Opening Government?

The Case of Costa Rica in the Open Government Partnership

Randall Arias, Director of Fundapem and Legal Expert
Steffan Gómez, Researcher and Political Scientist
Tracy Paola Rivera, Political Science student at the University of Costa Rica
Evelyn Villarreal Fernández, Vice President Costa Rica Integra Civic Association
January 2016

Table of Contents

Acronyms

Acronym	Spanish	English
AAA	Alianza "Apertura de la Asamblea"	Open Parliament Alliance
CCSS	Caja Costarricense del Seguro Social	Costa Rican Social Security
CGR	Contraloría General de la República	General Comptroller of the Republic
CIGP	Comisión Permanente Especial para el Control de Ingreso y el Gasto Público	Revenue and Public Expenditure Control Committee of the Legislative Assembly
CONAMAJ	Comisión Nacional para el Mejoramiento de la Administración de Justicia	National Commission for the Improvement of the Administration of Justice
CONAVI	Consejo Nacional de Vialidad	National Roads Council
CRI	Asociación Costa Rica Íntegra	
CSJ	Corte Suprema de Justicia	Supreme Court
DGABCA	Dirección General de Administración de Bienes y Contratación Administrativa	General Directorate of Property Management and Administrative Procurement
DH	Defensoría de los Habitantes	Ombudsman
ICE	Instituto Costarricense de Electricidad	Costa Rican Electricity Institute
IPLEX	Instituto de Prensa y Libertad de Expresión	Press and Freedom of Speech Institute
IRM	Mecanismo de Revisión Independiente	Independent Reporting Mechanism
MH	Ministerio de Hacienda	Ministry of Finance
MICITT	Ministerio de Ciencia, Tecnología y Telecomunicaciones	Ministry of Science, Technology and Telecommunications
MIDEPLAN	Ministerio de Planificación y Política Económica	Ministry of Planning and Economic Policy
MSP	Ministerio de Seguridad Pública	Ministry of Public Security
NAP	Plan Nacional de Acción	National Action Plan
NDP	Plan Nacional de Desarrollo	National Development Plan
OECD	Organización para la Cooperación y el Desarrollo Económico	Organization for Economic Co-operation and Development
OG	Gobierno abierto	Open government
OGP	Alianza para el Gobierno Abierto	Open Government Partnership
ONG	Organizaciones no gubernamentales	Non-governmental organizations
PAC	Partido Acción Ciudadana	Acción Ciudadana Party
PLN	Partido Liberación Nacional	Liberación Nacional Party
PUSC	Partido Unidad Social Cristiana	Unidad Social Cristiana Party
RECOPE	Refinadora Costarricense de Petróleo	Costa Rican Oil Refinery
Red C	Red Ciudadana por un Gobierno Abierto	Citizen Network for Open Government
SICOP	Sistema Integrado de Compras Públicas	Public Procurement System

TSGD	Secretaría Técnica de Gobierno Digital	Technical Secretariat of Digital Government
TSE	Tribunal Supremo de Elecciones	Supreme Electoral Tribunal
UCR	Universidad de Costa Rica	University of Costa Rica
UNED	Universidad Estatal a Distancia	National Distance University

I. Executive Summary

This study aims to determine whether and how the Open Government Partnership (OGP) has been leveraged to promote a more accountable, open, and responsive government in Costa Rica.

To accomplish this aim, the study examines two specific themes: the institutionalization of the open government agenda in Costa Rica and the attempt to unify the e-procurement system, and the extent to which OGP was leveraged in each of these processes. In examining the institutionalization of the open government agenda, we focus in particular on how reformers working on this issue leveraged OGP to expand the scope, sustainability, and quality of state–civil society engagement on that agenda. By investigating the linkages between e-procurement reforms and OGP we are able to explore whether and how OGP was a factor in the implementation of a specific reform program, and whether it provides support to advocates working on a much-needed reform in Costa Rica's contemporary political landscape.

Using interviews and a thorough review of relevant literature and documents, we find that, so far, OGP inputs have provided at best modest leverage for a select group of reformers working to institutionalize the open government agenda and, especially, to broaden the scope of open government issues in the country. On the other hand, inputs have been far less useful for improving the capacity of reformers to navigate the open government journey in Costa Rica, especially as so few stakeholders, both inside and outside the government, have bought into the OGP process, and because the learning process started over when the government changed hands. Likewise, with the exception of some minor victories achieved through leveraging OGP events, the initiative has not yet been deployed to build effective coalitions and reshape power balances in the country. This is shown by the experience of the Costa Rica Open Government Commission, which is still dominated by a few government actors. Moreover, the negotiation towards the composition of the Commission concentrated the energies of most stakeholders on the formal structure of the OGP process while, in the meantime, substantive actions were neglected until the last half of 2015.

These trends play out clearly in the case of the e-procurement reform effort that, despite being an OGP commitment in the first national action plan, was unsuccessful. This case shows that the value added by OGP to Costa Rica's gradualist political environment has so far been limited.

II. Introduction

This study explores, for the first time in Costa Rica, whether and how Costa Rican open government reformers have been able to leverage OGP[1] mechanisms, processes, spaces, and assistance to improve government responsiveness and accountability. To do so, our analysis looks into two overlapping themes: the institutionalization of the open government agenda in Costa Rica and the presence (or absence) of OGP inputs in the push to reform the country's e-procurement system.[2]

The daily experiences of the OGP process have been analyzed using a rigorous and comparable methodology. The study used process tracing to carry out within-case analysis based on qualitative evidence (Collier 2011). This means that the analysis pays close attention to the sequential, fine-grained systematic description of the country's open government journey. The analysis also considers alternative causal mechanisms (the roles of leadership, learning that improves pro-reform actors' navigational expertise, and coalitions and collective action) by which OGP may have contributed (Collier, 2011). The analytical tool was adapted in consideration of the contextual limitations (e.g., the novelty of the phenomena under study) the research time frame (4–6 weeks to carry fieldwork), and the needs and interests of the project's non-academic target audience.

This paper proceeds as follows. The next section (III) introduces the national political context in which the OGP operates. Section IV looks in detail at how, if at all, pro-reform actors leveraged OGP inputs to advance the institutionalization of the open government agenda. Section V does the same with regard to the e-procurement system, the reform of which was listed as a commitment in the first OGP NAP in Costa Rica. Section VI recaps and synthesizes our findings.

The main insights of this analysis are that, to date, OGP has been of limited use in Costa Rica's open government experience. Civil society engagement with OGP is weak, the scope of topics addressed in OGP is narrow (though widening), and the sustainability of open government in general remains an open question. Indeed, political transitions have short-circuited opportunities for learning about how to more effectively navigate OGP processes. These deficits have had real consequences for open government in the country, as aptly illustrated by the e-procurement experience. The final section of this study offers tailored recommendations for stakeholder who may be interested in leveraging the OGP platform to advance reform in Costa Rica.

---

[1] In this document the acronym OGP refers to the alliance in general, as an international mechanism. In other instances there will be a specific mention of the unit, sector, or actor within the OGP when such specification is needed. When we refer to the broader concept of open government as a group of theoretical principles, we will not use an acronym but the complete phrase, in order to avoid confusion.

[2] The period analyzed is from 2012, when the country joined OGP, to the end of 2015, when the second national action plan (NAP) was launched.

III. Open Government Landscape: Contextualizing Costa Rica's OGP Journey – Gradualism and Exceptionalism

Costa Rica has stood out in the Latin American region as a stable democracy with a functional rule of law, particularly when compared with other more fragile Central American political systems. Democratic elections have taken place every four years since 1953,[3] without authoritarian episodes or internal violent conflicts, and with the total absence of an army. Costa Rica has achieved high human development indicators without relying on commodities. Governments since 1950 have made substantial social investments in the population, which currently stands at around four and half million inhabitants (UNDP, 2013).

Democratization took almost the whole 20th century. It was a complex, slow, and progressive history of back and forth, divided into three main stages: liberalization (from the end of the 19th Century to 1917, the last dictatorship), political inclusion (1919–1948), and functioning polyarchy (1948 until now) (Lehoucq, 1995; Vargas Cullell et al, 2001; Wilson and Villarreal, 2016). Current levels of democracy and human development have been gradually shaped, so as to avoid radical changes – this is sometimes referred to as the "Costa Rican rhythm," or gradualism in politics.[4] However, in the last decade support for democracy and institutional trust in Costa Rica has begun to decline (Seligson and Alfaro, 2015); see the general indicators in Annex 1.

During the first decade of the new millennium, Costa Rica's political system underwent a transformation, characterized first by the end of the two party system (which had been composed of the Liberación Nacional Party, or PLN, and the Partido Unidad Social Cristiana, or PUSC); second by a growing disaffection with the democracy's performance; and finally by the disclosure of serious cases of corruption by top level politicians, including two former Presidents (Programa Estado de la Nación, 2013; Sánchez, 2003).

In this context, the legal and institutional framework around transparency, anti-corruption, and citizen participation has changed slowly but significantly (Saborío, 2004; Wilson, 2015). In 2002, an accountability principle was included in the Constitution and several new laws were approved. The main institutional change was the creation of the Constitutional Court (Sala Constitucional) in 1989. The court had essentially an open mandate, and quickly became the strongest ruling agency in the country. Its

---

[3] The first presidential term under the 1949 Constitution went from November 1953 to April 1958, following the agreements after the civil war. Since then, national elections have ocurred every four years starting in 1958 and in even years.
[4] Straface calls this "hyper gradualism," and considers it an exhausted model for the 21st century; Gutiérrez y Straface. Democracia estable: alcanza? http://www.estadonacion.or.cr/files/biblioteca_virtual/otras_publicaciones/bid_costarica.pdf.

jurisprudence – related to due process, access to information, and transparency – is an important piece of the new political setting (Wilson and Villarreal, 2015).

From 2006 to 2014 the traditional PLN ruled for two consecutive terms. In terms of open government related policies, both administrations emphasized digital government (e-government). The 2006–2010 Administration designed a general digital government plan and created a Technical Secretariat of Digital Government (TSDG), with a view to easing public access to information and promoting transparency, especially in procurement.

Former President Laura Chinchilla (2010–2014) led Costa Rica's application to become a member of OGP in January 2012. The country was accepted in June that year after fulfilling the OGP eligibility requirements (Annex 2). The motivation to enter OGP was based on the principles and actions taken since 2006, including the use of e-government as a way to improve transparency (Aragón, 2014).

The original motivation and vision of OGP in Costa Rica limited the scope of the open government agenda in its other pillars.[5] This may explain why, even now, when the current Government launched the second NAP only in December 2015, accountability and citizen responsiveness in general are still awaiting outcomes.

During the period of transition from a two-party to a multi-party system, the government lost its capacity to unilaterally implement public policies, leading to a situation in which small parties in Congress can easily block the Executive (Vargas Cullell, 2006). The media has reported on corruption scandals with more frequency. This explains why in the 2014 elections, a new party (Citizen Action Party, or PAC) running on a platform of change, won by the largest margin of victory ever, winning 77.9% of the total vote. This party's campaign discourse focused on transparency and ethics in the public sector.

With the arrival of a PAC-led government that broke the bipartisan governments of more than two decades, a general hope for change arose based on principles of civil participation and ethics, including open government. The administration relocated the OGP's leadership, moving it from the TSGD to the Ministry of the Presidency, directly to the Vice Minister of Political Affairs and Citizen Dialogue. As will be explained in the following section, it was not until half a year after they took office that the new administration defined the person responsible for OGP and started to figure out how to

---

[5] According to the IRM Costa Rica Progress Report 2013–2014, "Costa Rica's first action plan needed wider civil society participation and over- emphasized 'e-government'. The next action plan should involve more social sectors, such as civil society outside of the metropolitan area, the private sector, and municipalities, especially through the full operation of the Open Government Commission" (Aragón, 2015, 2).

handle the second NAP. During the time this study was being carried out, the National Commission for Open Government held its first session on August 14, 2015, three months after its creation and 15 months after the PAC administration had taken office. In December 2015 – behind schedule – the new administration introduced the second OGP national action plan (Annex 3).

IV. The Institutionalization of the Open Government Agenda in Costa Rica

This section explores OGP's role in institutionalizing the open government agenda under two presidential administrations from 2012 to 2015. In particular, the research focuses on three dimensions of institutionalization: scope, sustainability, and state–civil society engagement on the open government agenda. In Costa Rica these issues determine the success of open government, since they relate to the mechanisms by which the state apparatus – ruled by a large and complex bureaucracy – is going to implement policy in practice.

OGP's influence on institutionalizing the open government agenda in Costa Rica has taken place across two phases determined by the elaboration of the two Action Plans. The first began with the Chinchilla administration's commitment to OGP, in which e-government essentially comprised the whole of the open government agenda. The second began in the second half of 2014, when Costa Rica hosted the OGP Americas Summit, and the new Solis Rivera administration changed the position of OGP's leadership in the government and began to expand the initiative's topical foci to include subjects like open data. The rest of this section explores how specific OGP inputs were used throughout these periods to inform the institutionalization of the open government agenda in Costa Rica.

OGP inputs have provided support to open government reformers in four key ways:

1) International and regional events have served as a platform through which a few members of civil society can exert limited leverage on the government;

2) Financial and technical cooperation provided through OGP, including direct country support from the OGP Support Unit, have informed the design and content of some open government initiatives, as well as cooperation;

3) IRM reports and national action plan processes have been a means by which to apply pressure on the government to adhere to its (limited) open government plans; and

4) OGP has served as a means through which to disseminate open government values, very slightly, beyond the executive branch.

We now explain how OGP inputs have informed the three dimensions of institutionalization defined above.

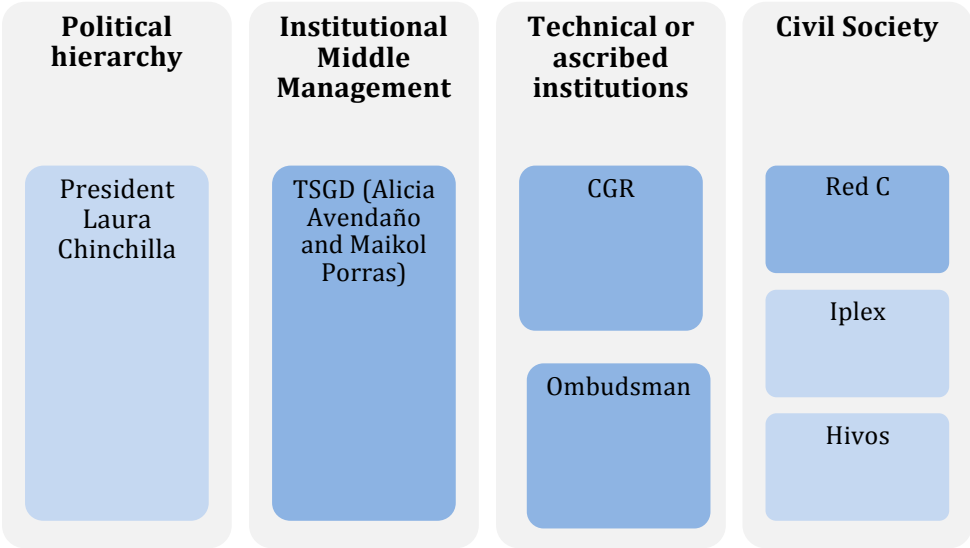*Table 1: Summary of the Institutionalization of Open Government in Costa Rica's OGP Journey*

Institutionalization of the open government agenda	Pre-OGP	By the first OGP NAP	By the second OGP NAP
Scope	E-government and transparency as a strategy against corruption	E-government focused on procurement	Open data, access to information, anti-corruption, and civil society participation
Sustainability	ICE supported e-government program and control institutions promoted transparency agenda	Resources from Technical Secretariat of Digital Government as a department within one of the biggest autonomous institutions (ICE)	Included in the National Development Plan with Vice-Minister of the Presidency as leader; four-year period minimum, 2015–2018
CSO participation in state decision-making	No specialized civil society on Open Government No NGOs articulation and leverage Government without will and capacities to offer civil society participation in decision-making	Very few NGOs specialized in Open Government Very basic NGOs articulation Government without instrumental will to offer civil society participation in decision-making, and no capacities for it	Very few NGOs specialized in OG, some original actors away Very basic civil society articulation and leverage Broader consultation for NAP Government willing to offer CSO participation

IV.1 Scope of the Open Government Agenda

Before Costa Rica joined the OGP, e-government and anti-corruption were the main focus areas in what later became known as the open government agenda. The e-government program, with a unified e-procurement platform (Mer-Link) as the spearhead, was the Chinchilla administration's intended strategy for dealing with demands for transparency due to multiple corruption scandals. Chinchilla's vision was that this e-procurement platform could silently transform from the inside the way the Administration dealt with public funds, and then through it promote transparency

(Chinchilla, interview, August 19, 2015). When Costa Rica became an OGP partner in 2012, the Government appointed the TSGD as the national coordinator.[6] The General Secretary of the TSDG, Alicia Avendaño, had a leading role in the process and was the key reformer inside the public sector in terms of open data during the first NAP.[7] Figure 1 shows the simple structure of participation in OGP during the Chinchilla administration, where key pro-reformers were located at the institutional middle management level.

Figure 1: Relevant stakeholders in open government, including OGP, for the Chinchilla administration, by position 2010–2014

Political hierarchy	Institutional Middle Management	Technical or ascribed institutions	Civil Society
President Laura Chinchilla	TSGD (Alicia Avendaño and Maikol Porras)	CGR	Red C
		Ombudsman	Iplex
			Hivos

Note: See Annex 8 for typology of actors.

During this time, OGP was not managed as a political process, but as a technical one predicated primarily on the idea of e-government. OGP's narrow structure had both benefits and drawbacks. On the positive side, the e-government-focused agenda within OGP, and Avendaño's leadership of the OGP initiative, gave Avendaño strong leverage to pursue her mandate within the administration. This allowed e-government efforts to move forward in a complex environment in a public sector that was resistant to change, at least during the Chinchilla administration. On the negative side, the decision to give the OGP leadership to the TSDG restricted the development of other open government

---

[6] The administration decided that a mid-range institution – the TSDG – would lead the process, according to former President Chinchilla, due to the structural weakness of the Ministries of Science and Technology (MICIT) and of Public Planning (MIDEPLAN) (Interview Chinchilla, 2015).

[7] Avendaño, a former Congresswoman, had been an expert advisor to Chinchilla for years. She was appointed General Secretary of Digital Government in 2006, located in the ICE positions until 2014 when PAC took office and moved her and that Directorate to a smaller institution (RACSA).

initiatives during the first NAP, making e-government the primary area of emphasis. The government continued the open government journey it had set up for itself, rather than change it due to OGP.

The new administration of Solís Rivera took office on May 2014. When it did so, it restructured the position of OGP in the administration and shifted its topical focus. Open government, which had been part of the PAC's electoral platform, was now a political issue, and included anti-corruption and participation as well as technical issues like e-government.[8] The Vice Minister of the Presidency took charge of OGP. In addition, the administration also initiated a number of dialogue mechanisms meant to open other sectors of the government, although many of these efforts were not linked to the OGP action plan cycle.

Before her appointment, the Vice Minister had had little direct involvement with OGP.[9] OGP's Support Unit has provided her with general advice about how to pursue her mandate. She is leading 35 points of contact within different public institutions, an important step forward in order to create a broad platform of open government in the public sector.[10] This is also an opportunity to raise awareness among public officers, especially those at top and mid-level about OGP principles, and then train them to lead and manage open government policies across a variety of subject areas, including open data and access to information.

This change in the political leadership is widely considered a positive one, enabling the new administration to begin realizing its political aspirations by broadening the scope of open government initiatives, both inside and outside OGP. Consultations, the national action plan process, the national steering committee, institutional points of contact, and assistance from the OGP Support Unit have all given the government leverage to pursue and broaden its anti-corruption/transparency/participation mandates.

Although the Independent Reporting Mechanism's assessment of the first NAP was badly disseminated, which meant it was not used as much it perhaps should have been, the external pressure it provided gave leverage to reformers hoping to expand the scope of the second action plan. The negativity of the report was also salient, especially in Costa Rica, where the government is used to having a reputation of being at the

---

[8] Notably, the new administration announced that the existing e-procurement platform, Mer-Link, would be replaced with the new Costa Rican Procurement System (SICOP). This decision, and its connections to OGP, will be unpacked thoroughly in the next section.
[9] The Vice Minister accepted in the interview that she knew OGP in detail once she received the mandate from the former Minister of Presidency (who was removed in May 2015) around three months after taking office. She mentioned having her first encounter with OGP when she was advisor to a Congressman in the past Administration (2010–2014) because of her relationship with Mario Céspedes from the Red de Control Ciudadano and Carolina Flores from the Colectivo por los Derechos Digitales, both members of Red-C. Now, Cespedes is one of the advisors of Vice-Minister Zúñiga.
[10] For more information about institutional contacts and the process, see http://gobiernoabierto.go.cr/proceso-2/.

forefront of democracy and transparency. For government top-level officers in particular, maintaining and improving international recognition, and making sure the country is moving forward in the process to join the OECD,[11] is a key incentive for participating in initiatives like OGP (Espinoza, Chinchilla, and Zúñiga, 2015). In the last two years, there have been at least three missions from the OECD related to OGP, during which OECD experts assessed the level of compliance with their standards of "Public Governance." Their reviews have included questions about open government.[12] This shows that the external validation available through OGP is an important factor.

OGP meetings are another input that is used to expand the scope of the open government agenda. Government champions have used, for example, the 2013 Summit in London to push the judicial branch to commit to enacting an internal openness policy. This they will begin 2016 with the support of CEPAL. In a similar situation, the Open Parliament Alliance (AAA) attempted to get the legislature involved in open government reforms.[13] Those efforts, however, have yet to bear fruit.

As shown in Figure 2, OGP has complemented the administration's political mandate, and the second national plan process involves more political actors, a larger institutional network, and a broader concept of civil society, including private sector and academe. Decisions on the scope of the agenda are still driven by government, but avenues for broadening open government exist, and are in action.
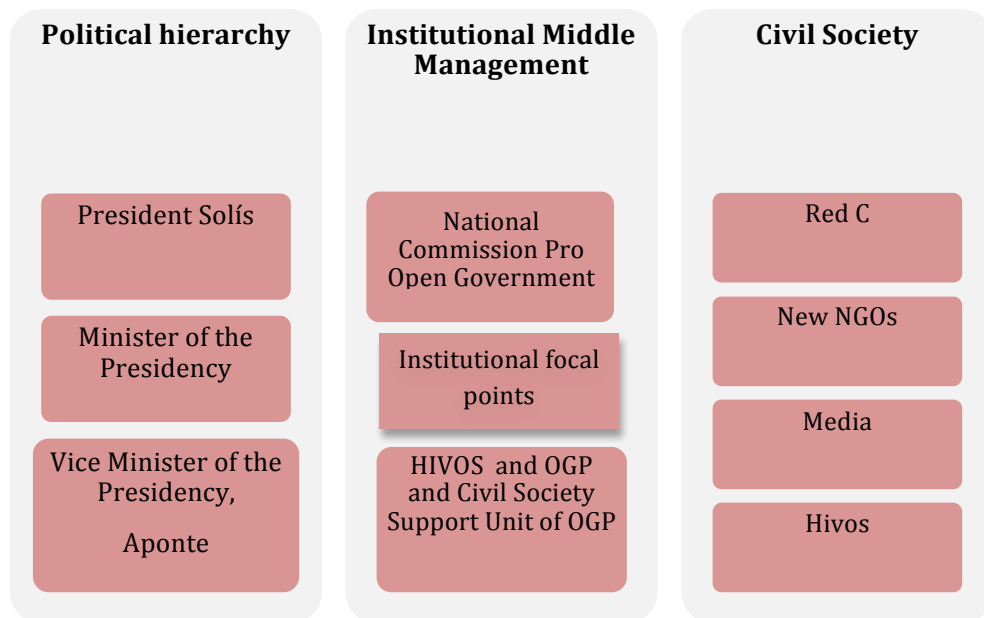
---

[11] Costa Rica`s plan to become an OECD member included two subjects related to OGP: anti-corruption legislation and public governance. See especially pages 12 and 16:
http://www.comex.go.cr/sala_prensa/comunicados/comunicados/2015/Programa%20de%20Adhesion%20de%20Costa%20Rica.pdf
[12] As Costa Rica Íntegra, we were invited to three meetings of OECD missions: December, 2013, July 4, 2015, and November, 2015.
[13] The current directory elected in May 2015, a coalition of parties opposing the official party that ruled in the first year, has shown openness to the initiative, but their period finishes in May, 2016. The AAA is a new coaltion of NGOs that integrated some of the organizations and people already involved in the national action plan (Costa Rica Íntegra, IPLEX, Abriendo Datos), as well as some new ones in this subject (Ojo al voto, Accesa).

Figure 2: Relevant stakeholders in open government including OGP for the Solis Rivera administration, by position, 2014–2015

Political hierarchy	Institutional Middle Management	Civil Society
President Solís	National Commission Pro Open Government	Red C
Minister of the Presidency	Institutional focal points	New NGOs
Vice Minister of the Presidency, Aponte	HIVOS and OGP and Civil Society Support Unit of OGP	Media
		Hivos

Source: Compiled by the author based on interviews and official documents.

IV.2 State–Civil Society Engagement on the Open Government Agenda

The second NAP has shown an improvement on the dimension of state–civil society engagement in comparison to the first in terms of consultation. However, permanent citizen engagement is still a work in progress. This includes the trust building that was eroded during the negotiations around the decrees of the national steering committee (Zúñiga, interview, August 14, 2015).

Some OGP inputs, in particular the national action plan cycle, consultation processes, the facilitation of the Support Unit, and regional/international events have affected the ways in which the state and civil society interact on open government in Costa Rica. They have generated a context in which to advocate for some participation from civil society, although the limits of that participation are demonstrated by the ultimate lack of success civil society champions had when urging both administrations to modify Executive Decrees that were not in line with what had been negotiated.[14]

---

[14] For the first decree, the pressure was unsuccessfully made through Alicia Avendaño, in charge of the TSDG, using letters and informal channels. The decree was signed changing the names that were originally elected by Red-C, arguing that these organizations did not have an official mandate, except Costa Rica Íntegra, which was effectively appointed. Under potential threat of a public denunciation from Red-C, the government did not call the Commission and this decree was never implemented. For the second decree, the Vice Minister of the Presidency negotiated and agreed to keep the original three representatives of Red-C, but

IV.2.i The First NAP

Civil society was not really consulted about the first NAP (except for a nominal and symbolic consultation). Over time, various NGOs who pushed for engagement during the first NAP have moved away from participating in the OGP process.

The TSDG did not really develop collaboration dynamics with organized civil society. This shows that the collaboration principle of OGP was not a priority under the Chinchilla Administration, following the international pattern of disregarding civil engagement in the OGP process (Guerrero and Krafchik, 2015; Brockmyer and Fox, 2015; Entrevista E. Martínez, 2015).[15]

Costa Rica Integra and the Alliance for the Freedom of Expression and Information were two of the first leading NGOs in Costa Rica to engage with OGP. Both were motivated to do so by the international organizations with which they were affiliated.[16] In 2013, these CSOs led the creation of Red-C,[17] which brought together a coalition of organizations working on topics related to open government. The goal was to advocate jointly for open government priorities in the context of the first NAP. TSDG, which led the OGP process, made Red-C responsible for suggesting one civil society representative for the upcoming National Commission, but Red-C pushed for three seats instead, arguing that there was a clear imbalance in favour of the government. When the executive decree announcing the Commission's members was published, at the end of the Chinchilla administration's term, the government gave the members of Red-C only one seat, while two other non-state seats were given to a union and a consumer representative. Moreover, despite Red-C's activism, TSGD did not promote substantive engagement in the design, implementation, or evaluation of the first NAP. For example, the government's self assessment report was sent to Red-C for comments with a short deadline[18] and the TSGD never explained whether this feedback was incorporated or not in the document.

---

previous to the President's signature the text was changed again to include one single citizen representative (an anti-corruption tzar). This took place during the Americas OGP summit, which Red-C used to threaten the government with a major scandal during the inauguration ceremony. This helped to avoid the signature that day. The current decree was aproved months later, still with an under-representation of civil society on the national steering committee (two out of 11, or four if considering academe and private sector).

[15] "The IRM's 2014 Technical Report, based on the second cohort of participating governments, found that few countries were meeting all of OGP's expectations for consultations with civil society. OGP has tried to address this by providing additional guidance specifying that "regular consultation" can best be achieved through a "permanent dialogue mechanism" (Brockmyer and Fox, 2015). However, OGP does not expect or is prepared to support complex and long-term negotiations towards the installation of such a mechanism.

[16] Transparency International and the OAS, respectively.

[17] Red-C (Citizen Network for an Open Government) was funded in June 2013, after the presentation of the first NAP. The CSO members are: Colectivo Costarricense por los Derechos Digitales, Coope SoliDar R.L., Costa Rica Íntegra, Fundación Acceso, Indignados CR/Vox Populi, Red de Control Ciudadano and Ticoblogger, as well as individuals from Bloque Ciudadano. Its purpose was to constitute a platform to promote transparency, access to information, and anti-corruption public policies in Costa Rica, in the context of the OGP process.

[18] The letter was sent September 23 (ICE # 069-537-2014) and the deadline was September 30.

IV.2.ii The Second NAP

For the second action plan, a formal national consultation process was carried out by external facilitators, including Abriendo Datos, ACCESA, and the Manatí (a CSO consortium). The process was sponsored by Hivos.[19] However, whether these inputs have actually contributed to more substantive engagement remains to be seen, especially as state–civil society trust has eroded during the negotiations of these events, adding to a context of increasing citizen disaffection with politics. Some of the original NGOs from the Red-C are no longer involved in the process due to the limited space available for criticism and real chances to impact the NAP (Silesky, interview, August 3, 2015, and Flores, interview, August 18, 2015).

As noted, in 2014, a new government arrived in office, led by the PAC, which had run on a strong anti-corruption/transparency/participation platform. CSOs, including the members of Red-C, had high expectations that they would be able to engage more fruitfully with the government on open government matters. As such, Red-C insisted on a more balanced integration of the national steering committee and asked that their three representatives now be included in the National Open Government Commission.

Previous OGP Summits and meetings, held in 2013 and 2014, had enabled some members of civil society to connect with the government for the first time, and begin establishing deeper relationships with government leaders. The Americas OGP Summit of November 2014 built on previous events, and influenced the negotiations in two ways. First, the Summit enabled civil society leaders from Red-C to meet with the government in sessions facilitated by the OGP Support Unit. Second, the attention that the Summit brought (it took place in San José) made government negotiators more willing to listen to the concerns of CSOs, who were opposing a proposed reduction in the number of seats for civil society in the Commission. If civil society had walked out of the Summit in protest, for example, this would have reflected badly on the newly elected, ostensibly reform-minded government. Consequently, the government refrained from releasing a decree that would reduce civil society representation at that time.

The leverage provided by the Summit only went so far, however. Once the Summit had concluded, after eight months of negotiations the government announced a new formula for determining representation on the commission. CSOs would self-nominate, and the Minister of the Presidency, the new home of OGP in the government, would then pick two organizations to join the Commission. Costa Rica Integra and Abriendo Datos were selected. Both are focused on pursuing their own agendas (which

---

[19] Hivos' headquarters in The Netherlands finance the OGP's Support Unit/IRM/CSO. In Costa Rica, since the country entered into OGP they have facilitated efforts to incorporate CSOs in the journey (Entrevista Ruiz, Ana Sofía. 2015).

predate OGP) on the Commission. The consultation for the second NAP registered 74 participating organizations (139 persons), but there is little sign that those CSOs are attempting to pursue broad-based collaboration, as evidenced by the lack of interest in reviving Red-C.

Those engaged in OGP, both from civil society and government, do so because of personal relationships they have with the OGP Support Unit or international networks (such as the Alianza, Open Data, or Transparency International). This means that, rather than institutionalizing interaction within OGP mechanisms, methods of negotiation and collaboration remain informal, which discourages sustainability and learning. Second, not all support provided to the government and civil society is public and/or evaluated. For example, because the presidency did not have the requisite financial resources, Hivos, a donor, financially supported the consultations around the second national action plan through a private consultancy. The link between the Hivos consultancy and the methodology proposed by the OGP Civil Society unit for use in the second action plan is not clear, as little information was made available about the consultancy by the government, while Hivos presented it as a private initiative. This is problematic: as an international NGO, Hivos is accountable to neither citizens nor the broader public, and as one of the few sponsors of OGP in Costa Rica it may be exerting a profound influence on OGP processes.

This means that OGP, to date, has not provided a platform for comprehensively improving or broadening the way civil society and the state cooperate on open government. The same thing has happened under two very different administrations: the administration initially indicated its willingness to expand the space for collaboration, but then reversed course, announcing decrees that restricted civil society's role in open government (and OGP) initiatives. Consequently, most CSOs, especially those involved with Red-C,[20] have become sceptical of the government's willingness to engage on open government, and of the potential of the OGP initiative overall. Therefore, the OGP NAP process created an unintended consequence – it forced everyone to look at the formal structure of the process (the quality of state–civil society engagement or the conditions for it), while in the meantime the substantive issues were forgotten until the National Commission began work at the end of 2015.

After this experience, there is little likelihood of a new civil society platform appearing to shape engagement with the state on open government issues. The

---

[20] Indeed, Red-C, as a single group, has not had a leading role in the design of the second NAP. The lackluster performance of the Red-C leaders was due to a lack of results, slowness, frustrated negotiations, and the need for these NGOS to prioritize their own particular agenda before OGP (Yanez, interview, July 22, 2015; Flores, interview, August 18, 2015; Silesky, interview, August 3, 2015; and Delgado, interview, August 18, 2015), especially in light of the lack of tangible success to date in OGP processes.

mobilizing capacity of CSOs has not improved, and in fact may have deteriorated due to the hard feelings and rivalries created between organizations seeking leadership within the OGP process (Silesky, interview, August 3, 2015). Some CSOs have been able to use OGP inputs to exert leverage on the government in the interests of pursuing their own particular agendas, but certainly not all, and no broad civil society agenda is in play within the OGP journey.[21]

IV.3 Sustainability of the Open Government Agenda

In Costa Rica sustainability is a challenge for any new public policy area. Governments have typically focused on trade, social issues, foreign policy, and the environment, leaving little room for subjects like open government.[22] Gradualism, not radical and sudden change, is the Costa Rican tradition.

Prior to joining OGP, the agenda of open government, as such, was not a core government focus. The CGR and the Constitutional Court led some actions on anti-corruption and transparency, but these were not part of their core roles, and resources were scarce. E-government was under the charge of an autonomous institution (ICE), outside of the executive branch, although unlike other initiatives that might fall within the open government sphere, it was amply resourced.

In terms of the sustainability[23] of the open government agenda, there has been a bit of progress in recent years: aspects of open government are now part of the National Development Plan, a four-year general policy that the government will follow throughout the current administration (although National Development Plans do not usually have inter-administration continuity since they express the will of each president and change when they leave; this is especially salient in Costa Rica, where presidents cannot be elected for consecutive terms).

Three current OGP factors that might promote continuity of open government processes are the inclusion of expanded citizen participation in the consultations on the second NAP; the recent executive decree calling for a National Commission for Open Government, with two representatives of NGOs; and the recently appointed points of

---

[21] The election of the PAC brought many civil society leaders to governmental positions. There are not rigorous analyses of how civil society changed in this period, but the suspicion is that dialogue has being more frequent and, for example, the number of protests has decreased during the first year of the current administration (PEN, 2015). In the case of Red-C, two original founders (from Red de Control Ciudadano y Coope Solidar) moved to executive positions. It should be noted that The Vice Minister of the Presidency, the current leader of OGP process, has been able to maintain a dialogue with NGOs, showing a greater will to give civil society a voice in the process. Nevertheless, it is too early to see real engagement, in terms of what OGP promotes. The progress may only be seen as long as the NAP design and implementation and evaluation move forward.

[22] Even the new government of a non-traditional party did not differ much from previous governments regarding these core subjects (PEN, 2015).

[23] Sustainability does not mean stability or a complete lack of changes, since it also requires adaptation over time and across changing social, economic, and political contexts.

contact in 35 institutions.[24] The challenge is whether these inputs will engender long-term sustainability of concrete open government initiatives, as they do not guarantee that new governments will not restart the process with a new approach to open government principles (as is true, it must be said, of all policy initiatives in the country).[25]

In sum, our research shows that OGP inputs have affected the institutionalization of open government in Costa Rica in various ways. Various OGP inputs have overlapped with the reformist political agenda of the new presidential administration, and their interaction suggests that the sustainability of the open government agenda might modestly improve as a result. OGP events and meetings have also provided a platform from which pro-reform actors can use external pressure, opportunities for collaboration, and other tools to begin expanding some aspects of the scope of the open government agenda. Where engagement between the state and civil society is concerned, however, OGP processes have been less inclusive than promised. Although regional and international events, in particular, have given select civil society actors opportunities to pressure the government, they appear to be engendering some skepticism about the ways in which the state and civil society, as well as CSOs themselves, can effectively collaborate on open government. Moreover, as noted, OGP NAP cycles created an unintended consequence, pushing stakeholders to focus on formal OGP processes, rather than the substantive agenda (at least until the second half of 2015 – see Annex 4).

Learning processes within OGP are limited, power balances are persistent, and only a few pro-reform actors appear to have been empowered. In the following section, we use the country's experience with e-procurement, the reform of which was a commitment in the first OGP NAP but forgotten in the second one, to explore these dynamics in the context of a specific open government reform process.

---

[24] See current Executive Decree in: http://www.imprenal.go.cr/pub/2015/05/13/COMP_13_05_2015.pdf. A previous decree (April 3, 2014) also created an Open Government Inter-institutional Commission, but it was not executed since the government ended and the new one replaced it with a new decree with a different membership.
[25] Due to the relative weak powers accorded to the executive in Costa Rica, strong institutional roots are essential for any fundamental reform to persist across administrations.

V. How OGP Comes into Play in a Reform Process

The previous section argues that OGP has, at best, contributed modestly to some aspects of the institutionalization of open government in Costa Rica. At worst, the initiative may have actually helped bring about the deterioration of state–civil society engagement on open government issues, and OGP tools have been of limited use in driving reform in the Costa Rican context. These trends play out in the case of the e-procurement unification process from 2000–2015, illustrating that, despite the potential of apparent linkages between OGP and e-procurement, and the inclusion of e-procurement reform as a commitment on the first NAP, reformers have not been able to use OGP tools to meaningfully influence the e-procurement process. Indeed, this experience demonstrates how open government initiatives championed by the government remain largely discursive, and are often not implemented with a concrete, practical strategy flowing from OGP inputs.

V.1 Unifying E-Procurement Platforms: A Long Planned Reform

The institutionalization of the public procurement system goes back to 2001 and the inception of CompraRed as an electronic system set up by the Ministry of Finance in order to "promote transparency, efficiency, effectiveness and regional and global integration of procurement management of the Costa Rican State." CompraRed is for the use of the Executive branch and its agencies (see Annex 5).

In March 2010, the Electronic System of Public Procurement, the Online Marketplace, known as Mer-Link, was sponsored by the Costa Rican Electricity Institute (ICE) and the TSDG. Mer-Link allows State procurement agencies to buy and sell products and services electronically.[26]

In 2012, the country began to unify the state's public procurement system that was based on the two main platforms for public procurement:[27] CompraRed and Mer-Link. This process, which involves evaluating and choosing the best software system, has been marked by confrontations between senior political representatives and mid-range employees of public institutions, without reaching a final political decision so far. The advantages and disadvantages of each platform have been discussed widely during the past three years (Sasso, 2013). At the root of this conflict is the question of how to combat corruption through e-procurement platforms. This is particularly relevant

---

[26] This system is based on South Korea's KONEPS model, whose design has been the basis for procurement models in several countries. It has received awards from international organizations such as the UN, OECD, and the Asia Pacific Council. In 2012, the TSDG reported a total of 40 institutions using Mer-Link for their purchases, including state banks, public universities, autonomous institutions, and municipalities.
[27] In Costa Rica there are at least 15 different platforms for public procurement and information registry. The two main ones are CompraRed and Mer-Link.

in Costa Rica when one considers that the volume of public procurement is estimated at 15% of GDP.

In 2012, the General Comptroller of the Republic (GCR) made a recommendation to President Chinchilla to "integrate and as much as possible, unify the multiple platforms that support procurement processes with different ranges in the state's institutions (including those that might be in development); so that within the regulatory framework for these matters, the benefits (economies of scale, control, process simplification, agility and comfort for users and suppliers) may be achieved in a centralized, unified and integrated national procurement system" (GCR 2012).

In August 2012, President Chinchilla created the Committee for the National Public Procurement System, with the aim of developing an action plan for establishing the National Public Procurement System. It is worth noting that a number of institutional criteria and political committees agreed on the need for unification on one platform, as was the case of the Notables Committee established by President Chinchilla in 2012, the GCR reports of 2012 and 2015, and in the opinion of the Revenue and Public Expenditure Control Committee of the Legislative Assembly.

Parallel to this process, the same office – TSDG – carried out the first OGP National Action Plan. As described before, this was a compilation of ongoing e-government projects, and the unification of Mer-Link was included as a commitment. Chinchilla declared that this initiative was important, and its inclusion in the NAP was intended to build more political support in order to overcome opposition to the reform (interview, Chinchilla August 19, 2015). Despite this emphasis, and despite having promoted the integration of e-procurement systems into one universal platform since 2010, the administration was unable to accomplish its aim by the end of Chinchilla's term, as planned,[28] although less controversial commitments were achieved.[29] Technical and operational barriers, as well as strong institutional opposition, especially from mid-level managers in the Ministry of Finance, doomed the e-procurement reform.

Once the Solis Rivera administration came to power, it continued to emphasize the importance of sorting out e-procurement issues. The new head of the Ministry of Finance, however, did not endorse the previous administration's decision to use Mer-Link as the unifying procurement platform. Indeed, by January 2015 the Minister of Finance announced the launch of a new system, the Public Procurement System

---

[28] The IRM Report in 2014 considered that this action had limited development and suggested keeping it as a priority for the Second NAP (Aragón, 2014)

[29] 4 out of 23 commitments of the first NAP were completed according to the IRM: 1)Feasibility study for modernizing the postal service, 2) Digital Citizen Security, 3) Sanitary registration for products and 4) Forum on access to information and participation in environmental topics. (Aragón, 2014).

(SICOP). SICOP will use CompraRed and Mer-Link specifications, but will be used only by ministries, not other institutions. The initial objective, to unify the entire public sector under one procurement software, is still championed on paper, despite the change in administration (Annex 6).

V.2 Missing Links: E-Procurement and OGP

As noted, Costa Rica joined OGP in 2012, and included e-procurement integration as a commitment on its first National Action Plan. That commitment was not fulfilled, even though both of the presidential administrations in power over this period have named e-procurement as a vital issue for open government. Clearly, the inclusion of an e-procurement commitment in OGP did not hugely influence the political dynamics hindering reform. The question, for the purposes of this study, is why? Why were open government reformers unable to leverage OGP's resources to rebalance power, empower leaders, or learn to successfully navigate the reform environment and drive progress on a reform meant to reduce corruption and improve transparency in a vital aspect of government activities?

Given the considerable amounts of money involved in procurement processes, many strong actors and institutions within the government sought to protect their interests, and advance their particular alternatives to the proposed integration. Even though President Chinchilla and her Minister of Finance initiated the reform process, mid-level managers in the Ministry of Finance were particularly against system unification, as it would take power away from the ministry and transfer it to TSDG, the institutional progenitor of Mer-Link. Other state institutions also opposed a migration to Mer-Link, for similar reasons. Personal differences between the bureaucrats involved may have also been a factor (Annex 7). OGP resources (financial and technical, as well as international events) could not inform this open government reform process, as made clear by the primary and secondary documents consulted during this research, and by the many interviews conducted.

OGP inputs were insufficient in two key ways. First, pro-reform leaders at the head of government failed to disseminate knowledge about OGP, and about the benefits of openness more broadly, across the public sector. This meant that it was impossible for the proposed reform to overcome institutional resistance within government departments. With more leverage of existing OGP resources, and more proactive attention to building support within government for this type of anti-corruption reform, it is possible that the e-procurement story would have played out differently. Second, the change in administration, and the change in personnel that resulted, short-

circuited the reform process. The national action plan cycle informed this failure, as did the short time horizon on OGP commitments, which made it difficult for the initiative to remain relevant to medium to long-term reform processes like the one described above. It is possible that, with a fixed institutional structure for OGP in the Costa Rican government landscape, it might have been possible to address both of these failings. Without one, however, reformers struggled to obtain leverage. The absence of civil society or media to push for the reform after the change in administration was also problematic. Because the participation of such actors was limited throughout the process, and there was a lack of general awareness within the government of OGP, it was difficult for Chinchilla and others to use OGP to build institutional and political support that would persist past a new election.

The change of government in 2014 altered the political landscape on this issue. After the transition, the alignment of actors was more favorable for CompraRed than for Mer-Link. As a result, the political hierarchy (Minister of Finance) and middle managers agreed to stop the process that was in progress, halting tests to unify CompraRed with Mer-Link to evaluate the issues of costs and other variables described above. This occurred despite the insistence by technical and ascribed agencies on continuing the migration to Mer-Link. This reflects the greater relative weight that the political hierarchy has in these issues at the top level, but also shows the influence of mid-level managers in impeding or facilitating reform efforts, especially in a country like Costa Rica where reforms are usually carried out gradually and incrementally.

The e-procurement experience therefore demonstrates the ways in which OGP inputs have not, as yet, informed concrete open government reforms in Costa Rica. Pro-reform leaders in the Chinchilla administration were unable to leverage the OGP platform to secure the institutional buy in necessary to push through e-procurement reform, or to build the coalitions necessary to get support from middle managers or the new Solis Rivera administration in the reform effort. Indeed, since citizen participation was limited in the first NAP cycle, and civil society was largely excluded, there was little external pressure to comply with the e-procurement commitment on the action plan. The lack of a permanent institutional mechanism for implementing OGP efforts was also a complicating factor. When power changed hands after the election, and top-level reform champions departed, it was difficult to carry through on the reform. OGP, therefore, did not meaningfully inform this process.

VI. Rethinking Costa Rica's OGP Journey

This section aims to re-interpret the lessons from the process tracing to answer the general research question: how, if at all, has OGP enabled reformers working in the open government sphere in Costa Rica to promote accountable, open, and responsive governance? Have the causal mechanisms associated with OGP's theory of change, including the empowerment of reform leaders, coalitions that rebalance power, and learning to navigate political context more effectively, been at play in Costa Rica?

To answer these questions, this case has traced the actions and decisions taken by key actors in Costa Rica throughout the country's experience with OGP, as well as through the efforts to reform the e-procurement system. We find that none of the expected pathways associated with OGP's theory of change have yet to really materialize in the local context. Some pro-reform leaders, especially those within the upper echelons of government, have used OGP to expand the scope of the open government agenda beyond e-government. Other aspects of institutionalization, however, remain less than robust. To date, therefore, OGP has contributed at best minimally to more open, responsive, and accountable governance in Costa Rica.

In the remainder of this section, we go beyond these high-level findings to analyze how OGP is playing out, and has played out, in the unique context of Costa Rica. Beyond these general findings and the process described, this section includes crucial questions for this research: what has OGP come to mean in practice? How has the framing of OGP changed between the two phases? Is the way in which it is understood and the goals it is supposed to support still the same? Or has OGP played a role in the creation of accountability deficits? Is OGP expanding opportunities for genuine CSO engagement?

VI.1 Improving Navigational Expertise? Project-Cycle-Driven NAPs Limit Learning Across Sectors

The preceding narrative illustrates how Costa Rican reformers are still in the process of discovering the potential leverage of OGP. To varying degrees, both the government and CSOs have used OGP as a parallel process to help them achieve pre-existing aims, sometimes as a project cycle related to action plans rather than as a platform to leverage old and new much-needed structural reforms. The Chinchilla Administration restricted open government to its ongoing e-government agenda, which might be a good strategy if open government principles were able to influence the preexisting initiatives. But as was shown by the e-procurement example, this was not the case. Furthermore, e-government in general ended up defining most of the first National

Action Plan, and, in turn, informed the narrow way in which open government was understood throughout the country. The new administration is expanding the scope of open government, but the OGP Second NAP is not a fundamental tool through which it is doing so. Indeed, most of the Solis Rivera administration's citizen dialogues and transparency efforts fall outside the OGP process (for example, e-procurement). OGP does not seem to provide enough leverage to advance a wider open government agenda beyond the short-term commitments that can be defined in the NAP cycle. This applies to both government and CSOs.

Because personalities are so influential in the context of Costa Rica's open government landscape, it has been difficult for navigational expertise to persist across changes in administrations, especially given the radical political change that the power transition represents. From the first to second NAP cycles, there was little learning among the relatively small set of stakeholders engaged in OGP, including civil society. Actors have not quite learned how to build trust effectively with one another, and in some cases OGP may have stimulated the opposite effect, especially between CSOs and government and among civil society groups more generally.

Costa Rica's current OGP champions, especially inside the new government, are just now learning to navigate the politics of the OGP National Action Pan cycle from square one. This research has indicated that in the absence of high-level learning about these topics, or coordinated civil society/CSO–government action, middle management in the bureaucracy that has had little involvement in OGP can block proposed changes on open government issues. Indeed, as happens in many other policy areas, the new government has needed time to become familiar with the machinery of government, and this has affected ongoing strategies, such as OGP.

VI.2 Empowering Pro-Reform Leaders? The Missing Link: Bureaucracies

Related to this, the ability of open government champions to use OGP to leverage progress towards a more open, accountable, and responsive government is challenged by the absence of the Costa Rican bureaucracy from OGP processes. Without the support of bureaucrats, who in Costa Rica have a high degree of stability and autonomy in implementing policy,[30] maintaining open government reform across administrations is infeasible, especially when combined with the breakdown of the previous bipartisan political system in Costa Rica and the arrival of a new political leadership without public administration expertise. Governments change every four years, but bureaucrats remain

---

[30] Compared to other Central American countries, the Costa Rican state has an important stability, given the widespread civil service and a weak powers of a Presidency that only controls one third of the public budget and cannot change middle level managements (directors). The autonomous institutions, most of them with citizen representatives on their boards, constitute the largest and richest swathe of public sector actors (PEN, 2011).

for their lifetimes and can decide whether a public policy continues. Indeed, without the engagement of mid-level managers or strongly empowered civil society leaders to exert pressure on the bureaucracy, there is no institutional impetus to pursue pre-established reforms after a power transition. Since open government is, at best, weakly institutionalized, commitments depend on the judgment of politicians in charge. The OGP process over its two different phases has not addressed this central challenge for public servants, which has seriously impeded the navigational expertise of reformist governments. Leadership from the President is necessary but not sufficient to implement open government reforms, with absent bureaucracies and weak civil society coalitions for support.

In this light, the new government points of contact in charge of promoting OGP throughout the public sector represent a great opportunity to remedy this problem. More generally, citizens and organized civil society are largely unaware of open government, and OGP has not been applied beyond high-level reformers. Due to the lack of dissemination of OGP, Costa Rica has not taken advantage of OGP resources (such as global good practices, technical advice, and political support on policies). As the interviews showed, these tools have been used by a small group of people in a very informal (conversations) and sporadic (emergencies) way. International events have been the main tools for putting pressure on Costa Rican governments to respect their commitments with OGP and civil society.

VI.3 Solving Collective Action Problems? Civil Society Engagement with the Government is Just Beginning

Organized civil society engagement in OGP has been very difficult. Costa Rican stakeholders have focused on the process formally, almost unlearning how to fruitfully collaborate and support change. It has taken three years for civil society to negotiate two seats next to the government in a National Commission to participate in the OGP process. However, this is a minority representation that is dominated by the president, who makes the appointments. A very small group of NGOs had a leading role in promoting and putting pressure on both governments to create room for wider citizen participation, not only promoting its interests but also promoting mechanisms by which any other NGO or citizen could do it. However, these actions did not widen the scope of the first NAP, especially in terms of accountability or anti-corruption.

Civil society has shown growing leverage to block counter-reform actions from both Administrations in terms of obtaining some formal representation in the OGP National Commission, but it is not clear if they have learned how to influence the agenda on substantive, not formal, issues. For example Red-C, as a CSO platform, has

had a key role in pushing for openness from the Government, but it has not successfully promoted the production of concrete outputs. NGOs have worked out, using mostly their own (pre-OGP) tools, how to influence the government, and have added some OGP tools (deadlines, events) in order to have more influence, but the degree to which this is effective remains to be seen as the second NAP cycle develops.

The second NAP has been consulted on with civil society, through a facilitated external process, although not under international standards of consultation, collaboration, and engagement. This represents progress, since the first NAP was not consulted on. However, a functional mechanism for engaging civil society in its definition, implementation, monitoring, and evaluation is still pending. The Commission should address this challenge and OGP inputs do not seem to offer resources for such an important need.

A small group of organized civil society (as of recently, this includes representatives of the private sector [UCCAEP] and academe [CONARE]) in Costa Rica has developed important expertise and leverage on open government. This limits the possibilities of developing more leverage to push for open government reforms. Although this is not a novelty in the country, it is clearly essential in terms of developing a strong civil society platform to advocate for open government.

Finally, and as an early warning, NGOs are used to demanding openness, responsiveness, participation, transparency, and accountability from Government, but they do not always do so. This is usually accelerated by adverse incentives from the Government, typically the offer of a seat in a Commission that may create dynamics of corporatization of civil society participation. Consultancies may also be adverse incentives and find ways to coopt and/or break up civil society. Rivalries between CSOs may have a pernicious effect on open government reforms. This is a lesson learned in different spaces, including the OGP experience, which could prevent the National Commission from generating distrust.

Today, the leverage from civil society is not much better than it was at the beginning of the journey. The civil society coalition advocating for open government has come with a high cost for a very modest long-term result. It was easier to stay united against a bad decree than stay united on the specific methodological and substantive proposals for the NAP. Both governments may have provoked this separation of the original group, intentionally or unintentionally. Therefore not only does the government have a pending issue of restoring trust with civil society; civil society must do this among itself as well. Building trust is challenging, but restoring missing trust is even harder.

VII. Recommendations for Key Stakeholders

a) OGP International Secretariat and Support Unit

For a country like Costa Rica, with a functional and stable civil service, direct country support should be more through institutional and regular basis channels and less on individual or personal contacts. In that sense, the Support Unit could promote broadening the participation of bureaucracies in OGP initiatives. Technical advice should keep that in mind, and should also be sensitive to political context, and alert to ways in which it might unintentionally promote competition between civil society groups.

The Support Unit could identify which NAP commitments will be harder to achieve and support the relevant agencies on those themes by sharing best international practices, organizing events and meetings, mediating disputes, and in general, following closely the progress on those issues.

The IRM is a valuable tool, but, as shown in the narrative, not very well known in Costa Rica. It needs more public dissemination, as well as direct OGP support and publicity, in order to influence and improve subsequent NAPs. One specific action, for example, could be to include a section to identify which suggestions of the IRM had been ignored by the following NAP.

b) Government Officials Responsible for OGP

Three areas could be improved with low political cost. The first is to clarify and make more transparent the process of OGP, its methodology, rules, participants, evaluation, and so on, thus demonstrating an accountability principle within the process itself. This is crucial since currently the trust in and legitimacy of the process have been eroded by long and frustrated negotiations. The second area is to disseminate the open government principles as a sort of "Easy Ethics Code" within the public administration. Public servants should understand and believe in the model before it becomes an observable change. They could use their regular communication channels, induction processes, official media, internal events, and any other channels available to support open government principles. This is how OGP might be understood as a platform for any sector, rather than as a competing and parallel initiative. Finally, the government should promote a civil society coalition around OGP; not a homogeneous and easy-going coalition, but a broad, pluralistic, and highly prepared coalition of NGOs that serves as its counterpart, as opposed to bilateral and opaque dialogues with each NGO individually.

On more difficult topics, there should be a discussion on whether the OGP in Costa Rica could be better and formally established as a permanent work group with legal status. Having to travel around several institutions and authorities from government to government might make the learning curve every four years as hard as at the beginning for all participants, and the long-term consequences could be negative for open government reforms. Creating a new institution, or even a new department, is almost impossible in the current fiscal and political context, so creative solutions to reuse and modify existent structures are needed in order to strengthen the institutionalization of the OGP process (for instance, voluntary task forces within the institutions allowing citizen participation).

c) Organized Civil Society

The CSOs involved in OGP should take care of the institutionalization of the process, not only focusing on its contents but also on the rules and resources that allow for continuity and results. However, if this takes too much time in the negotiation and co-creation process, it is likely that energies will be spent on formalities rather than themes and actions.

In a context of weak and small NGOs, their engagement with OGP should be strategic in order that they invest the least amount possible of their limited resources and avoid weakening their own broader agenda. Rather than acting separately, these organizations are likely to have a greater impact when they focus on one specific commitment. Having a clear and unique message and direct contact with government officials are key to influencing the NAP. If NGOs are looking for a broader reform, a politically controversial law, or a democracy-deepening transformation, OGP is not the place to push for that.

d) OGP Reformers

Government and non-governmental leaders should take advantage of the international support that OGP and other agencies offer to fulfill open government principles. Most of this support is virtual and technical, rather than financial. Learning how to use this kind of collaboration could make a difference and increase the preparedness of citizens to step forward and influence the NAP process or wider dialogues with open government. The flexibility principle of OGP, the fact that there are no fixed standards, suggests that a highly prepared expert or an NGO could campaign for their themes and ask for the best international standards. A basic permanent structure and some funds are required to do so (for instance, to organize a debate or to launch a social network campaign).

e) Donors (National or International)

In term of focus, the main task that would need fresh resources is the dissemination of the open government principles. Educational guides, campaigns, courses, and all sorts of tools to begin "spreading the word" and help broader swathes of the government and population gain a better understanding of open government, would help the OGP process evolve. This task should be the responsibility of existing government entities, but donors can support it. Additionally, donors could establish a single funding mechanism, so avoiding duplicative application processes. Finally, any donor intervention should do a better job of seeking diverse points of view, having transparent rules and criteria, and being accountable to target populations in terms of success, failure, and learning.

References

Literature

Aragón Matamoros, I. (2014) 2013–2014 Informe de avance: Costa Rica. Open Government. Partnership: http://www.opengovpartnership.org/files/costarica2013-14primerinformepdf/download.

Avendaño Rivera, A. (2009) Digital Government in Costa Rica. United Nations Public Administration Network. http://unpan1.un.org/intradoc/groups/public/documents/un/unpan040461.pdf.

Barahona, J.C. and Elizondo, A. (2013) Evaluación de la calidad de la prestación de servicios públicos por medios digitales en Costa Rica 2013. INCAE Business School. http://www.incae.edu/images/descargables/informes/informe-full-incae%202013_version-final.pdf

Barahona, J.C. and Elizondo, A. (2014) Evaluación de la calidad de la prestación de servicios públicos por medios digitales en Costa Rica 2014. INCAE Business School. http://www.incae.edu/images/descargables/informes/informe%20full%20sitios%20web%202014_full.pdf.

Barahona, J.C., Elizondo, A., and Jiménez, G. (2011) Hacia un modelo de compras electrónicas costarricense. Ministerio de Hacienda. http://www.hacienda.go.cr/cifh/sidovih/cursos/material_de_apoyoPIC1erT2011/MaterialApoyocursosCIFH/7_SistemaCOMPRARED2_0/Haciaunmodelocompraselectroncostarric.pdf.

Brockmyer, B. and Fox, J. (2015) Assessing the Evidence: The Effectiveness and Impact of Public Governance-Oriented Multi-Stakeholder Initiatives. Transparency Accountability Initiative. http://transparencyinitiative.theideabureau.netdna-cdn.com/wp-content/uploads/2015/09/Assessing-the-Evidence-MSIs.pdf.

Calderón, C. and Lorenzo, S. (2010) *Open Government: Gobierno Abierto*. Alcalá la Real: Algón Editores.

Cerdán Verástegui, A. (2014) Alianza para el Gobierno Abierto. Comisión Económica para América Latina y el Caribe: http://archivo.cepal.org/pdfs/GuiaGobiernoAbierto/ALONSO_CERDAN-OGP_20140625.pdf.

Comisión Nacional de Compras Públicas (2014) Informe Final de Labores Comisión Nacional de Compras Públicas 2013–2014. Mer-Link. http://www.mer-link.co.cr/atDocs/Informe_Comision_Compra_Publica_25_04%20_2014.pdf

Contraloría General de la República (2012) Informe sobre las iniciativas que impulsan el desarrollo del Gobierno Digital de una sociedad basada en la información y el conocimiento en Costa Rica. Ministerio de Hacienda. http://www.hacienda.go.cr/docs/51dc7283c011f_DFOEIFRIF52012-DGABCA.pdf.

Collier, D. (2011) Understanding Process Tracing. *Political Science and Politics* 44(4), 823–830.

Decreto Ejecutivo No. 36242-MP-PLAN (2010) Reglamento para la Utilización del Sistema Electrónico de Compras Públicas Mercado en Línea "Mer-Link". Costa Rica eRegulations. https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ve

d=0CBwQFjAAahUKEwiSlI7156nIAhXFXR4KHRG9Arg&url=http%3A%2F%2Fcostarica.ereg
ulations.org%2FLaws%2FDownload%3Ffilename%3DDecreto%252036242.pdf%26extensio
n%3Dpdf%26l%3Des&usg=AFQjCNGtp27ZjYhK_Z_Alq9VICg9lTr5-
w&sig2=qUuVb1I55tE1jcQASz4ojQ

Decreto Ejecutivo No. 37943-H-MICITT (2013) Creación del Sistema Unificado Electrónico de
Compras Públicas. Mer-Link. http://www.mer-
link.co.cr/atDocs/N_37943_COMPRAS_PUBLICAS.pdf.

Gobierno de la República de Costa Rica. (n.d.) Alianza para el Gobierno Abierto Plan Accion
Costa Rica 2013–2014. Open Government Partnership:
http://www.opengovpartnership.org/sites/default/files/legacy_files/country_action_plans/Alian
za%20para%20el%20Gobierno%20Abierto%20Plan%20Accion%20Costa%20Rica%202013
-2014v5.docx

Guerrero, P. and Karfchik, W. (2015) Participation is the Next Transparency Frontier for OGP.
OGP Blog. http://www.opengovpartnership.org/blog/open-government-
partnership/2015/10/08/participation-next-transparency-frontier-ogp.

Kuknow Camps, C. (2009) Análisis sobre aspectos tecnológicos y operacionales de la
plataforma CompraRed. Ministerio de Hacienda.
http://www.hacienda.go.cr/docs/51dc7337474f3_Informe_Tecnico_Comprared-DGABCA.pdf.

Open Government Partnership (2014) Four Year Strategy 2015–2018.
http://www.opengovpartnership.org/sites/default/files/attachments/4YearAP-Online.pdf.

Piedra Marín, R. (2007) Revista de Servicio Civil. Centro de Información Documental de la
Dirección General de Servicio Civil. http://cidseci.dgsc.go.cr/datos/RDSC%2022_A.pdf.

Costa Rica. Gobierno de la República (2014) Plan Nacional de Desarrollo "Alberto Cañas
Escalante" 2015–2018. http://presidencia.go.cr/blog-presidencia/125-plan-nacional-de-
desarrollo-2015-2018/.

Programa Estado de la Nación (2013) *XIX Informe Estado de la Nación en desarrollo humano
sostenible*. San José, Costa Rica: PEN.

PROSIC (2011) Hacia la Sociedad de la Información y el Conocimeinto en Costa Rica. Marco
Institucional: Gobierno Digital y políticas públicas sobre las TIC. Programa Sociedad de la
Información y el Conocimiento.
http://www.prosic.ucr.ac.cr/sites/default/files/documentos/capitulo_1_0.pdf.

Ramírez Alujas, Á. (2011) Gobierno Abierto y Modernización de la Gestión Pública: Tendencias
actuales y el (inevitable) camino que viene. Reflexiones seminales. *Revista Enfoques:
Ciencia Política y Administración Pública*, 9(15), 99–125.

Red Interamericana de Compras Públicas, OEA, and BID (2012) Integración del Sistema
Nacional de Compras Públicas: Asistencia Técnica a Costa Rica. Ministerio de Hacienda.
http://www.hacienda.go.cr/docs/51dc72f8b02c7_Integracion_del_Sistema_Nacional_de_Co
mpras_Public-DGABCA.pdf.

Romero Pérez, J.E. (2013) Contratación electrónica del Estado. Costa Rica. Instituto de
Investigaciones Jurídicas-Universidad de Costa Rica.
http://iij.ucr.ac.cr/sites/default/files/documentos/l-1267_contratacion_electronica.pdf.

Saborío Valverde, R. (2004) Rendición de cuentas en Costa Rica. Diagnóstico y propuesta de sistematización. Editorial Juricentro. http://www.cesdepu.com/rccr2004.pdf.

Sánchez, F. (2003) *Dealignment in Costa Rica: A Case Study of Electoral Change*. PhD diss., University of Oxford.

Sasso, R. (2013) Sistema Nacional de Compras Públicas. Evaluación técnica de dos Sistemas Informáticas. Mer-Link. http://www.mer-link.co.cr/atDocs/EvaluacionCompraRed-Merlink.pdf.

Secretaría Técnica de Gobierno Digital (2014) Informe de Autoevaluación. Plan de Acción de Gobierno Abierto de Costa Rica. Open Government Partnership. http://www.opengovpartnership.org/sites/default/files/Autoevaluacion%20Gobierno%20Abierto%20v%20%207%20%20version%20final.pdf.

Secretaría Técnica de Gobierno Digital (2014) Informe de Gestión Mer-Link al 30 de Noviembre 2014. Mer-Link. http://www.mer-link.co.cr/atDocs/Informe_de_Gestion_Mer-link_30_nov_2014.pdf.

Secretaría Técnica de Gobierno Digital (2015) Informe de Gestión Mer-Link al 31 de Diciembre 2014. Mer-Link. http://www.mer-link.co.cr/index.jsp.

Secretaría Técnica de Gobierno Digital (2015) Informe de Gestión Mer-Link al 31 de enero 2015. Mer-Link. http://www.mer-link.co.cr/index.jsp.

Secretaría Técnica de Gobierno Digital (2015) Informe de Gestión Mer-Link al 28 de febrero 2015. Mer-Link. http://www.mer-link.co.cr/index.jsp.

Secretaría Técnica de Gobierno Digital (2015) Informe de Gestión Mer-Link al 31 de marzo 2015. Recuperado el Agosto de 2015, de Mer-Link: http://www.mer-link.co.cr/index.jsp

Secretaría Técnica de Gobierno Digital (2015) Informe de Gestión Mer-Link al 30 de abril 2015. Mer-Link. http://www.mer-link.co.cr/index.jsp

Secretaría Técnica de Gobierno Digital (2014) Informe de Gestión Mer-Link Octubre 2014. Mer-Link. http://www.mer-link.co.cr/index.jsp.

Secretaría Técnica de Gobierno Digital (n.d.) ABC de Mer-Link. Mer-Link: http://201.195.239.27/merlink/images/documentos/ABCdeMer-Link.pdf.

Seligson, M. and Alfaro, R. (2015) Cultura política en Costa Rica y las Américas 2014. Latin American Opinion Project. http://www.estadonacion.or.cr/files/biblioteca_virtual/otras_publicaciones/Lapop-2014.pdf.

Solera Víquez, J. (2013) Informe Legal sobre el cumplimiento del sistema de compras Merlink con la legislación vigente. Mer-Link: http://www.mer-link.co.cr/atDocs/Informe_cumplimiento_Merlink_aspectos_legales.pdf.

United Nations (2012). Estudio de las Naciones Unidas sobre el Gobierno Electrónico, 2012. Gobierno electrónico para el pueblo. United Nations Public Administration Network. http://workspace.unpan.org/sites/Internet/Documents/EGovSurvey2012_Spanish.pdf.

Vargas-Cullell, J., Villarreal, E., Gutiérrez Saxe, M., and Proyecto Estado de la Nación (2001) Auditoría ciudadana sobre la calidad de la democracia. http://info.worldbank.org/etools/docs/library/33530/AuditoriaCiudadanaCostaRica2.pdf.

Vargas-Cullell, J. (2006) Costa Rica: el fin de una era política. *Revista de Ciencia Política* 27, 113–128.

Wilson, B. and Villarreal, E. (in press) Costa Rica's Long, Incomplete Struggle against Corruption. In A. Mungiu-Pippidi (ed.) European Research Centre for Anti-Corruption and State-Building *(ERCAS)*. Cambridge: Cambridge University Press.

Wilson, B. (2005) Changing Dynamics: the Political Impact of Costa Rica's Constitutional Court. In A. Angell *et al*. *The Judicialization of Politics in Latin America*. Basingstoke: Palgrave Macmillan.

Zeledón Fallas, A. and Núñez González, M. (2014) Informe Técnico. Transparencia de las contratciones administrativas por medio de la reforma del artículo de la ley no. 7494, contratación administrativa de 2 de Mayo de 1995, y sus reformas. Consejo Nacional de Rectores. http://proyectos.conare.ac.cr/asamblea/19123%20STI.pdf.

Interviews

Interview with Nikole Yanez Amaya, Red Ciudadana de Gobierno Abierto, July 22, 2015.

Interview with Luis Montenegro Mora, Instituto Costarricense de Electricidad (ICE), July 30, 2015.

Interview with Erick Ulate Quesada, Organización Consumidores de Costa Rica, July 31, 2015.

Interview with José Alberto Quiñónez Sánchez, Visión Mundial Costa Rica, July 31, 2015.

Interview with Roberto Sasso Rojas, Club de Investigación Tecnológica, August 3, 2015.

Interview with Raúl Silesky Jiménez, Instituto de Prensa y Libertad de Expresión, August 3, 2015.

Interview with Emilene Martínez, Open Government Partnership, August 4, 2015.

Interview with Guillermo Bonilla Almanza, Defensoría de los Habitantes, August 5, 2015.

Interview with Luis Segura Amador, Ministerio de Hacienda, August 5, 2015.

Interview with Maikol Porras, Secretaría Técnica de Gobierno Digital // ACCESA, August 5, 2015.

Interview with Ana Sofía Ruiz, HIVOS, August 6, 2015.

Interview with Israel Aragón, IRM, August 6, 2015.

Interview with Sara Castillo, Comisión Nacional para el mejoramiento de la Administración de Justicia, August 7, 2015.

Interview with Keilin Molina Fallas, UCR, August 7, 2015.

Interview with Adela Chaverri Tapia, Ministerio de Planificación y Política Económica, August 10, 2015.

Interview with Bernardita Marín Salazar, Ministerio de Seguridad Pública, August 12, 2015.

Interview with Sara Salazar Badilla, Recope, August 12, 2015.

Interview with Ana Gabriel Zúñiga Aponte, Ministerio de la Presidencia, August 14, 2015.

Interview with Carolina Flores Hine, Red Ciudadana de Gobierno Abierto, August 18, 2015.

Interview with Alejandro Delgado Faith, Instituto de Prensa y Libertad de Expresión, August 18, 2015.

Interview with Sergio Pacheco, Iniciativa Ojo al Voto, August 19, 2015.

Interview with Angélica Chinchilla Medina, Ministerio de Ciencia, Tecnología y Telecomunicaciones, August 19, 2015.

Interview with Lena White Curling, Despacho de la Presidencia de la Corte Suprema de Justicia, August 24, 2015.

Interview with Susana Soto, Red Ciudadana de Gobierno Abierto, August 24, 2015.

Interview with Rowland Espinoza Howell, Ministerio de Ciencia, Tecnología y Telecomunicaciones, July 22, 2015.

Email exchange with Pablo Duncan, Asociación Costa Rica íntegra.

Annexes

Annex 1: Costa Rica: Human Development Long-Term Indicators

Indicator	1940	1950	1960	1970	1980	1990	2000	2010
Population (1,000)	656	812	1,199	1,758	2,302	3,050	3,925	4,509
Population metropolitan area		190	320	475	647	843	1,044	1,199
Poverty (% households)			50	29	19	27	21	18.5
Life expectancy	46.9	55.6	62.5	65.4	72.6	76.7	77.7	79.3
Childhood mortality (1,000)	123	90	68	61	19	15	10	9
Fecundity rate		7	7	5	3.6	3.2	2.4	1.9
Malnutrition under 6 years (%)			14	12	4	4	3	2
Social security coverage (%)		8	15	39	70	82	88	90
Iliteracy (+11 years) (%)	27	21	16	13	10	7	5	
Years of education (population +24yrs)		3.1	3.6	5.3	5.9	7.4	8.2	8.8
Drinking water at home (1,000)			640	770	860	941	974	1,000
Primary forest coverage (%)			56	51	29	22		
GDP per capita (US$)	702	847	1,080	1,501	2,032	2,301	4,058	6,492
EAP women (%)		15	15	19	28	29	35	38
Agricultural sector (%)	66	63	59	49	35	25	20	11
Women in congress (%)					5	12	19	39

Source: Programa Estado de la Nación

Annex 2: Letter of Intent

El Ministro de Relaciones Exteriores y Culto

January 10, 2012
DM-DGPE-020-2011 J RM

H.E. Jorge Hage Sobrinho
Minister of State
Office of the Comptroller General
Government of Brazil

H.E. Maria Otero
Under Secretary of State for
Democracy and Global Affairs
Government of the United States of America

Excellencies:

The Government of Costa Rica presents its compliments and has the honor to convey the interest of the Government of Costa Rica in joining the Open Government Initiative Partnership.

I avail myself of this opportunity to assure you of Costa Rica's long standing commitment to the principles underlying open government. The administration of President Laura Chinchilla has promoted from its beginning transparent management of public affairs, public participation, accountability, combating corruption, as well as furthering a wider use and access to new technologies in pursuing open government practices and innovation that contributes to economic growth.

Costa Rica hopes to share with other stakeholders participating in the Open Government Partnership experiences and best practices that contribute to revitalize democracy through the broadest possible citizen participation and rest on transparency, efficiency and government accountability.

I take this opportunity to reiterate the assurances of my highest consideration.

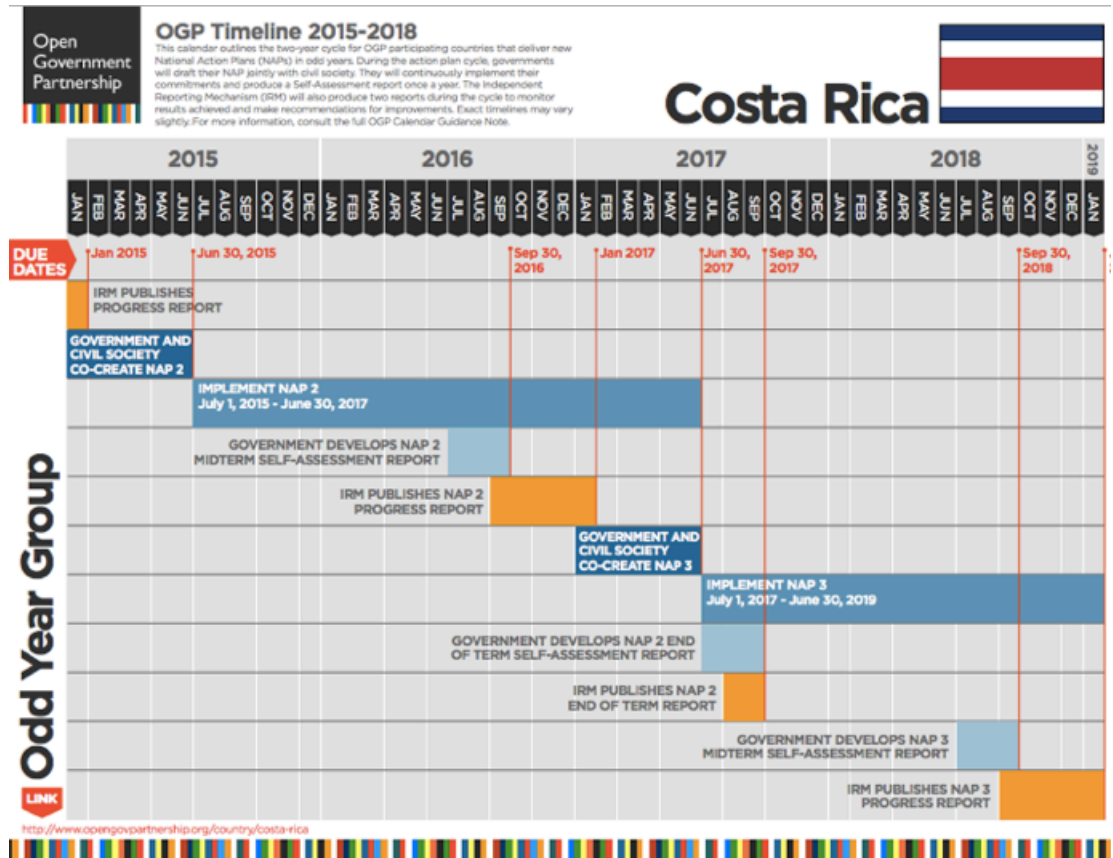J. Enrique Castillo Barrantes
Minister

Annex 3: Chronology of OGP's Institutionalization Process

Mes	Enero	Febrero	Marzo	Abril	Mayo	Hitos — Junio	Julio	Agosto	Setiembre	Octubre	Noviembre	Diciembre
2010	Solicitud de Costa Rica de adhesión											Plan Nacional de Desarrollo 2011-2014
2012	I Encuentro Regional Latinoamericano de GA. Santiago, Chile.	Jornada de GA. Primer Plan de Acción AGA. STGD.				Adhesión de Costa Rica Creación Red-C.						
2013			Proceso de consulta Plan de Acción 2013-2014.	Encuentro Mundial Londres	Presentación oficial Plan de Acción 2013-2014 a sociedad civil. STGD e HIVOS.	Ratificación de la entrada a la AGA.			Participación Red-C Congreso de STGD.	Segundo Taller Ciudadano por un GA. Red-C.	Comentarios a la versión borrador del Informe Independiente	Informe de Autoevaluación. Primer Plan de Acción GA
2014	Red-C envía cartas a candidatos presidenciales se comprometan con GA.		Seminario Regional sobre GA. Colombia y OCDE. MIDEPLAN-MICITT. Bogotá.	Decreto Ejecutivo N°38276-RE-MIDEPLAN-MICITT.	Inicia proceso de revisión del Decreto Ejecutivo N°38276-RE-MIDEPLAN-MICITT Comisión Intersectorial de GA.				Video Cumbre Anual de la Alianza por un GA. Londres,	Jornada de GA. Experiencias país de Costa Rica y Colombia.	Encuentro Regional de las Américas de la AGA. América Abierta sociedad. / Evento #DatosAbiertosCR: ¿qué son los datos abiertos y cómo funcionan (o no)? / Reunión de revisión del nuevo Decreto para la Comisión Intersectorial de GA.	
2015	Monitoreo Independiente OGP sobre el Primer Plan de Acción. (enero-febrero)		Diseño de metodología para Segundo Plan de Acción. / Jornada- Sistema de Compras para la Administración Pública.	Metodología para Segundo Plan de Acción. Creación de la Comisión Nacional por un GA. AGA. Propuestas de compromisos para el plan de acción, organizada por HIVOS.	Decreto Ejecutivo N°38994-MP-PLAN-MICITT. Presentación de la estrategia de consulta, plan de acción abierto 2015-2017.	Recolección de insumos para "Yo soy Gobierno Abierto". / "Proceso Cocreación Plan de Acción"	Mesas de diálogo "Yo soy Gobierno Abierto". / Primera sesión de la Comisión Nacional por un GA.	Plazo máximo Plan de Acción de GA 2015-2017.		I Comisión Intersectorial de GA.		

Annex 4: Timetable for Costa Rica

OGP Timeline 2015-2018

This calendar outlines the two-year cycle for OGP participating countries that deliver new National Action Plans (NAPs) in odd years. During the action plan cycle, governments will draft their NAP jointly with civil society. They will continuously implement their commitments and produce a Self-Assessment report once a year. The Independent Reporting Mechanism (IRM) will also produce two reports during the cycle to monitor results achieved and make recommendations for improvements. Exact timelines may vary slightly. For more information, consult the full OGP Calendar Guidance Note.

Costa Rica

Odd Year Group

| Due Dates | Jan 2015 | Jun 30, 2015 | Sep 30, 2016 | Jan 2017 | Jun 30, 2017 | Sep 30, 2017 | Sep 30, 2018 |

- IRM PUBLISHES PROGRESS REPORT
- GOVERNMENT AND CIVIL SOCIETY CO-CREATE NAP 2
- IMPLEMENT NAP 2 July 1, 2015 - June 30, 2017
- GOVERNMENT DEVELOPS NAP 2 MIDTERM SELF-ASSESSMENT REPORT
- IRM PUBLISHES NAP 2 PROGRESS REPORT
- GOVERNMENT AND CIVIL SOCIETY CO-CREATE NAP 3
- IMPLEMENT NAP 3 July 1, 2017 - June 30, 2019
- GOVERNMENT DEVELOPS NAP 2 END OF TERM SELF-ASSESSMENT REPORT
- IRM PUBLISHES NAP 2 END OF TERM REPORT
- GOVERNMENT DEVELOPS NAP 3 MIDTERM SELF-ASSESSMENT REPORT
- IRM PUBLISHES NAP 3 PROGRESS REPORT

http://www.opengovpartnership.org/country/costa-rica

Annex 5: Differences in the profile of Mer-Link and CompraRed users, to February 2013

CompraRed	MerLink
82% Ministries	63% Municipalities
7% Autonomous institutions	15% Autonomous institutions
6% Municipalities	7% Banking entities
5% Others	15% Others
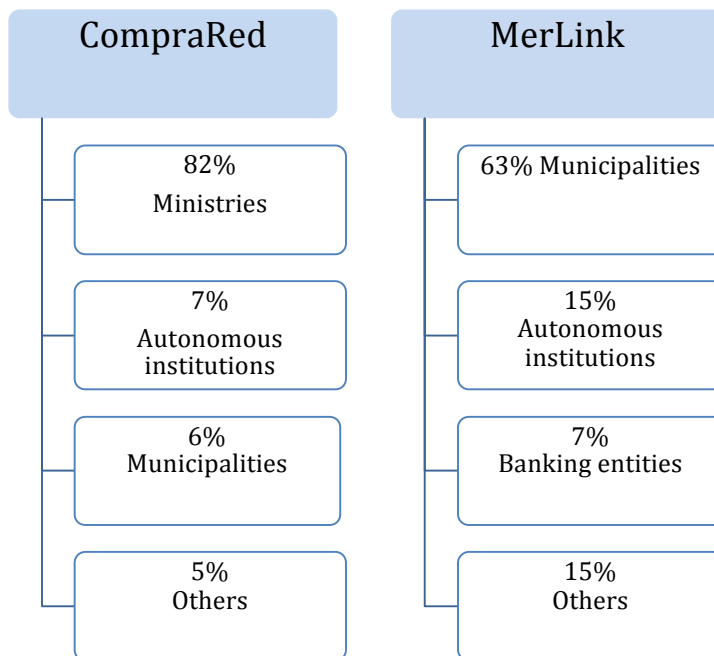
Source: Compiled by the author based on press releases and official documents.

Annex 6: Chronology of the State's Unification Process of Public Procurement Systems

(Events in bold depict opposition to unification)

Date	Technical aspects	Political and institutional aspects
2001	The CompraRed electronic government procurement system is established	
October 2005		Executive Order No.32717: Rules for Using the Government Procurement System CompraRED
2009	IDB and World Bank report points to public procurement as a priority area for improvement	
2010		COSTA RICA BEGINS OECD ACCESSION PROCESS
March 2010	Mer-Link starts first phase operations	
May 2010		CHANGE OF GOVERNMENT Chinchilla Miranda Administration (2010-2014)
December 2010	Full implementation of Mer-Link	
September 2011		WORLDWIDE DECLARATION OF OPEN GOVERNMENT PARTNERSHIP (OGP)
January 2012		COSTA RICA SUSCBRIBES TO OGP PARTNERSHIP
June 2012	GCR recommends a single system of public procurement (DFOE-IFR-IF-5-2012 Report)	
August 2012		The Commission for National Public Procurement System is created
November 2012	Mer-Link receives award for best e-government solution awarded by the Electronic Government Network of Latin America and the Caribbean	
January 2013		Notables Commission recommends unification of public procurement system
April 2013		Agreement by President Chinchilla to unify public procurement under Merlink
April 2013		**Institutional opposition to Merlink because of operational high cost of and less experience**
June 2013		**CCSS opposes use of Merlink because of commission charge**
July 2013		**Ministry of Finance opposes Merlink migrate until protocol review and consistency with the Financial Administration Act (LAF)**
August 2013		Ombudsman's Office asks the Ministry of Finance for the aspects that delay implementation of the unified procurement system

Date		
September 2013		Chinchilla President issued Executive Decree No.37943-H-MICITT on final migration to a unified procurement system
August 2013	**Ministry of Finance argues that Merlink does not meet all operational technical requirements that the central government should observe**	
April 2014	Mer-Link holds 80% of public procurement, over 7,800 providers and 11,829 system users	
May 2014		CHANGE OF GOVERNMENT Solís Rivera Administration (2014-2018)
May 2014		**CONAVI and the CCSS do not participate in Mer-Link**
June 2014		Ministry of Finance assesses costs of both platforms
July 2014		**DGABCA of the Ministry of Finance canceled technical testing to unify Mer-Link and CompraRed**
September 2014		Former ministers of Finance and Science, Technology and Telecommunications raise the need to maintain Mer-Link
October 2014	CCSS reports that CompraRED generated savings of ¢ 8,000 million a year	
November 2014		**Middle managers at the Ministry of Finance recommend cancelling Chinchilla's decree and maintaining CompraRED**
November 2014		Legislative Assembly Committee (Revenue and Public Expenditure Control) recommends Mer-Link launch to the Executive
January 2015		Chamber of Industries requests continuation of Merlink decree
January 2015		Government introduces SICOP, a Public Procurement System. Mer-Link will be the basis for the new system, and will be managed by RACSA
January 2015	GCR audit points to problems in the unification of purchasing systems and sets deadline in mid-2016 for ultimate unification	
January 2015	**Questions about the technical appropriateness of transferring SICOP to RACSA**	
May 2015		**It is made known that SICOP will be mandatory for ministries but not to other public institutions. Goal of unification remains unfulfilled**

Source: Compiled by the author based on press releases and official documents.

Annex 7: Detail on the E-Procurement Reform

The political decision of Chinchilla Miranda's government was migrating towards unification under the Mer-Link platform, as was established in the NAP (May 2013) and later translated into the Executive Decree No. 37943-H-MICITT in September 2013. However, by the end of the government term, neither the commitment nor the decree were fully implemented due to technical and operational barriers from their inception and strong mid-management institutional opposition. The main factors that prevented compliance with the unification of e-procurement through Mer-Link were:

- Technical differences between Mer-Link and CompraRed: they had very different institutional-user profiles, with incompatible hiring processes from the start, which required significant adjustments.

- Institutional resistance to adopt Mer-Link because the platform did not conform to the technical criteria and recruitment needs of the central government and their high costs. Such was the argument of the Costa Rican Social Security System (CCSS) and the National Roads Council (CONAVI).

- Opposition from the Ministry of Finance because of the loss of power in public procurement management: the migration to Mer-Link, under the leadership of the Technical Secretariat of the Digital Government (TSGD) takes power away (bureaucratic power to change procedures and overseeing them) from the Ministry of Finance, which by law has oversight over acquisition of goods and services of the central administration's institutions.

- Personal differences between the director of the TSGD favoring Mer-Link, and the director of the DGABCA of the Ministry of Finance favoring CompraRed: the director of the TSGD (2006–2015), was previously Managing Director of Informatics in the Ministry of Finance (1999–2006). After leaving the post in the Ministry of Finance, she began the process of developing Mer-Link in TSGD. Later, in discussions of the National Public Procurement System Commission during 2013–2014, the director of the TSGD and the director of the DGABCA of the Ministry of Finance had differences of opinion and positions that hindered the unification process, beyond the technical discussions, as

documented by interviews conducted for this research. These personal differences hindered the decision process for the commission.

- Finally, there is no clear state policy on public procurement: as noted by the GCR (2012 and 2015) in its diagnostics concerning this issue. The best indicator of this is, with the change of government, the political decision on the process of unification on public procurement changes. The new government of President Solís Rivera, who came into office in May 2014, decided through the Finance Minister to discontinue the process of migration to Mer-Link, which was established during the government of President Chinchilla Miranda.

Detail on why the MoF opposed the reform after the change in administrations
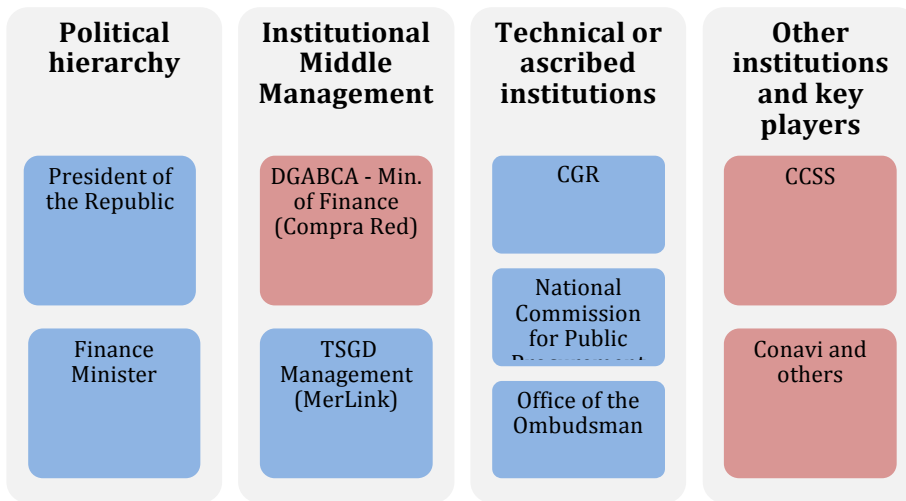There were three variables that influenced the Ministry of Finance to reverse the process during 2014. The first was that, with Merlink, oversight of public procurement was lost since the platform is managed by the TSGD, which is attached to the Costa Rican Electricity Institute (ICE), an autonomous institution. The second important variable was the need to evaluate the operating costs of the platforms, since high costs were reported in the use of Mer-Link by the institutions, including the same Ministry of Finance.[31] Finally, the third variable, related to the previous one, was the strategy of the new government to avoid dependence on foreign information technology in order to lower the costs of these systems. CompraRed is developed by a national software company,[32], while Mer-Link is a platform that comes from South Korea under the Samsung platform. These factors are part of the core elements that explain the changes in the political decision during the Solís Rivera administration.
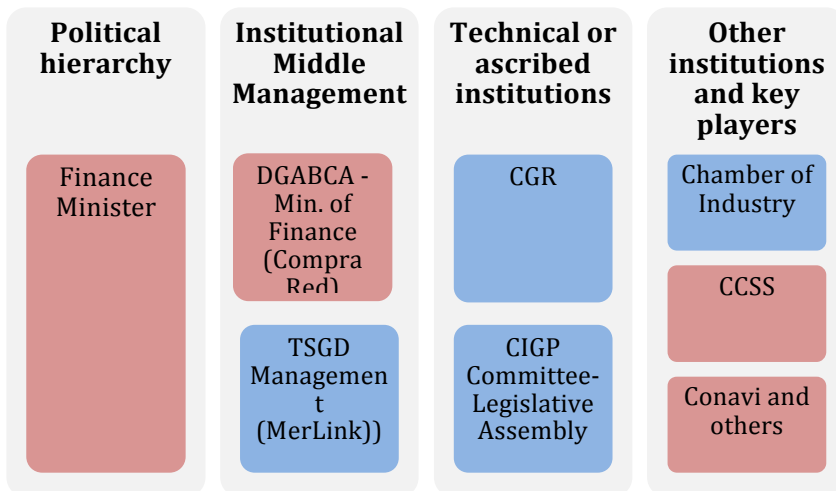
---

[31] The former Ministry of Finance (Chinchilla Miranda's administration) decided in December 2013 to disburse $ 805,000 a year to ICE for the Merlink service, in order to eliminate the commission of 0.65% on the amount of each tender by users of Merlink.
[32] One aspect that came out in the press is the apparent link between the Minister of Foreign Trade of the Solis Rivera administration, and the company that developed CompraRed. This has been pointed out in some sectors as a potential conflict of interest, since the government decided to continue with CompraRed, and has in its cabinet as minister a person who was linked by his previous companies to the company that developed and provides maintenance services on the platform. However, there is no empirical evidence that this fact influenced the decisions taken by the Solís Rivera administration.

Diagram 3. Relevant stakeholders in the process of unification of public procurement for the Chinchilla Miranda administration, by position, 2012–2014

Political hierarchy	Institutional Middle Management	Technical or ascribed institutions	Other institutions and key players
President of the Republic	DGABCA - Min. of Finance (Compra Red)	CGR	CCSS
Finance Minister	TSGD Management (MerLink)	National Commission for Public Procurement	Conavi and others
		Office of the Ombudsman	

Diagram 4. Relevant stakeholders in the process of unification of public procurement for the Solís Rivera administration, by position, 2014–2015

Political hierarchy	Institutional Middle Management	Technical or ascribed institutions	Other institutions and key players
Finance Minister	DGABCA - Min. of Finance (Compra Red)	CGR	Chamber of Industry
	TSGD Management (MerLink))	CIGP Committee-Legislative Assembly	CCSS
			Conavi and others

in red are stakeholders who showed a stand against the unification of platforms under Merlink, and in blue, those who showed a stand in favor

Source: Compiled by the author based on interviews and official documents

Annex 8: Typology of actors

Political hierarchy: this is primarily the President of the Republic and the Minister or highest authority in charge (Technical Secretary and then Vice Presidency). The agreement of these two actors is key to achieving substantive political changes. If they promote, alongside the OG discourse, proper tools to disseminate the OGP values and principles toward the pubic administration, we would be more likely to find policies with an open government approach.

Mid-range institutional managers: the department directors of the institutions involved in the process. In this case this is primarily the Technical Secretariat of the Digital Government (STGD) under the ICE. It managed the e-government plan and the Mer-Link platform. These mid-range managers are important for their criteria regarding technical matters, and their administrative independence in decision-making. If officials in these positions have objective criteria to oppose a decision, they could hinder the political decisions of their superiors.

Technical or ascribed institutions: included here are agencies or institutions with some sort of technical or political knowledge on the matter, including the General Comptroller of the Republic (GCR), the Commission for National Procurement (2013–2014), the Revenue and Public Expenditure Control Committee of the Legislative Assembly (CIGP), or the Office of the Ombudsman. These agencies provide technical and political on the procurement matter.

Civil society actors: These may be organized groups or experts that have shown significant support or resistance to OGP process.