



Transparency for governance: The mechanisms and effectiveness of disclosure-based and education-based transparency policies

Ronald B. Mitchell 

Department of Political Science and Environmental Studies Program 1284 University of Oregon Eugene OR 97403-1284, USA

info

Article history:

Received 30 July 2010

Received in revised form 24 February 2011

Accepted 3 March 2011

Available online 30 March 2011

Keywords:

Transparency

Disclosure

Legitimacy

Accountability

Effectiveness

abstract

When transparency is used as a tool for global environmental governance – i.e., to induce targeted actors to reduce environmentally-harmful behaviors, it can operate via disclosure or education. Disclosure-based policies improve the information the public has about targeted actors' behaviors while education-based policies improve the information targeted actors have about their own behaviors, whether that is information about consequences, alternatives, or social norms. Various social and political forces shape whether and what type of transparency policies are adopted. Disclosure-based and education-based transparency policies are effective under different conditions and operate through different mechanisms. Both often operate through mechanisms that reflect an instrumental logic of consequences but also can and do operate through mechanisms that reflect a normative logic of appropriateness, by increasing the legitimacy accorded to global environmental norms and the social accountability targeted actors feel regarding their behaviors. Understanding the differences in the mechanisms by which disclosure-based and education-based transparency policies operate suggests that both scholars and practitioners should use caution in understanding why, and predicting when, such policies will work.

© 2011 Elsevier B.V. All rights reserved.

1. Introduction

What role do accountability and legitimacy play in the ability of transparency to improve global environmental governance? This special section focuses on the challenges of furthering the accountability and legitimacy of diverse earth system governance arrangements (Biermann and Gupta, 2011-this issue). I address questions that are part of this over-arching challenge: how and when are policies that rely on transparency and information effective in generating more environmentally-beneficial behavior, and how do legitimacy and accountability contribute to that effectiveness? Environmental governance depends not only on “disclosure-based” policies in which the environmentally-harmful behaviors of certain actors is disclosed to others but also on “education-based” policies in which those engaged in environmentally-harmful behaviors are provided with information designed to alter their incentives to continue doing so. Both types of policies work through processes that alter material incentives and interests as well as through processes that alter accountability and legitimacy. This article elaborates the processes and mechanisms of their influence and the conditions under which we should expect them to promote environmentally-desirable behavior.

Transparency is “a pervasive cliché of modern governance [that often receives] uncritical reverence” (Hood, 2006, 3). Although many have claimed that transparency brings unalloyed benefits in improved governance, others suggest more caution (Mol, 2010; O'Neill, 2006; Prat, 2006, 91). Rather than trying to resolve this dichotomous framing of the question as whether transparency works or not, I develop a typology of transparency policies intended to clarify the conditions under which different types of transparency are likely to be effective.

The now-extensive transparency literature can be separated into two strands. The first examines “transparency OF governance,” i.e., policies and institutions designed to empower a polity to observe the actions either of “regulators” to whom they have delegated power or of other powerful actors in society (Auld and Gulbrandsen, 2010; Dingwerth and Eichinger, 2010; Florini, 2010; Heald, 2006). The second examines “transparency FOR governance,” i.e., policies and institutions designed to alter the behavior of the “regulatees” in a polity who are engaged in environmentally-harmful behaviors (Fung et al., 2007; Hamilton, 2005; Heald, 2006, 27; Stephan, 2002). In this strand, transparency is valued instrumentally because it “improves environmental performance” (Mol, 2010, 138). I focus on this second strand, which includes the use of transparency by governments to influence behavior and by international and nongovernmental organizations (NGOs) in less hierarchical situations.

“Transparency FOR governance” is the acquisition and dissemination of information to influence the behavior of particular actors. Such transparency prompts intellectual interest because it contradicts the

 Tel.: +541 346 4880; fax: +1 541 346 4860.
E-mail address : rmitchel@uoregon.edu.

view that behavior is most effectively changed either through strong enforcement mechanisms (Downs et al., 1996) or through positive incentives and capacity-building (Barrett, 2003; Sagar and VanDeveer, 2005). Of course, both coercion and incentives depend on transparency, either to identify the violators to be sanctioned or the compliers to be rewarded but, in these cases, transparency's influence depends on the sanctions or rewards it prompts. By contrast, I seek to understand how and when transparency yields influence independent of such strategically-deployed sanctions or rewards.

To do so, I start by delineating the context and conditions that make adoption of transparency policies likely or unlikely. These conditions not only influence whether transparency policies are adopted but, by influencing the goals and shape of policies that are adopted, also have an impact on whether those policies are effective. I then briefly delineate a model of influences on human behavior that reflects the fact that people operate both within a logic of consequences and a logic of appropriateness, a model that allows distinguishing two types of transparency that operate through different mechanisms (March and Olsen, 1998). Disclosure-based transparency operates by providing some interested public with information about a targeted actor's behavior with the intention that the response of that public will prompt new behaviors from the targeted actor. Education-based transparency, by contrast, operates by providing targeted actors with information about their own behavior with the intention that this information will prompt those actors to adopt new behaviors. I conclude the article by delineating some implications for research and policy.

2. The Context of Transparency Adoption

To understand whether and when transparency policies influence behavior, this section examines the contextual factors that influence whether transparency policies are likely to be adopted and the next section examines the contextual factors that influence whether such policies are likely to work. Assessing whether and how “transparency for governance” can influence behavior requires recognizing that transparency is not “randomly assigned” to policy problems. Transparency policies arise from and reflect – even while they also may influence and shape – the political, social, and normative context. And their effects, once adopted, are also conditioned by these contextual forces.

First, under a range of circumstances, effective transparency policies may simply not be politically available. If disclosure and adjustment costs loom large for those “who stand to lose in the ‘empowerment game,’” such policies may be precluded altogether by opposition as fierce as that evoked by more traditional command-and-control options (Dingwerth and Eichinger, 2010, 91). When the actors whose behaviors are targeted think that transparency will be effective – and hence costly – their resistance may transform transparency into “contested political terrain,” as seen in global efforts to govern trade in genetically-modified organisms (Gupta, 2010a). Such opposition can, at times, be overcome, as happened in the case of the American Toxics Release Inventory (Hamilton, 2005). However, if civil society is weak, then targeted actors may be able to “tame” transparency policies, reduce their transformative threat, and tailor the instrument to [their] own needs” (Dingwerth and Eichinger, 2010, 92). By contrast, when those who will bear their costs see transparency as averting more serious and costly regulation, they may support such policies.

Second, transparency policies may be adopted in contexts in which their effectiveness relative to alternatives is not the primary objective. At the extreme, countries may establish intentionally-ineffective “decoy” international institutions to preempt governance” (Dimitrov, 2005, 20). They may be adopted as “a default option” (Hauffer, 2010, 70), rather than after a conscious evaluation that they will induce more behavioral change than alternative policies. They may serve as

“coping strategies” to deflect political contestation and maintain existing power relationships, social hierarchies, and normative “rules of the road” rather than to promote behavioral change by powerful actors and corresponding transformational change (Gupta, 2010b, 8). Also, “transparency systems are often tacked together in times of crisis” (Fung et al., 2007, 106), when policy-makers are motivated to “do something” more than to “do something that works.” And in all these contexts, both the large-scale “neoliberal privileging of market-based solutions” and the more direct influence of those who will be required to disclose may lead to a particular form of disclosure that “largely exempts corporate actors from stringent disclosure” (Gillies, 2010; Gupta, 2010b, 6).

Third, transparency can be adopted as an attractive “first step” during initial stages in development of an environmental norm, when acceptance of and commitment to a new norm preclude political agreement on more ambitious regulatory strategies. Relative to proscriptions and prescriptions coupled with sanctions or rewards, transparency may infringe less on personal freedom, appeal to a belief in the right to know, be more politically palatable than coercion, require less government expenditure, and avoid the inefficiencies of command and control regulation (Cohen and Santhakumar, 2007; for a discussion of right to know in a global context, see also Spagnuolo, 2011 this issue). That said, these conditions that inhibit requirements for behavioral change may generate sufficient opposition to preclude even transparency measures.

Fourth, opposition to intergovernmental transparency policies does not preclude their development by others. Indeed, the nature of transparency policies makes them available to and legitimate for use by a wider range of actors than regulation. Governments, international organizations, NGOs, multinational corporations, and, in the age of the Internet, even individuals can collect and disseminate information without the approval or cooperation of other actors. Although NGOs lack legal authority to impose sanctions, they may have incentives and capacities to gather information in contexts in which governments and international organizations lack those incentives or capacities. Thus, forest certification programs were developed in response to the failure of “prolonged efforts within intergovernmental forums and NGO networks to push for changes in global forest governance” (Auld and Gulbrandsen, 2010, 9). Amnesty International and Transparency International have collected and published reports on human rights abuses and corruption, despite the fact that many governments would prefer such reports not be published.

3. The Context of Transparency Effectiveness

If the foregoing factors condition when transparency policies can be adopted, other contextual factors may limit such policies from being effective. Transparency can best be viewed as a “weak” cause of behavioral change: it influences behavior only under “favorable” conditions in which other necessary conditions have already been met.

In part, transparency policies may be hijacked by the usual problems of regulatory capture. Broad formal mandates regarding the amount and scope of disclosure and transparency may be “watered down” in practice to only that much-narrower set of communication that is consistent with the interests of corporate disclosers and promotes those “functionalist advantages” which they support (Dingwerth and Eichinger, 2010; Gillies, 2010; Gupta, 2010b, 5). The practice of transparency may not match the ideal of transparency because of “power imbalances and broader conflicts over norms, practices and objectives of global governance” (Gupta, 2010b, 7). Indeed, which human impacts on the global environment are recognized as harms, receive policy attention, and are addressed with transparency or other policies will reflect the perspectives and preferences of powerful state and sub-state actors more than those of

less powerful actors. Reducing the impact of such forces may require larger-scale political and social changes such as a more “vigorous media and civil society” and a reduction of background differentials in power across societal sectors (Gupta, 2010b, 7–8).

Socially undesirable behaviors in general and environmental harms in particular often seem overdetermined: actors engage in such behaviors for mutually-reinforcing sets of reasons. Theory and logic suggest that transparency's influence will depend on the values of other variables. The lack of information that transparency seeks to remedy is usually only one of the reasons that actors engage in environmentally-harmful behaviors. In such cases, transparency will necessarily prove ineffective because better information eliminates only one determinant of the behavior. Transparency will be effective only when a lack of information is the critical and proximate cause of a behavior. Consider environmentally-uninformed consumers who are wealthy and environmentally-unconcerned and are engaging in behaviors that are relatively cheap compared to available alternatives: informing these actors of the environmental harm of their behaviors will not prompt them to change their behavior because the behavior is overdetermined by other forces. Transparency will fail to influence ill-informed countries, corporate actors, or individuals who lack the financial, administrative, or technical capacities to engage in environmentally-beneficial behavior. Identifying new means to pursue certain goals will not influence those uninterested in those goals or those who cannot afford those means (see Keohane et al., 1993; Sagar and VanDeveer, 2005). Making actors more accountable will influence behavior less if “having to give an account” does not link to some form of social sanction (Dryzek and Stevenson, 2011 this issue). Actors strongly committed to a goal will rarely be swayed by new knowledge that others view pursuing that goal as inappropriate. In short, transparency is not a panacea. Sometimes new information will change what actors know and do, sometimes it will only change what they know, and sometimes it will not even change that.

Even when transparency seems likely to be effective, its effectiveness may vary significantly across subsets of targeted actors. Since the role of information in decisions and behavior varies across actors (as discussed below), the influence a given transparency policy has will depend on the distribution of types of actors in the targeted population. Transparency's effects are not uniform across countries, regions, communities, or companies and “local context matters” (Florini, 2010; Gillies, 2010; Hamilton, 2005). In cases in which an issue is contested or values vary significantly across subgroups of information recipients, information may increase the very behaviors that their proponents are seeking to decrease. Some transparency policies seek only to foster more “informed choices” whereas others seek to “inform choices to influence them in particular directions.” Transparency can clarify which actors are engaged in a given behavior and which are not: if information recipients share the view of those promoting transparency that the former is better, then transparency may well work. However, if many information recipients think the latter is better, than the information may lead to behavioral change in the direction opposite to that desired by its promoters. Thus, lists of national per capita greenhouse gas emissions may well be viewed as confirming a necessary link between economic growth and greenhouse gas emissions while simultaneously demonstrating that most states are well below the global average, perhaps reducing the sense of urgency that at least the lowest per capita emitters should feel obligated to take action.

Finally, transparency policies that work well at first may decline in effectiveness over time as public attention and support decline (e.g., if the crisis that prompted transparency adoption fades) and when, as is often the case, the concentrated costs borne by disclosers foster increasing regulatory capture over time (Fung et al., 2007, 110). As public interest and media attention dissipates, the “balance of power” that favored the interests of the public may shift in favor of the disclosers, leading to declines in the regulatory requirements and the

inspections and budgets needed to ensure disclosed information is accurate and complete (Hamilton, 2005, 207).

4. How Transparency Policies Work

The foregoing provides a contextual background within which we can identify the different processes and mechanisms by which two major types of transparency policies influence behavior. If we define transparency broadly as the information available to relevant actors, then a model of the role of information in individual, institutional, and state behaviors can shed light on the conditions and mechanisms by which transparency can influence behavior. I build on March and Olsen's distinction between a logic of consequences and a logic of appropriateness (March and Olsen, 1998). In a logic of consequences, behaviors reflect an actor's self-conscious weighing of the costs and benefits of available alternatives in light of their objectives. In a logic of appropriateness, actors are influenced – often through a less-conscious process – by social norms regarding appropriate behaviors for an actor desiring a particular identity in a particular setting. The international relations literature has shown that state behavior reflects both logics, with one dominating in some settings, the other dominating in others, and the interplay between them proving crucial in yet others (Finnemore, 1993; Finnemore and Sikkink, 1998; Tannenwald, 1999). A model of behavior that would allow transparency to influence behavior through either logic should include:

- The actor's goals or objectives
- The alternatives available to the actor for achieving those goals
- The norms of the actor and of the community in which they operate regarding the appropriateness and legitimacy of pursuing certain goals and of using particular means to do so, as well as the accountability the actor feels toward those norms
- The consequences or incentives (i.e., benefits, costs, and risks) of engaging in available alternatives. These include:
 - the “pre-institutional” consequences that arise from other actors responding to their incentives and nature responding to all actors behaviors,
 - the institutionally-influenced consequences that arise when actors, individually or collectively, engage in strategic influence attempts, and
 - the actor's perceptions of the likelihood of incurring these costs and receiving these benefits, which may diverge significantly from their actual likelihoods.
- The information the actor has about these alternatives, norms, and consequences

This list highlights that information plays a role in most behaviors, that this role varies across behaviors and, therefore, that altering information – as transparency policies attempt to do – will alter behaviors in some situations but not others. Thus, transparency may make actors aware of new alternatives, highlight social norms regarding the legitimacy of particular goals or means, or clarify the consequences for – and accountability of – those engaging in certain behaviors.

4.1. Two Types of Transparency Policy

To clarify some terminology, strategies of “transparency for governance” involve actors in the following roles:

- “transparency promoters” that seek to increase transparency,
- “information generators” that collect, aggregate, and disseminate information,
- “information recipients” that receive and potentially use the information, and
- “targeted actors” whose behavior the transparency promoter seeks to influence.

Information generators can collect information about:

- their own behavior, i.e., “behavioral disclosure,”
- the behavior of others, i.e., “behavioral disclosure-by-others,” or
- non-behavioral phenomena such as environmental conditions, i.e., “consequence-disclosure” or “impact-disclosure.”

Given these definitions, model, and roles, we can now distinguish two types of transparency policy: “disclosure-based transparency” and “education-based transparency.” Both involve attempts to disseminate information to influence the behavior of targeted actors.

Considerable literature has focused on disclosure-based transparency, calling it regulatory or targeted transparency, governance by disclosure, regulation by revelation, regulation by information, informational governance, and the like (Florini, 1998; Fung et al., 2007; Gupta, 2008; Hamilton, 2005; Mol, 2008; Slaughter, 2004, 24–25). This literature focuses on policies that require targeted actors to disclose information about their own behavior to a broader public in the hope that public responses will prompt the targeted actor to adopt new behaviors. One strain of this work examines disclosure involving, quintessentially, a government as transparency promoter, a company as the “discloser” who is both the targeted actor and the information generator, and a public as the “user” or information recipient (Fung et al., 2007, 54). Another strain within this literature examines disclosure-by-others in which the information generator is an actor other than the targeted actor, e.g., when a government or NGO collects and disseminates information about targeted actors.

Despite variation in which actor is the information generator, both disclosure and disclosure-by-others share the defining characteristic: that the targeted actor is not the information recipient. Disclosure-based transparency seeks to influence behavior by resolving problems of asymmetric information (Fung et al., 2007, 54). Such policies assume that targeted actors have information about their behaviors that harm others and have incentives not to reveal that information. Disclosure-based policies either require mandated disclosure (Cohen and Santhakumar, 2007) or foster disclosure-by-others. Such policies assume that those whose interests are harmed by such behaviors, if better-informed, will have both the incentives and capacities to change their behavior in response and that they will do so in ways that motivate targeted actors to alter their behavior in the socially-desired direction (Fung et al., 2007). Disclosure-based transparency assumes that environmentally-harmful behaviors arise from a strategic game in which powerful actors have private information which, once made public, will level the playing field.

Education-based transparency constitutes an alternative form of “transparency for governance” in which the same actor is both targeted actor and information recipient. Such strategies do not entail disclosure but, rather, provision of information with the goal of directly getting targeted actors to change their behavior. Such policies are empirically common, e.g., health campaigns that identify the risks of smoking, alcohol, drugs, or communicable diseases; environmental campaigns that clarify that “wetlands are not wastelands;” and training programs that show farmers and fishers that their current agricultural and fishing practices harm their own health and economic interests. Such policies can be effective under certain circumstances but have received less scholarly attention than disclosure-based policies.

Education-based transparency addresses problems of imperfect, rather than asymmetric, information. Unlike disclosure-based transparency, education-based transparency does not involve a “public” that receives information and then responds in ways that alter the incentives of some set of separate targeted actors. Instead, the targeted actor is assumed to have incomplete information about their own behavior, whether about the harm their behaviors inflict on their own interests, about available alternatives, or about social norms regarding the legitimacy of their behaviors. Education-based trans-

parency policies then provide targeted actors with information intended to remedy these informational deficiencies and thereby influence their behavior. Environmentally-harmful behaviors are assumed to arise because actors do not fully understand what behaviors would best promote their interests. They assume actors are acting contrary to what they would, if fully informed, recognize as their own self-interest. The following sections describe disclosure-based and education-based transparency in more detail.