

VERSLAG OOR NAVORSING IN MEKSIKO EN DEELNAME AAN IIAS KONGRES OOR DEURSIGTIGHEID EN GOEIE REGEERKUNDE

Prof Fanie Cloete van die Skool vir Openbare Bestuur en Beplanning het gedurende die winterreses drie weke in Meksiko gespandeer om navorsing te doen oor die meting van volhoubare ontwikkeling en om as spreker op te tree tydens 'n internasionale kongres oor deursigtigheid en goeie regeerkunde. Hy het 2 weke gespandeer in Meksikostad vir intensiewe onderhoude met senior regeringsbeamptes en akademici oor meetinstrumente om die langtermynsukses van regeringsprogramme te beoordeel. Dis die laaste fase van 'n navorsingsprogram wat deur die NNS befonds word met die doel om 'n beter stelsel van monitoring en evaluering van die volhoubaarheid van regeringsprogramme in SA te ondersoek. Hy het die afgelope drie jaar soortgelyke besoeke gebring aan Maleisië, Singapoer, Chile en Brasilië as vergelykende gevallestudies van leidinggewende lande in die ontwikkelende wereld. 'n Lys van persone met wie gesprekke gevoer is in Mexiko, word aangeheg.

Van 16 tot 20 Julie het prof Cloete die jaarlikse konferensie van die Internasionale Istituut vir Administratiewe Wetenskappe (IIAS) in Monterrey, Meksiko bygewoon en 'n referaat gelewer. Die IIAS is een van die mees toonaangewende vakverenigings op die terrein van Openbare Bestuur in die wêreld. Die konferensie is bygewoon deur ongeveer 300 akademici en praktisyns vanuit verskillende internasionale organisasies en lande uit alle kontinente. Vier parallele besprekingsessies per dag het oor 4 dae plaasgevind, en 70 referate is gelewer. Die volgende sub-temas is behandel :

- 1 Die verband tussen toegang, deursigtigheid en goeie regeerkunde
- 2 Die vraag of wette en gedragskodes nodig is om deursigtigheid te verseker.
- 3 Die rol van verskillende regeringsagentskappe by deursigtigheid, en
- 4 Die rol van 'n vrye en regverdige media in hierdie verband.

Verskeie sprekers van internasionale formaat het opgetree en verskillende elemente van die betrokke temas toegelig. Die belangrikheid van deursigtigheid as 'n kernelement van goeie regeerkunde en demokrasie, is telkens op die kongres bevestig. Daar was 'n wye aanvaarding op die kongres van die gevolgtrekking dat demokratiese regering toenemend deursigtig word en behoort te word, soos die instrumente om toegang te verseker tot regeringsbesluite en optredes al meer effektief en goedkoper word. Deursigtigheid en goeie regering kan egter moeilik afgedwing word op besluitnemers wat dit nie wil aanvaar nie. Waar dit egter gedoen word, is daar 'n duidelike tendens van meer deursigtigheid, meer demokrasie, beter verantwoordingdoening, minder korrupsie, beter dienslewering en meer tevrede burgers in daardie lande. Die teenoorgestelde is ook waarneembaar. Minder deursigtigheid lei tot minder demokrasie, meer vermorsing van geld, minder verantwoordingdoening, meer korrupsie, swakker openbare dienslewering en meer ontevrede burgers. Dis redelik wyd op die kongres aanvaar dat die toepassing van deursigtige regering noodsaaklik is om aan die eise van die moderne 21^{ste} eeuse samelewing te voldoen. Verskeie interessante nuwe gesigspunte het na vore gekom, en sal opgevolg word in werksessies die komende jaar. Dit sluit in die gedagte dat deursigtige regering as 'n eksplisiete mensereg verklaar word, dat elektroniese en deelnemende regering meer doelgerig ontwikkel word as instrument om deursigtigheid te bevorder, korrupsie teen te werk, en om ontwikkeling en armoedebestryding te bevorder. Die volledige konferensieprogram, lys van referate

gelewer, en geselekteerde referate wat iop die kongres gelewer is, is beskikbaar by prof Cloete.

Prof Cloete se referaat is goed ontvang op die konferensie (teks aangeheg). Dit het gehandel oor 'n meer konkrete definiëring van deursigtigheid en goeie regeerkunde, en die toepassing van hierdie beginsels in Suid-Afrika. Die Wette op Vrye Toegang tot Inligting en op die Beskernde Mededelings is as voorbeelde gebruik vir hierdie doel. Die gevolgtrekkings in die voordrag is dat goeie vordering oor die afgelope 6 jaar gemaak is om toegang tot openbare inligting in SA te verleen, maar dat daar nog baie gebreke in die bestaande stelsels is wat verbeter behoort te word. Beter beskerming behoort veral verleen te word aan sogenaamde "whistle blowers" wat vertroulike inligting openbaar maak ten einde die geïdentifiseerde misbruike of wanpraktyke aan die kaak te stel.

Die kongres het sy reputasie as die mees toonaangewende akademiese byeenkoms op hierdie vakgebied weereens herbevestig.

Prof G S Cloete

6 Augustus 2006

Indicators interview structure: 2006

Interviewee :

Date:

Organisation & date:

- 1 Existence of a systematic policy assessment system ?
- 2 Inputs, resource conversion, outputs & outcomes ?
- 3 Who co-ordinates it ?
- 4 How regularly & effectively done ?
- 5 General assessment criteria ?
- 6 Sustainability criteria ?
- 7 Data availability ?
- 8 BI tools ?
- 9 Integration into mainstream policy management processes ?
- 10 General:

Mexico Interviewees:

Mexico City (3 July - 13 July 2006):

Klopper, Lorenci P 2006: Political Counsellor, South African Embassy, Mexico, Mexico City, 3 July 2006.

Estrada, Herminia 2006: Assistant to Political Counsellor, South African Embassy, Mexico, Mexico City, 3 July 2006.

Dussel Peters, Dr Enrique 2006: Lecturer, Post-Graduate Studies Division, Faculty of Economics, National Autonomous University of Mexico (UNAM), Mexico City, Mexico, 4 July 2006.

Caballero, Jose Maria 2006: Lead Agricultural and Rural Development Economist, World Bank, Mexico City, Mexico, 6 July 2006.

Hernandez Murillo, Dr Ricardo 2006: Senior Environmental Specialist, World Bank, Mexico City, Mexico, 6 July 2006.

De Maria y Campos, Mauricio 2006: Mexican Ambassador to South Africa, Mexico City, Mexico, 6 July 2006.

Munoz Pina, Dr Carlos 2006: Director General, National Institute of Ecology, Mexico City, Mexico, 6 July 2006.

Yanez, Prof Armando 2006: Director of Environmental Statistics, Ministry of the Environment (SEMARNAT), Mexico City, Mexico, 6 July 2006.

Sempere Campello, Dr Jaime 2006: Director: Centre for Economic Studies, El Colegio de Mexico, Mexico City, Mexico, 10 July 2006.

Graizbord, Prof Boris, 2006: Leadership for Environment & Development Programme, Centre for Demographic, Urban & Environmental Studies, El Colegio de Mexico, Mexico City, Mexico, 10 July 2006.

Rojas Orozco, Prof Cornelio 2006: Professor of Public Administration and Sustainable Development, Faculty of Political & Social Sciences, National Autonomous University of Mexico (UNAM), Mexico City, Mexico, 11 July 2006.

Goycoolea, Ileana V 2006: Chief Advisor to the Undersecretary for International Trade Negotiations, Ministry of the Economy, Government of Mexico, Mexico City, Mexico, 11 July 2006.

Ortiz, Ismael 2006: Chief Deputy Director for WTO Negotiations, Ministry of the Economy, Government of Mexico, Mexico City, Mexico, 11 July 2006.

Campero Cardenas, Dr Gildardo 2006: Research Coordinator, Mexican Institute for Public Administration (INAP), Mexico City, Mexico, 13 July 2006.

Lopez Bracho, Miguel Angel 2006: Director of Planning, Secretariat of the MInistry of the Environment & Natural Resources, Mexico City, Mexico, 12 July 2006.

Aragon Tapia, Adriana 2006: Director of Sectoral Policies, Secretariat of the MInistry of the Environment & Natural Resources, Mexico City, Mexico, 12 July 2006.

Barron Lopez, Raquel Mirna 2006: Director of Policy Analysis & Assessment, Secretariat of the MInistry of the Environment & Natural Resources, Mexico City, Mexico, 12 July 2006.

Carrillo Castro, Dr Alejandro 2006: President of Mexican Institute for Public Administration (INAP), 13 July 2006, Mexico City, Mexico.

Campero Cardenas, Dr Gildardo H 2006: Research Coordinator, Mexican Institute for Public Administration (INAP), 13 July 2006, Mexico City, Mexico.

Lopez Solis, Dana Aly 2006: Lecturer, Faculty of Political & Social Sciences, National Autonomous University of Mexico (UNAM), Mexico City, Mexico, 13 July 2006.

Pagaza, Pichardo 2006: Mexican Institute for Public Administration (INAP), Monterrey, Mexico, 18 July 2006.

Mexico Core Sustainability Bibliography:

Rojas Orozco, Cornelio 2003: *El Desarrollo Sustentable: Nuevo Paradigma Para Le Administracion Publica*, Instituto Nacional Administracion Publica (INAP), Mexico City, 285 pp.

Rojas Orozco, Cornelio 2006a: *Seminario de Actualización: Administración Pública y Desarrollo Sustentable*, Mexico City, 11 pp.

Rojas Orozco, Cornelio 2006b: *Economic Growth and Sustainable Development in the OECD*, presentation to the OECD, Mexico City, 30 pp.

Secretaria de Medio Ambiente y Recursos Naturales 2005a: *Indicadores Basicos del Desempeno Ambiental de Mexico: 2005*, Secretaria de Medio Ambiente y Recursos Naturales, Mexico City, 337 pp.

Secretaria de Medio Ambiente y Recursos Naturales 2005b: *Informe de la situacion del medio ambiente en Mexico: compendio de estadisticas ambientales: 2005*, Secretaria de Medio Ambiente y Recursos Naturales, Mexico City, 381 pp.

INE/INEGI 2000: *Sustainable Development Indicators of Mexico*, National Institute of Ecology & National Institute of Statistics, Geography and Information, Mexico City, 174 pp.

Secretaria de Medio Ambiente y Recursos Naturales 2006: *Programa Annual de Trabajo 2006*, Secretaria de Medio Ambiente y Recursos Naturales, Mexico City, 294 pp.

IISD 2004: *Mexico Case Study: Analysis of National Strategies for Sustainable Development*, Country case study, June 2004, 17 pp, <http://www.iisd.org/measure/capacity/sdsip.asp/>

IISD 2004: *National Strategies for Sustainable Development: Challenges, Approaches, and Innovations Based on a 19-country Analysis*, <http://www.iisd.org/measure/capacity/sdsip.asp>

Secretaria de Medio Ambiente y Recursos Naturales 2006: *Documentos del Sector Medio Ambiente y Recursos Naturales*, Secretaria de Medio Ambiente y Recursos Naturales, Mexico City, CD containing 17 policy documents from 2001 - 2006, 12 July 2006.

SEMARNAT 2006: Forestry indicators at the state and municipal levels in Mexico, Directorate of Environmental Evaluation and Planning, Secretariat of Environmental and Natural Resources, (SEMARNAT), Mexico City, July 2006.

Lopez Solis, Dana Aly 2004: *Sustentabilidad Urbana y Gestion de Residuos Solidos Urbanos: Estudio Comparado entre los Municipios de Naucalpan y Tlalnepantla*, Instituto Nacional Administracion Publica (INAP), Mexico City, 164 pp.

Lopez Solis, Dana Aly 2006: *La Politica Ambiental Actual en Mexico*, Mexico City, 12 pp.

Carrillo Castro, Alejandro 2004: *Genesis y Evolucion de la Administratcon Publica Federal Centralizada*, Graphical presentation, Instituto Nacional Administracion Publica (INAP), Mexico City, Mexico.

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Workshop I: How to ensure access and openness in public governance?

Measuring transparency in public governance: Lessons from South Africa

by

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Abstract: The current dominant global governance paradigm implies *inter alia* that government activities should be accessible and transparent in the spirit of evidence-based policy assessment. This goal is not easily attainable at the best of times, and is fraught with difficulties in developing countries. The paper starts off by briefly contextualising access and transparency as crucial elements of the governance paradigm, and then highlights the main constraints on governance in lesser developed countries to explain the complex nature of those countries that obstruct most attempts to make government there more accessible and transparent. The authors then summarise various international attempts to identify and assess the accessibility and transparency of government, as well as the experience in this regard so far in South Africa. They conclude that some constraints on transparency are physical obstacles that have to be overcome, but the most significant constraints to more transparent governance in lesser developed countries, are mental constraints. Political, administrative, social and economic leaders in these countries should demonstrate their commitments to transparent good governance by accepting the principles of good governance in general and of transparent governance in particular, and start implementing these practices in the most appropriate ways in their respective sectors. Although it seems that strategies and legislation adopted to set up an efficient and transparent public administration and to eliminate corruption and promote ethical standards in South Africa are indicators that measures might exist to ensure transparency, these measures are still flawed and need to be improved along the lines of good international practices that were identified in the paper.

Biography: Dr Fanie Cloete is Professor of Public Policy Analysis in the School of Public Management & Planning at the University of Stellenbosch in South Africa. He is an advocate of the Supreme Court, a former member of the Presidential Review Commission on the Restructuring of the Public Service in South Africa and a policy management consultant. He has extensive career and research experience in the South African public sector and abroad. He currently works on technological impacts on public policy management.

Biography: Dr Christelle Auriacombe is Professor in Public Governance at the University of Johannesburg. She has published extensively in and edited numerous editions of academic journals on a variety of public administration issues, including on the French cabinet system, political-bureaucratic interaction, the public interest, public sector ethics, whistle-blowing and outcomes-based training. She specialises in social research methodology and post-graduate research supervision. She is also a recipient of the Chancellor's Prize for Research at the University of South Africa.

Measuring transparency in public governance: Lessons from South Africa

'Sunshine is the best disinfectant...'
- Justice Brandeis, US Supreme Court
(Pope 2005:1)

Governance in South Africa has to overcome numerous difficulties caused largely by the burden of history, unethical and corruptive constraints and government secrecy. Faced with these difficulties, one prerequisite for strengthening the rule of law and the credibility of the state, both internally and externally, is an efficient public administration that serves the needs of all citizens. It must be transparent, responsible and accountable, and served by honest officials. The current dominant global governance paradigm implies *inter alia* that government activities should be accessible and transparent in the spirit of evidence-based policy assessment. This goal is not easily attainable at the best of times, and is fraught with difficulties in developing countries. The paper starts off by briefly contextualising access and transparency as crucial elements of the governance paradigm, and then highlights the main constraints on governance in lesser developed countries to explain the complex nature of those countries that obstruct most attempts to make government there more accessible and transparent. The authors then summarise various international attempts to identify and assess the accessibility and transparency of government, as well as the experience in this regard so far in South Africa.

Governance and transparency

The generally accepted role of the state in society is to protect, regulate, develop, maintain and sustain its citizens, or to see to it that this happens. It is an all-encompassing task, which is difficult to execute inevitably because insufficient resources will be available to achieve all of these objectives simultaneously. In the current context of globalisation of the world economy and the fluidity of cultural boundaries, public administrations in all countries also face a variety of issues, including the ethical dilemmas surrounding transparent and good governance in terms of legislation likely to be unconstitutional on its face either as vague and overbroad thereby violating either the principle of legality or the right to just administrative action or both, or as a direct infringement of the constitutional right of freedom of expression (perhaps read with the right of access to information) or as a combination of its breadth and its restriction on fundamental rights (Currie & Klaaren 2002:721).

The state therefore has to prioritise its objectives, and put together policy programmes that will have the best chance of achieving a

combination of these goals not only in the short term but also in the medium and long term. Governments differ on the combinations/permutations of protective, regulatory, developmental and growth interventions that they make into their societies. These differences in approach can usually be explained in ideological terms: from liberal individualism through nationalistic patriotism to collectivistic socialist approaches to governing. Over time, capitalist-orientated governing recipes have proved more successful in achieving a government's goals over time than socialist-orientated ones.

Governance means more than government. It has to do with the exercise of political, economic and administrative authority in the management of a nation's affairs (World Bank 1994). It finds expression in the search for new ways to improve the relationship between the state and its people. It is equally about the quality and performance of government and public administration (Batley & Larbi 2004). Governance affects every aspect of individual citizens' lives. It is the style of interaction between a government and the society that it governs, and has to do with the internal processes within the state through which resource inputs are converted into government outputs and outcomes. Olowu and Sako unpack this concept of governance as "*a system of values, policies and institutions by which a society manages its economic, political and social affairs through interaction within and among the state, civil society and private sector*" (2002:37). The authors also summarise a number of criteria against which the elements of governance can be measured in the political, economic, social, environmental and moral dimensions of society.

Styles of governance are frequently judged as good or bad. Hyden and Braton suggest that four criteria can be used to assess the style of governance in a society: the degree of trust in government, the degree of responsiveness in the relationship between government and civil society, the government's degree of accountability to its voters and the nature of the authority that the government exercises over its society (1993:7). Against this background, good governance is conceptualised here as the achievement by a democratic government of the most appropriate developmental policy objectives to develop its society in a sustainable manner. It is widely accepted that good governance include attributes like representivity & equity in resource control & allocation, developmental & growth focus, participatory, responsive, people-centered strategies, democratic rights, stability, legitimacy & transparency of processes, political and financial accountability, professionalism & ethical behaviour, flexible, effective, efficient & affordable processes, co-ordination, integration & holism of services, creative, competitive and entrepreneurial practices, literate, educated, participating & empowered citizens as products, and sustainable outcomes (Graham, Amos & Plumtre 2003, Saner & Wilson 2003:5, Cloete 2000). For purposes of this paper, the focus will be on ensuring and measuring transparency as an important attribute of good governance, supplemented by other attributes like access, participation, etc.

Transparency has been defined by some of the most authoritative experts on the topic as '*the increased flow of timely and reliable economic, social, and political information*' (Vishwanath & Kaufman 1999: 1). Defined in this way, transparency is the same as openness. The main supplementary conditions that create or stifle transparency are conceived by the same authors from the World Bank as access, comprehensiveness, relevance, quality and reliability (Vishwanath & Kaufman 1999:1).

- **Access** to information is defined as *'the ability of the citizen to obtain information in the possession of the state'* (Martin & Feldman 1998: 1). Transparency is therefore closely linked to the ability of all citizens to access the information relatively easily. This presupposes the existence of mass media that can freely operate and disseminate information to all and also appropriate literacy levels in all communities that make access to those media instruments possible. It also presupposes opportunities for interaction between citizen and government to follow up any query about an issue, and responsiveness of government to these queries (eg Nealer 2005:476). Democratic participation is therefore part and parcel of effective and transparent governance. Different strategies are followed by different governments in this regard: *'...some states provide for access in their constitutions and laws; many do not. Even where access is recognised, it is invariably subject to limitations. In addition, states may impose fees, and require the payment of administrative costs before citizens actually obtain the information they are seeking'* (Martin & Feldman 1998:1). These restrictions that governments place on the flow of information restrict the level of transparency.
- **Comprehensiveness:** Transparency can only be effective if all core aspects of a case are transparent. Any opaque activity can create a risk of collusion and bias towards special interests.
- **Relevance:** Similarly, information is only useful if it is relevant to the situation that exists. Volumes of irrelevant information can hide important issues in many cases, and is frequently used to divert attention away from crucial issues.
- **Quality:** Information must be authoritative and accurate. If not, it can only give an approximation of a condition, which leaves a too big margin of error to base important judgments upon.
- **Reliability:** Reliability refers to the consistency and replicability of quality information. The scientific rigour of the methodologies used to compile the information is crucial in this regard.

To conclude, transparency refers to the availability of information to the public on the transactions of the government and the transparency of decision-making processes. It involves ready access to reliable, comprehensive, timely, understandable and internationally comparable information on government activities and is necessary for sound government and good governance. Good governance implicitly guarantees the civil and human rights needed for effective ethical government by honest officials and the information flows that enable members of society to be informed on government activities. Two interrelated issues are inherent in this phenomenon. One is the nature of information and the other is the use of such information; the latter is largely dependent on the former. The general experience with regard to the nature of information is that information is provided to the public and the legislature. However, even when information is accessible and clear, members of the public may not voice their grievances and may "exit" because of their uncertainty about alternatives (Mbatha 2005:2).

Increased public confidence in government, minimizing financial risks and corruption and enabling sustained growth and development, empowering citizens and enhancing democracy are some of the positive consequences of transparent government (Kaufman 2005). Government secrecy is increasingly questioned throughout the world. Effective governance cannot take place when unnecessary secrecy surrounds decision-making processes and

outcomes. Where suspicions of secrecy exist, these have a corrosive influence on public confidence in government. Vishwanath & Kaufman state that a *'lack of transparency in public administration is a crucial constraint on policy implementation and its economic and social outcomes. Addressing this constraint remains a crucial means of promulgating a consistently successful public policy. A sine qua non for doing so is to improve transparency in public institutions and policy-making processes'* (1999:17). However, different systems have developed in different democracies to find a balance between full transparency and the protection of national security, competitive advantages and personal information. Vishwanath & Kaufman caution that the costs of full information disclosure might sometimes be too high for a government (eg unnecessarily panicking residents with ill-considered, untimely or premature disclosures of natural threats with a low probability of occurrence, or fully disclosing the bacterial contents of potable drinking water or the existence of hairline cracks in aeroplane wings that are within safety limits but might scare lay persons). The converse obviously also apply: In these and other cases the benefits of non-disclosure might be too high (1999:5). Both these situations may then lead to different degrees of non-transparency that might in certain cases even be beneficial to good governance rather than detrimental to it. The conclusion must therefore be that democratic transparency also has limits, and that beyond those limits more transparency may be contra-productive.

It is very difficult to devise a generic model of transparency that could be applicable in all contexts, because of different conditions, operating cultures and styles of governance in different countries. This can be illustrated by a brief comparison between the differences in governance processes between lesser and more developed societies. The high correlation between democracy and developmental levels results in governance being more transparent in more developed countries, although not in all cases. Transparency is directly correlated with the democratic nature of government. Consequently, lesser developed countries that are generally less democratic, experience much more extreme constraints on the transparency of governance processes than is the case in more developed countries.

Transparency constraints in lesser developed countries

The following variables have a significant and detrimental cumulative impact on the nature of governance in many lesser developed countries and especially on the potential of transparent government in those contexts (Cloete 2006a:chapter4):

Social constraints

- Population explosions place huge burdens on resource availability and allocations that are aimed at satisfying primarily fundamental human needs and only address secondary needs like democratic 'niceties' afterwards if resources are left for those purposes.
- Young populations complicate participation processes, while high levels of illiteracy exist both in youth and adult cohorts that lead to low self-esteem & efficacy, and also complicate attempts at transparency.
- Mostly rural populations, low mobility levels and primitive living conditions with low social and physical infrastructural conditions and a lack of basic services increase the costs of transparent government.

Cultural constraints

- Traditional values & practices regarding land tenure, the subordinate role of women, extended families, dominance of myths and other religious practices in daily life, a relaxed work ethic, unquestioning acceptance of strong, male leadership, etc are frequently incompatible with democratic society. They also reinforce low self-esteem, low efficacy perceptions and a lack of participation.

- Elite exploitation of illiterate masses frequently occurs.
- Rudimentary or non-existing interest groups in civil society also impact negatively on participation.

Economic constraints

- The availability of frequently abundant natural and other resources are skewed and are inequitably distributed, causing big gaps exist between rich and poor that complicates access to information.
- Rural agricultural & mining economies dominate, but low productivity & low per capita income, and a lack of economic, technology and information systems infrastructure all complicate information dissemination in those societies.
- High unemployment & foreign debt exist, reducing the available resources for transparency improvement.

Political and institutional constraints

- Unstable, undemocratic political climates frequently prevail with centralised decision-making structures and frequent dramatic policy changes.
- The status quo is never maintained for long periods, and successive new governments are inexperienced & unresponsive to community needs & demands.
- A serious lack of policy process capacity (eg weak planning, policy design, implementation, accounting, assessment, reporting & review systems) complicate transparency of internal government processes.
- Widespread systemic patronage, nepotism and other forms of corruption as a result of a combination of the above conditions linked to poor remuneration practices in the public service, lead to mismanagement, corruption and a substantial waste of resources as well as a preference for non-transparency to cover this up.

Despite the formidable challenges that the above structural conditions cause for governments in lesser developing countries, there are indications of successful improvements in different dimensions of governance, where the political commitment to do so and effective policy design and implementation processes for these purposes have been effected (eg Heeks 2001, Bhatnagar 2000 and 2001).

International good practices in measuring transparency

The most comprehensive international indicator framework for governance is a composite governance index developed by the World Bank. The United Nations Development Programme recently published another authoritative compilation of different governance indicator frameworks (UNDP 2005). These frameworks include the work in progress within the Global Barometer, Afrobarometer, Eurobarometer, East Asia Barometer, Latinobarometro, World Governance Assessment, World Values Survey, World Bank Institute, Public Integrity Index and other initiatives (UNDP 2005). The German Development Agency GTZ has also developed a comprehensive framework to measure governance (Faust & Gutierrez 2004). A third important governance network is the [African Governance Inventory \(AGI\)](#) network, an online gateway to governance-related information in Africa. The AGI was originally developed in 1999 by the Division for Public Administration and Development Management (DPADM) of the Department of Economic and Social Affairs of the United Nations (UNDESA), with financial support from the UNDP and the Government of Italy (<http://www.unpan.org/agiportal>). The AGI is a flexible management tool to assist African governments and their development partners to improve

programming, coordination, monitoring, evaluation and mobilization of resources in governance. It is also useful for sharing governance experiences and promoting regional partnerships. Other interesting resources in this regard include the work of the Institute of Governance (2006) and Graham & Calland (2005). Specialised transparency measurement instruments have also been developed by the UNDP (2006), Transparency International (2006) and IFI Transparency Resource (2006).

Vishwanath & Kaufman is of the opinion that there are at least three strategies to achieve transparency in financial markets:

- ‘improving mechanisms (rules/regulations) for greater disclosure and accounting practices to enforce quality and reliability of information,
- designing safety nets to limit moral hazard via greater disclosure, and more broadly, and
- establishing regulatory regimes and policies to address the information and incentive problems...’ (1999:11).

Selected approaches that form part of the World Bank’s framework of governance indicators to improve, benchmark and measure transparency, include the following:

- **Freedom House:** the degree of press freedom, public access to a variety of information sources, and the independence of those sources from undue government or other influences.
- **World Economic Forum:** Clarity & transparency of information by government to organisations on changes in policies affecting them, and editorial freedom without fear of censorship or retaliation.
- **Institute for Management Development:** Transparency of government policy.
- **GTZ Governance framework:** Access to high decision-making positions, transparency of personnel ties, access to media, transparency of economic decision-making processes, predictability of economic policy measures (Faust, J & Gutierrez, M 2004) .

Jeremy Pope, a founder of Transparency International, suggests *inter alia* the following general measures to improve transparency and reduce corruption in governance (2005):

- International standards(eg the 1996 UN and 2000 Council of Europe International Codes of Conduct for Public Officials, and the 1994 UK Seven Principles of Public Life).
- National codes of conduct for politicians and public officials.
- Citizens’ Charters
- Ethics (and Information) Officers.
- Monitoring & Surveys.
- Open public procurement.
- Declaration of politicians’ and bureaucrats’ assets, gifts, financing and conflicts of interest.
- Civil society watchdogs
- Legislative oversight
- Formal access to information regimes
- A free, pluralistic & independent media
- Protection of whistleblowers but not for perpetrators
- Independent & immune judiciary with a judicial code of conduct
- Creation of integrity systems and horizontal accountability
- Integrity testing
- Effective records management

- Due police and judicial processes
- Minimising licences, quotas and permits
- Independent revenue collection agencies
- Electronic and mobile government & e-procurement
- Privatization & competition policies

Martin & Feldman suggests that *'states which are committed to democratic goods governance, should adopt a legal regime promoting access to information. The essential requirements of such a regime are:*

1. *constitutional or statutory recognition of a right of access to information which is in the possession of the state;*
2. *a right of access which is broadly defined and extends to all the organs, agencies, or departments of the state;*
3. *a narrow definition, in precise and specific language, of the exemptions to the right of access;*
4. *statutory language which makes clear that access is to be the norm, and exemptions are to be resorted to only in exceptional cases;*
5. *speedy processing and disposition of requests for access;*
6. *independent review of denials of access;*
7. *minimal or no fees or other charges for the processing of documents requested;*
8. *the creation and training of a cadre of officials to assist persons making access requests;*
9. *wide publicity about the right of access and explanation of the procedures to be followed'* (1998).

A number of comparative international studies of transparency in governance have been undertaken over the last few years, as indicated above. Various good practices have been identified to improve transparent governance. With the necessary tweaking, these good practices can be applied in most countries.

As Pope (2005) has implied above, one of the most promising new strategies to promote transparency is information technology in the form of integrated electronic and mobile government. E-government refers to the use of these technologies to promote better and more responsive relationships between government and its citizens (e-democracy) and improved development instruments (e-development) in the form of external front office public service delivery systems (e-delivery) and internal back office management systems (e-management) (eg Cloete 2003; McIvor, McHugh & Cadden 2002, EU 2005). E-government is increasingly used as the backbone of public management systems in more developed countries, and can contribute in a significant way to more effective implementation of transparency measures. The structural constraints of lesser developed countries, make this instrument more difficult to implement, but numerous experiments in and studies on Korea, Singapore, Malaysia, Chile, Brazil, South Africa, Mexico and other emerging regional powers have indicated that it can and should be applied if governments in those countries are serious with improvements in developmental and service delivery levels in their respective countries (eg Davison et al 2000, Bhatnagar 2000 & 2001; Heeks 2001; Bridges 2002; PCIP 2002; CPSI 2003, Cloete 2003).

Transparency and governance in South Africa

The interaction between the government and the public, the private sector and political and administrative institutions in the South African democracy takes a multiplicity of forms and is, in principle, complicated. After all, the heterogeneous public, government, parliament, provincial and municipal authorities and administrations, business sector, unions, political parties and community organisations, each has its own function and its own professional

tendencies that sometimes become the source of controversy. They also often derive their power and authority from different statutory and other sources. Transparency, openness, access to information and justice and the disclosure of malpractice through legislation offer a channel through which the public can have input into government activities in the provision of services to the public. The public will not support democratic institutions that appear unethical, corrupt and incomprehensible to them. This is all the more essential in South Africa's case, as the country emerges from apartheid rule where the majority of South Africans were actively denied the right to have access to information on the process of governing. No reminder is needed of the inherent danger this poses for a healthy system of democratic governance. However, popular support for democracy and its institutions in the long term is not, as is commonly assumed, expressed solely through the ballot box during elections. It also depends upon open and transparent practices and policies, as well as legislation to protect employees who disclose malpractice or misconduct in the work environment.

In their 1998 study, Martin & Feldman found that the South African case has a number of lessons that might be useful in other contexts. Many changes have occurred since 1994, aimed at the institutionalisation of formal structures for openness, the disclosure of malpractice and transparency. South African legislation enacted since 1994 has attempted to enlarge the scope of transparency in the affairs of the public sector and to strike a balance between the provision of access to official information and the preservation of confidentiality where disclosures would not be in the public interest. Section 16 of the 1996 Constitution for example guarantees freedom of expression, including freedom of the press and other media, freedom to receive or impart information or ideas, freedom of artistic creativity, academic freedom and freedom of scientific research. Section 32 also provides an explicit right of access to any information held by the state and any information that is held by another person and that is required for the exercise or protection of any rights. This section also provides explicitly that national legislation must be enacted to give effect to this right, and may provide for reasonable measures to alleviate the administrative and financial burden on the state. Thus, there is not only a constitutional guarantee of access, but an obligation that the state gives practical assistance to persons seeking access (Martin & Feldman 1998). Three additional laws supplement these constitutional provisions. They are the Promotion of Access to Information Act (Act 2 of 2000), the Protected Disclosures Act (Act 26 of 2000), and the Promotion of Administrative Justice Act (Act 3 of 2000).

The most important document is the **Promotion of Access to Information Act (PAIA)**. It is intended to promote open and accountable administration at all levels of government. PAIA gives effect to section 32 of the new Constitution subject to justifiable limitations, including but not limited to, limitations aimed at the reasonable protection of privacy, commercial confidentiality and effective, efficient and good governance and in a manner which balances the right of access to information with any other rights including the rights in the Bill of Rights in Chapter 2 of the Constitution. PAIA establishes voluntary and mandatory mechanisms or procedures to give effect to that right in a manner which enables persons to obtain access to records of public and private bodies as swiftly, inexpensively and effortlessly as reasonable possible. It also promotes transparency, accountability and effective governance of all public and private bodies by empowering and educating everyone to understand their rights in terms of the Act, to understand the functions and operation of public bodies and to effectively scrutinise, and participate in, decision-making by public bodies that affects their rights (ODAC 2006, DoJ 2006).

The act provides for the appointment of Information Officers in each public agency and the creation of a 'road map' manual containing important information about the role of that

agency, including a description of the body, its contact details, how to obtain information from it and what records it has (SAHR 2006:18, ODAC 2006:6). Certain pieces of information should be available automatically, while other bits of information may be divulged on request. Requests must be made in a specified format and at specified fees. Information officers must assist requesters with their requests. The reasons for a request for publicly held information are irrelevant, because access to information is a constitutional right. Privately held information can, however, only be accessed for the protection or exercise of a constitutional right. An objectively determined 'need to know' must therefore be proved (Currie & Klaaren 2002:64).

Records of members of parliament, of Cabinet, the judiciary and legal proceedings that are in progress, are exempt from the Act (Currie & Klaaren 2002:52-58). Requests for access must be processed within 30 days. Access to information may be refused in the following cases, with adequate reasons for the refusal in writing:

- Privacy, confidential, research & commercial information of third parties (except when consent has been given, the information is already publicly available, if it pertains to information needed for medical care of a dependant or patient or to someone deceased for longer than 20 years, or relates to the position or function someone occupies or fulfils, or is needed for risk testing).
- South African Revenue Service records
- Safety and property of individuals
- Law enforcement and legal proceedings
- Defence, security and international relations of the Republic
- Economic, commercial & financial interests of the Republic
- Internal operations of public bodies
- Frivolous or vexatious requests, or substantial and unreasonable diversion of resources

Access is, however, approved if the harm that might be done in terms of the above list of exclusions is outweighed by a substantial contravention the law, an imminent and serious public safety or environmental risk, and the public interest. Refusal to grant access may further be appealed, first to an internal appeal authority and later to a law court.

Provisions that were considered in the first Bill but were eventually not taken up in the current Act, include:

- Individuals' right to correct their own records, and compensation to be paid when injury results from inaccuracy in personal information held by the state and for other contraventions of the legislation
- The requirement that meetings of governing bodies of departments of state be open to the public.
- An Open Democracy Commission and Information Courts initially charged with implementing and overseeing the Act. These bodies were replaced by the SA Human Rights Commission (Currie & Klaaren 2002:8, Martin & Feldman 1998).

Martin & Feldman's comparative 1998 study concluded that *'(t)here is an established infrastructure for disseminating information. The official government printing service, responsible to the Minister of Home Affairs, publishes in English and Afrikaans. All legislation is published. Government publications, including attractive and simple to understand public information pamphlets, are freely available in public libraries and are also for sale from the government printer. Various government data are published on a monthly basis. Law reports are published regularly in the South African Law Reports series. There is an established library service including a mobile section. The government provides subsidies*

for this service and for radio and television services. Public affairs programmes and current affairs discussions are broadcast’.

Despite these detailed arrangements to promote transparency and access to information, the system is extremely rigid, cumbersome and difficult to implement as a result of the many formal procedures prescribed in PAIA and its interaction with other existing laws. The Act does not cover information that is not already contained in a record. The act also does not reverse other government secrecy and confidentiality legislation, and even though information might be accessed in terms of PAIA, applicants might be thwarted by other laws protecting the confidentiality of a specific request (Klaaren 2002). Many analysts are therefore of the opinion that transparency in the South African public sector runs the risk of being stifled rather than promoted as a result of this legislation.

The second important policy instrument to promote transparency in South Africa is the **Protected Disclosures Act (PDA)** that provides for procedures in terms of which employees in both the public and private sector may disclose information regarding unlawful or irregular conduct by their employers or other employees (eg corruption, maladministration, or the contravention of a law). The Act provides for the protection of employees from being subjected to an occupational detriment on account of having made a disclosure which is protected in terms of PDA (eg suspicion of criminal offences, failure to comply with legal obligations and a reasonable belief that the health or safety of an individual has been, is being or is likely to be endangered).

Camerer (2001) explains that ‘(e)mloyees making such a disclosure are protected from occupational detriment like being subjected to disciplinary action, dismissed, suspended, demoted, harassed, intimidated, transferred against his or her will, refused transfer or promotion, or otherwise adversely affected in respect of his or her employment, profession or office, including employment opportunities and work security. The Act thus prohibits an employer from subjecting an employee to an occupational detriment on account of having made a protected disclosure. Should occupational detriment occur and is found to have been linked to the making of a protected disclosure, the bona fide whistle blower would be protected and the employer would not be allowed to dismiss or prejudice the employee for having raised legitimate concerns..’.

To be protected, a disclosure must either be made to a legal representative, an employer, a minister or provincial member of the Executive Council, a specified person or body (eg the Public Protector, the Auditor-General), or another body prescribed by the minister of Justice, or as a so-called general protected disclosure. Detailed special requirements are prescribed for each of these disclosures. Disclosures must be in good faith and existing internal mechanisms and procedures must be exhausted before disclosures can be made to outside agencies (Camerer 2001). Confidential hotlines may be used in certain circumstances.

The definition of protected information is narrow. The Act only protects the divulging of seven different categories information. They are (Klaaren 2002):

- a criminal offence,
- a failure to meet a legal obligation,
- a miscarriage of justice,
- danger to the health or safety of an individual,
- danger to the environment,
- unfair discrimination, and
- a deliberate concealment of any of the above cases.

At least three important categories of information fall outside the scope of the Act. They include ethical issues, professional issues that do not necessarily indicate an ethical issue, and matters of public concern (eg the functioning of a policy). The Act only covers disclosures when a legal obligation will not be met. The effect of this is that disclosures relating to potential changes in the law on public policy grounds are not protected by the PDA. Disclosures of information that are not protected by the PDA, might be protected under the PAIA discussed above, for example via the potential public interest override allowed in the PAIA, because that override can be activated by the threat of a substantial contravention of or a failure to comply with a law or by a serious and imminent public safety or environmental risk (Klaaren 2002). It is problematical that one act protects issues that are in the public interest, while the other does not. In contrast to the original intention of the Bill that resulted in this Act, whistleblowers are currently also not protected against civil and criminal liability (Currie & Klaaren 2002:10). This hampers disclosures under the PDA.

The way general ‘whistle blowing’ is dealt with in the PDA is therefore problematical. Whistle blowing in the normal sense of the term is not the same as an authorized disclosure of information in terms of the PDA. Whistle blowing entails the disclosure of information by an employee or ex-employee with regard to general organisational wrongdoing. The disclosure of organisational wrongdoing can be authorised or unauthorised. Authorised disclosure of information means that the disclosure was made in terms of the channels of communication laid down by management systems in place that assists the person who becomes aware of the information in knowing how and to whom the disclosure should be made. Unauthorised disclosure means that the disclosure was made outside the prescribe channels specified in the PDA and through external mechanisms even outside the organisation (eg through the media). Whistle blowing in this way is an unauthorised form of disclosure and does not fall under the domain of protection of the PDA.

It is clear that despite the progress made with the promulgation of the PDA, serious flaws still exist in its scope and operations that do not contribute optimally to protection for disclosures of sensitive information in the public sector in South Africa in the public interest. This still restricts the promotion of transparency in this country significantly.

The third policy instrument for this purpose is the **Promotion of Administrative Justice Act** that gives effect to the right to administrative action that is lawful, reasonable and procedurally fair and to the right to written reasons for administrative action as contemplated in section 33 of the new Constitution. It supplements the previous two pieces of legislation and codifies for the first time Administrative Common law in South Africa. It will not be discussed in detail here.

The South African government has also committed itself fully to e-government as a developmental and services delivery instrument (SA-DPSA 2001, CPSI 2003). Initiatives to integrate e-government into mainstream public management processes in the country are in progress. This policy decision will have major positive implications for the promotion of transparency in the South African public sector.

Measuring governance transparency in South Africa

A number of international good practices in terms of integrated policy assessment have so far been adopted and implemented by the South African Government. The South African government has recently adopted an implementation plan to establish a Government-wide Monitoring and Evaluation System (GWM&ES) (SA-PCAS 2005). The GWM&ES will coordinate a systematic programme of policy monitoring and evaluation throughout the public

sector in South Africa, aimed at improving general public management in the country (SA-PCAS 2005:5). This system is in an early stage of implementation. This development has great potential for enhancing access to and transparency of government operations in South Africa. The details of the system, and how it will be applied to the measurement of these attributes in South Africa, are discussed next.

The GWM&ES will not only monitor internal governmental performance processes but is also aimed at determining the nature of external governmental outcomes and impacts on South African society. It is therefore also aimed at determining the eventual longer term results of policy and service delivery interventions or a lack thereof. An important departure point of the GWM&ES is that existing monitoring and evaluation capacities and programmes should as far as possible be retained, linked and synchronised within the framework of the GWM&ES (SA-PCAS 2005:8-11). The following existing government-related monitoring and evaluation programmes will be synchronised under the auspices of the GWM&ES:

- National and provincial line function departments
- StatsSA's National Statistical System
- The South African Public Service Commission (PSC)
- The Auditor General (AG)
- Provincial and local governments

The GWM&ES will be managed from the Policy Coordination and Advisory Services Unit in the Presidency. It will be a secondary data assessment system that will not undertake primary research or data collection itself. It will rather draw on information gained from the above and other agencies. The GWM&ES implementation plan contains a detailed implementation strategy and time frames to establish the GWM&ES fully in South Africa between 2005 and 2007 (SA-PCAS 2005). It also spells out the roles and responsibilities of the various stakeholders and agencies involved in this programme.

The PCAS in consultation with StatsSA has also established a National Indicator Initiative (NII) that is still under development. A series of preliminary generic policy assessment indicators has been attached to the GWM&ES plan, in the form of a Framework of Development Indicators for SA. This indicator framework will be disseminated for public comment and further refinement. The NII is based on the research undertaken for purposes of the Ten Year Review (SA-PCAS 2003). The current indicator framework contains a series of governance indicators that is based on the World Bank's Governance Indicator Framework and include its transparency indicators (World Bank 2005).

It is clear that the current state of knowledge of and experience in public management, and the tools and technologies that have been developed in support of better management over the past few years, have made it not only possible but imperative to engage in regular integrated policy evaluation exercises in order to assess governance performance systematically. There is further a clear trend developing towards the measurement of not only governance inputs, but also governance conversion processes, outputs and outcomes (Poate 1997, Cloete 2006b).

The principle of a GWM&ES, the NII that has been launched as part of this M&E system and the government's commitment to e-government as a future public services delivery and development instrument are examples of good international practices that are already applied in SA. Once implemented, the GWM&ES will provide a vehicle to systematically measure different aspects of governance in South Africa, including the effectiveness of the existing policy instruments for promoting transparency of governmental operations.

Conclusion

The final conclusion that one can reach on this topic is that transparency is a desirable attribute in government if one intends to establish democratic good governance practices in society. It is clear what transparency means within a good governance context, and what elements of it should be promoted. A number of good practices in measuring transparency are also available. It is, however, also clear that in lesser developed countries there are a number of social, economic and political constraints that complicate the effective implementation of transparency improvement measures even where they exist. As Pope has remarked: ...'transparency in and of itself does not necessarily bring accountability' (2005:38).

Some constraints on transparency are physical obstacles that have to be overcome, but the most significant constraints to more transparent governance in lesser developed countries, are mental constraints. We have the knowledge of what needs to be done to improve transparency in government and how to do it. With the advent of the information technology society and the internet, we also now have the means to do this in cost-effective and efficient ways. What we do not always have, though, is the leadership motivation and commitment in many lesser developed countries to do what needs to be done. Political, administrative, social and economic leaders in these countries should demonstrate their commitments to transparent good governance by accepting the principles of good governance in general and of transparent governance in particular, and start implementing these practices in the most appropriate ways in their respective sectors.

Although it seems that strategies and legislation adopted to set up an efficient and transparent public administration and to eliminate corruption and promote ethical standards in South Africa are indicators that measures might exist to ensure transparency, these measures are still flawed and need to be improved along the lines of the good international practices in this regard that were identified in the paper.

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