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The uncertain relationship between transparency and accountability

Jonathan Fox

The concepts of transparency and accountability are closely linked: transparency is supposed to generate accountability. This article questions this widely held assumption. Transparency mobilises the power of shame, yet the shameless may not be vulnerable to public exposure. Truth often fails to lead to justice. After exploring different definitions and dimensions of the two ideas, the more relevant question turns out to be: what kinds of transparency lead to what kinds of accountability, and under what conditions? The article concludes by proposing that the concept can be unpacked in terms of two distinct variants. Transparency can be either 'clear' or 'opaque', while accountability can be either 'soft' or 'hard'.

KEY WORDS: Governance and Public Policy; Civil Society

The right to information is increasingly recognised as a fundamental democratic right, although it was clearly stated in Article 19 of the United Nations Universal Declaration of Human Rights a half-century ago.¹ More than 60 countries around the world have now launched 'right-to-know' reforms, starting with Sweden in 1966, followed by Colombia in 1988, and now including dozens of developing countries. Their content varies widely, however: one can only imagine how effective the 2002 reforms in Zimbabwe and Tajikistan have been. Yet in the same year, Mexico passed what became the most far-reaching law on public access to information in the developing world (Sobel *et al.* 2006; Fox *et al.* 2007 forthcoming). Mexico's breakthrough was then surpassed by India's remarkable 2005 reform, which followed years of state-level reforms and grassroots campaigns (see, for instance, Banisar 2006).

Civil-society campaigners around the world have incorporated the right to know into both their strategies and their tactics, with the hope that transparency will empower efforts to change the behaviour of powerful institutions by holding them accountable in the glare of the public eye. More broadly, the twin principles of transparency and accountability have become adopted by an extraordinarily broad array of political and policy actors in a remarkably brief period of time. This broad appeal is testimony to their trans-ideological character – and to the convergence of forces from above and below that have appropriated them. This underscores the need to specify what exactly the terms mean, to whom, and in what context. One person's transparency is another's surveillance. One person's accountability is another's persecution. Where one stands on these issues depends on where one sits. Both concepts are inherently

relational: who is to be transparent to whom, and who is to be accountable to whom? Yet what they share is the fact that such a wide range of actors agree that transparency and accountability are key to all manner of ‘good governance’, from anti-poverty programmes to corporate responsibility, participatory budgeting, and NGO management.

Not coincidentally, the terms *transparency* and *accountability* are both quite malleable and therefore – conveniently – can mean all things to all people. For example, while the transparency banner has been held high by the environmental movement for decades, calling for public hearings to assess environmental impacts and for the obligatory reporting of toxic emissions, corporate investors also took up the charge in the wake of the Enron collapse, calling for managements to open their books. While accountability has long been the watchword of human-rights movements around the world, calling for truth with justice, technocratic managers and anti-union politicians also use it to impose their goals on ostensibly unresponsive public bureaucracies (using the reporting tools of tests and other quantifiable indicators). Campaigners have long challenged the World Bank on the grounds of lack of transparency and advocate holding it accountable for development disasters, yet World Bank managers now call for borrowing governments to be more transparent, and claim that they are holding corrupt governments and contractors accountable for misusing development funds. Bank managers even now converge with the World Social Forum in support for participatory budgeting, a local-government reform strategy that brings transparency and accountability together.

The views of various ‘stakeholders’ on these issues – to use another development buzzword – depend heavily on how exactly transparency and accountability are defined, and such definitional decisions are path-dependent. In other words, the question of ‘what counts’ as transparency and accountability depends on how their conceptual boundaries are drawn. Moreover, in many national and international debates over how and whether to enforce social and environmental standards, the following trend appears to be quite pronounced: while critics call for accountability, powerful elites respond by offering some measure of transparency instead. The implication is that monitoring and reporting measures (sometimes by interested parties) are the cure for all ills – and a market-friendly substitute for the threat of authoritative sanctions (now stigmatised as ‘command and control’ measures). One notable example was in the US debate over the North American Free Trade Agreement, when labour and environmental side-agreements that could only promise public hearings and modest investigations were sold as the solution to the poor enforcement of minimum standards (in the USA as well as in Mexico). In brief, better and more information is supposed to make both markets and public authorities work better. But does it? What does the evidence show?

The conventional wisdom about the power of transparency is straightforward: transparency generates accountability. Several related phrases come to mind, such as ‘information is power’, ‘the truth shall set you free’, and ‘speak truth to power’. Or, as one of the founders of public-interest law and later Supreme Court Justice Louis Brandeis put it nearly a century ago: ‘[p]ublicity is justly commended as a remedy for social and industrial diseases, sunshine is said to be the best disinfectant, electric light the best policeman’ (1913).²

This proposition makes a great deal of intuitive sense, yet a review of the empirical literature on this issue revealed two major puzzles. First, the actual evidence on transparency’s impacts on accountability is not as strong as one might expect. Second, the explanations of transparency’s impacts are not nearly as straightforward as the widely held, implicitly self-evident answer to the ‘why’ question would lead one to expect.

To evoke the power of sunshine is both intuitive and convincing. Indeed, these principles have guided my past 15 years’ work.³ Nevertheless, recently, after reviewing the empirical evidence for the assumed link between transparency and accountability, I have come to the conclusion that one does not necessarily lead to the other. Those who make this assumption are

confusing the normative (that which our democratic values lead us to believe in) with the analytical (that which the social sciences allow us to claim). If the power of transparency is based on the 'power of shame', then its influence over the really shameless could be quite limited.⁴ It turns out that transparency is necessary but far from sufficient to produce accountability.

In this context, it is important to reframe the question in the following terms, more analytical than normative: *under what conditions* can transparency lead to accountability? To be explored in practice, such a question requires still more precision. The concepts of transparency and accountability refer to a broad range of processes, actors, and power relations. To reframe the question: what *types* of transparency manage to generate what *types* of accountability?

Both transparency and accountability share a conceptual problem: they are rarely defined with precision, and they tend to mean all things to all people. For both, you know it when you see it. At least until recently, transparency has received more practical than conceptual attention.⁵ In contrast, the concept of accountability has been reviewed and deepened from diverse perspectives.⁶ Yet if one is interested in understanding whether and how transparency generates accountability, it is crucial to disentangle rather than conflate the two ideas. To preview the discussion, one must take into account the distinction between two dimensions of accountability: on the one hand, the capacity or the right to demand answers (what Schedler calls 'answerability') and, on the other hand, the capacity to sanction (1999).

Transparency pathways

Instruments for public access to information generally fall into one of two categories: proactive and demand-driven. *Proactive dissemination* refers to information that the government makes public about its activities and performance. Practical expressions can range from toxic-release inventories to organic certification, third-party policy evaluations, and post-authoritarian truth commissions. *Demand-driven access* refers to an institutional commitment to respond to citizens' requests for specific kinds of information or documents which otherwise would not be accessible. Institutions can range from classic freedom-of-information laws to ombudsman, 'social accountability' agencies, and investigative bodies such as the World Bank's Inspection Panel.

The idea of transparency can also be unpacked in terms of its directionality. Disclosure cuts both ways, channelling information upwards as well as downwards. 'Right to know' reforms can be considered to promote 'downwards transparency', from the state to society. In contrast, state imperatives to monitor citizens can be understood as a form of 'upwards transparency'. Consider the examples of conditional cash-transfer social programmes, in which states closely monitor family behaviour, or the lack of guaranteed ballot secrecy, which leads voters to suspect that authorities will learn how they voted. In other words, transparency can be another word for surveillance, which in turn allows state actors to hold citizens accountable for perceived transgressions.

From transparency to accountability

It remains unclear why some transparency initiatives manage to influence the behaviour of powerful institutions, while others do not. Public oversight institutions that seek to bolster checks and balances emphasise the production of transparency. Through inspections, reports, audits and investigations, legislative hearings, ombudsmen, truth commissions, complaint offices, and human-rights commissions, these agencies of 'horizontal accountability' shed light on abuses.⁷ Civil-society organisations and independent media also invest heavily in

encouraging these official watchdogs to do their job. Yet these oversight bodies rarely have sufficient institutional clout to be able to act on their findings, whether by proposing mandatory sanctions, policy changes, protection from violations, or compensation for past abuses. As a result, the power of transparency, defined in terms of the tangible impacts of the public spotlight, depends in practice on how *other* actors respond. These reactive responses can be indirect, when the mass media, opposition political parties, or voters make an issue of newly revealed abuses; or they can be direct, as when the judicial or elected authorities make binding decisions in response.

This observation raises a few dilemmas. The first involves the difference between accountability targets: institutions or individuals? The second involves the problem of quality control for official information. The third involves a conceptual distinction between two different kinds of transparency: clear and opaque. The fourth point brings this distinction together with two kinds of accountability: soft and hard, which will allow us to return to the initial question by specifying between transparency and accountability with greater precision.

Transparency's different goals: individual vs institutional accountability

Beyond the general assumption that transparency reforms can limit abuses of power, they can have different goals. While some are intended to tackle corruption, and therefore focus on crime, others attempt to encourage improved institutional performance more generally. These different goals imply distinct strategies. The first would be more legalistic, tending to focus on individual failures, while the second would address more systematic flaws. Within the field of budget transparency, for example, the first approach would focus more on revealing the details of public-sector contracts, for instance, and assuring that funds were spent as intended. The second strategy, in contrast, would focus more on the impacts of public spending: how agencies actually used the funds, and to what effect. This strategy requires both highly disaggregated public-spending data and reliable, publicly accessible, third-party policy evaluations.⁸ From a civil-society perspective, policy impact is also likely to depend on 'vertical integration' between national public-interest groups that monitor the big picture and grassroots organisations that can 'ground-truth' the claims of official data (Fox 2001).

The goals of individual vs institutional accountability may not only be different: they may sometimes conflict. Any institutional action is the result of decisions by many individuals, which complicates efforts to establish responsibility with precision. Thompson characterised this as 'the problem of many hands' (1987). If the goal is to reveal which individuals were responsible for a specific transgression, then the spotlight often falls on those immediately responsible, usually at lower or middle levels of an agency, which lets higher-level officials off the hook.⁹

Data or information?

A second dilemma involves the difference between official data and relevant, reliable information. Here there is one big differences between various types of disclosure: the voluntary, the nominally mandatory, and the really obligatory. Voluntary disclosure would seem to be inherently limited, given the incentive to conceal damaging information – but with a notable exception. Firms that choose to submit to certification of their compliance with social and environmental standards presumably lose some control over the transparency process.¹⁰ This has led to major debates over which certifiers are truly 'arms-length', as in the case of manufacturers that hire commercial accounting firms to certify their subcontractors, which fail to use the key instrument of *unannounced* factory inspections.¹¹

When considering obligatory disclosure of performance data, the challenge of assuring quality control becomes clear when examining the 'paradigm case' for impact of transparency reforms: the toxic-release inventory system. Since 1986, in the USA and now many other countries, private firms that emit certain chemicals are required to report the quantities of their emissions to a government agency, which in turn makes the data public. The assumption is that this dissemination provides tools to the public to inform and motivate strategies to encourage compliance with environmental laws.¹² Many analysts have argued that the USA's toxic-release inventory was responsible for the reported 46 per cent reduction in emissions between 1988 and 1999 (for example, Fung and O'Rourke 2000; Graham 2002; Konar and Cohen 1997; Stephan 2002). Nevertheless, evaluations by the federal government's accountability office found that the Environmental Protection Agency did not assure reliable and consistent reporting by private firms (GAO 1993, 2001). As a result, polluters did not have to fear sanctions for under-reporting. When public-interest groups did their own assessment in the city of Houston, they found that independently estimated actual levels of emissions were four times greater than had been officially reported (Environmental Integrity Project 2004). These findings do not mean that the reform had no impact, but they do raise serious questions about the claims made for this widely recognised public alternative to so-called 'command-and-control' approaches (for example, Dietz and Stern 2002). Mandatory disclosure in theory turned out to be less than mandatory in practice.

The two faces of transparency

This leads us to a third dilemma: how do we explain why some forms of transparency are better able to leverage accountability than others? Here it is relevant to distinguish between two different kinds of transparency: clear and opaque. This distinction is relevant, because insofar as transparency discourse becomes increasingly fashionable, the forces opposed to it will tend to go underground. They will express their opposition indirectly, by providing less than clear transparency.

Opaque or fuzzy transparency involves the dissemination of information that does not reveal how institutions actually behave in practice, whether in terms of how they make decisions, or the results of their actions. The term also refers to information that is divulged only nominally, or which is revealed but turns out to be unreliable. For example, in principle, in the USA, data on who gets farm subsidies, and how much, are considered to be in the public domain. But for the information to be publicly accessible in practice, a public-interest watchdog organisation, the Environmental Working Group, had to invest US\$ 12 million in six years of difficult technical work (Becker 2002). Now one simply needs to access www.ewg.org to see exactly who gets how much. This case reminds us that an enormous civil-society investment may be required to translate nominally public data into clearly transparent information.

Clear transparency refers both to information-access policies and to programmes that reveal reliable information about institutional performance, specifying officials' responsibilities as well as where public funds go. Clear transparency sheds light on institutional behaviour, which permits interested parties (such as policy makers, opinion makers, and programme participants) to pursue strategies of constructive change. Examples of clear transparency would include civil-society data about human-rights violations, certification of private-sector compliance with environmental standards, independent ombudsman reports, publicly accessible third-party policy evaluations, and even the World Bank's Inspection Panel reports.¹³

This distinction between clear and opaque is grounded on the premise that if transparency policies are going to meet their goals of transforming institutional behaviour, then they must

be explicit in terms of who does what, and who gets what. Nevertheless, clear transparency by itself does not guarantee hard accountability, which would require the intervention of other public-sector actors. Returning to the example of farm subsidies, even though public-interest groups generated an impressive impact in the media, afterwards US government payments to large agribusiness corporations not only were not reduced, they increased enormously (because of their electoral logic).

From the two faces of transparency to the two faces of accountability

In conclusion, the distinction between opaque and clear transparency provokes reflection about their relationships with accountability. Space does not permit a full review of the multiple variants of public accountability, but they share an emphasis on the fundamental right to call those in authority to justify their decisions – the idea of ‘answerability’. For many, however, answerability without consequences falls short of accountability.

This discussion will be limited to distinguishing between two basic dimensions of accountability. One could call answerability the ‘soft face’, while the ‘hard face’ includes answerability plus the possibility of sanctions. Tables 1 and 2 are organised around this distinction. They show how the presence or absence of certain institutional capacities is associated with either opaque or clear transparency on the one hand, and either hard or soft accountability on the other. Three kinds of institutional capacity are depicted in terms of varying shades of grey: dissemination of and access to information, answerability, and the power to sanction/compensate. The relationship between transparency and accountability is illustrated by these differences in institutional capacity.

Table 1 suggests that when only information access is present, at one extreme, an institution is transparent, but not accountable. On the right-hand side, accountability includes the capacity to sanction or compensate. The intermediate category refers to the capacity to demand explanations, which is posed here as an area of *overlap* between transparency and accountability. The most meaningful kind of answerability is produced by those public and civil-society agencies that have the power not only to reveal existing data, but also to investigate and *produce* information about actual institutional behaviour. This *capacity to produce answers* permits the construction of the *right* to accountability.

Table 2 takes this distinction a step further by unpacking both transparency and accountability in terms of their two respective dimensions: the opaque and the clear, as well as the hard and the soft. By recognising these distinctions, one can identify the area of overlap with greater precision: institutional ‘answerability’.

In conclusion, the point of departure for this exploration of the relationship between transparency and accountability was that we are obliged to distinguish between the two concepts because one does not necessarily generate the other. To circle back to the question of how transparency relates to accountability, Table 2 suggests that the two concepts do indeed overlap. *Clear transparency* is a form of *soft accountability*. This distinction allows us to identify

Table 1: A first approximation of the relationship between transparency and accountability

Transparency	Accountability
Dissemination and access to information	
Institutional ‘answerability’	
	Sanctions, compensation and/or remediation

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Table 2: Unpacking the relationship between transparency and accountability

Transparency		Accountability	
Opaque	Clear	Soft	Hard
Dissemination and access to information			
	Institutional ‘answerability’		
			Sanctions, compensation and/or remediation

both the limits and the possibilities of transparency, which at least should help to calibrate realistic expectations. One should not expect answerability from opaque transparency, and one should not expect hard accountability from answerability. To take the next step and address hard accountability would involve going beyond the limits of transparency and dealing with both the nature of the governing regime and civil society’s capacity to encourage the institutions of public accountability to do their job.

Notes

1. This article is a revised and abridged translation of Fox (2007a).
2. It is worth noting that this same thinker and activist, defender of transparency as a tool to fight the abuse of concentrated power, also invented and defended the concept of the right to privacy (Warren and Brandeis 1890). The transparency of the state and citizens’ privacy are two sides of the same coin.
3. See, among others, Fox and Brown (1998) and Clark *et al.* (2003). On recent campaigns, see www.bicusa.org/.
4. Regarding the ‘mobilisation of shame’, above all by human-rights defenders, see Drinan (2001), among others.
5. For exceptionally comprehensive works, see Florini (2003), Graham (2002), Hood and Heald (2006), Monsiváis (2005), Roberts (2006), and Oliver (2004). For analyses of the Mexican experience by civil society, see Fox (2007b).
6. See, for example, Ackerman (2007), Behn (2001), Bovens (1998), Fox *et al.* (2007, forthcoming), Isunza Vera and Olvera (2006), Mainwaring and Welna (2003), O’Donnell (1999), and Schedler (1999).
7. On horizontal accountability, see O’Donnell (1999, 2003). On truth commissions, see Rotberg and Thompson (2000) and Gibson (2005), among others.
8. Recall, for example, the distinction between *policy inputs* (such as budget appropriations and contracts for building schools), *results* (whether or not the schools were actually built and staffed, student attendance rates), and *impacts* (to what degree did the students learn). Though third-party evaluations are now very much in vogue, and their focus on measuring impacts is welcome, they run the risk of assuming the reliability of official data regarding the inputs that are then correlated with outputs.
9. Long before low-ranking soldiers took all of the official blame for torture at Abu Ghraib in Iraq, classic cases would include the 1968 My Lai massacre in Vietnam, in which a low-ranking officer was found guilty of ordering the mass murder of 500 civilians. In a rare conviction, he was first sentenced to life imprisonment and ended up serving three and a half years of ‘house arrest’ on a military base. He claimed that he was ‘following orders’, and indeed he was carrying out a counter-insurgency strategy that was the result of decisions made at the highest levels of the US government.
10. For an overview of fair trade, see Nichols and Opal (2004). On voluntary certification in the timber case, see Cashore *et al.* (2004).
11. See, among others, Esbenshade (2004), Richter (2001), and Rodríguez-Garavito (2005).
12. See, for example, the tools at www.scorecard.org/.
13. On the latter experience, see Clark *et al.* (2003) and World Bank (2003).

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Errata

**Jonathan Fox, ‘The uncertain relationship between transparency and accountability’, *Development in Practice* 17 (4&5): 663-71.
DOI 10.1080/09614520701469955**

In our previous issue, an error crept into Jonathan Fox’s article at the proof-reading stage. His original text read: ‘More than sixty countries around the world have now launched “right-to-know” reforms, starting with Sweden in 1766.’ This date was changed without authorisation to 1966. We apologise to the author and to our readers for this regrettable mistake.

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**Thandika Mkandawire, “‘Good governance” the itinerary of an idea’, *Development in Practice* 17 (4&5): 679–681.
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In the above article and in the Table of Contents, the author’s name mistakenly appeared as Thandike Mkandawire. The Editor extends her profound apologies for this egregious error.

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