

Introduction

Transparency in Global Environmental Governance: A Coming of Age?

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Introduction

Transparency—the desirability of it, the inevitability of it, or the danger of it—is increasingly the subject of controversy and scrutiny in the social sciences.¹ Transparency is linked to the most politically charged debates of our times: those relating to due process and good governance, human rights, global security and oversight of markets in an era of globalization. Oft-evoked goals of transparency include empowering the weak and holding accountable the powerful, goals that are procedural in nature. At the same time it is implicated in the pursuit of substantive environmental improvements such as reduced emissions, sustainable resource use or risk mitigation. Transparency, in short, is often associated with more accountable, legitimate, effective and democratic governance. Even as these latter concepts are the subject of much analysis, whether transparency indeed furthers such goals—and whether such expectations of transparency are widely shared—is under-scrutinized, particularly in global environmental governance.² This is the point of departure for this special issue.

The concept of transparency evokes a variety of images, ranging from a general openness to the “opposite of secrecy”³ to greater flows of information worldwide. The focus of this special issue is on *information disclosure* as an increasingly widespread manifestation of a multi-dimensional trend towards

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1. Beierle 2004; Fung et al. 2007; Gouldsen 2004; Graham 2002; and Lord 2006.

2. For some exceptions, see Langley 2001 and Mitchell 1998. See also the earlier Forum debate in *Global Environmental Politics* on transparency (Gupta 2008; Mason 2008; and Florini 2008). The analysis presented here extends that earlier debate.

3. Florini 1998.

greater transparency. As such, the attention is on governance initiatives where the very act of disclosing information is central to achieving various aims. Such “governance by disclosure” initiatives are proliferating in global environmental governance, led by both public and private actors.⁴

A number of these initiatives are analyzed in this special issue, covering the spectrum of public and private, and mandatory and voluntary disclosure. The contributions include: Mason on state-led mandatory disclosure of environmental information in the Aarhus Convention; Gupta on state-led mandatory disclosure about global GMO flows in the Cartagena Protocol on Biosafety; Haufler on the public-private voluntary Extractive Industry Transparency Initiative (EITI); Dingwerth and Eichinger on the private voluntary Global Reporting Initiative (GRI); and Auld and Gulbrandsen on disclosure in the private voluntary certification schemes of the Forest Stewardship Council (FSC) and Marine Stewardship Council (MSC). Complementing these specific examples are the two concluding contributions: Florini on the national context for disclosure-based governance; and Mol on the promise, perils and prospects of what he broadly terms informational governance.

As the diverse governance by disclosure examples examined in this issue suggest, there are multiple architects of transparency in governance, including private actors promoting transparency as a means to further voluntary corporate sustainability goals and public actors seeking to correct perceived democratic and accountability deficits. Given their different normative rationales to promote transparency, any analysis of its triumphs and travails necessarily hinges on the intertwined questions of transparency by whom, for whom and to what end.

I draw on the contributions here to assess these elements of a transparency turn in governance. In particular, I focus on how a broader political economic and normative context shapes both the uptake and effects of governance by disclosure, that is, whether it can transform or will merely reflect/reinforce existing power relationships and whether transparency is indeed empowering.

Embracing and Institutionalizing Transparency: Why Now and By Whom?

To greater or lesser extent, all contributions shed light on the broader political and normative context for the emergence and institutionalization of transparency in governance. Some, including Mason, Gupta and Haufler, are explicitly concerned with normative tensions or the dominance of certain global norms in shaping transparency’s uptake and effects, while others, including Dingwerth and Eichinger, and Auld and Gulbrandsen, take the reliance on transparency as a point of departure to analyze what (and whose) aims it is intended to further and whether it does so.

4. Gupta 2008. See also Florini 1998 introducing the term “regulation by revelation.”

In documenting normative tensions shaping embrace and institutionalization of transparency, Mason shows, for example, that inclusion of what he terms “Aarhus environmental rights” (including a right to know) in the 1998 Aarhus Convention has to be understood in the context of the wave of democratization sweeping across Eastern Europe in the 1990s. He identifies a normative tension underpinning the promotion of transparency in this context by Western European democracies: between a social welfare impetus for disclosure as key to furthering a substantive human right to a healthy environment and a market liberal push for disclosure as key to promoting efficient markets. This normative tension, Mason argues, results in uneven institutionalization and a limited impact of Aarhus environmental rights in practice.

Gupta highlights a similar normative tension underpinning the embrace of transparency as a way to ensure safe trade in GMOs. In this case, a right to know and choose, grounded in notions of social justice and asserted by the poorest developing countries as a way to avoid harm from risky trade, encounters a market liberal view of transparency as a means to ensure efficient, evidence-based decision-making to facilitate trade in GMOs. As Gupta illustrates, dominance of the latter view ensures a limited scope for GMO-related disclosure within the Cartagena Protocol on Biosafety.

In analyzing transparency trends in a national context, Florini similarly documents the tension between the global proliferation of right to know laws aimed at citizen empowerment and the impetus emanating from a global neoliberal push for financial and fiscal transparency as a way to promote investor confidence and efficient functioning of global markets. Her conclusion is that the institutionalization and effects of “targeted transparency” hinges partly on which of these rationales for disclosure dominates in a given context.⁵

In contrast, Haufler’s contribution analyzes the role of complementary—rather than conflicting—global norms and agendas shaping embrace of transparency in the Extractive Industry Transparency Initiative. In explaining why transparency has come to be the preferred policy tool for voluntary public-private extractive sector governance, she illustrates how diverse global agendas relating to combating corruption, improving corporate accountability and reducing violent conflict combine to ensure this outcome. The choice of transparency, she argues, reflects a dominance of liberal norms of democratic accountability combined with a neoliberal privileging of corporate social responsibility and market-based solutions to social and environmental problems. A key claim is that the embrace of transparency in the extractive sector reflects a default option, given that more contested or costly governance options, such as mandatory restrictions on the problematic activities, are politically and normatively precluded.

Turning to the private governance realm, Dingwerth and Eichinger’s analy-

5. For additional detailed discussion of targeted transparency, i.e. transparency to further substantive regulatory aims (but mostly in an industrialized country context), see Fung et al. 2007.

sis of the Global Reporting Initiative (GRI) focuses on the rationales for voluntary disclosure offered up by the corporate social responsibility movement. Through documenting the diverse components of the GRI's rhetoric on transparency, they show the growing importance of non-financial sustainability reporting to corporate actors in self-governing the social and environmental impacts of their activity, and in rectifying potential accountability and legitimacy deficits vis-à-vis affected stakeholders. Their analysis reveals, however, that the stakeholder empowerment potential of transparency is rarely institutionalized or supported by GRI's actual practice.

The importance accorded to transparency in private governance is reaffirmed by Auld and Gulbrandsen's analysis of private voluntary certification schemes in forestry and fisheries, although here civil society is as much a promoter of transparency as are corporate actors. Their focus is on testing the claim that transparency can enhance the accountability and legitimacy of nonstate actor rule-making. Their argument about the embrace of transparency, nonetheless, is that it can only be understood in light of related processes of private governance, such as who participates and how decision-making authority is delineated.

Taken together, the contributions to this special issue highlight the (competing) normative rationales and the broader political context within which transparency is being embraced and institutionalized. They also reveal varied aims that transparency seeks to further, from a normative right to know to procedural aims of stakeholder empowerment to substantive improvements in the environmental performance of government and corporate actors; in short, to inform, empower and improve (environmental performance). I turn next to whether such aims are being furthered in practice.

Impacts of Transparency: To Inform, Empower, Improve?

Transparency's potential to inform and empower is central to all analyses here, with environmental improvements often only indirectly addressed. This is partly because the link between procedural aims of informing and empowering and substantive aims of environmental improvement may be explicit, implicit, or non-existent in any given instance, and where links exist, they may be supportive of or in tension with one another.⁶

The contributions here speak to these linkages, even as their overarching concern is with empowerment in environmental governance. Mason's discussion, for example, highlights that the normative tension between a social welfare and market liberal push for disclosure ensures that the empowerment potential of "Aarhus environmental rights" remains limited, with procedural rights to know and participate decoupled in practice from the substantive right to a

6. This is related to debates over legitimacy versus effectiveness in global environmental governance, and to related distinctions such as input and output legitimacy. See, for example, Bäckstrand 2006; Biermann and Pattberg 2008; and Dingwerth 2007.

healthy environment. This is partly related, he argues, to exclusion of private actors from mandatory disclosure.

Gupta's analysis of GMO-related disclosure similarly illustrates a limited potential to inform and empower in practice, with correspondingly reduced prospects for substantive risk mitigation. As she shows, the limited scope of disclosure in the Cartagena Protocol is market-following rather than market-regulating, insofar as it requires no new information to be generated by GMO producers, and no existing market practices to change. Furthermore, complex infrastructures of monitoring and verification are needed to render disclosed information usable, which are out of reach for the poorest.

In evaluating transparency's potential to empower, Dingwerth and Eichinger document the disjuncture between the transformative intent versus the practice of corporate sustainability reporting in the GRI. They show that, although the GRI's rhetoric includes a normatively demanding call for stakeholder empowerment, this is watered down in practice, with its communications and policies targeting corporate actors highlighting functionalist advantages for companies instead.

In assessing the EITI's effects, Haufler notes that it at least promotes a norm of transparency in the extraction sector. Nonetheless, she identifies various disfunctionalities of disclosure that pose hurdles to stakeholder empowerment or environmental improvements, including unreliable data, shirking of disclosure obligations, lack of capacity to interpret and use disclosed data or lack of civil society or other intermediaries to render disclosed information useful. She also points to the hazards of "form over function" whereby a focus on developing elaborate disclosure procedures can distract attention from a lack of substantive results.⁷ Such hazards are also noted in the analyses of GMO governance and the GRI.

In somewhat of a contrast to the previous analyses, Auld and Gulbrandsen suggest that procedural transparency in the FSC and MSC is indeed furthering accountability and legitimacy of these schemes, insofar as it permits greater scrutiny of their accreditation and auditing practices and outcomes. This conclusion holds, they argue, notwithstanding that the reasons to embrace transparency vary across the two initiatives, with the MSC offering more instrumental rationales for disclosure. They also conclude, however, that despite extensive disclosure, particularly in the FSC, it is less procedural transparency and more the prospects for stakeholder participation in decision-making that is central to perceptions of accountability and legitimacy in both cases. As such, their analysis can be interpreted as suggesting that transparency itself is ultimately epiphenomenal, even if their own aim is to draw attention to the complex links between transparency vis-à-vis participation, and whether the one is a precondition or necessary accomplice of the other.

A further point emanating from the contributions merits note: the possi-

7. For other discussions of these dynamics both within and beyond the environmental domain, see Florini 2007; Fung et al. 2007; Graham 2002; Lord 2006; and Mol 2006, 2008.

bility of a reversed causal relationship between transparency and desired governance outcomes, whereby more transparency *follows* advances already made in democratic accountability, improved governance or environmental improvements, rather than serving to further these aims itself. This conclusion appears to hold for most cases discussed here, insofar as the scope of transparency in each case follows rather than shapes positive advances (or lack thereof) in accountability relationships or changes in environmental practices and performance.

Transparency by Whom and for Whom: Default Option or Transformative?

Taken together, most contributions to this issue support a conclusion that the embrace and institutionalization of transparency in specific instances plays out within a broader global governance context shaped by a liberal democratic push for individual liberty, choice and participation; but also by a neoliberal privileging of market-based solutions to environmental and social challenges and support for “light touch” regulation of the private sector.⁸ The interplay of these imperatives in an embrace of transparency has resulted, more often than not, in institutionalization of disclosure with minimal market restricting effects, and in a manner that largely exempts corporate actors from stringent disclosure. This holds as much for the corporate-led private voluntary as for state-led mandatory disclosure initiatives examined here. Strikingly, this holds across the wide variety of disclosure targets examined here: including natural-resource rich states in the South (the EITI); Western democracies promoting a democratization imperative in Eastern Europe (Aarhus); industrialized countries exporting potential risk to developing countries (GMOs); or private corporate voluntary disclosure (GRI). Thus, private entities are exempt from mandatory disclosure in Aarhus, even if their activities impact on the right to a healthy environment, while in the GMO case disclosure obligations rest squarely on states (and only indirectly on private actors) and are, moreover, market-following rather than market-shaping.⁹ Even with corporate-led GRI disclosure, the most far-reaching of GRI’s normative rationales for disclosure, that relating to stakeholder empowerment, is reserved for disclosure by public agencies and civil society groups rather than the corporate sector, where a more functionalist rationale for disclosure relating to economic efficiencies and market leadership is emphasized. A hypothesis for further scrutiny, then, is that the private sector is getting off lightly in the trans-

8. For discussion of these trends in global environmental governance, see for example, Bernstein 2002; Newell 2008; and Eckersley 2004.

9. In the GMO case, online disclosure through Biosafety Clearing House might even, as I have argued elsewhere, aid market access for GMO exporters, thus achieving the opposite effect from the originally intended aim to ensure importer choice to potentially restrict trade. See Gupta 2010.

parency revolution.¹⁰ This has implications for the commonly heard call across various environmental issue-areas for mandatory rather than voluntary disclosure from corporate actors as a way to achieve desired governance aims.¹¹

In sum, then, the contributions to this special issue document that the ideal of transparency does not often match up to its practice and that the ideal itself often remains contested. Furthermore, this is not merely because transparency is not yet adequately implemented, i.e. it is not explained by lack of full disclosure, faulty design of disclosure systems, or lack of desired qualities in disclosed information, often the focus of myriad transparency analyses.¹² While the attributes of disclosed information and design of disclosure are centrally relevant to the functioning and effects of governance by transparency, the analyses in this special issue suggest that an incomplete institutionalization of transparency is not related only to lack of capacity or technical, administrative or bureaucratic inadequacies or irrationalities but to power imbalances and broader conflicts over norms, practices and objectives of global governance.

It thus becomes important to ask whether transparency is simply a default option when more transformative governance pathways are precluded. And if so, is this cause for celebration (since something is better than nothing) or despair (since it may be intended to yield little)? The logical corollary to the “default option” thesis is that if transformative change is desired, reliance on transparency is not an optimal governance choice. Before writing off the transformative potential of governance by disclosure, however, we can consider differing perspectives on this within this issue, even as all contributors agree that transparency is no panacea, and that it cannot *alone* initiate transformative change, but will work in conjunction with other practices and outcomes of governance to do so.

Those more optimistic about transparency’s transformative potential include Auld and Gulbrandsen, and to some extent, Haufler, Dingwerth and Eichinger and Florini, all of whom are interested, then, in enunciating conditions under which transparency may indeed empower and effect change. Dingwerth and Eichinger note, for example, the need for a pluralistic, open and participatory political culture with a vigorous media and civil society; bounded rather than complex problems; and desired attributes of information such as relevance and comparability as preconditions for empowerment through transparency. In contrast, Mason and Gupta’s critical perspective points to overarching current global normative and political imperatives that ensure that transparency’s trans-

10. The contributions here also highlight, in line with emerging scholarship (e.g. Pattberg and Stripple 2008) that a sharply drawn public-private divide in governance is artificial, given that the shadow of hierarchy shapes private disclosure even as private actors and their imperatives (and sometimes their explicit absence) shape the scope, practices and outcomes of public disclosure.

11. See, for example Clapp 2008.

12. All contributions to this issue discuss attributes of disclosed information to greater or lesser extent.

formative potential is limited, even given enabling conditions such as open, participatory and pluralistic traditions, as seen from both the Aarhus and GMO cases.

Going beyond these explanations, a more far-reaching hypothesis for lack of fulfillment of transparency's transformative potential relates to the persistence of "low-performance-high-persistence" organizations in global governance, whose functions lie not so much in solving but in *coping* with a problem, given its inherent intractability as a result of high individual and collective costs to address it. This thesis, advanced by Dingwerth and Eichinger in relation to the GRI, merits scrutiny for its implications for global sustainability governance more broadly, going beyond transparency's role in it.

In conclusion, whether transparency in governance is a coping strategy, a default option or whether it is able to transform existing norms, practices and outcomes of governance remain enduring questions. Since neither "full disclosure"¹³ nor a retreat into secrecy is attainable or desirable, struggles over the scope and practices of transparency will continue and intensify in global environmental governance and beyond. In this sense, then, transparency has indeed come of age. As a defining feature of our present day and future politics, transparency is a central site of political conflict and power struggles, whether or not it can also be the means by which to transcend them.

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13. Fung et al. 2007.

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