

Michael Mason and Aarti Gupta
Transparency revisited

Book section

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Michael Mason and Aarti Gupta

Transparency (Re)-Considered

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~~The starting point for this volume book was an academic interest in~~
~~has sought to~~ understanding the rise and effects of a “transparency turn” in global environmental governance. Across a range of environmental issue-areas, a call for transparency informs actor expectations and institutional rules, expressed in practice by diverse governance forms. The preceding chapters featured ~~a variety of~~ cases of environmental governance in which information disclosure is employed to steer the behavior of selected actors—what, following Gupta, we label *“governance by disclosure”* (2008).

As is clear from ~~these preceding~~ contributions, ~~the global descriptor is used in~~
~~a relational sense. It~~our analysis of *governance by disclosure* takes stock of environmental governance initiatives, led by ~~both~~ state and non-state actors, constructed at the international or transnational scale by cross-border regulation or other means of coordinated steering, and facilitated by information and communications technology, including web-based publicity

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and functionality. This global scaling encompasses vertical and horizontal alignments of decision-making authority, which recasts, rather than displaces, national policy spaces (Andonova and Mitchell 2010).

This bears affinities with wider scholarship on multi-layered or multi-level governance (Bache and Finders 2004; Enderlein et al. 2010; Piattoni 2010); in the sense that all the contributors to this [volume-book](#) identify complex configurations of transparency practices *across jurisdictional boundaries*. Even [Part-part II-2](#) of this [volume-book](#) on state-led multilateral transparency initiatives, which might be expected to mirror state-centered tenets of public international law, reveals disclosure modalities with innovative forms of governance—from the public compliance mechanism of the Aarhus Convention to the risk-based information management deployed in global rule-making on pesticides and genetically modified organisms (GMOs). These cases illustrate vertical scalings of inter-state authority re-negotiated according to specific transparency demands from coalitions of state and civil society actors. [As noted below in the following A common finding](#), however, [is that](#) the resultant disclosure regimes are skewed in operation by market interests: insofar as multilateral disclosure of environmental information targets profit-driven business actors, states are often obliged to defer to powerful corporate constituencies.

The chapters in [Part-part III-3](#) encompass examples of horizontal (or “networked”) multi-level governance, [where in which](#) disclosure regimes are

mainly coordinated by, and targeted at, non-state actors; [respectively](#), global sustainability reporting, carbon disclosure, energy governance, environmental certification programs, and private investment projects in developing countries. These cases are emblematic of multi-level governance forms; insofar as they feature task-specific, flexible steering with voluntary or contractual lines of accountability. Nevertheless, these analyses diverge as well from the functionalist claims of governance theory; [by treating](#) information disclosure as more than just a regulatory strategy or means of organizational learning. They share with the other contributions to this [volume book](#) a *critical theoretical* perspective, one that problematizes the transparency turn by examining its differential development within broader political economic and discursive contexts, notably the unstable global dominance of market liberalism.

By embracing a critical take, the authors in this [volume book](#) also collectively acknowledge the unavoidable *normativity* (value-laden structure) and *materiality* of governance by disclosure. As Mol argues in chapter 2, the normative kinship often assumed between transparency and ideas of democracy does not necessarily correspond in practice with the disclosure regimes favored by private and state actors. A number of chapters respond to his thesis that transparency has “lost its innocence” in environmental governance: whether or not the authors accept this claim, there is common empirical interest in uncovering the normative background and content of

selected transparency initiatives. Across the chapters, there is also an analytical concern with the materiality of transparency—the ways in which governance by disclosure is shaped by the (potential) environmental harm being governed and its location in wider circuits of material production and consumption. This is most evident in emerging issue-areas of environmental rule making, [as-because](#) governance responses crystallize around novel problems and risk profiles. This is illustrated in the efforts to find disclosure settings adequate to the challenges of governing transgenic crops, genetic resources, and forestry-related climate mitigation actions (reducing emissions from deforestation and forest degradation—REDD+) in developing countries. In these examples, what to be made transparent is subject to intense political negotiation, largely because the scope and content of environmental information (and its disclosure) generates uneven costs and benefits.

From these shared points of departure, the contributors to this [volume book](#) address the three research questions outlined in the introduction: Why transparency now? How is transparency being institutionalized? What effects (normative, procedural, and substantive) is it having? They also consider the working hypotheses attached to each question. These include: H1—adoption of transparency in global environmental governance is driven by democratization and marketization; H2—institutionalization of transparency decenters state-led regulation and opens up political space for new actors; and H3—transparency is more likely to be effective under contexts resonant with

the goals and decision processes of ~~both~~ both disclosers and recipients. The response of the contributors to these research questions and hypotheses allows enables us ~~now~~ to offer concluding observations on the transparency turn in global environmental governance in this chapter. What follows is a comparative review of their findings on the uptake, functioning, and effects of transparency as information disclosure.

Embracing Transparency

Throughout this volume book, there is a methodological sensitivity to the historicity of governance trajectories featuring transparency as information disclosure. Within particular issue-areas, governance by disclosure is, of course, influenced by context-dependent conditions and events, in which multiple participants, with differential resource endowments and capabilities, move to support, shape, or oppose specific transparency norms and practices. Nevertheless, in corroboration of H1, there is strong evidence from the chapters that democratization and marketization are leading societal drivers of the uptake of transparency in global environmental governance, al-though the marketization logic, as we ~~elaborate below~~ in the following subsequently argue, tends to dominate and is often in tension with ideas of democratic accountability.

By itself, the democratization driver is by no means straightforward in scope and content. Given that most chapters acknowledge *close linkages*

between the transparency turn and democratization, it is tempting to conclude that information disclosure regimes derive from, or foster, liberal democratic structures of decision-making; for example, the rapid diffusion of transparency in the new democracies of ~~central~~ Central and ~~eastern~~ Eastern Europe. Yet as Florini and Jairaj show in their context-setting chapter 3, the freedom-of-information laws and regulations of liberal democracies are *not the only* precursors of information disclosure in global environmental governance, ~~as~~ because environmental information disclosure has also appeared selectively in closed political systems, notably China. Indeed, they identify transnational learning as an autonomous influence of the cross-national uptake of information disclosure.

In his chapter on the Aarhus Convention, Mason similarly notes that ~~while~~ although states and international organizations have played a significant role in spreading liberal democratic framings of transparency, other (social democratic) understandings are evident as well in promoting uptake of transparency. These findings suggest that it is more accurate to identify the transparency turn as a consequence of, and influence on, democratization understood more generally as *discursive or deliberative modes* of social coordination (Dryzek 2010). Shorn of its association with liberal democratic state forms, this shifts methodological attention to the specific engagement of public discourses and their application to those public or private authority holders responsible for producing significant harm or risks (Mason 2005).

Florini and Jairaj also view democratization in such broader institutional terms, noting that information disclosure tends to gain traction in societies and political systems broadly hospitable to the idea of transparency, including where civil society is sufficiently autonomous to call for, and act on, disclosed information. This holds as well for transnational scalings of civil society action:-. ~~The the~~ contributions on multilateral ~~rule_making~~~~rulemaking~~ in [Part-part II-2](#) ~~thus~~ identify NGOs and activist coalitions as triggers for information disclosure in global regulation of pesticides and genetic resource flows (although this was *not* the case for GMOs and REDD±, where disclosure is being pushed for by developing and developed countries, respectively). Civil society actors are similarly often the catalysts for information disclosure as a means of enlarging communication (and sometimes participation) on issues of collective concern in the cases of horizontal disclosure-based governance explored in [Part-part III3](#). Salient examples here include the Publish What You Pay ~~Campaign-campaign~~ (Van Alstine), the Carbon Disclosure Project (Knox-Hayes and Levy), and transparency policies within the International Finance Corporation (Ehresman and Stevis).

Yet this general trend hides important differences in institutional practice. In chapter 12, Auld and Gulbrandsen report that ~~while-although~~ civil society pressure prompted the adoption of environmental certification schemes, and the Forest Stewardship Council carried through a commitment to

open, and inclusive deliberation in environmental standard-setting, this democratic imperative was displaced in the Marine Stewardship Council by a technocratic preference for expert-led governance. This is akin to the technostatist imperative for disclosure [in global pesticide governance](#) identified by Jansen and Dubois [in chapter 5](#), as well, [in their chapter 5 in their analysis of which they analyze global pesticide governance by disclosure](#).

At the same time, many contributors to this [volume book](#) concur that *marketization represents a dominant driver of information disclosure regimes within global environmental governance*. By marketization, we refer to market-based mechanisms of resource allocation and attendant ideological discourses justifying market liberalization as the default setting for collective choices. Market liberalism, which has globally reasserted itself after the 2008 financial crisis, remains the dominant political doctrine and economic project privileging market-based solutions to environmental challenges.

Across the chapters in this [volume book](#), there is a striking presence of market liberal political interests. In the cases of state-mediated governance, market liberalism justifies: the exclusion of private businesses from direct information disclosure obligations (Aarhus Convention); the dilution of prior informed consent (PIC) norms (global governance of pesticides and GMOs); and the use of commercial confidentiality to block public access to information (bioprospecting). There are also demands for disclosure issuing from market-based actors, typically in response to perceived costs and benefits

arising from the management of environment-related risks (Clapp and Helleiner 2012, 492–493). Thus, marketization tends to favor environmental information disclosure ~~where-when~~ it assists private investment decisions (Global Reporting Initiative, Carbon Disclosure Project, International Finance Corporation), reinforces intellectual property rights (environmental certification, genetic resources), and facilitates the commodification of environmental resources (REDD+). The spread of market-led transparency is not of course predetermined; however, there is a high level of consent and acquiescence (hegemony) to political, economic, and discursive forces favoring marketization as a development path.

The tension between democratic and market-based pressures for disclosure of environmental information reflects wider processes of economic globalization and their socio-ecological impacts. Global networks of production, trade, and investment create what Dingwerth and Eichinger (chapter 10) label “*markets for transparency*” to facilitate the commodification of environmental information flows. Yet, at the same time, the transboundary pathways of environmental risk and harm generated by global interdependence drain legitimacy from states unable to protect their populations: multilateral transparency initiatives thus become one collective response to help address deficits in environmental regulation.

This interplay between private and public authority accounts, we argue, for the double-sided character of the transparency turn in global

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environmental governance. On the one hand, environmental disclosure regimes are embraced as *market-facilitating*, correcting for market inefficiencies and creating new markets by valuing previously unrewarded ecosystem resources or services (e.g., genetic resources, or forest carbon stocks); on the other hand, they serve *market-forcing* demands for legitimation in the face of perceived accountability deficits (e.g., extractive industries transparency, and environmental certification schemes). The contradictory imperatives here reflect an innate tension between the marketization and the democratization of environmental responsibility—one played out in political negotiations and struggles over the appropriate governance role for transparency.

Institutionalizing Transparency

It would be surprising if there were no connection between the broader societal drivers [just](#) highlighted [above](#) and the means by which global transparency and disclosure initiatives have been institutionalized. The information infrastructures detailed in the preceding chapters are, to be sure, diverse and often complex: the operational norms and rules structuring particular transparency practices have their own dynamics—shaping and shaped by immediate contexts of application. Nevertheless, we argue that the contributions to this [volume-book](#) reveal structured patterns of disclosure relating to distinctive configurations of actors and institutional practices. More

precisely, we find partial validation for our hypothesis (H2) that *institutionalization of transparency ~~often~~ decenters state-led regulation and opens up political space for new civil society and private sector actors.*

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However, as we discuss ~~below~~in the following~~next~~, we modify this confirmation of H2 to acknowledge the comparative finding that state sovereign powers are not necessarily diluted, or weakened, by global transparency initiatives.

The contributors to this volume book examining multilateral disclosure regimes observe ways in which *transparency qualifies state sovereign authority*. In one sense, this is no more than the negotiated pooling of sovereign powers well-established in public international law, which creates state entitlements and duties on the basis of the voluntary consent of parties to a treaty. This is evident, for example, from the general access to information provisions in the Aarhus Convention, and the more specific disclosure rules on chemicals and genetic resources in, respectively, the Rotterdam Convention and biodiversity Biodiversity convention Convention on Biological Diversity.

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However, a salient trend identified here—one not captured by H2—is a *transition from soft law to hard law institutional practices*, and the role of various international organizations (including UN agencies) in selling transparency to state actors. There were voluntary guidelines and codes preceding the establishment of hard law disclosure regimes in all three multilateral environmental agreements just mentioned ~~above~~, although this

was *not* the case with information disclosure for trade in GMOs—covered by a different protocol under the [biodiversity Biodiversity conventionConvention on Biological Diversity](#)—[where-in which](#) contentious, protracted negotiations have resulted in very limited mandatory disclosure rules. Van Alstine similarly shows in chapter 11 how the Extractive Industries Transparency Initiative prompted the Ghanaian government to institutionalize mandatory transparency in domestic legislation on the oil industry. These findings corroborate the claim that non-binding soft law institutions are a favored vehicle for ambitious environmental norms, which, depending on growing internal credibility and/or external political support, are then converted into hard law rules (Skjørseth et al. 2006).

From the chapters, it is evident that the propensity of states to adopt multilateral transparency norms and rules reflects their sensitivity to perceived domestic and external impacts on sovereign authority, constituting what we label a *geopolitics of information disclosure* that reflects power differentials within and between developed and developing countries. A prominent institutional logic is the external promotion by developed countries of transparency norms and rules with high political and policy currency in their domestic contexts. This is reflected, for example, in the uptake of pollutant release and transfer registers under the Aarhus Convention and the diffusion of transparency [mechanisms-obligations](#) compatible with market liberal property rights in global regulatory negotiations on genetic resources and GMOs.

~~Outside Beyond~~ multilateral environmental agreements, there is also the US- and European-led instillation of transparency as a good governance norm in global energy governance (chapter 11) and the International Finance Corporation (chapter 13). Both chapters reveal that international organizations can effectively promote information disclosure practices to domestic governments (typically from the global South), though this is less likely if such organizations are perceived by target audiences as lacking governance competence or credibility (Bauhr and Nasiritousi 2012).

~~In~~ By contrast, many developing countries resist information- disclosure obligations that impinge on their sovereign authority over natural resources and on their domestic regulatory space. In their chapter on the measuring, reporting, and verification (MRV) systems under development within the REDD+ provisions of the climate change convention, Gupta and colleagues cite China's opposition, in these terms, to general third-party review and validation of its voluntarily assumed carbon- mitigation activities, and Brazil's opposition to international verification of its REDD+- related claims ~~and activities~~. Furthermore, poorer developing countries may be unable to renegotiate, contest, or apply multilaterally negotiated stringent MRV standards because of capacity constraints.

Environmental disclosure rules within multilateral treaties sometimes acknowledge these inequalities and, at least in principle, facilitate technological and financial assistance, as well as differentiated obligations.

Jansen and Dubois highlight this for the Rotterdam Convention, which features a less burdensome notification procedure for developing countries in bringing hazardous imported pesticides under the treaty's PIC procedure. Similarly, developing countries with major genetic resources are favored by the PIC rules of the Nagoya Protocol to the ~~biodiversity~~ [Biodiversity Convention on Biological Diversity](#)—in this case, obliging resource users (typically private corporations from developed countries) to provide information on the agreed legal and commercial terms of their access. Orsini et al. (chapter 7) view the negotiation of such information disclosure as evidence that developing countries are asserting sovereign control over the use of their genetic resources, questioning the premise of H2 that the institutionalization of transparency in global environmental governance necessarily decenters state-led regulation. Nevertheless, the hypothesis still carries explanatory weight, they argue, because key disclosure provisions on the origin of genetic resources are non-binding.

Contestation over PIC norms and rules is arguably the key flashpoint for the geopolitics of environmental information disclosure, though the alignment of national interests varies with [the](#) issue-[area](#). For example, the ~~governance-by-disclosure~~ regime for trade in GMOs, negotiated under the Cartagena Protocol to the ~~biodiversity~~ [Convention on Biological Diversity](#) ~~Biodiversity convention~~ [Convention](#), has pitted leading GMO exporters (~~for~~ ~~e.g. example, including~~ [the](#) [United States](#), Canada, Australia, and Argentina)

against bulk agricultural commodity importers in ~~both~~ developed and developing countries. Here the operative PIC norm of “advance informed agreement”²² navigates geopolitically between the two groups, although poorer developing countries are again at a disadvantage relative to the mature transparency and regulatory infrastructure of the European Union and Japan. Indeed, Gupta concludes in chapter 6 that the ~~incomplete-minimal~~ disclosure obligations of the Cartagena Protocol benefit least those who might need them the most.

The institutionalization of transparency through PIC norms and rules demonstrates as well how *private authority inflects multilateral disclosure arrangements*. Thus, information disclosure relating to the ~~utilization-use~~ of genetic resources is, according to Orsini and colleagues, ultimately about the regulation of private market actors as users, ~~while and at the same time~~ deferring to a market liberal logic protective of their intellectual property rights. A similar truncation of disclosure duties for relevant private actors is evident in the governance of pesticides and transgenic crops: in both cases, the political mobilization of agro-corporate interests has significantly influenced the formulation of mandatory disclosure obligations. To recall the marketization process ~~previously mentioned-above~~, the market-facilitating, rather than market-forcing, institutionalization of disclosure is also structurally favored by a global political economy underpinned by market liberal norms, such as non-discrimination in trade and investment, and the caveat emptor (~~let~~

[the](#) buyer beware) dictum. Additional evidence for this in PIC regimes relates to the use of commercial confidentiality opt-outs by market producers to restrict public information to, at best, that which is already available.

For the chapters in [Part-part H-2](#) addressing horizontal forms of disclosure [where-in which](#) non-state actors play a lead role, the marketization process is omnipresent, as we noted [earlier/previousl](#)y, in driving the uptake of transparency, with consequences for its institutionalization. Within these governance initiatives, transparency is a means of correcting those informational deficits or asymmetries that lead to environmental goods and services not being accorded a “socially optimal” market valuation. Surveying a variety of governance forms, these contributions ~~record-document how the institutionalization of~~ non-financial reporting on environmental and social impacts [is being institutionalized, and how it is](#), offsetting significant political pressure for state-led regulation.

Arguably, the dominant institutional logic across these case studies is *the key role of non-state intermediaries in managing and/or validating information disclosure, confirming H2 on the significant governance role for new actors*. In ~~the~~ chapter [13](#) by Ehresman and Stevis, the intermediary is an

intergovernmental organization (the International Finance Corporation) applying transparency to its internal social and environmental standards. These standards feature public disclosure of environmental and social information by private sector clients, including requirements to engage with the affected

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communities of proposed investment projects. Van Alstine similarly demonstrates the role of NGOs in deepening global transparency about financial transfers in the extractive industries sector. In the cases of voluntary non-financial reporting, covered by the Global Reporting Initiative, the Carbon Disclosure Project, and non-state certification schemes (the Forest Stewardship Council and Marine Stewardship Council), there is on-going bargaining between non-state rule-makers and corporate disclosers over the quantity and quality of disclosed information. One example is the tension between the information comparability goal of the Global Reporting Initiative and the discretion ~~allowed~~ ~~enabled~~ ~~permitted to~~ companies to incentivize their self-reporting. Similarly, Auld and Gulbrandsen note, in chapter 12, the trade-offs involved in the difficult political steering between buy-in of corporate disclosers and public credibility of the host schemes. ~~Both~~ ~~the~~ FSC and MSC delegate assurance/accreditation roles to independent auditors, who in turn face self-regarding pressures not to antagonize participating businesses. There is also a trend for non-financial reporting to become commodified: the Carbon Disclosure Project and Global Reporting Initiative have, directly or indirectly (via commercial intermediaries), generated paywalls (i.e., barriers to accessing webpage content without payment) behind which enhanced interpretive products are available, weakening their public transparency claims.

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In summary, the contributions to this ~~volume~~ book reveal the complex configurations of public and private authority structuring the institutionalization of transparency in global environmental governance. Governance by disclosure encompasses public (mandatory) initiatives conditioned by market liberal interests and private (voluntary) disclosure under the shadow of hierarchy, even as both sources of authority are shaped to a greater or lesser degree by civil society actors. This is in line with an important ongoing debate that questions a sharply drawn public/~~private~~ divide in global environmental governance processes and outcomes (e.g., Pattberg and Stripple 2008).

However, across the cases, greater disclosure of environmental information faces recurring barriers from what is regarded by power/~~holders~~ as the *legitimate, limited scope of transparency* under liberal environmentalism—notably, more openness from state actors than private actors, respect for private property rights, and a deference to commercial confidentiality. These limits are continually challenged by proponents of greater environmental transparency, ~~drawing who claim~~ moral authority from well-established expectations of democratic accountability. Furthermore, despite technological advances in information availability and processing, there are still significant deficits and uncertainties impairing the generation of environmental information. We claim, nevertheless, that the partial transparency evident from the institutionalization of governance by disclosure

studied in this [volume book](#) is delimited more by political-economic [rather](#) than [by](#) technical markers.

Effects of Transparency

In the introduction to this [volume book](#), we presented as an overarching goal the analysis of the transformative impacts of governance by disclosure. To assess this systematically, we proposed a broad typology of effectiveness in order to capture a range of (potential) effects issuing from transparency as information disclosure—normative, procedural, and substantive. This conception reflects the critical theoretical stance of the book by acknowledging that disclosure practices are arenas of socio-political negotiation and are inherently normative, whether or not relevant actors make this explicit. Our selection of H3 as a hypothesis for this [volume book](#) reflected existing scholarship, positing that transparency is more likely to be effective under contexts resonant with the goals and decision processes of [both](#) ~~both~~ disclosers and recipients (e.g., Fung et al. 2007; Hood and Heald 2006; Mitchell 2011; see also Mol, this [volume book](#), chapter 2). However, consistent with our critical theoretical approach, we presented a directional version of H3 as well—that *in liberal environmental contexts, transparency, if adopted, will have minimal market-restricting effects*. We highlight [below in the following section](#) the major chapter findings on the transformative potential of transparency, by discussing the [three types of normative, procedural and](#)

~~substantive~~ effectiveness of disclosure-based governance—~~normative, procedural, and substantive.~~

Normative Effects

As anticipated in our introduction, the most common normative goal underpinning the governance-by-disclosure initiatives examined in this ~~volume-book~~ is the “right to know,” addressed mainly to civil society recipients, but also directed at states and corporate actors. For individuals (as citizens or consumers), the moral authority infusing the right to know echoes, as Mol notes in chapter 2, its affiliation with concepts of democracy and participation. Its strongest legal expression in global environmental governance is the access-to-information entitlement under the Aarhus Convention, where it attains the status of a universal human right with a non-discriminatory application in all convention parties. ~~While-Although~~ the right-to-know also features prominently in the other examples of governance by disclosure examined here, it is ~~either~~ restricted to national settings (e.g., domestic right-to-know laws), subsumed within state-endowed treaty entitlements and the policy prescriptions of an international agency, or facilitated in actor- and sector-specific domains by civil society organizations.

Across all these manifestations—including Aarhus rights—the right to know provides a significant asset for political claims by citizens and states, but tends to be restrained or diluted by countervailing moral and legal norms, unsettling

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its governance legitimacy. The most potent of such norms are those underpinning the private authority of actors in market liberal systems of resource allocation; thus, the cases reveal that right to know is countered by norms of corporate voluntarism (Aarhus Convention, non-financial reporting systems), intellectual property rights (pesticides, genetic resources), and the caveat emptor (let the “buyer beware”) dictum (GMOs). Moreover, while although state sovereign norms are sometimes utilized-used to challenge market actors to reveal more—e.g.-for example, the assertion of sovereign natural resource rights by developing countries in benefit sharing from over genetic resources, as discussed in the ABS chapter—they can also be invoked to oppose environmental disclosure requests, as observed in the chapter on REDD+ MRV systems. In summary, while-although *right-to-know serves as a widely accepted normative justification of-for information disclosure in global environmental governance, its legal application tends to be compromised by the political deployment of market liberal or state sovereign norms.* This comparative finding confirms, for the case studies featured in this volumebook, the directional version of H3 as-in-regards-with -regard to the normative effects of transparency.

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Procedural Effects

When inviting contributors to consider the procedural effects of transparency, we emphasized governance by disclosure as due process—the openness,

inclusiveness, and impartiality conferred or facilitated by disclosure—with the aim being not only to inform, but also to empower. Procedural goals of disclosure include, as we suggested in the introduction, empowering information recipients to perform meaningful governance roles, notably holding disclosers accountable and making choices that are more informed. These two facets are connected, thus the procedural *quality* of information disclosure co-determines intended procedural outcomes. Here we single out the most salient cross-chapter comparative finding: the *limitations to the sustained empowerment of intended information recipients in global environmental governance*, which holds both for civil society and state actors.

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This means that the symmetry in goals and decision-processes between disclosers and recipients assumed by H3 is *not* sustained, resulting in no clear validation of this hypothesis for procedural effectiveness. ~~While-Although~~ the transparency initiatives studied have delivered procedural openings tailored to particular disclosure contexts, these gains seem not to have led, as ~~elaborated further below~~ in the following we argue subsequently, to significant empowerment gains for information recipients.

For *civil society recipients* of environmental transparency in national regulatory contexts, information is typically seen as a means to realize communicative and accountability gains vis-à-vis particular wielders of power, as chapter 3 by Florini and Jairaj shows. Of course, this linkage between transparency and public accountability is more problematic for global

environmental governance, [where in which](#) state sovereignty and higher information costs present major obstacles to civil society recipients of information seeking to hold foreign actors to account for transboundary environmental harm. Again, the Aarhus Convention has arguably made the greatest legal progress in ensuring transnational public entitlements to environmental information and non-compliance notifications; as a way of ~~of~~ [empowerment to empower](#) through the conferral of procedural rights. Yet, as argued by Mason, there have been repeated procedural blockages by convention parties to public information requests, and this opposition is often justified in relation to the discretion allowed parties when implementing treaty obligations. The formal procedural rights for the public created by the Aarhus Convention are not mirrored, according to the research featured in this [volume book](#), in those disclosure regimes under the biodiversity and climate conventions facilitating the provision of information on different types of transboundary environmental risk.

Procedural shortcomings concerning access to information by civil society actors are also apparent from the chapters on global disclosure initiatives led by non-state actors. In their contribution, Ehresman and Stevis identify room for improvement in the engagement of affected communities under the sustainability and disclosure policies of the International Finance Corporation. In the chapters on voluntary non-financial reporting and product certification, civil society actors are either a primary or a secondary recipient

of information. The shared rhetoric across these regimes that disclosure is at least partly a means of public accountability thus falls short in practice. Across the Global Reporting Initiative, Carbon Disclosure Project, and environmental certification schemes, there are weaknesses in public participation both at the systemic governance level, and in terms of the usability of information for making accountability claims against disclosers. For example, while-although procedural openness is lauded in the transparency infrastructure of the Marine Stewardship Council, Auld and Gulbrandsen identify a closed decision-making structure and non-transparent accreditation process: this reduces opportunities for outsiders to hold the rule-makers and disclosers to account.

There are good reasons to expect greater procedural effects when *states are environmental information recipients*. These include the formal equality of treatment bestowed on sovereign states by multilateral rule-making and the extensive currency of disclosure norms in international environmental law, encompassing obligations upon states to exchange information, notify, consult, seek consent, and monitor (Louka 2006, pp. 120–126, see also Mitchell 1998). Rational choice theorists of environmental treaty-making posit, in addition, that states have self-interest in fostering information disclosure as an efficient means of distinguishing cheaters from co-operators (Barrett 2003, pp. 269–291). It is thus rational for states with mature “governance-by-disclosure” capacity to support capacity-building of

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disclosure systems in poorer countries, thus generating credible data concerning transboundary environmental problems or improvements.

Several chapters in this collection identify such activities, including within the Rotterdam Convention, the [biodiversity Biodiversity convention Convention on Biological Diversity](#), and REDD+ MRV discussions within the climate change convention. What is striking, then, is the shared evaluation of authors that there has been little empowerment of poorer developing countries in terms of their capacity to generate and/or receive information flows prescribed by the selected multilateral environmental treaties. This holds for global governance of pesticide flows, GMOs, genetic resources, and forest carbon accounting for REDD+: each case study provides evidence of an unfair onus, placed de facto on poorer developing countries, to establish institutional frameworks for transparency conducive to the efficient implementation of relevant disclosure norms. A common reason for the under-attainment of informational equity between states seems to be the disproportionate bargaining power of states (including emerging economies such as China, India, and Brazil) representing producer or extractive interests, and whose actions generate and entrench particular informational asymmetries.

It is noteworthy that developing countries lose out regardless of the category of state-soliciting information, and regardless of differences in the materiality of the environmental resources concerned. In the GMO case,

involving mainly industrialized countries (GMO exporters) disclosing to potential importers largely located within developing countries, the latter—as *recipients*—have not secured requested levels of transparency. In the case of REDD+, certain developing countries will struggle to *disclose* required environmental information to industrialized countries; in their capacity as donors. Moreover, in access and benefit sharing ~~over-relating to~~ genetic resources, ~~where for which~~whereby access ~~requires-calls for~~ disclosure from developing countries; and benefit-sharing calls for disclosure from developed countries, poorer states have been doubly disadvantaged by the institutionalization of transparency that favors quicker establishment of access versus benefit-sharing infrastructures. Whether developing countries are seeking disclosure or are required to disclose, the geopolitics of transparency reveals unequal structures of power harming their interests.

Substantive Effects

To recall from our introduction, governance by disclosure also includes substantive regulatory goals, such as reduced pollution emissions, risk mitigation, or conservation of biodiversity. The direct substantive effect often attributed by proponents of disclosure processes is that sharing of information will render producers of environmental damage or risk more responsive to regulatory pressures. For global environmental governance, where-in which substantive regulatory aims converge on the prevention and mitigation of

significant transnational harm, ~~which that~~ must be appraised according to local vulnerabilities and values, ~~this is this is~~ a heavy behavioral burden ~~to is~~ ~~placed to place~~ on communicative processes. In these circumstances, the absence of substantive environmental standards in the procedure-centered Aarhus Convention is no surprise. ~~Yet, as we also find, Nor can~~ multilateral disclosure initiatives aiming to mitigate specific environmental problems ~~also fail to~~ avoid this burden. A revealing finding of this ~~volume book~~ is *how little evaluation there is within the global disclosure initiatives ~~as to on of~~ their impact on environmental processes or outcomes.* Despite the rhetoric accompanying disclosure initiatives about their potential to improve environmental outcomes or generate other substantive effects, assessing whether this is being achieved is not prioritized and/or little evidence is being generated about ~~this substantive impacts~~ within the initiatives themselves.

~~Multilateral~~ environmental agreements are certainly animated by harm- prevention goals, as outlined in the case analyses of disclosure-based global governance of pesticides, GMOs, genetic resources, and forestry-related climate mitigation activities. Yet there are negligible treaty-based data sources on the environmental effects of the relevant disclosure measures, for reasons that include evaluative uncertainties (genetic resources), measurement difficulties (REDD+), and a preoccupation with trade effects rather than environmental outcomes (pesticides). It is instructive that, in the GMO ~~example case~~, various countries have bypassed the Cartagena Protocol by

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opting for unilateral moratoria or bans to achieve environmental and health protection goals.

In the voluntary realm of (non)financial reporting systems, which focus on managerial processes, the evidence on substantive environmental effectiveness is also slight. Dingwerth and Eichinger note the rising number of corporate reports registered under the Global Reporting Initiative, but caution that lack of data specificity and comparability prevents any meaningful assessment of environmental performance patterns. Knox-Hayes and Levy reach the same conclusion in relation to carbon disclosure systems that, they claim, do not appear to be shifting core product or marketing strategies in a low-carbon direction. The revenue transparency initiatives examined by Van Alstine are not directly geared to reducing environmental harm or risk: it is notable, however, that the contract transparency they promote has, so far, not led to voluntary or mandatory disclosure on environmental effects in the oil and gas ~~industry~~industries.

Of the various other voluntary disclosure systems studied in this ~~volume~~book, non-state environmental certification schemes provide the most detailed information on the environmental impacts of disclosed corporate practices. Auld and Gulbrandsen label this “*outcome transparency*,” which in principle captures ~~both~~ regulated and unregulated behaviors causing relevant environmental effects, thereby enabling a systematic evaluation of product certification. Their careful study of the Forest Stewardship Council and

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Marine Stewardship Council shows that, even here, major challenges remain in connecting disclosure with actual improvements in environmental performance—for example, by tracking substantive environmental effects over time. As with mandatory governance by disclosure, the monitoring and analysis of environmental outcomes by voluntary disclosure systems is still in its infancy.

In summary, *there is insufficient evidence from the case studies on this category of effects to confirm H3*—that global transparency initiatives have greater environmental effectiveness where-when governance contexts are resonant with the goals and decision processes of both ~~both~~ disclosers and recipients. That the various governance-by-disclosure initiatives studied here have so little self-evaluation of their substantive environmental impacts provides prima facie evidence, we argue, that they do not equip those who receive such information to make effective accountability claims against targeted actors causing significant environmental harm. In a global political economy dominated by market liberalism, this seems to offer support to our directional version of H3 *that transparency has minimal market-restricting effects*; substantive market-forcing effects are not apparent from the disclosure examples analyzed here. Instead, transparency in the service of environmental service valuation, commodification or market facilitation, is a more likely scenario, as revealed by the genetic resources, forest carbon and GMO examples. However, this finding would benefit from more extended

comparative analysis, with a stronger methodological focus on mapping ~~substantive-differentiated~~ environmental effects of specific transparency initiatives.

Conclusion: The (II)legitimacy of Transparency

The relatively recent embrace of transparency as a ~~regulatory tool~~governance mechanism in the global environmental ~~governance-realm~~ cautions against a too quick a dismissal of its potential to generate substantive environmental improvements. ~~This is also, particularly since~~ because substantive effectiveness demonstrates regulatory competence and is therefore an important wellspring of political legitimacy. Furthermore, the transformative scope of governance by disclosure goes beyond substantive impacts to include important normative and procedural effects as well. As shown by the contributors to this volumebook, however, these latter effects are being circumscribed in practice by market liberal norms. If so, we conclude by considering here whether transparency-based governance faces a *legitimation deficit*, ~~fed also by~~ also given the uncertainty ~~and/or~~ lack of evidence relating to the environmental effectiveness of governance by disclosure.

The global transparency turn derives, in part, from a democratization impetus to governance, creating expectations among domestic and transnational publics that information disclosure will facilitate accountability claims against state and non-state actors responsible for producing significant

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environmental harm or risk. This implies that disclosure-based governance is seen as a politically legitimate approach in the global environmental realm. Disclosure also fosters political legitimacy insofar as it enriches public understanding of what is proper in relation to the collective decisions of (potential) harm producers. Here the *critical theoretical* perspective adopted in this book is highly relevant: examining governance by disclosure according to its own terms of reference draws attention away from systemic configurations of political and economic authority shaping informational entitlements and capabilities. In this sense, transparency was never “innocent” of wider structures of political and economic power. If so, making clear the situational contexts of its use is necessary to securing its emancipatory promise in given circumstances.

Critical theoretical analysis thus seeks to explain the restless dynamic between legitimacy and effectiveness ~~and legitimacy~~ associated with governance by disclosure. Neither ~~decision-making-quality~~outcome admits simple methodological access at transnational and global scalings. The inadvertent, indirect harm typically associated with transboundary environmental problems lends many information disclosure initiatives an air of experimentation concerning their intended substantive effects; and legitimacy becomes less feasible when expected from steering mechanisms coordinating dispersed decision-makers and affected publics. Furthermore, as the contributions to this ~~volume~~book reveal, there remains a political struggle

over the legitimate arenas for disclosure rule-making and implementation, across diverse contexts and across hybrid configurations of state and non-state authority. There are, to be sure, cogent suggestions that increasing transparency in both state-led (vertical) and non-state (horizontal) multi-level governance can increase political legitimacy, if fed into more inclusive, deliberative systems of decision-making (Bernstein and Cashore 2007; Dryzek and Stevenson 2011).

However, it may also be that increasing transparency and information disclosure will instead amplify the current legitimacy deficits in global environmental governance, by locating the systemic sources of harm production in broader relations of political and economic power (Newell 2008). Alternatively, transparency itself may be rendered ever more illegitimate as a mechanism of governance, if it takes on forms that belie its promise. If that is the case, and the result Yet, if a consequence of this is *resistance and transformative politics* rather than functional effectiveness within the strictures of market liberalism, then the democratization driver of transparency ~~will be in the ascendant~~ may well prevail. Whether or not this comes to pass, the metamorphosis of transparency as a central tenet of global environmental governance will command increasing attention in the years to come.

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