



ELSEVIER

Contents lists available at ScienceDirect

Government Information Quarterly

journal homepage: www.elsevier.com/locate/govinf

Does the freedom of information law increase transparency at the local level? Evidence from a field experiment

Peter Spáč^a, Petr Voda^{b,*}, Jozef Zagrapan^c

^a Department of Political Science, Faculty of Social Studies, Masaryk University, Jostova 10, Brno 602 00, Czech Republic

^b International Institute of Political Science, Jostova 10, Brno 602 00, Czech Republic

^c Sociologický ústav SAV, Slovenská akadémia vied, Klemensova 19, Bratislava 813 64, Slovakia

1. Introduction

Transparency is an important attribute of public administration (cf. Bauhr & Grimes, 2014; Heald, 2006; Worthy, John, & Vannoni, 2017). In general, information availability facilitates public accountability (cf. Meijer, 2014; Olsen, 2015). Transparency increases control over government, as it allows society to consider information that is otherwise kept secret. Scholars agree that transparency generally enhances public acceptance of political decisions, reduces corruption and provides more legitimacy to democratic governments (de Fine Licht, 2014; Hood, 2006; Meijer, Hart, & Worthy, 2015). In addition, transparency may stimulate the performance of political representatives, as the disclosure of their mistakes and failures can eventually reduce their support (cf. Grimmelikhuijsen & Meijer, 2012; James & Moseley, 2014). On the contrary, Fenster (2015) challenges the simplified understanding of transparency and concludes that for a functional state a balance between transparency and secrecy is necessary.

Furthermore, Fenster (2015: 150) argues that “transparency is best understood as a theory of communication that excessively simplifies and thus is blind to the complexities of the contemporary state, government information, and the public”. From this perspective it is important to study less abstract phenomena related to transparency. This article aims to study one such aspect of the concept of transparency – the compliance of officials to FOI legislation. This legislation provides citizens with the right to ask for information and binds public officials to respond to such demands. However, in the end, the requests are processed by officers. Therefore, how the requests are processed is just as important as the implementation of FOI laws.

The first FOI acts were enacted in Sweden in 1766. However, the mass wave of adoption of such law began in 1966, when the USA adopted their FOIA. According to Hazell and Worthy (2010), by 2010 around ninety countries had adopted this legislation, while another fifty were preparing such measures. In 2017, the number of countries with FOI acts was higher than 115 (Freedominfo, 2017). Hence, over time FOI acts have become a rather regular feature in countries worldwide (cf. Walby & Larsen, 2012; Worthy, 2017).

It is crucial to examine to what extent FOI laws are followed in

practical terms. In other words, for FOI acts to fulfil their role in providing access to information to the public, the compliance of public officials is a necessary condition. In a growing number of countries, research on the effectiveness of such laws has already been conducted (cf. Cherry & McMenemy, 2013; Michener, 2015; Michener & Worthy, 2015). These studies mostly cover either Western democracies or developing countries. One of our aims is to contribute to this state of the art by analyzing Slovakia - a relatively new democracy belonging to a group of post-communist countries in Central Europe. So far, this group's compliance with FOI has not been examined by researchers. A profile of Slovakia provides the opportunity to carry out research of FOI compliance in a new context uncovered by the existing literature. Transparency and its consequences do not work free of context, but they depend on the institutional and political factors of political systems (cf. Cucciniello, Porumbescu, & Grimmelikhuijsen, 2017). This explains why, under some constellations, transparency reinforces the trust of society in public institutions, while in others such effects do not appear (cf. de Fine Licht, 2011; Welch, Hinnant, & Moon, 2005). This is yet another reason to conduct studies in new contexts.

Researchers agree that central policies are not always followed by local agencies (cf. Berliner, 2017; Ross & Whittaker, 2009). We thus examine whether FOI laws assist the public in their demand for information at the local level. More precisely, we aim to answer how the FOI act improves the chances of receiving information from municipalities and how this effectiveness is affected by the characteristics of municipalities. In doing so, we divided the municipalities into three groups. The control group received a baseline request, while two experimental groups received the same request with an additional paragraph, either including a moral appeal or a reference to FOI act. We found that FOI requests led to a higher responsiveness from local authorities, while the moral appeal had no effect. This relation is already known in the current literature. What is new is that the effect of the content of the requests is moderated by the capacity of the requested authority. While the FOI requests led to a substantially higher response rate by public authorities in less populated municipalities, in bigger cities, which tend to have more staff, this effect is diminished and the form of the request became less relevant. Finally, we also found a

* Corresponding author.

E-mail address: pvoda@apps.fss.muni.cz (P. Voda).

<https://doi.org/10.1016/j.giq.2018.05.003>

Received 23 January 2018; Received in revised form 27 March 2018; Accepted 7 May 2018
0740-624X/ © 2018 Elsevier Inc. All rights reserved.

substantial effect of several contextual variables. Language barrier decreases the response rate of local authorities from areas with a predominant ethnic minority, whereas the probability of response is higher in municipalities led by a female or independent mayor compared to municipalities with a male or partisan mayor.

The paper is organized as follows. The first part outlines the theoretical background of FOI as a tool for fostering higher levels of transparency in public administration and discusses various forms of information requests. The second part focuses on contextual factors with potential impact on responsiveness of local authorities. After that, the design of our experiment is presented. The fourth part presents the data and methods. Next, the results of our study are shown and the final part concludes our findings.

2. Legal backing and moral appeals of information requests

In general, FOI laws enhance the public right to demand information. They normally enforce proactive transparency, i.e. they require public authorities to publish information about their procedures and outcomes, and also provide grounds for information requests addressed to such authorities (Worthy et al., 2017). With the spread of FOI acts, the research focus on this field has also increased. In recent years a rising amount of literature has been responding to the demand for a better understanding of FOI regimes and institutional factors affecting their impact on society, press, political institutions and their relations (cf. Cherry & McMenemy, 2013; Meijer et al., 2015; Nam, 2012; Worthy, 2010).

Although the existing research provides important knowledge about the overall performance of FOI legislation, its outcomes are mainly based on studies conducted at the national level and on cross-national comparisons. On the other hand, studies of transparency at the local level are rather underdeveloped (cf. Berliner, 2017). The local level of governance is of vital importance though, as citizens are more closely related to local issues and data. As Piotrowski and Van Ryzin (2007) found in their analysis of a national survey in the USA, the public is not indifferent to the level of transparency on the local level. Other research on local openness has been primarily devoted to measuring the transparency of local institutions. To capture this, some authors (cf. da Cruz, Tavares, Marques, Jorge, & de Sousa, 2016; Esteller-Moré & Otero, 2012; Jorge, Sá, Pattaro, & Lourenço, 2011; Pina, Torres, & Royo, 2007) mainly use the amount and content of data provided by municipalities via official channels, i.e. websites or annual reports, to propose indices of specific segments of local transparency. Although such tools enable the assessment of the level of openness on the local level and provide conditions for wider comparative research, they all remain focused on proactive transparency. Hence, despite the importance, these indices do not map how local institutions react to FOI requests.

In regards to information requests, the compliance of officials to FOI legislation is the crucial aspect of the concept of transparency. Although the FOI acts are adopted by national parliaments, it is the individual level of analysis where the actual mechanism of requesting information takes place. While FOI legislation may prescribe precise rules for the process of handling information requests, it is always an individual public official who responds to and processes such demands from the public. Hence, from the perspective of those applying for information, the implementation of FOI laws is at least as important as their adoption. In other words, ‘freedom of information laws are useful to the extent that they are followed’ (Cuillier, 2010, 203). Given that the central aims of public policies are not always adopted by all offices and agencies (cf. Berliner, 2017; Peters, 2014), the question is what affects the probability that those seeking information will be successful in their effort.

The compliance of public officials when asked for information may vary substantially. According to the works of Roberts (1998) and Snell (2002), compliance may range from the cooperative disposition of officials towards information requests and the requesters to the non-

compliant behavior that includes deliberate non-recording of information in order to avoid future requests or the removal of information from the requested data files. While failure to comply with FOI laws might be case dependent, existing research does provide some guidance as to why it occurs. According to studies in India, lower compliance with FOI laws is caused by a lack of resources, insufficient training of civil servants or their unawareness of the respective legislation (Raag/NCPRI, 2009, 2014). Similarly, in their study of Brazil, Michener, Moncau, and Velasco (2016) identified bureaucratic, legalistic and technical barriers that lead to a difference between provisions of the FOI act and its actual implementation.

More importantly, however, previous studies agree that the content of requests influences the responsiveness of the receiving party and they mostly discuss requests that include either legal grounds or moral appeals. In respect to the former, the previous research indicates that empowering requests with legal backing supports compliance of the receiving party (cf. Fellner, Sausgruber, & Traxler, 2013; Fiorio, Iacus, & Santoro, 2013). This approach is based on the presumption that the request is handled in a more responsive way if it contains some sort of threat (cf. Cuillier, 2010). In respect to information requests, this role is played by the FOI act itself as it provides a stronger footing for the requester in relation to the public authorities. Requests containing a direct reference to the FOI act also place some pressure on public authorities to supply the requested information, as they underscore that the applicants have some leverage over the bureaucracy (cf. Peisakhin & Pinto, 2010).

Although the literature is rather scarce in this regard, it supports the positive effect requests with legal backing have on the response rate of public authorities. Peisakhin and Pinto (2010) conducted a field experiment on access to ration cards for people living in slums in India. They randomly assigned participants into four groups that used different approaches to obtain a ration card. The groups used approaches which included FOI requests, bribery, and NGO support, while the control group applied for the card in the standard manner. As the results showed, the group using FOI requests had a substantially higher probability of receiving the card than the control group and they almost equaled the effectiveness of the bribery option. Peisakhin (2012) later replicated the experiment, now on voting registration, with very similar results. Similarly, Worthy et al. (2017) analyzed parish councils in England and their responsiveness to information requests. Using e-mail, they sent letters to more than four thousand parishes and asked them to send and publish their organizational chart. One half of the parishes were selected as the treatment group and received an FOI request, while the other half, being the control group, received a less formal ask. The authors found that FOI requests led to a higher level of compliance among parishes, with more than double the response rate when compared to the control group.

Another way to ensure compliance of the receiving party is through moral appeals. This approach does not rely on intimidation but instead on increasing trust on the part of the subject who is asked (cf. Cuillier, 2010). This type of request also aims to persuade the receiving party that their compliance is a rightful act which contributes to some higher good. This motive is shown in a paper by Torgler (2004), who ran a controlled field experiment at the communal level in Switzerland. In cooperation with the local tax administration, the author sent letters containing normative appeals to a randomly selected group of citizens. In particular, the letter stressed the role of taxes in keeping the region attractive for its inhabitants and also referred to the sense of responsibility of Swiss citizens.

In contrast to requests using legal threats, the effect of moral appeals is found to be rather mixed. Experimental studies from the field of economy showed only limited effect of normative appeals (cf. Blumenthal, Christian, Slemrod, & Smith, 2001; Torgler, 2004) although here, public authorities were the party sending the requests and not the ones receiving them. A closely related study was provided by Cuillier (2010). In his experiment, school agencies were requested to

Download English Version:

<https://daneshyari.com/en/article/7428440>

Download Persian Version:

<https://daneshyari.com/article/7428440>

[Daneshyari.com](https://daneshyari.com)