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Rethinking civil society organisations working in the freedom of information and open government data fields

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Introduction

This research has been developed within a rapidly changing international context. The research commenced with the supposition that there was a large gap in terms of understanding the relationship between freedom of information (FOI) and open government data (OGD) policies and, in particular, those advocating for FOI and OGD policies. The preliminary view was that despite the main actors being international non-government organisations (INGOs) working in the similar area of public sector information, there are a number of differences between FOI and OGD organisations that are not addressed in the literature.

In other words, there is an analytical vacuum in the academic literature related to FOI and OGD. And not only there is a void¹ in terms of literature on the linkages between the FOI and OGD fields, but the current literature on FOI and OGD does not reflect the varied and growing influence of civil society on FOI/OGD developments, the emergence of key international actors or the effects of the changes in ICT within both fields in the past two decades. This gap is a consequence of a predominantly one-dimensional approach to the analysis of FOI as pointed out by Darch and Underwood (2010 in Stubbs 2012: 49), as well as the recent emergence of OGD as an area of study. Thus, the dominant legal orientation found in FOI studies has, until recently, neglected the role of international civil society organisations. On the other hand, in relation to OGD, the dynamic of the field has outpaced the capacity of scholars to undertake rigorous analysis on many of its aspects and, in particular, civil

1 The literature on the overlap between FOI and OGD is very limited and has mostly been produced by joint initiatives between scholars and civil society actors such as Access Info and Open Knowledge Foundation (2010), Hogge (2010) and some scholarly work such as that of Janssen (2012).

society actors. Thus, in both cases, the role played by organised civil society is neglected.

Despite the general uniformity of treatment and minimal coverage within the academic literature, civil society organisations working in the areas of FOI and OGD have been key actors in the development of both fields. However, they present not only different backgrounds but also a diverse set of goals and drivers. The influence exerted by information and communication technology (ICT) is a major factor that allows for a better understanding of those differences.

In the past decade, ICT-driven changes have dramatically influenced the way citizens and governments interact with information. Citizens and governments now have direct channels through which to interact: from feedback mechanisms, to information and data request platforms, to formal and informal channels. For example, citizens demand information and governments use social media tools to inform the public about their performance (Davies & Fumega 2014: 2). However, ICT has influenced not only the activities but also the way in which FOI and OGD civil society organisations are structured.

In this context, this chapter addresses the two-fold influence of ICT developments on the transformation of key FOI and OGD international advocacy actors. Scholars in both FOI and OGD have neglected international civil society organisations and this chapter aims to contribute to narrowing the gap regarding these crucial stakeholders in the governmental informational resources ecosystem. This chapter, in particular, explores the idea that differences between these organisations in these two information-related fields are not only heightened by the diverse professional and academic backgrounds of the key members of INGOs, but are also influenced by ICT and by the information environments in which these organisations were created.

This study of non-governmental organisations allows for a better understanding of the key features of the FOI and OGD fields while also aiming to provide researchers with new material and new areas to explore.

International NGOs²

There are no clear definitions of the non-governmental organisation (NGO). In general terms, it can be said that the term NGO refers to legally constituted organisations operating independently from any government and that are not conventional for-profit businesses (Stankowska 2014: 43). As the boundaries of the classic definitions are broad and sometimes do not reflect the changes that these organisations have experienced in the past years, new approaches to

2 This study does not claim to be universally applicable; it only applies to some transnational/international actors, mainly institutionalised non-for-profit organisations advocating for greater access to and use of government information and data. However, the limited progress in the study of non-governmental organisations means that this study contributes to a better understanding of key features of FOI and OGD as fields of study.

defining and analysing the subjects have to be explored. Multiple variables play a role when trying to define and delimit international civil society actors. Even defining the concept of civil society presents difficulties. And this is particularly relevant in a rapidly changing operational environment.

International, transnational and global³ organisations are understood within this research as the main nodes to analyse the actors advocating for access to government information and data at a global level. They are, together with other civil society actors, vital in policy diffusion processes (Stone 2004). However, their role remains understudied and more often than not their features have been simplified and classified under static and broad categories. Instead of forcing a definition, some key common factors need to be analysed to delimit and clarify the universe comprised by international groups working on FOI and OGD.

What are the main variables that should be considered to better understand the common characteristics of civil society groups working on FOI and OGD? NGOs can be classified on the basis of different factors, such as what they do, how they approach their work, who they work for, and where they work. All these features, and more, can be grouped in three main areas to better understand this heterogeneous universe: content, engagement and structure. Thus, even though this study focuses on a heterogeneous universe, the organisations working on access to and the use of government information, do share some common features. These organisations, as with many modern professional civil society groups, do not focus their work on their own members and they do not rely on individual fees. At the same time, there is plenty of divergence in terms of their content, approach and their strategies of engagement.

Review of freedom and information (FOI) and open government data (OGD) international non-government organisations

Although occurring at different rates, the development of FOI and OGD fields in the literature present some significant similarities, as shown in the section below.

FOI

The FOI movement

In the first stage of the FOI movement, individual advocates, such as Frankel in the UK, Riley in Canada and McMillan in Australia, focus on the domestic arena. The topic starts to gain traction during the last part of the first stage and the beginning of the second period, with FOI advocates in most cases coming

³ Even though international, transnational and global are generally used as interchangeable terms (as it will be in this chapter), it is necessary to clarify that they are not always used as synonyms. For more information on the differences between these organisations, refer to Hines (2007).

from some of the newly created organisations, and some experts in this new field, start to be recognised as referents within the FOI movement and begin to cross borders to promote the passage of FOI legislation in other territories. Thus, while the organisations are being established, the topic becomes popular and the actors gain recognition among their peers and followers.

Not only do the principles surrounding the FOI movement experience changes from FOI as administrative reform to the internationalisation process and thus the human rights discourse, but the actors (individuals as well as organisations) within this group change.⁴ In this changing context, the identification of the actors from the FOI field proves to be a challenging task. (Similar difficulties are experienced in the identification of the actors in the OGD field.) A large number of organisations belong to the FOI advocacy group but only a very small number of them work on an international or transnational level. Most of the organisations surveyed by Kasuya (2013) as well as those included in different transparency emailing lists (e.g. Foianet⁵ and Sunlight Foundation⁶) focus their main activities on the domestic and/or regional sphere.

Adding to this geographical delimitation, not all of the actors fit into the concept or groups that are actively working on the promotion/diffusion of FOI principles and legislation. Many of the organisations work on other aspects of government transparency. In addition to the large variety of particular sectors within the transparency field, it is also important to highlight that the abovementioned transparency-oriented lists present a self-identification policy. Thus, any organisation can include and define themselves as members of these lists in order to participate in discussions and activities.

Analysing variables such as approach, engagement and structure allows not only for a better understanding of these international groups and the field; but exploring these variables provides a better understanding of the reasons and rationale behind the main features of both FOI and OGD, and allows for distinctions to be made not only between fields but also within each of them.

Despite all their particularities, FOI-related INGOs have mainly focused on the construction, enactment and operation of access to information worldwide. In general terms, it can be said that these groups focus on access to government-held and/or produced information while OGD groups emphasise the reuse of the information resources.

All these elements influence the way in which these organisations relate to governments. Most FOI advocates, who generally come from the transparency

4 Despite the growth in the importance of the topic as well as in the recognition of the actors, the number of international civil society organisations working on the diffusion/promotion of those FOI principles is clearly not numerous. The main examples are based on the analysis of five organisations. Some common features will be explored to understand not only these five actors but also to present a baseline to better understand international civil society organisations working on the OGD field.

5 Foianet: <http://foiadvocates.net/>

6 Sunlight Foundation: <http://sunlightfoundation.com/>

and accountability fields, present a more confrontational attitude towards governments than do OGD advocates, as the FOI approach is based on non-compliance. This analysis provides the basis on which to compare and contrast the roles played by INGOs in the diffusion and advocacy of OGD.⁷

FOI: A brief overview of the literature

There is an extensive body of literature on FOI legislation, its implementation and management. However, as Darch and Underwood note, the ‘literature on freedom of information and its spread to countries around the world [...] consists largely either of descriptive case studies or of normative commentaries on the adequacy of particular pieces of national legislation [...] There is relatively little in the way of comparative or theoretical analysis’ (Darch & Underwood 2010: 50).

FOI legislation has attracted considerable interest over the past three decades among scholars (Stubbs 2012: 42). The speed and focus of the literature on the topic has largely followed the patterns of FOI adoption. While both experienced a slow pace at first, the number of FOI laws as well as the volume of studies have increased since the mid-2000s. The acceleration in the number of scholars, as well as in the diversity of approaches to the critiques of FOI, present a correlation in the diffusion process of the legislation on the topic (Darch & Underwood 2010, Michener 2010, Berliner 2012, Stubbs 2012, Berliner 2014).

The development of the literature on FOI parallels the geographic diffusion of access legislation around the world. Many case studies of the first adopters during the 20th century are focused on the development of these ideas in the Global North or Lockean⁸ States as labelled by Stubbs (2012: 28), between the 1960s and mid-1990s, with examples from the US,⁹ Canada, Australia¹⁰ and NZ,¹¹ together with some early comparative work within the small number of cases in the western liberal established democracies (Hazell 1991, for example). This shows a similar path and convergence in terms of the work performed by advocates and academics in the area.

During the 1990s, FOI, which until then had predominantly been driven by domestic factors, gained traction globally. The explosion of global demands

7 For more details on the differences between FOI and OGD organisations, see Fumega (2015).

8 As clarified by Stubbs (2012: 4): ‘Lockean’ states because the relationship between state apparatuses and societies within those states developed as a consensual social contract facilitating a ‘right to know’. Outside these ‘Lockean’ states and throughout much of modern history, so-called ‘Hobbesian’ states prevented the further diffusion of the law. Within ‘Hobbesian’ states, the authority of the state apparatus overshadowed weak civil societies and prevented the development of a ‘right to know’. However, towards the end of the 20th century the ‘Lockean’/‘Hobbesian’ dichotomy of modern states began to break down and FOI law proliferated widely. ‘Hobbesian’ structures underwent a process of transformation in the context of an emergent global political economy that facilitated the further diffusion of the law, and public sector transparency.

9 Davis (1998), Janssen (2012), Mendel (2003), Rees (1995)

10 Foerstel (1999), Snell (2001)

11 Fraser (2001), Eagles (1992)

for the disclosure of government-held information (commonly referred to as the ‘Golden Period’¹² for FOI advocates) coincides with its emergence in the academic literature. Studies, sometimes advocacy-driven, start to focus on the need to establish international models and standards on government transparency (Article 19 1999, Coronel 2001, Mendel 2003, Neuman 2004, Kranenborg & Voermans 2005, Banisar 2006).

Following these initial studies, a few years later, a group of scholars, including Darch and Underwood (2010), start to break free from a largely legal-centric approach (Stubbs 2012: 50, Michener 2010: 5). While most of the FOI literature is still embedded within a legalistic perspective, more recent studies emerge that focus their research on a wider range of issues. These more recent FOI studies pay attention to the social and political context as being necessary for a comprehensive understanding of the logic of enactment and implementation of FOI legislation (Darch & Underwood 2010, Hazell & Worthy 2010, Berliner 2011, Stubbs 2012). This literature has begun to consider the institutional social and political contexts in which FOI regulations are enacted, in addition to studying the FOI diffusion process. Scholars, such as Michener, Berliner and Stubbs, have provided an extra dimension to FOI studies by adding political science and public policy elements to their analysis, as well as geographies outside the traditional liberal established western democracies.

This wider and more diverse approach to FOI analysis often adopted a critical and less idealistic or celebratory analysis of FOI. Advocacy-driven reports have a positive and at times naïve approach to FOI legislation. During this period, academia starts to shift the focus from a simple account of the legislative journey and a focus on the content of FOI legislation to more critical questioning of outcomes. Articles start to include less optimistic titles such as Roberts (2006) ‘Dashed Expectations: Governmental Adaptation to Transparency Rules’, Snell (2002) ‘FOI and the Delivery of Diminishing Returns’ and Worthy (2010) ‘More Open but not more trusted?’, to name a few. These studies acknowledge the increased gains in transparency but start to evaluate critically the performance post-implementation against predicted or hoped-for outcomes, as evident in the cases of Hazell and Worthy (2010).

These authors open up new lines of analysis and areas of research. The redirected focus on the conditions and context of the passage of FOI laws and/or implementation start to identify a range of actors, including civil society organisations, formerly ignored or, at most, only briefly recognised.

FOI and INGOs

Some advocacy-driven studies have delineated the role of civil society advocates during the period of international diffusion (Neuman 2004, Puddephatt 2009,

12 As named in Darch and Underwood (2010).

One World Foundation India 2011). The limitations of funding, personnel and often very restrictive governmental regulations or control has meant that INGOs, directly or indirectly, have been the key drivers. Organised civil society mobilises pressure to enact FOI legislation and contributes to the drafting of the legislation. They also provide technical expertise during the implementation phase while making alliances with champions inside the public bureaucracy. In terms of the use of the information, they often act as ‘infomediaries’¹³ and can also build citizen capacity (One World Foundation India 2011). Additionally, NGOs can play a key role in monitoring the implementation and enforcement of the law. At the international level, INGOs also promote the application of lessons learned in one country to the specific situation of another (Neuman 2004, Puddephatt 2009).

Within the academic field, a handful of more recent studies including Darch and Underwood (2010), Berliner (2012), Stubbs (2012) and Kasuya (2013), and to some extent Snell (2000), Michener (2010) and Xiao (2011), provide some recognition or coverage of the role of NGOs in the diffusion of FOI, in some cases in terms of the international NGOs and in some cases their local partners. The coverage of NGOs in these studies is generally descriptive, often mentioning NGOs in passing while focussing on other elements. In particular, the role and importance of international NGOs seems to be downplayed or simply accepted as having little import or given a secondary importance in contrast to other actors such as the domestic news media or individual champions for FOI.

In the pool of political science-oriented studies, the literature in terms of the role of civil society organisations can be divided into three categories: (1) a group of authors such as Darch and Underwood (2010), Stubbs (2012), and Berliner (2014) who acknowledge the importance of organised civil society in the diffusion of FOI legislation but approach these actors as a monolithic group; (2) a second group, including for example McClean (2011) and Xiao (2011), who ignore their role, mainly due to the context of their research; and (3) a developing third group, including Kasuya (2013) and Kasuya and Takahashi (2013), who focus on civil society organisations as key actors in this FOI ecosystem. This chapter aims to make a contribution to this last group.

OGD

The OGD movement

After the preliminary observations of existing organisations working on the topic, it was necessary to draw some lines of exclusion in order to present a more accurate analysis, as previously stated in relation to FOI organisations. The geographic variable is one of the clearest delimitations of the OGD universe

13 ‘The term ‘infomediaries’ is widely used to refer to actors who stand between data originating from government and the intended users of the data, facilitating wider dissemination’ (Davies & Fumega 2014: 21).

included in this research. However, one of the most relevant distinctions to be made relates to the ambiguity of the topic itself.¹⁴ This ambiguity is the source of the problem to clearly identify the actors to be included in this analysis. These difficulties are closely connected to the myriad goals and approaches pursued by OGD organisations. These groups identify digital data in reusable formats as the primary output to achieve a large number of goals from greater transparency, development, business innovation and economic growth. The latter is associated with the idea that OGD has not only been defined as a policy or derived from the right to access government information, but also as an opportunity for entrepreneurs and companies interested in the liberalisation of markets for public sector information (Davies & Edwards 2012) to improve the profitability of their businesses (Pollock 2008, Fioretti 2010, Deloitte Analytics 2012). Corporations, academics and programmers are all part of the movement, unlike the recent FOI global movement, which has been a mostly transparency-advocates-only field from the outset.

OGD: A brief overview of the literature

There are several similarities and also some key differences in the development of the OGD literature compared to FOI. In addition to being a more recent development, largely post-2005,¹⁵ OGD occurs at the intersection between technology and policy processes (Udell 2006). This intersection has required different types of stakeholders and skills than those found in the FOI process. A consequence has been more varied range of actors utilising different structures and techniques driven by a greater variety of motivations.

The academic literature on OGD has not kept pace with both ICT developments and the popular and variable use of this concept among practitioners, advocates from ICT and policy domains, public officials and politicians. Most of the ideas and insights in this emerging field are still in the early stages of development and articulation. Until recently, most of the attempts at analysis and understanding in the OGD field were to be found in blogs, social media, conference proceedings, government or international organisations' reports, and in a small number of journal articles, mostly in technology-oriented journals,¹⁶ with a few exceptions.¹⁷

14 Morozov (2013) observes that 'Few words in the English language pack as much ambiguity and sexiness as open.' In a similar vein, Tkacz (2012: 387) notes that, 'open has become a master category of contemporary political thought. Such is the attraction, but also the ambiguity of openness, that it appears seemingly without tension, without need of clarification or qualification, in writers as diverse as the liberal legal scholar, Lawrence Lessig, and the post-Marxian duo Michael Hardt and Antonio Negri.'

15 Despite the fact that the main developments did not arise until the second half of 2000s, there were earlier mentions in the literature of the reutilisation of government information and data (Lewis 1995, Perritt 1997). The increasing automatised of government functions and transactions, together with concerns related to the commercial use of government information (Perritt 1994) and to privacy risks (Paterson 1998) provided material for scholarly research.

16 Some examples are the *Journal of Community Informatics* and *Information System Management*.

17 For example, the *E-Journal of e-Democracy and Open Government*.

As with FOI, some scholars and, increasingly, advocacy groups,¹⁸ have started to provide models and standards to develop definitions of OGD and related concepts. However, as with the first group of FOI academic studies, early reports are mostly based on case studies, at country or city level, of different OGD initiatives, such as the open data policies in the US, UK and Australia. The difference between the two fields is the origin of those reports. While in the first stages of FOI diffusion, the reports (aside from academia) were mostly from civil society advocates, in the case of OGD, the reports were developed or commissioned by governments implementing those policies (Mayo & Steinberg 2007, Government 2.0 Taskforce 2009, Power of Information Taskforce 2009, Davies & Lithwick 2010) and by different civil society and academic actors (Napoli & Karaganis 2007, Access Info and Open Knowledge Foundation 2010, Hogge 2010).

Similar to the material found in the FOI movement, most of the first reports on OGD provide a simplistic and optimistic view of its benefits (Maali et al. 2010, DiFranzo et al. 2011, Hoxha & Brahaj 2011, Villazón-Terrazas et al. 2011, Wang et al. 2011) but lack analysis of the barriers, risks, disclosure and use of open government data (Janssen et al. 2012). This largely relates to the work of advocacy and evangelists in both groups of initiatives (FOI and OGD). These actors initially emphasise the benefits and value of the access in the case of FOI, and data use in the case of OGD. As the academy usually enters later in the development, academics are only just beginning to analyse these issues as they relate to OGD.

A similar path to the first stages of the FOI literature can also be found in the incipient OGD-related documents. Most of those early case studies are based on the developed world or Global North. Even though some of them show a broader range of interests and only the description of the initiatives and their benefits, they are still primarily focused on country studies in the developed world. In this sense, some work has been done in the EU, focusing on open data and its relation to public sector information directives (Sheridan & Tennison 2010, Kalampokis et al. 2011, Bates 2012) and on the implementation and potential impact of OGD (Janssen 2011, De Chiara 2013). There are also some other studies focusing on the underlying political economic context, focusing on the case of the UK (Ubaldi 2013).

There has been a recent change in emphasis and coverage, including reports on the Kenya Open Data Portal (Rahemtulla et al. 2012), a variety of countries in Latin America (Fumega & Scrollini 2014, Gonzalez-Zapata & Heeks 2015) as well as the outputs of a research project funded by the Web Foundation and

18 In December 2007, 30 open-government advocates met in Sebastopol, California, to develop a more robust understanding of why open government data is essential to democracy. They spelled out key requirements for government data, which emphasised the need for easily accessible, machine-processable and reusable data. More details of the meeting can be found at https://public.resource.org/open_government_meeting.html

IDRC on the Emerging Impacts of Open Data in Developing Countries,¹⁹ which included reports on cases in the Philippines (Canares 2014), India (Agrawal et al. 2013, Srivastava et al. 2014), Nigeria (Mejabi et al. 2014), South Africa (Van Schalkwyk 2013) and several Latin American countries (Fumega 2014b, Matheus & Ribeiro 2014, Scrollini 2014), to name a few. The current Latin American Open Data Initiative (ILDA)²⁰ has also contributed to this recent trend in the OGD literature. ILDA has provided exploratory studies on different aspects and sectors related to open data in Latin American countries, e.g. open data in local governments (Bonina 2015), parliaments (Belbis 2015), education (Khelladi 2015) and health (Pane et al. 2015).

These recent studies clearly demonstrate the rapid pace with which the OGD field of study is moving. In this sense, the OGD field, due to rapid developments in ICT, has moved through similar stages to FOI research, but at a much faster pace. While in the FOI field the passage from the domestic to the international realm took decades, in the OGD arena a similar process has taken only a few years. The result is an overlap of stages in a short period of time, leading to the present stage, similar to the FOI field, where studies are starting to focus not only on definitions and models to better understand OGD policies in the developed world, but are also exploring the context and outcomes in the developing world.

OGD and INGOS

Apart from a limited range of studies and more anecdotal information about the process of the implementation of open data initiatives, there is a lack of analysis and understanding of the role of not only civil society organisations but also all the actors involved in the area of OGD, from policy to social entrepreneurs to domestic and international NGOs. In terms of the role of NGOs in these initiatives, as consumers of information, or as advocates of OGD policies, the only studies that mention their role are advocacy-driven reports. One such report was produced by Access Info and OKFN (Access Info and Open Knowledge Foundation 2010), while Hogge produced another for the Open Society Foundation (Hogge 2010). The first report was developed as a document for practitioners' consultation on the main topics regarding the new OGD agenda. The second study focuses on the US and UK governments' OGD initiatives to understand how to transfer policy to developing countries, while including some quotes from civil society actors from transparency NGOs.

As with the experience in the FOI field, there is some acknowledgment of the potential role of international civil society actors (see, for example, Rubinstein 2014, Janssen 2012 and, to some extent, Pyrozhenko 2011). But, to date, there is a lack of a body of work that explores the roles of international civil society actors in a more systematic manner.

19 <http://www.opendataresearch.org>

20 <http://datosabiertos.org/about-ilda/>

The professional backgrounds of the members of international FOI and OGD groups not only shapes their approach to information and data, but also their advocacy tools and strategies. The strong legal background of the main FOI organisations, as well as within individual advocates, influenced the approach to the advocacy and the tools to reach new countries and regions. On the other hand, the ICT component of OGD main organisations comes with a whole set of values that, at first sight, are distant from the ones promoted by traditional human rights organisations (Levy 1984, Coleman 2011, Coleman 2013).

Most FOI advocates have come either from the freedom of expression or public law fields and have used rights-based arguments to promote the enactment of FOI laws that are driven by a belief in the value of governments being publicly accountable for their action and inaction. The area has largely been a lawyer's domain.²¹ This laid the foundations for a legalistic approach to the initiatives and adversarial relationships with government, since FOI laws are fundamentally about testing the strength of competing claims to where the public interest lies, in disclosure or secrecy. In contrast, the OGD community tends to attract professionals with strong IT knowledge, or technocratic policy backgrounds. These OGD actors look for more cooperative relationships with governments. The difference partially resides in the fact that the latest groups of actors mostly work with the data the governments are willing to disclose (Fumega 2013). The proactive disclosure of the data in the case of the OGD field generates a different dynamic between civil society organisations and governments than the one shaped by the duty to answer to the requests for information, called reactive transparency.

Thus, even though both movements present close ties with liberal principles, the particular professional background in each of the fields differentiates not only their leadership and main activities and goals²² but also their relationship with other stakeholders in their respective fields.

The literature reveals that ICT has had a profound influence on the structure of a large variety of organisations, from businesses (Molone et al. 1987, Gurbaxani & Whang 1991, Fulk & DeSanctis 1995, Den Hengst & Sol 2001, Gustafsson et al. 2008) to the military (McChrystal et al. 2015). In this research, the influence of ICT is key to understanding the differences in the operating methods, goals, and activities of organisations engaged in the fields of FOI and OGD. Furthermore, within the complex sets of actors

21 Some human rights and administrative lawyers started to become popular names in the field (as important or even more important than the organisations they represented. In general, they later created their own organisations on the topic).

22 FOI, until recently, was characterised by a paper-based informational environment with a concern about the access to the information more than the actual use and reuse of it (the use of information has been more related to the work of investigative journalists and other infomediaries). That void was filled by open government data organisations (together with some media outlets), which are strongly focused on the use and reuse of the data, which became relevant actors in the governmental information ecosystem during this last decade (Fumega 2013).

included in this research, there are key differences between those organically and intellectually shaped to operate in a digitally-dominated environment and those more traditional organisations that are just starting to adapt themselves to operating in a digital environment.

Developments in ICT, in terms of daily communications and connective capacity, have had an important but variable influence over definitions of, and approaches to, civil society organisations. This influence has extended to both the means of communication and organisational structure. There is an additional type of impact on OGD organisations that arises from ICT developments in which the philosophical background associated with civic hackers permeated their activities, their organisational structures and their engagement with peers and with governments. In this changing environment, a more effective and dynamic analysis is required to better understand the complexity of these international civil society organisations.

Conceptual framework

The above review of the literature has demonstrated that there are significant differences between the operations of FOI and OGD international civil society organisations. These differences are important and complex, and can only be partially explained by the differences presented between the fields in terms of background, vision and mission. The role of ICT, intrinsically connected to OGD, has permeated other fields including FOI, and thus these technological tools, in particular their adoption by FOI organisations, provides some evidence for a greater explanation of similarities and divergences between the organisations.

In spite of the powerful influence of ICT across all the fields related to informational resources, the FOI, OGD and NGO literature has been relatively silent on how organisations have reacted and/or responded to these ICT developments. Thus, these fields offer almost no assistance in relation to analysing the impact of ICT. The more general not-for-profit literature is just as limited. In the face of these limitations, there are some significant insights and potential analytical approaches that can be drawn on from a wider pool of literature, especially in the area of management studies.

Management studies literature offers a model of analysis that provides a solution to this conceptual lacuna. The concept of post-bureaucratic organisations provides a useful conceptual framework to observe and explain the divergences between the organisations and, in particular, is able to capture or follow changes over time.

Bureaucratic and post-bureaucratic organisations

Since the late 1980s, from the end of the Cold War to the beginnings of a globalised world, management literature has strongly focused on the impact

and influence of changes in ICT. This literature (Drucker 1988, Powell 1990, Heckscher & Donnellon 1994, Symon 2000, Grey & Garsten 2001) provides a key concept, post-bureaucratic organisations, that can assist in the analysis of the FOI and OGD groups included in this research. The key value of this concept is not only that it provides concepts to better understand the differences between FOI and OGD organisations, but it also allows for a more detailed and nuanced understanding of the differences over time and within each of these two fields.

The passage from bureaucratic to post-bureaucratic organisation types, derived from the adaptation of the Weberian concept of bureaucracy (Weber 1954) to a new technology-dominated environment, sheds some light on the organisational changes since the late 1980s. It provides further approaches to analyse the international groups included in this research. Whilst management literature has deployed the concepts of bureaucratic to post-bureaucratic organisations largely in the context of business and marketplaces, the concepts can be applied to understanding international civil society groups as well.

The literature on business management places emphasis on the idea that these new types of organisations are not only a product of ICTs, but that they need to adapt to survive in a competitive market. It also suggests, in some cases, the necessity to fight against a networked enemy (McChrystal et al. 2015). International and domestic NGOs, even though non-profit by definition, as they generally pursue philanthropic goals, also need to compete in their own specialised market. There is competition for funding, grants, wider donor support and backing, prestige and recognition from donors, intergovernmental organisations, as well as country partners.

These organisations compete in the ‘transparency market’ not only for material resources but also for influence. Together with these material constraints and the need to adapt in order to survive,²³ these international NGOs, in particular, need to be part of regional or international clusters of independent organisations to exert greater pressure and produce better results. Thus, in many cases, they not only need to adapt to a more flexible structure because of budget constraints but also because of communication and engagement needs. Therefore, the use of models largely derived from a business or market environment is not necessarily problematic.

The use of the bureaucratic/post-bureaucratic categories, and especially the post-bureaucratic concept, allows for a clearer understanding of the differences between organisations, in particular FOI, because of the greater differential influence of ICT in this field in contrast to the far more pervasive influence of ICT on all OGD groups. This differential influence provides some key insights into better understanding the differences between organisations in the areas of FOI and OGD, but in particular the differences among the organisations inside each field.

23 In particular, when the number of civil society advocates increase and diversify as it is the case with the new OGD actors entering the transparency field.

Structure

The concept of bureaucratic organisations, in relation to the well-known Weberian concept, describes hierarchical centralised organisations as those focused on rules, procedures and maintenance of the status quo (Kernaghan 2000). A hierarchical organisation can be defined as a structure where every unit in the organisation, except one, is subordinated to another unit (Ariza-Montes & Lucia-Casademunt 2014). Thus, these organisations tend to have little room for innovation (McChrystal et al. 2015). Therefore, it is not surprising that international FOI groups have largely adopted this bureaucratic model. Dominated by personnel who were legally trained and focused on direct legislative law reform, they worked to deliver a fairly uniform product (Snell & Macdonald 2015: 687). In contrast, one of the main goals and drivers of the OGD groups is the pursuit of innovation and the achievement of a wide variety of outcomes. In this regard, the concept of post-bureaucracy has greater utility to analyse OGD groups in general and the capacity to differentiate and deal with more recent FOI organisations that are more affected by ICT.

Post-bureaucracy is a very broad term (Grey & Garsten 2001). As Grey and Garsten (2001) note, this term conceals a great diversity of practices. Some authors define post-bureaucratic organisations as hybrids because the term is used to describe a range of organisational changes, which are mainly a product of the influence of new channels of communication, as a refurbishment of bureaucracy (Josserand et al. 2006). However, the amount and importance of the changes allow it to be referred as a new organisational form (Drucker 1988, Powell 1990, Heckscher & Donnellon 1994) and not merely a hybrid.

Post-bureaucratic organisations present a more horizontal and distributed structure in comparison to the bureaucratic ideal (Drucker 1988, Powell 1990, Heckscher & Donnellon 1994). These organisations present a more flexible and adaptable structure to face a society with increasing levels of uncertainty and change, as defined by postmodern scholars such as Harvey (1989), Giddens (1991), Beck (1992) and Castells (1996), among others.

Unlike bureaucratic organisations, the main features of post-bureaucratic forms include the reduction of formal levels of hierarchy, an emphasis on flexibility and an increase in the use of sub-contracting, temporary work and consultants rather than permanent and/or in-house expertise (Grey & Garsten 2001). All these aspects are closely tied to the development of ICTs and, in particular, the influence ICTs have in developing new forms of communication (Symon 2000).

Collaboration and networking

Another feature of post-bureaucratic organisations is that of collaboration between members (Mintzberg 1980, Hedlund 1994, Gooderham & Ulset 2002, Josserand 2004). Changes allow organisational learning to increase (Starbuck

1992, Nonaka 1994, Foss 2002) and, thus, lead to more innovative and flexible structures. Thus, some authors (Powell 1990, Nohria 1992, Contractor et al. 2006) put the emphasis on this particular characteristic of post-bureaucratic organisations and refer to them as ‘network organisations’. The availability of easier and faster channels of communications between and within organisations is one of the main explanatory elements to better understand the diverse group of organisations included in this research.

From the 1980s to the present, ICT and these new structures have grown in parallel. Developments in ICT have allowed the extension of the scale and scope of communications between organisations and individuals ‘into new entities that can create products or services’ (Contractor, et al. 2006: 682). Thus, organisations since then have slowly started to structure themselves in flatter and leaner forms. These new structures also have allowed for more innovation and adaptability to the environment (Symon 2000, McChrystal et al. 2015). All these features are defined in contrast with the vertically oriented bureaucratic organisations (Powell 1990, Nohria 1992) characteristic of most FOI organisations. Bureaucratic organisations are aimed to achieve efficiency, however, in these new ICT environments, fast-pace changes are required not only for efficiency but also adaptability (McChrystal et al. 2015).

This concept of the network organisation emphasises intra- and inter-organisational interrelation and collaboration. One of the main characteristics of collaboration in the OGD community is that it has been strengthened by the developments in ICTs. These technologies have allowed for quicker and easier communication channels and options, changing the way in which some organisations structure their daily routines. This emphasis on information and communication technology allows for a better explanation of the relationship between this concept and the main features of organisations working with informational resources, such as FOI and OGD groups.

This idea of a post-bureaucratic network organisation is also closely associated with the concept of virtual teams; unthinkable a couple of decades ago. Lipnack and Stamps have defined these ‘teams’ (organisations) as independent nodes, people and groups, working together for a common purpose (Lipnack & Stamps 1994). Currently, these nodes, or teams, could be located in different places and time zones. They can communicate and interact with other groups as well as within themselves, in most cases by virtual channels.

These new organisational structures are variously described (Heinz 2006), including, for example, as virtual organisations (Markus et al. 2000), horizontal organisations (Castells 1996), hybrid organisations (Powell 1987), dynamic networks (Miles & Snow 1986) and post-industrial organisations (Huber 1984). However, the main features that prevail in all these concepts are the relationships between nodes and the autonomy of the parts of the organisation and/or network. By enhancing these relationships, ICT developments play a key role.

The independence of those nodes and individuals is a key characteristic of these

post-bureaucratic/network organisations. In addition to formal arrangements, these nodes are sometimes connected together by informal networks and the demands of the task, rather than by a formal organisational structure. To sum up, the post-bureaucratic/network organisations prioritise a soft structure of relationships rather than strict reporting lines and structures (Hall 2013).

Applying the conceptual framework

The international FOI organisations selected for inclusion in this analysis were as follows: Article 19, Transparency International, Commonwealth Human Rights Initiative, the Carter Center, and the newly-created Canada-based Centre for Law and Democracy.

The OGD movement is difficult to define. Therefore, to identify its main international actors recognised by other organisations working on related topics, the responses to an international survey, the Global Open Data Initiative (GODI),²⁴ was used as one of the parameters, together with the organisation and participation in the main events of the community, and presence in the main mailing lists. Following these parameters, the most well-known international organisations are all members of the Global Open Data Initiative. In the OGD group are Open Knowledge (OKFN), the World Wide Web Foundation ('Web Foundation'), Sunlight Foundation and MySociety.

International NGOs working on FOI and OGD share many elements and interests. There are also many divergences, mostly based on the main professional background of their staff, their type of engagement, and their main activities. However, these differences in the organisational structures and performance can also be explained by their similarities to the two ideal types, bureaucratic and post-bureaucratic organisations.

These ideal types as analytical conceptual constructs allow for a better understanding of some of the changes that FOI and OGD organisations have experienced in the past few years. Even though as organisations function in the real world they do not fit all the criteria of the ideal types, there are several elements from these abstract constructions that are recognisable in FOI and OGD organisations. Hierarchically organised structures versus the predominance of networks, and complex organised procedures versus organisations that need to adapt to a rapidly changing environment are both features that are linked to the bureaucratic and post-bureaucratic ideal types.

A large organisation such as Transparency International (TI), one of the FOI-oriented groups included in this research, can easily be placed close to the ideal type of a bureaucratic organisation. TI is large, in comparison to other civil society organisations, and a highly structured organisation. The

24 See <http://globalopendatainitiative.org> for more information. This initiative has not presented any substantial activity since April 2014.

size and complexity of tasks clearly correspond with the structure of a highly bureaucratised organisation. The number of permanent staff, its permanent headquarters in Berlin, the amount of administrative procedures attached to four separate director's offices, as well as more than 20 units within those four offices, all correspond to the main features of a bureaucratic/hierarchical organisation.

In contrast, Open Knowledge (OKFN) presents strong leadership and a more decentralised structure, including remote work without central headquarters. The organisational structure of these two organisations reflects the way the staff of each organisation relates to each other, in some cases remotely. It also demonstrates the way the organisations relate to their beneficiaries/clients. Despite some of the clear references to the ideal types, bureaucratic and post-bureaucratic, neither organisation fits perfectly into the description of the ideal types. Thus, FOI and OGD organisations, included in this research, present shades of those ideal types extrapolated from the business world.

One of the main features that slightly differentiates TI from the typical bureaucratic organisation is its engagement structure with many independent organisations in the world. Unlike TI, Article 19 has, since 2007, developed a small number of branches to cover regional programmes. Employees in each of those regional programmes work closely with the staff in its headquarters in London. Despite the bureaucratic structure adopted by Article 19, the regionalisation of their work can be interpreted as being closer to post-bureaucratic forms, even though they are still far from the post-bureaucratic end of the spectrum. The small number of employees, in comparison to larger organisations, also implies less structural complexity than at, for example, TI. In comparison, the Commonwealth Human Rights Initiative (CHRI) presents an even smaller size and number of branches. Despite its small size, it still presents a structure that can be closely associated with bureaucratic organisations, an HQ based in India, two dependent branches and permanent staff. These organisations that are supposedly working in the same field with similar approaches differ in their visions and acknowledge the differential influence of ICT developments in apparently similar organisations.

The Carter Center Access to Information Program and the Centre for Law and Democracy, despite their importance and undeniable influence in the field, are too small to be classified in the same way as the previous organisations. The first one is a programme within a larger organisation and the latter organisation is without branches or other affiliated groups.

These two groups could be placed closer to the OGD groups. There are, however, some reasons for refraining from doing so. In the case of the Carter Center, its ATI programme is just a unit; however, it is located within a large organisation, with headquarters in Atlanta, which can be clearly defined as closer to the bureaucratic model. The Centre for Law and Democracy, on the other hand, is a very small organisation but despite that smallness, its staff are located at a permanent office in Halifax, Canada. It is also important to note that, in

some cases, they collaborate with other organisations and groups on a project basis. Because of these characteristics this organisation is located further from the ideal bureaucratic type on the spectrum; it is closer to a post-bureaucratic type than an organisation working with ICT in most of their activities such as Sunlight Foundation. Thus, these organisations, from TI to the Centre for Law and Democracy, all differ according to size and complexity.

The OGD movement, as in the FOI field, also presents differences between the structures of their organisations. This complexity is a product of the varied influences of ICT, the diverse approaches to OGD, as well as their relatively short organisational life. Some of these organisations such as the OFKN are located closer to the post-bureaucratic/network type. Next to OKFN, but not so close on the spectrum to the ideal post-bureaucratic type, is the Web Foundation because it has central offices and a permanent lab in Asia, even though some of its staff also work remotely.

Life span is a key component to consider not only for OGD but also for FOI organisations. Most OGD organisations have existed for less than ten years and are still evolving.²⁵ The Web Foundation opened a lab in Asia during 2014, after the ‘Exploring the Emerging Impacts of Open Data in Developing Countries’ research project which provided the organisation with vital information on the region. My Society, at the time of this research, was also going through a process of transition with the change of Executive Director, after its founder, Tom Steinberg, stepped down from the position in early 2015 (Steinberg 2015). OKFN also has gone through some organisational changes with a new CEO, Pavel Richter, being appointed in early 2015, as well as some other changes in their staff (Open Knowledge 2014, 2015). The Sunlight Foundation was also experiencing changes in their leadership with John Wonderlich, who had long led Sunlight’s Policy Group, acting as interim Executive Director (Klein 2016).²⁶

Despite their short existence, the OGD organisations seem very responsive to changing operating environments. In contrast, FOI international civil society organisations are still relatively stable and predictable. The relationship between these changes and the pursuit of funds, competition over missions/work areas, the impact of new leadership, are unknown. It is still too early to visualise long-term trends and these topics might need further research.

ICT as the factor of change

Some of the organisations included in this analysis correspond with the idea that there are connections between the background, mission and vision of the organisations, and the way in which they are structured and how they engage

²⁵ The research behind this article ended by late 2015.

²⁶ Ellen Miller served as executive director for eight years. In September 2014, she announced her retirement from that role. Chris Gate succeeded her and served for fewer than two years.

with other organisations and governments. However, some groups do not entirely match this assumption, as explained above. Therefore, rather than using a simple categorisation of lying somewhere on the bureaucratic or post-bureaucratic continuum, alternative methods should be used.

Differences in professional backgrounds and philosophical backgrounds fail to provide a full explanation of the heterogeneous array of international organisations working with governmental information resources. The difference in terms of legal backgrounds between FOI and OGD groups is a useful initial generalisation but also fails to adequately or completely unpack the differences and changes over time between these two organisations.

Of the many reasons for the differences between the two groups of organisations, their year of establishment and the level and type of ICT capacity in their formative years are key factors. The next section demonstrates the insights that can be gained by using the lens of ICT developments to examine many of the key differences between FOI and OGD organisations, and the organisation of each of these two fields.

ICT in the FOI field

Rapid changes in the available technology, in particular regarding the information management field, have permeated the agenda of newly created FOI organisations. These groups were formed in recent years. The Center for Law and Democracy has a legally dominated imprint and they found themselves needing to operate in a digital and dynamic information environment. These groups have been created in the light of the mass diffusion of ICT tools and thus the penetration of ICT related changes is more evident than in the other FOI groups that have a longer history, and larger and more bureaucratic structures. The twofold impact of ICT has permeated these organisations in one sphere: the tools these organisations now use to communicate and engage with their constituencies have experienced changes. However, the philosophy behind developers and many OGD organisations has not influenced these FOI groups.

The assumptions about the nature of legal oriented groups are challenged by some of the groups working on FOI that were created less than a decade ago. The ICT influence over these newly created FOI organisations was too difficult to ignore, resulting in organisations with a more flexible structure. Thus, the Center for Law and Democracy presents a strong legal background informed by the professional background of its founder; however, it presents a much more adaptable and flexible structure.

There is a clear difference between the weak and strong influence of ICT in how these organisations structure the internal and external dissemination of knowledge. In particular, these different levels of influence are clearly associated with the year these organisations were created.

In the FOI field, where most of the organisations were created in the late

1980s and early 1990s, the rights-based approach within a bureaucratic style of organisation has dominated. The exception to that rule seems to be embodied by those organisations created during the new century when the ICT influence become much more difficult to ignore and where, for an organisation, adaptability is as necessary as efficiency (McChrystal et al. 2015).

Looking at the examples, FOI organisations created recently tend to adopt a more flexible structure. An example is the Centre for Law and Democracy. This organisation is composed of a small number of professionals and they are involved in different collaborative projects with other organisations including the domain of FOI expanded to other rights-based and ICT areas such as the digital rights agenda. Technological developments have permeated all forms of communication and information management but they have not altered, so far, the philosophical and professional background of FOI organisations. The strong rights-based focus remains unalterable.

Access Info Europe, although a regional organisation, presents a clear example of one organisation that it is still focused on the rights-based approach to Freedom of Information but it has also understood the key influence of ICT in all the initiatives and policies related to the disclosure of information. They have been one of the organisations more connected to the OGD movement.²⁷ In 2011, the collaboration between organisations in these two fields was unusual.

ICT in OGD organisations

In contrast to the more traditionally structured FOI organisations from the 1980s and 1990s, most OGD groups were created post-2005. In this group, the main factor of differentiation is the approach to the topic. In all cases, from OKFN to Sunlight Foundation, the technological component is inherent in their daily routines and projects. The Sunlight's approach is closer to a traditional transparency and accountability focus to the broader OKFN's interest on issues related to openness in all areas. As previously established, this centrality of ICT clearly affects not only their projects and activities but also their structure.

Organisations such as Sunlight focus on the demand for government accountability. They tend to structure their approach in a similar fashion to the traditional FOI organisations. A rights-based approach, mixed with the work with data in digital formats, positions them closer to a watchdog of governments, rather than as a collaborative partner. The latter has been the case of a more classic networked organisation such as OKFN.

The transformational influence of ICT in terms of organisational structures is still more marked than in most FOI organisations. Thus, in terms of structure, all these OGD organisations tend to be more flexible. Sunlight Foundation

²⁷ As already mentioned, they have prepared a report back in 2011, together with OKFN, to clarify some concepts on the similarities and divergences of FOI and OGD.

is the organisation that not only continues a more traditional approach to its activities but also maintains a more traditional hierarchical structure. In contrast, organisations such as OKFN operate not only with a flatter and more flexible structure, but also works with a remote system of work. Thus, they present more flexibility in terms of geographical location and schedules. This flexible structure is a product of the possibility that new ICT tools provide in terms of remote work and the influence of the hackers culture.

Summing up, ICT technology is a key enabler of new ways of communication. However, the philosophy behind the mission and vision of these organisations are as relevant as key elements to new organisational forms. This relates to the ICT twofold developments, which have supported and facilitated new organisational practices, by providing new ways and channels of communication and information management. However, in some cases, these practices go further than providing the tools, and they imply philosophical and culture elements, such as in the examples provided by OGD organisations.

Conclusion

This chapter has demonstrated that ICT has affected information management-related fields included in this research as well as permeating most channels of communications. ICT has proved to be the facilitator for major changes in communication and information management. Thus, despite the fact that organisational changes are particularly noticeable in FOI and OGD fields, they are intrinsically connected to the changes in how information and data is handled, including by governments and civil society organisations.

FOI groups were formed in the context of low levels of social engagement, idea flows and were largely responders to their information environment.²⁸ Early FOI advocates were mostly operating in a paper based-era (pre-digital operations) where the disclosure was based on the governmental response to a particular request, and thus the benefits of that disclosure were at the individual level. The end-product was generally envisaged for a single user for a single use. In particular, the members of these organisations, as well as individual advocates and academics, especially during the first and second stage of FOI's development, relied heavily on slow postal communication that restricted the pace, volume, reaction and feedback on ideas about accessing and using government information. Furthermore, adding to restricted global communication channels, these early advocates had limited opportunities for face-to-face collaboration. Conferences, seminars and workshops for FOI specialists became usual forums to exchange ideas at the end of the third stage of FOI, when international organisations started to become popular actors within the FOI scene.

In contrast, OGD groups started their organisational life in a digital

28 This is a key point of Xiao's (2011) work on FOI in China.

environment where the information was proactively disclosed (sometimes not in the expected formats) and where the information was available for all users. Despite this more widespread availability, the particular skills to interpret and reuse the published data made it necessary for technical intermediaries to produce applications. However, those applications are, in many cases, those which enable access and use by a large and not so technology-savvy population.

Because of the impact of the hacker ethos on OGD groups, they consider collaboration and engagement as a central feature for the success of their work, either digitally or face-to-face (the number of offline and online events, forums, workshops is very high, in particular in comparison to their FOI counterparts). These actors form a digitally connected, highly collaborative community. For example, the Latin American OGD community has created mobile instant messaging groups to constantly communicate with each other. This type of interaction has created professional and personal bonds that enhance the interaction, feedback and mobility between OGD advocates from different areas and countries of this particular region.

Furthermore, in terms of engagement and the ideas emerging from it, OGD INGOs are sources of, and major contributors to, idea flows and creativity in the access to, (re)use of and further creation/collection of government information. Their counterparts in governments acknowledge this contribution, for example many spaces for co-creation, engagement and innovation are created within public institutions (from events to collaborative problem-solving to permanent spaces such as innovation labs). In contrast, FOI INGOs have been slower to adapt in the areas of idea flows and creativity. This, again, relates to the information environment in which the field started to be developed. For a significant period, they needed to focus on developing universal standards of accessing government information. Innovations in legislation, policy design or administrative practice were resisted or restricted to a minimal role. Indeed, it is only in recent years that FOI groups have moved towards other outputs involving implementation, improved government information delivery and concepts such as FOI 2.0. Nevertheless, FOI INGOs are still far less receptive to common practices or reforms pushed by OGD groups.

The passage from one type of environment to the other produces not only quantitative (more information and data available) but also transformative and qualitative changes. This research confirms this idea. INGOs (largely OGD but not exclusively) that were created in a very different information environment have in terms of creativity, innovation, and variety of outputs outperformed the more legalistic and less pluralistic FOI INGOs.

Furthermore, applying Pentland's (2014) concept of 'ideas factories', FOI organisations can be described as traditional, large-scale, uniform, single-product-focused and stand-alone entities while their OGD counterparts can be characterised as modern (digital), variable but generally small-scale, networked, focused on idea generation and pre-disposed to collective effort (hacker ethos).

Most of the distinguishing features separating FOI and OGD organisations are the product of their philosophical background (legal rights-based vs hacker ethos) as well as the differential influence of ICT. However, some of the features (size, level of bureaucratisation) might be also the product of the stage of organisational life. The potential change of OGD organisations into large bureaucratised entities as they grow over time, together with the adaptation of FOI²⁹ organisations to digital dominated information environments, are all features that still need to be explored. The assumptions about the nature of legal-oriented groups are challenged by some of the groups working on FOI that were created less than a decade ago. The ICT influence over these newly created FOI organisations was too difficult to ignore, resulting in organisations with a more flexible structure. In contrast in most OGD groups, created post-2005, the main factor of differentiation is the approach to the topic.

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29 The key point, which requires further exploration for future researchers, is how these FOI organisations adapt to the new channels of communications and information management. Despite the importance of having FOI legislation and the more traditional advocacy approach, it is important to question the ability to adapt. The principles behind the right that allows the public to access and use government-held and produced information and data will probably remain unaffected for the next few years. However, the channels and tools to access and make use of those resources are rapidly changing. The ability of the rights-based FOI organisations, in particular, to adapt to this changing environment and to adopt new tools and channels will determine the future of the field, or at least their role in the informational resources ecosystem.

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