

Epilogue

The Future of Transparency: Power, Pitfalls and Promises

Arthur P. J. Mol

Introduction

Transparency is an emerging issue in national and global environmental politics and governance; this much becomes clear from the contributions included in this special issue. Roughly defined as the disclosure of information, transparency is particularly prominent in the field of environment, although it is certainly not limited to this field. It builds upon the earlier right-to-know movements, legislation and practices, originating in the US and other advanced industrialized democracies, but is now spreading around the globe to other nations, localities and transnational institutions.¹

The growing popularity of, attention to and practices of transparency is not an accidental and fashionable wave, soon to be replaced by another timely topic in environmental governance studies. Transparency is here to stay and to further develop in environmental politics, as it is closely related to a number of wider social developments in globalized modernity.² But it is far from clear how, in what way and direction, for whom and with what (side-) effects transparency will “unfold.” The various articles in this special issue critically scrutinize current transparency-in-practice and analyze and assess it against two sets of criteria:

- normative criteria related to democracy, participation and right to know
- substantive criteria related to better environmental protection or more effective environmental governance

To be sure, all contributions provide evidence that we are still at an early stage of a development towards what is hopefully a more mature, full-fledged, comprehensive, standardized transparency. In global environmental politics, current transparency-in-practice has many shortcomings and practical limitations in terms of standardization of disclosure,³ the categories for which disclosure is

1. See, for example, Zhang et al. forthcoming.

2. See Mol 2008.

3. Dingwerth and Eichinger 2010.

mandatory,⁴ a focus on procedures rather than outcomes,⁵ and the power inequalities accompanying governance through transparency.⁶ These shortcomings notwithstanding, the contributions do not conclude that transparency is a “red herring,” and that initiatives for furthering transparency are doomed to fail as they fall victim to power inequalities in global environmental politics. All contributions analyze transparency with a basic, positive connotation, not unlike concepts of democracy and participation. More than incidentally these three concepts—transparency, democracy and participation—are related to each other in environmental politics and governance, although the three do not always mutually strengthen each other.⁷ Transparency combines with democracy and participation in striving for emancipatory environmental politics, by giving prevalence to and making room for bottom-up civil society engagements. The common idea is then: the more transparency, the better. That is: better for the environment, better for democracy and better for the empowerment of the oppressed. This hypothesis is also very much the starting point in all contributions in this special issue. So Mason, for instance, argues for further inclusion of powerful private entities in mandatory information disclosure duties under the Aarhus Convention, to empower civil society.⁸ And with similar arguments Haufler asks for mandatory instead of the present voluntary disclosure schemes in the extractive industries.⁹ Although the various contributions argue and show that current practices and institutions of transparency in global environmental politics have numerous shortcomings in their design and operationalization, in principle transparency is to be welcomed and to be improved.

I concur with the idea that currently we need indeed more rather than less transparency. In further analyzing developments around transparency in this article, I want to add three observations to the ones elaborated in the other contributions to this special issue. First, transparency developments should be understood as structurally connected to wider developments in environmental politics and society, giving transparency some permanency and power. Second, I want to balance and condition the idea that more transparency is always better, by noting some potential drawbacks and pitfalls. And third, I highlight some future promises in transparency developments, of which the contours can already be identified.

The Power of Transparency

To understand the logic, strengths and transformative power of transparency, we have to place it against the background of what I have elsewhere called informa-

4. Mason 2010; and Haufler 2010.

5. Auld and Gulbrandsen 2010.

6. Gupta 2010b; and Florini 2010.

7. See also Auld and Gulbrandsen 2010.

8. Mason 2010.

9. Haufler 2010.

tional governance¹⁰ and what others have referred to as regulation by information.¹¹ The concept of informational politics and governance implies that for understanding the current innovations and changes in environmental governance, we have to concentrate on the centripetal movement of informational processes, informational resources, and informational politics. It is the production, the processing, the use, and the flow of, as well as the access to and the control over, information that is increasingly becoming vital in contemporary environmental governance practices and institutions. Information and knowledge are becoming important resources in environmental politics; the sites and spaces of environmental controversy relocate to information; and the motivations and sources for changing unsustainable behavior are increasingly informational.

This centripetal movement of informational processes in today's environmental governance is not just an answer to the shortcomings and failures in conventional environmental policies and politics. It should not be seen as a voluntary choice of policy-makers for just another environmental policy instrument to change the behavior of polluters, instead of laws or environmental taxes. Rather, it should be understood against the background of and closely connected to, a number of key social processes that make up the Information Age:¹² globalization processes; the changing sovereignty and steering powers of nation-states and the emergence of new modes of governance; the growing uncertainties connected to the disenchantment with science; and various technological developments related to ICT and the Internet. Few have yet analyzed and understood what the Information Age means for environmental politics and governance.¹³ It is clear, however, that informational governance—and with that transparency—is structurally embedded and increasingly institutionalized within wider developments of global modernity and, as such, it has some permanency.

The notion of informational governance of the environment brings a number of seemingly widespread developments coherently together under one common denominator. It enables us to understand the logic of and coherence in various developments, including: the increasing significance of reputational capital of companies; the growing power and vulnerability of legitimacy capital of environmental NGOs; the emergence and power of new environmental monitoring arrangements involving multiple actors; the central role of conventional and new digital media in environmental politics and controversies; and the power and influence of accountability, transparency and disclosure in environmental governance. One can study each of these developments separately. But it is vital to be aware and understand that such separate developments are

10. Mol 2008.

11. See Tietenberg 1998; Case 2001; and Florini 2003.

12. Castells 1996/1997.

13. See for some first attempts Esty 2004; Mol 2006; and Fung et al. 2007.

interconnected and “structurally” embedded in wider social developments and trends.

Thus the growing attention to—as well as power and strength of—transparency in environmental politics can only be understood against this wider background of informational politics and governance. With information becoming more central in governance and politics, transparency is moving from just a normative call for right-to-know towards the center of struggles for environmental quality and sustainability. Access to and control over information, data and knowledge have become vital in contemporary environmental politics, because environmental controversies and struggles are increasingly located within the “information scape.” Thus transparency relates directly to power as it aims to democratize information and empower the powerless by providing them with one of the most powerful resources in current times: access to and control over information and knowledge. The various contributions to this special issue provide evidence of the centrality of power in transparency and disclosure.

There is one additional point that deserves mention. Ever since the early days of the environmental movement in the 1960s, environmental activists and pollution victims have used information as one of their main resources in struggles with the powers-that-be over environmental controversies, not least due to shortcomings of the environmental movement in economic and political capital and resources. Now that “informational capital” is becoming increasingly influential in environmental politics, civil society environmentalists have gained a comparative advantage, especially when transparency provisions and institutions limit monopolies on information held by economic and state elites. In that sense, transparency adds to the comparative strength and power of civil society in the Information Age.

Transparency Pitfalls

The power of transparency recounted above might hold in ideal typical situations. But all contributions to this special issue analyze and disclose current shortcomings of transparency legislation, institutional arrangements, “infrastructures” and practices. The contributions make us aware that current transparency arrangements are far from ideal and need further improvement, in order to live up to their normative and substantial aims. Hence, there is a road to travel to further develop and implement mature transparency institutions that can live up to the promises of powerful, transformative, and democratic transparency. The contributions to this issue provide quite a number of suggestions for improving the design and implementation of transparency institutions and practices.

In this section, however, I want to focus on transparency drawbacks that are not so much related to imperfect design and implementation of transparency provisions, but rather address the fundamental idea of emancipatory trans-

parency. I want to mention six potential pitfalls of stringent transparency provisions and requirements, drawing on and taking the contributions to this issue one step further. The six transparency drawbacks I discuss below are not all widely apparent at present and do not yet massively endanger transparency practices and institutional arrangements. But ongoing calls in environmental politics for furthering transparency should make us attentive to the emergence of such fundamental drawbacks.

First, although meant to empower the powerless, transparency can also empower the powerful and thus become an instrument in furthering inequality. This can work in various ways. The transparency provisions in various public and private international agreements call for quite sophisticated procedures, measurements, auditing and verification arrangements, and reporting. Such provisions are relatively easily fulfilled by richer and more developed states and market parties, while poor nations and companies have considerable difficulties in fulfilling transparency requirements.¹⁴ Such difficulties are exacerbated if implementation failures of transparency provisions are combined with sanctions or restrictions in market access, as is the case with labeling and certification schemes.¹⁵ Hence, under such conditions transparency can empower and advantage powerful international actors, and strengthen their position in international environmental politics. In this way transparency can work against its emancipatory promise. Fulfilling transparency requirements in such cases works together with articulating and enhancing existing inequality, or creating a new dimension in existing power differences.

Second and related, putting transparency at the center of new forms of environmental politics does not have equal benefit in all circumstances. Transparency will only execute its powers under specific conditions: when those meant to use the disclosed information have access to and literacy regarding this information; and when those whose information is disclosed are vulnerable to accusations of poor environmental performance. Both are not always the case. Minorities in developing countries that are faced with environmental pollution or resource destruction have to rely on support from Western NGOs in order to understand, access and use disclosed information in any claims against multinational companies operating in their territory. Not all polluting companies are receptive to the risk of reputational damage, for instance when they are poorly connected to the global economy.¹⁶ And in international environmental politics, countries are not always very concerned or responsive when their poor environmental performance is disclosed. In such circumstances, transparency is of little help both in improving the environment and in empowering the powerless.

Third, rather than a means of empowerment, transparency can also be-

14. As illustrated by Hauffler 2010.

15. Auld and Gulbransen 2010.

16. Mol 2009.

come implicated in further surveillance and control. This is very much related to the question asked by, among others, Gupta: transparency for whom?¹⁷ Normally (and all contributions to this issue provide evidence of this) we interpret transparency as disclosure of environmental information from polluting producers and failing states for civil society actors. But this is, of course, a limited reading of possible architects and recipients of transparency. Now that we are witnessing a consumerist turn in environmental politics,¹⁸ and now that producers are also identified as change agents for environmental reform,¹⁹ transparency may also turn into the disclosure of environmental information of citizen-consumers for producers. And if that is the case, should we not interpret such transparency in terms of surveillance rather than empowerment? The smart utility meters in the Netherlands that can identify detailed personal water and energy use patterns and that can communicate this information back to utility companies for monitoring and billing purposes are a form of transparency. Citizen-consumers are increasingly concerned about the surveillance consequences of such developments.²⁰ Similar concerns can be raised about monitoring car mobility via national or European road pricing systems or use of price reduction card systems by large retailers for monitoring green shopping behavior. And more institutionally, environmental NGOs can be required to disclose information sources or financial donations and spending. A whole new set of questions relate to these forms of transparency in environmental politics, which cast transparency in a different light.

Fourth, mature transparency comes together with growing flows of information and claims. Scott Lash has been rather critical about the increasing informationalization, mediatization and digitalization of every aspect of human life, resulting in what we could call a disinformation age.²¹ In a disinformation age information is out of control through overloads, misinformation and disinformation. With the advance of transparency, global environmental politics can also fall victim to a tsunami of environmental information, to “drowning in disclosure” as Gupta calls it.²² If we fail to have powerful, legitimate and widely accepted institutions available that can be trusted to distinguish true from false information,²³ transparency can become the victim of its own success and disempower itself. It goes without saying that there are major interests that will not be too unhappy with such outcomes and actively support disinformation, information controversies and information overloads. Right-wing coalitions

17. Gupta 2010a, 2010b.

18. Spaargaren and Mol 2008.

19. See the ecological modernization literature on this; Mol, Spaargaren and Sonnenfeld 2009.

20. By April 2009, over 20,000 persons had signed a petition against use of such meters in the Netherlands as a result of concerns about surveillance. See <http://www.wijvertrouwenslimmemetersniet.nl>, accessed 2 April 2010.

21. Lash 2002.

22. Gupta 2010b.

23. This touches upon the changing role and position of science and scientists in global modernity. See Mol 2008.

tions of climate skeptics have been rather successful in developing such an informational strategy, where transparency and disclosure is no longer associated with transformative powers, but rather with “stuck in the mud” attitudes.²⁴ Only in situations of information scarcity and secrecy and with “certified” information, does transparency seem to work well as a powerful transformative mechanism. If not, disclosure of information can as much disempower civil society and paralyze environmental reforms.

Fifth, and directly connected to the former point, transparency will only work when the quality and reliability of information is guarded and guaranteed. Disclosure of unreliable and poor quality information does not bring us further and does not empower the powerless.²⁵ At the same time, calls for quality and reliability of environmental information can turn against stringent environmental protection politics. The US Data Quality Act (DQA)²⁶ is a clear case. The Act requires state agencies to establish procedures to ensure and maximize the quality, objectivity, utility and integrity of the information they disseminate. Via this Act the growing regulation *by* information of environmental agencies is counteracted by business and industry via the regulation *of* environmental information. Information transparency and dissemination is chilled, as agencies find it too troublesome to fulfill the DQA guidelines (for the US Environmental Protection Agency alone, the guidelines run to 55 pages) and risk petitions of industry based on the DQA.²⁷ Hence, the Bush Administration (2000–2008) used information quality and reliability arguments to limit transparency and information disclosure, and thus set back informational governance.

Finally, the question emerges—also in various contributions to this issue—whether transparency actually improves environmental performance. Can we indeed relate the often normative and procedural transparency provisions with substantive improvements in environmental performance or environmental justice? Mason, Auld and Gulbrandsen, Mol, Fung and colleagues, and others have argued for the at best poor—and often difficult to prove—relations between procedural provisions of information disclosure on the one hand and substantive environmental improvements on the other.²⁸ The question is to what extent this conclusion (i) reflects the current state of the art in transparency implementation (hence, implying that we have to advance transparency further in order to see environmental improvements); (ii) relates to problems of establishing causal relations between transparency and environment quality improvement (hence, our methodologies fall short); and/or (iii) whether something more fundamental is at stake regarding the hypothetical relation between

24. See Jacques et al. 2008.

25. See Dingwerth and Eichinger 2010.

26. Section 515(a) of the US Treasury and General Government Appropriations Act for Fiscal year 2001 (Public Law 106-554).

27. On this, see Mol 2008, 146–150; OMB Watch 2010; and Environmental Protection Agency 2010.

28. Mason 2010; Auld and Gulbrandsen 2010; Mol 2008; and Fung et al. 2007.

transparency and environmental quality (hence, implying that this assumed link is incorrect)? Transparency debates will no doubt focus on these issues in the future, and I elaborate on them further in the concluding section.

Future Promises of Transparency Politics

Given its relation to wider developments of the Information Age, we expect transparency to be here to stay, and to become ever more important—rather than marginalized—in global environmental politics. Hence, we anticipate more calls for, practices of, infrastructures for, and legal provisions on environmental transparency. These future disclosure-related developments will most likely reflect at least four specific characteristics.

First, future environmental controversies will contain major *information* controversies. Information is likely to become a major environmental battlefield, and transparency is fully placed in the center of it. With information and transparency moving to the center of environmental politics, we will see that issues of accountability, auditing and verification, the codifications of transparency requirements, and scandals around mis- and disinformation become more central. This will mean that transparency will become multi-layered. Primary transparency is related to disclosure and openness of environmental information and remains important. But in addition, transparency will also focus on the disclosing agency, the media “owners” that facilitate or hinder transparency, and the actors verifying, certifying and auditing environmental information (the new transparency powerbrokers); this we might label secondary transparency. Hence, transparency will develop from “simple” transparency to “reflexive” transparency.²⁹ In the future, transparency will no longer be simply the disclosing of information and the access to this information, but will also involve a complex of reflexive questions surrounding the interests, the legitimacy and the secondary effects of disclosure and disclosing agencies.

Second, and related to the former point, the growing centrality of environmental controversies around information will mean new balances of power and new resource allocation strategies of actors, compared to the conventional ones. Positions of actors, power balances, coalitions, resource dependencies, the rules of the “environmental game,” and effective strategies—to name but a few—change rapidly around environmental controversies. It is not easy to predict or conclude who wins and who loses in these new constellations, also because actors and interest groups constantly react to changing conditions, and adapt their strategies and coalitions accordingly. Environmental NGOs, with their advantage of legitimacy capital, seem well placed vis-à-vis vulnerable multinational companies that have a reputation to protect private interests. But the developments around the plan to sink the Shell oil platform Brent Spar in 1995 in the

29. Here I draw parallels to the distinction between simple and reflexive modernity made by, among others, Beck, Giddens, and Lash 1994. It partly parallels the idea of layers of transparency put forward by Klintman and Boström 2008, 180.

Atlantic has shown us that legitimacy capital of environmental NGOs (in this case Greenpeace) is vulnerable and easily “melts into thin air.” So, future transparency developments have no easy winners or definite losers; but do involve major changes in the rules and resources of global environmental politics.

Third, transparency is at the moment predominantly related to, fuelled by and based within civil society. Hence, it has strong normative undertones of democracy and participation. With the growing importance of transparency in environmental politics we can expect it to also become part of—and stronger ruled and fuelled by—markets and monetization. Environmental information has never been isolated from economics and markets, for instance where it relates to the funding of environmental monitoring programs; where it involves markets for certified green/organic products, processes and services; or with respect to GIS, remote sensing and other satellite-based information systems. But with the growing importance of and calls for transparency, the economic value and importance of transparency and disclosed information will be further enhanced for states and market actors. We already see an exponential growth of firms and systems that not only sell and market environmental information and certification services, but also try to market transparency and trust. We also see environmental NGOs monetizing their reputation, trust and legitimacy, via financial compensation for their logos and endorsements. This opens up a whole new set of questions on the relation between markets and transparency, which will become pressing in the near future. How much of the normative undertones will be, can be, and have to be realized in such market-based transparency arrangements?

Finally, and following the former point, whereas initially environmental transparency and information disclosure in OECD countries entailed place-based and state-organized systems facilitating the right-to-know about environmental pollution, more recent systems are placeless—attached to transnational flows—organized by non-state actors (although more than incidentally backed by states) and focused on environmental improvements.³⁰ Gupta’s conclusion on the market driven disclosures in transnational GM food trade—rather than the transparency provisions in international treaties—provides a clear example of this.³¹ These tendencies in transparency systems of course very much reflect current conditions of globalization and diversity in modes of governance. And they fit very well into the rapid developments in transnational environmental politics since the 1990s. At the same time quite a few developing and transitional states have never experienced the first generation of transparency, and are directly confronted with new transparency systems through their inclusion in global environmental interactions in politics, the economy and civil society. This global transparency divide—and the closing of the global “disclosure gap”—will become one of the challenges for future transparency politics. If we

30. See Fung et al. 2007, 169; and Mol 2008.

31. Gupta 2010b.

do not succeed in closing the gap, the future of transparency in global environmental politics will definitely look less bright.

Epilogue

Returning to the transparency promises set out in the introduction, a balanced answer follows on the two main transparency challenges in global environmental politics.

First, do transparency politics live up to their normative and democratic promises? We seem to have reached a crucial point in time. Looking backwards, the conclusion should be that transparency and disclosure have done more good than harm in terms of democracy, setting favorable conditions for participation, and making access to information more equally distributed across different interest groups in society. The past of transparency is far from ideal, but on balance positive for democracy. Assessing current transparency tendencies and looking into the future, this overall positive past assessment does not automatically extend into the future. The growing importance attached to transparency in environmental politics ensures that it becomes a central object of power struggles, with uncertain outcomes in terms of democracy. Markets and states will aim to capture transparency arrangements for their own goals, which will not necessarily be in line with the original normative ideas of democracy and participation.³²

The second challenge asks whether disclosure of environmental information leads to a better environment. In assessing new modes of environmental governance a key concern will indeed be related to what might instrumentally be labeled “environmental effectiveness.” Various studies have tried to assess the effectiveness of new governance approaches and modes that are squarely based on information and the disclosure of information.³³ To be sure and short, it is not possible to arrive at a general and overall conclusion about whether, how and to what extent effective transparency and disclosure systems protect environmental quality or reduce environmental burdens. The environmental success of informational governance can at best be assessed in concrete time-space contexts, where specific arrangements operate in managing specific environmental flows and practices. Although even then results and assessments are difficult to interpret and to generalize for various reasons, we should at least be able to formulate conclusions and recommendations on specific improvements in such schemes, as we saw in the various contributions to this issue. Assessing environmental successes of concrete—that is, time-space specific—eco-labeling schemes, monitoring and disclosure practices, auditing and verification institutions, and company reporting systems can provide insight on how to improve such schemes and arrangements, whether and how they should be connected

32. E.g. Brown, de Jong, and Levy 2009.

33. See Esty 2004; and Fung et al. 2007, 85–86

with conventional regulatory regimes, and where the sites of power are located to make a difference.

References

- Auld, Graeme, and Lars H. Gulbrandsen. 2010. Transparency in Nonstate Certification: Consequences for Accountability and Legitimacy. *Global Environmental Politics* 10 (3):
- Beck, Ulrich, Anthony Giddens, and Scott Lash. 1994. *Reflexive Modernization: Politics, Tradition and Aesthetics in the Modern Social Order*. Cambridge: Polity.
- Brown, Halina S., Martin de Jong, and David L. Levy. 2009. Building Institutions Based on Information Disclosure: Lessons from GRI's Sustainability Reporting. *Journal of Cleaner Production* 17 (6): 571–580.
- Case, David W. 2001. The Law and Economics of Environmental Information as Regulation. *Environmental Law Reporter* 31 (7): 10773–10789.
- Castells, Manuel. 1996/1997. *The Information Age: Economy, Society and Culture* (three volumes). Malden, MA/Oxford: Blackwell.
- Dingwerth, Klaus and Margot Eichinger. 2010. Tamed Transparency: How Information Disclosure Under the Global Reporting Initiative Fails to Empower. *Global Environmental Politics* 10 (3):
- Environmental Protection Agency. 2010. Environmental Protection Agency Office of Environmental Information. Available at: <http://www.epa.gov/quality/informationguidelines/>, accessed 2 April 2010.
- Esty, Daniel. 2004. Environmental Protection in the Information Age. *New York University Law Review* 79 (1): 115–211.
- Florini, Ann. 2003. *The Coming Democracy: New Rules for Running a New World*. Washington, DC: Island Press.
- . 2010. The National Context for Transparency-based Global Environmental Governance. *Global Environmental Politics* 10 (3):
- Fung, Archon, Mary Graham, and David Weil. 2007. *Full Disclosure: The Perils and Promise of Transparency*. New York: Cambridge University Press.
- Gupta, Aarti. 2010a. Transparency to What End? Governing by Disclosure through the Biosafety Clearing House. *Environment and Planning C: Government and Policy* 28 (2): 128–44.
- . 2010b. Transparency as Contested Political Terrain: Who Knows What About the Global GMO Trade and Why Does it Matter? *Global Environmental Politics* 10 (3):
- Haufler, Virginia. 2010. Disclosure as Governance: The Extractive Industries Transparency Initiative and Resource Management in the Developing World. *Global Environmental Politics* 10 (3):
- Jacques, Peter, Riley Dunlap, and Mark Freeman. 2008. The Organisation of Denial: Conservative Think Tanks and Environmental Skepticism. *Environmental Politics* 17 (3): 349–85.
- Klintman, Mikael, and Magnus Boström. 2008. Transparency through Labeling? Layers of Visibility in Environmental Risk Management. In *Transparency in a New Global Order. Unveiling Organizational Visions*, edited by Christina Garsten and Monica Lindh de Montoya, 178–197. Cheltenham, UK: Edward Elgar.
- Lash, Scott 2002. *Critique of Information*. London: Sage.

- Mason, Michael. 2010. Information Disclosure and Environmental Rights: The Aarhus Convention. *Global Environmental Politics* 10 (3):
- Mol, Arthur P. J. 2006. Environmental Governance in the Information Age: The Emergence of Informational Governance. *Environment and Planning C: Government and Policy* 24 (4): 497–514.
- . 2008. *Environmental Reform in the Information Age. The Contours of Informational Governance*. Cambridge: Cambridge University Press.
- . 2009. Environmental Governance through Information: China and Vietnam. *Singapore Journal of Tropical Geography* 30 (1): 114–129.
- Mol, Arthur P. J., G. Spaargaren, and D. A. Sonnenfeld, eds. 2009. *The Ecological Modernisation Reader. Environmental Reform in Theory and Practice*. London: Routledge.
- OMB Watch. 2010. OMB Watch Home Page. Available at: <http://www.ombwatch.org>, accessed 2 April 2010.
- Spaargaren, Gert, and Arthur P. J. Mol. 2008. Greening Global Consumption: Redefining Politics and Authority. *Global Environmental Change* 18 (3): 350–359.
- Tietenberg, Tom 1998. Disclosure Strategies for Pollution Control. *Environmental and Resource Economics* 11 (3/4): 587–602.
- Zhang, L., Arthur P. J. Mol and G. He. Forthcoming. An Implementation Assessment of China's Environmental Information Disclosure Decree. *Journal of Environmental Sciences* 22.