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### The end of secrecy

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#### Citation

FLORINI, Ann.(1998). The end of secrecy. *Foreign Policy*, 111, 50-63.

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# The End of Secrecy

by Ann Florini

**T**wo standards of behavior are slugging it out around the world. Advocates of well-established norms such as corporate privacy and national sovereignty want to hide information from prying eyes, while promoters of transparency tout it as the solution to everything from international financial crises to arms races and street crime.

Just what is transparency? Put simply, transparency is the opposite of secrecy. Secrecy means deliberately hiding your actions; transparency means deliberately revealing them. This element of volition makes the growing acceptance of transparency much more than a resigned surrender to the technologically facilitated intrusiveness of the Information Age. Transparency is a choice, encouraged by changing attitudes about what constitutes appropriate behavior.

Transparency and secrecy are not either/or conditions. As ideals, they represent two ends of a continuum. What we are seeing now is a rapidly evolving shift of consensus among observers and actors worldwide about where states and corporations should be on that continuum. For corporations, the point of balance is moving away from an emphasis on privacy to agreement on financial transparency and corporate social responsibility. For nation-states, the shift is occurring between old ideas of sovereignty, which allowed states to keep the world out of their domestic matters, and a new standard that they must explain their actions to the world. Although usually considered separately, trans-

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parency's many applications are intrinsically linked. All reflect the growing necessity and utility of regulation by revelation, a dynamic new alternative to the coercive power of states.

Yet precisely because transparency represents such a profound change—both in the distribution of power and the way in which it is exercised—its spread has provoked resistance from some quarters. To governments or corporations that are just doing what they have always done, the expectation that they should now report on their activities to outsiders can seem like an affront or an inconvenience, if not an outright threat. Government bureaucrats struggle to keep up with the endless reporting requirements of international environmental, human rights, and financial institutions. Corporations find themselves besieged by demands for information on their environmental and labor practices, often from nongovernmental organizations (NGOs) based in other parts of the world. International organizations such as the World Bank and the International Monetary Fund (IMF) face growing pressure to open up their decision-making processes to public review. All find the bright light of scrutiny at best uncomfortable, at worst paralyzing. Many states, corporations, and organizations have instead retreated behind more traditional norms of privacy or sovereignty, insisting that although calls for transparency are all well and good, *they* should not be required to hew to its demands.

Who is right? What information should be made available, when, and to whom? To answer these questions we need to look at how transparency began to catch on, how it works in practice, and why it is necessary to have a norm of transparency even today, when technology is rendering snooping ever more effective.

## WHAT DRIVES TRANSPARENCY?

After World War I, the Allies required Germany to demilitarize, instituting verification procedures that included international inspection commissions. Yet once these transparency measures were established, it quickly became clear that, other than France, the victorious powers had little stomach for enforcing the more intrusive provisions. American and British officials believed they had no right to inspect the territory of a sovereign nation against its wishes and feared that such intrusion would be more likely to provoke friction and hostility than to bolster the cause of peace.

Eighty years later, America and Britain were prepared to go to war to enforce similar inspection provisions against Iraq. Although much of the world opposed the use of force, no one argued that there was anything inherently illegitimate about inspections. Chinese, French, and Russian leaders all joined the United States in demanding that Iraq allow UN inspectors to go forward, arguing that it was obliged to comply with Security Council resolutions.

In both cases, a defeated state was forced to accept foreign inspection of its military capabilities. In the 1920s, the prevailing attitude held that states, even aggressors, had a right to military privacy. Then—U.S. secretary of state Frank Kellogg stated unambiguously that

“the United States will not tolerate the supervision of any outside body in [disarmament] nor be subjected to inspection or supervision by foreign agencies or individuals.” By the 1990s, complete disclosure had become so legitimate that the right to coerce such disclosures from an aggressor—sovereign state or not—was broadly taken for granted by the international community. Obviously, something has changed in the interim.

Admittedly, dramatic advances in technology have made transparency more possible and more attractive (see box on page 55). But no matter how small or farseeing surveillance devices become, secrets will remain plentiful, protected by technological forces that can obscure as easily as they can unveil.

Instead, transparency is spreading as part and parcel of two other trends: democratization and globalization. With the spread of democratic norms, it seems right that powerful entities such as states and corporations should be held accountable for their behavior. A fundamental norm of democracy is, after all, the consent of the governed, and consent is meaningless unless it is informed.

Now, consent must come from a much wider group: As the world shrinks, a lot of people want to have a say in what used to be other people's business. As trade, information flows, environmental problems, and all sorts of direct contacts between individuals continue to cut across existing political boundaries, what people do in one locale affects more and more people in other places. These ever tightening connections create strong pressures for better ways to govern this growing number of transnational interactions. New standards about everything from human rights to nonaggression and environmental protection are emerging in response. Increasingly, in issues ranging from security to commerce to economics, transparency is the preferred means of enforcement. In short, the world is embracing new standards of conduct, enforced not by surveillance and coercion but by willful disclosure: regulation by revelation.

### ***Security***

Transparency in the form of verification provisions has been employed in arms control for decades, although initially only a handful of countries were involved. By the time the Cold War ended, the Eastern and Western blocs took for granted the need to open up their territories to highly intrusive inspections by the other side. Since then, however, transparency has spread far beyond the erstwhile superpowers and their allies. More and more multilateral arms control arrangements use transparency to ensure compliance. And the idea that potential combatants should share detailed information about their military capabilities and plans with one another has become widely accepted.

In the nuclear nonproliferation regime, the international community has relied for decades on the inspection programs of the International Atomic Energy Agency (IAEA) to monitor civilian nuclear facilities. Shocked by the extent of Iraq's nuclear-weapons program, revealed in the wake of the Gulf War, the IAEA's member countries recently agreed to make its inspections far more rigorous. Under the Model Additional Protocol, which was approved in May 1997, members will provide IAEA inspectors with greater access to information about their nuclear programs, including decommissioned facilities, research programs, and more thorough design information. The IAEA will be allowed to inspect more locations, not only nuclear sites but also research and manufacturing facilities that could potentially contribute to a nuclear program. It will also make more use of environ-

mental sampling (looking for the minuscule but distinct traces of nuclear material that migrate beyond the immediate environment where they are handled) and remote monitoring.

As arms control spreads to more types of weapons, many of which can be made from goods that have legitimate civilian uses, whole industries face new transparency requirements. The Chemical Weapons Convention (CWC) bans the development, production, acquisition, stockpiling, retention, direct or indirect transfer, and use of chemical weapons. Entered into force last year, the CWC now claims most of the world's countries as signatories and features the most extensive verification provisions ever attempted. All signatories must declare their chemical-weapons holdings. This requirement has already produced one major surprise: India's admission of a previously undisclosed weapons program. In addition, parties have to report all "precursor" chemicals—compounds that could be used to make chemical weapons—stored within their borders. Many of these compounds are widely used in industry. Nevertheless, states must declare them, even if they are in the hands of private businesses. The Organization for the Prohibition of Chemical Weapons, made up of the countries that are party to the CWC, includes a permanent inspectorate empowered to carry out regular inspections of private and governmental chemical facilities, as well as short-notice "challenge" inspections anywhere on a signatory's territory—an unprecedented derogation of national sovereignty.

Even when countries fail to agree to bans or limits on weaponry, transparency measures help fill in the blanks. In the UN Register of Conventional Arms, all UN member states are asked to provide information on their armament imports and exports, including everything from battle tanks to missiles and warships. In sharp contrast to the nuclear- and chemical-weapons regimes, where only governments have access to the information gleaned from verification, the register is a public document. And although participation in the register is completely voluntary, about 90 countries do so every year, including most major importers and exporters. Much of the information it contains has already been ferreted out by NGOs, such as the International Institute for Strategic Studies in London and the Stockholm International Peace Research Institute. Nevertheless, the register has revealed some surprises, notably a Russian shipment of missile equipment to Iran in 1994.

## The Entomopter Cometh

In April 1986, Moscow remained tight-lipped about a rumored leak at its Chernobyl nuclear facility, but a U.S. government “Keyhole” satellite captured an unobstructed view of the exploded power plant. Only 24 hours after Pentagon analysts first saw the wreckage, ABC News broadcast the same view from a private satellite. The pictures were blurry, but the underlying message was clear: So much for the government monopoly on high-tech surveillance technology.

Since then, private aerospace ventures have further narrowed the technology gap. Privately owned satellites scheduled for launch this year can resolve images to one meter, rivaling the best technology of the world’s intelligence services. Once these commercial systems are on line, detailed images of any spot on the planet will be available on the open market.

On the ground, ever cheaper surveillance cameras are catching on as a means of law enforcement, most often for traffic control. The British, however, have been more ambitious. Today, more than 300,000 video cameras scan intersections across the United Kingdom for street crime and terrorist activity. Although some civil libertarians find the cameras Orwellian, the reality of safer streets has won over much of the population.

All these systems rely on clunky hardware mounted in plain sight—but this too may change. Researchers at MIT are developing a camera that weighs less than one-tenth of an ounce and transmits high-definition television-quality images. And a 1992 RAND study on unmanned surveillance aircraft has spawned at least a dozen competing designs for “micro air vehicles” (MAVs) with both military and civilian applications. Also known as “airplanes-on-a-chip,” these MAVs are intended to weigh two to four ounces and to be no bigger than six inches across. One of the most unusual designs on the drawing board is a four-inch-long, insect-like craft dubbed “the entomopter,” equipped with legs for crawling through buildings or ventilation ducts, and flapping wings for airborne reconnaissance.

Nevertheless, no matter how small, efficient, or cost-effective surveillance hardware becomes, there will always be limits to what technology can accomplish. Indeed, it is a double-edged sword—witness the polemics in Washington and on the Web over who, if anyone, should regulate electronic encryption. From untappable communications to pixel-by-pixel photo and video editing, technology is often as good at hiding secrets as it is at revealing them. Without a norm of transparency, technology will continue to protect private information as well as ferret it out.

## ***Politics***

Despite the close connection between transparency and democracy, the spread of transparency in politics reflects more than just the spread of democracy. Democracy—in the sense of regular elections—and high levels of transparency do not necessarily go together. Until this year, Great Britain, the world's oldest democracy, was more opaque than many governments with flimsier liberal credentials. Its Official Secrets Act, passed in 1911 during a German spy scare and beefed up in its 1989 revision, drastically curtailed public access to information about its government. Then—prime minister Margaret Thatcher defended the act on the grounds that, “We do sometimes have to sacrifice a little of the freedom we cherish in order to defend ourselves from those whose aim is to destroy that freedom altogether.”

But even in England, times change. In the last elections, the Labour Party campaigned on a promise to make government more open and accountable to the citizenry. So far, it seems to be keeping that promise. The government of Tony Blair proposed a freedom of information act last December, intended to make the United Kingdom one of the most transparent societies in the world.

Other countries are joining Britain in its attempt to open up government. A bill is currently circulating in the U.S. Congress that would forbid officials to classify documents anonymously. It would also automatically declassify most documents after 10 years, instead of the 50-year period common today. Even Japan is awash with transparency proposals aimed at its bureaucracy. A bill pending in the Diet would compel government ministries and agencies to reveal information to the public upon request.

## ***Economics***

The collapse of the Soviet Union left free market ideology standing unchallenged. Nearly all countries pay at least lip service to the superiority of markets over states as efficient allocators of resources. But free markets have a voracious appetite for timely information. Given the choice, investors put their money where transparency allows some predictability about the likelihood of returns. Thanks to globalization, they have a lot of options, creating a powerful economic incentive for ever higher degrees of self-disclosure.

Nearly unanimous international opinion now holds that the only way to restore investor confidence in Asia is to impose transparency.



Leading the charge are the U.S. Treasury Department and the IMF, which now includes promotion of “greater transparency and accountability in government and corporate affairs” in its mandate. As IMF managing director Michel Camdessus has explained, these are now economic issues, not solely political ones:

As more and more evidence has come to light about the adverse consequences of governance problems on economic performance—among them, losses in government revenue, lower quality public investment and public services, reduced private investment, and the loss of public confidence in government—a broader consensus has emerged on the central importance of transparency and good governance in achieving economic success.

Most officials in Asia seem to have accepted the virtues of transparency, at least in the economic field. Singaporean senior minister Lee Kuan Yew, stressing the importance of transparency in a country’s financial system, recently told Vietnamese prime minister Phan Van Khai: “In an age of information technology, instant communications and computers, if you try to hide, you are in trouble.” Even the Association of South East Asian Nations, a group of states that long treated the principle of noninterference as holy writ, announced in December 1997 that it will begin monitoring its members’ domestic economies.

Some in the private sector seem to agree that transparency is in their self-interest. Increasingly, foreign companies are listing their stock on U.S. exchanges because American accounting standards, which demand transparency, provide a seal of approval for investors. When officials from Nippon Telegraph and Telephone announced that the company would list on the New York and London exchanges, they echoed this point: “By listing in the United States, where disclosure rules are stricter than in Japan, we hope to win trust from investors.”

### ***Environment***

The environmental field is awash with examples of regulation by revelation, in which governments require transparency rather than enforced standards for pollution. Particularly innovative are transparency-based efforts to deal with toxic chemicals. More than 50,000 different chemicals are in regular use by industries around the world, most introduced since World War II and very few tested for their effects on human health or the environment. In 1986, the U.S. Congress passed the Emergency Planning and Community Right-to-Know

## Bringing Corruption to Light . . .

The problem of corruption is tailor-made for regulation by revelation. For many—but not all—public servants, it is embarrassing to be caught taking bribes, a sign not only of venality but also of backwardness. And corruption is hot news—big, juicy scandals get front-page treatment. Transparency International (TI), the NGO community's leading corruption fighter, makes brilliant use of the social unacceptability and media value of corruption. It publishes the annual *Corruption Perceptions Index*, which ranks countries on how corrupt they are perceived to be according to surveys of business people, political analysts, and the public. Although TI also lobbies governments for anticorruption laws and treaties, and pressures international financial institutions to include corruption concerns in loan conditions and country strategies, the index is what gave corruption, and TI, greater international prominence. Now, the group is planning to supplement the demand-side index with a supply-side bribery index that will publicize which countries are home to international corporations with high incidences of graft.

Act, requiring companies to disclose the quantities of a few hundred toxic chemicals commonly released into the air, the water, and onto land. The information is sent to the U.S. Environmental Protection Agency (EPA), which compiles the Toxics Release Inventory (TRI) and makes it available to the public. Although the act puts no limits on emissions, merely requiring their disclosure, its impact has been dramatic: Emissions of the indexed chemicals at facilities covered by TRI fell 44 percent between 1988 and 1994, even though production of those chemicals rose 18 percent.

The TRI is more than just an American story. The 1992 UN Conference on Environment and Development's final report called for an international effort to guide countries interested in developing their own inventories. Since then, the Organization for Economic Cooperation and Development, in collaboration with various UN agencies, NGOs, and private businesses, has published a guidance manual for governments and conducted a series of international workshops to do just that. Several countries have established, or are in the process of establishing, inventory systems, including Canada, Japan, Mexico, and the Netherlands. The North American Commission for Environmental

Cooperation, established under the North American Free Trade Agreement, is working to develop a regional inventory. And the European Union (EU) has decided to publish an inventory of principal emissions and their sources every three years.

Other countries have taken a different approach to using transparency for environmental control. Every year, Indonesia's Environmental Impact Management Agency publicly grades participating facilities by color: Gold means the facility could pollute but does not; green means it does better than regulations require; blue means that it is following the existing regulations; red means that it is not yet following them; and black means it is seriously violating environmental regulations and causing substantial harm to the environment. According to a World Bank evaluation, the program is significantly increasing compliance with environmental regulations, important in a country where government enforcement is virtually nonexistent. Its success, due to the pressure of both local public opinion and the business community's desire to market to environmentally sensitive foreign consumers, has

## **. . . and Making Pollution Public**

The Toxic Release Inventory (TRI) works because it spotlights pollution. As one chemical industry representative noted, "There's not a chief executive officer around who wants to be the biggest polluter in the state." Seeking to intensify this focus, and thus the incentive to reduce pollution, a major U.S. environmental group, the Environmental Defense Fund (EDF), recently launched a free, online "Chemical Scorecard" ([www.scorecard.org](http://www.scorecard.org)) that makes TRI data accessible to anyone with an Internet connection and a computer. Although other groups have previously posted TRI data on the Web, the EDF has taken the next step: incorporating information on the relative toxicity of compounds and providing rankings—by county and state, zip code, and facility—that focus on the biggest health threats. In addition, the scorecard provides user-friendly maps that display schools, major roads, and TRI facilities, as well as take-action tools that allow users to send faxes free of charge to high-ranking polluting facilities. It is too soon to know how much the Web site will affect corporate behavior, but the project is off to a strong start: The site received over 4 million hits in its first two weeks of operation.

—A.F.

spurred imitation: In 1997, the Philippines announced the introduction of a public information program called EcoWatch.

In none of these cases are the reporting requirements accompanied by laws putting limits on emissions. But educated communities have given companies a strong incentive to clean up their act, without government enforcement.

## THE PROBLEMS WITH TRANSPARENCY

So far, so good. Transparency appears to be winning its slugfest with the forces of opacity—and to good effect for the world. As the move toward global integration prompts increasingly shared standards of correct behavior, we see ever more frequent calls for transparency to ensure that those standards are being met. But there are significant reasons to move cautiously toward greater reliance on openness, and they are more compelling than the simple inertia that characterizes most defenses of opacity:

- **In the absence of universally shared, or at least mutually compatible, norms, transparency will aggravate conflict.** It may simply remove the ambiguity that can otherwise conceal conflicts or soften disagreements. For example, the world is arguably better off politely ignoring Israel's well-known but undeclared nuclear capability than demanding that Israel own up to it. Although the principle of nuclear nonproliferation is well established among most other countries, few expect that Israel can be made to accept it. The costs to the nonproliferation regime of forcing the issue are higher than the benefits.
- **Some secrets are legitimately worth protecting.** Corporations imperil their business strategy if their competitors are able to distill key elements from public documents. And countries have national security reasons for hiding certain information. In the early days of the Cold War, the Soviet rejection of U.S. transparency initiatives, such as Eisenhower's Open Skies proposal to permit the superpowers to overfly one another's territory, made perfect sense. The USSR feared the United States would use the information it gathered not to reassure itself about Soviet activities, but to pinpoint targets.
- **Information can easily be misused or misinterpreted.** Transparency reveals behavior, but not intent. At the international level, what someone is doing is less important than why they are doing it. Americans do not worry about the British building nuclear weapons because Americans believe that Britain harbors no hostile intent, but

they remain anxious about the possibility of a nuclear Iran. The potential for misuse of information is equally troubling. Many of the emerging systems of regulation by revelation depend heavily on NGOs to collect and disseminate information. Supposedly, these are unbiased and competent organizations working solely for the public interest. In reality, they are unelected, unaccountable, and sometimes less transparent than the institutions they monitor.

- **Even if all the conditions are right, transparency does not always work.** Knowing that someone is watching you does not necessarily make you change your behavior. Even with the publicity given to the TRI, emissions of noxious chemicals in the United States have yet to drop to zero. Saddam Hussein is unlikely to stay awake nights worrying about what the public or civil society thinks. Because regulation by revelation only works if revelation sparks action, it requires a mobilized, or at least mobilizable, public. Transparency merely raises the costs of delinquency; it does not render such behavior impossible.

For all these reasons—plus the natural human tendency to shy away from public scrutiny—an irreversible global move toward regulation by revelation remains far from assured. Resistance is strong, even in quarters that have already moved closer to the transparency end of the continuum. The U.S. Chemical Manufacturers Association (CMA), for example, claims to support the TRI but when the EPA moved to nearly double the number of chemicals included, the CMA sued to stop it (and lost). As holders of the EU's rotating presidency, the British are pushing fellow member states for more transparency in the group's decision making. In response, the Council of Ministers held a debate on openness in March 1998—behind closed doors. And the appetite of the newly transparent British for openness is fitful at best: Although British officials in Brussels supported a request from a U.K. television company to film a discussion among heads of EU member states on a proposed directive on air quality, officials from the British departments of transport, environment, and trade and industry objected.

Despite the potential drawbacks, however, the world will see transparency used more and more as a means of changing the behavior of states and corporations. The reason is purely pragmatic. Governments face growing and potentially overwhelming demands on their time and resources. States must provide physical infrastructure, inclusive or universal education, legal systems that stand up to international scrutiny, military security, and police. They must maintain compliance with a

wide range of international human rights standards. They are expected to participate in a bewildering range of environmental treaties, preserve the environment within their borders, and set macroeconomic policies that will ensure sustainable economic development. They are supposed to provide social safety nets for a growing number of senior citizens in rich countries and for a huge boom of young and unemployed people in developing ones. And many face a decreasing willingness on the part of their publics to pay the taxes necessary to fund all these programs.

As information technology and free trade bring the world closer together, many of these governmental functions will cross existing national boundaries. The problems already do. Because it is so hard for governments to enforce compliance across national borders, it makes sense for them to take on a different role: that of an enforcer, not of specific rules, but of diligent transparency. For example, governments, rather than setting reserve requirements for banks, might insist that each bank inform the public of its reserve levels. States might move away from cumbersome policies mandating specific, environmentally friendly production techniques, or even precise emissions limits, and instead establish systems for reporting what individual facilities and companies emit. In arms control, where negotiations are shifting away from large state-controlled systems of nuclear and conventional weapons to such matters as the trade in light arms, governments might insist on maintaining registries of arms production and transfer rather than enforcing bans.

Only governments can regulate in the coercive way we usually think about regulation, but many entities can reveal. With states, international organizations, and corporations all prodding one another to release ever more information, civil society can take that information, analyze and compile it, and disseminate it to networks of citizen groups and consumer organizations. Transparency encourages a new kind of “devolution”—not from central to local government, but from government to civil society. Even relatively open governments are less than happy about this development, as the new glare of scrutiny shines on them along with everyone else, but their options are limited.

Winston Churchill famously said of democracy that it “is the worst form of government except all those other forms that have been tried from time to time.” The new approach to cross-border governance, based on revelation rather than governmental coercion, may prove similar: a problematic, inefficient system that many would consider a poor option—if the alternatives were not even worse.

Transparency provides the basis for a highly democratic, albeit non-electoral, system of transnational governance based on the growing strength of global civil society. It made sense to cling to secrecy in a world truly divided into discrete nation-states. But in this era of global integration, transparency is the only appropriate standard.