

Incentives research

Promoting Fiscal
Openness

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A wide variety of government programs have been developed over the last three decades that build on the technique of transparency -- that is, the technique of making the planning and behavior of one actor observable to other actors.¹ Sometimes the aim is to impose transparency on governments, for the purposes of discouraging corruption and encouraging efficiency. And sometimes governments impose transparency on private actors, as a way of regulating their conduct.

In any case, a transparency policy is built upon a theory of change -- that is, a story about how an increase in openness will produce an improvement in social welfare. This theory or story is sometimes referred to as the *program logic*.² The program logic describes the sequence or events that have to occur in order for a policy intervention to achieve the desired results. All government policies -- and hence all transparency policies -- have program logics, although the program logic is not always articulated with sufficient clarity.

As an illustration, consider a common argument for right to information (RTI) laws: that they will discourage corruption in government. In abbreviated form, here is a rough sequence of events that might have to occur for this result to be accomplished:

1. Government officials maintain records that provide evidence of malfeasance.
2. Private actors make requests for those records.
3. Government agencies have the staff and administrative routines required to receive and process requests.
4. Government agencies make a good faith effort to respond to the request.
5. Private actors have the knowledge and resources required to make sense of the documents provided to them.
6. Private actors have a channel for acting on the received information, for example by communicating the results of their investigations through the media, using their findings in a political campaign, or initiating remedies in law.
7. Political executives are sufficiently embarrassed or threatened by these actions that they move to stop the corrupt activity.
8. Political executives have enough control over the bureaucracy to take the steps necessary to stop corrupt activity.

¹ For a similar definition, see Albert Meijer, "Understanding the Complex Dynamics of Transparency," *Public Administration Review* 73, no. 3 (2013): 429-439, 74.

² Adele Harrell et al., *Evaluation Strategies for Human Services Programs* (Washington, DC: Urban Institute, 1996), 3.

When we lay out the program logic in detail, we can see that there are many points at which the necessary sequence of events could break down. In other words, the policy design proves to be brittle. This is a common difficulty with government programs.³ Advocates of transparency policies do not always take the time to describe the underlying program logic. Consequently they are sometimes surprised when transparency policies fail to produce the expected results.

Broadly speaking, transparency policies suffer from two types of logic failure. The first category consists of supply-side failures -- that is, the variety of ways in which government agencies can fail to provide needed information. (Assuming, for the moment, that we are considering a transparency policy that is aimed at improving the observability of governmental bodies.) This might include relatively benign problems, such as the inability to generate information because of the lack of staff and equipment, as well as the deliberate subversion of disclosure requirements.⁴ The second category consists of demand-side failures. Experience with RTI laws suggests that this category includes three major problems:

1. Laws fail because there is a shortage of individuals and groups who have the motivation and capacity to seek information through RTI laws.⁵
2. Similarly, laws fail because individuals and groups lack the motivation and capacity to make sense of the information that has been released to them.
3. And finally, there is no effective channel through which individuals and groups can use their newly acquired knowledge to influence the behavior of government agencies. As one commentator has recently put it, there is transparency but no accountability.⁶

Obviously the first of these two problems are closely related. Both have to do with motivation and capacity. And motivation and capacity are closely linked: if motivation were strong enough, groups might be prepared to make the requisite investment in human and technical capabilities. There are some groups -- such as businesses or trade associations -- that do have an immediate financial incentive to

³ Peter H. Schuck, *Why Government Fails So Often* (Princeton, NJ: Princeton University Press, 2014), Chapter Eight.

⁴ Rick Snell, "Administrative Compliance: Evaluating the Effectiveness of Freedom of Information," *Freedom of Information Review*, no. 93 (2001): 26-32.

⁵ In the realm of fiscal policy, David Heald calls this the "missing user" problem David Heald, "Fiscal Transparency: Concepts, Measurement and UK Practice," *Public Administration* 81, no. 4 (2003): 723-759, 747.

⁶ Prospere, Charles. "When transparency fails to produce accountability." *PA Times*, January 20, 2015. <http://patimes.org/transparency-fails-produce-accountability/>

seek and use information. Often, however, the benefits from transparency are widely diffused, and collective action problems make it unlikely that groups will emerge to obtain those benefits.⁷ In a few countries there are philanthropies that are prepared to help groups that will use transparency to produce widely shared public benefits. But there are still many wealthy advanced democracies in which the philanthropic community lacks the capacity or motivation to fund this sort of work.

It should also be noted that there is also a close interaction between the first two problems, and the third. If there is no effective channel for influencing government behavior, then groups will see no point in making the investment that is necessary to acquire and interpret information, even if they might otherwise have a strong material incentive to do so.

From a certain point of view, it is difficult to see why a transparency policy might fail because of demand-side problems. No government adopts a transparency policy regarding its own conduct voluntarily. All actors want to maintain autonomy⁸, and transparency threatens autonomy. There must be other actors with the power to impose transparency policies; and if they have *this* power, we might expect that they would also have the power to exploit the opportunities that are created by these new policies. Perhaps this is the story in the United States. Power is decentralized: there are many actors (Congress, the media, industry and trade groups, philanthropy-financed public interest groups) with the clout to impose requirements such as the Freedom of Information Act on the executive branch; and after adoption of the law they continue to wield their power by requesting and using information.

However, we can imagine a variant of this story in which demand-side problems might be generated. In this situation, there is some exceptional circumstance -- such as a moment of crisis or scandal -- that makes the executive unusually weak in relation to other actors, and that moment of weakness is used as a "window of opportunity" for imposing transparency requirements.⁹ But then the moment of weakness passes and the preexisting distribution of power is restored. Formally, the transparency policy might remain in place -- but other actors lack the capacity to use it properly, or counter attempts by the executive to evade its requirements. The transparency policy becomes "dead law." It might be argued that some parliamentary democracies have had this experience with RTI laws.

⁷ Mancur Olson, *The Logic of Collective Action: Public Goods and the Theory of Groups* (Cambridge, MA: Harvard University Press, 1971).

⁸ Morton Halperin, "Why Bureaucrats Play Games," *Foreign Policy* 2 (1971): 70-90, 76-77.

⁹ Sanjeev Khagram, Archon Fung, and Paolo De Renzio, *Open Budgets: The Political Economy of Transparency, Participation, and Accountability* (Washington, DC: Brookings Institution, 2013), 7.

There is another instance in which demand-side problems might be generated. This is the situation in which a transparency policy is not developed endogenously -- that is, solely as the result of political struggles within a country. Rather, a political executive accepts transparency requirements because of its dependence on some power *external* to the country. This might be an international institution such as the International Monetary Fund or the World Bank, norm-setting bodies such as the OECD, or private actors such as the overseas financiers of government debt. A government acquiesces to the principle of disclosure, but because transparency is generated *exogenously*, through processes of normative or coercive isomorphism¹⁰, the fact of acquiescence says nothing about the presence of domestic actors with the motivation or capacity to take advantage of the new transparency rules.

This might be the situation with regard to recent advances in fiscal transparency. And it might explain why fiscal transparency does not lead to fiscal openness, as GIFT defines it -- that is, a condition in which the increased availability of fiscal information is followed by active public participation in the processes of budget formulation and execution. The adoption of transparency requirements does little to address the demand-side problems that we identified earlier.

There are important caveats to this argument. GIFT is not simply interested in the disclosure of information. It is also interested in the adoption of mechanisms that will allow public to influence fiscal policy. These include notice-and-comment procedures for proposed budgets, legislative and public hearings, provisions for non-binding referenda on fiscal questions, surveys, and hotlines. We might expect that the availability of new channels for influencing fiscal policy would increase the motivation of domestic groups to organize. In addition, GIFT also encourages the emergence of new domestic actors more directly, by recommending the establishment of advisory committees, legislative committees, and audit institutions.¹¹

However there may be limits on the capacity or willingness of international bodies to shape the domestic political ecosystem. One difficulty is that many of these new domestic actors (advisory committees, for example) exist at the discretion of the executive. Even formally autonomous entities, such as ombudsmen and audit institutions, may be undermined by executive action -- for example, by cutting budgets or appointing officials who will be friendly to the administration.

¹⁰ Walter Powell and Paul diMaggio, *The New Institutionalism in Organizational Analysis* (Chicago: University of Chicago Press, 1991).

¹¹ GIFT, *The Time Is Now: Advancing Public Participation in Government Fiscal Policy and Budget-Making* (Global Initiative for Fiscal Transparency, December 1, 2014).

Another difficulty, more substantial, is that there may be real limits to the influence that can be exercised through channels such as notice-and-comment procedures, hearings, and non-binding referenda. There is no compulsion for officials to listen, because these processes do not devolve actual power over fiscal policy.¹² That is, the people who are offering their opinions to government do not also have the power to veto or delay fiscal decisions. Usually, this fact is broadly recognized, and this diminishes the extent to which channels will be regarded as effective, and hence the also the incentive to mobilize for the purpose of using these new channels.

The alternative is to create channels of influence that devolve actual power over aspect of fiscal policy. For example, it is probably the case that fiscal openness (in the sense of transparency *and* participation) would be improved by:

- Assuring a constitutionalized separation of powers, so that the executive is more dependent on the cooperation of the legislative branch for taxing and spending decisions¹³; or
- Loosening budget rules to allow more room for earmarking expenditures or tax breaks for particular constituencies, thus giving various groups a strong interest in seeking and using budget information; or
- Changing electoral rules to encourage the entry of additional parties, so that budget making requires more negotiation.¹⁴

But here we run into several more difficulties. The first is that these reforms sometimes require constitutional change, and therefore seem to be impracticable in the short run. Moreover, these reforms require a direct intrusion into national conversations about the organization of political life. They will seem like overtly political initiatives, and there will be widespread doubts about the competence or right of international bodies to give such advice. Giving advice on such matters would seem like an infringement of national sovereignty.

In addition to all this, international bodies themselves seem likely to be ambivalent about reforms that result in a significant diffusion of power over fiscal policy.

¹² As the former head of the European Central Bank once said: "I hear, but don't listen." Alasdair Roberts, *The Logic of Discipline: Global Capitalism and the New Architecture of Government* (New York: Oxford University Press, 2010), 25.

¹³ Murray Petrie, *Toward Stronger Incentives for Increased Fiscal Transparency, Participation and Accountability* (Washington, DC: Global Initiative on Fiscal Transparency, 2012), 21.

¹⁴ Joachim Wehner and Paolo de Renzio, "Citizens, Legislators, and Executive Disclosure: The Political Determinants of Fiscal Transparency," *World Development* 41 (2013): 96-108, 104; Gregory Michener, "How Cabinet Size and Legislative Control Shape the Strength of Transparency Laws," *Governance* 28, no. 1 (2015): 77-94.

Some bodies that have made recommendations on fiscal openness also have preferences regarding the *quality* of fiscal policy. In particular, they worry about:

- *Maintaining overall fiscal discipline* -- that is, a balance between expenditures and revenues;
- *Maintaining long-term fiscal stability*, defined as the predictability of taxing and spending in future years; and
- *Maintaining the integrity of fiscal policy*, defined as coherence in spending and taxing decisions, and avoidance of policies that cater to "rent-seeking" special interests.¹⁵

The difficulty is that *procedural* reforms that actually diffuse power over fiscal policy are likely to have adverse effects on the quality of fiscal policy, as judged by these three criteria. Fiscal openness -- defined as the expansion of meaningful participation in fiscal decisions, rather than simple transparency regarding fiscal policies -- is likely to weaken discipline and stability, and encourage rent-seeking.

Indeed, some international organizations have gone in the opposite direction, emphasizing the need to concentrate power within budget processes as a way of improving the quality of fiscal policy. This is often expressed as a preference for "hierarchical budget institutions."¹⁶ Hierarchical budget institutions, Alesino and Perotti explain, "are those that . . . attribute strong prerogatives to the prime minister (or the finance or Treasury minister) to overrule spending ministers . . . [and] limit in a variety of ways the capacity of the legislature to amend the budget proposed by the government." They conclude that such institutions "are more likely to enforce fiscal restraint, avoid large and persistent deficits, and implement fiscal adjustments more promptly."¹⁷

In summary, the predicament with regard to the promotion of fiscal openness might be explained in the following way. To a limited degree, international institutions

¹⁵ James M. Buchanan, Robert D. Tollison, and Gordon Tullock, *Toward a Theory of the Rent-Seeking Society* (College Station, TX: Texas A & M University, 1980); Anne O. Krueger, "The Political Economy of the Rent-Seeking Society," *The American Economic Review* 64, no. 3 (1974): 291-303.

¹⁶ Mark Hallerberg, Rolf Strauch, and Jürgen von Hagen, "The Design of Fiscal Rules and Forms of Governance in European Union Countries," *European Journal of Political Economy* 23, no. 2 (2007): 338-359; Sophia Gollwitzer and Marc Quintyn, *The Effectiveness of Macroeconomic Commitment in Weaker Institutional Environments* (Washington, DC: International Monetary Fund, 2010), 4-9; Roberts, *The Logic of Discipline: Global Capitalism and the New Architecture of Government*, Chapter 3.

¹⁷ Alberto Alesina and Roberto Perotti, "Budget Deficits and Budget Institutions," in *Fiscal Institutions and Fiscal Performance*, ed. James Poterba and Jürgen von Hagen, (Chicago, IL: University of Chicago Press, 1999), 16-17.

and networks can help to overcome the domestic obstacles that discourage the endogenous development of policies on fiscal openness. They exercise their influence through norm-setting and by exploiting the dependence of national governments on overseas aid and finance. These processes of policy change may produce improvements in the disclosure of fiscal information, and create some opportunities for public participation and scrutiny. But these processes are unlikely, for a combination of reasons, to result in the adoption of procedures that cause a substantial diffusion of power over fiscal policy. To some extent we are seeking to achieve the benefits of democratization in the realm of fiscal policy, without risking the policy instability that has historically been associated with democratic processes.¹⁸

In such circumstances, what more might be done to promote fiscal openness? One step might be technical assistance that is aimed at helping domestic organizations to overcome collective action problems. The aim here is to deal with the "missing user" problem, with a specific interest in groups that seek to promote fiscal policies that have diffused effects. The challenge would be to find models of good practice in which advocacy organizations have developed methods of sustainable self-financing and mobilization, possibly through the use of new technologies. Many groups that would provide models of best practice may not actually work in the field of fiscal policy.

A second step might comprise measures designed to promote domestic entrenchment of new policies on fiscal openness. This can be done through initiatives that are intended to consolidate the norm of consultation and by raising the political costs of policy reversal. For example, one approach is the promotion of domestic network-building between monitoring institutions (such as ombudsmen) and civil society organizations¹⁹, and also the development of transnational networks of monitoring institutions and civil society organizations. This is done with the aim of creating mechanisms for the quick mobilization of resistance if executives threaten to undo policies or neglect implementation.

A third step might be to encourage domestic stakeholders to lobby for more extensive opportunities to participation in the formulation and execution of fiscal policy -- that is, for an actual devolution of authority over content of fiscal policy. The premise is that the ability to mobilize stakeholders will increase if channels of influence are perceived to be effective. We aim here to create a reinforcing cycle: stakeholders seek

¹⁸ James Bryce, *The American Commonwealth* (London: Macmillan, 1888), III.305.

¹⁹ In earlier work, I described a similar sort of network as a "control lobby": Alasdair Roberts, "Worrying About Misconduct: The Control Lobby and Bureaucratic Reform," *Canadian Public Administration* 39, no. 4 (1996): 489-523.

a larger and more substantive role in fiscal policymaking, and this larger role makes it easier to mobilize stakeholders.

There is also something that should not be done. As we have noted, there is a tension in the expectations of international stakeholders: some want participation, but not if that implies a deterioration in the quality of fiscal policy. It might make sense to avoid measures that would aggravate that tension. For example, it might be tempting to use the dependence of cash-strapped national governments on international financing as an opportunity to promote the advancement of policies on fiscal openness. Overseas creditors might use their clout to encourage the alteration of national policies. These creditors might have a strong interest in fiscal transparency -- but they might also have a strong distaste for domestic policies that appear to diffuse authority over fiscal policy. The fact that such creditors might give formal endorsement to the concept of fiscal openness does not necessarily signal their willingness to embrace the concept fully in practice.