107, 2006-2007.

As Richard Calland posited at the 2008 International Conference, there have been substantial advances in the realization of the right of access to public information in recent years, with the passing of many ATI laws around the world and a general acknowledgment of the importance of the principle of transparency for the leverage of other rights, the deepening of accountability and the strengthening of citizen agency and 'voice'. This positive trend has occurred against the backdrop of a shift of public power towards the private sector, a growing prominence of the notion of corporate social responsibility and the increasing significance of multilateral institutions in global governance and development policy-making. Nowhere is the power and impact of these "outside" forces experienced more deeply than in the Africa region.

There is, therefore, an important conversation taking place about how best to extend the principle of transparency to non-state actors – both in terms of corporate and multilateral actors, including International Financial Institutions (IFIs). There are a number of questions that deserve serious debate. First, there is a legal question: does the right to access to information apply to non-state actors? On this, immediately it becomes necessary to distinguish and delineate the two sets of actors. Most multilateral bodies are public institutions. Thus, while they may have names that suggest a private sector orientation, for example the International Finance Corporation (a part of the World Bank Group), they are established and 'owned' by States. As such, it is a public institution to whom the same principles of public accountability and transparency should apply. In the case of multilateral bodies and IFIs in particular, it is more about how best to achieve and sustain an appropriate level of openness. While some of the IFIs have introduced disclosure policies, there are great differences in the standards of disclosure and because the policies are largely voluntary, serious difficulties around enforcement arise, not least in terms of the independence and efficacy of appeal procedures. For instance, new World Bank policy is a welcome advancement, but little discussion has taken place on how the policy will be implemented or what "teeth" are in place for failure to comply.

The case for openness in relation to corporations is more nuanced, and involves a more challenging conceptual leap. The system of liberal, capitalist democracy that now prevails has been built at least partly on the foundation stone of protecting private capital. The notion of 'private' exudes an aura that is, for some, hard to penetrate. Arguing that the information belongs to a private corporation or body, some maintain that this information should not be subject to any sort of right of access to information laws.

But things have changed considerably over the past decades and perhaps never more so than these past few years. First of all, internationally, there is now a litany of disclosure requirements placed on corporations, often as a result of consumer protection regulation – from labeling obligations for food suppliers and supermarkets, to testing requirements for pharmaceuticals, to health & safety information from airlines and factories. Second, many of the 'public' functions performed by state entities are now performed by private companies – after a spate of privatization and contracting-out policies around the world. Moreover, with state consent, natural resources continue to be exploited by private companies with diminished benefit to the affected communities.

Increasingly, there is a heightened recognition of the role of non-state actors both as holders of information as well as potential drivers for greater transparency. Noteworthy advances have been made to positively engage powerful non-state actors in multi-stakeholder initiatives, such as the Extractive Industries Transparency Initiative or International Aid Transparency Initiative that have sought to build consensus between the main actors – both state and non-state – around what information should be disclosed, by whom, to whom, and when and how. Influential global and regional civil society movements have formed to effectively promote greater corporate transparency, such as the Publish What You Pay coalition and the environmental movement. And, lastly, in some far-sighted new legal regimes, a right to access to privately-held information has been enshrined in the Constitution and in statute, where access is required for the exercise or protection of another right.

Some questions that this working group may consider are:

1.  Who should be covered under an access to information law or disclosure policy and by what means and mechanism?
2.  How should the principle of open disclosure be established in relation to information held by non-state actors so as to acquire the same status as the right to access to public information?
3.  To what extent is it necessary to distinguish between different types of non-state actors – corporations on the one hand and multi-lateral bodies on the other? And what is the effect of any distinction in terms of the design of any legal instruments that should apply?
4.  How can we positively motivate engagement of non-state actors that may otherwise feel threatened by a law or disclosure policy?
5.  What is the role of sectoral transparency initiatives (EITI, budgetary transparency initiatives etc.) and should these be encouraged? And, what lessons can be learned from such sectoral initiatives for application to comprehensive regimes?
6.  How best to ensure that a 'right' of access – whether on a voluntary basis or a statutory basis – is both enforceable and therefore meaningful from the information-seeker's perspective? What specific recommendations should be made to the World Bank and African Development Bank as they consider their policies and its implementation? How do these disclosure policies work in practice?
7.  How to ensure continuity and consistency among policies and requirements of multi-lateral agencies?
8.  How can we positively motivate the engagement of corporations and private actors to promote transparency and support government efforts to achieve greater openness?

**Non-state and Multilateral Actors**

The working group on role of non-state and multilateral actors examined the advancements in access to information over the past two decades, and how these have paralleled a trend of power flowing out of the public sector and amassing in the private sphere. Participants focused on who should be covered under an access to information law, the argument for extending the reach of the right of access to information requirements to non-state actors, whether disclosure laws should cover international organizations, private bodies and corporations, and how to ensure compliance by various actors. They began with a typology of organizations that possess information relevant to the meaningful recognition of the fundamental human right of access to information. A trio of categories quickly emerged: Profit-making bodies, public bodies (non-state but with connection with the state), and social bodies. It was agreed that in each case the disclosure responsibilities may vary.

The group debated a set of principles for non-state actor organizations, considering whether access to information should apply to any organization that manages public or state funds, exercises public functions or provides a public service, exploits a public good, or impacts human rights. There was wider agreement that access to information legislation should apply to any organization in the first three categories. There was lesser consensus in the fourth category: organizations that impact human rights. Conceptually, the group recognized that it is difficult to enforce a human right against private bodies because of the limits that apply when considering its application around the world, with different standards and cultural norms that affect the notion of human rights.

Starting with a discussion of international financial institutions and inter-governmental organizations, participants called for a broad application of transparency laws, arguing that the right of access to information as protected under the International Bill of Rights should apply to all of these organizations, as it does to other public bodies. The international financial institutions have accepted that they must be open, at least nominally, although the reality is more complex. Participants highlighted the opportunity for the World Bank to be influenced due to the interest of top executives, upcoming consultations on its disclosure policies, and the replenishment of the International Financial Corporation, which provides support for private projects. There must be meaningful engagement with stakeholders and civil society voices, and these discussions should be done in the languages of affected peoples.

To determine which NGOs and INGOs should be covered, it is necessary to define when an NGO is public. One approach is to look at those that register for tax-exempt status.
There is a clearer case for organizations that have the benefit of legal status and a subsidy by virtue of their exemption.

Lastly, the group discussed the transparency of corporations. Some defined corporations as creations of the public realm, meaning that they are designed to aid the public good.
Yet this is difficult as not all aspects of what a private company does might be seen as affecting the public interest. Some participants held reservations about this, explaining that we will lose important allies in business by demanding that private bodies disclose information. Some corporations already have disclosure policies, and there is a philosophical problem about the distinction between rights and human rights. The group discussed the balance between the proprietary interests of companies and the

need for companies to recognize that some things they do are so fundamentally entangled with human values that there must be an appreciation of the need for an access to information mechanism. The same applies to those non-state actors that exploit natural public resources, such as extractive industries and water that are essential to human dignity.

The group ultimately found some agreement with the notion that everyone should have the right of access information held by large private profit-making bodies where this is required for the exercise or protection of a substantial human rights interest (i.e. things relating to health, safety, environment, civil liberties). Effect should be given to this right in national legislation that establishes procedures designed to impose a minimum administrative burden on these bodies. All multi-national corporations and large domestic businesses should voluntarily and proactively disclose information that is in the public interest, such as core financial data, and information that is pertinent to the protection of fundamental human rights. Finally, the possibility of appeals would ensure compliance by these different actors and, thus, an independent international appeal authority should be seriously explored.

**Consensus on the crux of the issue:**
- The Right to Public Information is now established, but Non-state Actors and Multilateral Bodies powerfully impact human rights.
- Therefore: how should the right to access to information be extended to such nonstate actors in principle and in practice?

**Recommendations:**
- Application of the Right to Access to Information to three sets of non-state actors and multilateral bodies:
  - Intergovernmental Organizations, including International Financial Institutions
  - Non-state actors that perform a public function and/or receive public funds and/or exploit natural public resources
  - Large Corporations in respect of information required for the protection or exercise of a fundamental human right.

**Action Points:**
- Intergovernmental Organizations, including IFIs, should comply with international norms and standards
- Call for effective implementation & resourcing of disclosure policies
- Welcome World Bank review & urge open, consultative process
- MNCs and large domestic businesses should voluntarily and proactively disclose information in the public interest
- National law should adopt disclosure requirements for the funding of lobbying of political processes, including funding of political parties.

# Working Group Four
## Regional Norm-building: considering regional instruments and standards

Facilitator: Mukelani Dimba
Rapporteur: Meg McDermott


A. Working Group Concept Note
B. Summary of Group Work from 2008 International Conference
C. Suggested Reading
  ➢ Dimba, Mukelani. Africa: The Right to Information in Continent. 25 September 2008.
    http://allafrica.com/stories/200809250781.html
  ➢ African (Banjul) Charter on Human and Peoples' Rights, 1981.
    http://www.achpr.org/english/_info/charter_en.html
  ➢ Declaration of Principles on Freedom of Expression in Africa, Banjul 2002.
    http://www.achpr.org/english/_doc_target/documentation.html?../declarations/declaration_freedom_exp_en.html
  ➢ United Nations Convention Against Corruption, 2003.
    http://www.unodc.org/unodc/en/treaties/CAC/index.html#textofthe
  ➢ African Charter on Democracy, Elections and Governance, 2007. http://www.africa-union.org/root/AU/Documents/Treaties/text/Charter%20on%20Democracy.pdf
  ➢ The Johannesburg Principles on National Security, Freedom of Expression and Access to Information, 1996. http://www.article19.org/pdfs/standards/joburgprinciples.pdf
  ➢ Webb, Philippa. "The United Nations Convention Against Corruption: Global Achievement or Missed Opportunity?" *Journal of International Economic Law.* Vol. 9 No. 1, 2005, pp: 191-229.

**Regional Norm-Building: Considering Regional Instruments and Standards**
**Concept Note**

Access to public information is clearly established as a human right. It has been recognized as such from the Constitutions of modern democratic states to the Universal Declaration of Human rights (Article 19). It has been included in all treaties that conform to the International Law of Human Rights, such as Article 19 of the International Pact of Civil and Political Rights, the United Nations Convention Against Corruption, and the African Charter on Human and Peoples' Rights Article 9 (1) provides that "Every individual shall have the right to receive information."

As early as 1996, the Johannesburg Principles on National Security, Freedom of Expression and Access to Information – a document created by civil society groups and endorsed by the UN special Rapporteur – stipulates that everyone has the right to obtain information from public authorities, including information related to national security.  It goes further to call for a public interest test on disclosure of all information and a right to independent review.  Regionally, the African Commission on Human and Peoples' Rights 2002 Declaration of Principles on Freedom of Expression in Africa, more exactly details the rights of access to information in Sec. 4, including that everyone has a right to access information held by public bodies and private bodies when necessary for the exercise or protection of any right, rights of appeal, public bodies' duty to publish information, and that secrecy laws should be amended as necessary to comply with freedom of information principles.  And although the draft African Charter on Democracy, Elections and Governance does not explicitly mention the right of access to information, it does contain a number of related principles directed at transparency, good governance, improving public administration accountability and fighting corruption, as well as promoting freedom of expression.

Importantly, in 2006, the Inter-American Court of Human Rights, in the seminal Claude v. Chile case held that Article 13 of the Inter-American Convention on Human Rights (an Article that exactly mirrors Article 19 of the UNDHR) provides a fundamental right to public information and obligates public authorities to provide information. This decision was the first of its kind, and has been widely cited around the world.  The Council of Europe also has taken strides to make binding the right of access to information through its recent Convention on Access to Information.

But are these mechanisms embody a clear "norm" on access to information? And if so, are they sufficient guidance for states to pass and implement legislation that satisfies this "norm" and for citizens to exercise their rights? In addition to international and regional instruments, a few countries in the region have passed domestic legislation to protect access to public information. But these are uneven in their breadth and application.
While there are similarities among these domestic laws, there also remain some important differences. As Jorge Santistevan posited at the international conference in 2008, the gap between the international instruments and domestic legislation and the concrete recognition of human rights in daily life is evident in the modern world. It creates part of the difficulty of applying the right of access to information to specific cases (enforcement/compliance). This is why the task of strengthening access to information is not limited to the creation of norms and institutions. It requires that citizens are energized to be able to oversee that the right that consecrates the norms is duly enforced against the authorities, institutions or businesses that hold information of public interest, as well as promoted in society as a whole.

Some have called for more regional conventions on the right of access to information, which can serve to harmonize and to incentivize but also can ultimately limit the advancement. Regional instruments can aid advocacy efforts in tough environments, as the states regional commitment can be used as leverage for the promotion of domestic rights. Conventions can provide a collective expression of what conduct is and is not acceptable and can create incentives for countries to engage in favorable behavior.

On the other hand, experience has shown that there are potential limitations and detriments to regional instruments. As they are by nature consensus documents, they often embody the lowest common denominator, thus reducing the threshold for acceptable behavior. Moreover, they often are unenforceable and lack sufficient oversight mechanisms. Perhaps most importantly, they may serve as a distraction from the real work of advancing the right or worse, undermine past advances.  Other regional instruments for establishing the right of access to information in Africa might be measured, with discussion centered on application of existing norms and key judicial opinions and consideration of lessons learned from related treaties (such as Aarhus and/or the European Convention on Access to Information).

In the recent survey sent to the participants of the upcoming conference, we asked whether a regional convention is necessary to ensure enactment of sufficient access to information laws.  83.7% of the respondents said that a convention is necessary.  Commentators went further, stating that a convention would serve to apply political pressure, provide regional standards and a framework to guide national initiatives and would help harmonize implementation.  On the other hand, there was concern that a convention would be unlikely to change the mindset of governments and might fall into the trap of a "one-size-fits-all." Moreover, a number of respondents questioned the efforts that it would take and remarked that its value would only be achieved if it was binding on all states and accompanied by a strong oversight mechanism.

Other regional mechanisms could be considered, or sub-regional bodies such as ECOWAS or SADC may be explored as venues for debate and consensus documents. But would these be sufficient to advance the right of access to information, or might they too fall prey to the same pitfalls as a treaty or convention?

Finally, this group may discuss the role and composition of a regional transparency community, and how to create a regional network to share experience and lessons learned.

Some questions that this working group may consider are:

1.  Is there a recognized regional norm for the right of access to information? Is it sufficient? Where do other rights, such as privacy and right to personal information held by public bodies (habeas data) fit in?
2.  Is there a need for a regional convention or treaty? If so, what must it include? What would be the process for creation? And how would it be monitored and compliance assured? If not, what other instruments should be considered?
3.  Do regional mechanisms provide sufficient guidance to state lawmakers? Is it the role of the state or regional body to set the standards?
4.  What is necessary to monitor regional and domestic mechanism and how measure whether we are progressing? Is the Special Rapporteur sufficient? What more does this office need to meet the demands?

5. What mechanisms may be brought to bear on those nations that do not comply with the regional instruments (including jurisprudence) or norms?
6. What is the role of other regional and international institutions, including civil society, to further national laws and encourage states to sign-on and ratify?
7. Does an African regional – or sub-regional – community for transparency already exist? If not, is it desirable? What might its role be and how should it be constituted?

**International Norms**

The working group dedicated to considering the political aspects of an international norm for the right of access to information debated issues such as the need for supra-national conventions or treaties to establish norms of transparency, how treaties affect governments and their interactions with international financial institutions, the role of the private sector, and how a convention would be implemented and monitored. The group was divided (with mainly a geographic division between representatives from Africa and representatives from the Americas) over whether an international instrument would benefit the movement for the right to information. Some expressed concern that treaties have a tendency to veer toward the lowest common denominator and could endanger progress, as well as diluting energy. Others reiterated that access to information is a matter of national law, as a request for information is from one person to their government, not from government to government.

But many group participants were supportive of attempts to create a treaty, particularly as it could support advocacy efforts. Treaties can be useful in tough environments, serving to create an enabling atmosphere rather than a limiting one. When there is no understanding of what access to information is, it is impossible to introduce a law from the outside without working to make the international norm part of the domestic system of norms.

Other mechanisms for influencing states passage of access to information laws were considered. For example, donors, when talking to governments, have the power to push these issues. External pressure from development banks has been one way to get countries to undertake efforts to institute greater transparency and access to information. The World Bank and others are still making aid conditional on access to information policies. The key is to make access to information part of the "policy dialogue" with partner governments, which is one of the requirements of whether there is a good governance environment. This pressure can bring cohesion to governments that are not unitary in their opinion of access to information. As for the private sector, corporations are more amenable to transparency when they realize that it would make doing business for them easier, thus appealing to their interests is essential.

In terms of implementation, the participants focused on two levels. At the national level, there must be specific monitoring groups that will promote the norms and guarantee access. At the international level, any treaty should be accompanied by a follow-up mechanism and monitoring body. Without follow-up or enforcement, the treaty would not have sufficient international leverage and would wither. Indeed, it would be dangerous to promulgate a right without a remedy. Opinions in the group regarding monitoring were mixed over whether they should rely on the existing bodies or create new positions to fill this monitoring role. Suggested mechanisms included tools such as a special rapporteur, a UN oversight body, or a UN commissioner for access to information. Additionally, there was agreement that there needs to be a local group to work with the international group for feedback, such as at the UN level or a group of eminent persons, such as President Carter. However, such an endeavor will require a feasibility assessment done by ambassadors or senior level people.

**Consensus on the crux of the issue:**
  ➢ Access to information is a fundamental human right that should be universally recognized.

➢ Access to information is also a right inherent to democracy, good governance, and development.
➢ The right of access to information imposes obligations on all States to guarantee the fulfillment of this right (on request and proactively.)
➢ Regional and international bodies have a role to play in developing, monitoring and enforcing the exercise of the right of access to information.
➢ The enactment of a law alone is insufficient to guarantee this right, consequently sufficient resources should be dedicated to training of public officials, education of the public, to improving information management, to maximize proactive dissemination of information, and to ensuring effective oversight mechanisms.
➢ The right of access to information, being necessary for good governance and development should be guaranteed to all sectors of society.

**Recommendations and action points:**
➢ The right of access to information instruments should assure that:
  • extends to everyone and to all information held by or under the control of public bodies subject only to limited exceptions permitted by international law;
  • imposes on states a requirement to disseminate proactively information related to the core functioning of government;
  • applies to the all branches of government (including the administration, judicial and legislative bodies, as well as autonomous organs) at all levels (federal, central regional and local);
  • applies to private bodies performing public functions and/or delivering pubic services, or operating with public funds;
  • requires that requestors be guaranteed, under national law, a right to appeal denials of the right to court of law or similar body empowered to make binding decisions;
  • should also apply to multilateral organizations, including international financial institutions, development banks and organizations.
➢ International and regional bodies, including human rights bodies, should:
  • take measures to ensure that all states have effective mechanisms to promote and protect the right to information;
  • develop enforceable international instruments to protect and guarantee this right;
  • should conduct ongoing monitoring of compliance with this right.

# Working Group Five
# Demand and Use of New Technology: engaging citizens and increasing awareness

Facilitator: Carolyn Gomes
Rapporteur: Florence Nakazibwe

A. Working Group Concept Note
B. Summary of Group Work from 2008 International Conference
C. Suggested Reading
    a. Attached Articles
- Communication in Governance (Ch. 3) in *World Congress on Communication for Development: Lessons, Challenges, and the Way Forward.* The Communication Initiative, Food and Agriculture Organization of The United Nations, and The World Bank. 2007.

    b. Links to Relevant Articles
- "Engaging Citizens in Policy-Making: Information, Consultation and Public Participation." OECD. July 2001. 24 January 2010. <http://www.oecd.org/LongAbstract/0,3425,en_2649_34129_2384034_119696_1_1_37441,00.html>.
- Clift, Steven. "E-Government and Democracy: Representation and Citizen Engagement in the Information Age." Publicus.net. February 2004. 25 January 2010. <www.publicus.net/articles/cliftegovdemocracy.pdf>.
- Puddephatt, Andrew. "Exploring the Role of Civil Society in the Formulation and Adoption of Access to Information Laws: Cases of Bulgaria, India, Mexico, South Africa, and the United Kingdom." The World Bank Institute. 2009. 25 January 2010. <www.freedominfo.org/documents/WBI-Puddephatt.pdf>.
- Guerrero Amparán, Juan Pablo and Maylí Sepúlveda Toledo. "The Right to Information for Marginalized Groups: The Experience of Projecto Comunidades in Mexico, 2005-2007." http://www.derechoasaber.org/data/arch_publ/a_TheRighttoInformationforMarginalizedGroups-TheExperienceofProyectoComunidades.pdf

**Group Five**
**Demand and Use of New Technology: engaging citizens and increasing awareness**
**Concept Note**

Access to information often is characterized as a critical tool for the exercise of fundamental human and socio-economic rights, such as clean water, a healthy environment, access to education and health care. It is a cornerstone to holding governments accountable and to promoting meaningful citizen participation. Yet even with all of these potential benefits, there is concern that a number of African countries have not witnessed the national movements for the right of access to information or widespread citizen engagement in demanding the right seen elsewhere around the world. Minimal demand for passage of the law may foreshadow a concomitant low level of monitoring and insistence on implementation and portend a concentrated use of the law among a few elite groups.

There is generally a lack of public awareness of the law, its benefits and how it functions. Government-led public information campaigns are often short-lived and ineffective as they fail to reach communities beyond urban locales. Moreover, for many citizens, purely public information – such as contracts and budgets - may not be as critical as their own personal documents, or are so complex as to be unintelligible. After long-term information deficits and restrictions on public information, citizens may believe that state information is reserved for official use only and thus does not demand information.

Moreover, public officials and others tend to believe that the media are the main users of access to information laws and frame the issue as such, rather than recognizing its more extensive benefits and reach. This in turn may have a negative affect on the priority government places on the issue. And civil society groups that promote the passage or use of the laws too frequently frame the right of access to information as an anti-corruption or accountability mechanism, rather than reaching out to a diversity of groups and individuals that would benefit from the law, such as community based organizations, consumer advocates and socioeconomic and human rights proponents.

Various barriers exist that inhibit persons from utilizing access to information laws, such as fee structures, technological constraints, requirements to provide the justification for the request or requester identity, and illiteracy. The local political environment may discourage citizens from requesting information, as it could be viewed as a challenge to the dominance of a single political party or organization. Prevailing perceptions of corruption also may prevent citizens from having any interest in the government's functions, much less any willingness to engage it. Furthermore, socio-political factors such as discrimination against women and indigenous persons may breed further distrust among these populations.

It is not clear who is responsible for increasing demand and targeting populations that are not robust users but for whom greater access to information would be beneficial. Should it be the government, civil society, or the original groups that demanded the passage of the law? The particular political and societal context of a country, as well as the environment in which the law emerged, may play essential roles in identifying who should hold responsibility for the act's relevance and maintenance. The relationship between government and civil society and trust in public institutions affects the capabilities of various actors to coordinate their efforts to promote demand. Finally, to what extent is demand for the law tied to conceptions of citizenship, civic-mindedness, and a sense of ownership?

Beyond an access to information law, there may be other ways to engage citizens and assure that information flows.  In Africa, unique experiments around use of new technologies, social participation, and community radio have had important results.

New technologies for communication often are identified as a potent tool in increasing information flows to citizens, and heightening people's awareness of the value of information.  Grassroots movements that utilize cellphones, twitter and Facebook to warn people about areas of violence or notify communities about election fraud have received great publicity.  Consideration might be given to how this could be expanded to increasing public information reaches communities on a sustained basis, or how governments could harness the information and communication technologies to both generate and meet citizen demand.  What lessons can be learned from these recent successes and how can they be applied to advance the passage, implementation and use of the right of access to information.

Although certainly a potent tool, these same technologies have generated additional challenges, such as the social effects of rapidly advancing technologies serving to further exclude those (governments and citizens alike) without access to digital "know-how" and potential privacy issues. Moreover, in more developed countries, government dependency on technology has in some cases encouraged information dumping onto the internet as a proxy for true access to information. Finally, is there the necessary empirical evidence to demonstrate the value of new technologies for advancing the right of access to information?

In the recent survey sent to participants, when asked about the key issues that should be considered at the conference the number one response after political commitment was how to mobilize people and build a movement for the right of access to information.   Respondents suggested that key to the advancement of the right is to examine and disseminate advocacy strategies that work, create stronger links among the interested stakeholder (particularly government and civil society) using non-adversarial methods, and exploring how citizens can access information in day to day lives, including through technology and empowering citizens.

Some questions that this working group may consider are:

1. How can barriers to access be overcome?
2. What is the role of government in eliciting more demand? What issues does this raise and how can those be addressed?
3. What are some strategies unique to Africa which could be utilized to build indigenous demand and usage?  Are there effective and innovative strategies in other areas from which we can learn? Are there ways to explore promotion of the right through pre-existing strategies for participation, especially at the sub national and local levels?
4. How does the role of ATI figure into the broader processes of participation and accountability?
5. What is the link between demand and participation? What additional research is needed?
6. How can the potential harms (privacy, digital divide, information dumping) be mitigated?
7. How can both governments and civil society harness the new technologies, and lessons learned by other movements, to advance the right of access to information?
8. What are some strategies unique to Africa which could be utilized to build indigenous demand and usage?