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Key Issues for Implementation of Chinese Open Government Information Regulations

New Governance

The Chinese context is in many ways fundamentally different from other countries where freedom of information laws and regulations are currently implemented. The authors, Suzanne Piotrowski, Yahong Zhang, and Weiwei Lin of Rutgers University – Newark, and Wenxuan Yu of Nanyang Technological University, Singapore, identify the primary issues surrounding implementation of China's new Open Government Information (OGI) regulations and compare the key concerns with those that have emerged in other contexts. The research included a survey of mid- and upper-level Chinese government bureaucrats. The authors compare their findings to an established international framework of freedom of information implementation. The essay concludes that while the Chinese context is unique, the key issues surrounding implementation of the OGI regulations mirror in many ways what is found in other countries.

A wave of new transparency policies and practices is sweeping the globe. These policies involve governments proactively releasing information, as well as establishing mechanisms for individuals to request information from governments. More than 80 countries currently have some form of established right to know or freedom of information standards. The United States and the People's Republic of China (PRC) are no exception to this trend. In the United States, the federal Freedom of Information Act (FOIA) was revised in 2007 to allow citizens more options to appeal denied requests and greater penalties for agencies that do not meet legally established time frames for release. China recently adopted the Regulations of the People's Republic of China on Open Government Information (OGI), which went into effect on May 1, 2008. Now that many of these policies and laws are established globally, the next logical step is to monitor their implementation.

The Chinese context is in many ways fundamentally different from other countries where freedom of information laws and regulations are currently implemented. We are interested in the key issues surrounding the implementation of China's new OGI regulations and comparing these to regulations that have emerged in other contexts. For this research purpose, we completed a survey of mid- and upper-level Chinese government bureaucrats to better understand OGI implementation in practice. In this paper, we explain the history of freedom of information in China, discuss the current context within which the OGI regulations are being implemented, and compare our findings from the survey to an established framework of freedom of information implementation.

Implementation of Right to Know Regimes

Of the 86 countries that currently have some form of freedom of information regime, more than half were instituted within the last decade (Vleugels 2008). The United States was an early adopter, and its FOIA was initially passed in 1966. The international right to know movement gained momentum after a 2006 ruling by the Inter-American Court of Human Rights. That court found that access to government information is a fundamental human right (*Claude Reyes et al. v. Chile*,

2006). These laws, once found predominantly in established Western democracies, are now spreading across the globe (Roberts 2006). Some of the most progressive laws are found in countries with recent adoptions. South Africa, Mexico, and India all have laws that push the boundaries with respect to policy.

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linchpin of successful implementation. A key issue in the processing of freedom of information requests is the interaction between the government official and the requester. The type and quality of communications between the government official and the requester may also affect the outcome of the request. When the government official more clearly understands which documents are sought, this facilitates a more focused search. In the U.S. context, customer service initiatives have been shown to facilitate the freedom of information requesting and release process (Piotrowski 2007).

While a great deal has been written about freedom of information policies, much less has been said about the *implementation* of freedom of information laws. Because of this, there are no data available to allow for a direct comparison between our findings and the United States or other countries. Some work has been published on the impact of management reforms, including the use of contractors, on the implementation of freedom of information acts (Piotrowski 2007; Roberts 2000; Rosenbloom and Piotrowski 2005). The research completed in this area is just now showing up in scholarly journals and books. One exceptional piece is a book chapter by Laura Neuman and Richard Calland (2007) that begins to lay out a framework for systematically analyzing the challenges of implementing freedom of information laws. Neuman and Calland's framework is based on comparative knowledge of freedom of information laws and implementation practices in Europe, Asia, Africa, North America, and South America.

Neuman and Calland begin by discussing how the *drafting of the law* is directly tied to implementation and outcomes. This is consistent with the general public policy implementation literature (see Ingram and Schneider 1990). They identify the *politics of implementation* as the second key component of freedom of information law implementation. The politics of implementation includes political will, the choice of the agency or individual to implement the new access to information regime, and the roles of the front-line employees. *Government system building* is the third broad area for implementation identified. They write, "Governments must establish the internal systems and processes to generate and provide information and training of civil servants to ensure understanding and compliance—the mechanics of the supply side" (2007, 196). Included within government system building are record keeping and archiving, record making, automatic publication of records, and internal systems.

Internal systems concern developing clear guidelines for the civil servants implementing the job, identifying information officers and providing appropriate training for them, creating a plan for implementation including oversight and coordination, and devising sanctions and incentives for civil servants. The fourth and final area that Neuman and Calland identify is sustaining the *demand side* for government information. The key areas are largely based on right to know statutory regimes. While these themes were predominantly developed from experience with freedom of information laws, not regulations, as seen in the Chinese model, we believe that many of the same areas are relevant to the implementation of the OGI regulations. One purpose of this paper is to determine whether the OGI implementation experience in China mirrors the framework set out by Neuman and Calland. Because Neuman and Calland's framework is one of the first systematic

frameworks of its kind, and was developed based on international comparative data, we believe it is a useful structure to organize our analysis.

Open Government Information in China

The lineage of open government information in the People's Republic of China can be traced to the "open village affairs" at the village level in the early 1980s, when the central government adopted a reform and opening-up policy (Carter and Lv 2007; Li 2008; Zhou 2008; Zhou 2007). In 1987, the Communist Party launched a national campaign called "Two Disclosures and One Monitoring." This campaign included provisions to disclose administrative rules, procedures, and results and to accept public monitoring at every level of government. Since then, open government information practices have gradually spread among villages, townships, and cities (Chen 2007; Zhou 2008; Zhou 2007).

China's first government information access legislation at the municipal level, the Guangzhou Municipal Provisions on Open Government Information, took effect on January 1, 2003. This legislation formally and explicitly established the principle that "virtually all government information should be disclosed and that non-disclosure would be the exception" (Horsley 2006, 5). In 2004, following the city of Guangzhou's lead, Shanghai, Beijing, Shenzhen, Hangzhou, Chongqing, Chengdu, and Wuhan all adopted local open government information policies. Building on developments at the lower governmental levels, a nationwide policy was put on the agenda of the State Council in 2003. The State Council of China approved the Regulations of the People's Republic of China on Open Government Information on January 17, 2007. The national regulations took effect on May 1, 2008, which allowed a year to prepare for implementation (Carter and Lv 2007).

The OGI regulations are composed of five chapters: general principles, scope of disclosure, methods of and procedures for disclosure, supervision and safeguards, and supplementary regulations. The OGI regulations stipulate that governments at all levels "have an affirmative obligation to disclose certain information" (Chinaelections.org 2008) that involves the vital interests of citizens, legal persons, or other organizations, including information pertaining to such topics as food and drugs, land appropriation and compensation, and sudden emergencies. In addition to information that is proactively disclosed by administrative agencies, citizens, legal entities, or other organizations may, "based on the needs of such matters as their own production, livelihood and scientific and technological research," request information from relevant government agencies. (For the full text of the regulations in English, see http://www.law.yale.edu/documents/pdf/Intellectual_Life/CL-OGI-Regs-English.pdf.)

Government information, as referred to in the OGI regulations, includes "information made or obtained by administrative agencies in the course of exercising their responsibilities," but not information from the National People's Congress, the People's Court system, or the People's Procuratorate system. It also stipulates that administrative agencies must set up mechanisms to examine the appropriate level of secrecy of information requested and that they should not disclose information that involves state secrets or commercial information or that compromises individual privacy.

Eleven days after the regulations went into effect, the tragic Sichuan earthquake occurred. Chinese government and state-owned media updated information on the disastrous earthquake in a much more proactive and prompt way than they had with prior emergencies. For instance, the news of the earthquake was announced to the public via Xinhua News Net only 18 minutes after the first shock wave, and a press conference was held by the News Office of the State Council the next day. Foreign reporters and international financial donations were permitted. All of these acts were unprecedented in the history of the PRC and were positively received by the public. *Southern Metropolis News*, a well-known newspaper in China, published messages from several dozen Chinese columnists, scholars, and social workers on May 14, 2008, contemplating the devastating Sichuan earthquake. A number of them contrasted the government's openness during the 2008 earthquake with its hiding of information during the Tangshan earthquake in 1976. Sociologist Yefu Zheng wrote,

We knew little about it when a devastating earthquake struck Tangshan City in 1976. There was just a brief news announcement about it. Thirty-two years later we are paying close attention to the suffering and rescue of our countrymen. Besides enormous grief and sorrow, we saw something new from any past disasters in China—that the general public are well-informed about it. And when the people are informed, their hearts can be brought together. (*China Digital Times* 2008)

The OGI regulations have inspired the public to request government-held information and willfully use their right to know. For example, in the first two months after the regulations went into effect, 520 formal information requests were submitted to the Beijing municipal government (Fletcher 2008).

Since the publication of the OGI regulations, a number of researchers have made efforts to interpret the regulations in various ways (Horsley 2007; Mo 2007; Yi 2008; Zeldin 2008; Zhou 2008). However, these studies also raise concerns that the weakness of the regulations themselves—such as the low legal status of the regulations, the textual ambiguities of the special requirements for information requests, and the lack of central direction and coordination—may be obstacles to their implementation (Carter and Lv 2007; Fletcher 2008; Hubbard 2008; Kolhammar 2008; Mo and Lin 2008; Zeldin 2008). On the other hand, considering surrounding factors, such as the politics of implementation, government capacity, and information demand in civil society, researchers propose that the lack of resources, records management practices, a culture of openness, and public awareness may potentially impede the implementation of the OGI regulations (Carter and Lv 2007; Horsley 2006). Based on empirical data obtained from interviews with government officials in several provinces of China, Yuchuan Mo and Hongchao Lin (2008) found that many localities are far from ready to implement the OGI regulations and point out three major problems: weak leadership as a result of improper designation of the supervision office, delay of the catalogues and detailed guides

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for OGI implementation, and inadequate facilities and equipment for the public to conveniently access government information.

We build on the current research regarding the implementation of right to know regimes, both in general and in the Chinese context, to explore the key issues surrounding the implementation of China's OGI regulations. Specifically, we investigate the following issues: (1) agency officials' attitudes toward OGI implementation, (2) internal systems (i.e., guides and catalogues, training, and oversight and coordination), (3) government capacity building (i.e., record keeping and incentive systems), (4) resources, and (5) public awareness.

Method

We conducted a survey of Chinese government officials for this study. A convenience sample was employed because of time and resource constraints. The sample included students from two graduate-level programs at a non-American university. The 2008 cohort of these two programs consisted of 128 public officials. Approximately 22 percent of survey respondents were from the central government, 39 percent from provincial governments, 21 percent from city governments, and 18 percent from county governments. Their work experience with government ranged from 6 to 15 years. As reported in the interviews, some of them had been intimately involved with the open government information offices in their departments or jurisdictions. In September 2008, we delivered 118 copies of the survey and followed up with thank you letters and two rounds of reminders. We collected 85 responses from the government officials, a 72 percent response rate. Taking into account missing data, the number of valid responses to individual questions ranged from 72 to 85. Our analysis consists of reporting qualitative data and descriptive statistics, and examining relationships using the Pearson chi-square and correlation matrix.

Findings

Agencies' attitudes. Neuman and Calland observe that “[e]ffective implementation demands political commitment from the top, both to ensure the necessary resources are allocated and to overcome entrenched mindsets of opacity” (2007, 191). As noted by Horsley (2007), the central government's motivations behind the OGI regulations are to share government information in order to promote economic development, to improve people's lives, to enhance trust between the public and the government, to curb government corruption, and to promote better governance at all levels of government. The question is whether this commitment is embraced by local government agencies and officials. A lack of openness is a long-standing component of Chinese bureaucratic culture (Horsley 2006; Hubbard 2008).

In our survey, as indicated in table 1, the officials' attitudes toward the implementation of the OGI regulations are moderately positive. In addition, the Pearson chi-square test illustrates that the more an agency official perceives OGI implementation as important to the organization's mission, the more open the agency is toward the release of information.

Table 1 Agencies' Attitudes toward OGI Implementation

General attitude toward government information release ^a		
Not very comfortable, only releases information if forced	Generally open but depends on the issue	Very comfortable, try to release as much information as possible
8%	72%	20%
Relevance of the OGI implementation to the agency's mission ^b		
An irrelevant obligation or don't know	A somewhat important part of the mission	A very important part of the mission
13%	65%	22%

Pearson chi-square between a and b: 17.9 (df = 4); *p*-value < .00.

Preparation of guides and catalogues. The central government stipulates that government organizations should compile and publish open government information guides and catalogues and to update them in a timely manner. In our survey, only 30 percent of the officials reported that their agencies had completed both detailed guides and catalogues by May 1, 2008. Seventeen percent of the agencies had not started drafting these documents as of September 2008, and 38 percent of respondents did not know anything about their agencies' work on guides and catalogues or were completely unfamiliar with these documents. This finding is disappointing but not surprising, as Mo and Lin (2008) observed the same problem in their study. Without guides and catalogues available, officials may feel they lack detailed rules to follow. Responses to a corroborating question about whether "[o]ur agency has detailed rules regarding implementation" confirm the presence of this relationship, as the chi-squares (df = 28) are 74 (guides) with *p*-value 0.00 and 83 (catalogues) with *p*-value 0.00. In short, the data suggest that more than half of the government agencies in our sample did not have the guides and catalogues ready when the OGI regulations took effect.

Training. Bureaucratic knowledge of legal requirements is essential for implementation. One legal component of freedom of information regimes is a complicated series of exemptions and fee schedules. One study showed that formal changes in policy at the federal level in the United States affected implementation policy to varying degrees in different federal agencies (Blanton 2003). The training of government employees on legal provisions and management processes facilitates knowledge of legal requirements and may lead to less frustrating outcomes for all parties. In our survey, training of the OGI regulations was measured by multiple statements with Likert scales. As shown in table 2, nearly half (49 percent) of the officials did not think they had adequate training regarding the OGI regulations; the training for associated technology is not positive either.

One may reasonably expect that weak training would result in low familiarity with the regulations. We designed three corresponding questions to verify this causality: "Staff members are familiar with the content of the OGI regulations," "Staff members understand the purpose of the OGI regulations," and "Staff members have clear knowledge about what types of information can be released and what should not be disclosed." Only 21 percent of the officials perceived that staff members were familiar with the content of the regulations. This is compared with 50 percent of respondents who thought that staff members understood the purpose of the regulations and 66 percent who felt that staff members had a good level of knowledge about what types of information can be released. These findings suggest that government officials are familiar with the

information within their agencies at the professional level and have a basic idea of the purpose of the regulations, but they generally are unaware of the procedures and implementation details with regard to the OGI regulations.

Responsibility of oversight. The central government requires that all levels of government establish open government information systems and designate an office to be responsible for daily OGI work. To better understand the progress that agencies have made in setting up these offices, we asked officials who was responsible for implementing the OGI regulations in their agencies. While 43 percent reported that they had a designated office for implementing the regulations, 30 percent of the officials still had no idea who should be responsible for OGI implementation in their agencies. Can the responsibility be clear without an explicit designation? This suspicion is addressed by the responses to the statement, "It is clear who should be responsible for the implementation in my agency." Only 47 percent of the officials agreed or somewhat agreed with this statement. More important, the form of responsibility designation and the responses to the statement are significantly associated with each other, with Pearson chi-square (df = 24) at 66 with *p*-value 0.00. In other words, the lack of explicit designation directly leads to unclear responsibility, which, in turn, may undermine OGI implementation.

Regarding direction and coordination from upper-level government, 61 percent of respondents reported that they had clear direction from the upper-level government for implementation of the regulations, while only 24 percent indicated that they did not have clear direction.

Government capacity. Inadequate records management systems are a concern of Chinese officials with respect to OGI implementation. More than 64 percent of respondents agreed or somewhat agreed with the statement, "Inadequate records-management systems prevent us from effectively handling requests." To the statement, "Organizational incentives for increased transparency encourage the staff to disclose information," 56 percent of the officials disagreed or somewhat disagreed. In sum, the findings indicate that the current record management and organizational incentive systems in Chinese government agencies are important constraints on OGI implementation.

Resources. Because the central government did not define an implementation model and left it up to local governments and agencies to develop their own work processes, the capacity of the local governments and agencies is an important factor in implementation. In

Table 2 Questions and Responses in Likert Scales

Statement	Scale	1	2	3	4	5	Number of responses
Training							
We have adequate training regarding the OGI regulations.		20%	29%	24%	22%	5%	83
We have adequate training for associated technology equipment and software.		15	27	17	29	12	84
Staff members are familiar with the content of the OGI regulations.		31	33	15	17	4	84
Staff members understand the purpose of the OGI regulations.		12	27	11	35	15	85
Staff members have clear knowledge about what types of information can be released.		6	19	9	44	22	85
Responsibility of oversight							
It is clear who should be responsible for the implementation of the regulations.		10	28	15	30	17	82
We have clear direction from the upper level government for GOI implementation.		9	15	14	29	32	85
Government system building							
Inadequate records systems prevent us from effectively handling requests.		4	21	12	31	33	85
Organization encourages the staff to disclose information.		15	41	9	26	8	85
Resources and facilities							
We have adequate financial resources to fulfill the requests.		13	15	12	36	24	85
We have adequate staff to fulfill the requests.		8	22	12	45	13	85
Public awareness							
An increasing number of citizens request that we release government information.		0	7	26	61	6	85

(Disagree = 1, somewhat disagree = 2, don't know = 3, somewhat agree = 4, agree = 5)

our survey, 60 percent of the officials agreed or somewhat agreed that their agencies had adequate financial resources to fulfill the information request, and 58 percent reported they had adequate staff. However, this capacity may be more constrained in poorer regions (Hubbard 2008; Kolhammar 2008).

Public Awareness. The OGI regulations require government organizations not only to proactively release information but also to respond to citizens' requests for information. As indicated by Hubbard (2008), a lack of public awareness leads to a low number of information requests even in countries with a long history of freedom of information laws. How is public awareness in China perceived by ordinary officials?

In the survey, the officials were asked to evaluate the government's efforts to publicize the regulations by making a choice among these statements: (1) "Government did a great job in publicizing the regulations," (2) "Government did a good job," (3) "Government did not make a good effort," and (4) "Government did not make an effort at all." Only 2 percent of respondents agreed with the first statement,

and 30 percent agreed with the second. The highest frequency (42 percent) is distributed to the third statement. The other 25 percent of the officials gave the lowest evaluation by choosing the fourth statement. On the other hand, the government officials seemed to agree that there will be an increase in the demand for information from the public in the future. In all, 67 percent of the officials agreed or somewhat agreed that an increasing number of citizens will request government information. In sum, the data illustrate a strong demand for the government to earnestly publicize the regulations and to make the general public aware of their right to know.

Officials' Concerns. In order to better understand the officials' concerns with respect to OGI implementation, we included an open-ended question in our survey: "Please list up to five issues or areas which should be addressed to enable the OGI regulations to work effectively." In all, 65 percent of the surveyed officials responded. Table 3 lists the issues that we synthesized from the responses. Overwhelmingly, Chinese officials indicated that government should make greater efforts to publicize the OGI regulations to the general public.

Table 3 Frequency Distribution of Official Perceived Priorities with Respect to OGI Implementation (*N* = 60)

Issues	Rank Order of Priorities	
	Frequency	Percent
Publicizing to the general public	39	65
Training of government staff	23	38
Public oversight	17	28
Evaluation and accountability mechanism	13	22
Web site and e-government development	12	20
Easy access and more channels	6	10
Financial resources	5	8
Leadership support	4	7
Computer facilities	4	7
Workflow improvement	3	5

Conclusion

Carrying out the implementation of freedom of information laws and regulations is costly. Finding, processing, and releasing government documents is an expensive process, and one that takes time. While a law professor at the University of Chicago, future U.S. Supreme Court Justice Antonin Scalia commented on what he saw as a key problem with the U.S. freedom of information policy:

They are foolish extravagances only because we do not have an unlimited amount of federal money to spend, an unlimited number of agency employees to assign, an unlimited number of judges to hear and decide cases. We must, alas, set some priorities—and unless the world is mad, the usual Freedom of Information Act request should not be high on the list. (quoted in Markman 1998)

We found that many of the officials either explicitly noted the need for resources or highlighted areas that were resource intensive, such as training or technology. The findings from the descriptive statistics suggest that several matters should be promptly addressed: training of government officials on the regulations and the associated technology, streamlining of government systems that encourage officials to release government information, and strengthening of government's efforts in publicizing the OGI regulations to ordinary citizens.

While a number of the respondents to the open-ended questions specifically emphasized that implementing the OGI regulations was a critical component of the OGI work, they generally identified the following five areas as most pressing with respect to implementation: publicizing to the general public, training of government staff, public oversight, evaluation and accountability mechanisms, and Web site and e-government development. The first two priorities from the open-ended responses reconfirm our findings from the close-ended survey questions.

The findings from the descriptive statistics suggest that several matters should be promptly addressed: training of government officials on the regulations and the associated technology, streamlining of government systems that encourage officials to release government information, and strengthening of government's efforts in publicizing the OGI regulations to ordinary citizens.

Our findings are consistent with the model proposed by Neuman and Calland (2007) based on international and comparative data. The *drafting of the law*, or in this case the OGI regulations, is directly tied to implementation and outcomes. The *politics of implementation* surrounding the OGI regulations includes political will from all levels of government bodies and employees and is critical for successful implementation. *Government system building*, and specifically record keeping, archiving, and internal systems in the OGI case, was found to be essential for successful OGI implementation. The *demand side*, the last area identified by Neuman and Calland, was found to be extremely important as well. Public oversight of OGI implementation and increased knowledge of the regulations were two key areas related to the demand side. We conclude, then, that the Chinese context is unique, but the key issues surrounding Chinese implementation of OGI mirror those found in other countries. While the components of the model manifest themselves uniquely, the Chinese experience is similar in some ways to the experiences other nations have faced when trying to implement new freedom of information regimes.

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