

FOI: Institutionalizing Reform, Enhancing Competitiveness, Empowering the People



HIGHLIGHTS

- The first FOI bill filed in the Philippine Congress was by then Rep. Raul Roco in 24 October 1987, just several months after the ratification of the Constitution.
- Beyond just being a good governance advocacy, a regime which fully enforces access to information is relevant in light of globalization where the easy access to information is critical for predictability of policy, as well as to facilitate the free flow of goods and services.
- Article I, Section 1 of the Trade Facilitation Agreement, entitled Publication and Availability of Information, requires WTO members to “publish promptly” a set of relevant information “in a non-discriminatory and easily accessible manner in order to enable governments, traders, and other interested parties to become acquainted with them.”
- The passage of the FOI bill will help bring about a level and transparent playing field for enterprises, which in turn, will encourage faster expansion of industries and contribute to inclusive growth.

Chairman

RAMON R. DEL ROSARIO JR.

Vice Chairmen

ROBERTO F. DE OCAMPO
JAIME AUGUSTO ZOBEL DE AYALA II

Treasurer

AURELIO R. MONTINOLA III

Corporate Secretary

RICARDO J. ROMULO

Trustees

EDGAR O. CHUA
CORAZON S. DE LA PAZ-BERNARDO
GUILLERMO D. LUCHANGCO

DORIS MAGSAYSAY HO
CIRILO P. NOEL
WILFRED STEVEN UYTENGUS JR.

Executive Director

PETER ANGELO V. PERFECTO

Deputy Executive Director

ISABEL A. LOPA

Research by

PATRICK P. CHUA
Research Programs Manager

Cover and Layout by

ROMUALDO BENJAMIN F. DEL ROSARIO



.....
Copyright 2015

Makati Business Club
2nd Floor, AIM Conference Center
Benavidez Street corner Trasierra Street
Legaspi Village, 1229 Makati City, Philippines
Tel: 751-1137 to 38
Fax: 750-7405 to 06
Email: makatibusinessclub@mbc.com.ph
Website: www.mbc.com.ph

The Philippines, on the other hand and as mentioned, only has an actionable constitutional provision on FOI as a national law has yet to be enacted. The Philippines is the only one among the original eight founding members of the OGP without a national legislation on FOI.

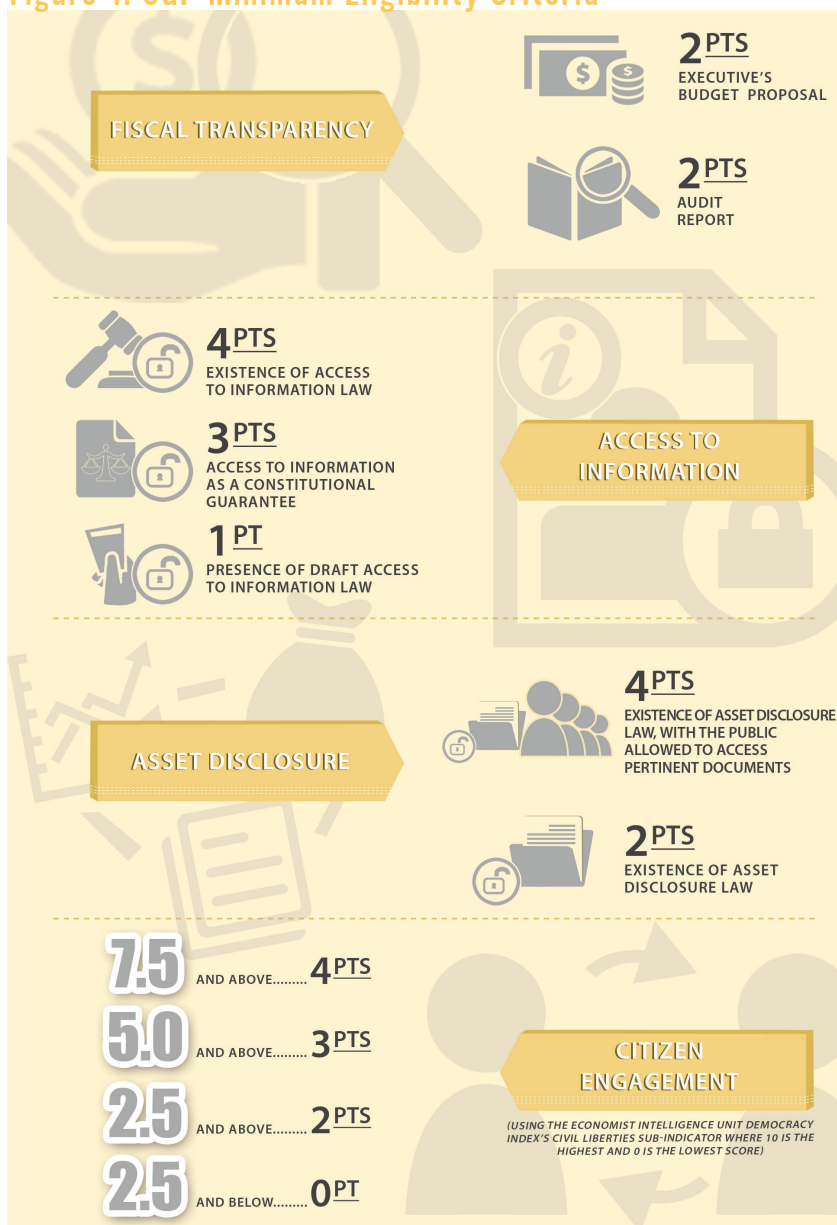
On 20 September 2011, the Philippines, along with Brazil, Indonesia, Mexico, Norway, South Africa, the United Kingdom, and the United States became the eight founding members of the Open Government Partnership (OGP). The OGP is a multilateral initiative that aims to secure concrete commitments from government to promote transparency, empower citizens, fight corruption, and har-

ness technologies to strengthen governance. These eight countries, as well as 57 other participating countries, endorsed the Open Government Declaration and subsequently announced their country action plans in furtherance of the OGP's goals.

In order to become a candidate to the OGP, countries must pass the minimum eligibility requirements (see Figure 1)

covering four key areas—fiscal transparency, access to information, asset disclosure of public officials, and citizen engagement. From a total of 16 points or 12 points (maximum of four points for each of the metrics) if one of the four metrics is not applicable, a country must score at least 75% of applicable points in order to become an OGP candidate. As of November 2014, 93 countries are eligible to join the OGP.

Figure 1: OGP Minimum Eligibility Criteria



only Indonesia and Thailand have national laws governing access to information. Malaysia has FOI laws at the state-level, particularly in Selangor and Penang, which were both passed in 2011. The Philippines, on the other hand and as mentioned, only has an actionable constitutional provision on FOI as a national law has yet to be enacted. The Philippines is the only one among the original eight founding members of the OGP without a national legislation on FOI.

THE LONG ROAD TO A PHILIPPINE FOI LAW

There is no specific country from where the Philippine version of the FOI bill was patterned after. However, during the discussions in the past Congresses, references were made from the FOIA of the United States (enacted in 1966), as well as the FOI laws of other countries such as Sweden (the earliest FOIA enacted in 1766) and India (enacted in 2005). The early version of the bill was also compared with evolving international standards, as summarized by the organization, Article 19.

The first FOI bill filed in the Philippine Congress was by then Rep. Raul Roco in 24 October 1987, just several months after the ratification of the Constitution. Until about the 13th Congress (2004-2007), however, the measure was conveniently called the Access to Information Act which focused on ensuring the people's right of access and manner thereof to information. It was during the time of the 13th Congress that India passed its Right to Information Law. With governments recognizing the equally important and complementary policy of voluntary and full disclosure of government information, besides merely allowing the public access information, access to information or right to in-

According to the eligibility assessments for countries that want to be part of the OGP, as of November 2014, 100 countries have national/federal laws providing for access to information, 25 countries, including the Philippines, have constitutional guarantee provisions covering access to information, and another 23 have pending proposed legislation.

The most recent country to enact a Freedom of Information Act was Paraguay last September 2014. An earlier law was passed in July

2001, which was highly criticized for imposing restrictions on citizens and journalists requesting for information. Public clamor led by media and civil society prompted the Paraguayan government to repeal the law just over two months after its enactment. Similar to many countries, the citizens' right to information is stipulated in Paraguay's 1992 Constitution.

In the Asia-Pacific, meanwhile, 15 out of the 21 APEC member economies have FOI laws. However, among ASEAN member states,

formation evolved into freedom of information.

During the 15th Congress (2010-2013), the House Committee on Public Information only managed to report out a consolidated version as HB 6766 where it remained pending on second reading. The Senate, on the other hand, as in many previous Congresses, had approved on third reading their version of the FOI bill. The closest chance the Philippines had to having an FOI Law was in the 14th Congress (2007-2010) when the measure was almost passed if not for a question of quorum that prevented the House to ratify the bicameral report during the last session day of Congress on 4 June 2010 (see boxed text).

The delays surrounding the non-passage of the FOI bill for several Congresses essentially stem from four key issues which often take up most of the discussions: (1) the overly broad or too specific exemptions; (2) the non-retroactivity clause, which mandates that the law only cover information after its passage, and during the incumbency of the President when such information has been requested; (3) the

inclusion of information held by private entities as part of the information that can be demanded or must be freely disclosed; and (4) the right to reply provision.

During the present administration of President Benigno S. Aquino III, the Executive has been criticized for sitting on the FOI bill, given its slow pace in Congress despite this being a campaign promise of the President. As a response, a Malacañang study group headed by Communications Undersecretary Manuel Quezon III was formed to address the concerns of the government regarding the FOI bill. During the committee deliberations in Congress and in several meetings with stakeholders, particularly with the Right to Know, Right Now Coalition (a network of organizations and individuals from both the public and private sector, including the Makati Business Club), among the issues raised by the Administration were the following:

- Exemption of information regarding national security from disclosure
- Upholding of Presidential communications privilege or the protection of free and frank deliber-

ation by the President with his close advisers

- Premature disclosure of raw information
- Imposition of heavy and impractical penalties on offenses against freedom of information
- Possible deluge of requests and other instances of administrative burden in the implementation of the FOI law.

These concerns were addressed by the “Administration FOI bill” that was submitted by the study group last February 2012 to Congress. It was resubmitted in this current 16th Congress with additional provisions that sought to fine-tune the bill from its previous version. Among the bill’s proposals are:

- Distinct identification of matters directly relating to national security (separately from internal and external defense) as among the information exempted from coverage
- Additional exemption on matters concerning minutes, pieces of advice, and opinions, which can be invoked by the President to be part of Presidential communications privilege
- Reclassification of certain acts

The 14th Congress and the Freedom of Information Act

On 4 June 2010, the last session day of the 14th Congress, the plenary hall of the House of Representatives was filled up to the third floor in anticipation of the ratification of the FOI bill. It was earlier ratified by the Senate on February 1, prior to the session break for the election campaign season.

However, when the measure was up for discussion, upon objection and question of quorum by Rep. Pedro Romualdo (Camiguin, lone district), the session was suspended several times. When the roll was called, the secretary-general noted that only 128 members responded, seven members shy of the necessary majority of the 268-member House. As per House rules, business cannot be conducted without a quorum, and thus the FOI bill was not ratified into law by the House.

Information disclosed after the said session revealed interesting details on the events leading to the non-ratification. For instance, in the list that was provided by then Speaker Prospero Nograles of the supposed list of absentees, at least eight legislators claimed they were wrongly marked as absent. Some were even caught on video at the plenary hall during the roll.

Ironically, the House approved their FOI bill (HB 3732) on 12 May 2008, much earlier than the 14 December 2009 approval of the Senate version (SB 3308). It also took the House of Representatives just three session days to have their FOI bill approved—one session for the sponsorship, another day for the committee amendments and eventual approval on second reading, and a third day for approval on third reading. It must also be noted that HB 3732 was authored by 180 congressmen, and was approved on third reading by a unanimous vote of 197, with no objection or abstention.

previously categorized as criminal offenses into administrative offenses

- Two-year grace period for all government agencies to have an FOI compliant website.
- Translation of key information into major Filipino languages and in popular form and means
- Integration of open data provisions that require regular and pro-active release of government data in open and machine-readable formats (House committee report only)

THE FOI BILL IN THE 16TH CONGRESS

Article III (Bill of Rights), Section 7 of the Constitution guarantees the people's right to information, while Article II (Declaration of Principles and State Policies), Section 28 provides for the state policy of full disclosure of transactions involving public interest. Although these two Constitutional provisions were ruled by the Supreme Court to be self-executory (Legaspi v. Civil Service Commission, 1987), the FOI bills in the House and Senate seek to operationalize and institutionalize these provisions.

In the House of Representatives, at least 25 FOI measures were filed this Congress. The Committee on Public Information formed a technical working group (TWG) headed by Committee Chair Jorge Almonte. It initially approved a motion setting mid-February 2014 as the deadline for the TWG to submit a consolidated version. After nine TWG meetings, the substitute bill was finalized and was adopted by the committee last 26 November 2014. Proponents in the House targeted to file the committee report for plenary deliberation in December 2014 or early Janu-

ary 2015, and eventually approve the measure on third reading by July 2015. The substitute bill was finally reported out by the committee last May 25 as House Bill 5801 with Committee Report 746.

In the Senate, the Committee on Public Information reported out in plenary a consolidated bill (SB 1733) of at least 11 different measures after conducting two hearings. Committee Chair Grace Poe and Senate President Franklin Drilon passed on third and final reading the Senate version on 10 March 2014.

While there are differences between the two versions of the bill, both the consolidated House bill and Senate-approved counterpart seek to:

- Clarify the scope of accessible information by defining the list of allowable exceptions, as well as address the wide discretion allowed in withholding or granting access.
- Place safeguards against abuse of exceptions.
- Outline standards in accessing information—process of filing of requests, timetables in responding to the requests, etc.
- Provide for remedies in case of denial of access and violation of the right to information, including the imposition of administrative and criminal liabilities.
- Identify the documents that are to be disclosed without the need for requests.
- Provide basic standards for recordkeeping and facilitating access to both recent and archived information.

Salient features of the FOI bill

1	Prescribes a definite period, 15 working days within which to act [including the issuance of the notice of denial] on requests for information. The agency may upon notification to the requesting party extend the period of compliance by not more than 20 days.
2	In case of denial, the requesting party may file an appeal to the head of agency (HB 5801) or to the person or office next higher in authority (SB 1733) with 15 calendar days from receipt of the notice of denial. The appeal must be decided within 15 calendar days (HB 5801) or five working days (SB 1733) from filing. Failure to decide within the prescribed period constitutes a denial to the appeal.
3	Provides that a person denied of his/her appeal may file a verified complaint with the Office of the Ombudsman (HB 5801) or file a verified petition for mandamus in the proper court (SB 1733). Whether the denial has been appealed to the head of the agency, the requester may file a verified petition for mandamus in the proper court.
4	Exempts the following information: <ul style="list-style-type: none"> a. Information specifically authorized to be kept confidential under guidelines established by an Executive Order relating to national security or defense or foreign affairs b. Minutes or records of advice given and opinions expressed that are part of presidential communications privilege c. Internal and/or external defense, law enforcement, and border control d. Human security matters such as food, health, money and trade (SB 1733) e. Draft of orders, resolutions, decisions, memoranda or audit reports obtained by either House of Congress or any committee in executive session f. Personal and sensitive information of a natural person g. Trade secrets and commercial or financial information obtained in confidence or covered by privileged communication and/or filed with a government agency h. Classified as privileged communications in legal proceedings i. Exempted from disclosure by the Constitution or by law. Its premature disclosure would likely to lead speculations or frustrate the effective implementation of a proposed official action
5	Mandates the disclosure of the statement of assets, liabilities and net worth (SALN) of the following officials on an annual basis in their official website: <ul style="list-style-type: none"> a. President b. Vice President c. Members of the Cabinet d. Members of Congress e. Justices of the Supreme Court f. Members of the Constitutional Commissions and other constitutional offices g. Officers of the armed forces with general or the equivalent flag rank

6	Mandates the uploading of the following public interest documents or records a. annual budget b. itemized monthly collections and disbursement c. summary of income and expenditures d. component of the internal revenue allotment (IRA) utilization e. items for bidding, including the abstract of bids as calculated and the bid results f. government procurement contracts g. construction or concession agreements between government agency and any domestic or foreign person or entity h. private sector participation agreements or contracts under the BOT Law i. public funding extended to any private entity j. bilateral or multilateral agreements and treaties k. licenses or permits granted for the extraction and/or utilization of natural resources and a list of the grantees l. guarantees given to GOCCs and to private corporations, persons or entities
7	The entry of transactions shall contain a brief description including the nature and object of transaction, the parties involved and the relevant dates. Contracts or agreements involving an amount of at least P50 million shall be uploaded in full.
8	Requires government agencies to publish through their websites timely, accurate and updated key information including: a. Mandate, structure, powers and functions b. Description of the frontline services indicating the procedure and length of time by which they may be availed c. Key officials, including their functions and responsibilities, profiles and curriculum vitae d. Audited financial statements, and budget and expenditure records (SB 1733) e. SALN of public officials with salary grades 27 and above, including their monthly income and allowances (SB 1733) f. Work programs, development plans, investment plans, projects, performance targets and accomplishments, and budgets, revenue allotments and expenditures g. Rules and regulations, orders or decisions published within 15 calendar days from promulgation h. Datasets generated in the performance of the agency's duties and mandates such as statistics, figures and geospatial data (HB 5801) i. Current and important database and statistics that it generates j. Bidding process and requirements k. Mechanisms or projects by which the public may participate in
9	Requires all government agencies to prepare their respective Freedom of Information Manual
10	Administrative offenses: a. Refusal to promptly forward the request to the officer or agency responsible for officially acting on the request b. Failure to act on the request within the prescribed period c. Claim an exception when the claim is manifestly devoid of factual or legal basis (HB 5801) d. Refusal to comply with the decision of his/her immediate supervisor or any order of the court e. Approval of policies manifestly contrary to the provisions of the law, which are the direct cause of the denial of request (HB 5801) f. Failure [head of the agency or the designated employee] to upload information required to be posted on the website
11	Criminal offenses punishable by imprisonment of not less than one month but not more than six months and; with accessory penalty of dismissal from service (HB 5801) OR a fine ranging from P10,000 to P100,000 (SB 1733). These offenses include: a. Any public official or employee who falsely denies or conceals the existence of information mandated for disclosure b. Any public official or employee who destroys or causes to be destroyed, information or documents being requested for the purpose of frustrating the requesting party's access thereto c. Any individual who knowingly directed, induced or caused the commission of the foregoing acts shall be liable as principal by inducement in the prosecution of public officials or employees d. Any individual who divulged or released exempt information (SB 1733)
12	Requires government agencies to create and/or maintain in appropriate formats, accurate and reasonably complete documentation of relevant records. This record keeping shall include a system of records maintenance-creation, selection, classification, indexing and filing-archival and disposition of official records.

The House committee report contains open data provisions which are not present in the Senate version. It establishes an Open Data Philippines website where all government agencies shall publish, whenever practicable in machine-readable and in open formats, datasets generated in the implementation of agency mandates, programs, activities, and projects. The House bill also requires websites of government agencies to show a matrix of requests, wherein updates on the actions made

regarding the request can be seen. In cases where requests are denied, the table shall likewise indicate the reasons for denial and the status of the appeal if such was made.

These open data provisions may address the Executive's concern over the administrative burden that may arise after enacting an FOI law, particularly on responding to a possible deluge of requests. This is in addition to the relaxation of certain provisions and recategorization of some

criminal penalties to administrative ones, which may also address the Executive's reservations on FOI.

Nevertheless, amidst such concerns, the government will not be wholly starting from scratch should the bill pass into law. The Aquino Administration, in fact, has been credited for its transparency and disclosure mechanisms implemented by certain government agencies, such as the Department of Budget and Management and the Department of Public Works and Highways on the disbursement of public funds. The Department of Interior and Local Government, likewise, earned commendation with its Full Disclosure Policy Portal, as well as the Department of Finance for the Pera ng Bayan and Customs ng Bayan webportals.

Following the OGP meeting in Bali, Indonesia last May 2014, the Aquino Administration committed to support the passage of FOI in 2015, with a two-year transition period to be given for government agencies to be fully compliant with the law. The commitment, along with the support for the passage of the Whistleblower Protection Act, was contained in the 2014 Philippine Action Plan.

This pledge was reiterated later in July 2014 at the Daylight Dialogue Forum with World Bank President Jim Yong Kim, where President Aquino himself committed to pass FOI bill into law within his term.

For information: Under the new OGP calendar, the commitments under the national action plan have to be implemented from 1 July 2014 until 31 October 2015.

After which, the succeeding sets of action plans that are crafted, in strong partnership with civil society, shall be rolled out every two years.

FOI AS AN ANTI-CORRUPTION TOOL

The tangible benefits of providing easy access to information can be seen and felt in how it substantially reduces, if not eliminates, the losses due to corruption. Augmenting this thesis, AIM Policy Center's Professor Ronald Mendoza cited examples when information provided direct socio-economic benefits to the people, as seen in Figure 2.

In addition, Senator Grace Poe's sponsorship speech for the FOI Bill also noted that studies showed how graft and corruption were minimized in countries with strong FOI laws. In the United States, for instance, the num-

ber of graft convictions nearly doubled in the first eight years after its FOI Act was strengthened.

In the Philippines, an FOI Law's importance can be seen in how it will benefit the primary anti-corruption bodies in government, the Sandiganbayan and the Office of the Ombudsman, particularly through increasing the conviction rate of officials accused of corruption. For information, the Sandiganbayan is the anti-graft court which has the original exclusive jurisdiction over cases of bribery, forfeiture of illegally acquired wealth, graft, and corruption involving public officials with salary grade 27 and higher. As such, their mandate covers officials occupying the position of a regional director and above; including members of Congress, the Judiciary, Constitutional Commissions, and of government owned or controlled corpo-

rations. Meanwhile, the Ombudsman is tasked to investigate and prosecute cases within the jurisdiction of the Sandiganbayan.

From 2004-2014, the conviction rate of Sandiganbayan-decided cases has moved up and down with an average of 41.12%. The spike in 2008 was due to the multiple convictions of a town mayor for usurpation of official functions. In 2013, the Supreme Court reversed the Sandiganbayan ruling, and acquitted the official who would have served 111 years for 221 counts of violations under Article 177 of the Revised Penal Code.

The conviction rate for 2014 of 37.11% was about 25% lower compared to the preceding year's score. Meanwhile, for the first two months of 2015, the conviction rate was at a high 72.03%. While the number of convictions is not the sole measure of the

Figure 2

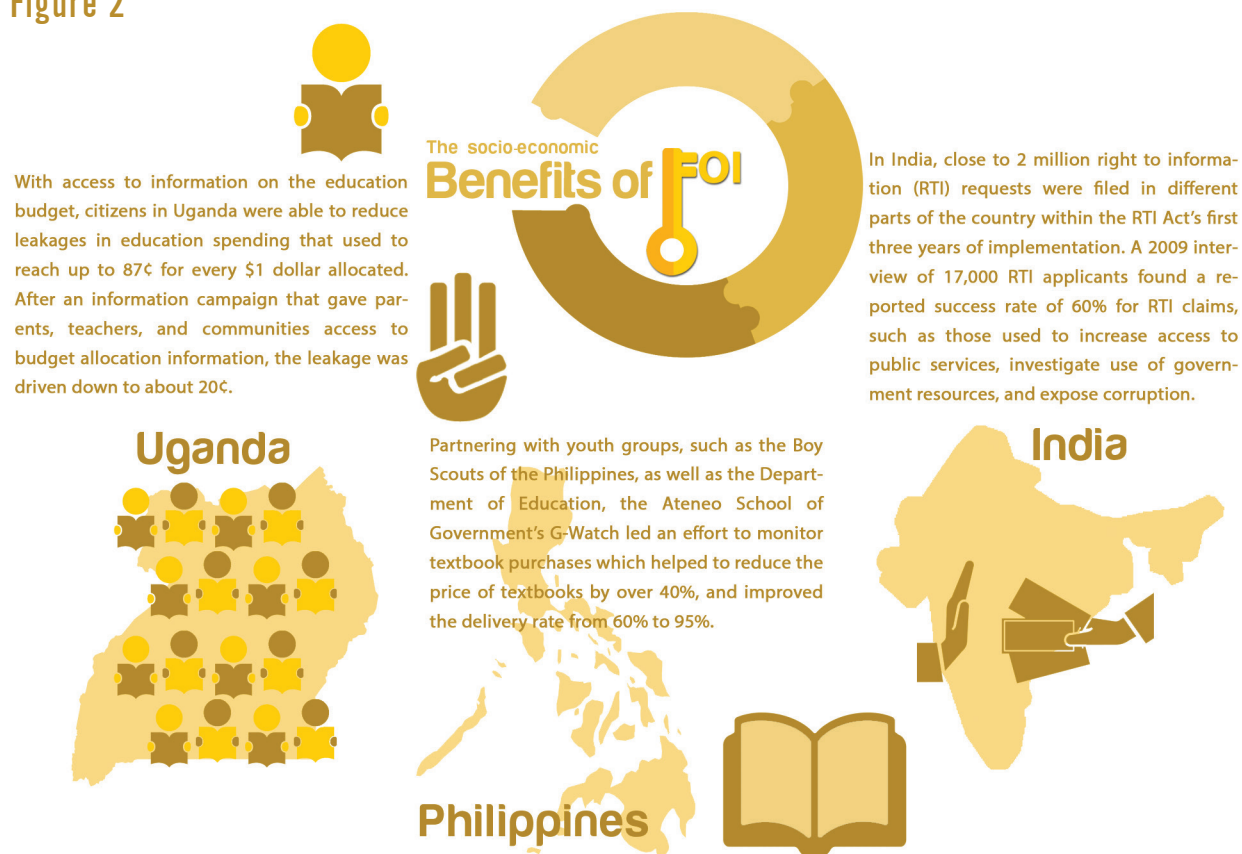
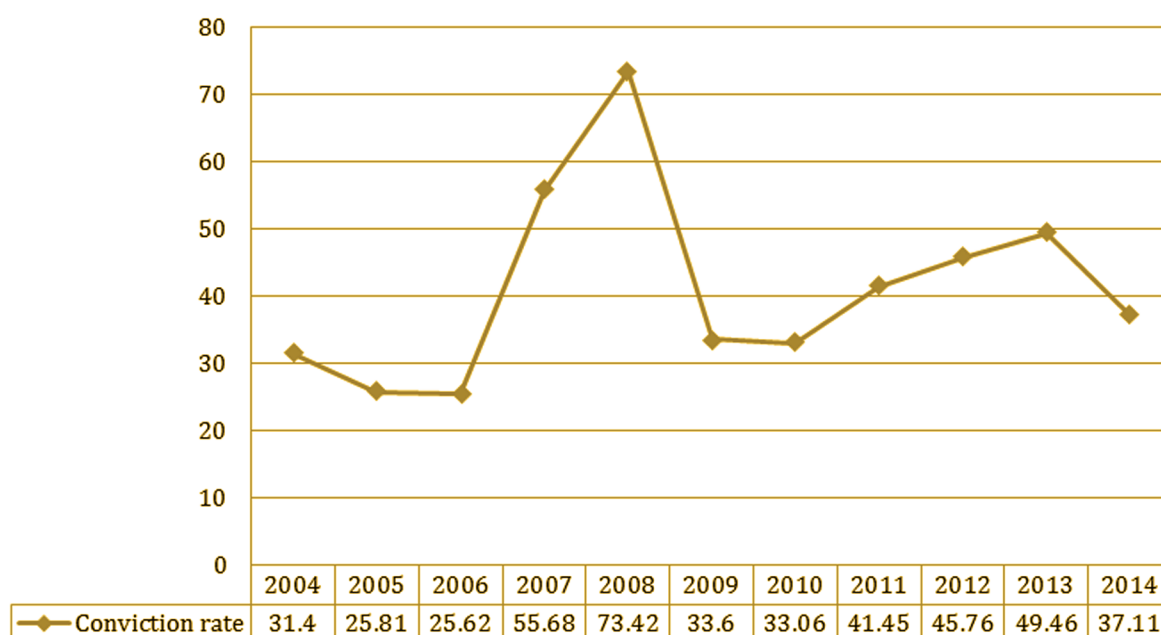


Chart 1: Conviction rate of Sandiganbayan decided cases, 2004-2014
(in percent)



Source: Office of the Special Prosecutor, Office of the Ombudsman

Sandiganbayan's performance, it provides a rough gauge of the strength of the information regarding corruption cases that is available and subsequently used by the Ombudsman in the charges that it files.

The above point was also illustrated by Prof. Mendoza who noted that countries with the strongest improvements in Transparency International's Corruption Perceptions Index (CPI) (2003-2013) saw their ranks increase after their respective FOI laws were enacted and subsequently strengthened (see Table 1).

Following this observation, looking at the rankings of countries when their respective FOI laws were enacted vis-à-vis their 2014 CPI rankings, there were more countries with marked improvements in their transparency rankings (see Table 2).

Meanwhile, the countries which experienced significant declines in their CPI rankings are those without an FOI law (see Table 3).

Simple observation at the latest CPI shows that the top five countries in the recent index—(1) Denmark, (2) New Zealand, (3) Finland, (4) Sweden, (5) Switzerland, and (5) Norway—have FOI legislation. The bottom five—(174) Somalia, (174) North Korea, (173) Sudan, (172) Afghanistan, (171) South Sudan, and (170) Iraq—on the other hand, do not have FOI laws in place.

FOI LAW FOR GOOD ECONOMICS

The correlation between an economy's perceived level of corruption and its GDP growth has been established in several studies, although the direct link between an FOI law and a country's economy may still require further

analysis. Regardless of which, the availability and use of information has proven essential not only in the aspiration of greater transparency from government, but also to a much better business environment. Beyond just being a good governance advocacy, a regime which fully enforces access to information is relevant in light of globalization where the easy access to information is critical for predictability of policy, as well as to facilitate the free flow of goods and services. It is also essential given the growing commitments of the Philippines to the international community.

For instance, at the conclusion of the Trade Facilitation Agreement (TFA) during the Ninth Session of the World Trade Organization's (WTO) Ministerial Conference in Bali last December 2013, the importance of availability and sharing of information has taken the driver's seat. Article I, Section 1 of

Table 1: Countries with Strongest Improvements in Ranking, Transparency International's Corruption Perceptions Index, 2003-2013



69

CUMULATIVE INCREASE IN RANKING



GEORGIA

YEAR FOI WAS ENACTED AND SUBSEQUENTLY STRENGTHENED 1998, 2001

39

CUMULATIVE INCREASE IN RANKING



MACEDONIA

YEAR FOI WAS ENACTED AND SUBSEQUENTLY STRENGTHENED 2006, 2008

26

CUMULATIVE INCREASE IN RANKING



POLAND

YEAR FOI WAS ENACTED AND SUBSEQUENTLY STRENGTHENED 2001

24

CUMULATIVE INCREASE IN RANKING



TURKEY

YEAR FOI WAS ENACTED AND SUBSEQUENTLY STRENGTHENED 2003

Sources: compiled by author from www.justiceinitiative.org, www.transparency.org

Table 2: Most improved countries following the enactment of an FOI law



		CPI RANK (YEAR WHEN FOI LAW WAS ENACTED)	CPI 2014 RANK	IMPROVEMENT
	MACEDONIA	105 (2006)	64	41
	MONGOLIA	120 (2011)	80	40
	GEORGIA	85 (1998)	50	35
	NIGER	134 (2011)	103	31
	LATVIA	71 (1998)	43	28
	SERBIA	106 (2003)	78	28

Sources: compiled by author from www.justiceinitiative.org, www.transparency.org

Table 3: Countries with the most significant declines in the CPI ranking



		CPI 2007 RANK	CPI 2014 RANK	DECLINE
	ERITREA	111	166	55
	MADAGASCAR	94	133	39
	LEBANON	99	136	37
	BURUNDI	123	159	36
	LIBYA	131	166	35

Sources: compiled by author from www.justiceinitiative.org, www.transparency.org

the TFA, entitled Publication and Availability of Information, requires WTO members to "publish promptly" a set of relevant information "in a non-discriminatory and easily accessible manner in order to enable governments, traders, and other interested parties to become acquainted with them."

Prior to the WTO, transparency was already the subject of Article X of the General Agreement on Tariffs and Trade (GATT) in 1994. It is interesting to note that between the 1994 GATT and the 2013 TFA, the importance of transparency has been bumped up from being a subject in Article X of the 1994 agreement, to the very first section of Article I in the 2013 deal. The first section of the TFA seeks to clarify and improve Article X of the GATT in order to expedite the movement, release, and clearance of goods, including goods in transit. This also allows for consultation prior to entry into force of any proposed provision, as well as procedures for appeal or review, among other measures, to enhance impartiality, non-discrimination and transparency. These measures aim at ensuring predictability and objectivity with regards to trade policies, regulations, and legislation.

In order to maximize the use of trade-related information, the TFA requires the establishment of a national enquiry point (NEP) to facilitate access to published information in a more customized manner of responding to specific requests. NEPs provide easily accessible, timely, accurate, and comprehensive information, including the regulatory framework and operational practices being observed.

Similarly, in the context of the ASEAN Economic Community,

an ASEAN Single Window (ASW) links and integrates National Single Windows (NSW) of each member state to facilitate customs clearance. This provides that national single windows of respective countries are aligned with international open communication standards, while ensuring secure and reliable exchange of data among trading parties.

Another multilateral initiative where the Philippines has also committed to is the Extractive Industries Transparency Initiative (EITI). The country was admitted as an EITI candidate last May 2013 and is working towards being EITI compliant in 2015. The EITI seeks to implement an effective disclosure process and accounting of all revenues from the extractive sector, thereby allowing citizens to see how much the government and the local communities are getting from oil, gas, and mining companies.

Highlighting the importance of these transparency and accountability measures, these have been established as indicators to determine a country's overall competitiveness.

In the World Economic Forum's (WEF) Global Competitiveness Report (GCR) 2014-2015, the Philippines jumped seven places in the competitiveness index. What is noteworthy, however, is that the country's total gain of 33 places since 2010 was described by the WEF as "the largest over that period among the countries studied." The WEF said that this commendable result suggests that the reforms instituted by the Aquino administration over the past four years have certainly augmented the country's economic standing.

Specifically, under the Institutions pillar of the GCR, wherein the prevalence of diversion of public funds and businesses' ease in obtaining information about relevant government policies and regulations were measured, the Philippines improved by 50 places since 2010. The WEF attributes this stellar jump by the Philippines to the aggressive efforts made against corruption.

Furthermore, the marked improvement of the Philippines in various competitiveness rankings has been noticed by credit rating agencies, greatly contributing to the country's upgraded credit ratings. Such improved credit standings, in turn, translates to wider fiscal space resulting in more available funds for social services and infrastructure.

INSTITUTIONALIZING GOOD GOVERNANCE AND EMPOWERING THE PEOPLE

Truly, the country's gains in transparency deserve much praise—and it must be noted that these milestones were achieved even without an FOI Law. However, the greater challenge is ensuring that these reforms will be maintained even with changes in administrations. As such, the significance of enacting the FOI, once again, comes to the fore, as it will guarantee the preservation of these achievements, as well as sends a strong message that the Philippines is committed to good governance for the long-term. This is an opinion that has been strongly voiced by reputable institutions and respected thought leaders. At its very core, institutionalizing good governance and empowering the people are at the heart of the efforts in passing an FOI Law.

Echoing a similar concern, Professor Mendoza noted that the improving ranking of the Philippines on the Corruption Perception Index may be likened to a financial bubble—one that could burst should the substantial reforms fail to meet people's expectations.

Before the Senate committee hearing on FOI, MBC Chairman Ramon Del Rosario Jr., for his part, stated that while there have been significant gains on account of the Administration's good governance reforms, corruption remains a deterrent to even more aggressive investments and, as a corollary, to the creation of more jobs for the people. The passage of the FOI bill, he said, will help bring about a level and transparent playing field for enterprises, which in turn, will encourage faster expansion of industries and contribute to inclusive growth. He concluded, "As the FOI bill institutionalizes transparency and accountability, we need [its] enactment to sustain our country's present momentum."

During the technical working group meeting in the House, meanwhile, MBC expressed its concern that the lack of clear-cut policies and guidelines has caused investors unnecessary losses due to difficulty in complying with rules and even in claiming promised incentives.

In addition, in a separate forum, MBC Co-Vice Chairman Roberto De Ocampo best encapsulated what the business community sees as among its chief reasons for the immediate passage of the Freedom of Information Bill:

"The Philippines has been able to demonstrate its ability to go one step forward and three steps

back. We have experienced administrations in the past that have had good records and that look like we are finally moving towards progress, only to be scotched by the next administration that has other plans and other monuments that they would want to build. Therefore [they] throw away everything that has already been put in place, particularly those that were not [yet] institutionalized. We think, in the business community, that the time has come to institutionalize [the Freedom of Information Act]. It would indeed be a disappointment if it was not a crowning achievement of an administration that has brought forward transparency and anti-corruption to the level this one has.”

Besides these, the passage of an FOI Law, perhaps most importantly, bestows the common Filipino with the power and responsibility to hold government accountable.

While it is laudable that the Aquino administration has tremendously improved the country's level of transparency sans an FOI Law—particularly through adherence to open data and proactive disclosure of other essential information—implementation of reforms across government is uneven. Anecdotal evidence from various stakeholder consultations illustrate that while there are government agencies that are committed to transparency (such as the Departments of Finance, Interior and Local Government, and Budget and Management), others remain opaque. Stakeholders also stated that the mere release of information is not enough—data must also be presented in formats that will facilitate easy analysis and understanding (e.g. data sets may be released in Excel form for further research purposes, rather than just in PDF or HTML formats). The passage of an FOI Law is

seen to remedy such concerns by mandating uniform transparency standards throughout the bureaucracy and thus greatly encouraging vigilance among the people in keeping the government in check.

Certainly, all sectors in Philippine society believe that the time is ripe for institutionalizing the country's good governance milestones through the enactment of the Freedom of Information Act. The first FOI bill was filed all the way back in 1987, in order to comply with the then newly-ratified Constitution. 28 years is certainly too long a time for a Constitutional mandate and a fundamental right to remain pending. The Freedom of Information bill should be passed to ensure that that all our achievements and efforts at inculcating a culture of transparency and accountability will be largely irreversible and sustained for decades to come. ■

Bibliography

16th Congress. Senate of the Philippines
Senate Bill 1733 (2013, September 24).

16th Congress. House of Representatives.
House Bills 19, 26, 34, 94, 149, 186, 347, 485, 843, 1082, 1450, 1646, 1940, 2003, 2067, 2946, 3004, 3147, 3183, 3237, 3385, 3643, 3746. (2013-2014).

House Committee on Public Information.
Matrix of Consolidated FOI bills (2014).

Open Government Partnership. Retrieved from Open Government Partnership:
<http://www.opengovpartnership.org/how-it-works/eligibility-criteria> (2014)

2014 Corruption Perceptions Index. Retrieved from Transparency International:
<http://www.transparency.org/cpi2014/results> (2014, December).

Baguilat, T. B. Transparency 3.0 Freedom of Information Asian Perspectives, Philippine Impact. Makati City. (2014, December 1).

Center for Media Freedom and Responsibility. Timeline of FOI Legislation in the Philippines. Retrieved from <http://www.cmfrr-phil.org/freedom-of-information/> (2014).

Chua, A. P. CongressWatch Report 180 - FYI on FOI. Makati City: Makati Business Club. (2014)

de Ocampo, R. FNF-Rappler Forum on the State of the Freedom of Information Bill. Taguig City, Metro Manila. (2014, July 21).

del Rosario, R. J. Joint hearing of the Senate Committees on Public Information and Mass Media, Civil Service and Government Reorganization, and Finance. Statement on the Freedom of Information Act. Pasay City. (2013, September 4).

Esguerra, C. Palace commits support for FOI bill-next year. Retrieved May 2014, from Inquirer.net: <http://newsinfo.inquirer.net/601212/palace-commits-support-for-foi-bill-next-year#ixzz31OuMOm1y> (2014, May 11).

The World Bank Group. GDP per capita (current US\$). Retrieved January 2015, from The World Bank Group: <http://data.worldbank.org/indicator/NY.GDP.PCAP.CD> (2015).

House Committee on Public Information Technical Working Group proceedings.
House of Representatives. Quezon City. (2013, February).

Legaspi v. Civil Service Commission, G.R. No. 72119 (Supreme Court May 29, 1987).

Malacañang Study Group. (2012, February). Proposed Freedom of Information Act of 2013. Malulan, N. (2015, January 21). personal communication.

Mendoza, R. (2013, December 15). Matuwid na Daan: Just another bubble? Retrieved December 2013, from Rappler: <http://www.rappler.com/thought-leaders/academe/45949-matuwid-na-daan-just-another-bubble314-315>.

Office of the Ombudsman. (various years). Sandiganbayan Decided Cases, 2003-2015.

Open Society Justice Initiative. (n.d.). Retrieved November 2014, from Access to Information Laws: Overview and Statutory Goals: <http://www.right2info.org/access-to-information-laws>

Poe, G. FOI Town Hall Meeting. Quezon City. (2014, July 1)

Rating Action: Moody's upgrades Philippines to Baa2, outlook stable. (2014, December 11). Retrieved December 2014, from Moodys: https://www.moodys.com/research/Moodys-upgrades-Philippines-to-Baa2-outlook-stable-PR_314504

Senate passes FOI bill. Retrieved March 2014, from Senate of the Philippines: http://www.senate.gov.ph/press_release/2014/0310_pnb1.asp (2014, March 10).

Technical Notes on Trade Facilitation Measures. Retrieved December 2014, from United Nations Conference on Trade and Development (UNCTAD): http://unctad.org/en/docs/dtltb20101_en.pdf2011.

The Global Competitiveness Report 2014-2015. Geneva: World Economic Forum. (2014).

WCO news: WTO Trade Facilitation Agreement. Retrieved January 2015, from World Customs Organization: <http://www.wcoomd.org/en/media/wco-news-magazine/-/media/894EA201E29E4AB0A8E4291A4AE805BD.ashx> (2014, June)).

¹ Taken from Article 19 of the Universal Declaration of Human Rights, “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.”

¹⁴ Georgia's figure is based on 2002 ranking, the year when it was first covered by CPI.

¹⁶ CPI 2007 was used as a benchmark; the year when the index had the most number of economies covered (same in 2008 and 2009) at 180.