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

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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.

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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 account-ability and legitimacy of diverse earth system governance arrange-ments (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 dissemina-tion of information to influence the behavior of particular actors. Such transparency prompts intellectual interest because it contradicts the

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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 wields 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" (Haufler, 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