Group Two

**Structural and Cultural Context:
creating an environment for transparency**

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The questions before the working group are: what are the environmental (infrastructural) and cultural factors necessary for the establishment, growth, and efficacy of a transparency regime that safeguards people's right to information? How can one promote these factors?

Elements of an Effective Transparency Regime
An effective transparency regime could have various elements. Chronologically, it is often preceded by the mobilisation of support within and outside the government, and in the media, legislature, and judiciary. This is important not only to ensure that a law facilitating the exercise of the right to information is passed, but also to influence the nature of legislation and to ensure that the law, once passed, is used.

Concurrently, it might be desirable to mobilise expert groups who can engage with the government and influence the drafting of the proposed legislation, and who can help mandate it among different stakeholders. Lobbying groups could be useful to pressurise governments to quickly pass the law, in the form suggested, and to then fight for the implementation of the law.

Perhaps the most critical element of an effective transparency regime is the existence of a reasonable right to information law with provisions for an independent appellate mechanism, for stringent penalties, and with strong *suo moto* provisions. Equally important is the appointment of fair and independent functionaries, especially to the independent appellate authority.

The next step might very well be to raise awareness among the public, especially on how the law can positively affect their lives. Often there is the additional need to dispel cynicism (and fear of adverse consequences) from the minds of the people.

Equally important could be the orienting and sensitization of the information providers, especially within the government. There usually is a need to develop institutional and individual capacities (and budgets) within the information providers (IPs). Of great advantage could be the development of improved systems of collecting, processing, storing and retrieving information among the IPs.

A parallel effort might be required to help develop the capacity of the people to use the act and to persist till information is actually provided. They also might need help to comprehend, contextualise and effectively use the information so accessed.

In order to ensure that the transparency regime becomes progressively more effective, it is perhaps necessary to set up an effective feedback mechanism so that problems with the law and with its implementation can be identified and corrective measures developed.

Finally, IPs could be expected to proactively (without being asked) put an increasing amount of information into the public domain.

Cultural and Structural Factors Affecting a Transparency Regime

Transparency regimes appear to do best where people feel a sense of empowerment, especially in terms of holding their government answerable and, where necessary, of challenging the system and the powers that be. However, for transparency to flourish, it also appears that this sense of empowerment needs to be tempered with an ability and inclination to resolve issues through reason and negotiation, rather than through violence. Additional advantage seems to be drawn from social institutional structures, where available, that have historically promoted a tradition to collectively support individual action and, where required, to act together.

Also of relevance seems to be the level of cynicism affecting the society and the expectations that the people have from the system (especially from the government).

Perhaps the most critical of the factors is the political system prevailing in a country, especially in terms of how democratic and representational it is. Independence of, and interaction between, the various wings of the government – especially the executive, legislature and judiciary (and, often, the armed forces as an independent power) – appear to be other critical factors.

Diversity of views, ideologies and approaches (and even conflicts) within each wing of the government sometime appear to contribute to a transparency regime, as do other aspects of cultural and ideological diversity. Of great importance might be the extent to which media is independent of government, corporate, and political interests, and how diverse are its loyalties and how progressive is its agenda.

Transparency regimes are often affected by the relative primacy of other laws antagonistic to transparency, especially laws protecting official secrets. How centralised or decentralised decision making is, is also sometimes a pertinent factor which determines whether those that influence the lives of the people are easily recognisable and approachable by the people.

Security and economic concerns are often a major impediment to transparency regimes. The role of (and cooperation and support from) the international community, including bilateral and multilateral donor agencies, can also be a significant influence.

Independent and proactive groups in society, including from the legal community, civil society groups – especially human rights and environmental groups, can contribute much to the setting up and maintenance of a transparency regime. As often can the larger international community.

The Questions Again
1. Are these the factors that affect transparency regimes – or are there some others?
2. How can we help promote these factors, where they are missing or weak?
3. Should transparency regimes be attempted if critical support factors are weak?
4. What, if any, could be the role of technology in facilitating a transparency regime?
5. What influence can the international community bring to bear on this issue – and how?
6. What role does culture play in the effectiveness of the right?
7. How can we deal better with the particular problems that arise in small societies?
8. Where do we go from here? What could be our next action?