



INTEGRITY ACTION

LEARNING PAPER

Evidence for Governance in Fragile and Conflict-Affected States

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1 Introduction

This report was written on behalf of Integrity Action's Network for Integrity in Reconstruction (NIR). Integrity Action works directly with local communities in Africa, Asia, the Middle East and Europe to empower citizens to identify practical and cost effective solutions to integrity challenges. NIR is a coalition of organisations across conflict-affected countries, which use access to information to empower communities to promote accountability and effectiveness in aid and the post-war state.

As transparency, accountability and openness emerge as predominant international development themes, it is increasingly widely accepted that opening information will bring significant benefits by encouraging people to question what their governments are doing, reducing opportunities for corruption, and increasing the impact of aid. These results rest on the assumption that trustworthy information will be available as a basis for planning, monitoring and measuring development goals for minimising financial or environmental disasters, protecting human rights, supporting good service delivery, and enabling economic development.

Despite these hopes, little attention has been given to how the quality of this information will be managed and preserved so that people can trust it and it will survive and be accessible over time. Digital information can easily be manipulated, deleted, fragmented or lost, resulting in misguided policy, misdirected funding, cover up of fraud and weak data. Trustworthy information does not happen automatically. It is achieved through well-defined control frameworks, many of which have never been established in lower resource countries or have collapsed or been undermined in fragile and conflict-affected states. In particular, the essential structures, controls, and skills necessary to manage digital information have often not been introduced, and most stakeholders are unaware of the extensive range of international standards for managing information and the benefits they would bring. This is a cross cutting issue of immense developmental significance.

Achieving international development goals for ending extreme poverty by 2030 and promoting shared prosperity requires a reliable evidence base for transparency and accountability, for planning and managing services for citizens, and for quality data.



Open data involves making government data available proactively to enable citizens to take greater ownership of and participate more fully in their governments, monitor how government money is being spent, hold public officials accountable for their actions, support good decision-making, create new business opportunities and stimulate innovation. Data can provide a valuable means of facilitating analysis, revealing trends and patterns and facilitating comparisons, but to hold governments accountable it is necessary to demonstrate that the data is accurate. As Bill Dorotinsky, Head of Rapid Delivery and Business Development and Leader of the Public Sector Performance Global Expert Team at the World Bank, has noted:

People assume that good economic data is there, but if it is not, work is flawed or not possible. Data should come from records – the veracity of the data depends upon the record. The quality of the records management system makes you trust or doubt data.

Similarly, poorly organised, fragmented or missing records can result in delays and obstacles to meeting Freedom of Information (FOI) requests. Where records are not well managed, information can be manipulated, deleted, fragmented or lost, and records become unreliable. Without proper records management controls, citizens cannot prove unequal or unjust treatment; human rights violations are difficult to challenge; and the public cannot make an informed contribution to the governance process.

The case studies presented in this report examine records as evidence in the context of requirements for governance, access to information and restorative justice. Based on these case studies, the report identifies common issues for good governance. It identifies potential approaches and possible barriers to governance founded on openness and access to trusted information.

2 Concepts

Fragile and Conflict-Affected States

The World Bank's Country Policies and Institutional Performance Assessment (CPIA) rates countries against a set of 16 criteria grouped in four clusters: economic management, structural policies, policies for social inclusion and equity, and public sector management and institutions.¹ The final cluster includes transparency, accountability, and corruption in the public sector.² It defines fragility and fragile situations as periods when states or institutions lack the capacity, accountability, or legitimacy to mediate relations between citizen groups and between citizens and the state, making them vulnerable to violence.³ This definition highlights the importance of openness and the government-citizen relationship for stability.

¹ The World Bank, *Country Policy and Institutional Assessment*, at <<http://data.worldbank.org/data-catalog/CPIA>>. Accessed 2 September 2014.

² The World Bank, *Country Policy and Institutional Assessment: frequently asked questions*, at <<http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/IDA/0,,contentMDK:21378540~menuPK:2626968~pagePK:51236175~piPK:437394~theSitePK:73154,00.html>>. Accessed 2 September 2014.

³ The World Bank *World Development Report 2011: Conflict, Security and Development* (2011), at <https://openknowledge.worldbank.org/bitstream/handle/10986/4389/9780821384398_fm.pdf?sequence=74>. Accessed 3 September 2014.



Good Governance

Good governance is essential for a democratic and well-functioning society; as The World Bank states, 'governance has been associated with democracy and good civil rights, with transparency, with the rule of law, and with efficient public services.'⁴ Good governance is the capacity of citizens to hold their government to account, which is facilitated by transparency, access to trusted information and democratic participation. This is exemplified in the following UNDP definition of good governance:⁵

Good governance is, among other things, participatory, transparent and accountable. It is also effective and equitable. And it promotes the rule of law. Good governance ensures that political, social and economic priorities are based on broad consensus in society and that the voices of the poorest and the most vulnerable are heard in decision-making over the allocation of development resources.

UNDP *Governance for Sustainable Development* (1997)⁶

Good governance requires a positive engagement between government and society based on transparency and accountability, which is only possible if the citizenry has access to authentic and trustworthy records of government activities.⁷

Records as Evidence

To support good governance, citizens need access to trustworthy evidence of their government's activities. The evidentiary value of records is rooted in their trustworthiness. According to international good practice in records management, the trustworthiness of records is dependent on records being *accurate*, *reliable* and *authentic*.⁸

⁴ The World Bank, *What is Governance?*, at

<<http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/MENAEXT/EXTMNAREGTOPGOVERNANCE/0,,contentMDK:20513159~pagePK:34004173~piPK:34003707~theSitePK:497024,00.html>>. Accessed 3 September 2014.

⁵ For other definitions see The World Bank, *What is Governance?*, at

<<http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/MENAEXT/EXTMNAREGTOPGOVERNANCE/0,,contentMDK:20513159~pagePK:34004173~piPK:34003707~theSitePK:497024,00.html>>. Accessed 3 September 2014.

⁶ As cited in ATD Fourth World, *Good Governance in the Context of Extreme Poverty*, at

<<http://sustainabledevelopment.un.org/content/documents/6673adt.pdf>>. Accessed 4 September 2014. Cf. UNDP, *Why Good Governance Makes for Better Development* (2011), at

<<http://www.undp.org/content/undp/en/home/ourperspective/ourperspectivearticles/2011/05/20/why-good-governance-makes-for-better-development.html>>. Accessed 3 September 2014.

⁷ John Dirks states: 'accountability is defined as the ability or extent to which an individual or organization is bound to give account, or to answer for conduct or performance of duties. An account is defined (for this context) as a report, narration, or description of an event. Merging these two definitions, the accountable person or organization, among other things, is responsible for providing a record of his or her activities' (Dirks, J. M., 'Accountability, history, and archives: conflicting priorities or synthesized strands?' *Archivaria* 57 (2004), pp.30-31).

⁸ As defined by the InterPARES Project, at <<http://www.interpares.org/welcome.cfm>>. Accessed 4 September 2014. Cf.

InterPARES 3 Project, *Intellectual Framework, Version 2.0* (2008), at

<http://www.interpares.org/display_file.cfm?doc=ip3_intellectual_framework.pdf>. Accessed 4 September 2014. InterPARES



- Accuracy: 'The degree to which data, information, documents or records are precise, correct, truthful, free of error or distortion, or pertinent to the matter.'
- Reliability: 'The trustworthiness of a record as a statement of fact. It exists when a record can stand for the fact it is about and is established by examining the completeness of the record's form and the amount of control exercised on the process of its creation.'
- Authenticity: 'The trustworthiness of a record as a record; i.e., the quality of a record that is what it purports to be and that is free from tampering or corruption. Authentic records are records that have maintained their identity and integrity over time.'⁹

These qualities can only be ensured by trusted record-making, record-keeping, and record-preserving systems, overseen by a trusted custodian through an information governance framework.

3 Records as Evidence in Fragile and Conflict-Affected States

CASE STUDY 1: Governance: The Sierra Leone Teachers' Records Management Improvement Programme

Introduction

Ghost workers are people receiving salaries who either do not exist or who are not legally occupying the positions for which they are receiving pay. The existence of ghosts on the Government of Sierra Leone payroll, enabled by inaccurate or non-existent teachers' records, has meant that the government was spending vast amounts of money on individuals who were no longer teaching or who were not placed at the correct salary and grade level.

In 2010, the Teachers' Records Management Improvement Programme (TRMIP) was implemented, a payroll cleaning project aimed at improving payroll and personnel information in the teaching service and to identify, from among the 35,000 names on the teachers' payroll, ghosts that the Government of Sierra Leone could take action to remove.

The Legal and Organisational Framework for Education

The education system in Sierra Leone is governed by the Education Act, 2004, which requires the managers of schools to keep a register of teachers employed in their schools and to maintain records of teachers' qualifications, experience and postings. All employment events that affect the teachers' payroll

(International Research into the Preservation of Authentic Records in Electronic Systems) is an international project leading research into the management of digital records. The research is currently in its fourth phase (ITrust 2013-2018), which concentrates on digital records online.

⁹ Definitions from InterPARES 3 Project, *Intellectual Framework, Version 2.0* (2008), at <http://www.interpares.org/display_file.cfm?doc=ip3_intellectual_framework.pdf>. Accessed 4 September 2014.



had to be approved by the Ministry of Education, Science and Technology (the Ministry) at the time of the project. District Education Offices in each of Sierra Leone's fourteen districts serve as the local presence of the Ministry. Clearly, to support payroll integrity and the maintenance of accurate teachers' records, there must be a continuous flow of information between schools, District Education Offices and Ministry headquarters.

A significant factor in terms of information flows is that teachers are still paid in cash at their schools and have to sign a 'payroll voucher' so that the school can verify that the salary has been received and that the person receiving the salary 'owns' his/ her unique PIN printed on the voucher. Payment direct into bank accounts is likely to be introduced. However, both cash and cheque payment methods are open to fraud and need to be carefully controlled, documented and monitored. This system of cash payment requires the identity of the teacher to be confirmed in person when the salary is paid.

Issues at the Start of the TRMIP Project (2011)

Within the education sector, officials acknowledged that all previous attempts to verify teachers and clean the payroll have failed. An unsuccessful attempt in 2008 demonstrated the centrality of records for supporting such initiatives, as the verification process failed due to the fact that personal files for individual teachers were neglected, the records that existed were incomplete and difficult to access, and the data about teachers held by the Ministry or provided by census and verification exercises was unreliable as it was not supported by documentary evidence. Put simply, an inaccurate payroll could not be verified against unreliable or non-existent records.

Before the start of the TRMIP project, there were no individual files for teachers kept by the Ministry, and few reliable statistics were available. The records that existed, mainly teachers' record cards, were poorly organised, difficult to find and kept in inadequate conditions in the Ministry's records store and scattered through offices. Critically, what was not known was the number of teachers who were teaching in schools either without a government salary or who were paid a small 'stipend' by the school or employing authority. In the course of the project, files were created for every teacher on the payroll, and while the TRMIP project was in progress, the Ministry reduced the payroll bill by many millions of Leones by identifying teachers where the records showed that the teacher was not on the payroll legitimately or was being paid on an inappropriately high salary and grade level.

Prior to the project, regularly reported problems included incomplete and inaccurate data being held about schools, their location and their staff, data discrepancies between Ministry and NASSIT records,¹⁰ and the inability of many teachers to provide documentary evidence of their appointments. The Ministry maintained an Education Management Information System (EMIS) but had insufficient staff and resources to keep up-to-date and accurate data. This led to issues such as teachers being included on the payroll who were no longer in employment, and multiple teachers using the same 'unique' PIN.

¹⁰ The National Social Security and Insurance Trust (NASSIT) administers Sierra Leone's National Pension Scheme.



Overview and Analysis of the TRMIP Project

The TRMIP project was established by the Government of Sierra Leone to create an individual hard-copy file for each teacher on the payroll. Files were labelled with the teacher's name and payroll number (PIN)¹¹ and stored in PIN order in the Ministry's headquarters. In 2011, the African Development Bank provided a grant of just over two million US dollars as an extension of this exercise. The project would:

- verify all teachers in government or government-assisted schools through face to face interview
- provide the information needed by the Ministry to clean the teachers' payroll of ghost workers, data inaccuracies and irregularities
- populate teachers' files with key employment documents as accurate and up-to-date evidence of teachers appointments and personal details
- develop a set of Standards and Guidelines for Managing Teachers' Records.

Most of the project activities related to the physical verification of teachers in order to clean the payroll. However, the aim was also to introduce sound record-keeping, based on standard business processes, to ensure that every change to the payroll in future would be correctly recorded and captured in accessible teachers' records.

Teachers' Verification and Data Gathering in Schools

Every government or government-assisted school was precisely located by GPS technology and each teacher had a passport-type photograph and fingerprints captured digitally. All teachers found in the school were verified, whether or not they were included in the government payroll. Teachers on the payroll who were not found in the school were issued with an invitation to attend an interview. Teachers who were missed and subsequently attended an interview were required to show evidence that they were genuine teachers by providing copies of, for example, daily attendance registers and school salary vouchers.

Building Reliable, Accessible and Secure Teachers' Records

The first phase of the TRMIP project created a personal file for every teacher on the payroll, using the payroll data to generate file labels (name and PIN). Available records were filed by matching names with PINs from the payroll. Documents were sorted by PIN/ file number, matched to the teacher's file and filed in date order. They then were scanned and captured in a searchable database, linking documents to PINs to create a virtual file. This work stream ensured that the Ministry had a paper and digital employment record of all teachers against which the payroll could be audited and verified. New hard copy documents relating to individual teachers that are created or received in the Ministry in future will need to be added to files and

¹¹ A PIN code is a unique six digit number assigned to each teacher, and supposedly never reused.



scanned. Procedures and record-keeping processes were documented in a *Procedures Manual for Managing Teachers' Records* in the Ministry.

Sustaining Project Gains

The project reviewed and improved the standards and processes for documenting changes to teachers' employment status and for managing teachers' records in schools, employing authorities and the Ministry. By following the new *Standards and Guidelines* the payroll should continue to be accurate and up-to-date, and every change to the payroll documented in teachers' files held both locally and at Ministry headquarters. The guiding principal was that the *Standards and Guidelines* should reflect existing procedures that work well, but should set a standard for new practices where these improve the management of teachers' employment via sound record-keeping processes, ensuring that information about all events affecting the payroll is copied to the Ministry's district education offices and regularly verified so that the district offices have sufficient documentary evidence to monitor teachers and the payroll.

One of the objectives of the project was to ensure that any action taken at Ministry headquarters on teachers' appointments, promotions, transfers and other processes is always carried out 'on the file'; as soon as documents are received in the Ministry from employing authorities or district education offices, the documents should be placed on a teacher's file and forwarded to the office of the Permanent Secretary. Authorisations and newly created documents should be immediately captured on files.

At the end of the project, accurate data on all teachers in government and government-assisted schools was provided to the Ministry.

- Number of Schools: As part of the verification process, interview records were matched with school reference numbers or names in the Ministry's Education Management Information System (EMIS). The verification exercise found 830 schools that were not in the EMIS database.
- Teachers Working in Schools: 24,435 teachers (70% of those on the September 2012 teachers' payroll provided by the Accountant General) were verified by matching PINs in the verification database with PINs on the payroll. This number may include some individuals who were fraudulently using another teacher's PIN. However, the assumption was that the vast majority of 'ghosts' were excluded from the 70% matched. By matching PIN or NASSIT number or name (surname, plus first ten characters of first name) plus data of birth (month and year), the number of teachers verified increased to 25,731 (74%). 1,238 teachers on the payroll (4%) were appointed to schools and added to the payroll after verification teams visited those schools. The balance of teachers not found, excluding new teachers, was 7,761 (22%).
- Teachers without PINs: 15,482 teachers were unable to provide any evidence to match them to a PIN. The assumption therefore was that they are not on the current payroll. Although the bulk of these individuals are teachers and teaching assistants, a significant number (1,262) claimed to occupy senior teaching positions (head teacher, deputy head teacher, senior teacher).



The data was analysed and presented in a form that could be used by the Ministry to provide a more accurate payroll and to remove anomalies. The recommendation was to suspend the 22% of teachers who could not be verified and remove the 3% who were past retirement age as a means of reducing the payroll and enabling new and genuine teachers to be recruited. Teachers could be reinstated on appeal within a time limit if they provided documentary evidence of their identity and employment status.

Lessons Learned

TRMIP represents a huge achievement for Sierra Leone. Many attempts have been made to gather data to clean the teachers' payroll but no previous exercise has been successful. TRMIP data can now be used as a basis for cleaning the payroll because, for the first time, teachers have been physically verified and linked to the records that provide evidence of their appointments.

The Sierra Leone case study demonstrates the importance of records management and access to reliable information for good governance. Poor record-keeping controls led to the existence of ghost workers on the payroll, while previous verification exercises had failed due to a lack of records, inaccurate data and poor records management systems. The Sierra Leone case demonstrates that the payroll could not be managed effectively without a reliable records and information base.

The TRMIP project was based on improving payroll and personnel information by implementing sound records management procedures that would result in current, trustworthy, and accessible records. This enabled the government to remove ghost workers from the payroll and therefore employ more teachers without affecting its budget. As part of the project, *Standards and Guidelines* and a *Procedures Manual* were issued, and plans for training were put in place. Ongoing capacity building is crucial in order to institutionalise change and ensure that the TRMIP project gains can be sustained.

CASE STUDY 2: Access to Information: Exploring the Emerging Impacts of Open Aid Data and Budget Data in Nepal

Introduction

Nepal's political situation is fragile, as the country is undergoing a protracted transition to democracy following a decade-long violent conflict that ended in 2006. A new democratic government, elected in November 2013, has promised that it will promote accountability, responsiveness and transparency, stating that it has a zero tolerance for corruption.¹² However, governance issues are not currently a top priority for politicians, and Nepal ranks low in terms of its level of democracy. In addition, the 2013 Citizen Survey in Nepal, conducted by the Institute for Democratic and Electoral Assistance (IDEA), showed that citizens lack trust in political parties and political developments.

¹² Himalayan News Service (2014), *Govt Promises the Moon in CMP*, *Himalayan Times*, at <<http://www.thehimalayantimes.com/fullNews.php?headline=Govt+promises+the+moon+in+CMP&NewsID=409098>>. Accessed 9 January 2015.



Transparency is important in the transition to democracy. Opening up data can enable citizens to monitor government activities and participate in their governments, but political commitment is needed to secure a sustainable supply of key datasets, and ensure citizen equality in terms of the capacity to participate in the open data eco-system. In Nepal, political parties have not necessarily been transparent about their own activities, but newly elected Prime Minister Sushil Koirala announced measures to further government transparency and curb government corruption and irregularities. This new initiative will require government entities to publish, on the government's website, all official expenditure. This will enable citizens to monitor public spending. In addition, Gagan Thapa of the Nepali Congress party has been a vocal proponent of open data, publically presenting how the government of Nepal can reap the benefits of open data and use it to enable active citizen engagement.

Despite decades of aid and considerable government spending, the state of development in Nepal is poor. This situation can be attributed, in part, to a haphazard method of allocating and spending public money caused by lack of transparency, coordination and information sharing. Increased openness in budget and aid data could lead to greater transparency, accountability and participation. Transparency enables accountability and people's participation, accountability enables safeguards against corruption, and participation stimulates debate and rational decision-making. However, these aims cannot be met by simply opening information; they require reliable data from records that are maintained in trusted record-keeping systems. This issue has become central to developing countries like Nepal, where greater transparency of data and better access to information on public resources can play a significant role in reducing poverty.

It is widely believed that greater openness leads to greater civic participation in decision-making processes related to resources, greater government accountability and better public service delivery. This case study reports on an exploration of these assumptions in the context of Nepal, including seeking empirical evidence of the types of budget and aid information that are available, and testing the extent to which relevant stakeholders use, and are able to use, this information to deliver development outcomes.

Nepal's political, social, economic, technical, social and organisational context presents a complex environment of opportunities and challenges for the further emergence of open data. With the prevalence of a civil society familiar with advocating for transparency and accountability, emerging government support, a governance-friendly legislative framework in place, and a burgeoning community interested in the issue, open data has a solid potential to strengthen the transparency regime and to deliver effective development outcomes. The election of a democratic government and parliament in November 2013 was an important precursor for transparent and accountable governance. However, it is unclear how open data will play out in an environment with limited financial resources for data infrastructure, high levels of inequality, and poor records management controls.

Open Data in Nepal

The open data concept is very new in Nepal but there is growing interest in how data can be used to improve accountability and lead to more effective development. Nepal is now seeing a growing number of open data-related initiatives and the emergence of an ecosystem of actors coming together to determine how best to increase availability and accessibility of data, and how to ensure it has impact. The government has previously made a commitment to aid transparency by being amongst the first to endorse the



International Aid Transparency Initiative (IATI), and built on this commitment by launching the Aid Management Platform (AMP) public portal in June 2013. Also in June 2013, an initiative called Open Nepal was launched, which aims to increase the availability of development data to promote and support accountability.

There have been recent legislative developments that aim to improve transparency, accountability, openness and public participation, including Nepal's Right To Information (RTI) Act 2007. However, the implementation of the RTI Act has been relatively slow. According to a summary report from the Enabling State Program (ESP), there has been some indifference and resistance across the range of stakeholders defined as public agencies, as shown by the low numbers of information officers appointed in public bodies, despite their requirement under law. According to ESP, it is common for government employees to be guided by an outdated piece of legislation – the Public Service Act. This Act promoted a culture of secrecy by containing provisions that evaluated government employee performance on the basis of their ability to maintain secrets. For more effective implementation of the right to information in Nepal there is a need to strengthen the government's records management system, train information officers and provide them with appropriate tools. It is also necessary to increase citizens' awareness of their democratic rights and also to strengthen their demand for information.

Budget and Aid Data

The availability of open data is limited for both aid and budget, but initiatives such as Open Nepal's open data portal are helping to make government data more available. The key sources of data owned by the Ministry of Finance are aid information, made available via AMP, and budget information, made available via its Red Book. Although the data is at least partially available, there is a lack of openness. In both cases, there are limitations on how the data can be accessed and used, as neither source is openly licensed, the format is not always machine-readable, and where the data is machine-readable, it is not detailed or bulk downloadable.

Status of Aid Data in Nepal

The primary objective of the AMP is to enable the government to better manage, coordinate and utilize development assistance. The data is made available through a website, enabling the public to see the details of all the listed projects.

Issues:

- Partially machine-readable data – though the data is available in machine-readable format to a certain extent, it does not meet the definition of open data as the data is not downloadable in Excel in granular form.
- Not openly licensed – a key element of the open data definition is that commercial use of open data is allowed – there should be no restrictions on commercial, for-profit, use of open data. The AMP restricts the use of data.



- Accessibility – access to the portal is slow, whilst the website could be improved by giving information on terms used to make it more understandable.
- Data quality – there are still many projects where key information is not available, and so it becomes difficult to do useful analysis. It is not just the presence of data that is important; good data quality is critical.
- International sources – data quality is currently variable between different organisations and may not be as reliable.

Status of Budget Data in Nepal

The budget (Red Book) data is available online in the form of PDF from the Ministry of Finance website.

Issues:

- Not machine-readable – the conversion of data into machine-readable format is resource consuming.
- Accessibility – because of the volume of data, one cannot easily get information quickly. It is difficult to follow the document with no proper navigation, and finding information in the PDF document is difficult.
- Not openly licensed – the website content is copyrighted by the Ministry of Finance and all the legal rights of use and distribution are only reserved to the Ministry.

The availability of official sources of open aid and budget data measured against the Open Definition¹³ of data and content can therefore be considered largely non-existent. Aid and budget data can be considered open to some extent, however the data audit shows that improvements can be made in data quality, level of disaggregation, and timeliness in order to make it more useful and useable.

The Aid and Budget Data: Information Flows and Interactions

In order to investigate the governance dynamics that open aid and budget data in Nepal are embedded within, a stakeholder mapping exercise was conducted to outline a framework for describing Nepal's aid and budget information polity. This aimed to map all the stakeholders, information flows, and governance relationships involved in the provision and use of data. The purpose was to understand the landscape of key actors around budget and aid data and their relationships with regard to the flow of open data in Nepal, with the key question being: 'What are the opportunities to establish open data (and information) flows, with regard to the money flows that are earmarked for development purposes in Nepal, so that more transparency, accountability and openness with regards to these money flows ensues?'. It was hoped that it

¹³ The Open Definition, at <<http://opendefinition.org/>>. Accessed 4 November 2014.



would provide a route to understanding the different processes that influence where information is used and has an impact within Nepal's governance system.

A series of interviews were conducted to explore the issues in more depth and to seek out additional perspectives from stakeholders in Nepal's open data ecosystem. A series of questions were developed to determine who was using information on aid and budget, and where they were going for this information, in order to assess the current and potential uses of data, barriers and challenges faced by data users, gaps in information provision, and finally how the provision and presentation of information could be improved in each sector.

A number of themes emerged from the interviews, including the idea that open aid and budget data can make governance more effective, as interviewees argued that open aid and budget data would facilitate evidence-based advocacy for transparency and accountability. It was believed that open aid and budget data would increase the effectiveness of oversight agencies. However, it was also believed that government data was not of good enough quality to be shared due to poor record-keeping.

Lessons Learned

Information and data can play an important role in addressing key social issues, but whilst some aid and budget data is increasingly available, there is not yet a sustainable supply of open data direct from official sources that meet the needs of the stakeholders consulted during this research. The context of Nepal highlights that a more critical perspective may be needed on the introduction of open data, understanding the specific opportunities and challenges for open data supply and use in developing countries.

Open aid and budget data in particular needs to be understood in terms of a relationship with RTI. Financial accountability requires evidence rather than aggregated information. Is the open aid and budget data derived from reliable financial records? Are those records accessible under RTI measures?

Significant work and culture change are required to ensure that open data supports transparency, accountability, participation and development. It cannot be assumed that data is reliable; only records that are maintained in trustworthy records management systems can give rise to trusted data.

Now that Nepal is beginning a new period of development, a shared understanding of what good governance is and a definite approach towards the right kind of governance is still emerging. Weak standards of records management have led to problems with data quality, which undermines the potential impact of open data as a tool of good governance. This case study shows the importance of data quality for the use of information to support transparency, accountability, and participation, and this in turn demonstrates that there needs to be further research into the technical process of extracting data from trustworthy records systems.

CASE STUDY 3: Restorative Justice: Preserving and Accessing South African Truth and Reconciliation Commission Records

Introduction

The South African Truth and Reconciliation Commission (SA TRC) was set up to pursue national reconciliation by uncovering crimes committed during apartheid, and in so doing support the country's transition to democracy. On taking custody of the TRC records, the National Archives of South Africa experienced many problems making them accessible to the public. These problems included unprocessed records, resource shortages (both human and financial), old apartheid anti-access laws that were still in operation, logistical problems between the Justice Department and the National Archives, and the lack of political will to squarely address these issues.

Twenty years later, the Commission's body of evidence is at risk of being lost due to these long-standing issues that render the records inaccessible and unusable by those who stand to benefit most: the South African people. This is despite one of the key recommendations of the TRC being to preserve and provide access to the TRC archive. Without access to the evidence provided by the records, the dual purpose of the Commission – truth and reconciliation – will not be achieved. Although the issues presented in this case study arose during the winding down of the TRC, they have persisted because of a failure to address records management.

Unprocessed Records and Resource Constraints

In 2007, Graham Dominy, then the National Archivist of South Africa, observed that the problem of unprocessed SA TRC records was presenting a significant obstacle to their use.¹⁴ The lack of an inventory of records also caused problems in terms of upholding the recommendations of the SA TRC, namely that its records should be accessible to the public unless compelling reasons existed for denying access, as it was impossible to know what was in the archives.¹⁵ Inadequate processing and the absence of detailed finding aids meant that records were hard to locate and interpret, a situation that could only worsen in the long term.¹⁶

Access to the SA TRC records remained a major problem despite the fact that the National Archives possessed a pioneering automated finding aid: the National Automated Archival Information Retrieval System (NAAIRS), which was initially developed in 1974. The NAAIRS was web enabled in 2001 and maintains its status as one of the most comprehensive finding aids in the world.¹⁷ However, despite its wide capabilities, NAAIRS had no listing of any TRC records in South Africa.

¹⁴ Graham Dominy, interviewed on 13 April 2007.

¹⁵ Madeleine Fullard. In *Transcripts for the Yale/Artemis Project: Managers of Truth Commissioners Conference*. Proceedings of a Conference on 'Archiving Truth Commission Records,' Yale University, 22-24 February 2006.

¹⁶ Verne Harris, interviewed on 3 April 2007.

¹⁷ Mandy Gilder (the then Deputy Archivist of South Africa), 'South African Participation in UNESCO Memory of the World Register,' A Paper presented at the Seventh Meeting of the International Advisory Committee of the Memory of the World Program, Lijiang, 13-17 June 2005.

The problem of unprocessed records was directly linked to resource constraints. One of the greatest impediments to the availability of TRC records in South Africa was funding and the problem of staff shortages, which adversely affected the arrangement and description of SA TRC records and therefore had a huge impact on the provision of access. Natalie Skomolo (former TRC records manager) observed in an interview that the biggest issue for access to SA TRC records was a lack of time for arrangement and description, exacerbated by staff shortages.¹⁸ Hatang also cited the problem of staffing, which he argued would remain an issue unless government funding changed.¹⁹

Conflicting Legislation

Conflicting legislation also affected the provision of access. A study prepared on behalf of the Centre for the Study of Violence and Reconciliation (CSV), identified logistical problems between the Department of Justice (DOJ) and the National Archives over the control of access to SA TRC records.²⁰ These problems arose from confusion about the powers given to the National Archives by the National Archives Act and those given to the DOJ by the Promotion of Access to Information Act (PAIA). According to the CSV study, the fact that the National Archives Act gives power to the National Archivist over the control of TRC records and that, on the other hand, PAIA gives power to the DOJ 'presents problems in interpreting which access provisions are to be followed by holders of information and who is ultimately in charge of making decisions about the availability of 'sensitive' information'. The legislation failed to establish a single authority on the management of SA TRC records, with the result that neither the DOJ nor the National Archives understood its responsibilities for records management.²¹ There were also communication issues between the two departments, which seriously hindered access to the SA TRC records.

Another problem relating to these two laws concerned the time periods prescribed for the automatic release of information.²² The National Archives Act provides that only archival information over twenty years old should be made automatically available to the public. However, under certain conditions, the Act provides the National Archivist with the power to identify records that might be made available sooner. Conversely, the access provisions of PAIA provided for no such time limitation on access to information in South Africa. PAIA even pushed public and private bodies that held the information to publish information manuals for immediate public consumption. Many of the archivists charged with providing access to SA TRC records did not know which regulation to follow. There was no clear line of demarcation between SA TRC records that were to be managed by the National Archives and those that required the intervention of the DOJ. Experience shows that archivists and public officials deal with grey areas by erring on the side of caution and refusing to grant access.

¹⁸ Natalie Skomolo, interviewed on 14 March 2007.

¹⁹ 'Unfortunately what tends to happen is that priorities lie somewhere else in terms of how government spends its money' (Ibid).

²⁰ Dale McKinley. 'The State of Access to Information in South Africa,' (CSV: 2003).

²¹ Gerrit Wagener, interviewed on 14 March 2007.

²² Ibid.



Anti-Access Apartheid Laws

A similar problem arose in relation to old apartheid laws. Dictatorial regimes, by nature, keep a close seal over records and usually devise laws that criminalise information disclosure, and apartheid was no different in terms of formulating anti-access legislation. These laws were not repealed when Nelson Mandela assumed state power in 1994, and proved to be a great obstacle to accessing SA TRC records in post-apartheid South Africa.

The Official Secrets Act, the Protection of Information Act (PIA) of 1982, and the Minimum Information Security Standards (MISS) of 1996 made access to TRC records difficult.²³ The Protection of Information Act of 1982, which replaced the Official Secrets Act, No. 16 of 1956, was considered to be fairly comprehensive in its prevention of access to government records.²⁴ The MISS was another official government mechanism for dealing with information security. According to MISS, there are certain minimum information security standards that should be observed by all government departments responsible for handling classified information. MISS was initiated as a safeguard to ensure that national interests were protected by classifying information as restricted, confidential, secret or top secret.²⁵ The restrictive nature of MISS prompted the Centre for the Study of Violence and Reconciliation to comment that MISS was in direct opposition to the access rights granted by PAIA.²⁶ It was also observed that Appendix B of MISS contained a self-incriminating declaration form stating that the signatory was familiar with the Protection of Information Act.²⁷ It is clear that, when faced with a decision to grant access against such threatening laws, SA TRC archivists at the National Archives were likely to err on the side of caution by refusing access.

Lack of Political Will

Laws alone are not enough to ensure the implementation of decisions. Without political will, even good intentions well-captured by legislation can become meaningless. This was the case in South Africa. South Africa developed access laws that make excellent reading on paper; however, without the right political support these laws become meaningless. Most of the time, the lack of political will on the part of post-totalitarian regimes is occasioned by the fact that transitional democracies often are too fragile or too timid to back their Truth Commission recommendations with the right political support for fear of upsetting the hard-won political balance.

Lessons Learned

Access to the TRC records was crucial to the completion of the work of the Commission and the fulfilment of its recommendations. The South African History Archive (SAHA), an independent human rights

²³ McKinley, 'The State of Access,' p.6.

²⁴ Jonathan Klaaren, 'Access to Information and National Security in South Africa,' in *National Security and Open Government: Striking the Right Balance*, ed. Campbell Public Affairs Institute (Syracuse: The Maxwell School of Syracuse University, 2003), 190.

²⁵ McKinley, 'The State of Access,' p.7.

²⁶ Ibid.

²⁷ Klaaren, 'Access to Information and National Security in South Africa,' p.196.

organisation, has been working to improve access to the TRC records in line with the recommendations made by the Commission through projects such as *The Truth Commission Special Report Multimedia Product*, a collaborative initiative between SAHA and the South African Broadcasting Corporation (SABC) to produce the *Truth Commission Special Report* television series.²⁸ It is projects like this that help to offset issues such as the government's culture of secrecy.

The National Archives experienced several problems with preserving and making accessible TRC records in South Africa. These problems included a backlog of unprocessed records, resource constraints, poor logistics, anti-access apartheid laws, and a lack of commitment by the current government to ensure that TRC records were made available. Processing backlogs still remains the biggest problem confronting the National Archives over its TRC records, which resulted from a lack of staff to arrange, describe and develop finding aids. This demonstrates the importance of government support for national archives to fulfil access mandates.

Conflicting legislation meant that there was poor coordination between the two government departments that dealt with TRC records. Some requests had to go through the DOJ and others had to go directly to the National Archives, which caused confusion amongst requesters who often did not know whether to start their research at the National Archives or at the DOJ. The situation might be improved by better communication and co-ordination between these two government departments, but the confusion shows the importance of unified records and archives legislation, which should establish a single authority on the management of government records. Legislation regarding the release of information should promote the completeness, accuracy, and accessibility of government records in all formats, stipulate mandatory response times, and ensure that staff are aware of their responsibilities toward records. Without a commitment to improving the national regulatory framework for records management, it is unlikely that conditions affecting access to information will improve, and therefore restorative justice will remain elusive.

4 Lessons and Recommendations from the Case Studies

According to the World Bank's definition of fragile states, transparency and accountability are essential to stability and democracy, while transparency and accountability as mechanisms supporting citizen participation are central to definitions of good governance. The belief that opening information will automatically engender transparency, accountability and citizen participation, which will lead to development, assumes that the information being opened has integrity – that it can serve as evidence.

Citizens need access to reliable evidence, which can be guaranteed only through technical controls. Without evidence guaranteed by these controls, transparency and accountability are not possible, citizens cannot participate in the governance process in an informed way, and development goals are more difficult to meet.

Professionally managed records provide the clearest, most durable evidence of any government's policies, operations, decisions and activities; they are essential to protecting people's rights and interests and

²⁸ SAHA, *The Truth Commission Special Report Multimedia Product*, at http://www.saha.org.za/projects/past_projects/truth_commission_special_report_project.htm. Accessed 11 November 2014.



holding officials accountable for their actions. Records are essential for delivering international development goals and goals for strengthened governance.

Trustworthy records underpin:

- *operational efficiency*: including financial management, budget management, pay and personnel management
- *service delivery*: including healthcare, education, water resources, agriculture
- *accountability mechanisms*: including hierarchical accountability (audit, ombudsman, consumer protection, monitoring, investigations) and vertical accountability (right to information, social accountability mechanisms).

Four fundamental governance goals depend on the ability to access records through time and trust their integrity:

- *Transparency* involves the release of evidence about an institution's decisions, business processes, and activities in such a way that it is easy for citizens, investors, and donors/ lenders to observe how governments have performed and used resources, and to enable citizens' participation in the governance process.
 - If records cannot be accessed, it is impossible for governments or institutions to be transparent.
 - If records cannot be trusted, citizens lose faith in their governments
- *Accountability* involves the ability of the government or agency to demonstrate that its policies, decisions, actions and transactions are subject to oversight by auditors, investigators, and citizens. The aim is to ensure that where there is a public interest, governance initiatives are meeting their stated objectives, responding to the needs of the community they are meant to serve, and providing value for money in public services. The risk is that:
 - If records cannot be accessed, it is not possible to hold governments or institutions accountable.
 - If records cannot be trusted, meaningful audits and investigations are impeded, right to information requests cannot be actioned, and civil and human rights cannot be protected.
- *Social inclusion* is the process of improving individuals' and groups ability to take part in society. It is central to ending extreme poverty and fostering shared prosperity. It aims to empower poor and marginalized people to take advantage of emerging global opportunities, to ensure that they have a voice in decisions that affect their lives, and to enable them to enjoy equal access to markets, services and political, social, and physical spaces.
 - If records cannot be accessed, it is not possible to understand the complexities of inclusion or the degree to which governments are helping or hindering.



- If records are not reliable, it is not possible to accurately measure the degree to which poor and marginalized people have a voice in the decision making process.
- *The Rule of law* requires that contractual and regulatory obligations are met and that misconduct is not tolerated. It involves applying internal controls and organisational checks and balances over financial, accounting, and other business processes that can be measured, for example, by internal and external audits that provide objective assessments of measures aimed at preventing fraud, corruption, collusion, and coercive practices.
 - If records cannot be accessed, it is not possible to demonstrate that the government or organization has complied with applicable laws and other binding authorities as well as with organizational policies.
 - If records are not reliable, laws and regulations cannot be enforced, compliance cannot be demonstrated, theft of state assets cannot be traced or proven.

This report examined case studies showing the importance of access to evidence from accurate, reliable and authentic records. The case study of the Teachers' Payroll Verification project in Sierra Leone demonstrated that trustworthy records and good record-keeping are vital to information integrity, which in turn is vital for combating corruption. By reconciling data with records (evidence), anomalies in the teachers' payroll were discovered and corrected. The case study of open data in Nepal challenged the idea that open data automatically leads to transparency, accountability and participation. There have been various initiatives to make government data more available in Nepal, but a number of issues mean that although information is available, it is not always usable or understandable. Records management could help to improve data quality and ensure the long-term sustainability of open data initiatives. The case study of the South African Truth and Reconciliation Commission records demonstrated that access to information is delayed or prevented when capacity and infrastructure for records management is poor. The case study highlights the importance of legislation for access, resources for records management, and the political will to effect change. Good governance is supported by mechanisms such as Freedom of Information legislation and open data initiatives,²⁹ but their implementation is problematic in fragile and conflict-affected states, where regulatory frameworks for information integrity are weak.

Since its launch in late 2011, the Open Government Partnership has become a significant vehicle for transforming the culture of secrecy and increasing openness, transparency, trust and accountability, which has made public sector information an increasingly essential vehicle for empowering citizens. Open government is based on the principle that citizens have the right to access the documents and proceedings of their government to enable effective public oversight. It aims to encourage public managers to take responsibility for the way that public resources are used and to encourage citizens to keep watch on what their governments are doing in their name. Its commitment to the goal of making information open to citizens as the foundation for empowering civil society emphasizes Right to Information and open data. The success of open government rests ultimately on governments' ability to create and maintain reliable, trustworthy, and accurate government records and information, and on citizens' ability to access them. As the United States Government has highlighted in its first and second OGP Action Plans: 'The backbone of a

²⁹ Open Government Data, at <<http://opengovernmentdata.org/>>. Accessed 5 September 2014.



transparent and accountable government is strong records management that documents the decisions and actions of the Federal Government'.³⁰

In recent years, the concept of open data has captured the imagination of the global development community and highlighted the benefits of using information as an asset. The expectation is that opening data will bring enormous benefits, for instance by making it possible to improve economic performance, enable citizens to hold governments accountable, and protect human rights. Achieving these benefits will require the ability to access reliable information. The majority of data is aggregated from administrative records systems, for instance, agricultural statistics from land use records, payroll data from pay and personnel records, healthcare statistics from hospital records. The quality of the data aggregated from records is directly dependent upon the quality of the records.

Whether the data is created through aggregating information from records systems or is collected outside these systems, an information governance framework is needed to protect its availability and integrity through time and technological change, it needs to be managed consistently through an information governance framework. While any data may be better than no information and may enable insights into patterns and trends, at the same time, erroneous data can seriously undermine confidence in government or damage citizens' rights. Governments and aid partners that wish to prioritise 'intelligent accountability' over wholesale transparency³¹ could work to build the regulatory framework that underpins information integrity.

A Regulatory Framework for Achieving Information Integrity and Availability

On the basis of the case studies presented here, and previous research by the International Records Management Trust³², a regulatory framework for information integrity includes:

Legislation
The records and archives legislation establishes a single authority on the management of government records, from creation to disposition.
The records and archives legislation positions the national records and archives authority centrally within government so that it can fulfill its crosscutting function.
Policy
A government-wide records management policy has been adopted to define responsibilities for records management and relationships with ICT/ e-government, open data and FOI bodies.
Standards

³⁰ Open Government Partnership Second Open Government National Action Plan for the United States of America, p 2, December 5, 2013.

³¹ E.g. O. O'Neill, *Called to Account and Trust and Terror* (2002), lectures given as part of the 'Reith Lectures 2002: A Question of Trust', at <<http://www.bbc.co.uk/radio4/reith2002/lectures.shtml>>. Accessed 4 September 2014; B. Worthy, 'More open but not more trusted? The effect of the Freedom of Information Act 2000 on the United Kingdom Central Government', *Governance* 23: 4 (2010), pp.561-582.

³² <http://irmt.org/portfolio/managing-records-reliable-evidence-ict-e-government-freedom-information-east-africa-2010-2011>

The national records and archives authority has adopted a records management standard (ie ISO 15489).
A standard for records management functionality in ICT systems has been adopted (ie ISO 16175).
Standards for archival management and digital preservation have been adopted.
Procedures
The national records and archives authority has issued or approved procedures for every phase of the management of records, from creation to disposition.
A national retention and disposal schedule exists and is applied to all hard copy and electronic records.
The national records and archives authority is mandated to enforce compliance with the retention and disposal schedule.
Staffing
A cadre of records management staff exists.
A scheme of service exists for staff responsible for managing records in electronic or paper form, from creation to disposition. The scheme of service spans government and ranges from clerical to management positions.
Infrastructure and Facilities
The national records and archives authority is allocated sufficient funds to fulfill its mandate.
MDAs have sufficient space and equipment to manage active records securely, in electronic and paper formats.
Purpose built records centres have been provided for the storage of semi-active records.
Purpose built archival repositories have been provided for the storage of inactive records.
A digital repository has been created to preserve digital records over time.
Capacity Building
Training in records management is available to staff at all levels and includes practical training in electronic records.
University programmes offer in-depth education for records management with practical training in digital records management.