

A little while ago WikiLeaks released a bunch of confidential papers. People got excited, people got enraged. Whatever the reactions, it is a fact that these events brought the world's attention to something very old yet often forgotten: transparency. While as with WikiLeaks an argument is sometimes made that there could be circumstances where transparency does not work, I argue in this article that Lithuania is precisely in the circumstances where transparency would work, and furthermore, transparency is exactly what Lithuania needs to improve its rule of law. Not only I make this blank statement, I also identify a few key areas where transparency can help and give recommendations how to implement this. To do any of this, first an analysis has to be made about what the rule of law is, what its challenges are and what it is about transparency that could help with any of that. This discussion is precisely what ensues next in this article.

First and foremost, I argue that the rule of law is simply a situation in a State where the laws are effectively and honestly implemented and followed. Moreover, the rule of law is one of the main factors in the development of a civil society. The stronger the rule of law, the more people tend to participate in politics, the more secure they become in their societies, trade and culture prosper.

However, a question then can be raised why, if it is such a good thing, law is not implemented fairly in the first place? I think the answer here is simple: private interest. While people generally agree that having a well-functioning society would surely be something worth having, it is only achievable in the long run, and the people who actually could help ensure this often choose to pursue their personal interests that could guarantee their well-being in a lot shorter time-frames. Corruption ensues. The main factor for making decisions becomes not justice, common values of the society or the common good but private gain. Surely, decisions become less efficient, the implementation of justice is hindered.

A lot worse a consequence also appears: corruption drags with itself the whole progress that is achieved. People notice the problems, lose their legal expectations, stop trusting politics, their participation in the building of a civil society levels plummet. We saw this happening to an extreme level in the Soviet Union where there were record levels of theft and corruption and it was commonplace to steal from the workplace, public funds and mostly anywhere you could get away stealing from. An argument is often made that this

legacy has carried over to the new democracies and is still part of the peoples' mentality.¹

If the problem is in people's attitudes then, perhaps the only way to solve the problem and to implement the rule of law is to change those attitudes? Indeed, I agree it is because we are never going to fix the problem without addressing its root cause. Education should ensue, moral and philosophical values should be explained. In fact, I think this process is already being implemented, and, moreover, I think it is getting a lot better with the advancement of the Internet where people get more and more access to information. However, education enough is not sufficient. The fact of the matter is what the main place where education is shifted and geared towards real behavior is the real world itself. Years of education are often worth little if after all that, a person comes out and sees a totally different result in the real world: the aforementioned self-fulfilling effects of corruption occur and we are back to where we started. Therefore we do need to change the attitudes, however, to do that effectively we also need to get out of this closed circle where corruption happens in practice and any benefit gained by the changed attitudes is instantaneously rendered void by the harsh realities. We need to find a mechanism that can help us fight the problem now and fight it effectively.

That is where transparency kicks in. Transparency is defined as openness to public scrutiny. It is a condition where everybody can assess the relevant information and evaluate it. Not only does transparency seem on the face level a very efficient tool in fighting corruption, as experience shows, it is also capable of providing results in practice². However, nice as it seems, mere transparency is not enough. Research shows, that transparency alone does little if anything to help.³ What is needed is not only transparency but also mechanisms for accountability. While transparency could help fight the fight because if people can prove blatant injustice, they tend to do so but as recent events in Egypt or Libya where massive anti-government demonstrations occur with human casualties falling victims of the struggle can teach us, effective mechanisms of

¹ Rasma Karklins. *The System Made Me Do It: Corruption in Post-Communist Societies* p. 74

² Catharina Lindstedt and Daniel Naurin. *Transparency is not Enough: Making Transparency Effective in Reducing Corruption*, *International Political Science Review* 2010 31: 301 p. 301

³ *Ibid* p. 316

accountability would make the fight for justice and transparency a lot easier. Luckily, the law can help us achieve better accountability as well.

Two other factors are relevant: publicity and outside-control⁴. While we can release all the information we want into public, the problem still remains that it would have no value if people are not reviewing this information. Therefore, easy and understandable systems have to be implemented to be able to review everything. On top of all that, transparency is often rendered meaningless if the agent providing this transparency is the corrupt organization itself. Report answering gets biased, complaints get unnoticed, and information often gets tempered with. That is the reason why outside control is needed.

That is all well and nice, however, we face another problem when trying to implement any of this in practice. How do we do this and where can transparency help? Starting with a few areas and concrete steps could help. First and foremost, I suggest public procurement. In a Transparency International research in Lithuania 6 years ago, 54,1% of Lithuanian company managers admitted to not having participated in public procurement due to the fact that the winners of such events had been known in advance.⁵ Even more disappointingly, the research was repeated once again after 3 years and it has shown that there was little advancement and the same problems had remained⁶. Asked to identify the main cause of corruption in the field of public procurement, 6.2% identified it as lack of transparency with another 5.5% stating it was lack of information about such events⁷, and 11,6% agreed more publicity would work best to solve the problem⁸. The problem here is that a lot of public procurement deals are published secretly, they have short deadlines and conditions geared to aid a specific company towards getting the deal. Effective controls do not currently work in practice.⁹

⁴ Ibid, p. 303, p. 306

⁵ Transparency International. *Kaip praskraidinti viešuosius pirkimus* Vilnius, Eugrimas, 2006 p. 5

⁶ Transparency International. *Naujos tendencijos viešuosiuose pirkimuose: privalumai ir trūkumai* Vilnius, Eugrimas, 2010 p. 7

⁷ Ibid, p. 16

⁸ Ibid, p. 39

⁹ Transparency International. *Tracking Corruption in Lithuania*. Vilnius, Eugrimas, 2009, p. 39

I suggest a solution here: make a website and make it a legal obligation to publish all of the public procurement deals there. Moreover, the information should not only include the procurement calls, it should also have all offers and the conditions of those offers including prices, resources and timeframes. Moreover, anybody should be able to sign in, see any of the conditions and make complaints regarding any applicant choices. The responsible officials should answer these complaints publically and the answers could be challenged in court.

The second step would be to expand this mechanism to more fields. Municipal and governmental elections, public hiring, public and private projects. People should not only feel they have access to information, they should be able to complain about any perceived violations of law. Not to overcrowd the courts, perhaps more institutions dealing with complaints could be helpful. That is a subject of another topic, however. In the end the goal is to ensure transparency and accountability.

Finally a question can be raised if it really is possible to achieve better transparency? I would like to think the answer to that question is positive. I suggest Lithuania does indeed have the capacity to do so and, for example, the global freedom of the Press Index last year lists Lithuania as 11 in the world along with the United States in terms of press freedom¹⁰. As I have argued, by implementing transparency and accountability we could ensure the rule of law. The change can be achieved, it is there and only some will is necessary.

¹⁰ Transparency International. *Global Press Freedom Index*. 2010 Available online at: <http://en.rsfi.org/press-freedom-index-2010,1034.html>