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ACCESS TO PUBLIC INFORMATION, TRANSPARENCY AND CITIZEN PARTICIPATION IN PERU

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Introduction

In 2000, the process of democratic transition and institutional strengthening began in Peru, after ten years of authoritarian government which was marked by corruption and the dominance of the economic interests of powerful business groups and individuals. During this period the country's democratic institutions were dismantled, the media was bought, and opposing voices were persecuted. In this context, maintaining a "culture of secrecy" was the key for those who were in power, and this secrecy was secured using ill-gained money, sometimes from public funds, and at other times from illicit drug and arms trafficking, all of which included different levels of corruption.

When the regime of Alberto Fujimori came to an end, all the political parties and the representative institutions of civil society were invited to form the National Agreement, a process of dialogue and consultation to define a national development strategy. The Truth and Reconciliation Commission was formed, and the importance of transparency in the actions of the state and the right to access to public information were recognised.

This report describes the progress made by Peru regarding access to public information, transparency and citizen participation, highlighting cases which have used the internet and other information and communications technologies (ICTs) to facilitate these processes.

Transparency and access to public information

Institutional framework

The Peruvian Constitution (article 2, paragraph 5) recognises the fundamental right of access to public information. The legal development of this right corresponds to the Law on Transparency and Access to Public Information (Law No. 27806) of July 2002. The implementation of this law has meant significant changes in the functions and organisational structure of many public entities, since it establishes a procedure for access to public documents, and obligations, exceptions and responsibilities of the entities who manage the information.

According to the law, the Vice-Ministry of Public Management at the Presidency of the Council of Ministers is responsible for formulating, coordinating, monitoring and evaluating policies to do with access to public information, promoting ethics in public service, transparency and citizen monitoring. The vice-ministry must monitor public entities' compliance with the law and report annually to the Congress of the Republic.

The citizens' right to access information of public interest is protected by *habeas data*, which is a legal recourse against any public officer who violates or threatens the right to access to public information. In Peru, however, the right to public information is restricted because it does not allow access by third parties to private data, in order to prevent extortion and to preserve the secrecy of trade data.

State initiatives

Portals for transparency

The Law on Transparency and Access to Public Information obliges all national, regional and local government entities to implement and manage websites for the dissemination of information of public interest, such as public investment projects, budgets, personnel, contracting and procurement information.

During the first years of implementation, there was a progressive step forward in compliance on the part of both the national ministries and regional and local governments. An assessment made by the group Propuesta Ciudadana (Citizen Proposal) in 2009 showed that the number of portals has increased since 2007, and the quality of the information offered has improved considerably.[1]

However, although the portals offer considerable data on the institutional budgets, data related to income and salaries of public officials is still poor and outdated.

In June 2010, to standardise compliance with the law, the Vice-Ministry of Public Management issued Supreme Decree No. 063-2010-PCM, which approves

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1   Interview with project leader Katia Sotomayor.

the implementation of a "transparency portal" web page. Progress in the implementation of this new regulation has been slow. An assessment prepared by the Office of the Ombudsman in 2011 shows that only the provincial government of Huamanga has implemented its website 100%. It has also been observed that there is no synergy between the information published by regional governments and municipalities on their institutional portals and information offered on the transparency websites. These levels of government prioritise information dissemination on the institutional portals, which do not facilitate a citizen's search for public interest data.

Comun@s Project

With the aim of expanding access to public information, strengthening the management of local governments and expediting the provision of services in rural areas, the Presidency of the Council of Ministers, with the support of the National Office of Electronic Government and Information Technology (ONGEI), the Ministry of Transport and Communications (MTC), the Telecommunications Fund (FITEL), the Decentralisation Secretariat and the United States Agency for International Development (US-AID), created the Comun@S Project. This was implemented by the Association for Educational Development (AED) in 2010.

In its first stage, the project provided training to authorities and public officials of 121 municipalities in the use of the internet and the creation of institutional web portals. Through awareness-raising campaigns, they also sought to inform the public about the right to access to information. The aim was to promote more transparent, open and representative governments.

The project also offers "citizen modules"[2] from which people can access information about local government management, participatory budgeting, municipal engagements, municipal procedure costs, and other relevant data. The project has also implemented the Comun@s broadcast network, formed by a group of communicators, social leaders, officials and citizens committed to their towns, which voluntarily promotes participation and cooperation in local government using ICTs.

Despite its limited scope, the Comun@s Project has managed to increase access to public information, especially during the electoral period. The number of queries handled by the project's Online Assistance Service[3] has also increased.

The contents of the citizen modules have been translated into Ashaninka, Quechua and Aymara,[4] facilitating the access of indigenous communities. In some locations, the modules have been so successful among the local population that the municipal authorities have invested money from their own budgets to strengthen the system.

Rural municipalities[5]

Since the 1990s, district councils have acquired particular importance thanks to the promotion of decentralisation. The 1993 Constitution gives a greater range of powers and responsibilities to district municipalities and with it the possibility of having a larger budget. Having greater economic resources generates two consequences: on one hand, the need for a larger municipal administrative apparatus, enabling the management of these resources, and on the other, the need for greater control and monitoring of expenditure of public resources by the Ministry of Economy and Finance (MEF). In this context, an online system was developed with the objective of monitoring the effectiveness of public spending. The use of this system for the registration and reporting of tax information as well as the mandatory publication of information on the portal in order to ensure transparency has effectively encouraged rural municipalities to use ICTs for economic and financial management.

However, the implementation of this system, designed from a developed, urban perspective, has generated unexpected results because of the lack of connectivity and capacity for management, and the use of technology at the local level. Since there are neither good connections nor appropriate technical staff in rural areas, the rural municipalities have opted to establish an office in the nearest town and move part of their offices to the city. However, this has created discontent amongst the population, who felt that their leaders were governing from the cities. Even with the existence of portals to access information, citizens do not have access to the internet, and therefore, their only option to make themselves heard to is to travel to town or the nearest city. Because of this we find that the government has not moved closer to citizens using ICTs – on the contrary, it has moved further away.

2   Stand-alone kiosks with information available for citizens.
3   Presidency of the Council of Ministers (2011) *Comunas: la transparencia sí se puede ver*.
4   Indigenous languages are used by between 10% and 15% of the Peruvian population.
5   León Kanashiro, L. (2010) *Implicancias del uso de las tecnologías de la información y comunicación en municipios rurales. Un estudio de caso en Ayacucho, Perú*, Red Científica Peruana, Lima. www.upf.edu/amymahan/_pdf/101105_ponencia_LEON.pdf

Open Government Action Plan

In September 2011, the Peruvian government joined the Open Government Partnership, an international multilateral initiative that aims to promote transparency at a global level, curb corruption, empower citizens, and improve accountability and the effectiveness of governments through the use of new information technologies.

The Open Government Action Plan was designed to establish mechanisms that would achieve these objectives and commitments. The importance of this initiative has been its development through a concerted and participatory process involving public and private entities. Among the participating institutions of government were the Office of the Comptroller-General, the Ombudsman, the Ministry of Foreign Affairs and the Presidency of the Council of Ministers. Four organisations were invited from civil society, forming a collective. The institutions were: NGO Proética, Ciudadanos al Día, the Peruvian Press Council and the National Association of NGOs.

The objectives of the Open Government Action Plan were grouped into three major areas: transparency and fighting corruption; citizen participation and monitoring of government; and improving the quality of public services.

The use of internet tools is essential for the fulfilment of these objectives, according to Rocío Vargas, coordinator of ethics, transparency and citizen monitoring at the Vice-Ministry of Public Management. According to Vargas, the development of e-government is an important step to improve the provision of services and access to public information by the citizens.

In the matter of transparency and access to public information, the Open Government Action Plan aims to improve the implementation of the principles and rights that guide the actions of public administration, including the Law on Transparency and Access to Public Information. In this sense, it is meant to ensure, through the Vice-Ministry of Public Management, that every state institution disseminates public information on budgets, public investment projects, staff, selection processes for recruitments and acquisitions, and progress made in the performance indicators. Finally, the action plan proposes to study the feasibility of an administrative body that is independent of the government, but which has the authority for the enforcement of the transparency law.

Civil society initiatives
Justice and Transparency[6]

With the objective of improving the process of decision making by citizens, the NGO Suma Ciudadana implemented a portal called Justice and Transparency that seeks to become a database of all the cases of *habeas data*[7] opened in the Constitutional Court. The aim is to facilitate information about the right to access information, as well as information on securing that right – all this in a free, quick, organised and user-friendly way.

Promesómetro[8]

Promesómetro ("promise meter") is a web portal created by the NGO Proética which seeks to facilitate communication between authorities and citizens about the promises that were made during political campaigns. The users can comment on what they heard from candidates during their election campaigns, and then reflect on and discuss whether those campaign promises were actually met.

A year ago, Proética started a redesign of the website to make it more attractive and accessible to users. At the moment the portal is ending its trial period[9] and it is hoped it will be re-released with new features in upcoming months.

More Culture[10]

More Culture is an initiative by Culturaperu.org, a portal that promotes transparency, accountability and citizen participation in the management of culture in Peru. The portal serves as a meeting point for people, groups and civil society organisations working in the cultural field, who then create "community actions" to demand information on budgets and progress in the implementation of the cultural plans for local governments.

To do this, the portal offers a "toolbox", administered via a blog and wiki, which aims to collect, sort and make available all information pertaining to issues of transparency and accountability in the governance of culture.

This tool also systematises information about citizen actions to access public information in the cultural sector at the local, regional and national level: "The goal is to serve as a log of the collective experiences that seek to promote greater citizen participation in culture, to motivate and nurture the

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6   www.justiciaytransparencia.pe

7   Constitutional remedy which ensures the right of access to public information and legitimate use of personal data.

8   www.promesometro.pe

9   Beta version of Promesómetro: nuevo.promesometro.pe

10 mascultura.pe/blog

realisation of actions in other parts of the country and the region."[11]

According to More Culture co-founder Diego de la Cruz, actions have been organised through the portal in cities such as Chiclayo, Chimbote, Cusco, Huancayo, Huaraz, Iquitos, Puno, Tacna and Trujillo, with successful results.[12]

Local government cases

Participatory budget in the municipality of Miraflores[13]

Miraflores is one of 43 districts in Lima, the capital of Peru. It is the district with the second highest human development index and the third most affluent municipality in the city, with only 1.8% of its inhabitants considered poor. The municipality succeeded in integrating ICTs in local management and has become the reference "digital city" in Latin America. It also has a municipal software development company that creates programmes for other local governments. Since 2007, the residents of Miraflores have been able to vote in a participatory budget process via internet, the first experience of application of ICTs for citizen participation.

A study by researcher Laura León recognises that, from a socio-technical perspective, the implementation of electronic voting in Miraflores is a tool to encourage participation in decisions related to the budget. However, the study revealed some flaws relating to the lack of communication and information tools that contribute to the participatory process. León argues that multilateral interaction (between citizens and authorities, or only among citizens) is one of the most important features for the strengthening of deliberative participation.

However, from a democratic perspective, the study acknowledges that after three years of project implementation, there has been an increase in the number of participants in the process, which would suggest that the ability to vote online is strengthening citizen participation in local government.

Open data in the municipality of Metropolitan Lima

Since 2011, the metropolitan municipality of Lima has implemented a policy of open data and has published datasets such as prices and volumes traded wholesale in Lima's market. This information is being used by civil society and commercial organisations, unions and media to inform the public.

The municipal government of metropolitan Lima is the first public entity which provides raw data to citizens in an open format, doing so under the principle of transparency and calling for "the participation of citizens, businesses, academia and government so that its members transform this data into knowledge, contributing in this way to the economic development and benefit of its inhabitants." This data has been used by civil society organisations to build information systems. For example, Escuelab[14] has sought to provide information on traffic fines and other traffic and road-related information.[15]

Civil society actions

Lima Cómo Vamos[16]

Lima Cómo Vamos (How Are We Doing Lima) is an initiative that allows citizens to monitor government activities, developed by the Atocongo Association, the Civil Association Transparencia, the RPP group and the Pontifical Catholic University of Peru. It is an observatory that monitors the quality of life of the inhabitants of the Lima metropolitan area on issues as diverse as education, sport, the environment, public finances and participation. This project was inspired by the Bogotá experience, which has now been replicated in more than 50 cities in Latin America, forming part of the Latin American network of fair and sustainable cities.

Since June 2012, Lima Cómo Vamos has been gathering public opinions for a report called "Lima Voices, Lima Plan". These surveys, which will involve 500 residents of 33 districts of the Lima metropolitan area, will help feed the development plan of the city (2012-2025).

Todos Somos Dateros[17]

Todos Somos Dateros (which translates roughly as "we are all data collectors") is a crowdsourcing initiative that seeks to encourage the participation of citizens in identifying the everyday problems of the city. The idea was the brainchild of a young Peruvian student, Camila Bustamante, who, in collaboration with Ciudad Nuestra,[18] created Todos Somos Dateros in 2009. The aim of the initiative is to integrate

11 Ibid.

12 Full interview with Diego de la Cruz: www.youtube.com/watch?v=S_h8fEroq8Y&feature=related

13 León, L. (2010) *Reforzando el proceso del presupuesto participativo a través de Internet: el caso de la Municipalidad de Miraflores*, Instituto de Estudios Peruanos and DIRSI, Lima. www.acorn-redecom.org/papers/acornredecom2010leon.pdf

14 escuelab.org

15 campamentocivico.escuelab.org/index.php/blog/primer-experimento-con-los-datos-de-la-muni

16 www.limacomovamos.org

17 datea.pe

18 www.ciudadnuestra.org

the information and concerns of ordinary transport users with institutional transport plans and strategies in the city of Lima. The initiative, based on internet maps, asks the users of public transport services to alert the authorities to transport problems so that they can be attended to.

Over the past two years the initiative has grown. One of its most successful campaigns was related to a new transportation system known as "The Metropolitan", in which the public identified problems and drafted proposals for solutions that were handed over to the authorities. The initiative "Datero Ciclista" helped to identify the dangers faced by cyclists in the city, and recently in June 2012 a new initiative was set up to alert the authorities about public spaces that were unfriendly for people with disabilities.

Conclusions and action steps

Since the implementation of the Law on Transparency and Access to Public Information in 2002 there has been progress in Peru. However, there is still a long way to go to achieve the objectives set out by law. While progress has been made with regards to compliance with the rules, a change in the culture is still far away: the right to public information continues to be a right which must be fought for, a right that needs to be demanded and not a right obtained as part of an institutionalised process. The work of civil society organisations helps citizens, as do mechanisms for public complaints which also attract media interest. However, for ordinary people, simply having those mechanisms does not ensure that there is the capacity to exercise the right.

One of the pending tasks in the area of transparency and access to public information is setting up an entity in charge of monitoring compliance with the standards. In Peru, unlike other countries such as Chile and Mexico, it is not clear who the authority on the issue is, and there are no mechanisms for punishment or to enforce compliance, or to meet citizen requirements in an expeditious manner.

The participation of civil society organisations in this supervisory and coordination role is expected. Some steps have been taken in this direction in recent months; however, it is still necessary to consolidate this progress in an agreement with the government and institutions of the state.

Similarly, the implementation of the recently adopted Personal Data Protection Law[19] should help to clarify doubts about the grey areas between transparency and privacy. The establishment of an entity in charge of its implementation is also a pending and urgent task which must be observed and monitored by civil society.

The main challenge for citizen participation is to develop citizen-appropriate tools, not only to access, but to *use* public information effectively. The support of international cooperation for "hacktivist" groups, who are experts at managing data, will be essential to cultivate these emerging initiatives until they reach a level of critical mass that serves to highlight the opportunities and advantages of open data.

Finally, working with the media is also of utmost importance. Access to government information provides important opportunities for investigative journalism, and for reporting and monitoring the management of public resources. The state, civil society organisations and academia should focus their efforts on strengthening the capacities for research and analysis of data by journalists. Improvements in terms of quality of information and self-regulation are the main objectives of this action. ∎

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19 Law 29733 of 2011.