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Behind closed doors: Governmental transparency gives way to secrecy

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Governmental Transparency Gives Way to Secrecy

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A few years ago, I sat at a table in a Washington think-tank with a group of mid-level Japanese officials. They were spending several weeks in the United States on a study tour, and I was meeting with them to give a talk on governance and access to information. Japan had recently passed, but not yet implemented, a sweeping freedom of information law, and the bureaucrats were puzzled about how they were to implement it. Or even whether they should implement it. After all, as one earnest young woman asked, if the government starts giving people information, they might want to do something with that information. "And what if they use it the wrong way?"

That question, and the fear that lies behind it, has come to cast a dark shroud over what had become a powerful movement in the world: the trend toward greater transparency. Inspired in part by long-standing US arguments about the value of openness and transparency as the bedrock of democracy, the driver of prosperity, and even a guarantor of security, citizens around the world are demanding that their governments open their files. And governments are responding. From Mexico City to Johannesburg to London to Tokyo to Beijing, governments have adopted new laws and regulations on access to information.

This trend toward transparency holds great promise for improving the state of the world. It is indispensable for reducing corruption—indeed, many of the citizens' movements that have campaigned for the right to know got their start as anti-corruption efforts. But the benefits of transparency extend well beyond enabling citizens to clean up dirty governments. Even honest officials make mistakes that need correcting, and transparency is the most effective error-correction system humanity has yet devised. Transparency can contribute to efficient and effective governance by providing feedback channels, enabling officials and citizens alike to evaluate policies and adjust them accordingly. It provides a means of detecting, and thus correcting, errors in the policies of governmental and inter-governmental institutions—errors that in the era of global integration can wreak havoc on bystanders if left uncorrected.

Moreover, as democratic norms spread, it is harder and harder to maintain societal consensus on decisions reached in secret by small elites. Publics in some countries have proved willing to accept painful economic reforms, but only when they have been fully consulted and kept fully informed. Increasingly, transparency is seen as an essential component of democracy itself, part of the empowerment of ordinary citizens so that they can take meaningful part in shaping the decisions that affect their lives. In theoretical terms, transparency is valuable because it makes it possible to overcome what social scientists call "agency" problems. In any large society, principals, such as citizens or shareholders, delegate decision-making responsibility to agents, such as a government or corporate management. Problems arise because the principals are never

able to perfectly monitor their agents. The whole point of having agents, after all, is that it is too costly and time-consuming for the principals to keep themselves fully informed. The principals necessarily know less about the situation the agents face and the actions the agents take than the agents themselves do. And the agents have strong incentives to keep their principals in the dark, both to protect themselves against being accused of making mistakes and to reap personal gains.

In short, transparency often requires that agents act against their own interests, disclosing information that can be used against them. Consequently, it is not surprising that increasing the level of transparency usually requires a struggle. Sometimes this is to hide nefarious evil-doing, but often the motives of those who prefer secrecy are actually good. Government officials argue that they need to have their decision-making processes protected from excessive scrutiny to avoid having that decision making bog down in a morass of special interest pleadings. Corporate leaders fear that competitors will steal trade secrets if too much is too widely known. Law enforcement officers cannot hope to catch the bad guys if the bad guys know too much in advance. And clearly, in times of war, nations need to hide military secrets from their adversaries.

Demands for Transparency

There is a long history of demands for open flows of information in both politics and economics. Sweden got off to a relatively early start with a law passed in 1774, but it took nearly two centuries before other countries started following suit. But the importance of public access to information was often noted. One of the framers of the US Constitution, James Madison, wrote compellingly on the importance of information in a democracy: "A popular Government, without popular information, or the means of acquiring it, is but prologue to a farce or a tragedy, or perhaps both. Knowledge will forever govern ignorance, and a people who mean to be their own governors must arms themselves with the power which knowledge gives."

In the private sphere, corporations have found themselves facing demands for disclosure of financial data for almost as long as publicly held corporations have existed. Great Britain experimented with disclosure laws starting in the mid-1800s. In the United States, starting in the early 1900s, large numbers of small investors proved they were able to put substantial political pressure on the government to institute corporate disclosure standards that would protect them from deceit and insider dealings.

After World War II, with the expansion of governmental bureaucracies in many countries and with the emergence of multinational corporations and large inter-governmental organizations came new concentrations of power able to withhold information from people whose lives they affected. At the same time, the Cold War led to the rise of a highly secretive national security complex in the traditional bastion of transparency, the United States.

Counter-pressures to such secrecy were limited, although there were some. One notable victory for transparency came in the form of the US Freedom of Information Act, first passed in 1966 and strengthened in the post-Watergate reforms of 1974. In the 1980s, transnational networks of civil society activities launched campaigns demanding information from inter-governmental

organizations, particularly the World Bank. East and West negotiated some arms control agreements that included verification provisions that made the security establishments of the two sides increasingly transparent to each other.

But the real explosion of global demands for transparency came in the 1990s. At that time, the end of the Cold War eliminated one significant rationale for extreme secrecy. The spread of democratic norms, the increasing strength of civil society organizations, and the rise of increasingly independent media have intensified pressures on governments to release information to their citizens.

At the same time, global economic integration led international investors to demand disclosures on corporate and national accounts in emerging economies, especially in the wake of the Asian crisis of 1997, which many blamed on the excessive secrecy of Asian corporations and governments. International financial institutions began demanding economic data from governments and posting those data on websites. The inter-governmental organizations themselves faced intense pressure from activists around the world to open up their analyses and processes of decision making to public scrutiny and input.

The Impact of Technology

All these demands were, and are, facilitated by information technology, which has made information ever easier to locate and to share. It is almost impossible to overstate the dramatic impact of this now-familiar phenomenon. For a personal example, get on the website of any of the commercial companies now operating imaging satellites. Anyone can buy a reasonably detailed picture, good enough to show a car in the driveway, taken from 400 miles above. The new plethora of eyes in the sky are beginning to reveal a great deal of information previously unavailable to the public. Despite the claims of movie-makers, these satellites cannot show individuals, but they can show the shadows of individuals clearly enough to make it possible to count the size of groups. And they can definitely reveal a wealth of data good enough to enable observers to distinguish between tanks and trucks, see the path of destruction in the wake of a tornado, determine how far floodwaters or fires have extended, or detect likely sites of mass graves. Such sources of information are making it ever easier for anyone able to pay to weigh in with informed commentary on public debates on everything from arms control to the status of the environment to humanitarian emergencies.

The new data collection technologies represent only one of the revolutionary information technologies that matter for decision making. They are sources of data, raw facts that lack meaning without context. The data have to be turned into useful information—facts placed within a context. This is where the extraordinarily fast evolution of computers comes into play. Geographic information systems, for example, can now insert data from satellite imagery into databases. Analysts with a US environmental group, the Natural Resources Defense Council (NRDC) spent three years using satellite imagery and a wealth of other data to determine how many nuclear warheads the United States actually needs to cover likely military targets. That exercise publicly duplicated much of what the US Strategic Commands had done secretly for decades in its operational planning—putting the NRDC, and anyone else using the data, in a position to challenge military assessments.

But what really gives the information revolution the potential to be more than a set of mere technical advances is the ease and power of communication. This has been an escalating evolution, from telegraph to telephone to television to fax machines to, most recently, the Internet. Even very poor countries have at least some degree of Internet access now, and entrepreneurs are coming up with new ways to connect people all the time. In India, for example, trucks with transmitters drive from one village to the next, allowing villagers in the remotest places a few hours of connectivity at a time. In Bangladesh and other countries, local entrepreneurs, backed by micro-credit agencies, are providing cell phone services in both urban and rural areas. Although the digital divide between rich and poor remains real, and troubling, those who lack the latest gadgets will are nonetheless gaining a degree of connectivity unimaginable to anyone just a few decades ago.

The Information Debate Today

Despite the continued escalation of information-technology capabilities, the pro-transparency trends of the 1990s have hit some serious speed bumps since the turn of the millennium. These have come about in large part because of the dramatic change in policy emanating from the United States. Under the administration of US President George W. Bush, the United States has veered sharply toward the secrecy end of the transparency-secrecy continuum, a change that preceded but was intensified by the terrorist attacks of September, 11, 2001. Fear that people will use information "the wrong way" has led to a sharp crack-down on what had been increasingly open flows of information. Through both its power of example and increasingly its insistence on negotiating secrecy agreements with other nations involved in the campaign against terror, the United States is spreading the new dogma of opacity broadly around the world.

The most important debate of the moment deals with how transparency and access to government-held information relates to national security. The Bush administration has enacted a sweeping series of policies aimed at clamping down on the free flow of information. Most, though not all, have been rationalized in terms of protecting national security.

Shortly after the attacks, US Attorney General John Ashcroft put forward new standards for agencies that were being sued under the Freedom of Information Act. Previous policy had said that any agency denying a Freedom of Information Act claim would have to justify that denial by showing that demonstrable harm would result from the release of the requested information. If it could not show such harm, the US Justice Department would not represent it in court. Under the Ashcroft policy, agencies merely need to find a sound legal basis for denial, whether or not there is any reason to believe harm would result from disclosure. The policy change in fact had nothing to do with the terrorist attacks on the World Trade Center. It had been in process before, and merely represents a reversion to the policies of earlier Republican administration.

Since September 11, US Pentagon officials have repeatedly warned employees and contractors against contacts with the press and against sharing "sensitive but unclassified information." A wide array of federal agencies, from the Health and Human Services to the Environmental Protection Agency, has been granted new authority to classify information, and many government agencies have removed previously accessible information from their web sites. The

Homeland Security Act, passed in 2002, includes a number of provisions blocking citizen access to information. Most notably, the legislation exempts from public disclosure information that private firms submit to the US Department of Homeland Security about potential terrorist targets. The measure is meant to encourage firms to share information that might be useful in defending against terrorism but which, if disclosed, would likely lead to litigation or damage to the company's reputation. There are few safeguards to protect against misuse of the legislation by companies more interested in protecting themselves against charges of serious wrong-doing than in protecting the country from terrorists.

It is certainly true that in war, information may bring not just power but victory. Each side to an armed conflict devotes considerable effort to protecting information about its own strengths, weaknesses, and plans, along with ferreting out information about the other side. The famous US slogan during World War II, "loose lips sink ships," reflects a widespread understanding of the perils of allowing enemies to learn one's weaknesses.

But beyond such immediate battle-related concerns, the appropriate relationship between security and disclosure proves far more complex and contentious. Within defense and intelligence circles, information is often shared on a "need to know" basis. Yet very often, those who hold the information are in no position to evaluate who else has a "need to know." Bureaucracies reflexively respond to threats by attempting to hide vulnerabilities, but it is not always clear that security is best promoted by secrecy. Concealing vulnerabilities removes public pressure to do something about those vulnerabilities, and it also prevents the public from being itself able to respond appropriately. The one successful action taken on September 11, 2001 to counter the attacks came not from the government but from ordinary citizens—the passengers on the fourth plane who, when informed of what the hijackers were attempting to do, heroically thwarted the planned attack.

Conclusion

Most of the other arguments for secrecy, from privacy to protection of the deliberative process, similarly have a certain degree of validity but are easily exaggerated and exploited by agents who are simply unwilling to accept scrutiny. And in considering the costs of openness, it is also important to consider the costs of secrecy. The growing US penchant for secrecy affects more than the practice of democracy at home. It threatens to undermine a global trend toward greater transparency everywhere. That trend serves the US national interest, as well as the interest of citizens globally. Transparency is a crucial tool in the effort to create a world of well-governed, stable market democracies. In his November 6, 2003, speech on democracy, President Bush proclaimed that "the advance of freedom is the calling of our time; it is the calling of our country." If he means it, transparency is a tool he should not readily throw away.