

# Conference Summary

## Government Transparency and Innovation: Achievements, Challenges, and the Way Forward



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Government Transparency and Innovations: Achievements, Challenges, and the Way Forward

主办：北京大学宪法与行政法研究中心      Constitutional and Administrative Law Center

美国卡特中心      The Carter Center

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**December 12-13, 2012**  
**Beijing, China**

**P**eking University Law School and the Carter Center jointly hosted a conference on December 12-13, 2012, entitled “Government Transparency and Innovations: Achievements, Challenges, and the Way Forward,” in order to consolidate knowledge about China’s achievements and progress in this area, and to consider next steps in overcoming persistent challenges. The conference convened approximately 75 persons representing key stakeholder groups, including many participants from outside Beijing. As a result of the conference, a roadmap/set of recommendations was drafted to provide specific guidance for the advancement of open government information in China.



*Former U.S. President Jimmy Carter delivers the keynote speech. (Photo: Peking University)*

Since the Open Government Information (OGI) regulation went into effect in 2008, civil society leaders, scholars and legal professionals across China have begun using the right of access to information. Requesters have sought information about such diverse issues as the environment, the use of funds received through toll roads, and the cause and effects of the Sichuan earthquake. With heightened public awareness, government agencies at different levels have begun experimenting with innovative implementation models to meet Chinese citizens’ increasing demand for government transparency. Despite notable advancements, implementation efforts also have encountered a number of challenges, including difficulties in responding to specific requests and denials when the administrative regulation conflicts with a higher ranking law. Following five years of experience since the OGI regulation came into effect; the moment was ripe to explore both the successes and future challenges facing the right to information in China.

### **Conference Framework and Methodology**

The ultimate goal of this action-oriented conference was to advance open government information in China. It was designed to accomplish this goal by meeting the following three objectives:

1. Highlight the achievements that have been made in China by local, provincial, and central government departments in improving government transparency and access to government information;
2. Identify the key challenges that China will face in the coming years as it continues to improve transparency and promote open government information; and
3. Develop a roadmap suggesting next steps for the advancement of open government information in China.

The first day of the conference explored the major themes relevant to OGI: achievements, obstacles, and international experiences. Keynote speeches were delivered on the value and importance of open government and placed the Chinese experience within the international context. Additionally, panels comprised of preeminent Chinese experts considered successes as well as challenges related to shifting the balance to openness; the need for deepening institutional adjustments; strengthening oversight and enforcement; and increasing public demand.

On the second day of the conference, participation was limited to 30 individuals and focused on the three main areas that, if not resolved, will continue to retard OGI progress in China. These identified themes included: 1) the political economy of fostering transparency; 2) implementation and oversight; and 3) public empowerment. For each session there was an expert facilitator and open discussion, followed by reflections from the global experiences from international experts Juan Pablo Guerrero, former Mexican Information Commissioner and Laura Neuman, Manager of the Carter Center’s Global Access to Information Initiative, and then a period for developing consensus on key recommendations. By the end of the conference’s second day an agreed upon set of recommendations for further advancing open government information in China emerged.

## Proceedings and Discussion

The conference proceedings began with two keynote speeches. In their respective comments, former United States President Jimmy Carter and former State Council Legal Affairs Office Director Sun Wanzhong stressed the important contribution that transparency and access to government information has for social and economic development. President Carter encouraged the Chinese government to take critical steps toward institutionalizing the right to information, including reviewing the experiences to date under the current OGI regulation and developing it into a more powerful legal regime with the statutory strength of a law. Both keynote speakers agreed that replacing the OGI regulation with a law would further support the ongoing Chinese efforts towards an open, participatory and trust-based government, highlighting its effectiveness in providing greater credibility to government efforts of curbing corruption. Later keynote addresses from the World Bank's Director for China, Klaus Rohland, and Juan Pablo Guerrero, placed the Chinese experience within the international context.

The panels on government achievements in fostering transparency confirmed that Chinese government departments at all levels have put forward great efforts and made good progress in implementing the 2008 OGI regulation, adopting additional measures of providing citizens with more comprehensive and better organized information, and catering to the information needs of all citizen groups. Especially departments handling large-scale infrastructure projects, such as the Ministry of Transportation, have made it a priority to reform their processes, improve insight into their work progress, and establish measures to make planning and procurement more transparent and establish more safeguards against corruption and abuse of public funds by allowing the public to supervise these processes. Local authorities, like Guangzhou, are using other mechanisms to promote transparency and more participatory decision-making, such as through public hearings, regular media appearances of political leaders, use of new communication channels such as Weibo and online consultation procedures, as well as the establishment of project supervision committees involving citizen representatives. While all of these collective efforts are still far from perfect, the frequent evaluation and monitoring exercises both within the administrative system and through third parties show visible and constant improvement.

One of the critical obstacles on China's path to a more fundamentally transparent government system is the thousands of national, provincial and local level legal provisions in place governing (and often limiting) information access. With the national OGI regulation lacking legal status, however, this multitude of provisions creates an abundance of frictions, contradictions and redundancies rather than strengthening transparency and open information access. Exacerbating the difficulties are the OGI regulation's rather general approach and broad provisions, which do not provide sufficient guidance for civil servants to assess whether or not they can publish/release a document. This also has led to judicial interpretations that have resulted in a more restrictive reading of the OGI regulation.



*A smaller group of participants gather in a round-table discussion for the second day of the conference. (Photo: Peking University)*

With respect to reforming the government's internal procedures of disseminating information and handling information requests, one key challenge identified was the compartmentalization of government. There is no clear guidance on the ownership of information that has not been produced within a specific department, but was provided by another department. This lack of clarity about the right to publish a certain document affects the ability of civil servants to make decisions on publication. Moreover, there was some question whether the documents that are released are those most desired/required by its citizens and whether the potential communication channels are being optimized to reach a maximum number of citizens. Finally, the question of incentives and leadership was identified as crucial for advancing open government in China.

## Recommendations

Through presentations and intensive discussions with government, academic and civil society/media experts, the conference covered a wide range of topics. At the conclusion, the participants converged on a set of ten recommendations that they agreed to be the most urgent next steps. These recommendations could serve as a roadmap for China's next reform steps, not just for promoting the implementation of existing transparency laws and regulations, but also providing guidance for a long-term path towards greater open government in China.

1. Clearly identify incentives for leadership and public officials to be transparent and provide maximum disclosure (links with anti-corruption efforts, economic prosperity, reforms, participation)
2. Encourage high-level champions from all areas of society for open government information to promote transparency ideals
3. Establish an Open Government Information Law, including:
  - a. Review and streamlining existing statutory provisions to reduce contradictions with other laws and eliminate restrictions that hinder access to information;
  - b. Principles of maximum openness;
  - c. Expanded scope to cover all of public sector, including judiciary, charities, state-owned enterprises and party affairs;
  - d. Increased range of information to be disclosed proactively;
  - e. Clear definitions of exemptions and eligibility to request information; and
  - f. Identified oversight body
4. Create information technologies for increased disclosure, user friendly information platforms and online requests, in connection and complementary with existing e-government efforts
5. Set-up centralized departmental offices for information and create "info points"/one-stop-shops
6. Develop and disseminate clear administrative procedures and guidelines for public authorities
7. Designate and empower a specialized body/committee at the Central Government level to oversee OGI implementation and effectiveness
8. Include transparency and OGI in institutional and individual performance evaluation and develop reward schemes for best performers
9. Encourage greater civil society and media engagement in promoting OGI, coordinating with government information offices and making requests
10. Develop additional channels for communicating and interacting with public for more meaningful public participation and increased trust



Conference group photo. (Photo: Peking University)