



Organizational barriers to transparency: a typology and analysis of organizational behaviour tending to prevent or restrict access to information

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Abstract

Transparency in the activities of government and public service agencies has become a democratic *sine qua non*, legislated by access to information laws in many countries. While these laws have increased the amount of information available to the public, it is evident that numerous public organizations still try to conceal information, although no public or private interest of any importance justifies such behaviour. This article will develop a typology of these forms of behaviour which will allow for a better understanding of the origins of such dynamics and pave the way for a better evaluation of the point of equilibrium between administrative privilege and transparency.

Points for practitioners

This article describes organizational strategies aimed at circumscribing the new demands for transparency, particularly those relating to the laws governing access to information. From international examples, it is clear that the present methods (principally legal ones) obliging organizations to practise greater transparency cannot fully achieve their purposes in the absence of a profound cultural change in favour of the said transparency.

Keywords: access to information, governance, organization, public administration, public management, transparency

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Introduction

The concept of transparency has become established during recent decades as a necessity in the fight against organizational and individual irregularities (corruption, fraud, financial scandals) and in promoting good governance in organizations, whether public or private (Transparency International, 2004). With regard to public administration, the laws governing free access to the information held by the public authorities and those concerning the openness of parliamentary debates, state committees and agencies aim mainly to increase the transparency of governmental activities. However, although obligated to show proof of transparency, it must be said that state organizations often remain reluctant to freely and voluntarily divulge information. This contribution attempts to arrive at a better understanding of the irregular behaviour of public organizations faced with such demands for transparency and to create the foundations for a redefinition of equilibrium between privilege and transparency.

The first part of this article presents the fundamentals of organizational transparency and access to information. The second part develops a typology of organizational behaviour aimed at, or having as a consequence, a limitation of this access. The third part, based on the typology developed, underlines organizations' motivations for limiting access to information and, using all the elements described, develops three criteria enabling a middle path to be charted between the proponents of 'less transparency to achieve greater transparency' and those who defend complete and total transparency.

1. Transparency and access to information

1.1 The issues involved in transparency

Transparency generally means the opening up of the internal organizational processes and decisions to third parties, whether or not these third parties are involved in the organization (Florini, 1998). It rests upon a non-negotiable right to know (Fung et al., 2003; Pope, 2003; Open Government, 2004) made explicit in Article 19 of the Universal Declaration of Human Rights.¹ This fundamental right is also at the heart of the modern processes of accountability and the legitimization of public authorities (Naurin, 2002). In addition to being a right, transparency must also be considered an instrument insofar as it equates to organizational methods and processes enabling the complete reversibility of information exchanges between the general public and public sector organizations. By 'reversibility' should be understood moving from the principle of absolute privilege and the discretionary use of information to a system where privilege is the exception and one that, moreover, must be substantiated and justified legally. This concept of information 'reversibility' in public organizations significantly shifts the historical balance between privilege and transparency – the root of a debate that is at the heart of current concerns.

Transparency is a very broad concept which applies to many areas (Pasquier and Villeneuve, 2005): organizational transparency, accounting and budgetary transparency, transparency of government action and responsibilities, as well as docu-

mentary transparency. The latter, documentary transparency, is the most innovative and demanding of these, and is the main focus of this article. Documentary transparency is based on access to information laws. These laws give individuals the opportunity to request, without need to justify or substantiate the request, information, or a document containing the desired information. The public therefore has a legally guaranteed right of access to information held by the government, the main objective being to force public authorities to disclose what they would rather keep secret.

Several reasons underlie the development of this new form of transparency. First of all, transparency is essential to the process of information exchange. The state needs increasing amounts of information from citizens (questionnaires, forms, etc.) to carry out various tasks within our societies. At the same time information itself is increasingly valuable. In the context of the 'information society' and with the revolution in the means of communication, information has been transformed. From a resource essential for the good management of society, it has become an indispensable public resource. Here the need for 'reversibility' of information becomes significant, for we see a strong imbalance between information held by governments (ever-increasing in quantity and value) and that possessed by citizens. A re-balancing is becoming necessary.

Transparency is also intended to improve relations between the public authorities and the general public. In a context marked by the ever-present problem of public deficits (OECD, 1999), a loss of confidence in the authorities (Van de Walle and Bouckaert, 2003), demands for greater accountability (Savoie, 2003) and the fight against corruption (Transparency International, 2004), access to information makes it possible to reverse some of these trends.

Finally, transparency is a tool that encourages the involvement of the people in the development and implementation of public policies. There is in fact a growing tendency for the public to participate in decision-making and the policy-making processes of the state (Juillet and Paquet, 2001; Open Government, 2004). In order for them to participate more actively in the governance of the state they must have access to a better quality and an increased quantity of information. In this context, transparency in state activities becomes a *sine qua non* condition of good governance and active participation of citizens.

1.2 Characteristics of documentary transparency

Access to information as codified in the relevant laws exhibits several characteristics (Frankel, 2001; Banisar, 2003; Canada, 2003, 2004):

- Consultable information: the basis of every law on access to information is the opportunity given to the individual to request, without having to justify or give reasons for such a request, information about the existence of a document containing the desired information. The documents in question can take very different forms: reports, notes, minutes of meetings, e-mail, even unwritten documents such as telephone conversations. The laws governing access to information must therefore explicitly distinguish between information which is available and that which is not.

- Exceptions: in general these laws apply to all governmental and administrative entities. However, exceptions relating to the defence of the higher interests of the state (international relations, national security) or to those of the individual (personal data) are provided for.
- The assistance provided by the state in the search for information: given the complexity of governmental operations, it would be wrong to expect members of the public to be aware of all the documents which have been drawn up and are therefore at their disposal. According to the country and/or institution, instruments or offices are set up to inform the public of the type of documents/information produced by the government.
- The time required for the release of information: the laws and regulations generally prescribe the time span within which the government or entity in question has to respond to a request for access to information. The government therefore may not make a member of the public wait unduly. This is vital when one considers that information often loses its value with time (subject no longer pertinent, important vote gone by, etc.).
- The costs and expenses of searches: the costs of a request are clearly indicated in the law. If search expenses, often quite large, exceed a certain limit (photocopies, search time, etc.), it is permissible to demand payment. The amounts, however, must remain reasonable to ensure that no one is deprived of this right.
- Redress procedures: a distinction is generally made between the department's in-house procedures and the possibilities of legal appeal to defend one's rights of access to information against any refusal, unjustified delay or overcharging on the part of the public service department.

On one hand, documentary transparency works as a safeguard of our democratic system by favouring good governance and curbing corruption (Frankel, 2001; Transparency International, 2004). On the other, it is a necessary condition for the participation of the general public in the process of creating public policy. However, even if the benefits of documentary transparency are recognized (European Communities, 2001), there is still a level of opposition present within government. It is principally this behaviour and its impact that is of interest to us.

While analysis of the effects of these laws has so far concentrated on the people making the requests for information (Roberts, 1998), by examining who demands what and how, or the dysfunctions observed (reports made by bodies responsible for monitoring the application of the laws or by journalists), few systemic analyses have been carried out at the organization level and with a view to situating their reactions in the wider process of transparency.

In the context of the generalized move towards greater transparency in governmental activity, the following section studies the concrete strategies developed by governments and public service departments to limit this access to information, and proposes a behavioural structure in an attempt to clarify the impact and the issues involved.

2. Typology of behaviour developed by organizations to restrict access to information

2.1 Establishing a typology

The evaluation of the different forms of administrative behaviour when confronted with laws on access to information is based on documentary information coming essentially from four countries (Canada, United States, Britain, Australia). These countries were chosen either because of the length of their experience in the area or because the public and organizations have made relatively intense use of the laws concerned. These experiences are far from including all possible situations but they do give a general idea of things in a context where the rights of the individual are extensive.

Three types of source were used. First, legal decisions. As a result of requests for information that were rejected or obstructed by the authorities, private individuals and legal entities asserted their rights by instituting judicial proceedings provided for by the law. These led to interesting legal decisions that reveal the behaviour of public organizations and how they interpret the law. Then there are the numerous official reports highlighting, in different countries, a lack of transparency despite the presence of strict regulations (Canada, 1994, 2003; OECD, 2002; Sanchez, 2002; Ireland, 2003; Pasquier and Villeneuve, 2004; Transparency International, 2004; Aid, 2006). The third source consists of research works and publications describing impediments to transparency (Caddy, 2001; Frankel, 2001; Zussman, 2001; Roberts, 2002; Mendel, 2003a; Banisar, 2004). It is on the basis of this material that we have attempted to construct a typology of the various forms of irregular behaviour used to counter documentary transparency.

Establishing such a typology required differentiation criteria to be developed. Given the diversity of the organizations (nature of their tasks, size, etc.) and politico-institutional contexts involved and in order to compare the impediments to transparency, we limited ourselves to criteria related to the common characteristics of access to information laws presented below.

The first of these concerns the legal nature of the obstruction. Although elected officials and the public service are required to obey the law, there are cases where they directly contravene it. This is notably the case when organizations refuse to provide the information requested, or destroy or deny the existence of documents. The second criterion concerns the scope of the law, insofar as many organizations try to avoid becoming subject to it. The third criterion involves the various legal means implemented to limit access to information, and the fourth and final criterion concerns the intensity of the obstruction.

The results of these combined criteria are given in Table 1. Without discussing the details which are the subject of Sections 2.2 to 2.6, the following forms of behaviour can be identified:

- Non-transparency is characterized by the fact that an organization or some of its activities are legally exempt from the obligation of disclosing information.
- Averted transparency corresponds to the behaviour of an organization which is subject to the law but which actively and illegally prevents access to information.

Table 1 Types of impediment to transparency in information

	Not subjected		Subjected		
	Legal	Illegal	Legal		
	Non-transparency	Averted transparency	Obstructed transparency	Strained transparency	Maximized transparency
Description	The concept of transparency does not apply. Transparency is only voluntary	The organizations directly disobey the law (refuse to participate)	Obstructions to transparency through using provisions of the law	Inability to cope with transparency due to an absence of resources or misunderstanding of information	Behaviour intended to forestall possible demands by making all the information available
Justification	'It's not necessary.'	'The file doesn't exist.'	'It wouldn't be responsible.'	'We don't have the resources.'	'It's simpler and less costly.'

- Obstructed transparency corresponds to the use of all legal means to limit access to information (self-censorship, irregular classification of documents, restrictions in the transparency of the processing of requests, etc.).
- Strained transparency corresponds to behaviour on the part of the public body which, consciously or unconsciously, limits access to information, whether due to a lack of resources for processing the demands, unfamiliarity with the documents, etc.
- Maximized transparency: this form may *a priori* appear to be a panacea as it means that the organization makes all the information in its possession available. The public therefore does not even need to ask. However, it may also constitute an impediment insofar as that, if the interested parties do not have the registers, filing systems, etc., they often cannot access the information that interests them or have great difficulty locating it. In other words, too much transparency may destroy transparency.

The following paragraphs describe these categories in greater detail and present certain of the most eloquent examples taken from our analysis.

2.2 Non-transparency

All access to information laws provide exemptions for certain organizations or certain activities. While it is not relevant to expand upon situations linked to state security, legal investigations, or protection of privacy where, it should be noted, organizations are required to be transparent but are authorized to withhold certain information, it

is appropriate to examine three types of behaviour intended to completely or partially avoid documentary transparency.

The first case concerns organizations which, often at their own request, have been excluded from the scope of the law. This is the case, for example, of the British Broadcasting Corporation (BBC) in Britain (Evans, 2006) and the Biomedical Advanced Research and Development Agency in the United States (SOPJ, 2005).

The second case to be considered is that of the deliberate creation of new autonomous corporate bodies charged with carrying out certain public duties. Since 1997 the Canadian government has set up numerous foundations, funding them to the extent of more than 8 billion Canadian dollars. 'Given the magnitude of the transfers, there is growing concern about the accountability of foundations' (Canada, 2005: 4.9). The foundations, as well as being outside access to information laws, are subject neither to the financial control on the part of the Auditor General nor parliamentary control, a situation which has been the subject of repeated criticism (Canada, 2005).

The third case is related to the application of new public management principles. One of these is the introduction of a certain amount of competition into the provision of public services, particularly by outsourcing some of the tasks to one or more subcontractors (Hood, 1991; Osborne and Gaebler, 1993; Collins and Byrne, 2003). For its supporters, the introduction of the competition principle increases the efficiency and effectiveness of public organizations because, as their results (quantitative, qualitative and financial) become transparent and subject to comparison, they are obliged to improve their performance or risk losing their mandate. However, when the tasks have been entrusted to the private sector or when certain public organizations are in competition with each other or with private companies, some or all of the information may escape public scrutiny (protection of commercial confidentiality). This leads to a paradoxical situation: fostering transparency of results could considerably limit the transparency of the production process of public services.

Each of these situations is problematic for two main reasons. On the one hand, the financing of these organizations or activities depends almost exclusively on the state, yet the public's, and moreover the elected representatives', right to be informed is very limited: a questionable procedure in terms of transparency principles. Such situations can give rise in the public mind to a perception of impunity. On the other hand, decisions which exclude these organizations from the scope of the law are rarely the result of open political debate, but rather the consequence of unilateral governmental decisions.

2.3 Averted transparency

Averted transparency refers to illegal behaviour the purpose or effect of which is to remove documents from the application of the laws governing access to information.

Three types of behaviour circumvent documentary transparency. The most direct form consists of destroying or concealing documents. The exposure of a parallel system of document management (Whittington, 2004) is proof, if it were needed, of this type of behaviour (Canada, 2004). There is also a type of circumvention at work, minimal though it may be, when certain records, particularly contracts with a private

sector third party, are so poorly documented that it is impossible to obtain valuable information from them.

A second method is that of assigning a political character to an administrative document. Most of the laws governing access to information stipulate that documents concerning opinion-making and government deliberations constitute an exception.² By being unduly included in the register of exceptions, certain documents are removed from the scope of the law. The problem is all the more serious as it is often a government minister who makes the decision – thus being both judge and defendant – and no mediator is given the possibility of verifying the soundness of the decision (Canada, 2004).

The third and final case corresponds to the development of an oral rather than a written culture. An example is failing to include the conclusions or recommendations of a report in the text, and communicating them only verbally. Although denounced by all observers (Juillet and Paquet, 2001; Savoie, 2003; Open Government, 2004; Roberts, 2005), these practices exist and are even justified by the public officials themselves: ‘. . . we are now sitting ducks. I cringe when I write an email because I never know whether it will appear on the front page of a newspaper six months down the road . . . We no longer have the luxury of engaging in frank and honest debate’ (Savoie, 2003: 50). The consequences of such behaviour are purely and simply the loss of the information on which the decisions were based.

Moving from the illegal strategies of entities subject to the law, we will now consider those strategies that use the exceptions and limits of the law itself in order to pervert its spirit.

2.4 Obstructed transparency

Documentary transparency is obstructed when the government uses the means available within the law to limit access to information as much as possible. This type of behaviour, which is perfectly legal since a request not satisfied can be appealed, is very frequent and makes use of a variety of statutory provisions.

The first explanation given by governments often relates to the protection of privacy or the protection of information given anonymously. The use of this strategy was quite extraordinary in the case of the prisoners in Guantanamo. The American government refused to disclose the names of the prisoners, claiming that their right to privacy, and also the Geneva Convention, would be violated. A judgement has since been delivered obliging the authorities to disclose all the information (Commentary, 2005).

Another example is the case between the American Vice-President Cheney and the Sierra Club. In 2001, the Vice-President was Director of the ‘National Energy Policy Development Group’. This is the group that developed the Bush government’s energy policy, including the very controversial oil exploration project on a nature reserve in Alaska. The Sierra Club requested access to the documents of the working group to find out, among other things, whether influential representatives of the oil sector – including, in particular, Enron representatives – were members of the Committee (Lane, 2003). The Vice-President and the White House opposed this request, claiming that it would undermine the confidentiality of the information dis-

closed to the administration under the cover of anonymity (Lane, 2003; Safire, 2003). The case is now pending before the Supreme Court of the United States. In the opinion of many experts, while revealing the names of members of this working group may be detrimental for them or the companies they represent, the public good of developing a policy of national importance must take precedence (Blanton, 2003; US DC Circuit Court of Appeals, 2003).

The second reason given for limiting access to documents is related to terrorism and state security (Blanton, 2003; Mendel, 2003b; Wadham and Modi, 2003; Roberts, 2004). It is now a cliché to say that September 11, 2001 has changed the way governments around the world operate. In the months following 9/11, various governments took measures to combat international terrorism. These measures took several forms, including the implementation of anti-terrorist laws.³ Such laws generally tend to increase the powers of government agents (police, army, legal system) and often considerably limit public access to information (Mendel, 2003b). In Britain for example, the Freedom of Information Act in force since 2000 stipulated that any decision of non-disclosure was subject to an independent review. The amendment to this law now allows a minister to issue a simple certificate which blocks all attempts at independent checking (Wadham and Modi, 2003). It is what Roberts calls the 'trump card' (Roberts, 2004).

The last case to be considered is that of relations between states. Many information-access laws concern documents produced by national governments. Yet more and more decisions, particularly those of an economic nature, are taken at an international level. Very often the information becomes inaccessible at the request of a single member of the group (Roberts, 2001).

2.5 Strained transparency

Strained transparency is when a public service agency cites reasons such as a lack of resources or competency to justify restrictions, delays or other problems limiting complete and rapid access to information. While this is sometimes deliberate, for example delaying in such a way that the information loses its relevance, it is also often due to organizational problems linked to insufficient resources or a lack of sensitivity to the issue at hand.

The first problem often mentioned by public service departments concerns the management of documents and information. Poor information management is in fact largely responsible for delays in processing demands for information. The answer will be that 'the records have been lost or were not named and filed correctly' or that there are various copies and 'we do not know which one is the authoritative one' (Reid, 2004b: 1).

Conversely, some documents are kept for too long, becoming a useless burden on the budget and prolonging search times. 'I often notice that ministries simply don't know what files they have or what those files contain. This uncertainty sometimes causes nervousness as to what the files might reveal or at least explains the hesitation in making them available' (Reid, 2004b: 1).

Another aspect to be considered is the financial cost of access to information requests. Despite savings resulting from transparency (better information and control

of costs) the fact still remains that documentary transparency is expensive. For example, each official demand for information under the Canadian Freedom of Information Act costs on average 2000 dollars (Canada, 2000). For the year 2000 in the United States, the cost of information demands — after deduction of fees collected — amounted to 253 millions dollars (Blanton, 2002). Given the many financial problems that governments are faced with today there is certainly a strong temptation to reduce these budgets or to increase the cost of access to information (Fung et al, 2003). The fees are also a way of impeding access to information. For example, the American Way Foundation, a non-governmental organization, requested a list of the legal proceedings involving immigrants following September 11, 2001. The American Justice Department sent them a bill of \$400,000 for this request. The organization has lodged an appeal (Blum, 2005).

2.6 Maximized transparency

From the purely theoretical point of view, maximized transparency, which consists of making all authorized information available, should be the goal, the ideal solution sought by all lawmakers (Reid, 2004b). However, simply making all information held by a government available can also constitute a real barrier to access to information.

For if it is to be consultable and useful, the information must be filed and organized, and the files or corresponding registers must be made available. Without such a system, we find ourselves in a situation referred to as an 'information overload' or 'infobesity'.⁴ By giving too much information and by failing to organize it, the authorities may 'bury' the important information that they do not wish to disclose, putting the requestor in the situation of trying to find a needle in a haystack.

In this context, it is interesting to note that countries with access to information laws increasingly require the establishment of document registers and the transparent management of archives. For example, in Sweden, a government agency has the task of developing a register to organize and to archive all of the outgoing and incoming emails (Sundström, 2000). At the level of the European Union, following several complaints, it is stressed that 'the Council has the duty of keeping registers and that it had failed in this as it did not systematically register or file the documents in question' (Le Médiateur européen, 2001: 1999).

How should information be managed and made available? Instead of finding clear responses, these problems just continue to multiply with the constant development of electronic documents. Without proper management of the information, all transparency becomes useless.

While the typology presented above makes it possible to structure all the forms of organizational behaviour linked to requests for access to information, it is important to analyse and evaluate this behaviour with respect to the initial objectives of these laws.

3. Taking account of organizational behaviour in proposals for regulating transparency

As shown in the previous section, there are many situations in which organizations either deliberately or involuntarily impede access to information. This makes it necessary to consider, on the one hand, the causes of this resistance and, on the other, proposals making it possible to improve real transparency by forestalling such forms of organizational behaviour.

3.1 The reasons for resistance

While documentary transparency is solidly anchored in a legal context, one can nonetheless observe forms of resistance and the development of strategies aimed at avoiding this transparency. There seem to us to be four principal reasons explaining this resistance to change.

The first, behavioural in nature, is to be found in the persistence of a culture of secrecy. It arises out of a certain historical tradition in which knowledge was accumulated without being really shared, with the consequence that those in power have always tended to consider files and other data as being their own or the institution's property — but not of the citizen. The second reason is institutional. The bureaucratic culture of organizations is by nature hierarchic, introverted and risk-averse (Reid, 2004b). To protect their resources and avoid having to admit their mistakes, but also to keep a comparative advantage over other organizations, public service organizations are little inclined to disclose the information at their disposal. Third, a political reason, the security-minded environment linked in particular to the terrorist attacks of September 2001 and the multiplicity of international agreements afford those in power new possibilities of limiting the access to information (Blanton, 2003; Mendel, 2003b). The last reason, rarely discussed, is of an organizational nature. Being little used to communicating and maintaining regular relations, apart from strictly administrative ones, with the public, many public service organizations are somewhat unequipped to implement these laws. Not only are these organizations unforthcoming with regard to operational techniques to be developed, but their actual practices also differ greatly from one organization to the next, with few 'good practices' that could serve as reference points having been developed to date.

3.2 Proposals for regulating transparency more effectively

It is generally admitted that the objective of these laws is not absolute transparency but relative transparency, insofar as the laws explicitly provide for exceptions and limitations. However, with reference to the typology presented in the preceding section, it becomes evident that even this relative transparency has not been fully achieved. With respect to this finding, shared moreover by other authors (Blanton, 2003; Savoie, 2003; Canada, 2004; Roberts, 2005), two 'solutions' are put forward to tackle this issue.

The first approach recommends absolute transparency, i.e. the elimination of the vast majority of exemptions and exceptions (Blanton, 2003). This approach accepts in a way the inability of simple transparency to prevent the emergence of administrative

barriers. Transparency is thus regulated by means of administrative reactions that inevitably will block certain documents and information. Advocates of this approach think that the path to better transparency is inevitably that of more transparency.

On the other hand, some think that this transparency goes too far and that the very extent of communicable information leads organizations to adopt forms of self-protection leading to an effective reduction of transparency (Savoie, 2003). This approach advocates a more balanced form of transparency, i.e. one more respectful of the old tradition of administrative privilege. The path to better transparency lies through less transparency or transparency limited to essential information.

These two approaches are essentially aimed at the same thing, making transparency initiatives more effective. However, they propose striking a balance between transparency and opacity in very different ways. On the basis of our study, and particularly of our structuring of the forms of administrative behaviour with respect to transparency, it is legitimate to ask if there is not a third way or, in other words, another manner of evaluating the relationship between transparency and administrative privilege.

3.3 A new approach to the evaluation of transparency

Rather than trying to establish this balance in an absolute way, it would be advisable to find ways of identifying the degree of transparency achieved and to study its development. Three criteria are proposed to do this.

The first criterion has to do with the legitimacy of the organization's decisions regarding the disclosure of information. Beyond the legal nature of such behaviour, it is the public's perception of its legitimacy, or the acceptable level of transparency, which will be decisive. Members of the public may in fact, in particular situations, evaluate the cost/benefit ratio between privilege and transparency. If they consider the benefits of privilege to be greater than those of transparency, then they may have a positive image of non-transparency. On the contrary, the most complete transparency will be demanded if the costs of transparency are less than those of privilege. Now the evaluation of the costs and advantages of privilege and transparency is not a constant and depends on several factors, such as the political situation, the degree of participation on the part of the public in political debate or the type of government (coalition government or parliamentary opposition), and of course the type of information. If one goes by the first criterion, one may come to the conclusion that the two extreme forms of behaviour presented in the typology, non-transparency and maximized transparency, are those that would be most acceptable to the public. Conversely, averted transparency would be the least acceptable as it does not allow the corresponding costs to be evaluated. Between these two situations we find the other two types of behaviour, consisting of strained transparency and obstructed transparency.

The second criterion concerns the organization's ability to learn about the management and transmission of information. Rather than judging on the basis of isolated cases, it is also advisable to examine the tools put in place by a public organization to systematically improve its relations with the public (ways to contact the department, to easily obtain information, etc.), to permit a greater number of

employees and various hierarchical levels to disclose information, and to draw lessons from past experience (organizational learning). By putting such procedures in place, it is possible to gradually overcome the resistance mentioned in the preceding paragraph and to increase the degree of transparency. In this way one can limit the risks of being confronted with obstructed transparency and reduce the problems of strained transparency.

Finally, the third criterion does not concern the transparency of the information possessed but rather the transparency of the internal handling of requests made of the organizations. Thus it is not so much the fact of withholding information which will be evaluated. It is the ability of an organization to explain quickly, proactively (i.e. without waiting for a specific request) and clearly the reasons obliging it to deny this access which will be the determining factors in judging the degree of transparency. If the transparency of the information is relative, that of the processes must be absolute.

Conclusion

Since the passing of access to information laws in the 1950s, the transparency of government activities has developed a great deal. Considerable challenges remain, however. Organizational and political dynamics tend to restrict access, while some experiences show the necessity of increasing this transparency. Whether it be the result of a certain culture of privilege, the desire to increase one's own resources or to protect oneself against certain responsibilities, organizations, and sometimes certain individuals at a personal level, deliberately develop forms of behaviour limiting this transparency. But 'excessive protection of information is inexcusable in a democratic society which depends on information and expects its political leaders and civil servants to show a high degree of integrity, transparency and responsibility' (Reid, 2004b).

In order to better understand the behaviour of organizations in relation to the demands of transparency, a typology of these behaviours was established. It brings to light a variety of strategies implemented by organizations, some enabling them to avoid being subject to the law, others advancing a false transparency where all the information is released to the public but not the means of analysing and understanding it, and others again favouring the use of legal and illegal means of concealing information.

This analysis is useful on many levels. First, it puts into perspective the expected results of these laws. The commitment of a government to greater openness and transparency is not sufficient if at the same time a profound cultural change is not effected within the government services (Sanchez, 2002; Reid, 2004a). Next, the analysis of these behaviours allows us to contribute to the discussion on measures to be implemented within governments undergoing a process initiating greater transparency. On the basis of this analysis, we have proposed three criteria. The most important, and doubtless the most effective, is transparency not so much of the information, but above all of the very processes and mechanisms of transparency. This is certainly one of the paths leading to the definition of a balancing point that is closer to what the public expects.

Notes

- 1 Article 19 of the Universal Declaration of Human Rights of 1948: 'Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.'
- 2 Documents concerning secret deliberations of the government in France, documents of the Queen's Cabinet in Canada, co-report procedure in Switzerland, etc.
- 3 Unites States – Patriot Act; Canada – Anti-terrorist law; Britain – Anti-Terrorism Crime and Security Act.
- 4 Infobesity is a superabundance of information which in fact prevents people from extracting the relevant information in a quick, effective way.

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