Wilton Park



Image: Artur Aliev

Conference report

Contemporary consular practice: trends and challenges

Tuesday 3 – Thursday 5 September 2013 | WP1258

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Objectives of Forum

In an increasingly inter-connected world, the needs and expectations of 'global citizens' have led to ever more complex demands on consular services. The Consular Forum brought together senior consular officials alongside selected academics from a wide range of countries to discuss contemporary issues and emerging opportunities in the delivery of these services. The Forum provided an opportunity to:

- promote and deepen an understanding of the current issues facing consular services
- facilitate an expert exchange of experience, best practice and lessons learned
- consider creative opportunities and innovative ways of cross-border working in order to maximise expertise and resources
- explore potential mechanisms to promote further cooperation and networking

Executive summary

Globalisation, increased mobility and interconnectedness have greatly increased the demand for consular services. Changes in technology and society have led to more travellers, more overseas workers, more scrutiny, more complex case work, more emergencies, more exotic locations and more expectations of timely and personalised service. Governments face similar problems in the consular domain and there is a general concern as to whether they have the financial, technological and human resource capacity to keep up with these challenges. Greater cooperation on best practices, lessons learned, research, training, service delivery innovations and crisis management could improve consular services and help make better use of resources, especially for those countries with limited resources. Participants were keen on repeating the Consular Forum event and making the forum a useful platform for dialogue and information exchange; calling upon the Forum's Steering Committee to develop an action plan, expand the membership (potentially beginning with countries invited but that were unable to attend the first meeting) and improve upon the Forum's model following this first experience.

Managing expectations

" Protecting citizens overseas is often viewed by the public as one of the most important mandates of foreign affairs..."

Citizens

1. Protecting citizens overseas is often viewed by the public as one of the most important mandates of foreign affairs, yet many Ministries of Foreign Affairs (MFAs) do not apportion the relevant resources and importance to consular services in a way that matches public expectations. Further, the consular function often goes under-recognized as compared to traditional diplomacy functions. However, in a minority of countries, consular services are the number one activity of their MFAs and they possess considerable resources to achieve their consular mandate. Citizens often do

not understand what 'consular' means, but just have a generalised sense that their government will assist them if they are in trouble overseas. For some countries, consular services are a constitutional or legislated right, for others they are a discretionary service. This can result in differences in service delivery and client expectations across countries

"Governments are the victims of their own success and citizens often seek government assistance as a first rather than last resort."

2. Statistical trends indicate that travelling has increased globally: people are travelling to more risky destinations for work and are undertaking adventure travel; and travel has spiked for young adults and retirees, who engender their own particular consular challenges. Too often, travellers do not take enough personal responsibility for their actions, despite technological advances enabling them to be better connected and to solve their own problems themselves. Changing the culture of citizens' expectations is extraordinarily difficult. Governments are the victims of their own success and citizens often seek government assistance as a first rather than last resort. Fundamentally, who should be responsible for safe travel or how should that responsibility be shared?

"...there is still a need for consistency in the delivery of consular services"

3. In the context of stressed consular services delivery capacity, many countries are attempting to alter (decrease) demand for consular services by actively managing citizen expectations, by publicly stating the limits on consular assistance, using public awareness campaigns to emphasise personal responsibility for safe travel and charging fees for consular services. Further, there is still a need for consistency in the delivery of consular services to avoid confusion among clients, a stronger culture of co-responsibility to be built and a need for governments to learn to decline requests for assistance, accompanied by a clear, accountable explanation as to why a request is refused. But not all countries face the same challenges. In some cases, countries not facing fiscal challenges continue to provide a range of consular services to their citizens abroad that may be more ample, or even unique, when compared to the offerings of other countries

Media

"Political reinforcement to the public of the importance of taking personal responsibility for their actions….can help in shaping broader expectations."

4. There is often a conflict within MFAs on how to approach media reporting on consular cases, between harnessing the opportunity to defend the government's reputation by highlighting the work and special effort involved in cases, and emphasizing the limitations on the consular role and the need for individuals to take more personal responsibility. Governments should capitalise on media coverage to publicise travel advice during crises and place restrictions on media reporting in some circumstances, such as kidnappings

Political actors

5. Media coverage often sparks political interest by foreign ministers and heads of state. Politicians often want to become involved in high profile cases to show that they can resolve them. However, political involvement can lead to over-servicing, which results in a vicious cycle of media reporting and increased client expectations. Consular officials can manage political involvement by comparing actions taken in other cases and trying to seek consistency from politicians in their responses. Political reinforcement to the public of the importance of taking personal responsibility for their actions and of government assistance as a point of last, not first resort, can help in shaping broader expectations.

Other actors in the consular realm

"...governments' ability to issue travel advice is a powerful tool and can have a direct impact on the travel industry."

Private sector

6. A significant percentage of requests for assistance by citizens overseas are handled by the private sector, such as business employers and insurance companies, and never make it onto the consular radar. Formal or informal cooperation with these sectors is worth exploring further. In some countries, travel insurance is a mandatory requirement to leave the country of origin. In many other countries, travel insurance has become less common and less comprehensive. Often citizens may not realize, due to unclear

travel insurance policies, that they have inadequate coverage, resulting in a false sense of security. Further, governments' ability to issue travel advice is a powerful tool and can have a direct impact on the travel industry. For example, advice not to travel to certain destinations may enable travellers to claim refunds for booked trips.

" Balancing responsibilities between public and private sectors will depend on national legislations and cultural expectations regarding the state's responsibility for travelling individuals."

7. International corporations often have more resources in remote locations to assist their employees and other citizens in crisis situations with more ease than governments. Building good relationships with this sector could result in these resources being available to governments in emergencies.

8. While there are acknowledged limits on the responsibility of the private sector, questions of liability should be explored. Should travel agents include travel insurance in their holiday packages or should travel arrangers be responsible for certain basic consular assistance services? Should corporations be more responsible for the welfare of their subcontractors and expatriate employees? Balancing responsibilities between public and private sectors will depend on national legislations and cultural expectations regarding the state's responsibility for travelling individuals. Increased communication and collaboration with the private sector can lead to mutual gains.

Non-government organisations

9. Non-government organisations (NGOs) can provide assistance to governments by complementing or assuming some consular functions. NGO partnerships include: citizen diaspora organisations acting as consular wardens in crisis situations, coordinating and encouraging travel registrations, disseminating travel advice and explaining embassy roles; prisoner welfare organisations conducting prison visits; and foster child organisations attempting to place dual-national foster children with same culture foster families.

Consular services tools and systems

" Challenges in obtaining traveller registrations include unwieldy systems and privacy data concerns by travellers. "

Registration systems

10. Travel registration systems have been widely ineffective in capturing the details of expatriates in any given country. While registrations tend to increase during crises, travellers often do not de-register, leaving out-dated and incorrect data. Most countries continue to encourage citizens to register their travel plans and at least one country indicated that registration was compulsory. Another indicated that registrations are automatically deleted if travellers do not confirm data on a regular basis. Challenges in obtaining traveller registrations include unwieldy systems and privacy data concerns by travellers. There is a fear by some MFAs that travel registration systems create false expectations by clients that they will be contacted or assisted in the event of an emergency.

"MFAs need to embrace technology to simplify registration systems,..."

11. An alternative to the traditional travel registration system is a 'just in time' registration system, which is only open for registration during crises, and where travellers or members of the public can input data about themselves or their family or close friends over the internet, mobile applications or social networking websites. This data must be controlled for quality by consular officials. MFAs need to embrace technology to simplify registration systems, create user-friendly mobile applications and use social media tools to open up lines of communication with clients, particularly in dangerous locations and crisis situations.

"It is anticipated that, in the near future, citizens will expect to be able to conduct most consular transactions through technology rather than face-to-face contact."

Travel advice

12. Travel advice documents are often too risk averse and used by MFAs to protect themselves from blame. Some MFAs have a 'no double standard' principle or legislation, which requires them to publish for the public any warnings given to government employees regarding intelligence or threats. For some countries a 'do not travel' instruction forbids travel to a given destination, whereas for others the advice is provided as guidance only.

"The challenge for MFAs is to move from a static 'registry' approach, to interactive, information on demand, flash organisation and crowd-sourced intelligence."

13. Travel advice, when issued in a timely manner, can assist in managing crises and informing the public on how to respond in emergency situations. However, this advice is unlikely to deter diaspora with dual citizenships from visiting family and friends in dangerous locations. Travel advice to targeted demographics, such as retirees, students, gay populations, cruise passengers or for commonly travelled routes, can assist in better dispersing important consular messages and managing expectations. Countries are also generally interested in knowing what other countries are advising and in comparing that advice to their own.

Technology

14. Advances in technology have made communicating faster and easier; however these are not without their difficulties for consular services. Social media has led to increased scrutiny of cases. Families and friends who lose contact with their loved ones for short periods of time, may panic and conclude that something sinister has happened to them; and the faster pace of life raises clients' expectations of quick solutions to complex problems. It is anticipated that, in the near future, citizens will expect to be able to conduct most consular transactions through technology rather than face-to-face contact.

15. Governments are experimenting with using technology and innovations to meet consular objectives; however this is often hindered by bureaucratic processes and a lack of funding. Some countries have made significant investments to develop an impressive array of technological tools. Collaboration with private sector companies could provide innovative solutions to technological problems, including creating better products than those engineered by in-house government information technology departments. However, security and privacy issues are of concern to governments as they negotiate the changing technological landscape.

16. There are numerous areas for potential technological advances in the consular arena, many of which are beginning to be realised. Online websites have been established to facilitate passport renewals, notarial services, travel registrations and country reports. Communications are conducted with citizens via toll free phone numbers, operational call centres, email, MFA websites and on social media such as Twitter, Facebook and YouTube. Targeted advertisements on social media websites are often an inexpensive and effective means of raising awareness and managing expectations. Mobile phone applications are being built to simplify travel registration processes and provide travel advice that is easier to read and more enticing. There is potential to use GPS trackers on mobile applications to trace citizens' movement. Partnerships with mobile phone companies are enabling MFAs to send welcome messages to citizens as they arrive in a foreign country, reminding them to travel safely, register their travel and providing consular phone numbers in case of emergency.

17. Many citizens now prefer interactive communication with consular officials by social media. Social media is a major asset for client contact that is not yet used to its full potential. The challenge for MFAs is to move from a static 'registry' approach, to interactive, information on demand, flash organisation and crowd-sourced intelligence. Structuring mobile applications that encourage people to add value to the applications as they use them can provide mutual benefits to the owners and the users of information. Two-way communication via social media enables MFAs to receive citizen innovations and insights and raise citizens' awareness of travel warnings, particularly in crisis

Legal issues

Dual Citizens

18. There is almost no disadvantage for someone to hold more than one citizenship; however, with respect to consular assistance, dual nationals can be in a legal limbo. While clients are often given the choice as to which country they wish to be informed of

their situation, they sometimes play countries off against each other to seek higher levels of consular assistance

" Levels of consular assistance can vary for dual citizens who require assistance in the country of their other citizenship"

19. Levels of consular assistance can vary for dual citizens who require assistance in the country of their other citizenship. Some countries provide the same level of support to citizens regardless of whether they are single or dual nationals. Other countries raised queries about the level of allegiance a citizen has to their country, questioning where the person is normally resident, where they pay taxes or whether they have voting rights, in order to determine whether they will provide assistance. Other countries assess whether the person has access to sufficient services as a result of their other nationality and whether they really do require further assistance from the other government. However, most countries undertook to provide consular assistance to citizens in special circumstances such as prisoners facing the death penalty.

"..., there is recognition that dual nationality can raise some very complex practical issues in the provision of consular service."

20. Some countries, that do not recognise dual citizenship, will not allow other countries access to provide consular assistance to their dual nationals. Others that do not recognise dual citizenship have however entered into bilateral agreements to allow consular access under certain conditions, such as for clients who enter the country on the passport of their other nationality. While there is no consensus on defining nationality or how to manage dual or multiple nationals cases, there is recognition that dual nationality can raise some very complex practical issues in the provision of consular service.

Vienna Convention on Consular Relations (VCCR)

21. While many participants agreed that the Vienna Convention on Consular Relations (VCCR) is not perfect, there was a fear that opening it for review could jeopardise the minimum standards enshrined in the framework and inadvertently leave the Convention worse off. Yet, countries have an interest in many practical issues linked with the VCCR that they are interested to address. Client expectations clearly exceed the VCCR standards and the consular environment has evolved significantly in the last 50 years. To address some shortcomings, a number of countries have supplemented the VCCR with a variety of bilateral and regional agreements on issues such as notifications of arrest (including delays), access to detainees and dual nationals, or other work-arounds such as designating locally engaged staff as honorary consuls to give them broader consular service.

Vulnerable persons

" When a child is held overseas by one parent without the consent of the other, facilitating a solution acceptable to both parties can be a long and difficult process."

Children

22. Globalisation of relationships and increased ease in international travel, have resulted in three main areas of consular concern affecting children: child abductions, surrogacy and adoption. Of these, child abductions are the most fraught. In broken families, the child can become a pawn in a dispute between spouses. Many multilateral instruments on the rights of the child underline the child's right to have access to both of their parents and this fundamental right appears to be a common ground across all cultures, legal systems and religions. When a child is held overseas by one parent without the consent of the other, facilitating a solution acceptable to both parties can be a long and difficult process.

23. Mediation can be an effective way to resolve these issues. Many, but not all, countries have ratified the Hague Convention on the Civil Aspects of International Child Abduction. In cases where the Convention applies, it has a tendency to become a very long process, sometimes taking years to resolve. An additional challenge is that the definition of the best interest of the child and how to assess risks to children can vary significantly across jurisdictions. Where one or more of the countries involved are not party to the Hague Convention and no alternate bilateral agreements exist, there is no process to organise the return of the child. Hague Convention countries encouraged non-Hague member states to develop dialogue to establish processes for the resolution

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of such cases. The Working Party on Mediation (the "Malta Process") was highlighted as an alternative mediation process that a number of countries are pursuing with a view to build bridges between Hague Convention signatories and those that are not. There was no disagreement that greater dialogue across cultures, through this Forum or elsewhere, would be helpful and that processes to resolve child abduction cases should be available to all parents.

24. Surrogacy is a growing concern for consular practitioners. In some countries commercial surrogacy is illegal with an extra-territorial application of this law. Domestically, many MFAs feel they have become the focal point on surrogacy issues as they often become the coordination agency on complex legal and immigration issues. Some countries called for the creation of a coordination body, which would be clearly known and able to be identified by others for surrogacy questions.

Women

"Assistance to victims of forced marriage overseas is a very sensitive issue."

25. Women are especially affected by irregular migration, human trafficking and early and forced marriages and female genital mutilation. Forced marriage as a consular issue has arisen largely due to changes in the demographics of populations. Difficulty in contacting the young women involved has led some MFAs to employ technological solutions such as SMS contacts and mobile phone applications. There were calls for specialised expertise on these complicated family law issues from academics, sociology, law and criminology experts. Assistance to victims of forced marriage overseas is a very sensitive issue. Unless the local police and other authorities are willing to assist, embassies are unable to interfere without breaking laws and potentially putting lives at risk.

Others

26. Other vulnerable groups who require special consular assistance are foreign workers, people with mental health issues and medical tourists. Some countries have very significant numbers of their citizens working overseas, with the income generated by this work (remittances) supporting many family members in the sending country and contributing to its gross national product. These citizens may be undocumented or have their identity documents taken away from them by their employers. They can face problems of mistreatment and non-payment of salaries. They are often reluctant to contact their embassy for assistance and locating them can prove difficult. Countries affected by these issues are considering negotiating bilateral agreements, investigating implementation of welfare liability for employees by recruitment agents and engaging in closer vetting of recruitment agencies. Should cross-border recruitment agencies have some degree of accountability with respect to the basic safety and well-being of workers they bring into a country?

"Privacy laws can complicate the provision of assistance by governments to travellers with mental health problems, or who are otherwise no longer competent to look after themselves."

27. Privacy laws can complicate the provision of assistance by governments to travellers with mental health problems, or who are otherwise no longer competent to look after themselves. It can be difficult for consular officers to balance concern for a person's welfare, and facilitating contact between medical professionals in the host and sending countries, with respect for the person's privacy.

28. Medical tourism has gained momentum due to the ease and affordability of international travel, differences in health care costs in different regions, improvement in technology and standards of health care, and desire by clients to avoid procedural waiting times. There are numerous challenges associated with medical tourism, including the risk of infectious diseases, lack of certified medical tourism health providers, differences in health care standards, illegal purchase and harvesting of organs and tissues, different codes of practice, insurance issues and visa problems.

Ideas for the future

Exchange of best practices

"An exchange of lessons-learned, best practices and policies on common issues faced by governments will help countries to maximise their resources, avoid 'reinventing the wheel' when responding to the changing face of consular affairs and to facilitate collaboration"

29. An exchange of lessons-learned, best practices and policies on common issues faced by governments will help countries to maximise their resources, avoid 'reinventing the wheel' when responding to the changing face of consular affairs and to facilitate collaboration. A platform for sharing this information could consist of a curated online database listing bilateral and regional agreements beyond the VCCR; and IT innovations, including examples of best practice in travel advice websites, mobile phone applications, widgets and other online programmes for consular assistance. This platform could also be useful to maintain updated key (senior consular official and alternate) consular contact information for each participating country.

Cooperation

30. Mutual gains can also be obtained by increased cooperation and collaboration in areas of common interest including crisis response and consular training. Cooperation instead of competition for resources on the ground in crisis situations can lead to improved efficiencies for all parties. Cooperation on scenario planning, declassified lessons learned exercises, as well as joint demarches to host governments in crisis situations can help maximise resources, improve crisis response, avoid duplicating effort and avoid countries hindering each other in such time sensitive situations.

"Cooperation instead of competition for resources on the ground in crisis situations can lead to improved efficiencies for all parties"

31. While there is a desire to formalise agreements to cooperate in crisis situations, there is also an understanding that crises are ad hoc, situational and variable and that responses can be hard to predict and formalise. Not every country is involved in every crisis and pre-prepared response formulae may not always apply. Efforts to cooperate may also be hampered by fears that countries will be motivated to look after their own citizens ahead of assisting others. There is, however, scope to list and develop more standard procedures in terms of cooperation in crisis situations and diplomatic requirements when conducting evacuations.

32. Other avenues for improving efficiency and maximising resources are through co-location, co-protection and co-representation of countries in both crisis situations and also more routine consular representation. Consultations on and alignment of travel advice with like-minded countries or regional partners can help manage client and political expectations. Some participants suggested that countries could even jointly develop service delivery tools or build upon the experiences of others.

"...there is also an understanding that crises are ad hoc, situational and variable and that responses can be hard to predict and formalise."

Liaison with external partners

33. Governments should pursue more structured dialogue with external partners involved in consular affairs, such as the travel industry, legal officials, NGOs, technology companies and academia. There has been little academic research into consular themes. However, if research is reframed in a language that is more appealing to academics, such as studies on the conditions for an individual's security outside of state borders, they may be more receptive to conducting this research.

"Greater academic understanding of consular issues can also benefit governments"

34. Countries could consider jointly engaging academics to translate policy dilemmas into research themes on issues such as: global trends affecting the consular function; technological innovation; politically complex legal issues; expectation management; the limits of state -v- individual responsibility; how to leverage private sector influence in consular work; compiling an inventory of lessons learnt from past crises; or assistance in drafting a consular agreement template. Collaborative studies could be conducted between consular and other disciplines such as public diplomacy. Greater academic understanding of consular issues can also benefit governments as they can raise the profile of consular issues and can be seen as more authoritative in responding to media enquiries on consular themes. Think-tanks and academia could be helpful in designing simulations and scenarios involving government and other stakeholders on consular issues. An academic research network on consular issues could play a role in reinforcing the importance of consular work.

35. The International Law Commission may also be willing to be approached to conduct research on existing bilateral consular agreements. This research could be conducted

"Partnership opportunities with civil society, NGOs, the International Organization for Migration, the Red Cross, banking and insurance sectors could be investigated".

with a view to creating a bilateral template agreement covering common areas such as dual citizenship and detention standards, which could be used by all countries.

36. Partnership opportunities with civil society, NGOs, the International Organization for Migration, the Red Cross, banking and insurance sectors could be investigated. Some of these organisations may organise training which could be useful for consular officers to attend. Increased dialogue and cooperation with the private sector may assist governments in finding easier solutions to consular problems as they often have more resources and larger budgets than MFAs.

Future meetings

37. Participants were unanimous about the usefulness of multilateral dialogue on consular issues, such as that undertaken at Wilton Park. Some countries are currently engaged in like-minded or regional dialogues on consular affairs, however until now there has been no formalised process for cross-regional multilateral consular talks. Participants were keen to hold regular senior officials meetings on consular issues approximately every two years. A temporary secretariat should be established staffed by both the previous and next host countries. Academics might also be invited to contribute to the secretariat function to provide continuity to the process. The existing Forum Steering Committee was asked by participants to come up with an action plan that would improve and formalise the Forum.

38. Organisers of the next forum may wish to widen the group of countries invited to participate and also seek participation from relevant and appropriate international organisations and private sector bodies with a stake in consular affairs. It was proposed that working groups be established in the interim to capitalise on the momentum from the Wilton Park forum on key themes such as: technology and best practices; family law; legal issues (including new types of bilateral or plurilateral agreements); crisis management; private sector and NGOs; client expectations; migrant workers; and special challenges for small countries. Discussions at the next forum could include reports from the working groups.

39. Participants also suggested that a consular contact point list be developed and shared amongst all forum members.

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Wilton Park | October 2013

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