Fabrizio di Mascio

The role of transparency in anticorruption reform: learning from experience

Introduction

Currently transparency seems to be a buzzword in the global anticorruption discourse. Pollitt and Hupe (2011) would call transparency a "magic concept", a very broad, normatively-charged concept which lays claim to universal application and it is widely used by both academics and practitioners. The latter, however, should not be seduced into thinking that the fashionable concept of transparency provides usable recipes for strengthening accountability, reducing corruption and enhancing good governance in a specific context (Bauhr and Grimes 2017). Effective disclosure of information has not been a demonstrated achievement of the transparency rhetoric in many contexts, not by necessity it has strengthened the citizens' capacity to act upon the available information (Lindstedt and Naurin 2010). The "transparency fix" builds on the powerful metaphor of the sunlight that perforate government secrecy to act as a disinfectant thanks to the flow of information from the state. Yet, this metaphor gives a misleading picture of the significance of transparency for good governance since it rises above the institutional and societal preconditions that shape whether the release of government information delivers the expected benefits (Fenster 2017).

Drawing on the literature on transparency and anticorruption, this contribution seeks to advance policy recommendations that might be included into a reform agenda. In order to qualify the claims of the global transparency discourse, section one presents the barriers for information disclosure and use. Then, section two provides an overview of the myths that are at the heart of the transparency rhetoric. The contradictions concealed by transparency myths are addressed by a set of policy recommendations outlined in section three. The conclusive section discusses broader practical implications of the fine-grained assessment of contextual conditions that are overlooked by simplistic and idealized views of transparency.

Before moving to the next section, it is worth noticing that transparency is articulated in a number of varieties of information disclosure, from reactive forms like freedom of information to proactive forms like open data. Each variety of transparency poses opportunities and challenges for anticorruption (Cordis and Warren 2014; Costa 2013; Garcia Aceves 2016; Granickas 2014; Vadlammanati and Cooray 2016; Worthy and McLean 2015). The exploration of the relationship between anticorruption and varieties of transparency is beyond the scope of this contribution. The latter focuses on policy recommendations that are set at a high level of abstraction transcending the nuances of different forms of transparency. This means building on a finding shared by previous research on varieties of transparency: whatever the form of disclosure is undertaken, its effectiveness as an anticorruption tool is strictly dependent on contextual enabling conditions (Mungiu-Pippidi and Dadasov 2017).

1. Barriers for the disclosure and use of government information

This section first contributes to the conceptualization of barriers on information disclosure and derive practical implications concerning resistance from public servants to implement transparency laws. Drawing on recent literature, three key strains of resistance towards transparency can be identified (Barry and Bannister 2014; Conradie and Choenni 2014; Michener and Ritter 2017; Wirtz et al. 2016). The barriers identified below are often interrelated and this interrelatedness further lowers the chance of information disclosure by public bureaucracies.

- *Professional resistance*
  The risk-averse attitude of the public servants builds an important barrier to implementing transparency provisions. It is well known that employees in the public sector are likely to display low willingness to implement reform in the context of an organizational culture which is conservative about the release of government information. Moreover, the predominance of negative frames in the current news media environment hardens the resistance of public servants since government information is mainly used to assign blame rather than to improve the daily work of public bodies, thus increasing mistrust in government (Grimmelikhuijsen 2012).

- *Resistance as an indirect effect of limited capacities*
  Government information does not exist as an object capable of simple release since it does not form a manageable archive (Fenster 2006). There are a number of barriers resulting from shortage of capacity to produce, archive, and disclose information of good quality, ranging from the unavailability of a supporting technological infrastructure to the lack of personnel, standards and procedures, complemented by the legacy of fragmented records. Further, this resistance often reflects a much larger difficulty: the lack of top-level leadership and planning.

- *Legal resistance*
  Public employees tend to perceive the existing transparency regulations to be under-specified since they do not provide clear instructions on how to handle the potential for controversies surrounding the protection of personal data, security issues and licensing. The lack of clear legislation thus leads to an inhibited attitude regarding transparency in the perception of public employees with fear of conflict with the law.
  With regard to the use of information, the existence of a public that stands in as the receiver of data and documents released by government has been contested by recent literature (Roberts 2010). One of the most substantial barrier is simply the lack of awareness about rights granted by transparency laws, particularly among the least educated citizens. For individuals who display awareness of transparency legislation, there a number of practical difficulties: lack of advice on how to file a request for information or a complaint about non-compliance with transparency laws; lack of information on the location of information that has been proactively released; lack of all kinds of resources and skills that are needed for the analysis and the interpretation of government information. To make sense of government information, in fact, data and documents must be collected, combined and integrated with contextual information in order to infer actionable knowledge with regard to the public sector's trends and anomalies.

2. Myths of Transparency

Drawing on the review of the barriers for the release and the use of government information that have been highlighted by the literature, Janssen et al. (2012) have identified five myths which have proved be at the heart of open government implementation in most countries so far:

- *Information disclosure will automatically yield benefits*
  The aim of open government should not be merely the release of information for its own sake. This myth overlooks the barriers resulting in a lack of user actions. Placing too much emphasis on the supply of information and not providing any means to process information makes transparency useless. Supporting use of information should not be conceived as secondary to releasing information.

- *All information should be unrestrictively disclosed*
  Transparency policies are often generic and stimulate the release of all information following the principle of full accessibility. This myth overlooks a number of issues. First, law might prevent the release of certain data. Second, resources for disclosing information are limited. Third, resource scarcity is further heightened in the eye of public servants by the perception of transparency as an extra task without a clear return since the benefits of disclosure are not always explicit. Fourth, information quality varies across records and datasets and in many instances it could be too low. Finally, the implementation of this myth can turn into a "snowing" effect, in which the release of so much data with so little interpretation and quality control has the effect of reducing rather than increasing effective use (Hood 2007).

- *It is a matter of simply releasing government information*
  Many transparency policies adopt the model that takes formerly closed information and exposes it through a publicly accessible interface. Basically, information is made available without additional activities. However, additional activities are needed to improve records management (Casadesus de Mingo and Cerrillo i Martinez 2018). Additional activities are also needed to lower the barriers for accessing and using government information by meeting the two key empirical parameters of transparency: visibility and inferability (Michener and Bersch 2013). First, standardization of release methods and development of robust meta-data can improve visibility of information by making it complete and easy to locate. Second, transparency is more attractive for users if information is verified and simplified by third parties that check the accuracy of datasets and detect patterns meaningful for the public.

- *Every citizens can make use of government information*
  Reformers often claim that transparency will enable the wider public to hold government to account. However, the experience of countries like the UK has highlighted that non-experienced citizens do

not constitute an army of "armchair auditors" looking over the books (Worthy 2015). Despite the rhetoric of reformers, the bulk of ordinary citizens is not interested in government information. Disclosure affects only a small core of users, mixing activists and professionals, meaning that transparency tends to be used by those already engaged in the policymaking process who are willing and able to handle the complexity of government information (Worthy and Hazell 2017).

- *Transparency will result in open government*
  The Open Government movement promotes transparency to deliver objectives like improved decision-making, better public understanding, more effective oversight, greater public participation and increased trust. Yet, the empirical analysis has highlighted that an increase in transparency in highly corrupt countries yields paradoxically more losses than gains in confidence towards government (Bauhr and Grimes 2014). These findings challenge the assumptions of open government rhetoric posing a direct link between transparency and better government institutions. Transparency reforms alone cannot be expected to ignite broad social indignation towards corruption. Transparency may instead give rise to resignation and withdrawal from public life as unintended effects. Only if accompanied by other institutional arrangements that channel public discontent with malfeasance exposed by disclosure, transparency can bring about improvements in governance (Vadlammati and Cooray 2017). Complementary institutional arrangements should focus on two key issues: participatory mechanisms that lower the costs of political engagement; reliable inter-institutional oversight mechanisms providing an avenue by which to utilize information to issue sanctions.

3. Policy Recommendations

Given the success of the myths identified in the previous section, it seems that a more nuanced approach is needed for effective information disclosure, meaning a transparency policy capable of reaching the goals that are included in the open government agenda. In this section five practical steps are recommended to go beyond the current state of the art featuring a widening gap between the promises of transparency and the limited use of government information.

- *Demand-driven transparency*
  Transparency should be understood as a focused policy that devotes limited resources to the release of useful information. This implies that government information should be mapped in order to provide users with a clear data catalogue providing information with regard to data quality and to the costs and the time needed to release information. More consultation with key stakeholders complemented by research into the users' perspective is also needed to undertake the focused approach to information disclosure that prioritizes the release of information demanded by users. In addition, promotional or other forms of supportive activity (events, contests, conferences, civic monitoring, etc.) should encourage the use of disclosed information. Finally, more data should be collected with regard to the users' feedback and the actual social and economic impact of transparency (Sieber and Johson 2015).

- *Performance management*
  Drawing on users' perspective to set transparency goals implemented is the first step to accommodate modern transparency initiatives within traditional models of performance management design. The latter provides factors like measurability, that is distinguishing specific areas of action and matching them with specific outcomes; performance milestones to track progress and evaluate results; and goal clarity sustaining better communication and coordination. All these factors support the implementation of the focused approach catalyzing the shift from transparency as a collection of disparate policy practices into a coherent administrative reform area (Ingrams 2017).

- *Lateral transparency*
  Transparency policies have been path-dependent so far, meaning that the legacy of vertical data management has been reproduced by laws mandating the release of information by public agencies conceived as monads. Yet, public agencies are usual part of larger organizational structures implying that transparency can also flow laterally between peer organizations sharing data (Piotrowski 2017). Lateral transparency yields immediate benefits for public servants by enabling better inter-organizational collaboration. Further, it makes feasible the establishment of data analytics units at the centre of government that help agencies detect possible misuse of public resources as well as contributing to institutionalize evidence-based decision-making.

- *Enforcement*
  It is widely acknowledged that enforcement of transparency provisions is key to mitigating implementation gaps. The courts and oversight bodies are the two main enforcement mechanisms built into transparency laws. Many systems entrust oversight bodies with a primary role by resolving disputes that arise between users and the administration that holds government information. Most scholars demand oversight bodies endowed with strong enforcement powers including the right to issue legally binding orders. However, comparative research has shown that oversight bodies with binding decision power are not necessarily more effective than their counterparts with recommendation power (Holsen and Pasquier 2015). There are drawbacks to more coercive powers: first, oversight bodies with binding decision power require substantial investment of resources; second, qualified candidates for filling the position of transparency officers within each administration are discouraged from looking for the assignment which pose the risk of sanctions in case of non-compliance; third, granting the oversight body binding decision power would be too drastic a step forcing information disclosure by legalistic means. The latter are likely to reinforce public servants' resistance towards transparency, thus making implementation a matter of legal interpretation that risks triggering disruptive conflict between public bodies, requesters of information and oversight structures. To make it short, strong enforcement powers may appear as a quick fix for implementation problems but they overlook the evolutionary nature of transparency reform (Snell 2000). The latter is a process that should be accompanied by oversight bodies focused on regulatory and monitoring roles that help build capacity over time. It is also worth highlighting the relevance of appointment processes: information commissioners may well ensure effective enforcement by using the informal power to shame non-compliant administrative offices that rests on their strategic ability to develop and consolidate awareness and public support for transparency reform.
- *Transparency Ecosystem*
  It is now widely acknowledged that transparency has functioned as an effective check only in those contexts where it has been part of an ecology that includes sound public management, independent judiciary, reasonably open opportunities to publish and share information, and a set of civil society actors capable of pursuing anticorruption campaigns (Kreimer 2008). This implies that transparency should be designed and evaluated by undertaking an holistic approach that targets not only

the disclosure of information but also the interdependencies between actors as suggested by the ecological metaphor. The latter highlights the multiple and varying interrelationships between data producers, users, material infrastructures, and institutions. It aims to provoke new thinking about the conditions necessary to actively cultivate development of contextual features to achieve the benefits of transparency (Harrison, Pardo and Cook 2012). First, it means that transparency should not been disentangled by broader public management reform since the capacity of public agencies is a necessary condition for good record-keeping and effective disclosure. Second, regulation should ensure that markets provide opportunities for media pluralism and innovative business. Third, education should equip new generation with a viable level of data literacy.

Conclusions

Drawing on the expanding literature on anticorruption and open government, this contribution has tackled the gap between the benefits promised by the transparency rhetoric and the limited success of most reform initiatives that have been implemented so far. It has identified the main resistances to information disclosure that are neglected by the myths widely used as tales of progress associated to the current talk on transparency.

Placing transparency within an empirically-grounded perspective is the main policy recommendation that can be advanced in this conclusive section. This implies taking into account the many barriers that hinder the implementation of transparency by virtue of a focused approach, meaning an incremental and selective take on implementation that draws on a fine-grained assessment of contextual features. It also means focusing on capacity building issue not only within the public sector but also across those societal actors that are part of the ecology of transparency.

Another set of policy recommendations concern the relationship between transparency and accountability. First, complementary institutional arrangements like participatory mechanisms and interinstitutional oversight mechanisms are needed to sustain civic mindedness and propensity to engage in accountability efforts. Second, transparency and complementary institutional arrangements should attempt to encourage improved institutional performance rather than focusing on individual failures and transgressions. Most of the current anticorruption drive in corruption-prone countries suffers from legalism and capacity shortage resulting from the focus on individual

accountability (Fox 2007). By focusing on the details of the micro-management of public resources this approach to accountability overlooks more systemic flaws that pose the opportunity structure for corrupt behavior. A proper preventive approach on corruption should focus more on providing societal actors with the information that is needed to monitor a larger picture of government.

Finally, the crucial role for specialized bodies in the regulation and enforcement of transparency should not been understood as a replacement of political commitment. The latter is needed for setting a robust legal framework and funding transparency initiatives within a coherent and comprehensive national strategy that provides a clear direction to the entire government ensuring coordination and communication of the progress towards the measurable objectives agreed with stakeholders. Effective management of the national strategy therefore requires setting up responsibilities and capacities at the centre of government that are much needed to promote a shared vision across the public sector and towards the citizens.

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