



Strathmore University
Centre for Intellectual Property and
Information Technology Law



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SERIES ON DIGITAL RIGHTS AND INTERNET FREEDOM

Topic 3: Access to Information



Greater Internet Freedom

**The Centre for Intellectual Property and Information Technology Law
(CIPIT), Strathmore University**

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Access to Information Online

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About CIPIT

The Centre for Intellectual Property and Information Technology Law (CIPIT) is an evidence-based research and training Centre based at Strathmore University, Nairobi, Kenya. CIPIT was established in 2012 and focuses on studying, creating, and sharing knowledge on the development of intellectual property and information technology utilizing diverse methodological approaches to inform debates on ICT applications and regulation.

About GIF

The Greater Internet Freedom Project (GIF) is a three-year, consortium-based, global program implemented by Internews and the GIF consortium across 39 countries. GIF places regional and local organizations at the forefront of the fight to preserve an open, reliable, secure, and interoperable Internet – and, by extension, protects the citizens, civic actors, journalists, and human rights defenders who rely on it to realize fundamental freedoms.

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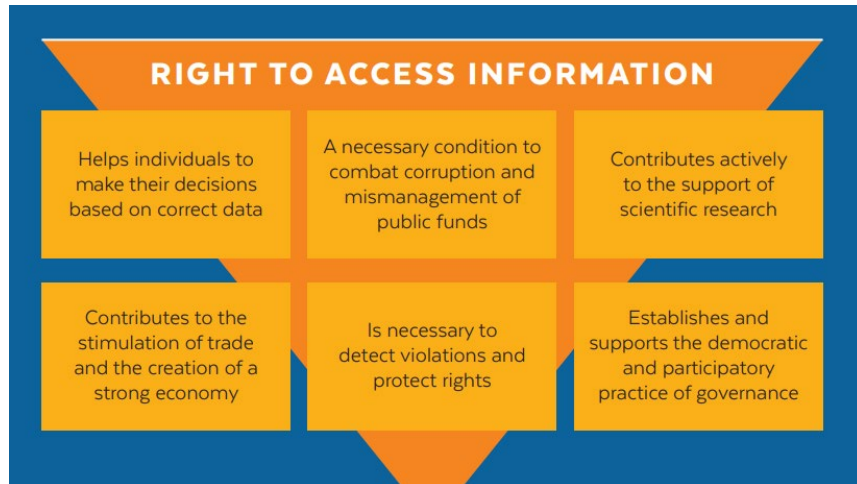
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Access to Information

The CIPIT and the GIF have developed exploratory material relevant to pertinent digital rights and internet freedom topics. The 'Access to Information' topic explores contextualized topics on access to information, including government and corporate transparency, open data and big data, access to public information sources or records, transparency by design, and public participation in decision-making.

Access to information is a fundamental principle that ensures transparency, accountability, informed decision-making, and participation in democratic societies. This principle emphasizes the public's right to access government-held information, promoting informed decision-making and holding authorities accountable. Access to information is vital in good and participatory governance practices, helping individuals to make their decisions based on correct data. Critically, this principle is essential in the fight against corruption and the mismanagement of public funds. Through access to information, civil society organizations are also able to acquire the information required to develop effective programs and strategies, and to perform their oversight role as watch-dogs effectively.¹

Figure 1: Why is the right to access information important? Source: [OECD](#).



The right to information is a fundamental human right recognized and protected by various international and regional instruments, such as Article 19 of the International Covenant on Civil and Political Rights (ICCPR) on freedom of expression. The United Nations Convention against Corruption (UNCAC) also establishes the need for specific mechanisms to ensure respect for access to information and to facilitate transparency.

Resource: Resolution No.59 of the General Assembly of the United Nations (1946)

“Freedom of information is a fundamental human right and is the touchstone of all the freedoms to which the United Nations is consecrated;

Freedom of information implies the right to gather, transmit and publish news anywhere and everywhere without fetters. As such it is an essential factor in any serious effort to promote the peace and progress of the world.”

Source: [UN General Assembly](#).

Further, the right to information has been enshrined in national constitutions and legislation across GIF regions, cognizant of the need to safeguard this right through the enactment and proper implementation of guiding policies and regulations. The scope and applicability of the right to access information will be dependent on a country’s legal framework. In some countries, the right to information enables individuals’ access to information held by public bodies such as government

agencies, and in some instances, private bodies, such as those that provide public services or those that receive public funding.

**Resource: Report of the Office of the United Nations High Commissioner for Human Rights
(A/HRC/49/38)**

This report “focuses on good practices for establishing national normative frameworks that foster access to information held by public entities... [it] sets out good practices at the international, regional and national levels and makes recommendations.”

Source: [Office of the UN High Commissioner for Human Rights.](#)

This paper explores the place of access to information in government and or corporate transparency, open data and big data, access to public information resources or records, transparency by design and public participation in decision-making.

Explainers

Term	Definition/Explainer
Access to Information	This refers to the “right to seek, receive and impart information held by public bodies.” ²
Big Data	This refers to “structured, unstructured, and semi-structured data.” ³
Corporate Transparency	This refers to the “extent to which a firm’s actions are observable by outsiders” and also insiders (such as stakeholders). ⁴
Government Transparency	This refers to the ‘practice of openness, accountability, and accessibility in the operations and decision-making processes of a government or public institution. It involves providing citizens and stakeholders with access to information, data, and records about government actions, policies, finances, and decision-making, in a clear, understandable, and easily accessible manner. Transparent governments aim to build trust, encourage public participation, and ensure that citizens can hold their officials accountable.’ ⁵
Internet Freedom	This refers to the “exercise of internationally recognized human rights online... including the freedom to seek or impart information and ideas of all kinds regardless of frontiers through any medium.” ⁶
Open Data	This refers to the “idea that data should be freely available for everyone to access, use, and re-publish as they wish.” Open data

policies and practices are “proactive information mechanisms [that] are an essential complement to reactive right to information laws.”⁷

Open Government

This refers to “a government that is effective and efficient in carrying out its duties, its work is transparent and accountable, and everyone can access its services. It is also a Government that responds to the needs of its citizens, values their participation, experience and knowledge in decision-making, and relies on modern and emerging technologies to enhance its governance.”⁸

Government and Corporate Transparency

Government Transparency

The right to access information is an essential part of open government.⁹ Transparency in government activities in terms of both information disclosure and dissemination and access to decision-making are therefore essential to holding government and/or key decision-makers to account, promoting good governance, improving public policy and efficiency and fighting corruption. Excessive secrecy can undermine the quality of public decision-making and prevent citizens from checking the abuses of public power.

Government transparency provides numerous benefits, including but not limited to, promoting democracy and accountability, and good governance.

Democracy and Accountability: Knowledge of what the state and other institutions do is fundamental to the power of people to hold them to account and improve the way in which they work. Further, access to relevant, up-to-date information can create a basis for natural exchange, allowing both government officials and the public to better assess decisions taken and policies implemented.¹⁰ Promoting public disclosure and democratic oversight provides a robust way of availing information such as government policies to critical analysis.

Good Governance: transparency is a crucial tenet of effective governance because it fosters clarity and openness in decision-making processes. This clarity, in turn, empowers special interest groups, including those who are economically disadvantaged or marginalized, by allowing them to actively engage in shaping policies and ensuring their proper execution.¹¹

Anti-Corruption Measure: increasing transparency increases the detection of corrupt practices and this can act as a deterrent to future corruption. The UN

Convention against Corruption (UNCAC)¹² calls upon all state parties to ensure public transparency generally, including in public procurement and finances.

In the digital age, the right to access and use technology is becoming increasingly important, with transparency in the activities of digital governments playing a central role in the protection of digital rights and Internet freedoms. Digital government refers to the “*use by government of information and communication technology [ICTs], including the Internet, both internally and to interact with citizens, businesses, and other governments.*”¹³

Guided by this definition, it is essential for government institutions to commit to **principles of transparency, openness, accessibility, and accountability in the digital age**. This requires (1) committing these principles regarding the use of ICTs to avail digital services, operations and information to the general public, including the digital technologies they employ and their data handling processes, and (2) leveraging technology and digital tools to enhance the visibility of government operations, decision-making processes, and the delivery of public services.¹⁴

The provision of citizens’ access to digital services such as online payments, access to government websites and other related services must be underpinning by timely and accurate information on these services, the accompanying government policies and procedures such as public procurement processes, budgeting, and taxation, amongst others. This enables citizens to understand how decisions are made and how public funds are spent on these digital services and technologies.

Figure 2: Principle 1 on Openness, Transparency and Inclusiveness. Source: OECD.

The advent of digital technologies has provided opportunities to enhance government transparency and enabled new and more inclusive ways of engaging with the public.



As illustrated by Figure 2 above, transparency efforts that governments across GIF countries can take include:

Promoting and Adopting Open Data Initiatives and Standards: Governments are increasingly publishing datasets and information in machine-readable formats on digital platforms, making them accessible to the public. This allows digital rights and IF advocates to analyze and utilize government data for various purposes, such as research, innovation, and accountability. In 2015, governments and open data experts established the *International Open Data Charter* (ODC), six principles on how governments should publish data, which are summarized in Table 1 below.¹⁵ Countries in GIF regions, including the Balkans (e.g., the Republic of North Macedonia), the Latin American (e.g., Colombia) and South and Southeast Asia (e.g., the Philippines) regions have adopted the ODC.

Table 1: Open Data Charter Principles

Principle	Summary
Open By Default	<i>There should be a presumption of publication for all. Governments should justify data that's inaccessible (e.g. for security or data protection reasons). However, the data should uphold citizens' right to privacy in order to build trust.</i>

Timely and Comprehensive	<i>Open data is most valuable when it is relevant. Information should therefore be published quickly and comprehensively in an original and unmodified form.</i>
Accessible and Usable	<i>Data should be easily accessible and machine-readable for optimal viability. Data should be free of charge and under an open license.</i>
Comparable and Interoperable	<i>Information has a multiplier effect. The more accessible quality datasets, the easier it is to establish patterns and the more potential value that can be derived from them. Data standards are crucial in this principle.</i>
For Improved Governance & Citizen Engagement	<i>Open data enables citizens to gain an awareness of governments' and public officials' activities. This transparency helps to improve public services by holding governments to account.</i>
For Inclusive Development and Innovation	<i>Open data can help propel inclusive economic development through greater access to high quality data which informs innovation and solutions.</i>
Source: International Open Data Charter .	

Providing Information on E-Government Services: Several digital governments' provide a wide range of public services online, geared at making these more accessible and convenient for citizens. This includes services like tax filing, online permit applications, and e-voting systems.

Important Note

The UNCTAD's Digital Information Portals have been adopted by countries in GIF regions, including Africa (e.g., Tanzania), Central Asia (Kazakhstan, Kyrgyzstan), South and Southeast Asia (Bangladesh), amongst others. These portals enable "citizens and businesses [to] have access to clear and accurate information on administrative procedures."

Source: [UNCTAD](#).

Providing Access to Information Portals: Digital government often includes online portals where citizens can request and access government information.

These portals streamline the process of requesting and receiving public records and ensure that information is readily available to those who seek it.

Providing Open Government Platforms: Some governments establish dedicated platforms to engage citizens in policymaking processes and provide detailed information about budget allocations, expenditures, and financial transactions. These platforms often include features like public consultations, crowdsourcing ideas, and citizen feedback mechanisms. These platforms fosters trust, allowing citizens to track how public funds are spent for digital economy and transformation projects and initiatives and provide feedback on the same.

Important Note

India's Open Government Data (OGD) Platform serves two twin purposes, including:

- a. **Use by Government of India Ministries/ Departments:** “to publish datasets, documents, services, tools and applications collected by them for public use. It intends to increase transparency in the functioning of Government and open avenues for many more innovative uses of Government Data to give different perspective.”*
- b. **Citizen Engagement Platform:** This enables “citizens to express their need for specific datasets or apps, it also allows them to rate the quality of datasets, seek clarification or information from nodal officers of participating Government entities.”*

Source: [OGD, India](#).

Providing Transparency Information Regarding the Use of Artificial Intelligence and Algorithms: As governments use artificial intelligence and algorithms in decision-making processes, transparency becomes crucial. Citizens need to understand how these technologies are used and the criteria that underlie automated decisions.

Resource: The Digital Rights Governance Framework

“This proposal for a Digital Rights Governance Framework focuses on the local safeguarding of human rights in the digital context of city-governments. Specifically, it

outlines how cities can uphold a human rights-based approach with regards to the digitalisation of their services and to some extent the digitalisation of the city.”

“In today’s public sphere, where automated decision-making is increasingly being adopted, transparency of public decision-making needs to be made clear so there is a broader understanding of how algorithms and codified processes impact society

Source: [UN Habitat & Cities Coalition for Digital Rights](#).

Corporate Transparency

In addition to being essential to governance and anti-corruption as well as being the ‘right thing to do’,¹⁶ corporations gain trust with customers, investors and employees when they provide more meaningful disclosures. The **OECD¹⁷ Guidelines for Multinational Enterprises on Responsible Business Conduct** indicate that enterprise disclosures should take into account the relevant disclosure policies and requirements in their countries and sectors of operation, also considering the nature, size and location of the enterprise.¹⁸ In addition, the disclosures should be regular, timely, reliable, clear, complete, accurate, and include comparable information in sufficient detail on all material matters.¹⁹

Transparency International’s Open Business²⁰ report proceeds to provide a useful guide to businesses on how to increase meaningful anti-corruption disclosure efforts in five risk areas which are; **anti-corruption programme, beneficial ownership, organisational structure, country-by-country reporting and corporate political engagement.** This report provides a business case for organizations which capitalize on governance and anti-corruption disclosures. **Benefits to corporations include building and maintaining their reputation and gaining a competitive advantage.**²¹

Google was the first Technology Corporation to release a transparency report in 2011.²² Since then, technology companies have continued to release their own

reports, which have been instrumental in **disclosing the scope and scale of threats to human rights abuses including privacy violations, online surveillance, internet shutdowns and content moderation.** Through these reports, users can understand a company’s policies and safeguards against government and human rights abuse and investors can hold technology companies accountable.²³

In relation to content moderation, there are a number of principles guiding technology companies such as **the Santa Clara Principles.**²⁴ These principles were established in 2018 and later revised in 2021 and they set standards on Transparency and Accountability in Content Moderation for technology companies as well as Governments. Leading Internet platforms such as Apple, Facebook, Google and Twitter have endorsed these principles.

In 2021, UNESCO came up with five high-level transparency principles that could enhance the transparency of internet platform companies,²⁵ illustrated in Table 2 below:

Table 2: High Level Transparency Principles

<p><u>General</u></p> <ol style="list-style-type: none"> 1. Companies should explicitly recognize they have an obligation to protect human rights, and particularly freedom of expression and access to information, and the privacy of their users. 2. Companies should recognize the need for the proactive disclosure of information as well as responding to requests for information. 3. Companies should be transparent about ownership and control, including of their subsidiary company(ies). 4. Companies should indicate what kinds of commercially-sensitive data they do not wish to disclose.
<p><u>Content and Process Transparency</u></p> <ol style="list-style-type: none"> 1. Companies should be transparent about any terms and standards they enforce on their own platforms, setting out the limits of what they deem to be acceptable behavior, and how these parameters align to respect for

international standards for freedom of expression.

2. Companies should be transparent about any processes they have in place to identify, remove or reduce the impact of disinformation and hate speech, including pre- and post-publication measures; and how such processes respect the free exchange of ideas and opinions; Letting the Sun Shine In: Transparency and Accountability in the Digital Age.
3. Companies should disclose what percentage of content is automatically and proactively removed compared to the percentage that is removed as a result of complaints.
4. Companies should be transparent about any processes they have in place to identify and act against inauthentic behavior and false identities when these are used to undermine human rights.

Due Diligence and Redress

1. Companies should disclose whether their processes for removing content and prohibiting behavior are periodically subject to third party assessment as to human rights compliance, carried out by a respected external independent institution or oversight body; and consider whether such assessments should themselves be transparent as well as the company's own response to any recommendations arising.
2. Companies should be transparent as to whether they have processes to enable people to raise concerns about content, including that which appears to violate human rights or advocates incitement to violence, hostility or discrimination, as well as inaccurate content; and they should be transparent about implementation of such processes in terms of numbers and types of complaints and actions taken.
3. Companies should be transparent about whether they conduct risk assessments for their operations, such as in contexts of upcoming elections or in countries in conflict, highlighting any serious potential threats to freedom of expression, privacy and other human rights, as well as their proposals for mitigating those threats.
4. Companies should disclose if they have risk assessments of any algorithms whose application can have the potential to discriminate against people unfairly, and if there are any proposed mitigation measures.
5. Companies should publish guidelines for how they will develop ethical AI processes which make consequential decisions that can impact on human

rights.

Empowerment

1. Companies should disclose any efforts they make which help to promote the media and information literacy competencies of those who are using their services.
2. Companies should disclose the terms and conditions for grants made in support of research, education and advocacy, as well as lobbying activities.

Transparency and Commercial Dimensions

1. Companies should provide information about political advertisements, including the author and those paying for the ads, and should retain these advertisements in a publicly accessible library online.
2. Companies should reveal practices of advertising and data collection regarding children's rights.
3. Companies should enable individuals to find out on what basis they are being targeted for advertising.

Personal Data Gathering and Use

1. Companies should provide information that enables people to have a meaningful (i.e. concise, transparent, intelligible, reasonably comprehensive and easily accessible) understanding about what kinds of personal data are collected and how these are used.
2. Companies should provide the means for the user to check the accuracy of their personal data held by the service, and disclose how people can request amendments or deletion in line with privacy and data protection principles.
3. Companies should state how many government requests for access to personal data have been received and the legal status of those requests.
4. Companies should disclose if and how their processes for managing privacy and data protection are subject to third party assessment by a respected external independent institution (or oversight body), following an agreed standard that respects human rights.
5. Companies should disclose their use of tracking cookies, or other systems, that gather user data on their and other services across the internet, and

with whom they share this data.

6. Companies should disclose data breaches and what actions are being taken to strengthen data security.

Data Access

1. Companies should, in an analogous fashion to many public statistical bodies, have a process to allow researchers access to personal data they hold, where this will advance important public interest goals such as open access and open science, while guaranteeing users' privacy through the range of necessary measures.
2. Companies should be transparent about their third-party agreements which allow access to personal data that is purchased, shared, directly harvested or held by them.

Source: [UNESCO](#)

Open Data and Artificial Intelligence (AI)

Important Note

“Artificial Intelligence and e-governance can play an important role to improve access to information in our digital world. They can help bridge the digital divide, by giving citizens access to tailor-made and accessible information. They can assure services that are more efficient. Citizens can access public sector information and services nearly instantly. Making government services digital enhances transparency and accessibility.

Source: [UNESCO](#).

Open data and AI are reciprocal, with open data serving as a foundational resource for AI development and AI, in turn, leveraging data to drive insights and innovation. Effective use of these two forces requires a balance between accessibility, transparency, ethical considerations, and responsible governance to maximize their benefits while minimizing potential risks.²⁶

The primary features of open data are outlined in Table 3 below, and are centered on availability and access, re-use and redistribution, and universal participation. On the other hand, AI systems are complex mathematical models designed to handle and examine substantial amounts of data in order to identify patterns and formulate predictions.²⁷ Examples of AI include speech recognition, natural language processing, chatbots (such as ChatGPT, Google Bard and other e-commerce chatbots) or voice bots (such as Apple's Siri, Amazon's Alexa and Google's Assistant).

Table 3: Primary Features of Open Data

<u>Availability and Access</u>
Data is available as a whole and at no more than a reasonable reproduction cost. Should be available in a convenient and modifiable form, preferably able to be downloaded over the internet.
<u>Re-use and Redistribution</u>
Data terms should permit re-use and redistribution including incorporation into

other datasets.

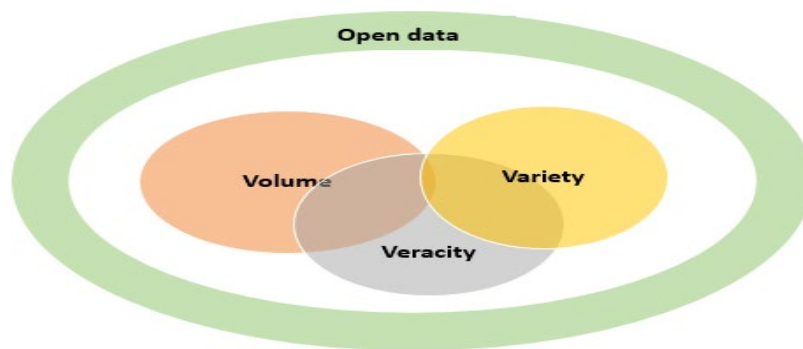
Universal Participation

The ability to use, re-use and redistribute should not discriminate against certain fields, people or groups.

Source: [Open Data Handbook](#)

As illustrated by Figure 4 below, enabling AI applications to leverage on open data requires “access to open data will 'unlock' the potential of data-hungry machine AI applications,” which requires satisfying the three V’s, namely data volume, data variety, and data veracity (i.e., truthfulness of data).²⁸

Figure 3: Open Data and AI. Source: [Data.Europa.eu](#)



Open data exposes AI systems to a wide variety and volume of (open) data sets thereby improving the accuracy and usefulness of the predictions. Alternatively, AI’s ability to analyze large data sets and come up with predictions adds value to open data. The use of this data cannot be overstated, bringing increased solutions, innovation and new economic opportunities. This cannot however be possible without available and easily accessible high quality open data.²⁹

The use of AI in decision-making processes, especially those affecting the public, raises transparency and accountability concerns. Open data can help address these concerns by providing visibility into the data used by AI systems. Transparency in

AI algorithms and the data they rely on can lead to increased trust in automated decision-making.³⁰

Important Note

*“Early AI strategies and policy recommendations looked toward open data as a pre-existing raw material that might support machine-learning tools. By contrast, the latest generation of policies and frameworks talk about ‘AI-specific requirements’ for open data. **Instead of citizens being cast as the primary users of open data, algorithmic systems are now seen as vitally important data consumers.** This is affecting both the prioritisation of data releases and the way in which data is structured.”*

Source: [Data for Development \(D4D\)](#).

Big Data

Big data is a collection of data that is so large in size and complex in nature that traditional data management tools cannot store or process it efficiently.³¹ Big data is characterized by three traits, popularly known as the “three ‘Vs’, volume (consisting of enormous quantities of data), velocity (created in real-time) and variety (being structured, semi-structured and unstructured).”³² Big data has enabled companies to obtain vast amounts of personal data, which continues to be leveraged commercially.³³ When combined with open data, this results in more accurate predictions and patterns.

Figure 4: Sources of Big Data. Source: [Allerin.com](#)



Transparency in big data is indirectly linked with the right of data subjects to access information held by an organization. Transparency in the big-data ecosystem gives data subjects access to the nature of processing activities, the logic of algorithms as well as conclusions drawn. Despite existing protections there exist a number of challenges. Data subjects have a limited understanding of big data analytics. Furthermore, the majority of organizations find it difficult to be more transparent, invoicing business on the basis of trade secrets.³⁴

Access to Public Information Resources or Records

Important Note

“... Experience shows us that history is on the side of liberty; that the strongest foundation for human progress lies in open economies, open societies, and open governments... No one country has all the answers, but all of us must answer to our own people... When we gather back here next year, we should bring specific commitments to promote transparency; to fight corruption; to energize civic engagement; to leverage new technologies so that we strengthen the foundations of freedom in our own countries, while living up to the ideals that can light the world.”

Source: [Associated Press](#).

Generally, access to public information resources helps citizens make informed decisions, hold government officials accountable, and participate in democratic processes. It also facilitates research, journalism, and the monitoring of government actions. However, challenges in achieving effective access to public information include bureaucratic obstacles, delays in responding to requests, overuse of exemptions, and ensuring digital accessibility.³⁵

Sweden pioneered the right to access to information in 1766 through “His Majesty’s Gracious Ordinance Relating to Freedom of Writing and of the Press.”³⁶ Since then, a number of global initiatives have been agreed on such as the UN Sustainable Development Goal (SDGs), with SDG Target 16.10 calling on states to “ensure public

access to information and protect fundamental freedoms, in accordance with national legislation and international agreements.”³⁷

Access to public information resources or records refers to the legal and practical ability of individuals, organizations, and the general public to obtain and use information and documents held by government agencies, public institutions, or other entities funded by public funds, i.e., taxpayers' money.³⁸ The digital age has transformed the landscape of public information access, with governments increasingly publishing data online in open formats, enabling greater transparency and data-driven decision-making.

Two critical ingredients are integral to the facilitation of this access, including (a) the **right to information**, which empowers individuals to seek information from public entities, protected by legal frameworks and international covenants, and (b) **government transparency** which is integral to the proactive disclosure of public information, without the need for formal requests.

Notably, access to information or transparency portals have been established by governments in GIF countries to provide citizens with access to public resources or records without filing formal requests, facilitating transparency and ease of access. However, a number of GIF countries still require individuals, such as journalists, researchers, and organizations to submit formal public records requests to obtain specific documents or data. Some countries, such as Angola, require the requestor to demonstrate a direct and personal interest, whereas others, such as Albania, do not require the requestor to explain the motives for the information request.³⁹

Resource: Global Right to Information Rating Map

The Global RTI Rating Map is a “methodology which comparatively assesses the strength of legal frameworks for the right to information from around the world. At the heart of the methodology for applying the RTI Rating are 61 Indicators, each corresponding to a particular feature of a good RTI regime...The indicators are divided into seven different categories, namely: Right of Access, Scope, Requesting Procedures, Exceptions and Refusals,

Appeals, Sanctions and Protections, and Promotional Measures.”

Source: [RTI-Rating](#)

Access to public resources or records is typically guided by laws, regulations, and policies that aim to promote transparency, accountability, and informed citizenship at the national or local level. These laws establish the procedures and rights for individuals to request and receive information held by government bodies.⁴⁰ Generally, public bodies and private entities receiving public funds are often obligated to disclose a wide range of public information, such as administrative information, emails, e-records, contracts, government reports, budgets, and statistical data, amongst others, in a wide variety of written or electronic formats.⁴¹

However, certain types of information can legally be withheld, evidencing the existence of exceptions to the right to information. These exceptions require **a balancing of interests, namely the public's right to know against legitimate and necessary interests**, such as the need to protect sensitive information, national security, personal privacy, and business confidentiality.⁴²

As a matter of best practice, access to information or right to know laws are enforced and overseen by independent agencies or ombudsmen who are tasked with ensuring that government entities and applicable private entities comply with transparency requirements.⁴³

Public Participation in Decision-Making

Resource: Digital Engagement, Social Media & Public Participation

This whitepaper, released by the International Association for Public Participation Canada, provides “practical information about using digital tools for public engagement.” The paper provides five recommendations for high impact digital public participation (P2), including:

1. *“Engage specific online participants, not general audiences.*
2. *Decide upfront how much time and resources you can invest.*
3. *Prioritize interaction, particularly with social media.*
4. *Measure what matters about your digital P2 impact.*
5. *Design engagement differently for different audiences.”*

Source: [International Association for Public Participation Canada](#).

Generally, public participation is essential in promoting better decisions, adopting good practice, and allowing more effective and efficient digital transformation and economy policies.⁴⁴ Public participation in decision-making goes hand-in-hand with digital rights, digital inclusion, digital transformation, open government, and protection of the online civic community.

In the digital age, digital public participation increasingly leverages digital platforms and technologies to facilitate individuals’ and communities’ engagement. Further, digital public participation promotes the realization of individuals' rights and freedoms. As magnified by the Open Government Partnership, “*new spaces and platforms for engagement have opened up and have **transformed citizens from passive beneficiaries into active participants** who can help identify solutions to governance challenges.*”⁴⁵

Important Note

“Public participation is a process, not a single event. It consists of a series of activities and actions by a sponsor agency over the full lifespan of a project to both inform the public and obtain input from them. Public participation affords stakeholders (those that have an interest or stake in an issue, such as individuals, interest groups, communities) the opportunity to influence decisions that affect

their lives.”

Source: [US Environmental Protection Agency](#).

As illustrated by Figure 5 below, access to information and transparency are integral principles for effective public participation, which can take numerous forms. These range from the provision of information to active involvement of stakeholders.⁴⁶

Figure 5: *Principles of Public Participation*. Source: [ICNL](#).



Notably, while digital public participation, online civic engagement and activism have been expanded through the use of digital technologies, such as social media platforms, this is ***negatively impacted by the digital divide*** (see Topic 5). Notably, the sole reliance on digital public participation risks excluding marginalized communities from the decision making processes, magnifying the need for an equitable and universal access to digital tools and resources.

Additionally, the quality and integrity of digital public participation and the realization of digital rights is impacted by the ***challenge of online disinformation and misinformation***. For instance, during the COVID 19 pandemic, there was an overload of information about everything ranging from COVID-19 vaccines to the manner in which the virus spread, which made it difficult to discern between evidence-based information and unreliable (dis/mis) information, giving rise to the term “infodemic.”⁴⁷

Transparency by Design

Resource: Design Principles for Creating Digital Transparency in Government

This paper define 16 design principles to overcome barriers to digital transparency in government. These principles are designed to help government organization to “build technological and institutional foundations and use such foundations to organize themselves for transparency.” The 16 principles include:

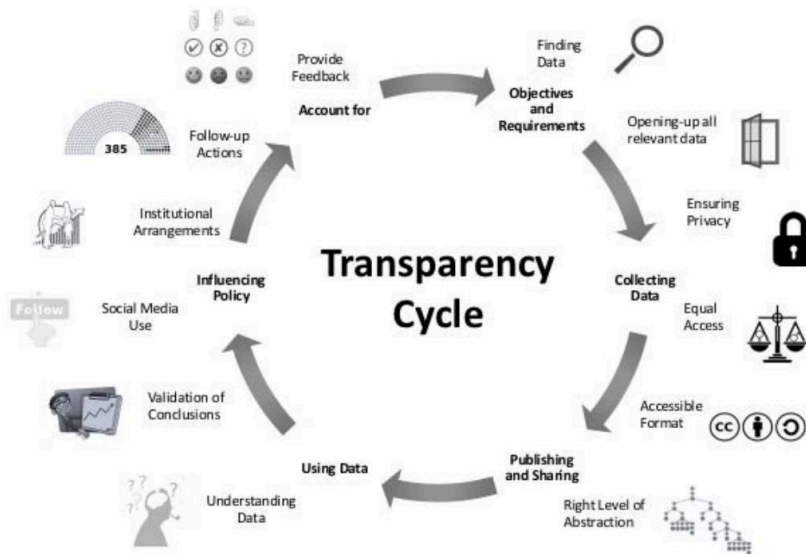
1. *Separating privacy-sensitive and –insensitive data at the source (privacy).*
2. *The openness of processes and actors (openness).*
3. *Feedback mechanisms for improving transparency (feedback mechanisms).*
4. *Various levels of abstraction for data access (data abstraction).*
5. *Avoid any jargon or terms that the public does not understand (comprehension).*
6. *Check and rating data quality (data quality rating).*
7. *Visualization of different views (visualization).*
8. *Data access in different protocols (data access).*
9. *Use of standardized formats (standardized formats).*
10. *Ensuring that data is unaltered and its history can be traced (data persistency).*
11. *Data and system interoperability (interoperability).*
12. *Include metadata for data comprehension (metadata).*
13. **Transparency-by-design (automatically opening data).**
14. *Opening of raw data (opening of raw data).*
15. *Assigning stewards responsible for digital transparency (stewardship).*
16. *Supporting views with different levels of details (gradation of detail).*

Source: [Ricardo Matheus, Marijn Janssen & Tomasz Janowski.](#)

In 2017, Janssen et al. (2017) proposed the concept of “transparency-by-design” denoting that transparency should be the main foundational element for the promotion of open government and the development of systems (such as open government portals) aiming to disclose relevant data to the public in an easily and digestible manner.⁴⁸ More broadly, this concept can be applied to business processes, technology platforms, amongst others, geared at promoting accountability, trust and sustained transparency. Critically, Janssen et al., stressed

that **transparency should be reflected in the design of a transparency system or processes, as well as the outcome**, as illustrated by Figure 6 below.

Figure 6: Transparency-by-design cycle. Source: [Delft University of Technology](#)



Transparency-by-design intersects with digital rights by ensuring that principles of transparency, accountability, privacy protection, and the ethical use of technology are integrated into the design and operation of digital systems, thereby safeguarding and promoting digital rights. Specifically, transparency-by-design enhances access to information by integrating transparency principles into digital systems, data handling, and user interactions.⁴⁹ Further, this approach promotes accountability, user empowerment, and informed decision-making in the digital realm while respecting privacy and accessibility considerations. For example, transparency-by-design **promotes open data initiatives and the transparent availability of information**, which facilitate access rights. Further, prioritizing transparency-by-design requires **emphasizing user-centered design principles**, which are integral for ensuring that persons with disabilities can access information from digital platforms and services.

Supplementary Resources

Instruments

[African Charter on Human and Peoples' Rights](#) (ACHPR), 1986.

[American Convention on Human Rights](#) (1969).

[American Declaration of the Rights and Duties of Man](#) (1948).

[Association of Southeast Asian Nations \(ASEAN\) Human Rights Declaration](#), 2009.

[Charter of Fundamental Rights of the European Union](#), 2009.

[Convention for the Protection of Human Rights and Fundamental Freedoms](#)
(European Convention on Human Rights, or ECHR), 1953.

[Declaration of Principles on Freedom of Expression in Africa](#), revised in 2019.

[Inter-American Democratic Charter](#) (2001).

[International Covenant on Civil and Political Rights](#) (ICCPR), 1996.

[International Open Data Charter](#), 2015

[Recommendation of the Council on Open Government](#), 2017.

[Universal Declaration of Human Rights](#) (UDHR), 1948.

[United Nations Convention against Corruption](#) (UNCAC), 2004.

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Council of Europe, [Report on Transparency and Open Government](#).

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UNESCO, [Internet transparency: a guide to applying the UNESCO principles. Follow-up to the report “Letting the sun shine in: transparency and accountability in the digital age.”](#)

Articles

Beth Simone Noveck, '[Rights-Based and Tech-Driven: Open Data, Freedom of Information, and the Future of Government Transparency.](#)'

Gbemende E. Johnson, '[The Law: Government Transparency and Public Access.](#)'

Websites and Blogs

David Taylor, '[What is Big Data? Introduction, Types, Characteristics, Examples](#)'

Granicus, '[What is Government Transparency?](#)'

GSDRC, '[Access to information and its Constraints.](#)'

OECD Middle East and North Africa, '[Promoting Transparency and Accountability.](#)'

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- ⁵ Gregory Porumbescu, Albert Meijer & Stephan Grimmelikhuijsen (2022). [Government Transparency: State of the Art and New Perspectives.](#)
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- ¹² UN (2003). [United Nations Convention against Corruption.](#)
- ¹³ Helen Margetts (2006). [Transparency and Digital Government](#) in Christopher Hood, and David Heald (eds), *Transparency: The Key to Better Governance?*
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