Series of White Papers to Promote Transparency & Combat Corruption in Egypt

FREEDOM OF INFORMATION AND TRANSPARENCY IN EGYPT
CIPE would like to thank Mr. Abdul Fatah El Gibali, Deputy Director, Al-Ahram Center for Political and Strategic Studies, for his contribution in researching and drafting this policy paper.
The Center for International Private Enterprise (CIPE) strengthens democracy around the globe through private enterprise and market-oriented reform. CIPE is one of the four core institutes of the National Endowment for Democracy and a non-profit affiliate of the U.S. Chamber of Commerce. Since 1983, CIPE has worked with business leaders, policymakers, and journalists to build the civic institutions vital to a democratic society. CIPE’s key program areas include anti-corruption, advocacy, business associations, corporate governance, democratic governance, access to information, the informal sector and property rights, and women and youth.

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The issues presented in the paper were highlighted at seminars on small and medium sized enterprise policies organized by the Federation for Economic Development Associations in coordination with the Center for International Private Enterprise in 2009 in Alexandria, Cairo, Fayoum, Mansoura, Minya and Port Said. They were attended by small and medium-sized enterprises owners from 15 provinces, and discussed issues of integrity, transparency, decentralization, bureaucracy and the free flow of information. The recommendations adopted by the seminars form, in their entirety, an important framework for dealing with these vital issues.

The paper and recommendations are reviewed by the members of the advisory council for CIPE project on "Combating Corruption and Promoting Transparency in Egypt"
Although numerous factors were at play, analysts concede that a pivotal factor behind the recent economic fallout was lack of transparency and lack of clear information on financial institutions and financing channels. Indeed, it is plausible that this same lack of transparency was at the root of the financial crisis that rocked the Asian markets in the mid-90s. This latest crisis, taken together with those that proceeded it, has brought about the realization that information sharing is of fundamental importance for good governance and for good economics, and that this importance applies equally to both developed and developing countries across the globe.

Indeed, transparency plays an indispensable role in the development and democratization process, revolving around citizens’ “right-to-know”. Transparency is essential for a well-functioning democracy because it creates a level playing field; citizens that have equal access to information also have equal access to opportunities. Information sharing is therefore a vital ingredient in the economic and political stability of a country. Democratic consolidation requires an open and fair regulatory framework with clearly assigned roles and responsibilities for both public and private sectors.

Transparency provides a safe and supportive environment for adequate investment planning that cannot take place without availing critical data and indicators about a country’s various economic sectors. Sound feasibility studies for example, require accurate and timely market intelligence for reliable forecasting, which transparent government financial reporting can facilitate. Information sharing additionally helps to amend administrative and legal legislatures for increased effectiveness and helps to adequately enforce laws. The result is the creation of an inclusive environment that supports reliable prosperity through high-quality, value-added production as well as a more equitable distribution of wealth. Building such an inclusive financial sector helps empower citizens both economically and socially through increasing public knowledge of the overall and financial performance of companies and other establishments, increasing their ability to participate in their country’s economy and contribute towards its growth.
Transparency is based on disseminating information related to citizen’s rights (including the services they are entitled to) and the clear means for accessing these rights.1 This includes the need for authorities to make explicit established state practices and systems, and to hold these and their leaders (through all levels of the bureaucracy) accountable to the public. An example of such good governance practices is in electing representative delegates, monitoring them and replacing them periodically through fair and accessible electoral systems. Good governance is further demonstrated through the ability of the government to run its resources efficiently and to implement sound, inclusive policies. Such open and participatory systems engender trust on the part of the citizens in state institutions. For this reason, transparency and knowledge sharing have been described as the oxygen of democracy – the free flow of information is essential for the development of sound policies and adequate decision-making for private and public enterprises alike.2

Transparency requires that information be made accessible to the public on a regular basis both to widen the net of participation through continuous monitoring and to limit corruption through increased accountability.3 Distinguished economist, Vito Tanzi, describes transparency as being based on a clear delineation between governmental and other sectors, within which the main political and executive roles are clearly established according to mechanisms known to the public. Responsibility is shared across various levels of the government and the relationship between executive, legislative and judiciary authorities is supervised and regulated. Similarly, the International Monetary Fund’s (IMF) experts view transparency as openness to the public on all aspects related to the structure and roles of the government sector in terms of politics, economic intentions and public sector finance.

Fostering open and transparent economic systems will strengthen accountability, enhance credibility and gather support for the economic and political empowerment of the people.

2. Article 19, the Right of Citizens to Know, the International Centre Against Censorship, London
Vitally, information sharing has the ability to turn the populace into well-informed and participatory citizens, a critical step for development. This paper addresses the issue of transparency and information sharing in Egypt, by critically analyzing the status of freedom of information in the country and by providing strategic recommendations for its amelioration.

Accordingly, the paper will examine the following:

1. Information and its critical role in combating corruption
2. The legal status of freedom of information in Egypt
3. The road towards legislating freedom of information

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4. Why Worry About Corruption? By Paolo Mauro, IMF, Economic Issue No. 6
FIRST: INFORMATION AND ITS CRITICAL ROLE IN COMBATING CORRUPTION

If good governance is indispensable to sustainable human and economic development, then freedom of information is an indispensable tool to support it.

“Good governance” is viewed by the World Bank as, “exercising authority in ways that respect the integrity, rights, and needs of everyone within the state.” This definition rests on two main pillars: equality and accountability, meaning that every person who has a vested interest in running the government and desires to participate in it can do so equal to anyone else. In other words, the government’s treatment of its citizens has to be based on fairness in upholding the law without any discrimination and fairness in the distribution of public goods and services. Properly addressing issues of equality extends beyond issues of gender to a wider net of cross-cutting disparities between various societal groups and regions in the country with respect to equal access to social services and other benefits.

As regards accountability, this stems from imparting transparency to the public by delegating authority as well as making information both freely and directly accessible.

This entails establishing governance mechanisms that reach beyond political representation to encompass effective participation, transparency and accountability. This is why the method for exercising authority is highly relevant. Accountability requires that the rules of the game are established jointly by all stakeholders for the public interest and are openly monitored both by authorities and by civil society.

Official and unofficial international authorities are keen on this issue and call for information to be disseminated in an easy and simple manner. (Article 13) of the United Nations Convention against Corruption states “that public participation should be enhanced by measures such as:

- Enhancing transparency of and promoting the contribution of and public decision making process;
- Ensuring that the public has effective access to information;
- Undertaking public information activities that contribute to non tolerance of corruption, as well as public education programs, including school and university curricula;
- Respecting, promoting and protecting freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and necessary:
  a) For respect of the rights or reputations of others;
  b) For the protection of national security or order public or of public health morals.”

FREEDOM OF INFORMATION IN THE WORLD Eighty-six countries worldwide have started issuing local laws to ensure the citizens’ right of access to information. Thirty-nine of those are European and 20 are Asian, equal to the American continent and the Caribbean, plus four African and three Australian countries. It should be noted that most of these laws were issued after the year 2000.6 (Refer to Table 1)

The information needed for full transparency ought to include public disclosure of all data and surveys that a citizen requires for full participation. This includes information on the rules and regulations guiding the legislature, ministerial and administrative organs of the government together with releasing financial statements such as federal budgets and auditors reports

Many perceive that the discourse about freedom of information is limited to a country’s economic data such as its GDP, workforce, balance of payments, federal budget or other economic data and indices.

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6. Roger Viegels, Overview of all 86 FOIA countries, September 2008
Table 1: The 86 FOIA countries in chronological order
Source: Roger Vieugels, Overview of all 86 FOIA countries, September 2008.

<table>
<thead>
<tr>
<th>Country</th>
<th>Law Issued</th>
<th>Law Enforced</th>
<th>Last Review</th>
<th>Country</th>
<th>Law Issued</th>
<th>Law Enforced</th>
<th>Last Review</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kazakhstan</td>
<td>1993</td>
<td>1993</td>
<td></td>
<td>Trinidad &amp; Tobago</td>
<td>1999</td>
<td>2001</td>
<td></td>
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<tr>
<td>Thailand</td>
<td>1997</td>
<td>1997</td>
<td></td>
<td>Poland</td>
<td>2001</td>
<td>2002</td>
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<tr>
<td>Zimbabwe</td>
<td>2002</td>
<td>2002</td>
<td></td>
<td>Montenegro</td>
<td>2005</td>
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<tr>
<td>Armenia</td>
<td></td>
<td></td>
<td>Scotland</td>
<td>2002</td>
<td>2005</td>
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<tr>
<td>Croatia</td>
<td>2003</td>
<td>2003</td>
<td>Taiwan</td>
<td></td>
<td>2005</td>
<td></td>
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<tr>
<td>Kosovo</td>
<td>2003</td>
<td>2003</td>
<td>The United Kingdom</td>
<td>2000</td>
<td>2005</td>
<td></td>
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<tr>
<td>Mexico</td>
<td>2002</td>
<td>2003</td>
<td>Germany</td>
<td>2005</td>
<td>2006</td>
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<tr>
<td>Peru</td>
<td>2002</td>
<td>2003</td>
<td>Honduras</td>
<td></td>
<td>2006</td>
<td></td>
<td></td>
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<tr>
<td>Saint Vincent</td>
<td>2003</td>
<td></td>
<td>Switzerland</td>
<td>2004</td>
<td>2004</td>
<td></td>
<td></td>
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<tr>
<td>Dominican Republic</td>
<td>2004</td>
<td>2004</td>
<td>Cayman Islands</td>
<td></td>
<td>2007</td>
<td></td>
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<tr>
<td>Far Or</td>
<td>2004</td>
<td>2004</td>
<td>Kyrgyzstan</td>
<td></td>
<td>2007</td>
<td></td>
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<tr>
<td>Turkey</td>
<td>2003</td>
<td>2004</td>
<td>Chile</td>
<td>2008</td>
<td>2008</td>
<td></td>
<td></td>
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<tr>
<td>India</td>
<td>2002</td>
<td>2005</td>
<td>Cook Islands</td>
<td>2008</td>
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</tbody>
</table>

This perception is however essentially wrong because the information needed for full transparency ought to include public disclosure of all data and surveys that a citizen requires for full participation. This includes information on the rules and regulations guiding the legislature, ministerial and administrative organs of the government together with releasing financial statements such as federal budgets and auditors reports. Further, making publicly available the credentials of government senior officials.

Hence, what is meant by information in this document includes, though not limited to:

- The legal, organizational, and institutional frameworks of public and state entities
- Regulations applied by state agencies, mainly those related to dealing directly with the citizen, such as fees to issue specific documents, process to issue those documents, etc..
Information related to the state budget and its audit reports, as well as private sector budgets and its audit reports

Information on personnel leading all state agencies

It is worth noting that the vast majority of countries that issued freedom of information laws limited them solely to the government or quasi-government side and neglected to extend them to private companies, civil society organization, and non-governmental organizations. We see this as a narrow perception, in light of the vital role that the private sector plays in democratic societies. It is recommended to include these establishments in the process, setting active rules to regulate procedures while maintaining the right to privacy with respect to commercial secrets.

GENERAL PRINCIPLES TO GUIDE FREEDOM OF INFORMATION

The ethics of information, adhered to by the majority of international treaties and accords, dictates several important principles for the dissemination of information.7

**Full disclosure of information** This is the most essential principle in need of prevailing: the right of the citizen to obtain the information they request with minimal exceptions. Due to the utmost importance of this principal, most international treaties have agreed on the necessity of adding this concept to a country’s constitution, for it to be among the fundamental rights of its citizens. Equally, concealing information from citizens is considered a crime punishable by law. This right pertains to all available information in public and private enterprises, as well as that concerning authorities and corporations, which can for example, be disclosed by publishing and disseminating comprehensive summaries of board meetings and general assemblies.

**Prompt dissemination of information** The state has to undertake full disclosure of information and avail it equally to everyone by all means available (such as expanding online publication and media coverage, public libraries, among

7. Democratic Institute, “Transparency act for government financial authorities: demanding the right to know” South Africa, also the article 19 group, and the United Nations Convention against Corruption.
Accessibility should be the norm and therefore published information should be written in simplified layman’s terms. This requires that establishments and concerned authorities must publish all basic information related to their work, laws and governing principles as well as their financial situations and public services, how to utilize them and their cost if applicable. This information is to be updated at least annually.

**Information accessibility** the law should govern the means of obtaining information either through establishing a separate authority to monitor this process or through establishing the legal procedures by which citizens can acquire information and the legal channels to which they can turn, if access is denied, provided that this can happen within short periods of time through the established law. These procedures have to be fast, uncomplicated and free of cost (or for a nominal fee).

**Minimal charges** According to this principle, cost should never be an impediment to obtaining information. Key here is that citizens should be able to acquire information for free or for a minimal charge (such as the cost of photocopying the documents), as long as this does not exceed a certain nominal fee.

**Minimum Exceptions** This is one of the most controversial principles because some fear that it will create a loop-hole, diminishing the effectiveness of the rule of law and becoming an obstacle to important issues if they are treated as exceptions.8

Exceptions are to be limited to cases where disclosure would do considerable damage to national security or would prevent law enforcement, trade secrets or information that would endanger the life or physical safety of any individual. It is essential to state these exceptions precisely in the law as clauses, not merely providing examples. So, exceptions provided in the law need to:

1. Be explicitly, and not implicitly, mentioned in the law;
2. Be relevant to securing national security, or preventing law enforcement, or information that would endanger the life of physical safety of an individual; and

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8. Taha Abul Aleem, Exceptions in dissemination of information, conference on “towards a law for free access of information”, United Group, Cairo, March 2008
3. Consider if the public damage is greater than the private damage, such as information, if disclosed will harm economic or commercial interests of the country or individuals.

**Protecting whistle blowers and witnesses** Freedom of information requires setting new legislative frameworks to ensure full protection for witnesses and whistle blowers who reveal with good intention information or data related to corruption. The law is straightforward about exempting them from any civil and criminal liability from making the disclosure, including immunity from legal or employment penalties, as well as protection from personal harm. Protection can be attained through several channels, such as changing their residence and hiding their data from others, employing advanced technologies in this area.

**Regular updates** Information needs to be periodically reviewed in a manner that takes into consideration changes in the nature maintained to decide its level of confidentiality, in light of international and regional developments, mainly security.
SECOND: THE LEGAL FRAMEWORK THAT GOVERNS ACCESS TO INFORMATION

It follows that we can tackle the status of access to information in Egypt through amending the administrative and legislative frameworks that govern it. Until now, the norm with respect to information sharing appears to be prohibition rather than freedom, and many existing laws stand in the way of transparency. This includes everything from the law of confidentiality of bank accounts extending all the way to the law of civil servants and general mobilization, among other restrictive laws that will be described below.

The Egyptian constitution, with all its various articles and amendments, does not include anything on freedom of information. The only exception is Article 210, which concerns the freedom of journalists in receiving news and information according to circumstances established by law.

The Egyptian Constitution The Egyptian constitution, with all its various articles and amendments, does not include anything on freedom of information. The only exception is Article 210, which concerns the freedom of journalists in receiving news and information according to circumstances established by law. The constitution does however stipulate in many of its articles several governing aspects that would facilitate information dissemination and increased transparency.

Article 106 of the constitution for example, stipulates that the meetings of the People's Assembly shall be public. However, it can be closed upon the request of the President of the Republic, the Prime Minister, the President of the People's Assembly, or twenty of its members. Hence, the base here is open information and not confidentiality, as happens in reality.

To this effect, the constitution stipulated in Article 169 that the sessions of the courts shall be made public unless the court decides it is closed sessions for considerations of public order or morality. In all cases, judgments are to be pronounced during public sessions.

Similarly, Article 49 of the constitution stipulates that the state shall guarantee the freedom of scientific research, literary, artistic and cultural production and
The constitutional amendments that took place in March 2007 facilitate financial transparency where it concerns the state budget and the final accounts of the state budget creation and provide the necessary means for its realization. This type of freedom cannot be ensured without free access to information.

On the other hand, the constitutional amendments that took place in March 2007 facilitate financial transparency where it concerns the state budget and the final accounts of the state budget. These amendments included Article 115 which concerns the timing of submitting of the general budget to the People’s Assembly, allowing the assembly to introduce amendments to it without prior approval of the government, as was the case prior to the amendments. It also allows the assembly to modify the timeframe for review of the budget by prompting the government to submit the budget three months prior to the new fiscal year instead of two months.

The amendment of Article 118 of the Constitution relates to the above. The said article decreased the period between the end of the fiscal year and the time of submitting the final statement to the People’s Assembly for review and voting to six months only, which is an adequate period for discussing and setting sound frameworks to deal with the coming year’s budget.

The majority of Egyptian laws include texts that prohibit information dissemination. Despite this, there are a few articles that allow for dissemination and information accessibility.

Apart from the above-mentioned amendments, the majority of Egyptian laws include texts that prohibit information dissemination. Despite this, there are a few articles that allow for dissemination and information accessibility, such as the following:

**LAWS THAT FACILITATE INFORMATION DISSEMINATION**

The Law of Tenders and Bids No. 89 for the year 1998 The law stipulates in Article 3 that public bids and tenders are to be subjected
to transparency principles, equal opportunities, equality and freedom of competition whether internal (announced in Egypt) or external (announced inside and outside of Egypt). Announcements with respect to public bids should be announced in the daily papers or in any other substantial media channels.

**The Law of the Central Bank and the Banking sector no. 88 of the year 2003 Article 73** The financial statements of the bank shall be prepared and published in two daily newspapers every three months. A summary of the auditors’ report shall be attached to these statements according to Egyptian Auditing and Accounting Standards. The fourth chapter of the law determines the confidentiality of accounts and sets a number of constraints on this issue in articles 97, 98, 99, 100, 101.

**Capital Markets Law no. 95 of the year 1992 Article 6** of the law stipulates that each company is required to publish comprehensive summaries of its midyear reports, annual financial statements in two widely read, daily morning papers, of which one at least has to be published in Arabic language. In addition to this, any companies that face fundamental or emergency issues that may interfere with the activity or financial position of their operations must disclose this information promptly and make it widely available.

Despite the above laws, there are other laws that counter the sharing of information and instead promote withholding information to the extent of punishing those who disseminate it.

**LAWS THAT PROHIBIT INFORMATION DISSEMINATION**

**Criminal law Article 80 D** stipulates that the law punishes by imprisonment for a term (no less than six months and no more than five years) and/or with a fine (no less than L.E. 100 and no more than L.E. 500) any Egyptian spreading news or rumors abroad regarding the internal situation of the country. This legislation of course resulted in diminished trust in the state’s finances.9

**Law no. 351960/ regarding Statistics and Censuses Article 3** of this law considers data related to any statistic or census to be a secret, not to be shared with any private or public entity or individual, moreover, if shared, this information should be used solely for statistical purposes. This information can only be published with a written consent from the concerned party. Further, no statistical data should be used as a basis to aggregate tax or any other associated burdens nor should it be used as evidence in court or as the basis for any business.

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Amended Article 4 of the Law no. 281982/ stipulates that anyone who discloses secret statistical data or any of its individual components, or a secret of industry or trade or any other business methods which they may have encountered as part of their work in statistics and censuses will be punished by imprisonment (for at least a month and no more than six months) and/or receive a penalty (no less than L.E. 100 and no more than L.E. 500).

Law number 121999/, amended some provisions of Law number 871960/ concerning public mobilization This law stipulates in its Article no. 35 that individuals who disclose data or information related to mobilization will be punished by imprisonment and/or receive a fine (not less than L.E. 2500 and not more than L.E. 5000). Moreover, Article no. 36 stipulates that anyone who works in public mobilization and discloses any secrets through his duties, pertaining to the units of the administrative authority or individuals or authorities or public, private or business sector companies, will be punished by imprisonment and/or receive a fine (not less than L.E. 2500 and not more than L.E. 5000).

Civil Servants Act no. 471978/ Article no. 77, clause no. 7 prevents civil servants from disclosing any statement or announcement pertaining to the internal mechanisms of his job, be it through newspapers or any other method of publication, unless he has a written permission from the relevant authority. Clause 8 prohibits civil servants from disclosing subjects that they have witnessed on the job, especially those of a sensitive nature, and to continue secrecy even after leaving government employment.

While it may make sense to prohibit disclosure of confidential statistical information, other laws have exacerbated the issue leading to a problematic situation in Egypt with regard to information sharing. Resultantly, there is a pervasive mistrust in the accurateness of data, extending even to data that should not ordinarily come under question, such as final accounts of the state budgets and financial data issued by the central bank. The danger of constant suspicion of official and unofficial data, is that it creates lack of confidence in economic indicators for individuals to depend on when conducting feasibility studies or any other issues that may require accurate statistics. This in turn impairs investment and discourages serious
investors from carrying out their plans since financial issues are hazy and entirely unclear. It also creates a breeding ground for random investments, irrational speculations and other issues that may result in chaos and corruption in the markets.

**INFORMATION AND STATE FINANCE** One of the most vital and perilous aspects related to freedom of information is the accurate monitoring of a country’s financial situation, especially the role of the federal budget with respect to the society. It is well known that the main aim of preparing a budget is to achieve two kinds of controls over utilization of public finances: the first being constitutional and the second economic. Concerning the former, the budget is considered a political and legal instrument for constitutional monitoring that guarantees the active participation of various segments of the society. This in turn requires full knowledge of the financial state-of-affairs and hence complete transparency in presenting budget items. This is not just for economic reasons alone but is more importantly needed for increased political accountability in front of executive, legislative and administrative authorities. Transparency is vital for enabling the parliament and citizens to monitor the government and hold it accountable.

Thus, the degree of transparency of the federal budget is one of the basic criteria for judging the proper management of public funds to ensure a sound financial policy. From this stems the importance of the Open Budget Index (OBI) issued by the Center of Budget and Policy Priorities in 2005 in the United States, which classifies countries according to the amount of information published about their budgets. This is the first to lead the field and is based on a detailed survey conducted by local experts in 85 countries worldwide to measure the “Open Budget”. The survey was comprised of 123 questions to obtain comparative information about the ability of the citizen to obtain information related to their national budget and the amount of information available to them. The study described several indicators for the degree of transparency of a budget related to the amount of available information as follows:

- Detailed data and information presented in the budget (whether related to income and expenditure or the burdens of federal debt or to other important financial matters)
- The amount and accessibility of information available to the public upon request to the authority in charge of issuing the budget. This includes information available through set procedures that guarantee dissemination of general documents to all concerned parties, as well as information and documents available individually on demand.
The Open Budget Index measures the countries’ situation in terms of volume of published information. According to the Index there are countries that extensively publish important information for the benefit of their citizens, while others disseminate very little, while a third group do not disseminate any information at all, or rarely do so.

Regarding the nature of information, the OBI classifies it to non-financial and financial information about government’s spending program. According to both classifications, countries are classified into: 1) those that publish detailed information about their spending programs; 2) those that publish at least two-quarters of their programs; 3) those that publish less than two quarters; and 4) those that do not publish financial or non-financial information at all. The index looks separately at financial and non-financial data.

Table 2: Open Budget Index 2008
Source: Center of budget and policy priorities, open budget index 2008, Washington, 2009

<table>
<thead>
<tr>
<th>Performance</th>
<th>Indicator</th>
<th>Countries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Countries publishing extensive information (81 – 100%)</td>
<td>86</td>
<td>The United Kingdom, South Africa, France, New Zealand and The United States</td>
</tr>
<tr>
<td>Countries publishing significant information (61 – 80%)</td>
<td>68</td>
<td>Norway, Sweden, Brazil, Slovenia, Poland, Peru, South Korea, Czech, Sri Lanka, Germany, Botswana and Romania</td>
</tr>
<tr>
<td>Countries publishing significant information (41 – 60%)</td>
<td>51</td>
<td>Columbia, Papua New Guinea, India, Croatia, Russia, Kenya, Bulgaria, Argentina, Ukraine, Macedonia, Mexico, Indonesia, Georgia, Jordan, Uganda, Ghana, Philippines, Zambia, Namibia, Serbia, Guatemala, Costa Rica, Bosnia and Herzegovina, Egypt, Turkey, Nepal and Bangladesh</td>
</tr>
<tr>
<td>Countries publishing significant information (21 – 40%)</td>
<td>34</td>
<td>Thailand, Pakistan, Ecuador, El Salvador, Albania, Azerbaijan, Mongolia, Tanzania, Malaysia, Venezuela, Kyrgyzstan, Trinidad and Tobago, Lebanon, Malawi, Morocco, and Niger</td>
</tr>
<tr>
<td>Countries publishing scant or no information (0 – 20%)</td>
<td>7</td>
<td>Nigeria, Nicaragua, China, Burkina Faso, Fiji, Honduras, Cambodia, Dominican Republic, Vietnam, Yemen, Afghanistan, Kyrgyz Republic, Chad, Bolivia, Cameroon, Angola, Senegal, Liberia, Algeria, Saudi Arabia, Rwanda, Sudan, Democratic Republic of Congo, Equatorial Guinea and Sao Tome e Principe</td>
</tr>
</tbody>
</table>
The OBI relates not only to the federal budget but also all documents related to the budget and the means by which it is published and made available to the public. Countries are categorized according to Table 3.

**Table 3: Amount of information made available segmented by budget documents**

*Source: Center of budget and policy priorities, open budget index 2008, Washington, 2009*

<table>
<thead>
<tr>
<th>Budget Document</th>
<th>Countries providing Scant or no Information (20-0)</th>
<th>Countries providing Minimal Information (40-21)</th>
<th>Countries providing Some Information (60-41)</th>
<th>Countries providing Significant Information (80-61)</th>
<th>Countries providing Extensive Information (100-81)</th>
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<tr>
<td>Pre Budget Statement</td>
<td>55</td>
<td>0</td>
<td>4</td>
<td>8</td>
<td>18</td>
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<tr>
<td>Executive Budget Proposal</td>
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<td>11</td>
<td>0</td>
<td>30</td>
<td>40</td>
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<td>Enacted Budget</td>
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<td>0</td>
<td>3</td>
<td>10</td>
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<td>Citizen’s Budget</td>
<td>21</td>
<td>5</td>
<td>10</td>
<td>22</td>
<td>27</td>
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<tr>
<td>In-Year Reports</td>
<td>21</td>
<td>5</td>
<td>10</td>
<td>22</td>
<td>27</td>
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<tr>
<td>Mid-Year Report</td>
<td>37</td>
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<td>14</td>
<td>11</td>
<td>5</td>
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<tr>
<td>Audit report</td>
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THIRD: TOWARDS A COMPREHENSIVE FRAMEWORK FOR IMPROVED TRANSPARENCY AND INFORMATION-SHARING IN EGYPT

It is important to mention that the need for institutional and structural reform goes hand in hand with economic reform. Thus, the mechanisms of governance and checks and balances are main components of this equation. This requires detailed knowledge of how governments are appointed or elected, monitored and held accountable, coupled with the ability of the government itself to effectively and efficiently manage its resources and set sound organizational principles. Moreover, it is important to know the

IT IS IMPORTANT TO WORK ON ENHANCING TRANSPARENCY AND ENSURING FREEDOM OF INFORMATION TO LIMIT CORRUPTED PRACTICES, THROUGH THE FOLLOWING:

1. Accelerate the process of issuing a new information law.
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3. Additional transparency concerning the federal budget.
4. Disclosing to the public the assets and incomes of candidates for public offices, politicians and members of the legislative authorities and their families.
5. The need to broadly publish all the annual reports prepared by surveillance authorities such as the Central Audit Bureau, Agency for Administrative Control and the Central Bank and others.
6. Protection of witnesses and whistleblowers.
extent of citizens’ and governments’ respect of institutions that govern inter-related economic and social aspects. This knowledge will limit corrupted practices and ensure a more transparent society.

To achieve this goal, we recommend the following:

1. **Accelerate the process of issuing a new information law:** The new law should assure obtaining accurate, detailed, and timely state information, carefully balancing freedom of information with national security information. Such a law would pave the way for all citizens to be able to obtain important authenticated information. The information would need to be published widely and periodically in order to increase the circle of participation, monitoring, accountability and curbing corruption on one hand and to assist in the decision-making process and general policy formation on the other.

   In this respect, any person or agency should be subject to a penalty, if he provides wrong information or refrain from providing information or delaying it, with no clear justification, or if he intentionally ruins information records or books.

   In this context, it is recommended to:
   - Streamline transactions and documents needed for services
   - Upgrade the state information and communication infrastructure
   - Coordinate between relevant authorities, and publish a simple directory including names of different departments and its functions, the documents needed for different services, and the duration it takes to complete the service

2. **Screening current laws:** Issuing a new law will not be enough to solve the problem of lack of transparency. It is further required that current laws be purged of all hurdles that stand in the way of information flow, such as law 351960/ regulating statistics and census, law 87 regulating public mobilization and its amendments, law 1211975/ regulating the maintenance of state official documents, and the presidential decree 6271981/ regulating the establishment of information and documentation centers of the state administrative agencies

   We should also consider establishing a new legal mechanism to facilitate the citizen’s ability to acquire information. This can be done either by establishing a new authority to oversee the entire process or by assigning one of the existing authorities to undertake the subject.
In the latter case, the Central Agency for Public Mobilization and Statistics (CAPMAS) would require an adjustment in terms of separating Statistics and Public Mobilization, since they both have entirely different roles. Moreover, legislative adjustments will need to be introduced to entrench this separation.

3. **Additional transparency concerning the federal budget:** Studies prove that methods of government spending are more important than the volume of spending or what the cash is spent on. Therefore, open and clear disclosure of the federal budget requires the timely publishing of the government’s full financial data. This information has to be well-documented, highly accurate, easily understandable and well-referenced. Further, the information must be recent and in accordance with international standards. Increased transparency with respect to the federal budget can be attained through the following recommendations:

- Adding a new chapter in the budget law 531973/ on budget transparency to include the general rules that need to be followed in preparing the budget, and all reports related to the federal budget in a manner that follows a unified, established framework.
- Presenting sufficient information on all public economic entities that work outside the budget yet affect the country’s financial well-being, such as economic authorities and the National Investment Bank.
- Designating the responsibility for publishing budget information and establishing its legitimacy (i.e., institutionalizing the publication of the budget reports and monthly and mid-year monitoring reports).
- Issuing pre-budget year announcements wherein the government presents the indicators upon which the budget is crafted (such as growth estimates, anticipated inflation rate, as well as interest rates, unemployment, the current balance account as well as the balance of payments and other related issues).
- Setting a clear policy to disclose potential financial risks and their effects such as public debt and its management, as well as back-payments and government securities.
- Setting specific standards to judge the efficiency of the financial policy, thereby not limiting the process to only publishing.
budget information and numbers without tackling the broader impact on society. This means publishing non-financial information such as the number of beneficiaries from the social services programs, number of schools, hospitals, etc.

4. **Disclosing to the public the assets and incomes of candidates for public offices, politicians and members of the legislative authorities and their families:** In addition to public disclosure of corporate and individuals donations to political parties and the financing of election campaigns. This applies to all groups mentioned in Illicit Gain law 631975/ and listed below:

- Heads of the public authorities, and all civil servants except those in the third level
- Chairmen and board members of public institutions, except those in the receiving financial packages less than the third level
- Chairmen and members of the parliament and the heads and members of local councils and others who have a representation status, whether elected or appointed
- Chairmen and members of boards of directors and other employees of public bodies and institutions and economic units, except those in the third level
- Chairmen and members of boards of directors and employees of enterprises which governments or public institutions are shareholders, except non-Egyptians and those in level three
- Chairmen and board members of professional associations syndicates, labor unions, trade unions and private associations
- Chairmen and members of boards of directors and all employees of cooperatives, except for employees who do not exceed the equivalent of wages of the third level
- Mayors and sheikhs
- Collection officer and those entrusted of deposits, procurement officers, and procurement committee members, in all the above mentioned agencies

5. **The need to broadly publish all the annual reports prepared by surveillance authorities such as the Central Audit Bureau, Agency for Administrative Control and the Central Bank and others:** This in addition to amending the laws regulating it so that it allows the immediate publication of its annual reports and in all ways and means. The Egyptian
Constitution articles stipulating that meetings of the People’s Assembly must be public, and relayed live by a TV channels must be enforced, or create a new channel specializing in this area, so that the society may follow what is going on under the dome of the parliament.

6. Protection of witnesses and whistleblowers: The reporting of crime in general and in particular corruption crimes, are considered one of the basic human rights guaranteed by international and national conventions. This right, in many cases, is tantamount to the level of duty, where transparency and accountability and whistleblower protection is a cornerstone in the efforts to fight corruption and protect public money. And it is difficult to succeed in the fight against corruption without persons who are brave and responsible to report practices of corruption they discover while performing their jobs without fear of the consequences of this reporting, either to themselves or their families. However, it is not sufficient to encourage individuals to report corruption by providing them with incentives, but there must be a full range of safeguards to be provided by the public authorities to protect witnesses and whistleblowers from any risks or threats or damage as a result of what they have reported.

Hence, the protection of witnesses and whistle-blower are topics of great importance not only for the efforts to combat crime, but to achieve accountability and strengthen the participation of citizens in the affairs of their community. In some cases, witnesses are the only evidence in corruption cases, and help the public authorities to reach the perpetrators. Every citizen in the community has a duty to testify or to report crimes that come to his attention, but sometimes they fail to play that role because of fear of exposure to reprisals or arbitrary actions by the perpetrators, or because they don’t believe the public authorities can implement the rule of law, or due to the complexity of procedures of testimonials, and its cost if he needs to travel from one place to another.

Therefore, any talk of moral duty or legal obligation imposed on witness to report corruption or testify in court, without the commitment of public authorities in return, to provide the minimum guarantees and protection, is nothing but a way to encourage citizens to refrain from participating in carrying out their duty and assisting public authorities in the fight against corruption. Therefore protecting witnesses and whistle-blowers
contribute to enhancing the participation of individuals in the fight against corruption and help the public authorities execute its duties. And despite the measures taken by the Egyptian legislature to protect witnesses and whistle blowers, there remains a need to consider enacting a special law to protect whistle-blowers and witnesses to encourage citizens’ participation to report corruption incidents. This requires legislative intervention to ensure the full protection of witnesses and whistle-blowers and their families from the possible revenge of the perpetrators:

- Draft a legislation which aims to encourage and facilitate the process of detecting misconduct or corrupt practices carried out by government officials or government bodies, by financially rewarding the whistle blower or witness who reports facts of corruption.

- Ensure the protection of whistleblowers and witnesses by not disclosing their identity. This is possible through enhancing the usage of modern technologies in reporting corruption cases, and testifying in courts. In some cases, it is possible to change the identity and residence of the witness or whistle blowers so that they can not be followed by the accused persons.