Internet, E-Government and Information Access

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1　Introduction -The e-Movements

The proliferation of the Internet, the facile way in which it can be used has revitalized the relation between governments and citizens. This relation has been in a constant process of reform when the new digital technology opened up new possibilities to overcome practical limitations. Now information technology could not only be used to improve administrative processes within the administration and between the administrations but administrations could set up a new interface. This reorganization of internal administrative processes and improvements in the communication with citizen is summarized under the term e-government.

e-government

The use of information technology and the improvement of the interface to the general public, however, is not only restricted to governments. It has also reached the courts which use information technology to communicate with other courts and with lawyers but also with the general public that takes an interest in the function, performance and decisions of the courts.[1]

e-courts

Not only governments and courts are changing but parliaments, too, are making use of this technology to improve their transparency and make their work better known. Parliamentary websites now provide information on members, political parties and voting behavior With e-Parliament protocols and decisions are now accessible within hour after they have been voted.[2]

e-Parliament

And finally there are world-wide experiments on how to use the new communication networks of the Digital Society for voting purposes without inviting fraud and securing the secrecy of the ballot at the same time. In Switzerland e.g. in some Cantons (independent regions) people were able to cast their vote from their home over special websites.[3]

e-voting

All such attempts to improve and to facilitate the relationship between citizens and public institutions are also summarized under the notion of "e-democracy".

e-democracy

All these measures need a good, reliable and sufficiently cheap electronic infrastructure, educated citizens, who know how to use the technology and an administrative culture that is open to change and improvement. Some of these ap-

conditions

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[1]　See for example the website (in German) of the German Federal Constitutional Court: http://www.bundesverfassungsgericht.de/

[2]　For the German Federal Parliament see: http://www.bundestag.de/htdocs_e/index.html.

[3]　See e.g. (in French): http://www.geneve.ch/evoting/.

plications - like e.g. e-voting or e-government applications require that citizens have to identify themselves and therefore also need an electronic infrastructure where such individual identification is possible.

This presentation will concentrate on one aspect of e-government which at the same time is an essential element of e-democracy: the transparency of administrations in Digital Societies.

2   General Aspects of Transparency

Transparency is not a new issue. Like so many issues it has a long tradition and political history. However, it is technological change which has revitalized the issue because with technological change at least some of the practical barriers for improving communications have been removed.

2.1   Types of Transparency

For the further discussion it is helpful to distinguish between several kinds of transparency in the relation between citizen and public administration: Seen from the perspective of the citizen at least four forms of transparency are important:

2.1.1   Transactional transparency

This is perhaps the most important form of transparency in the e-government contexts: There are many situations when a citizen is dependent on the public administration, e.g. when seeking to obtain a permit. Transactional transparency is achieved when the citizen knows from which administration to obtain the permit, the conditions of the permit, information on all the documents needed for the permit, the contact person in the administration, the way this person can be contacted (e-mail, telephone, visiting hours, etc.), a time estimate as to how long it will take to obtain the permit and the costs of the permit. If the identity problem is solved even the transaction could take place by electronic means. The important thing, however, is that the citizen can obtain all this information beforehand on the website of the administration. This is not a trivial task. It is important e.g. that the information is structured according to the needs of the citizen organized according to real life situations and not according to administrative or legal structures.

2.1.2 Functional Transparency

Functional transparency aims at giving citizens a general understanding how the government in general is working and how special sectors of government are working. With functional transparency citizens obtain information e.g. on how laws and regulations are made; which laws and regulations are currently being discussed and where citizens can give their input for these discussions.

2.1.3 Structural Transparency

Structural transparency is needed to have information on the different parts and internal structure of the public administration. Information is provided on where these offices can be found, who can be contacted how, what types of information are available in the various organizations. While functional transparency ensures that citizens learn how the "government machine" is working, structural transparency is describing the construction of the "government machine" and its parts.

2.1.4 Object Transparency

Object transparency means that the citizen can ask the administration to learn more about a specific object of a citizen's choice; of an administrative decision or that the citizen can request to see a specific document.

2.2 The Importance of the Various Types of Transparency

In an ideal type of administration all types of transparency would be present; and information technology would be used to enhance all of them; an additional type of transparency might then even be applied: cognitive transparency to help citizens *to understand* the complex environment of the administration.

This presentation will focus on what seems to be the most difficult part of administrative transparency: object transparency. Administrations make many efforts to provide for structural and functional transparency and make new efforts to install transactions which the citizen can handle via a website. These efforts help administrations to achieve a better image and - in the long run - to lower transaction costs. Administrations, however, are very reluctant to provide for object transparency. The results of object transparency can not be controlled in advance. There may be embarrassing information coming to the light. Object transparency, however, is an important test on how serious governments are in improving the relationship with their citizens. It is this kind of transparency which can profit most from communication technology. And it is this kind of transparency which can

most effectively contribute in establishing additional controls to reduce the misuse of administrative power.

This presentation will therefore focus on object transparency. Object transparency is already provided in many countries. The legislation establishing object transparency is mostly called "access to government information legislation", or "freedom of information legislation."

I will first describe the general elements of "access to informationlegislation" as I will call it, then I will give a brief overview on how much this idea has developed internationally. I will conclude with the role of information technology for this type of transparency and conclude with an assessment of effects and international implications.

3   Access to Government Information Legislation

The first "access to government information" legislation dates back to the 18th century. Since then many countries have installed such legislation. Over the years a "state of the art" for such a type of legislation has developed which sets the standard as to what sort of elements an access law should contain to be useful:

3.1   Elements of Access Laws

Access to government information law should have all of the following features:

Access to government information legislation should give citizens a principle right to request a document of their choice from the public administration.

This right would not need a further reason, explaining why the citizen would need this document.

This right only applies to documents in the possession of the public administration. The administration does not have to give the document itself, but it could let the citizen look into the document. In practice the administration should send the citizen a copy, either a paper copy or an electronic copy, if available and requested by the citizen. The meaning of "document" can be very broad: It can mean a paper document, or an electronic file, or any other recording of information.

Since it may be difficult for citizens to clearly indicate which document they want to have access to, administrations should be required to publish catalogues of types of documents which are available from them.

exemptions

While the access right is the principle, there are also exemptions. A public sector administration has not to release a document, if there is an overriding public or private interest which would be endangered if the document would be released.

public interest exemption

Overriding public interests would be

- matters of national security or the financial well-being of the State,
- matters which negatively affect relations to another country,
- matters which would reveal strategies ot current activities of law enforcement authorities.

private interest exemption

Overriding private interests would be affected, if the release of the documents in the possession of the public administration would have a negative impact on

- the privacy of individuals,
- or a trade secret.

partial release

If there is such an exemption the administration has to decide if nevertheless parts of the requested document can be released, because they are not covered by that exemption.

time limit

The administration has to make its decision within a given time limit - usually six weeks.

partial access

If the administration refuses access in whole or in part, it has to give a reason referring to the particular exemption.

court review

If access is refused, the citizen has the opportunity to ask the courts to review the decision.

costs

If the administration agrees to give access by making a copy available the cost of the copy should not be so high as to bar citizens from making use of their rights. Electronic copies should be free of charge.

agency

There should be a special administrative agency or commission which helps and educates administrations and citizens to make best use of this right.

3.2   State of Legislation

The first Access to Government Information Act went into force in 1776 in Swe-
den. This does not mean that governments were enthusiastic in adopting such
legislation. Germany e.g. - on the federal level - has adopted such legislation only
last week. All European Union Member States (with the exception of Luxemburg)
now have such laws. Similar rules apply to all European Union institutions. The
most famous access to government law is the US Freedom of Information Act
because it perhaps gives citizens the broadest rights of access.

But the laws differ very much. Not all of them meet all of the criteria I have men-
tioned as "state of the art". Even within the European Union, there are great dif-
ferences since they have not been harmonized. The only access laws which
have been harmonized within the European Union are those which give access
to environmental information.

The main and most important difference is the way in which exemptions are
regulated. While all different laws are usually have the same type of exemptions,
laws differ in the detail in which these exemptions are regulated and as to
whether they allow for "exemptions to the exemptions". Laws e.g. generally ex-
clude trade secrets which have been shared with the government from access;
some countries, however, allow access to these trade secrets nevertheless if the
document which contains the trade secret is revealing information which nega-
tively affects the health and well being of citizens. .

4   The Role of Information Technology

Information technology and particularly the internet have facilitated the practice of
this law:

-     Governments can streamline their internal information management in a
      way that also provides a "window" to the public.

      Governments can now publish their information easily and more cheaply
      on the internet.

-     Citizens who have no direct access to the internet may use access e.g.
      from public libraries.

-     Governments can start actively to publish documents when they have re-
      alized that there is a strong request for such documents and can thus re-
      duce the workload for answering information requests individually.

5   Effects

There has been no recent systematic assessment of the impact of access legislation. But in practice and by watching developments in several countries for a long time one can point to a number of qualitative consequences:

- Administrations have started to organize their information holdings in a better way so that they are able to answer the request of their citizens. Very often an access law has required an administration for the first time to find out systematically what kind of information it holds and processes and why.

  information management

- The society as such seems to profit from the additional control effect of object transparency: Administrations may want to continue to be restrictive with regard to the information they give out, particularly when it is embarrassing. But because of the courts and the law, administrations are less and less successful to withhold information. Administrations then may find it useful to change their information policies, to actively and openly face the embarrassment and to find solutions, rather than being forced by the courts to do so.

  societal profits

- Citizens' attitudes may change with the experience of transparency: Citizens realize that administrations can make mistakes. They have known this before. But they will also become aware that administrations increasingly show responsibility for their behavior and will undertake measures to correct their mistakes. If this is guaranteed citizens may become less agitated about administrative mistakes and see their administrations in a more realistic way.

  citizens' attitudes

- In the long run administrations and citizens become more "information conscious" and learn about the value of good information. This kind of attitude may eventually have secondary effects for the information market when people become interested in creating and buying high value information products.

  information market effects

In spite of all these effects, one has to realize that the learning process takes time. The first article e.g. suggesting to have an access to government information law in Germany on the federal level had appeared some 60 years ago, and the law was passed - as I have mentioned - only last week. In most countries, even with a longer tradition of access law, administrations still seek to find ways to hide information, even if they become less successful in hiding such information.

se backs

A law is of course not enough. It needs attentive citizens and an attentive press to make use of these rights. It needs civil society organizations to put information

attentive citizens and press

which has been successfully accessed into context and make it available to other citizens so as to help to create "cognitive transparency". In the long run, however, and Germany is a good a example, no country which wants to face the international community can be without similar legislation.

6   International Aspects

This last remark opens the view on international implications.

Some international transparency obligations already exist: The law of the World Trade Organization requires countries to make market conditions, market access rules and regulations of specific industries and services transparent and accessible to competitors from all member states.

WTO

One has also to realize that due to international dependencies it might well happen that information which is not available from the administration of one country may often be available through the administration of another country. Meat factories e.g. all over the world which wish to export to the United States have to allow US meat inspectors inspect their factories. These inspection reports are US administrative documents and become accessible under the US access to government information legislation. One Canadian who was not able to get information on sanitary conditions in meat factories in Canada from his own government used the US law to obtain inspection reports because these factories were exporting meat to the US and had had to allow US inspection. As a Canadian he was not barred from using the US legislation since the US legislation does not require you to be a US citizen to use this law. Most countries by the way allow access by everybody. It would not be practical to restrict access to one's own citizens, since a foreigner could always ask a citizen to make such a request for him. These mechanisms in the long run help to spread the idea of access to government information internationally.

mechanisms of international proliferation

And again the internet will help to use this instrument on a world wide basis and allows governments to present a modern, functional interface of transparency to the world.