Rethinking 'What Counts' As Accountability

Jonathan Fox

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The creation of international accountability mechanisms (IAMs) three decades ago represented the cutting edge of a broader wave of transparency and accountability reforms. Their focus on avoiding and mitigating environmental and social harm associated with projects funded by multilateral development banks joined a broader stream of accountability reforms at the local, national and international levels. [3] This broader set of reforms was driven by motives that also included democratization, anti-corruption, corporate social responsibility, and improved public service provision. Global multistakeholder initiatives to address both public and private sector accountability multiplied – ranging from extractive industries, open contracting, open budgeting, and open government, as well as a wide range of social and environmental certification initiatives focused on global supply chains. Yet many have limited institutional mandates to tangibly address accountability failures. Their institutional design relies heavily on the assumption that investigations of claims will have a deterrent effect. This limited reach raises practical, analytical, and conceptual questions about what it means to deliver accountability.

About a decade and a half ago, international practitioners, notably private foundation funders, began to call this broad governance reform agenda "transparency and accountability" (T&A), during a period of great optimism about reform initiatives at the local, national, and international levels.[4] In practice, a big bet on the power of data led many reforms in this field to focus much more on transparency than on accountability – with the notable exception of the spread of grievance redress mechanisms (GRMs) at the international, national, and local levels . Voluntary initiatives were the order of the day, with institutional "teeth" few and far between.[5]

Yet institutionalization marched on. As the range of IAMs has broadened and deepened, so have local and national GRMs. The World Bank 2016 revised Environmental and Social Framework mandated that all of its investment projects include their own GRMs.[6] This institutional commitment was backed by an internal tracking system that produced the appearance of high rates of compliance by counting project

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[1] This essay draws from a keynote talk presented virtually to the XX World Congress of Sociology (June 28, 2023) as well as a working paper and blog series called Accountability Keywords, at https://accountabilityresearch.org/publication/accountability-keywords/.

[2] Jonathan Fox is a professor of development studies at the School of International Service at American University, where he directs the Accountability Research Center - https://accountabilityresearch.org/. His involvement in multilateral development bank accountability agendas dates to the early 1990s. See: https://jonathan-fox.org/publications/world-bank-accountability-campaigns/.

[3] For an early independent overview of the World Bank Inspection Panel's dynamics, *see* DANA CLARK ET AL., DEMANDING ACCOUNTABILITY: CIVIL SOCIETY CLAIMS AND THE WORLD BANK INSPECTION PANEL (Rowman and Littlefield Pub 2003)., https://jonathanfoxucsc.files.wordpress.com/2011/11/demandingaccountability1.pdf.

[4] *See* Transparency and Accountability Initiative, *Who Are We*, https://transparency-initiative.org/.

[5] On the relationship between voice and teeth in the context of accountability initiatives, see Jonathan Fox, *Social Accountability: What Does the Evidence Really Say?* (American University 2015)., https://www.sciencedirect.com/science/article/pii/S0305750X15000704.

[6] *See* The World Bank, *Environmental and Social Framework,* (Aug. 4, 2016), https://www.worldbank.org/en/projects-operations/environmental-and-social-framework.

plans to create GRMs years in the future – how many address grievances in practice is not measured.[7] Internal MDB advocates of project GRMs explicitly recognized their limited effectiveness with the evocative title of a report "Gaining Traction or Spinning Wheels" - while also implicitly managing expectations of actual redress by dropping that word from a new acronym (GM).[8]

The capacity of GRMs to redress grievances in practice remains an open question, whether at the local, national or international levels.[9] After all, most GRMs are limited to documenting (and only sometimes disclosing) accountability failures, with the expectation that their findings will lead *other* actors to deliver tangible sanctions or redress. This constraint on most GRMs long predates IAMs and is a problem even where the rule of law is ostensibly institutionalized – consider the very limited track record of more than half a century of civilian police review board efforts in the US. Recently, the World Bank Inspection Panel, the first IAM, recognized its incapacity to protect complainants from reprisals – a remarkable constraint on "the right to be heard." [10] While functioning GRMs have a potential to deter abuse that could at least partly compensate for their limited capacity for redress, whether and how this works in practice is not clear. This combination of weak capacity to deliver redress with potential for prevention raises the question of 'what counts' as accountability.

Rethinking "what counts" as Accountability

Taking stock in 2023, the primary trend in the global accountability field seems to be one of stalemate or rollback rather than the 'onwards and upwards' trend that many advocates and reformers expected not so long ago. This *accountability impasse* suggests that it is time for a rethink of core concepts, as well as of the field's underlying theories of change.

The point of departure here is the recognition of the profound *fuzziness* of the concept of accountability. *We know it when we see it.* Consider the many different ways in which the idea of accountability is understood, deployed – and often captured. The accountability idea is often treated as an all-purpose solution to a wide range of problems. The concept has become shorthand to refer to disparate efforts to address problems with the exercise of power. Yet the idea turns out to be *malleable, ambiguous — and contested*. This fuzziness poses challenges for both theory and practice – how do we know what strategies bolster accountability – or whether accountability produces its expected effects?

A conceptual rethink suggests disentangling two different questions that bridge analysis and strategy. One issue is what drives transitions to accountability? In other words, how to get answerability?Another question is whether and how bits of accountability can leverage improved institutional performance – for example, by deterring abuse, bolstering policy reform or incentivizing positive change. We often assume the two go together, but these are distinct questions – what are the causes of accountability vs. what are

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[7] *Id.*

[8] WORLD BANK, GAINING TRACTION OR SPINNING WHEELS?: FACTORS INFLUENCING THE EFFECTIVENESS OF GRIEVANCE MECHANISMS IN WORLD BANK-FINANCED PROJECTS (World Bank 2021)., https://openknowledge.worldbank.org/entities/publication/86a1e314-a4d5-5885-9120-e8444a291fb7

[9] *See, e.g.*, Naomi Hossain et al., *The Politics of Complaint: A Review of the Literature on Grievance Redress Mechanisms in the Global South*, POLICY STUDIES, at 1, https://accountabilityresearch.org/publication/grievance-redress-mechanisms-global-south/.

[10] The World Bank Inspection Panel, *Right to be Heard: Intimidation and Reprisals in World Bank Inspection Panel Complaints*, (Dec. 2021), https://www.inspectionpanel.org/sites/default/files/publications/Emerging-Lessons-Series-07-Intimidation-and-reprisals-in-IPN-Cases-Dec2021_0.pdf.

the effects? Instances of accountability (such as IAM reports that validate citizen claims) may or may not change institutions. Plus, there are plenty of other pathways to institutional change that do not involve accountability. For a preview of this essay's punchline: there is a difference between *how to deliver accountability – and whether accountability delivers…*

Here follow three brief takes on these issues facing GRMs:

1) Recognize the challenge of defining 'what counts' as accountability.
2) Unpack one longstanding theory of change - that sunshine is the best disinfectant.
3) Consider some information-based reform initiatives to identify *missing links* in the causal chain between transparency and accountability.

Conceptual stretching

Why should we worry about conceptual stretching? Admittedly this is an arcane political science term, but fuzziness about 'what counts' as accountability is not just a problem of scholarly hair-splitting.

- For example, if coalitions for change are trying to find common ground among diverse actors, then clearly shared goals are needed to sustain joint action.
- In addition, vagueness about 'what counts' as accountability can enable powerful actors *to resist* systemic change, as when authorities claim that institutional abuse is just the result of a few bad apples rather than a systemic problem.
- This problem of deflection of accountability claims takes an extreme form when accountability agendas get fully hijacked. Around the world, corrupt and authoritarian actors have shown they can win elections by coopting anti-corruption discourse, sometimes followed by lawfare to criminalize political opponents.
- For one more illustration, fuzziness about 'what counts' as accountability makes it hard for strategists to know whether their efforts to achieve accountability are effective.

Defining accountability

In the accountability field, definitions vary but they tend to involve some combination of answerability, consequences or sanctions, and redress. Answerability refers to a requirement to explain or justify actions, as when executives report to legislatures. For some analysts, answerability is enough to 'count' as accountability while for others some kind of sanction or redress needs to be involved. What kind of sanction is *enough* to count is an open question. For example, recall Nixon and Pinochet, who both faced limited degrees of procedural accountability but never had to answer for or be sanctioned for their most notorious crimes.

One could begin to address these differences by adding adjectives – answerability alone could be considered *soft accountability*, while meaningful sanctions or redress would count as *hard accountability***.** Plus, we can have one without the other. [11] This "hard-soft" question turns out to be just the beginning of the definitional challenges.

[11] *See* Jonathan Fox, *The Uncertain Relationship Between Transparency and Accountability*, DEVELOPMENT IN PRACTICE, 17(4), 663 (2017), https://escholarship.org/uc/item/8c25c3z4.

- Consider the difference between 'upwards accountability' – as workers to managers, or 'downwards accountability,' as with elected officials to voters. Meanwhile, political scientists refer to institutions of checks and balances as 'horizontal accountability.'
- How do we disentangle accountability as a process vs. an outcome? Consider abusers of power who may be charged - or even impeached even – with no sanctions to follow, even where the process was followed. Scholars of environmental governance refer to procedural formalities without tangible institutional change as an "accountability trap." [12]
- Some institutions prefer to focus on so-called 'bad apples' rather than systemic problems, which underscores the difference between holding individuals vs institutions accountable (though IAMs studiously avoid focusing on individual responsibility).
- This question relates to the distinction between crimes of commission vs omission, since the rule of law is titled towards holding immediate perpetrators accountable, rather than those who gave the order or looked the other way.
- Then there is the relationship between public and private sector accountability. Violations of environmental or labor laws by ranchers in the rainforest or transnational corporate factories indicate failure of *both* public and private accountability, insofar as laws are not enforced. Plus, the boundary between public and private spheres is itself contested, since the criminalization of abuses of power need to be politically constructed in the first place – whether they involve the idea of occupational safety, gender-based violence or the invasion of indigenous territories.
- Perhaps the most challenging conceptual question is *where* preventative approaches to accountability failures fit in. The core of the accountability concept is fundamentally *ex post facto*, as actors are held accountable *after* their actions (or inaction). Yet clearly an ounce of prevention is worth a pound of cure. Many preventative approaches to improve institutional performance do not involve accountability institutions, or processes such as answerability or sanctions. Policy reforms or changes in recruiting and training staff may be more likely to have systemic preventative effects than answerability and sanctions that are rarely applied in practice; those kinds of systemic institutional changes do not necessarily involve accountability per se. This recognition underscores the issue of conceptual stretching of the accountability idea – it's no magic bullet.

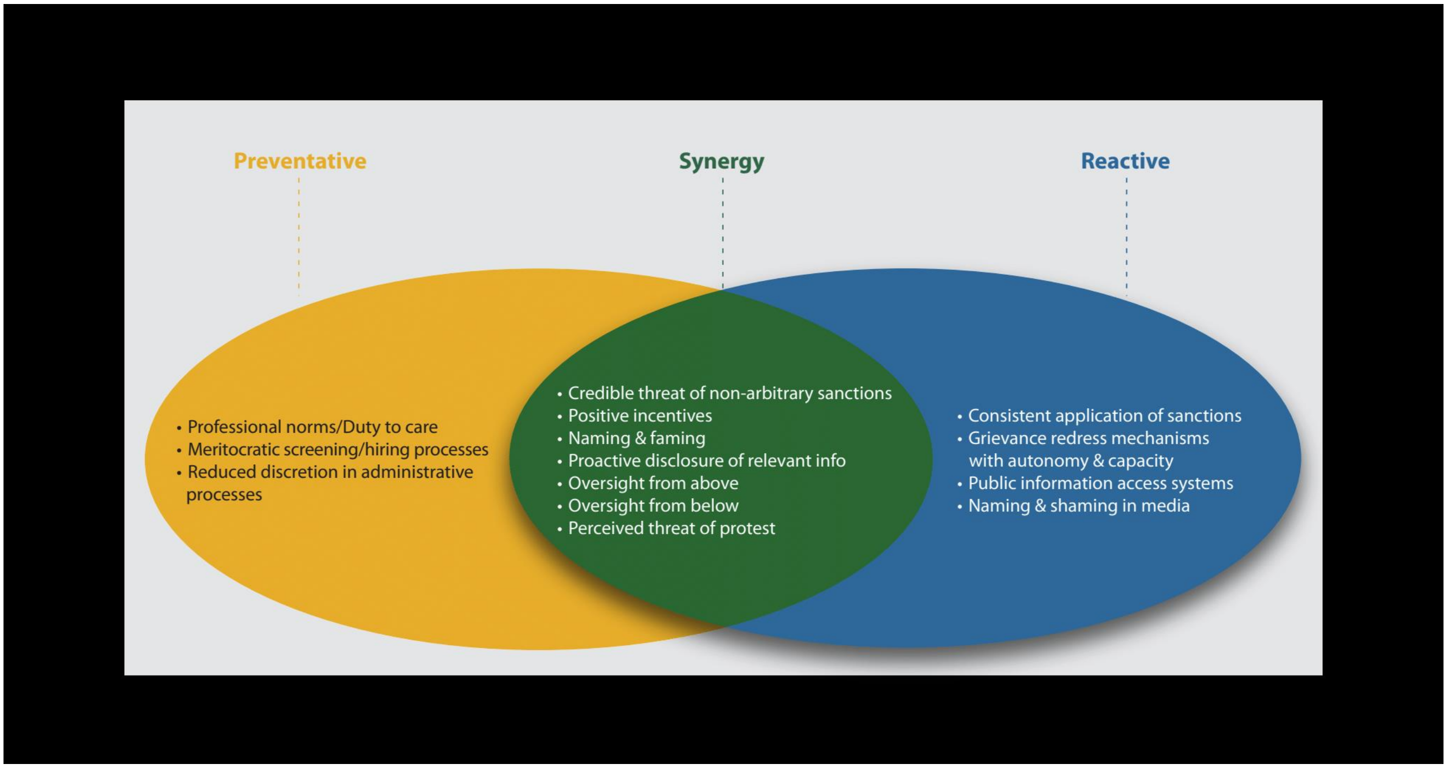
Unpacking the causal chains that link transparency and accountability

Transparency is key to this rethink, because it is so closely associated with one of the most time-honored, widely-accepted theories of change in the accountability field: Louis Brandeis' idea that "sunshine is the best disinfectant." His original 1913 proposition also had a less widely-cited clause, "electric light [is] the best policeman." The sunshine idea is that exposure *remedies,* while the electric light idea is that visibility *deters* (because streetlights increase the *likelihood of detection*). This is another way to describe the distinction between preventative and reactive approaches to accountability. For practitioners the synergy between these two approaches is obvious, yet researchers have so far shed little light on how and when they reinforce each other. That said recognizing the distinction between preventative and reactive approaches to accountability can spotlight both how they differ and where they can overlap to produce

[12] *See* SUSAN PARK & TERESA KRAMARZ, GLOBAL ENVIRONMENTAL GOVERNANCE AND THE ACCOUNTABILITY TRAP (The MIT Press 2019).

synergy. Figure 1 depicts this conceptual exercise by mapping examples of different kinds of causal mechanisms.

Figure 1: Synergy between preventative and reactive accountability strategies

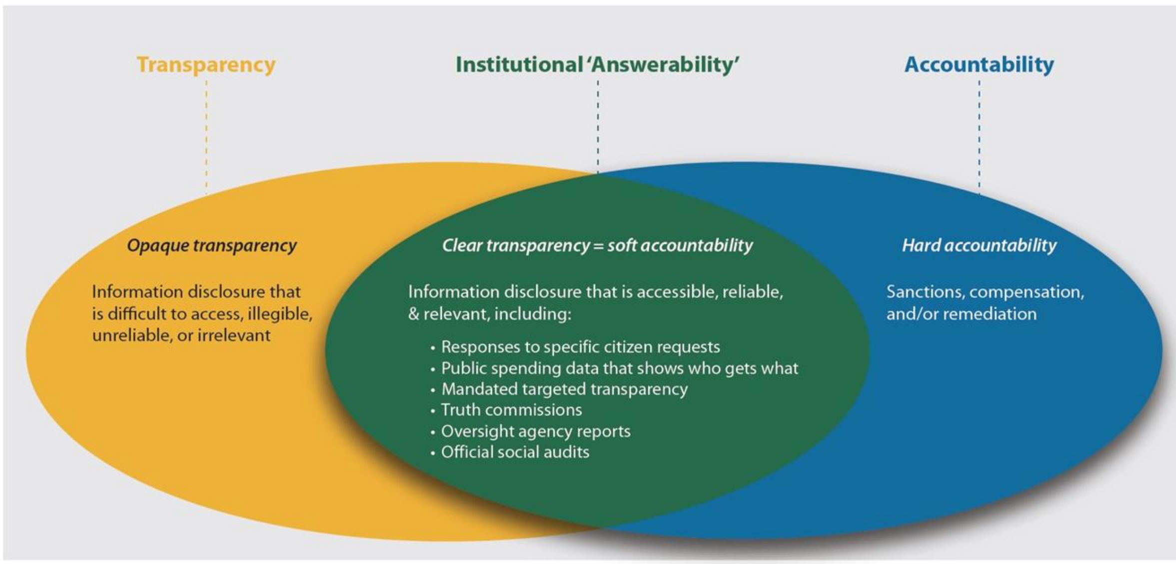


The role of information disclosure is central to both preventative and reactive accountability strategies. Sunshine can be seen as referring to the public results of investigations by accountability mechanisms. Electric light can be understood as encompassing the perceived risk of exposure – if powerful institutions were to fail to comply with their own environmental or social standards. Yet as powerful institutions have increasingly recognized the necessity of transparency reforms, the incentives for generating merely the appearance of transparency have also grown.

This risk of "open-washing" leads to the production of two distinct kinds of institutional transparency – *opaque* (or fuzzy) vs *clear*. Clear transparency involves authorities answering to publics by disclosing reliable, relevant information about what they actually do. Fuzzy transparency involves disclosure of *data* that does not add up to usable, accessible, relevant or reliable *information* – sometimes going as far as *openwashing*, or deliberate dissembling.

This underscores a related distinction - between *soft* and *hard* accountability. Soft accountability is limited to answerability (reporting, explaining or justifying actions), while hard accountability involves sanctions or redress, with or without answerability. When that answerability is especially thin, or sanctions and redress are especially weak, one could begin to speak of 'accountability-washing.' In this view, *clear* *transparency and soft accountability overlap*. This in turn complicates efforts to identify the causal relationship between them. Figure 2 provides examples that illustrate this zone of conceptual overlap.

Figure 2: Answerability is in a zone of overlap between transparency and accountability, complicating the causal chain



What kinds of transparency deliver accountability? Cases for discussion

A few case examples spotlight some of the challenges involved in trying to pin down whether and how transparency delivers accountability. After all, institutional reforms that produce opaque transparency will not drive the expected causal chain towards accountability**.** One of the classic cases of information-led reforms is the US EPA's Toxic Release Inventory (TRI), which was a response to the 1984 Bhopal disaster involving a US pesticide plant in India. This tragedy empowered an already-existing US anti-toxics movement in pushing for the 1986 law that required industrial plants to report their emissions to the government, which then made the data public in the TRI. This became a widely-cited case of *regulation by information*, contrasted with so-called 'command and control' approaches. Analysts of TRI data were thrilled to report a 46 per cent reduction in emissions between 1988 and 1999. Researchers puzzled over the links in the causal mechanism. Did the information – once made accessible and legible by a public interest group - enable citizen action to encourage law enforcement? Did changes in real estate values get homeowners to take action? Did information influence companies via stock prices? Did companies learn they could save money by using fewer expensive chemical inputs? Those intermediate links in the causal chain are still not clear. One bit of evidence comes from an environmental watchdog organization in Houston, a center of the petrochemical industry. The independent estimate of emissions was four times the volume reported to the government's database. So, there is another possible explanation for the drop

– companies learned how to evade reporting requirements. To sum up – at least during its first couple of decades, the TRI relied on self-reporting, with no consequences for under-reporting. [13]

Consider also the vast world of global multistakeholder initiatives, which set voluntary social and environmental standards and bring together some combination of government, CSO, and private sector actors. The pioneer was the World Commission on Dams, followed by the Extractive Industries Transparency, then the Open Government Partnership, the Open Contracting Partnership, as well as many led by the private sector in supply chains (e.g., seafood, timber, apparel). Certification became a transparency-for-accountability tool, sometimes with a race-to-the-top theory of change. Yet these approaches can also incentivize both greenwashing and openwashing. Consider the independent watchdog reports on the Roundtable for Sustainable Palm Oil's tolerance for repeated, systematic violations of its own standards.[14] Do such exposes count as transparency or accountability?

Similarly, exposés of sweatshop conditions in global factory supply chains led to consumer campaigns in Northern countries that posed brand risk to corporations - especially in apparel. While worker rights organizations called for independent monitors to do unannounced inspections to certify that factories were not sweatshops, many corporations outflanked them by promoting known private sector consultants and accounting firms to do the certification. Such collusion turned out to be a systemic problem.

For a last illustration of the limits limits of transparency-for-accountability approaches, consider a recent case of questionable self-reporting from the World Bank, which has been seeking to lead future global climate funding by showing how much climate funding they are already doing. Yet independent monitoring found that hundreds of projects categorized as climate-related —many in poorer countries— "appear to have little to do with climate change mitigation or adaptation."[15]

These cases all have something in common – powerful institutions use self-reporting ostensibly to incentivize higher social and environmental standards. This 'information for regulation' strategy is appealing to policy-makers who are looking for a light touch approach that does not involve accountability with teeth. These cases also suggest that many 'information for regulation' initiatives share a lack of verification of the reliability of the information – with little accountability for unreliable reporting.[16] Some within powerful institutions lead conscientious efforts to report on whether they meet social and environmental standards – as with the independent accountability mechanisms of many MDBs'– yet evidence of their impact on those institutions remains unclear, especially if one is looking for signs of preventative rather than reactive actions.

Summing up

Even robust, independent accountability mechanisms are often designed to deliver answerability but not redress or sanctions. This underscores the fuzziness of 'what counts' as accountability. The dual role of

[13] For sources, *see* Jonathan Fox, *The Uncertain Relationship Between Transparency and Accountability*, *supra* note 11.

[14] Environmental Investigative Agency and Grassroots, *Who Watches the Watchmen*: *Auditors and the Breakdown of Oversight in the RSPO* (Nov. 2015), https://us.eia.org/report/who-watches-the-watchmen/

[15] Vijaya Ramachandran and Scott Morris, *How Does the World Bank Spend its Climate Money?*, CENTER FOR GLOBAL DEVELOPMENT, (June 14, 2023), https://cgdev.org/blog/how-does-world-bank-spend-its-climate-money

[16] The World Bank has also hired mainly private firms to carry out third party monitoring, to take stock of government performance in its payment-for-results projects. Yet the results of such monitoring are not publicly disclosed, so validating or acting on them is left to the discretion of World Bank staff.

answerability - in the zone of overlap between transparency and accountability - complicates efforts to pin down the relationship between transparency and accountability. When we connect that ambiguity with a recognition of the incentives for openwashing, that further disrupts the expected causal chain that links information disclosure to improved institutional performance. To sum up, taking stock of the power of sunshine - yes, sometimes transparency and accountability reforms fail to deliver, in the sense of improved institutional performance. Yet the problem is often a *failure to deliver enough transparency and accountability* in the first place.