

Input on UN Special Report on freedom of opinion and expression and sustainable development



The Center for Public and Corporate Governance (Governance Center), a member of UNCAC Coalition, submits the following observations regarding freedom of opinion and expression and sustainable development in Puerto Rico (gobernanzapr.org):

Overview

Puerto Rico is an island in the Caribbean which is a territory of the United States of America. The Island faces an unprecedented economic and fiscal crisis that has impacted the government's ability to deliver essential services and led to a dramatic increase in emigration; has reduced its tax base; has increased the level of unemployment and provoked a marked reduction in our purchasing power and investment capacity.

In addition to the fiscal and economic challenges that we face during the past 7 years, the Island has been devastated by hurricanes Irma, María and Fiona placing Puerto Rico in a significantly precarious situation. It is not surprising that the absence of government transparency, access to information, fiscal responsibility and accountability has played a key role in Puerto Rico's economic and fiscal demise. Furthermore, the government's poor governance practices during the past decades have opened the door to significant acts of corruption. Not only is Puerto Rico dangerously close to a fiscal abyss but a social and political-legal precipice with unknown consequences.

The Center for Public and Corporate Governance (The Governance Center) is a private non-for-profit organization 501 (c)3. As a research think tank, the Governance Center has addressed the critical importance of well-performing public institutions and good governance for economic competitiveness and prosperity. Responding to these challenges the Governance Center has focused its research and educational agenda on the advancement of new conceptual models, analytical tools, a new framework to address weak governance and transparency practices and poorly functioning public sector institutions ([press here to see the research studies](#)).

Transparency and accountability as a driver for good governance, sustainable development, and human rights (key questions 3 and 6)

Good governance involves more than the power of the state or the strength of political will. Freedom of expression, the free flow of information and press freedom are indispensable in the fight for the rights of minorities and marginalize people, to combat corruption and all kinds of discrimination and poverty and to uphold human rights. Never have these concerns been linked to more momentous opportunities.

The right of people to be informed and consulted on public policy and to debate, discuss and participate fully, equally, and meaningfully in decisions that affect their lives and livelihoods is vital for good governance and social and economic development. It enhances transparency and accountability of governments and business, and empowers poor and marginalized communities to overcome deprivation, inequality, and exclusion. Yet, in many situations, people's right to access and share information and express their views is curtailed through laws, policies, or discriminatory practices, or hampered through lack of access to the Internet or the spread of misinformation and disinformation on social media.

In the context of sustainable development, in 2018 the Center for Public and Corporate Governance (gobernanzapr.org) performed a research study anchored in the principles of good governance, transparency and accountability and its relationships to media development and democracy([press here to see the research study](#)). The assessment of media development based on UNESCO Media development indicators was aligned with the methodology used for MDI-based assessment. The first-ever comprehensive assessment on governance and media development in Puerto Rico relied strongly on multi-stakeholders' interviews and consultations and followed a participatory and inclusive process. The consultation process included: a questionnaire; over 35 individual interviews with journalists, media owners and regulators; a SWOT analysis and a comprehensive assessment of the regulatory framework. Input and support from a broad team of experts in governance issues and media development and extensive literature review was also applied.

The right to freedom of information, freedom of opinion and expression is as important to good governance and development as it is to democracy and the essential enjoyment of economic, social, and cultural rights as well as civil and political rights. The assessment on media development performed by the Governance Center places special emphasis on issues regarding the regulatory environment; freedom of expression and freedom of press; the need for access of information and transparency legislation and laws for the protection of sources of information; how current federal and state legislation impacts on the media; opportunities for more space for self-regulation within the media; professional training and issues regarding the democratic contributions on the media; transparency and accessibility of data regarding the media system, as well as still existing issues of independence of the media from commercial, economic and political power hubs. It reveals that the infrastructure available in Puerto Rico is technologically developed and increasingly digitalized.

Recap on freedom of information, opinion, and expression (key questions 2 and 5)

The importance of freedom of expression and information, is not only a cornerstone of democratic society but also as enabler to the enforcement of other fundamental rights, including the right to vote, and the right of assembly and great opportunity for media development and people to access produce and share information. In the context of good governance there is widespread recognition that the media has an important role in sustaining good governance and human rights Media Development Indicators (MDIs), is an internationally recognized analytical tool, that makes plausible a detailed overview of

the media landscape and related media development priorities. The tool defined a framework, within which the media can best contribute to, and benefit from, good governance and democratic development. The indicators look at all aspects of the media environment and are structured around the following categories: (1) A system of regulation conducive to freedom of expression, pluralism and diversity of the media; (2) Plurality and diversity of media, a level economic playing field and ownership transparency; (3) Media as a platform for democratic discourse; (4) Professional capacity building and supporting institutions that underpin freedom of expression, pluralism, and diversity; (5) Infrastructural capacity sufficient to support independent and pluralistic media.

The research study concludes that: (1) that the current rule of law or the legal framework to regulate the media in Puerto Rico evidences the characteristics of the developed media systems; and (2) in regard to pluralism and diversity, the Puerto Rican media ecosystem is very diverse, transparency in ownership is required, and there are equal economic conditions to participate in the market. However, in practice we observe that the financing model that prevails is commercial advertising and that the interviewees believe that this model can affect the plurality of voices and the equality of economic conditions necessary for there to be an adequate mix of public, private media and community.

The recommendation of the assessment provides the platform for improving good governance and media development in Puerto Rico and will foster a greater commitment to action by the government, policy makers, regulators, media professionals and citizens interested in media development in the country. To promote the development of the media ecosystem in Puerto Rico, the researchers propose a conceptual model to improve governance capacity and media development to further improve democratic development. The proposed conceptual model was articulated on international standards best practices under the fundamental principles of freedom of expression, pluralism, and diversity as pillars to promote media development and the guiding principles of good governance - transparency, access to information, and accountability. A framework for media and information literacy capacity development in Puerto Rico was also laid out.

Furthermore, on 2020 the island ranks poorly in the RTI Ranking performed by the Centre for Law and Democracy (CLD)¹. The assessment of two laws adopted recently in Puerto Rico establish a legal right to access information held by government reveals the laws are very weak, according to an Analysis published by the Centre for Law and Democracy (CLD). According to the RTI Rating (www.RTI-Rating.org), the two laws – the Transparency and Expedient Procedures for Access Public Information Law (Access Law) and the Open Data Law (Open Data Law) – score just 73 out of a possible maximum of 150 points, putting them in 88th position relative to the 128 national laws assessed on the Rating, in the bottom one-third.

The analysis of the right to access information reveals that while Puerto Rico has strong guarantees for the right to information and the scope of coverage of the two laws is broad, some of the key weaknesses with them are as follows: (1) There are important gaps in

¹ Puerto Rico Analysis of the Access to Information and Open Data Laws
https://www.law-democracy.org/live/wp-content/uploads/2020/05/Puerto-Rico.FOI_May20.final_.pdf

the procedures for making and responding to requests for information; (2) The regime of exceptions is far too broad, earning just 23% of the available points on the RTI Rating; (3) There is no independent administrative level of appeal. (4) The system of sanctions and protections is very limited. (5) There are few promotional measures to help support strong implementation. The CLD assessment concludes that Puerto Rico needs stronger rules on the right to information if it is to implement its constitutional guarantee for this right properly. The study also reveals that the current laws are far weaker than most of the national laws that have been adopted in the Americas.

Promoting freedom of opinion and expression and the flow of information as a public good is necessary to build back better in the post-COVID world and it constitutes the new normative context to highlight free, pluralistic and independent press as a springboard for sustainable development and progress and the need for greater transparency and accountability in government. The research study findings and recommendations of the Governance Center and the academia will contribute to a vibrant discussion on how to expand good governance, transparency, and accountability in Puerto Rico. A continuous conversation and debate regarding freedom of expression and media independence and pluralism between the academia, the media, the government, the civil society, and the general public will contribute to strengthen governance capacity and democratic development in Puerto Rico ([press here to access Puerto Rico Transparente observatory](#)).

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