

Opening government

A guide to best practice in transparency, accountability
and civic engagement across the public sector

The Transparency and Accountability Initiative is a donor collaborative that includes the Ford Foundation, Hivos, the International Budget Partnership, the Omidyar Network, the Open Society Foundations, the Revenue Watch Institute, the United Kingdom Department for International Development (DFID) and the William and Flora Hewlett Foundation.

The collaborative aims to expand the impact, scale and coordination of funding and activity in the transparency and accountability field, as well as explore applications of this work in new areas.

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Introduction

In January 2011, a small group of government and civil society leaders from around the world gathered in Washington, DC to brainstorm how to build upon growing global momentum around transparency, accountability and civic participation in governance. The result was the creation of the Open Government Partnership (OGP), a new multi-stakeholder coalition of governments, civil society and private sector actors working to advance open government around the world— with the goals of increasing public sector responsiveness to citizens, countering corruption, promoting economic efficiencies, harnessing innovation, and improving the delivery of services.

In September 2011, these founding OGP governments will gather in New York on the margins of the UN General Assembly to embrace a set of high-level open government principles, announce country-specific commitments for putting these principles into practice and invite civil society to assess their performance going forward. Also in September, a diverse coalition of governments will stand up and announce their intention to join a six-month process culminating in the announcement of their own OGP commitments and signing of the declaration of principles in January 2012.

To help inform governments, civil society and the private sector in developing their OGP commitments, the Transparency and Accountability Initiative (T/A Initiative) has reached out to leading experts across a wide range of open government fields to gather their input on current best practice and the practical steps that OGP participants and other governments can take to achieve it.

The result is the first document of its kind to compile the state of the art in transparency, accountability and citizen participation across 16 areas of governance, ranging from broad categories such as access to information, service delivery and budgeting to more specific sectors such as forestry, procurement and climate finance.

Each expert's contribution is organized according to three tiers of potential commitments around open government for any given sector—*minimal* steps for countries starting from a relatively low baseline, *more substantial steps* for countries that have already made moderate progress, and *most ambitious steps* for countries that are advanced performers on open government.

T/A Initiative hopes that governments, civil society organizations, the private sector and other stakeholders will find this resource useful not only in informing OGP country commitments, but also more broadly in inspiring new reforms, advocacy and public-private partnerships to create more open governments around the world.

About T/A Initiative : The Transparency and Accountability Initiative (T/A Initiative) is a donor collaborative that aims to seize momentum and expand the impact, breadth and coordination of funding and activity in the transparency and accountability field, as well as explore applications of this work in new areas. The collaborative includes the Ford Foundation, Hivos, the International Budget Partnership, the Omidyar Network, the Open Society Foundations (OSF), the Revenue Watch Institute, the United Kingdom Department for International Development (DFID) and the William and Flora Hewlett Foundation. It is co-chaired by OSF and DFID.

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Illustrative commitments and best practice

1. Aid transparency

Contributors: Publish What You Fund

Aid transparency matters for many reasons – from improving governance and accountability and increasing the efficiency and effectiveness of aid to lifting as many people out of poverty as possible. At present, countries that receive international aid have little way of knowing how much aid is coming in to their country and how it is being spent. Donors often face serious challenges in establishing where and how their help is most efficient and effective.

Aid transparency involves publishing information on aid flows and all donor, recipient country and NGO efforts, which have

developmental or humanitarian impacts. This should include the origin and destination of aid, as well as the purpose, conditions and contracts of the aid itself. When comparable and available, this information benefits both donors and recipients in assessing their effectiveness and impact.

This is divided into recipient and donor governments, but of course there are a number of governments who are doing both, and thus for whom both might be relevant to consider or sequence engagement in.¹

Donor agencies and governments

Initial steps

Goal: Assess, test and develop a publication schedule for aid information donor agencies already hold again the with the emerging standard.

Justification: The first step in responding to emerging international practice and standards on aid transparency is assessing of what aid information government agencies already collect, and developing an implementation schedule for making available data in line with the standard and investing in the standard to ensure it deliver on and for the systems and data run by donors.

Recommendations

1. Undertake an assessment of information collection and systems on aid, foreign assistance and external finance flows, activities, and documentation currently held by each government agency used in the delivery of foreign assistance or aid. The assessment should relate to the emerging best practice standard for aid transparency.
2. Test and pilot the inter-operability of data between and within donors/agencies systems (both between agencies of the same government/institution as well as between bilateral and multilateral agencies).

3. Develop an implementation schedule for the publication of existing information in line with the international best practice standard.
4. Ensure the refining and further development of best practice within existing agreements rather than building a parallel model (including the provision of resources and ensuring lesson learning and the revision of standards to ensure the standard is fit for purpose).

¹ The Collaborative Africa Budget Reform Initiative (CABRI) is currently preparing a position paper on aid transparency. This will detail the formal position of 22 partner countries on what both donors and recipients should do in order to implement effective aid transparency. When preparing this submission, we have taken

into account CABRI's initial work on the development of a paper. We recommend that once the draft paper is available later this month that its contents and recommendations are taken into account as the Open Government Partnership progresses.

More substantial steps

Goal: Publish all existing information already held by aid age, in line with best practice and facilitate the dissemination and use of this information.

Justification: Many aid agencies already possess substantial information related to aid flows, activities terms, procurement, strategies, policies and procedures, results, audits and evaluations in to the international standard.

Recommendations

1. Publish existing aid information that is held within systems in a timely manner, in line with aid information standards, in machine-readable formats and under an open license.

2. Register that information on the international registry.
3. Develop internal procedures/authorization to automate the delivery of information.
4. Develop data collection systems for the information that was found to not currently be collected.
5. Publish a timeline in which that data will also be made available.
6. Develop and implement guidance on the minimum use of exemptions on aid.
7. Make sure all staff know they have responsibility to disclose this information.

Most ambitious steps

Goal: Build systems to collect data that is not currently held and, and investment in the accessibility and use of that information in donor countries.

Justification: Some information is not collected and for those where it not available systems need to be established to collect it. To maximize the impact of use investment transparency efforts need to be cascade through the aid system and demand and use of aid information fostered.

Recommendations

1. Build systems to collect and publish the new information in line with the best practice standard.
2. Invest mechanisms and resources for others to do the processing, for example through “infomediaries”
3. Extend the use of best practice standards to grantees and contactors of your assistance (including multilaterals and private and NGO grantees/contractors).
4. Foster the use of aid information at the recipient country level, both within government and with civil society.

Recipient governments

Initial steps

Goal: Investing in and demanding the use of emerging best practice standard on aid transparency that also delivers on recipient country needs.

Justification: There is an emerging international good practice and standard on aid transparency² that is broadly applicable to public and private bodies engaged in the giving and delivery of aid. At present, aid information is often not collected systematically or in ways that are responds to partner country needs. For investments in aid transparency by donors to have maximum impact, they need to respond to the needs and systems of recipient countries so aid and domestic resources. Recipient governments need to ensure that the common standards and formats that emerge compatible with recipient needs and budget, resource allocation and management systems and processes.

Recommendations

1. Endorse and invest in the emerging best practice standard for the transparency of aid and ensure that the needs of recipient country systems and processes are captured during the refinement phase.
2. Develop and coordinate a collective position on what aid information is needed between line ministries and agencies to avoid confusion and overlapping or duplicate systems.
3. Provide formal agreement for the disclosure by donors of aid information held by donors that is associated with their countries (jointly or otherwise undertaken) in principle and in practice (including terms, conditions and contracts, aid agreements, results, monitoring and evaluations).

² See Annex 1 for more on the development of a common standard for aid transparency.

More substantial steps

Goal: Improve and align aid information systems and structures to best use information supplied and standardize demand from donors

Justification: There is an emerging international good practice and standard on aid transparency³ that recipients can use to demand information from signatory agencies and donors, but should be applied by all public and private bodies engaged in the funding and delivery of aid, including donors, contractors, and NGOs.

Recommendations

1. Conduct in-country stock takes of current aid information systems, information gathering tools and requests to donors for information on aid.

2. Undertake a process and lesson learning exercise relating to the integration of aid information into relevant systems such as budget, accounting and audit systems.
3. Streamline aid information collections.
4. Build systems to link aid information systems to the budget process and transparency.
5. Ensure the comprehensiveness of the information provided so it includes off-budget aid (e.g. aid provided through IFIs and NGOs), humanitarian aid and climate finance funding, non-DAC donors and external financing streams.

Most ambitious steps

Goal: Make aid information more user-friendly and accessible to the public and encourage public oversight through proactive engagement.

Justification: Opportunities for public engagement in decision-making around aid flows can help improve aid efficiency and effectiveness. Public oversight can help reduce corruption and ensure that aid gets delivered where, when and how it was intended.

Recommendations

1. Publish information held about aid in a budget annex (or equivalent) to ensure full parliamentary oversight.
2. Encourage public participation and engagement with information on aid flows and budgets.

³ See Annex 1 for more on the development of a common standard for aid transparency.

2. Asset disclosure

Contributor: Global Integrity

Personal financial asset disclosures remain one of the most potent but underutilized transparency and anti-corruption tools in the “good governance” toolkit. The reasons for their underuse are not surprising: accurately disclosing the income and assets of political figures and senior government officials can raise sensitive questions about the sources of personal wealth. Meanwhile, little to no attention has been paid to the establishment of best practices in the area of asset disclosures, and in some situations there may be legitimate privacy and/or security concerns associated with fully disclosing an official's assets or sources of income.

The core objective of any effective asset disclosure regime is to provide a deterrent against bribery, collusion, and

patronage in the public sector. While effective asset disclosure regimes can occasionally serve as real-time operational tools for internal government watchdogs (such as through the discovery of irregularities during audits of asset disclosures), their primary purpose is to increase the potential costs facing key public officials who might consider accepting bribes or kickbacks from third parties with interests before the government. They simultaneously can inspire public confidence in the leadership by providing concrete evidence that key officials are not “on the take.”

Despite the lack of agreed international standards on personal asset disclosure requirements, a growing body of work to assess the existence and effectiveness of asset disclosure regimes in countries around the world points to a set of core principles that could be considered by governments seeking to adopt robust, effective disclosure regimes.

Initial steps

Goal: Regular and comprehensive disclosure of assets by all branches of government as well as senior civil servants.

Justification: Quite often, the justice sector is completely ignored in many countries' asset disclosure regimes despite senior judges often being at the center of corruption and bribery scandals. In other countries, while MPs and ministers are required to disclose their assets, senior bureaucrats and civil servants are not despite the enormous powers and discretion they wield in both policymaking and procurement. The decision of which officials should be covered by asset disclosure requirements is a contextual one that depends significantly on the country in question. In some countries, disclosures are limited to when an official enters office and/or exits his or her official position. There have been documented cases where officials have quickly transferred title of key property and/or other assets to friends and relatives before entering and/or existing office to avoid disclosing those assets publicly. In many countries, asset disclosures are treated as confidential information and are only made available to internal government watchdogs such as supreme audit agencies, who themselves may lack the capacity or political independence to effectively use the disclosures to monitor the actions of key officials.⁴ A better approach is to treat asset disclosures as public information by default.

Recommendations

1. Asset disclosure requirements should cover the leadership of the three branches of government as well as the senior career civil service/bureaucracy and should be the same across those four sets of disclosers.
2. *Asset disclosures should be regular* (at least annual).
3. *Asset disclosures should be systematic and cover a range of key information.* Among the information to be disclosed should be:⁵
 - o Assets
 - Personal residence
 - Second homes, vacant land, buildings, farms
 - Financial investments (e.g., stocks, trusts, options, warrants, mutual funds, commodities, futures, money owed, saving plans, insurance policies, and retirement accounts), and business assets (e.g., private corporations and partnerships)
 - Bank accounts, interest-bearing instruments, and cash
 - Vehicles (e.g., cars, boats, airplanes)
 - Other significant movable assets (e.g., jewelry, art, furniture, cattle)

⁴ A worst-case example can be found in Tanzania, where requestors of asset disclosures of MPs are only allowed to share information or concerns about the disclosures with the government itself. See <http://report.globalintegrity.org/Tanzania/2007/scorecard/39>.

⁵ These are drawn from the recent work of Simeon Djankov, Andrei Shleifer and colleagues in surveying disclosure requirements for MPs in 175 countries; the authors used those results to construct the “universal” ideal set of information that should be disclosed under a disclosure regime. http://www.economics.harvard.edu/faculty/shleifer/files/Disclosure_by_Politicians_AEJAPP_final.pdf

- o Liabilities
 - All debts, obligations, credit cards, mortgages, guarantees and co-signatures
- o Sources of income
 - Financial investments (e.g., interest, dividends, annuities, pensions, benefits)
 - Business assets (e.g., corporations, partnerships, farms, rental properties, and patents)
 - Private sector employment
 - Professional services (e.g., consulting, and other paid contracts from the private or the public sector)
 - Boards and directorships
 - Other public sector employment
 - Lotteries, gambling, and one time payments

- o Gifts
 - All significant gifts and benefits received by the official
 - o Potential conflicts of interest
 - Unpaid contracts and employment
 - Unpaid boards and directorships
 - Participation in associations, not-for-profit organizations, and trade unions
 - Post-tenure positions and employment
4. The disclosure of information should be precise and avoid ranges. The requirements for asset disclosures by senior officials in the United States federal government, for example, unhelpfully permit officials to merely indicate a *range* of value for their various assets and sources of income, often within wide bands that undermine that information's precision and utility.
 5. Completed asset disclosures should be efficiently archived, easily searchable, and publicly available.

Most ambitious steps

Goal: A leaner and more effective system of random audits for all submitted disclosures where a preannounced percentage of submitted disclosures would be subject to an audit, with no submitter exempt from the potential of having his/her disclosure randomly selected.

Justification: While regular auditing of all submitted asset disclosures poses a non-trivial burden on government regulators, undertaking random audits of a smaller subset would go a long way towards bolstering an asset disclosure regime's deterrent effect. The most powerful tool in the asset disclosure toolbox is the threat of an audit of the disclosure. Simply requiring officials to fill out a form poses little risk to an official seeking to hide certain commercial interests and/or sources of income from public view. Auditing that disclosure poses a much greater risk to the official seeking to avoid full disclosure and generates a powerful deterrent effect. Internationally, there are very few cases of asset disclosure regimes requiring regular audits of all submitted disclosures. The majority of countries that do perform audits on disclosures perform them only when irregularities are discovered or suspected, often following media investigations and/or investigate reports issued by local civil society organizations.

Recommendations

1. An ideal system of random audits would have the following characteristics:
 - o The percentage or volume of disclosures to be audited would be publicly announced ahead of time.
 - o The random selection of which disclosures to audit would be performed via a transparent lottery/raffle-type system.
 - o The auditing would be performed by an independent third-party, ideally an outside, non-governmental auditor (whether a private auditing firm or otherwise).
 - o The full results of the audit would be made publicly available immediately following the completion of the audit.
2. Apart from the random auditing of disclosures, a complementary commitment that is crucial to ensuring the effectiveness of a robust asset disclosure regime is public accessibility of the disclosures.
 - o Public accessibility might take different forms in different contexts. In countries where internet penetration is reasonably high, submitted disclosures should be made available online and should be searchable by basic criteria such as submitter, year filed, and government agency or department.
 - o More ambitious governments could pursue a completely online submission system for asset disclosures that would encourage greater standardization and machine readability of the results while allowing for robust searching and analysis by the public.⁶ The costs of implementing such an online system would not be particularly high, and there would likely be strong interest from technologists in contributing in-kind support to help create such a system.

⁶ For example, it would be interesting to be able to quickly search and learn whether a number of lawmakers had consulting

arrangements with the same government contractor in a country where outside employment was permitted for MPs while in office.

3. Budgets

Contributor: The International Budget Partnership

Budget transparency

Governments raise and spend public funds to meet public needs. To do this, governments must make good policy choices, execute these effectively, and be accountable for their decisions and actions. This is more likely to happen in budget systems that are transparent, i.e., those in which the government provides the public with comprehensive,

timely, accurate, and useful information. As a growing evidence base shows, open budget systems can enhance the credibility of policy choices, increase the effectiveness of policy interventions, limit corrupt and wasteful spending, and facilitate access to international financial markets.

Initial steps

Goal: Government commits to the timely, accessible, and regular publication of the Executive's Budget Proposal, Enacted Budget, Audit Report, and Citizen's Budget – the four most important budget documents.

Justification: Internationally accepted good practices require governments to publish at least eight key budget reports at various points in the budget year – Pre-Budget Statement, Executive's Budget Proposal, Enacted Budget, Citizens Budget, In-Year Reports, Mid-Year Review, Year-End Report, and Audit Report. Four of these documents — the Executive's Budget Proposal, Enacted Budget, Citizens Budget, and Audit Report — form the most basic building blocks of budget accountability, thus publishing them is the minimum requirement for an open budget system. Without access to the information in these documents, the public cannot understand the government plans to collect and allocate budget resources; they cannot track whether the government actually spent public funds in accordance with these plans and are therefore unable to hold the government accountable for the use of public funds.

The Executive's Budget Proposal outlines the government's revenue and expenditure plans, thus, timely publication of this document is essential for the public to be able to engage in the debate over the government's proposals. The Enacted Budget is the result of legislative, and ideally public, consideration of the executive's proposal. Because this report documents the commitments that were approved into law, it will form the basis of any monitoring of government execution. Audit Reports contain the findings of the supreme audit institution's formal, independent evaluation of whether the government collected and spent public funds as set out in the Enacted Budget, and did so in accordance with the law. Citizens must have access to this document to be able to gauge the government's performance. Budgets are typically highly technical documents and not easily understood by a majority of the public. A Citizens Budget is a nontechnical presentation of the budget (either the Executive's Budget Proposal or the Enacted Budget) that is widely accessible to all citizens.

Recommendations

1. Make existing core budget documents publicly available. Although most countries already produce an Executive's Budget Proposal, Enacted Budget, and Audit Reports, not all make them publicly available. Governments that currently produce but do not publish these documents could do so immediately and at little expense. (This commitment should not be limited to these reports; governments should publish immediately all budget reports they are currently producing.)
2. Governments should seek to expand the share of the public that understands and can potentially contribute to the dialogue on public budgeting by producing and publishing a Citizens Budget.
3. To increase the public's access to these reports, and avoid unequal access, budget reports should be posted on the government's website, at a minimum. Where Internet access is limited, governments could make hard copies of their budgets widely available (either free or for a minimal fee) in public libraries and information desks throughout the country.
4. In multilingual countries, budget reports should be published in multiple languages.
5. In order to facilitate data manipulation, budget reports could be complemented by open data access.
6. Governments commit to the timely publication and wide dissemination of each document. Late publication of these reports denies the public the ability to use the information to engage in decision-making processes.

Examples: A number of governments that were not publishing these documents have recently begun to do so. In 2007, for example, Egypt and Mongolia published their Executive Budget Proposals for the first time. Similarly, in 2009 Liberia began to publish the Executive's Budget Proposal and Audit Report, and Afghanistan began to publish the Audit Report. And, in 2010 Mexico and Brazil began to publish Citizens Budgets.

More substantial steps

Goal: Governments commit to publish all eight key budget reports and ensure that these documents provide comprehensive information as required by good practices.

Justification: While it is critical for governments to provide the public with the most basic information on government plans and outcomes, as laid out above, a fully open and accountable budget system requires that the public have access to comprehensive information throughout the entire budget cycle.

The Pre-Budget Statement presents the broad parameters and macroeconomic assumptions of the Executive's Budget Proposal. It is at this stage, before the proposed budget goes before the legislature that decisions about the size of the budget and how it will be allocated are made. A Pre-Budget Statement provides an opportunity early in the process to understand and engage with these fundamental choices.

Execution reports (In-Year Reports and Mid-Year Review) provide timely feedback on the progress of budget execution, thus allowing for midcourse corrections, reallocations, or supplemental allocations, where necessary. Year-End Reports allows for a comparison between planned and actual spending, increasing accountability and informing decisions for the coming budget year.

Recommendations

1. Ensure that comprehensive information is provided in each of the eight core budget document published, including detailed, disaggregated information on revenues and expenditure and prior year data for comparative purposes.
2. Follow established best practice in creating all budget reports. Governments can consult a number of manuals on public finance management for detailed information on the model contents of budget reports, including the IBP's *Guide to Transparency in Government Budget Reports* (http://www.internationalbudget.org/files/Government_Transparency_Guide.pdf), and IMF's *Fiscal Transparency Manual* (<http://www.imf.org/external/np/fad/trans/manual.htm>).

Examples: A number of governments have also taken such steps recently to increase the comprehensiveness of their budget proposals. For example, in its 2010 budget proposal, the Colombian government for the first time began to provide data on prior year revenues and expenditures. Similarly, the Mongolian government improved the comprehensiveness of its budget proposal in 2009 by providing multiyear information for revenues and expenditures, on future liabilities, and on donor assistance.

Most ambitious steps

Goal: This commitment requires government to publish a comprehensive record of all fiscal activities, including those that are not undertaken through the budget or necessarily reflected in the budget.

Justification: "Off budget" activities are not subject to the same level of reporting, regulation, or audit as other public transactions. Yet they involve the current and future use of, or the decision to forgo, public resources, therefore, unless information on these activities is disclosed, the public will be unable to discern the government's true fiscal picture or adequately scrutinize its actions.

These activities include the use of extra-budgetary funds, such as pensions or social security funds, state-owned enterprises, and discretionary or secret funds, that move the management of huge amounts of public resources outside the budget process. (More recently these have included funds for donor aid, the proceeds of privatization, and arrangements for public-private partnerships.) They also include quasi-fiscal activities in which public resources are forgone by state-owned enterprises, or private companies at the direction of the government, that charge "below market" prices for goods or services. For example, government-owned banks may provide subsidized bank loans. Finally, contingent liabilities are debts that the government may owe, like pensions or government loan guarantees, but whose existence and total cost depend on future events.

In addition to information on how the government is spending money through the budget and through other fiscal activities, the public is also interested in information on the recipients of public funds, including beneficiaries of welfare programs and subsidies, contractors hired to provide public goods and services, and officials who receive government salaries and benefits.

Recommendations

1. Separate from any mention in the Executive Budget Proposal, Governments should separately report more detailed information on off-budget activities and those who receive benefits from them in complementary financial reports.
2. Specific information related to welfare entitlements and poverty programs should be widely disseminated, especially among local communities that are targeted by these programs.

Examples: Every government agency in Chile publishes lists that are updated every three months with information on the salaries and benefits received by government officials; the names of contractors hired by governments and the contract amount; and beneficiaries of social programs and subsidies. U.K. databases on all public spending – and U.S. databases on stimulus spending – also identify recipient contractors and other beneficiaries. New Zealand and the U.S. have excellent examples of comprehensive reporting on tax expenditures.

Budget participation

Access to budget information is a critical but insufficient component of an open budget system. Recent research has shown that greater access to public information together with effective public engagement can help reduce corruption and enhance socioeconomic development. Public engagement creates opportunities for the public to contribute their knowledge and expertise, specifically on budget priorities and execution, thereby improving the quality and effectiveness of government spending. In addition, engagement by specialized civil society groups can augment the analytical skills available to the legislature, as well as amplify the findings of the supreme audit institution – significantly reducing the resource constraints that frequently undermine the work of these institutions.

Public engagement in budgeting happens mostly through three public entities – the executive, the legislature, and the supreme audit institution – depending on the stage of the

budget cycle. Therefore, opportunities should ideally be provided for the public to engage with each of these bodies at each level of commitment. Any system for enabling public engagement must be congruent with the constitutional roles of the legislature, executive, and supreme audit institution. The legislature should provide the first opportunity for public participation given its constitutional oversight role as keeper of the public purse. Public engagement with the supreme audit institution is critical to boosting the quality of oversight over the execution process, and direct public engagement with the executive branch is also necessary, particularly to enable constructive public input into the definition of budget priorities.

Initial steps

Goal: This commitment requires government to introduce basic, low-cost opportunities for public engagement at each stage of the budget process.

Justification: Civil society organizations and citizens are among the best sources of information about a country's needs and priorities. They can provide inputs that are critical to good budget decisions and support to ensure effective implementation. In addition, they often have the networks and expertise to detect potential cases of corruption or mismanagement, thus engaging them in the process can enhance the overall accountability of the budget system.

Recommendations

1. The executive, led by the Ministry of Finance, should open the budget process to public engagement by holding consultations with the public as part of its process of determining the budget priorities that will drive the allocation of public resources.
2. Within the legislature, the finance committee should organize hearings on the overall macroeconomic and fiscal framework, while sector committees could hold more detailed discussions on individual departments and expenditure programs.
3. Legislatures should allow the public and the media to attend (and broadcast on television or radio) hearings during which the budget proposal is debated.
4. In addition, legislatures should publish reports detailing their proceedings, including the testimony presented at the hearings. Such steps would, at the very minimum, enable the public to witness and understand how decisions about public funds are taken, and have an opportunity to understand the trade-offs at stake.

5. Supreme audit institutions should create communication channels for citizens and civil society to anonymously report cases where misuse of public funds is suspected, both online and through other means.

Country examples: Examples of executive-led public participation include one from India, where the Ministry of Finance has recently begun meeting with nongovernmental organizations as part of its pre-budget consultations. (A similar practice has occurred for several years in Kenya.) The Finance Ministries in Kenya and Uganda have for many years conducted similar consultations on citizen budget priorities at the beginning of the budget drafting process. In South Africa, Trevor Manuel, the former finance minister, launched “Tips for Trevor” through which the public was invited to give tips on how to spend the country's money.

Legislatures in almost every country already conduct committee hearings (or have the legal capacity to hold such hearings) before enacting the budget into law. Burkina Faso and Rwanda have recently started broadcasting legislature budget deliberations on television. In the past few years, a number of countries have started to publish detailed transcripts of legislature budget debates, including Azerbaijan, Bulgaria, Trinidad and Tobago, and Zambia. While these efforts do not directly create opportunities for direct public engagement in the budget process, they do build the capacity of citizens to debate and engage with the budget.

The supreme audit institutions in the U.S. and the U.K. maintain “fraud hotlines” through which the public can report suspected malfeasance in the use of public funds.

More substantial steps

Goal: This commitment requires the executive, legislature, and supreme audit institution to provide citizens and civil society organizations with more direct and more extensive opportunities to engage with their work throughout the budget process, soliciting their opinions and proposals.

Justification: Though they are responsible for taking key decisions about how best to address their country's needs and prospects for development, governments often lack important information and have limited analytical capacity for making choices about how to raise and spend public funds. By increasing the opportunities for the public and civil society organizations to go beyond having access to budget deliberations and oversight institutions to directly engaging in and influencing these processes, governments can benefit from knowledge of those close to communities or augment their access to independent analysis and expertise.

Recommendations

1. The executive holds more intensive consultations with the public, and opens spaces for citizens and civil society groups to present evidence and proposals on overall budget priorities, as well as macroeconomic policy and inter-sectoral resource allocation issues. This could be accomplished through sector and ministry-level meetings with the public. Cover specific expenditure programs, individual sectors or clusters of sectors in these consultations.
2. After opening budget hearings to the public, the legislature provides opportunities for the public to testify at these hearings. Those invited to testify could include private citizens; academics; private research institutes; and representatives of civil society organizations, community-based organizations, trade unions, and churches or religious organizations.
3. The supreme audit institution provides opportunities for public suggestions to influence the audit agenda, including the sample of agencies, projects and programs in a country that it audits each year.

Country examples: In the past ten or so years, the executives in several countries have instituted consultative mechanisms that engage the public as part of the process of developing medium-term budget plans or MTEFs. In Tanzania, for example, a well-structured Public Expenditure Review process brings together government, civil society and donor organizations, in a forum where CSOs regularly contribute reports and analyses.

Examples of legislatures deepening the influence of the public in their deliberations include both the Czech Republic and the Philippines, where the public is invited to give testimony on a number of key administrative units' budgets. In South Africa, the Finance Committee and sector committees regularly invite a range of non-governmental actors to testify in budget hearings.

Examples of more direct and meaningful public participation in auditing, the South Korean Citizens' Audit Request System, introduced under that country's Anti-Corruption Act of 2001, allows citizens to request that the South Korean Supreme Audit Institution conduct audits of public agencies suspected of corruption or legal transgressions. Similar arrangements exist in a number of U.S. states.

Most ambitious steps

Goal: This commitment is to broaden and deepen the opportunities for public engagement in the budget process by extending their reach and coverage, ensuring that civil society proposals are analyzed and taken on board when possible, creating opportunities for direct public participation in decision-making over specific funds or earmarked resources.

Justification: Because of the cyclical nature of budgets, in which what happens in prior years affects and informs decisions about future years, it is critical that all resources are tapped to ensure that budget deliberations are as effective as possible and that evaluation of budget implementation is as rigorous and thorough as possible. Therefore, all three branches of government need to continue to deepen the level at which citizens and civil society contribute to debates over budget proposals and oversight.

Recommendations

1. The executive sets aside specific resources to fund expenditure programs identified through a participatory process that responds to the needs and priorities put forward by citizen groups. It could also provide an assessment of various civil society proposals and an explanation of whether and why these were included or not in the budget.
2. In order to maximize opportunities for public engagement in the budget process, the legislature should organize extensive public hearings in which the executive and a wide range of constituencies are invited to provide testimony and present proposals on all aspects of the budget. Moreover, it should publish a report detailing its discussions and decisions on the proposals presented.
3. To tap the knowledge and connections of the public further, supreme audit institutions should consider much more direct forms of engagement with the public and civil society organizations, including conducting of joint audit investigations together with the public or civil society organizations. Alternatively, the executive could collaborate with citizens and civil society organizations to conduct local government audits that act a parallel check on the findings of the Supreme Audit Institution.

Country examples: A number of governments around the world have increased the effectiveness and impact of public spending by adopting participatory budgeting practices that allocate resources to programs identified with the direct involvement of citizens and civil society groups. The most well known examples if the Porto Alegre Municipality in Brazil, but similar participatory budgeting processes have been adapted in over 100 cities in Brazil, and in a number of countries around the world.

An example of deeper public participation in oversight is a partnership between the Philippines' Supreme Audit Institution and several nongovernmental organizations to conduct joint performance audits to determine whether a government program or project has achieved its anticipated results. Audit teams included employees of the audit institution and representatives of non-governmental organizations. The teams received joint training on conducting participatory audits before they began their audits.

The most impressive examples using local government audits to verify findings by the supreme audit institution are the social audits currently being conducted in partnership between the Indian government and local citizens to monitor the implementation of the National Rural Guarantee Act. Such practices will allow audit institutions to augment their limited capacity particularly in conducting performance audits.

4. Campaign finance

Contributor: Transparency International USA and the Transparency and Accountability Initiative

Around the world, political financing is increasing at the forefront of public debate. The rapid growth of democracy around the world since the early 1990s has highlighted the need for stronger regulation and reform to prevent the negative influence of money in electoral politics.

Transparency of political party and campaign contributions is essential to protecting the integrity of democratic processes and ensuring fair elections. Laws requiring the public disclosure of independent political party and campaign contributions ensure that individuals, organizations, interest groups and corporations do not unduly influence a country's elections or political leadership.

Measures addressed at political party/campaign finance reform are often met with staunch resistance from corporations and other organizations that use wealth to influence political parties and elections, and from the political leaders that rely on this wealth. Even when campaign finance laws are passed, they are often not rigorously policed or enforced due to weak legal frameworks, under-resourced regulators and/or lack of capacity. Political leaders and parties independent contributors and regulators all have a critical role to play in addressing these weaknesses and making good faith efforts to improve transparency in political party and electoral campaign financing.

Initial steps

Goal: Restoring and enhancing trust in public institutions through full and prompt disclosure of all contributions and expenditures in political campaigns and elections.

Justification: Lack of transparency in funding for political campaigns has undermined trust in government at all levels in many countries around the world, raising concerns about undue influence over elections and, thus, legislation, government policy and appointments.

Recommendations

1. Government requirements for all groups or individuals engaged in or acting to influence the outcome of an election to file prompt reports that clearly identify the amounts and recipients of their contributions and for political candidates and officials to file prompt reports on all amounts and sources of funds received and all expenditures.
2. Disclosure requirements should apply to candidates, political parties and related organizations and to groups engaged in political advocacy. They should apply at the federal, provincial and local levels and should cover all types of elections, including referenda and recalls.
3. Reports should be required to be made available to the public promptly and in an accessible, easily understood format.
4. Disclosure requirements should be enforced by an independent agency with political independence, legal authority and adequate staff and funding to enforce disclosure requirements effectively.

More substantial steps

Goal: More timely and comprehensive transparency of lobbying activity to reduce actual, potential or perception of conflict of interest and undue influence.

Justification: Transparency is essential for citizens to trust that special interests will not unduly influence public policy and elections. Putting a wide range of information online within a short timeframe will help ensure public access and build trust. Disclosure is meaningless unless regulators make information readily accessible to the public in user-friendly reports. Moreover, low-cost internet and database technology can make this information easier to interpret and reorganize for research purposes.

Recommendations

1. Each government should post on a central website a single searchable public database which includes sources and amounts of contributions and expenditures. This information should also be available in printed form.
2. Similar web and otherwise publicly accessible information should be published at the provincial and local levels.

Most ambitious steps

Goal: Comprehensive transparency of all actors engaged in lobbying activity.

Justification: Government decision-makers and the public should have information on who is attempting to influence public policy decisions, and how.

Recommendations

1. Public reporting of contributions received by officials, including gifts, entertainment and other financial support and names of donors.
2. Mandatory public registration of lobbyists and regular disclosure of clients, issues and financial expenditures.
3. Corporations, labor unions, trade and professional associations and other non-profit organizations are required to adopt disclosure policies on transparency of expenditures for lobbying and campaigns.

5. Climate finance

Contributor: World Resources Institute

During the United Nations Framework Convention on Climate Change (UNFCCC), Conference of the Parties (COP) in Copenhagen, Denmark in 2009, developed nations agreed to collectively provide new and additional fast-start finance resources “approaching USD 30 billion for the period 2010 – 2012” to help developing countries, particularly the poorest and most vulnerable, reduce their greenhouse gas emissions, and adapt and cope with the effects of climate change. By 2020, developed countries also agreed to a goal of jointly mobilizing, over the longer term an additional “100 billion dollars a year to address the needs of developing countries.”⁷ These pledges present an opportunity to build trust between developed and developing countries in the international climate arena, in turn fostering progress towards a comprehensive post-2012 international climate agreement.

Developed countries want to ensure their funds are used efficiently and effectively, and developing countries want to know that committed funds will actually materialize in the promised amount and on time. A climate finance regime that is fully transparent in terms of the scale of resources flowing into countries, how it is channeled, the financial instruments used, how it is spent, and the oversight mechanisms are critical to building this trust.

Developed and developing countries have distinct, but critical roles to play in facilitating the flow of climate finance and ensuring climate funds are used effectively by: (1) delivering on their fast start finance pledges; (2) providing long-term, predictable finance to developing countries; (3) developing and supporting a transparent, inclusive, and robust reporting systems for climate finance; and (4) working towards an open, transparent, and inclusive process in designing and operationalizing the Green Climate Fund.

Initial steps

Goal: Developed countries deliver on their 2010-2012 fast-start climate finance pledges

Justification: To date, WRI research indicates that individual country pledges add up to \$29 billion of the \$30 billion in fast-start funding promised in Copenhagen.

Countries are taking steps (e.g. through budget requests and appropriations processes) to make their pledges available, and are providing additional details on these pledges. For example, the government of the Netherlands developed a website called faststartfinance.org that aims to provide transparency about the amount, direction and use of fast start climate finance. While this increased transparency is welcome, it is important for the countries to deliver on their commitments in order to build trust among developed and developing country parties. This information is critical to both holding donor countries accountable for their commitments and building trust among parties. Increased

transparency can also point to gaps in the flows, and guide future allocation of resources.

Recommendations

1. Developed countries must deliver on their fast start finance commitments and provide further clarity on:
 - o The scale of the funds provided
 - o The method for determining whether the money is “new and additional”
 - o The objective of the funding (i.e. mitigation or adaptation)
 - o The institutions for channelling resources
 - o The geographical distribution of the funding
 - o The type of financial instruments used (i.e. grants, loans, guarantees)
 - o The status of funding (i.e. committed, pledged or has been delivered to a recipient country)

More substantial steps

Goal: Developed Countries provide stable, predictable, and adequate long-term climate finance

Justification: Developed countries, must deliver on their commitment to provide the US\$100 billion per year to developing countries by 2020 to help them respond to the challenges of climate change. It will be very difficult to secure agreement on global climate action if there is no demonstrated willingness to help generate stable, predictable and adequate long-term climate finance. The UN Secretary General's High-Level Advisory Group on Finance (AGF) has shown that scaling-up climate financing to support developing countries for climate change is challenging,

but feasible. A menu of options is available to help deliver tens of billions of dollars towards the \$100 billion financial target that was agreed to at the Copenhagen Summit. Now, it is up to countries to choose the option/s that work best in their domestic contexts and take necessary steps to raise new revenues through these innovative mechanisms.

Recommendations

1. Drawing on the findings of the AGF report, the international community must explore ways to generate and scale-up new and additional, long-term resources to developing countries for tackling climate change.

⁷ World Resources Institute, “Summary of Developed Country Fast-Start Climate Finance Pledges.” Last Updated: November 23, 2010.

<http://www.wri.org/publication/summary-of-developed-country-fast-start-climate-finance-pledges>

Most ambitious steps

Goal 1: Developed and developing country parties to the UNFCCC work together to design a transparent climate finance reporting system for both donor and recipient countries

Justification: Developed and developing country parties to the UNFCCC must work together to create guidelines that will lay the foundation for reporting on climate change finance. These guidelines should be based on current international standards for good practice for transparent public finance management in order to take advantage of existing capacity and to avoid undue administrative burdens that would likely accompany a climate finance reporting scheme that differs significantly from these established processes.

Currently, tracking and monitoring climate finance pledges present a number of challenges. The information that donor countries have made available on their pledges to date is incomplete and lacks specificity, precluding an accurate assessment of the level of funding and the potential impact for developing countries. Compounding the lack of details, information made public is often based on different methodologies for calculating pledges, covers different periods, and sometimes lacks clarity on the balance of allocation between adaptation and mitigation. For example, Parties to the UNFCCC have not yet achieved consensus on a clear and specific definition of additionality that can be applied uniformly to developed country financial pledges. As a result, countries have proposed a variety of methods for defining the additionality of their fast-start finance. Country reporting also often does not identify how pledged funds will be channeled to developing countries.

While tracking and monitoring the commitments made by donor countries is essential, equally important is ensuring transparency and accountability for what happens to climate funds once they reach recipient countries. The key components of an effective approach to managing and monitoring the use of climate funds are complete transparency about the amount of funds coming into the country and the details of how those funds will be spent, public access to all of this information, strong oversight mechanisms, and opportunities for citizens and civil society organizations to participate in decision making, monitoring and oversight.

Recommendations

1. Adopt a standardized financial reporting format with common definitions and methodologies for developed countries to quantify their climate finance contributions
2. Establish a more robust process at the international level to review data reported by developed countries
3. Make a long-term commitment to investing in a robust international reporting and review system
4. With support from developed countries, governments receiving climate funds put in place systems to report complete information on their use of the funds to their citizens and legislatures. They should also promote mechanisms for involving the public and civil society in managing how these funds are used and ensuring complete public access within countries to comprehensive data.

Goal 2: Commitment to open, transparent, and inclusive process in designing and operationalizing the Green Climate Fund

Justification: In 2010, at the UNFCCC Conference of the Parties in Cancun, the Green Climate Fund was established. This Fund is seen by many, particularly developing countries, as an opportunity to create a 'legitimate' institution for delivering scaled-up finance to address climate change. In Cancun, the COP decided to set up a Transitional Committee and entrusted it with the task of designing the Green Climate Fund. The Transitional Committee will include representatives from 25 developing countries and 15 developed countries, including representatives from the US.

Recommendations:

1. The Transitional Committee should commit to an open, transparent, and inclusive process in the design of the Green Climate Fund and abide by the existing terms of reference. They should ensure mechanisms for civil society, private sector, MDB and UN agency participation in the process. This is important for transparency in the Transitional Committee's processes.
2. Countries should also ensure the Fund applies the highest environmental and social safeguards and best-practice fiduciary standards and sound financial management to its investments.⁸

⁸ Sources: Ballesteros, Athena. The Road to the Green Climate Fund. February 2011. World Resources Institute. Online at: <http://www.wri.org/stories/2011/02/road-gree-climate-fund>.

Ballesteros, Athena. WRI Statement on UN Advisory Group on Climate Change Financing (AGF) Report. November 5, 2010. World Resources Institute. Online at: <http://www.wri.org/stories/2010/11/wri-statement-un-advisory-group-climate-change-financing-agf-report>

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Tirpak, Dennis et al. Guidelines for Reporting Information on Public Climate Finance. December 2010. World Resources Institute, Issue Brief, Washington, DC. Online at: <http://www.wri.org/publication/guidelines-for-reporting-information-on-climate-finance>

World Resources Institute. Summary of Developed Country Fast-Start Climate Finance Pledges. Last updated November 23, 2010. Online at: <http://www.wri.org/publication/summary-of-developed-country-fast-start-climate-finance-pledges>.

6. Fisheries

Contributor: Andre Standing, TransparentSea

“...Lack of basic transparency could be seen as an underlying facilitator of all the negative aspects of the global fisheries sector – IUU fishing, fleet overcapacity, overfishing, ill-directed subsidies, corruption, poor fisheries management decisions, etc. A more transparent sector would place a spotlight on such activities whenever they occur, making it harder for perpetrators to hide behind the current veil of secrecy and requiring immediate action to be taken to correct the wrong.”⁹

Excerpt from the 2010 State of world fisheries and aquaculture report, FAO

Global marine fisheries are in a state of crisis. Data collated by the United Nations Food and Agriculture Organization shows that since the early 1980s, total landings of fish from the sea have decreased steadily and the majority of commercially targeted fish stocks are fully exploited or overexploited.¹⁰ Scientific studies in almost all regions of the world highlight decreasing fish catches and the degradation of marine ecosystems, primarily caused by overfishing, but also compounded by climate change, pollution and habitat destruction. The global commercial fishing fleet is now estimated to be at least twice the size needed to catch marine fish sustainably, and many forms of industrial fishing cause high levels of by-catch and discards. Due to subsidies, waste and unsustainable management, the World Bank has estimated that lost rents from marine fisheries amount to USD50 billion per year.¹¹

The inability to stem overfishing represents a profound failure of governance on a national and international level. Lack of transparency and government openness is increasingly recognized as part of the problem. In many coastal and Islands states basic information on which companies are allowed to fish, how much these companies can catch, how much revenue is being generated from fisheries and how this is being spent, is obscured from the public. Commercial fisheries tend to be secretive, aided by the fact that it operates ‘off-shore’ and out of sight. Studies on illegal fishing in Africa, which has been conservatively estimated at USD1 billion each year, claim that levels of illegal fishing are closely related to proxies of good governance, including transparency, media freedom and the rule of law.¹²

Lack of transparency is not a unique problem to developing states, but it is citizens living in Africa, Asia-Pacific and Latin America who disproportionately feel the negative impacts of governance failure, corruption and overfishing. This is partly due to the importance of marine fisheries on national income, diets and livelihoods in many poorer coastal and island states. According to the FAO, developing countries now account for 60% of global fish trade, estimated to be worth USD 100 billion, and of the estimated 135 million people directly employed in marine fisheries, 90% are based in developing countries. Many more people, particularly women, are engaged in artisanal or subsistence fishing and fish processing. Furthermore, fish from the sea is a vital source of low cost, high quality protein, and alternative to fish is either expensive or in short supply for significant numbers of coastal communities.¹³

The current trend of overfishing and the degradation of marine ecosystems will therefore have a catastrophic impact on developing countries, including worsening food security. Lack of transparency is not only undermining the effectiveness of fisheries management and denying national revenues; it is also obscuring the true value of marine resources, as well as the social and economic cost of losing them. Less than half of African countries publish data on fish catches and exports, and illegally caught fish may account for up to 30% of fish trade worldwide.¹⁴ A commitment by governments, in all regions, to be more open about the management of fisheries would lead to improved knowledge on the actual and potential contribution of fisheries, which in turn may stimulate political will to better address the threats caused by overfishing and the further degradation of marine ecosystems.

⁹ FAO (2010) State of World Fisheries and Aquaculture, p.105.

¹⁰ FAO (2010) State of World Fisheries and Aquaculture.

¹¹ World Bank (2009) ‘The Sunken billions: The economic justification for fisheries reform’, World Bank: Washington.

¹² MRAG (2005), Review of impacts of illegal, unreported and unregulated fishing on developing countries, Marine Assessment Resources Group, London.

¹³ Béné, C. Heck, S (2005) Fish and food security in Africa, NAGA, WorldFish Centre Quarterly, Vol. 28 No. 3 & 4.

¹⁴ FAO (2010) State of World Fisheries and Aquaculture.

Initial steps

Goal 1: Governments should publish detailed and up-to-date information on the proposed contents of bi-lateral fisheries access agreements.

Justification: Access to national waters for foreign commercial fishing boats is often governed by bilateral fisheries access agreements. These are contracts negotiated by governments or fishing associations that pay for a certain number of fishing boats to operate in a given area. It has been estimated that there are at least 100 fisheries access agreements in operation worldwide, and the amount spent on access agreements is approximately USD 1 billion.¹⁵ The majority of these agreements provide fishing opportunities in the national waters of developing countries and Island States for distant water fishing fleets flagged in the European Union, Russia, Japan, China, Taiwan, South Korea and the United States.

Fees paid to host countries are often considered “off budget” payments, and are therefore not reflected in annual government accounts. Although most access agreements are calculated on a percentage of the value of expected fish landings, access agreements can also contain extra funds for development projects, or they can form part of broader government-to-government aid. The terms of these agreements should—but often don’t—place restrictions on fishing intensity and by-catch, as well as restrictions on the type of fishing gear, the sea areas or season in which boats can operate, and at a minimum be in conformity with the prevailing national regulations.

Public knowledge on the contents and implementation of access agreements is limited. Most access agreements are negotiated confidentially and few of the agreements are published. This lack of transparency creates opportunities for corruption and citizens are denied important economic and environmental information on how their marine resources are being exploited. Maintaining the confidentiality of access agreements, which is a condition typically imposed by those paying for access, also places host countries at a disadvantage in negotiating better terms. This is because they have little information on what other countries are receiving.

Recommendations

1. Governments should commit to publishing all existing contracts of access agreements, and they should ensure that future contracts of all fisheries access agreements are made publically available before parties sign these agreements, thereby allowing for public debate and input. Such documents should be translated into local languages where necessary.

2. All details on the actual financial sums paid/received through these contracts, and any further documentation relating to scientific and economic audits or evaluations of these agreements should also be made public, preferably through the website of the Ministry or department responsible for marine fisheries in the host country, as well as through the national press.

Country examples: The European Union started publishing details of fisheries access agreements with developing countries in the early 1990s. All contracts signed between the EU and third countries are available on the EU’s website, as well as some meeting notes from the joint committees that oversee the implementation of these agreements.¹⁶ Certain other documents, such as ex ante and post ante evaluations of these agreements commissioned by the European Commission are still kept confidential. Fisheries Agreements signed between the USA and Caribbean and Pacific Island countries are publically available, and are negotiated openly and regionally, whereas all bilateral access agreements signed between developing countries and Japan, China, Russia, Taiwan, among others, are kept entirely confidential.

Goal 2: National fishing authorities should publish detailed and timely information on commercial fishing licenses and catch quotas.

Justification: Many countries do not publish any information on the details of private fishing licenses, including which company has bought the license, the type of fishing allowed and any restrictions on fishing activity, the price paid for the license, the flag state of the vessel, or the quantity of fish that the license holder is allowed to catch. This situation means citizens are denied basic information on the management of their marine resources, it undermines research, public debate and the quality of decision-making. It also creates opportunities for embezzlement and fraud. In the Solomon Islands an investigation by the Auditor-General in 2002 revealed the country lost US\$ 4 Million through the theft of license fees by the Ministry of Fisheries. Similar cases have been documented in Fiji and Guinea-Bissau.¹⁷

Lack of transparency in fishing licenses also undermines international and national efforts at combating illegal fishing—with greater knowledge on the legal status of fishing boats, the public and fishing sector will be able to identify instances of illegal fishing and fishing by unlicensed boats. The FAO has recently established a Global Record for fishing vessels that requires national authorities to submit information of fishing authorization for all commercial fishing boats. The FAO has argued that a failure to contribute to the Global Record thus far is undermining international law enforcement and obscures product traceability.

¹⁵ Sumaila, et al., (2010) A bottom-up re-estimation of global fisheries subsidies. *Journal of Bioeconomics* 12: 201–225.

¹⁶ http://ec.europa.eu/fisheries/cfp/international/agreements/index_en.htm

¹⁷ See Standing (2008) ‘Corruption and industrial fisheries in Africa’, Issue paper 2008:7, U4 Anti-corruption resource centre/ Christian Michelson Institute, Bergen Norway

Recommendations

1. All fishing licenses and permits authorized by the government for boats over 10 meters in length or 10 gross tons,¹⁸ should be made public and available on the websites of the authority issuing the license, within 7 days of the license being granted. Late publishing of information on licenses undermines the ability of the public and other fishing vessels to use such information to monitor illegalities and fraud.
2. In countries where the relevant fishing authority does not have a working website, there should be a commitment to provide detailed information on licenses on an annual basis in the national press and to the public on request at any time.

Country examples: The fisheries authorities of Madagascar publish complete details of fishing licenses in local newspapers. Gabon published a full list of fishing licenses for the first time in 2010.¹⁹ Countries including South Africa, Namibia and New Zealand have comprehensive websites containing details of all fishing licenses and catch quotas, including information on price, conditions of the license and details on the companies that buy these licenses.

Goal 3: Governments should publish complete and up-to-date information on penalties and fines imposed on individuals and companies for illegal fishing activities.

Justification: Illegal fishing poses one of the key threats to the sustainable use of marine resources. It is a problem in all waters, but may be particularly prevalent in developing countries due to lower capacity in monitoring, control and surveillance, as well as weak governance. Public information on arrests or prosecutions stemming from illegal fishing is important, not only to act as a deterrent, but also to allow citizens insight into the effectiveness of government agencies in combating illegal fishing and the appropriateness of resulting punishments and penalties. Increased public information on successful cases of prosecuting illegal fishing boats may also stimulate greater reporting of illegalities by citizens and responsible boat owners. Few countries make

such information available, and when boats are caught for illegal fishing, details on penalties or fines can be kept secret. This may create an environment where forms of corruption and bribe payments can undermine the rule of law. Moreover, there is considerable concern in many developing countries that foreign boats caught for illegal fishing locally are pardoned due to diplomatic pressure from the home governments of boat owners.

Recommendations

1. Governments should commit to making timely information publically available on all, surveillance activities, infractions observed/recorded, fines or punishments related to illegal fishing.²⁰ This information should be made publically available through annual reports or documents on government websites.
2. Where governments lack the capacity to publish annual reports, or they do not have existing websites on marine fisheries, fishing authorities should provide information on penalties and fines imposed on companies or individuals committed for illegal fishing to members of the public on request.

Country examples: Government agencies in the United States that are responsible for law enforcement against illegal fishing, which includes the Department of Fish and Wildlife and the National Coast Guard, publishes substantial details on penalties and fines associated with illegal fishing, and these government organizations have a good reputation for being open and responsive to requests for information on this issue. The government of New Zealand publishes regular updates on cases of illegal fishing through the website of the Ministry of Fisheries, and includes statistics on penalties and fines in its annual reports. In the past, the South African Department for Marine and Coastal Management included details of high profile arrests and court cases for illegal fishing in annual reports, although this type of information was selective and there has been a shortage of similar information in the last few years.

¹⁸ Boats smaller than this can be classified as artisanal fishing boats. In many developing countries artisanal fishing boats can be numerous and often they are not licensed. Placing a restriction on the size of boats, for which information on licensing should be made public, makes this goal more achievable and realistic.

¹⁹ http://www.finances.gouv.ga/IMG/pdf_registr_licences_peche_public_09_DGPA_cle01f96f.pdf

²⁰ This does not include information on ongoing investigations, which in many cases needs to be kept confidential.

More substantial steps

Goal: Governments should commit to publishing comprehensive information on subsidies paid to the fisheries sector.

Justification: Government subsidies paid to the fisheries sector worldwide are considered a major cause of overcapacity in the global fishing fleet, which directly contributes to overfishing and the intensification of competition between fishing boats. The most recent and thorough estimate of subsidies paid to the fishing sector globally is approximately USD 27 billion.²¹ Out of this amount, USD 16 billion can be classified as ‘capacity enhancing subsidies’. Since 2001 deliberations at the WTO have attempted to place disciplines on the use of fisheries subsidies that contribute to overcapacity, such as fuel subsidies and boat building subsidies. In 2005 the Ministerial meeting in Hong Kong led to a strong commitment by governments to strengthen fish subsidy disciplines, including a specific call for WTO rules to address issues of transparency and enforcement (the Hong Kong Mandate). Discussions are ongoing and a final outcome has yet to be reached. However, for the time being, governments provide inconsistent and limited data on fisheries subsidies. This inhibits public debate and it undermines the potential role that civil society can play in monitoring subsidy payments and impacts.

Recommendations

1. All governments should commit to publishing comprehensive data on subsidies paid to the fisheries sector, as stated in the 2005 Hong Kong Mandate. The public should be notified of subsidy payments to the fisheries sector in advance of these payments being made, thereby increasing the scope for public debate and possible objections to be made.
2. In disclosing information on subsidies, governments need to provide comprehensive information on the amount transferred, the purpose of the subsidy and details of the recipient company or organization and owner.

Country examples: Having responded positively to a request for information, the EU released comprehensive data on fisheries subsidies in 2008, amounting to approximately 1 billion Euros. An NGO initiative, called ‘fishsubsidy.org’ has made this information publically available through a searchable website. Subsequent analysis of the data by fishsubsidy.org and other organizations, including Greenpeace and UNEP, has greatly enhanced debates on EU subsidy reforms, including raising awareness of where capacity enhancing subsidies have been given to boats targeting overfished stocks, and where subsidies have been given to boats known to be engaged in illegal fishing.

Most ambitious steps

Goal: Governments should produce comprehensive annual reports on marine fisheries that are accessible to the public, including clear information on fisheries policy, available data on production and trade, revenues received from commercial fisheries and a summary of expenditures and financial statements.

Justification: Comprehensive annual reports on marine fisheries provide citizens with an understanding of how their marine resources are being managed, what is the objective and priorities of the state’s approach to managing these resources and what achievements have been made in meeting policy objectives. Lack of information sharing by the government creates distrust and frustration among stakeholders, which can undermine responsible fisheries governance. It also allows governments to pursue fisheries policy that may not be in the interest of the majority of citizens. Not all countries produce such reports. In producing these reports, governments can consult technical guidelines produced by the FAO on best practice in information sharing.²² However, because best practice in producing annual reports is currently lacking, further work needs to be undertaken by international organizations and experts to develop guidelines, including what information should be considered essential. A commitment by governments to produce annual reports for marine fisheries would certainly ensure such guidelines are produced and technical assistance is made available.

Recommendations

1. Governments should produce comprehensive annual reports, made available on-line and in hard copies which are distributed widely through local CBOs and NGOs. They should contain a summary budget and financial statement of the department responsible for managing fisheries, as well as information on the revenues generated from selling fishing licenses and access agreements. All this information is vital for stimulating broad-based participation in policy and service delivery, including among the small-scale fishing sector.
2. Financial resources need to be set aside for this activity, and governments should highlight annual reports as an important tool in the management of marine resources. In multilingual countries, these reports should be translated.

Country examples: Countries that produce substantive annual reports on marine fisheries include, among others, the Seychelles, Namibia, South Africa and New Zealand. These are made available to the public on government websites. Other countries fail to produce annual reports, or they produce annual reports inconsistently and they contain limited data and information, often with no financial information. In some cases lack of funding and expertise may be a barrier to the publication of these reports.

²¹ See: Sumaila, U.R., A.S. Khan, A.J. Dyck, R. Watson, G. Munro, P. Tyedmers and D. Pauly (2010) A bottom-up re-estimation of global fisheries subsidies. *Journal of Bioeconomics* 12: 201–225.

²² See: FAO (2009) ‘Information and knowledge sharing’ FAO Technical guidelines for responsible fisheries, No. 12.

7. Financial sector reform

Contributors: Global Financial Integrity

The nexus of corruption, economic development and money laundering is in the financial system. The current opaque nature of the global financial system attracts proceeds of corruption and launders those proceeds thereby stripping critically needed resources out of developing countries. Moreover, the same financial system fosters the trafficking of drugs, arms and people by creating opportunities

to launder revenue from those criminal activities. And tax evasion, in rich and poor countries alike, is facilitated by the ability to hide money in offshore accounts. Without a more transparent financial system the full potential of work to curtail corruption, limit money laundering and boost economic development and alleviate poverty will not be realized.

Initial steps

Goal: Governments require their banks and other financial institutions to include domestic as well as foreign politically exposed persons (PEPs) as part of their risk-based due-diligence when a request to open an account is made. This is in line with Article 52 of the UN Convention Against Corruption and the recommendations of a recent World Bank report.

Justification: The term “politically exposed person” refers to elected or appointed government officials who are entrusted with a prominent position and persons related to such an individual. Particular attention must be paid to PEPs when they attempt to open accounts at financial institutions because of the higher possibility that these officials are in possession of funds that are from corrupt activities. Depletion of capital undermines the ability of poor countries to build their economies and become productive and vibrant participants in the world economy. Further, while a public official will sometimes divert funds for his or her own benefit, they often use accounts and corporate vehicles in the name of their family members or associates in order to disguise the origin of the funds.

Porous anti-money laundering regimes in countries where illicit funds are most likely laundered contribute to illicit flows. Indeed, according to a 2009 World Bank Report (<http://siteresources.worldbank.org/EXTSARI/Resources/5570284-1257172052492/PEPs-ful.pdf?resourceurlname=PEPs-ful.pdf>) there is “an overall failure of effective implementation of international PEP standards” and . . . “surprisingly low compliance with Financial Action Task Force requirements on PEPs.”

Domestic PEPs must be identified and included in a financial institution's due diligence efforts in order to eliminate opportunities for laundering money and, as logic would dictate, because a domestic PEP in one country is a foreign PEP in the eyes of all other nations. By requiring financial institutions to identify all of their customers who are PEPs, whether they are domestic or foreign, and then conduct enhanced due diligence on those deemed to be higher risk, those institutions will play a far more effective role in curtailing corruption and money laundering.

Recommendations

1. Require financial institutions to carry out at least annual reviews of their PEP customers by a senior level audit committee. This is the best way to ensure that domestic PEPs are included in bank due-diligence. Such a committee would be able to take a bigger picture approach, and avoid focusing on individual transactions as opposed to aggregates or trends.
2. If the financial institution is multi-national, this committee should examine PEP customers across the group.
3. A customer's risk profile may vary over time and financial institutions must ensure that they are able to monitor the fluctuating risk posed by PEP customers. As part of this process, the financial institution would have to be vigilant in its efforts to keep its PEP lists up to date.

Country examples: Governments with regulations or guidance calling for foreign and domestic PEPs to be included in bank due-diligence include: Antigua & Barbuda, Argentina, the Bahamas, the British Virgin Islands, Brazil, Bulgaria, Cape Verde, the Cayman Islands, Dominica, the Gambia, Grenada, Haiti, Indonesia, Malawi, Mauritius, Mexico, Montenegro, Pakistan, the Philippines, Qatar, Sierra Leone, South Africa, Thailand, United Arab Emirates, and the Virgin Islands.

More substantial steps

Goal: Require governments to collect data from financial institutions on income, gains, and property paid to non-resident individuals, corporations, and trusts. Mandate that data collected be automatically provided to the governments where the non-resident individual or entity is located.

Justification: Globalization and the liberalization of economic activity have converted the private sector into a world without borders. This creates a major challenge for national tax authorities because similar changes in their enforcement powers have not kept pace with industry. National tax authorities continue to be constrained by national borders and collecting tax revenue has been difficult.

Additionally, bank secrecy and other confidentiality laws in many jurisdictions (such as tax havens and international financial centers) prevent disclosure of relevant information by financial institutions to government authorities. Further, lax response by tax authorities in those jurisdictions to information requests from foreign governments often delays or prevents cases against tax cheats.

Tax, not aid, is the most sustainable source of finance for development, and tax havens undermine developing countries' efforts to pay their way. The United Nations' 2002 Monterrey Consensus and the 2005 UN World Summit require developing countries to mobilize domestic resources for development. This means tackling illicit capital flight and tax evasion. Moreover, the Commentary to the OECD Model Income Tax Treaty and the Commentary to the UN Model Income Tax Treaty both refer to automatic exchange of tax information.

Recommendations

1. Develop and implement a process whereby interest income and related tax information is automatically exchanged among other states.

Country examples: The European Union Savings Tax Directive (EUSTD) (http://ec.europa.eu/taxation_customs/taxation/personal_tax/savings_tax/index_en.htm) is an agreement between the EU Member States to automatically exchange information with each other about individuals who earn interest in one EU Member State but reside in another (Three EU countries - Austria, Belgium and Luxembourg - have chosen to withhold taxes on accounts held by foreign nationals rather than report account information to tax authorities). The Directive was approved in 2003 and came into effect on July 1st, 2005. Specifically, under the EUSTD if a resident of Germany holds a bank account in Spain, the Spanish bank will provide details of interest payments on that account to the German revenue authority. This is known as "automatic exchange of information" and enables each tax authority to compare the amount of income declared by that individual on his or her own personal tax return with the information provided under the EUSTD.

Most ambitious steps

Goal 1: Governments require and enforce that financial institutions identify the ultimate beneficial owners or controllers of any company, trust or foundation seeking to open an account.

Justification: The flow of illicit money including tax evasion, the proceeds of corruption, terrorist financing and a host of other global ills can be traced to the lack of information about the beneficial owners of corporations, trusts and foundations. Often located in some 70 secrecy jurisdictions around the world, these entities can absorb, hide and transfer wealth outside the reach of any law enforcement agency, and can often be reincorporated in another secrecy jurisdiction at a moment's notice. No countries currently have an effective system of collecting and making available beneficial ownership and control information of corporations and trusts established there. Nor is it completely explicit even in the overarching global anti-money laundering standard established by the Financial Action Task Force that financial institutions, when opening an account, must identify the real person who benefits from the funds, and that this cannot be a nominee director or shareholder, or an attorney.

As the collapse of Enron showed, multinational corporations can have thousands of subsidiaries hidden throughout the world. Corporate entities can use these structures to transfer profits abroad in order to reduce tax liability or to circumvent local regulation in developing countries. Multinationals can use abusive transfer pricing (manipulating prices of inter-subsidiary transactions to shift profits) to divert profit to no- or low tax jurisdictions and which are very hard to detect.

Convolved structures of this kind are also commonly used as a way of siphoning off and handling illicit funds including corruptly and criminally acquired assets, as they enable the true ownership of assets to be disguised, particularly when opening bank accounts and transferring money. The impact of corruption on developing countries is devastating, and these structures help to facilitate it.

Financial institutions, including banks, are required to identify their customers as part of their account opening due diligence, but the true customer is often hidden behind layers of companies and trusts. Then, if money needs to be traced by investigators, these structures also make uncovering the true nature of transactions and tracing beneficial ownership and the origin of funds very difficult. The modus operandi of illicit financial flows are not aberrations but a part of a broad structural problem.

Due diligence is the first line of defense against laundering of illicitly acquired funds, so strengthening these procedures increases the integrity of the entire system. Financial institutions will be able to fulfill their regulatory requirement to identify their customers and their sources of funds. Beneficial ownership information collected by financial institutions will help investigators track down the movement of illicit funds more quickly and effectively. This information will also enable national authorities to better estimate tax revenue (and plan for its utilization), and to identify where tax is being evaded.

Recommendations

1. Publish and keep beneficial ownership lists up to date. Jurisdictions should ensure that they collect and maintain a current and publicly available list of the beneficial owners and controllers of corporations, limited liability companies, other legal persons and legal structures such as trusts organized under their laws.
2. Make anti-money laundering laws explicit on beneficial ownership identification requirements for financial institutions. Anti money laundering laws in each jurisdiction must be explicit that financial institutions must identify the beneficial owners who are natural (i.e., real) persons or listed corporations, not a nominee corporation or disguised trust. Jurisdictions must ensure that these laws are properly enforced, and that the FATF requirements for establishing beneficial ownership as part of the customer due diligence process (recommendation 5) are rigorously implemented globally.

Country examples: Switzerland is known to have thorough due-diligence procedures when opening a bank account. A photo from a passport or national identity card is required. However it is unclear if Swiss banks require photo identification from the person opening the account (which could be an attorney or other legal representative) or of the true beneficial owner of the account.

Goal 2: Provide greater transparency over how state funds are managed and make it harder for corrupt rulers to exercise personal control over government assets.

Justification: Citizens have a right to know how their countries' funds are being managed on their behalf. This is particularly true in a dictatorship where one individual, or a small cabal, exercises almost complete power over the state. In such cases there is a very thin dividing line between state and personal investments. For example, it appears that the Gaddafi family has significant control over the state funds invested in the Libyan Investment Authority. These funds may look like they belong to the state but are actually under the effective personal control of a ruler who has captured the state.

State accounts from countries with high levels of corruption and poor transparency should raise a serious red flag for banks, in the same way that the personal accounts of politicians from these countries would. Banks and investment managers should not be able to hide behind the shield of holding "central bank accounts" or "sovereign wealth funds" in order to do business with corrupt authoritarian regimes.

A solution to this problem of personal control by dictators over state funds is greater transparency, both over funds held and loans made. This would make it harder for corrupt regimes to keep their people in the dark over state assets. It would also make banks think twice before agreeing to manage funds for countries with poor human rights and corruption records.

Recommendations

1. Require banks and other investment managers to disclose full details of all state assets that they manage.
2. Require the Bank for International Settlements (BIS) to fully publish these bank and non-bank deposits that are reported to them by central banks (e.g. publish this deposit information by countries from which the deposits are received). This is not published at the moment. BIS collects this information from all central banks, aggregates it, and gives a report stating how much a country has deposited abroad in total without a breakdown as to where it is held. This is commercial bank deposit data and private deposit data, not central bank data.
3. Require banks to publish details of loans they make to sovereign governments or state owned companies, including fees and charges. Proposed loans should be published in a timeline fashion so that the parliament of the recipient country has an opportunity to scrutinise the deal.

Country example: In 2006 a Global Witness report (http://www.globalwitness.org/sites/default/files/pdfs/its_a_gas_april_2006_lowres.pdf) revealed how \$3 billion of Turkmenistan's gas income was held at Deutsche Bank in Frankfurt under the effective personal control of then-dictator President Niyazov. Deutsche Bank and the German regulator, BaFin, said that concerns about control of the account were unfounded as these were "state accounts". However a former chairman of the Central Bank told Global Witness that Niyazov treated this money as his personal account. The parallels with the Libyan Investment Authority funds, reportedly managed in London by HSBC and under the control of Gaddafi's son Saif, are clear.

8. Forestry

Contributors: Global Witness

Forests are a public good, from a social, economic and ecological perspective. In many countries they are also publicly owned, and popularly viewed as the patrimony of a nation state and not simply the property of the government of the day. At the same time, the forest sector is particularly prone to bad governance, as a narrow group of interests dominate policy processes. Forest-rich countries are consequently deprived of valuable revenues from taxation, fees, and carbon-based payments for avoided deforestation – the World Bank estimated global revenues lost due to illegal logging at over \$12 billion annually in 2002.²³

However the negative consequences are more fundamental: forest use is agreed behind closed doors and without the knowledge

or consent of locals. Consultation processes, where they do exist, tend to be between unequal partners – one informed, the other uninformed and with little capacity to negotiate. Resulting management of public forests fails to deliver public needs or pro-poor development goals, but rather facilitates unsustainable forest use and trade in illegal timber. Problems of law enforcement and revenue redistribution are systemic, not the work of ‘rogue elements’. Unless civil society is able to put real pressure on governments to address these weaknesses, positive change is unlikely. There is widespread recognition – not least by the inclusion of a mechanism for Reducing Emissions from Deforestation and forest Degradation (REDD+) in the UNFCCC – that halting global deforestation is critical in the battle against climate change.

Initial steps

Goal: Government embraces transparency and participation through access to information and decision-making in the forest sector; developing and implementing systems for information management and dissemination; and establishing protocols for consultation on policy development and free prior informed consent regarding forest management or other land use concession allocation.

Justification: A primary reason for the failure of forest governance is the lack of access to information and decision-making. Reluctance to disclose information on the management of public resources often hides corruption and complicity with illegal activities. If reliable information were in the public domain, civil society could effectively monitor government progress and hold state actors to account. Forests represent sources of rich biodiversity, livelihoods, and cultural expression, and provide significant state revenues. Benefits lost through poor resource governance heighten dependency, damage livelihood assets, and jeopardize poverty reduction.

Natural resource good governance is driven by ordinary citizens being equipped to, and having an interest in, holding governments to account. Governments will respond when citizens identify and voice their needs and expectations and exert pressure on policy-makers to implement fair and effective ‘rules’, including instituting legal reforms, tackling criminality and corruption, and engaging with civil society. Policy-makers have an interest in greater participation to improve the sustainability of outcomes: citizens who feel included in policy processes are less likely to resist the rules.

Recommendations

1. Codify a consultation protocol so that interest groups and affected communities know they will be informed, when and how consultation processes will take place in the course of policy formulation, and know how their contributions will be incorporated.

2. Cooperate with independent assessments of transparency in the forest and related sectors, similar to the Open Budget Index or the Corruption Perceptions Index.
3. Develop EITI-type systems for revenue disclosure, including transparent re-distribution of revenue to affected communities and enforceable social responsibility arrangements directly between concessionaire and affected communities.
4. Adopt a natural resources charter to ensure best practice in concession allocation. This should include free prior informed consent from indigenous peoples and other rights-holders. It should also include transparent and accountable, criteria-based decisions on allocation, typically through a competitive bidding process. Concession contracts should be publicly available, possibly as an add-on function to EITI.

Country examples: A number of tools exist to further transparency and participation, of which Freedom of Information legislation is often an important first step. Brazil has led the work on a publicly accessible system of satellite-based monitoring of forests. Global Witness has been piloting an international Forest Transparency Report Card since 2009, independently assessing governments by the amount, quality and accessibility of information on forest use and management that they publish. Pilots operate in Cameroon, Ghana, Liberia, and Peru, and in addition are planned for Ecuador, Guatemala and the DRC. WRI’s Governance of Forests Initiative has developed broader assessment tools in Brazil, Indonesia, and Cameroon. The forest sector has been included in the EITI in Liberia. In 2010 a law on consultation reached the final stages of ratification in Peru. There is a process to develop a natural resources charter for extractive industries, which needs to be adapted for the forest and related sectors. In the REDD+ context, two recent initiatives seek to improve participation in, and shared ownership of diagnostic tools: UNDP have adopted Participatory Governance Assessments, and CARE and other NGOs have developed Climate, Community and Biodiversity Standards to ‘foster multiple-benefit approaches to carbon mitigation projects’.

²³ World Bank, ‘Sustaining Forests: A Development Strategy’; 2002.

More substantial steps

Goal: Government does no harm through committing to safeguarding social and environmental values of forests through transparent and participatory monitoring of such safeguards, independent assessments to validate them, and implementation of all corrective actions.

Justification: Foreign investment in the forest sector, whether through development assistance or private finance, and whether for logs, bio-fuel or carbon, has a huge significance in aid-dependent countries and those with an economy based on natural resources. It often moves ahead of policy development, as recent land-grab concerns have shown. At the same time, the Rio World Summit on Sustainable Development will celebrate its 20-year anniversary in 2012. In 1992 the precautionary principle was enshrined in the Rio Declaration, and adopted by 172 governments, yet is frequently ignored. Since Rio sustainable development interventions in forestry have generally resulted in widespread deforestation or unsustainable forest degradation and often incurred significant harm to the well being of forest communities and their local environments. As a result, the environmental crisis is hitting the poor much more than the affluent, while the poor typically have the least influence over development policy design.

Rio presents an opportunity for Governments to re-evaluate the accepted thinking on development interventions in the forest sector. Governments should call for an international review on the results of 20 years of forest sector policy reforms, poverty reduction and the sector's contribution to the MDGs. Using Rio and other precedents, REDD+ has adopted a set of safeguards affecting climate-related forest governance to be 'promoted and supported' that governments should implement.

At the same time, credibility and trust in governments has reduced significantly, and there is a growing need for independent participation, assessment and analysis to design policy, generate data and verify claims. A system of accountability, with different actors – from the state, private sector and civil society – holding each other in check, is required.

Recommendations

REDD+ Safeguards

1. REDD+ actions complement or are consistent with the objectives of national forest programs and relevant international conventions and agreements;
2. Transparent and effective national forest governance structures, taking into account national legislation and sovereignty;
3. Respect for the knowledge and rights of indigenous peoples and members of local communities, by taking into account relevant international obligations, national circumstances and laws;
4. The full and effective participation of relevant stakeholders, in particular indigenous peoples and local communities;
5. That REDD+ actions are consistent with the conservation of natural forests and biological diversity, not for the conversion of natural forests, but are instead used to incentivize the protection and conservation of natural forests and their ecosystem services, and to enhance other social and environmental benefits;
6. Actions to address the risks of reversals;
7. Actions to reduce displacement of emissions.

Other best practice actions

8. Strengthen Environmental and Social Impact Assessments (ESIAs) for forest and related sector projects, such that they include calculations on carbon balance as well as social and environmental safeguards, and that meaningful changes are made to projects where these assessments conclude likely failure to reduce emissions or threaten safeguards.
9. The adoption of the EU Forest Law Enforcement, Governance, and Trade (FLEGT) programme, and associated Voluntary Partnership Agreements (VPAs), which integrate a developmental and environmental agenda into an agreement on legality licensing for timber exported to Europe. The opportunities provided by the VPA to increase openness in forest governance have meant the agreement often lays the foundation for transformative change in the sector.
10. Full financial transparency and independent financial audit of REDD+ funds, which are likely to be considerably larger than development assistance but rely on the same political and bureaucratic inefficiencies that currently exist.
11. Independent forest governance monitoring to provide civil society oversight of and credibility to government-led assessments of the safeguards.

Country examples: Global Witness has pioneered and gained unique experience on Independent Forest Monitoring (IFM) in Cambodia, Cameroon, Honduras and Nicaragua. Similar initiatives have been introduced in the Republic of Congo. VPAs have been signed in four countries: Cameroon, Gabon, Ghana, and Republic of Congo. They are at various stages of discussion or negotiation in approximately twenty other countries. The VPAs, as well as the various multilateral REDD+ initiatives, all include independent monitoring in some form, but none them are actually operational yet. (Global Witness has no information on current best practice for ESIs).

Most ambitious steps

Goal: Government seeks a new paradigm for forests by committing to the removal of all subsidies to the industrial forestry sector that result in deforestation or forest degradation in natural forests, and instead using its own funds and international development assistance to develop participatory forest management regimes that deliver a wide range of goods and services.

Justification: To date, roughly 50% of the world's forest cover has been deforested and converted to other uses. The remaining 50% is divided between areas that have been degraded (logged) or consist of monoculture plantation (30%), while the remaining 20% is defined as intact natural forests. This proportion of intact forest is rapidly diminishing yet is the most biodiverse and carbon rich form of forest. Demand for timber and agro-industrial plantations severely threatens both the degraded and intact forests. The large-scale, export oriented logging industry is predominantly interested in the world's remaining intact forests, and it is this activity that attracts much development finance, despite a very poor track record of delivering economic development. Like other natural resources, forest-rich countries suffer the 'resource curse'. Furthermore, the myriad of ecological, carbon storage, genetic, livelihoods and cultural functions that intact natural forests provide to humankind means that the impacts of forest loss are felt much more deeply, by many more people, than a simple analysis of economic costs and benefits might describe. The UNEP has recently estimated that logging costs an additional \$42 billion in external costs to local environments that are currently unaccounted for.

REDD+ initiatives could potentially provide the political and financial landscape to support a change away from the timberization of forests. Civil society participation, transparency of financial flows to forested developing countries and genuine good governance of the forest sector should ensure REDD+ supports the protection of trees rather than becoming a disguised subsidy to an industry structure which sees timber as a commodity, not forests as a basis for life on earth.

Recommendations

1. A strategic paradigm shift away from industrial scale forest conversion (logging and agro-industry) and towards an optimal use scenario, which puts participation at the centre of decision-making.
2. The destruction of the world's remaining intact forests, even under 'sustainable forest management' plans, should not be eligible for development assistance.
3. The efforts of policy development, scientific research and national development strategies should shift towards forest use, which reduces biodiversity loss, carbon emissions and sustains rural livelihoods and economies. The shift and urgency required is commensurate with the shift from fossil fuels to low carbon energy.

Country examples: Although there have been many small scale initiatives in community forestry small-scale forest enterprise development, they tend to be 'niche' activities and there are very few national level schemes which receive the same level of attention as large-scale logging. It's notable that in a number of countries community forestry policies are formulated years after industrial ones. The best examples tend to be in countries with little timber of value in international markets, such as Nepal. There are overt incentive systems in Costa Rica, Chile, Ecuador and Guatemala, which target small-scale forest managers, with a range of objectives including conservation, low-volume-high-value products (timber and others) and small-scale enterprise development.

9. Electricity

Contributors: Electricity Governance Initiative

Departments of Energy produce long-term plans that are variously called Power Development Plans, National Power Plans or Integrated Resource Plans. These plans are based on forecasts for the amount of electric power that a country will need over the next 10-20 years, and propose a plan for how this need will be met. Elements of the plan include how many new power plants will be built, how much electricity will be imported, how much will come from renewable energy, and how energy efficiency measures can reduce demand. Power

Development Plans thus indicate the resource mix that the Department of Energy intends to use to meet demand for electricity, and the amount of funding that will be needed to implement the plan. Total investments can be significant in this capital-intensive sector. Public oversight of these major investments of public resources is critical in a sector that has dramatic impacts on the national economy as well as global and local environmental impacts, public health and quality of life.

Initial steps

Goal: Each country's relevant Department of Energy commits to the timely and accessible publication of its national power development plan, as well as documents relating to the (technical, economic, social and environmental) assumptions that inform the plan.

Justification: Access to the information in these documents will allow the public to understand proposed future investments in the power sector. The documents also provide a window into how public funds are being used to meet national objectives that depend on the power sector, such as economic growth, increased access to electricity, and reduced greenhouse gas emissions. The assumptions underpinning the plan allow the public to understand how the relative costs and benefits of different types of resources (fossil fuels, renewable resources, energy efficiency) are being considered.

The public must have access to these documents in order to understand how power will be supplied, how much is needed, and how much it will cost. Since these documents are technically complex, sufficient time needs to be allowed for analysis. Civil society organizations with the appropriate technical expertise should also have enough time to prepare non-technical presentations and to organize public information forums to explain the plan in terms that can be understood by all citizens.

Recommendations

1. At a minimum, the plan should be posted on the department website.
2. More robust transparency would include a timeline of the decision-making process, together with the key actors that will be participating in this process, including public disclosure of the members of advisory committees.

Country examples: The Departments of Energy in Thailand and South Africa have published their national long-term plans on their websites. In South Africa, the DOE created a website portal for sharing information about the development of the plan. Civil society used the Promotion of Access to Information Act (PAIA) to release the composition of the advisory committee to the public domain, and the Administrative Justice Act to enforce the 30-day minimum comment period. Civil society organizations in both Thailand and South Africa have produced analyses of the plan and prepared non-technical presentations, which they shared with the public.

More substantial steps

Goal: The Department of Energy (or higher level of government) commits to a process for public engagement around a draft power development plan.

Justification: Power sector planning involves political vision as well as technical inputs. Because multiple objectives need to be aligned, the public should participate in a dialog on investment decisions and priorities that might otherwise be determined by an exclusive group of stakeholders. This allows stakeholders who are usually excluded from debates about energy to understand the decisions are being made.

The energy sector is rapidly evolving, and engagement by specialized civil society groups can augment the expertise available to government decision-makers. Such expertise can be particularly valuable where new energy technologies are emerging and are not yet well understood by government.

Recommendations

1. A public comment period of at least 30 days should be held prior to the finalization of the power development plan.
2. In addition to process for submitting written comments, public hearings should be held that would allow for oral inputs. These may need to be held in multiple geographic locations.
3. A written record of all comments received and how they have been addressed should be made public.

Country examples: Thailand has held public hearings on their power development Plans. South Africa held stakeholder consultations on their integrated resource plan in 2010 for the first time. As described above, non-technical presentations of the plan were prepared to facilitate an inclusive process.

Most ambitious steps

Goal: A multi-stakeholder advisory panel should develop a draft vision statement for national power development that is subject to wide public comment and review.

Justification: True public engagement in power sector planning requires that civil society experts have a seat at the table alongside government in strategy development, beginning with a preliminary articulation of the desired outputs of the power development plan as it relates to national objectives.

Recommendations

1. A multi-stakeholder advisory panel should develop a draft vision statement.
2. The government led technical team should produce scenarios based on the modeling of the costs and benefits of various options for achieving these outputs.
3. These scenarios should be publically reviewed, allowing for at least a 30 day comment period and preparation for public hearings.
4. A written record of all comments received and how they have been addressed should be made public.

Country examples: The Northwest Power Planning Council in the U.S. began its most recent power plan review by asking for a public response to its characterization of the major issues of concern to the region and asking for suggestions of other topics. The council established a number of advisory committees, including advisory committees on conservation resources, demand forecasting, generating resources, and natural gas. Through public meetings with the advisory committees, the Council obtained the views of the Bonneville Power Administration, its customers, relevant public interest

groups, the region's ratepayers, and other important participants in regional power policies. These included broad issues, such as the effects of climate change, capacity to meet loads, integrating renewable resources, power system interactions with the fish and wildlife program etc.

The Council continued to release papers and draft forecasts for further public comment over the following two years that it engaged in the power planning process. These were more technical papers, including draft fuel price forecasts, and draft demand and economic forecasts. Views from the public and advisory committees continued to be solicited through public meetings.

The Council then released a draft power plan for public review. The Council received 750 written comments over a 60-day period, and held public hearings in 9 cities across the region, receiving the testimony of hundreds of interested individuals and representatives of organizations, utilities, businesses, public interest groups, and government agencies.

Transcripts of the public hearings and written comments received were published on the Council's website. The final power plan included responses to comments received.

The council followed the requirement of the Northwest Power Act to facilitate widespread public involvement in the preparation, adoption, and implementation of the plan, and the Notice and Comment procedures in the Federal Administrative Procedures Act that require at least 30 days notice.

10. Environmental transparency, participation and justice

Contributors: The Access Initiative

Environmental transparency

People depend on a healthy environment for life and livelihoods. In order to safeguard the quality of the environment, it is essential to empower communities, individuals, and civil society organizations to take part in decision-making. Policies that provide access to information, opportunity for public

participation, and access to justice have been critical in reducing pollution, improving environmental quality, and enforcing the law. Access to information motivates and empowers people to participate in an informed manner.

Initial steps

Goal: Government commits to the timely, accessible, and standardized publication of (a) environmental impact assessment (EIA) reports, (b) air and water quality data, (c) permits, approvals and licenses for development projects and industrial facilities, (d) facility and project monitoring and compliance inspection reports, and (e) regular state of the environment reporting – the five most important classes of environmental information.

Justification: In 1992, 178 Governments signed the Rio Declaration on Environment and Development (1992). Principle 10 of the Declaration recognizes that "... at the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities. ... States shall facilitate and encourage public awareness and participation by making information widely available." (For more information see http://www.accessinitiative.org/sites/default/files/voice_and_choice.pdf).

Citizens need information relating to the environment around them to ensure their own health and well-being. Environmental information is provided to citizens through well-recognized delivery mechanisms. The five most important classes of environmental information are (a) environmental impact assessment reports, (b) air and water quality data, (c) permits, approvals and licenses for development projects and industrial facilities, (d) facility and project monitoring and compliance inspection reports and (e) state of the environment reports. The expected outcome of proactively making environmental information publicly available are to (a) facilitate the identification and resolution of environmental issues and problems at the earliest possible opportunity, (b) hold Government agencies, officials and companies accountable for decisions that affect the environment and natural resources and (c) to ensure citizens are included and engaged in the decision-making processes that affect the environment. The information allows the private sector to address environmental issues earlier on and in a cost effective manner.

Recommendations

1. **Environmental Impact Assessments:** Citizens affected by proposed development projects should be provided information about the location, scope, extent and nature of the project through publication of environmental impact assessments in a timely manner during the planning stages of projects and prior to project commencement. EIAs should

contain predicted environmental impacts of the project and an assessment of environmentally friendly alternatives to the project.

2. **Air and Water Quality Data:** Air and water quality data should be made available to the public pro-actively. Daily air pollution information should be posted on a government website or displayed in well-known public locations. Similarly, water pollution data should be made available on government websites on a pro-active basis.
3. **Permits, approvals and licenses for development projects and industrial facilities:** These documents should be published in full online in a timely manner and also made available to affected communities in written form
4. **Facility and project monitoring and compliance inspection reports:** Responsible and mandated government agencies should perform inspections of projects and facilities to ensure compliance and to investigate complaints. These documents, which contain valuable information for citizens on whether projects and facilities are operating in compliance with environmental laws and within the standards and conditions imposed, should be made publicly available in a timely manner. Often this information is provided to the public and the agency through Pollutant Release and Transfer Registers (PRTRs).
5. **State of the Environment Reports:** The apex national environmental Ministry or agency should regularly (every 2-3 years) publish a State of the Environment Report. Using the best available data, the Report should set out the prevalent air and water quality across the country, identify environmental threats and challenges, analyze environmental indicators and trends and flag key policy changes required to protect, preserve and enhance the environment.

Country examples: A large number of countries already make these five classes of environmental information available to the public, although not all of them do so on a pro-active basis. Over 100 countries have laws requiring EIAs for projects and a large number of them make them available to the public. An estimated 35 countries have Pollutant Release and Transfer Registers while a further 30 countries are expected to establish such registers in the next seven years. Over 85 countries have published state of the environment reports, however many do not produce them on a regular basis. Freedom of Information laws in over 85 countries allows citizens access to environmental permits and compliance reports as well as water and air quality data but in most countries they are not disclosed on a proactive basis.

More substantial steps

Goal: Government commits to proactively publish (a) reasons for decisions approving/rejecting/modifying development projects after EIA procedures, and (b) reasons for decisions approving/rejecting/modifying permits/licenses/approvals for industrial facilities.

Justification: The single most important factor that improves accountability for decisions that affect the environment and mitigates abuse and misuse of official authority is a legal requirement to publicly provide written reasons for the decision. When decision-makers are forced to make written reasons for decisions publicly available, it also forces them to take relevant considerations into account, to exclude irrelevant considerations and to open the reasons for scrutiny by the public, stakeholders and other accountability mechanisms.

Recommendation

1. Government commits to pro-active publication in a timely manner of (a) reasons for decision approving/rejecting/modifying development projects after EIA procedures, and (b) reasons for decisions approving/rejecting/modifying permits/licenses/approvals for industrial facilities.

Country examples: Countries such as USA, Australia, Canada, India and South Africa already require decision-makers to provide written reasons publicly or at the very least to affected stakeholders.

Most ambitious steps

Goal: Governments mainstream capacity building around access to information into their other environmental programs.

Justification: Many governments have realized that developing citizen capacity for access to information is essential and requires additional investment and training, both for information requesters and providers.

Recommendations

1. Provide guidelines, and easily understood manuals for how and where to access environmental information to help improve the ability of citizens to access information.
2. Provide training and guidance materials on access to information to sub-national government officials.

Country examples: In some countries, governments have provided grants for community assistance, establishment of training institutes for communities and training of civil society organizations at the community level. In Mexico, the United States, and the European Union, governments have made additional investments in staff capacity building and citizen training around access to information. In many countries, governments in close collaboration with civil society organizations have developed guidelines and manuals.

Public participation in decision making affecting the environment

In the environmental and social context, public participation takes place largely, as a part of procedures to assess and to mitigate environmental harm, such as in preparation of environmental impact assessments, permitting processes, and through policy making and planning bodies such as legislatures and zoning boards. Additionally, some countries have regularized opportunities for public participation in

formation of regulations and rules, which has significant consequences for lives and livelihoods. Findings from current governance literature show that, increasing public participation improves the legitimacy of decisions, helps build stakeholder capacity, improves implementation, and improves sustainability of decisions. (For more information see http://www.accessinitiative.org/sites/default/files/voice_and_choice.pdf).

Initial steps

Goal: Government should introduce mandatory, low-cost procedures for public comments and hearings in decision-making processes involving (a) new development projects (b) citing and operational compliance of industrial facilities and (c) the creation or revisions of national, state, provincial or local policies, plans, laws and regulations affecting the environment.

Justification: Public and stakeholder engagement in environmental decision-making creates the necessary space for them to influence decision-making that affects the environment and the natural resources they depend on. For participation to be fair and effective, a decision-making process should include a range of stakeholder voices. Decision-makers should listen and, to the greatest extent possible, respond to these voices. Decision-making can take many forms. At one end of the spectrum it can be direct—where stakeholders collectively make a decision, either by majority or by consensus. At the other end of the spectrum is indirect decision-making, where a third party, usually a government official, makes the decision with or without the participation of stakeholders.

Recommendations

1. Government should introduce mandatory, low-cost procedures for public comments and hearings in decision-making processes involving all new development projects, the citing and operational compliance of industrial facilities and the creation or revisions of national, state, provincial or local policies, plans, laws and regulations affecting the environment. This should apply to all levels of government. Full implementation of public participation means that each person should know about their right to participate and have ample guidance on how, when, and where to exercise this right.
2. Communication during participation should be timely, processes for input should be made known in advance and the government should seek to minimize logistical barriers. Decisions should be publicized before implementation so that aggrieved people can seek remedies and redress if they wish. (For more information see http://www.accessinitiative.org/sites/default/files/voice_and_choice.pdf).

Country examples: Many developed and developing countries have established procedures to enable the public and stakeholders to comment on Environmental Impact Assessments of development projects and participate in public hearings before decisions are made. The USA, Canada, Australia, India, South Africa and Brazil are some examples. These and other countries have extended these to permits and EIA processes (For more information see <http://www.acdi-cida.gc.ca/acdi-cida/acdi-cida.nsf/eng/REN-218131251-PH5>).

More substantial steps

Goal: Government will establish and implement special procedures to reaching out to the poor, marginalized groups, and tribal communities to ensure they are included in public engagement processes covered by the above commitment on public participation.

Justification: Decisions that have significant environmental and social consequences are often made without the involvement of those whose interests are directly at stake. For poor people whose lives and livelihoods often depend on natural resources, and who are therefore most vulnerable to environmental risks, the consequences of exclusion can be especially severe. Weak access to decision-making may expose poor communities to high levels of pollution, remove them from productive land, and deprive them of the everyday benefits provided by natural resources. The poor in these countries face a daunting array of barriers to access, including low literacy, high costs (including the costs of corruption), exposure to risk from participation, and lack of documentation of legal identity or rights to a resource that is necessary to influence decisions. Additionally, cultural norms that limit who may speak in public disproportionately exclude the poor. While voice in environmental decisions can make a significant difference in the allocation of resources and people's ability to use those resources, voice also plays a role in ensuring a sense of involvement and in helping individuals gain a sense of control over their lives. These too are important aspects of poverty alleviation. (See http://www.accessinitiative.org/sites/default/files/A%20Seat%20at%20the%20Table_FINAL2010.pdf).

Recommendations:

1. Governments should specify the right of the poor, marginalized groups and tribal communities to participate in environmental consultations and create a requirement for decision-makers to consult these groups among other affected communities.
2. The government should then publish results of all public participation during environmental impact assessments.

Country examples: USA - Executive Order 12898. 1994. Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (See <http://www.archives.gov/federal-register/executive-orders/pdf/12898.pdf>). The Government of Chile has prepared new EIA regulations that would make special provisions for reaching out to the poor in project decision-making. South Africa and South Korea also have some provisions on special procedures for participation of poor and minority communities.

Most ambitious steps

Goal: Government commits to publish responses to general categories of public comment for permitting, planning, and regulatory decisions.

Justification: The single most important factor that improves accountability for decisions that affect the environment and mitigates abuse and misuse of official authority is a legal requirement to publicly provide written reasons for the decision. When decision-makers are forced to make written reasons for decisions publicly available, it also forces them to take relevant considerations into account, to exclude irrelevant considerations and to open the reasons for scrutiny by the public, stakeholders and other accountability mechanisms, especially when these comments correspond to the major categories of stakeholder input and comment.

Recommendation

1. Along with issuance of each major final permitting, planning, and regulatory decision, governments will publish (a) a summary of major categories of objections, comments, and proposed alterations to the permit, plan, or regulation.

Country examples: This practice is carried out by the United States as a best practice in Environmental Impact Assessment. Other countries, such as the Netherlands keep public records of citizen input in Strategic Environmental Assessment for ecosystems and a reviewing panel must document a response to major concerns.

Access to justice for the environment

Access to information, meaningful participation, the redress of environmental harms, and the enforcement of law are guaranteed through “access to justice”. Access to justice is the right to redress and remedy and ensures accountability and rule of law. Redress and remedy can be provided by several different institutions, including the judicial branch

of government, special administrative forums in the executive branches of government, extra-governmental dispute resolution mechanisms, and even traditional forms of mediation. (For more information see http://www.accessinitiative.org/sites/default/files/voice_and_choice.pdf).

Initial steps

Goal: This commitment requires government to ensure that citizens and persons whose environmental transparency and inclusiveness rights are violated or who suffer environmental harm have independent and impartial institutions and mechanisms for obtaining relief and redress for their grievances.

Justification: Broadly speaking, access to justice serves four principal purposes in the context of environmental decision-making. First, it strengthens the freedom of information, allowing civil society to press governments for information they were otherwise denied. Second, access to justice allows citizens the means to ensure that they participate meaningfully and are appropriately included in decision-making on environmental matters. Access to justice also levels the playing field by empowering groups to enforce environmental laws that may not be enforced. Access to justice increases the public’s ability to seek redress and remedy for environmental harm and allows the public to hold officials accountable for carrying out proper procedures in environmental decision-making and enforcement.

Recommendations

In opening both regular and specialized courts for environmental decisions, a number of “institutional design” choices must be made. These will have strong consequences for the performance of the court. When establishing these courts, governments should consider:

1. whether to establish a judicial court or administrative tribunal and at what level of independence
2. what substantive laws, policies, and principles the court or tribunal will jurisdiction over;
3. whether the court or tribunal should be first-instance, intermediate appellate, and/or supreme (final review) level institution and whether it should have civil, criminal, administrative, authority or a combination;
4. what territory should be covered by the court or tribunal from a town to a city to a state or province to an entire nation;
5. whether the jurisdiction will make the workload appropriate or too low or too high;

6. providing broad standing, meaning what qualifications will be required of parties to bring an action in the court or tribunal otherwise participate in a case;
7. what it costs for parties to bring cases and prosecute them to final decision and taking steps to reduce those costs;
8. how the court or tribunal will manage to get adequate, unbiased input on the increasingly complex scientific-technical issues in environmental cases;
9. alternative dispute resolution (ADR) which can often a cheaper, faster, and better ways to resolve environmental conflicts and how they might be incorporated into the procedure;
10. the qualifications, training, tenure, and salary for decision-makers to ensure quality of the Court or tribunals decisions;
11. what process mechanisms will permit court or tribunal to move cases through the decision making process more efficiently and effectively and less expensively; and
12. what powers will be needed to make the court’s or tribunal’s decisions effective, from mediated agreements to injunctions to criminal fines and incarceration, and all the creative alternatives in between. (See <http://www.accessinitiative.org>).

Country examples: Some of the best examples of administrative and judicial institutions established for providing access to justice on environmental matters come from Australia and New Zealand. The Land and Environment Court of New South Wales Australia is one such example.

11. Extractive industries (Oil, gas and mining)

Contributors: Revenue Watch Institute

“Breakdowns in governance are generally recognized as the principal reason why natural resource wealth does not generate more sustainable development.”
IMF 2009

More than fifty countries depend on oil, gas and hard minerals as the most important source of government and export revenues. Large-scale fisheries and leasing of agriculture lands are also becoming important sources of revenue. Perhaps in no other sectors are economic outcomes and the openness of government more closely linked.

Sub-soil minerals are deemed public assets in most parts of the world. Fisheries, lands and forests can also be public assets. As the government is managing such resources in trust for the people, the people have a right to know what is being done with their natural wealth.

Establishing clear transparency and accountability requirements will increase policy efficiency, reduce opportunities for self-dealing and diversion of revenues for personal gain, raise the level of public trust and lower the risk of social conflict. An informed and engaged public can hold the government to account, but also help ensure that complex, large-scale projects meet government standards for environmental and social protection as well as revenue generation.

The overarching goal is comprehensive transparency and accountability in the governance of natural resources from the decision to extract to the granting of concessions, the collection of revenues and the management of resource revenues. Producing, importing and investing countries have a shared interest in advancing open government in natural resource management.

Resource-producing countries

Initial steps

Goal: To establish openness in granting access to natural resources and in the fiscal returns for the state

Justification: Fiscal policies and contractual terms should ensure that the country gets full benefit from the resource, subject to attracting the investment necessary to realize that benefit. Governments and investors are generally better served if there are clear rules applicable to all investors in similar circumstances. Transparency and uniform rules help ensure that operators know that treatment is non-discriminatory, reduce opportunities for corruption, and may reduce the demand by individual investors for special treatment. More broadly, resource decisions involve long-term commitments. These will be more credible and less subject to abuse if citizens understand their rationale. Citizens can only be confident about the integrity of the resource extraction process if they know about it.

Recommendations

1. **Make all rules and regulations for natural resource licenses and concessions available in a public database, with clear definitions and explanations.** Countries could publish all rules and requirements for resource development including fiscal terms, property rights and social and environmental protections to give citizens a baseline against which to monitor and measure government policies, as well as leveling the playing field for investors. In addition to oil, gas, mining, forestry and fisheries, there is an acute need for disclosure of rules and regulations around the leasing of agriculture lands.
2. **Issue regular and detailed reports of resource related revenues in the public domain.** Countries could voluntarily publish all natural resource related revenues—including signature bonuses, royalties, taxes, payments in kind and transit revenues—in a central location

for public consumption. Countries could do this by joining and implementing the Extractive Industries Transparency Initiative, and/or independently undertaking to publish resource revenue information in a proactive, timely and comprehensive manner. All operating resource companies can be required to disclose project by project production volumes, costs, revenues, payments to the state. Revenue transparency is essential to ensure public accountability for both income and spending. Resource related payments are often generated outside normal budgetary processes, so a dedicated disclosure procedure may be needed to capture these flows in public data.

Country examples: For the forty-one resource rich countries surveyed in the Revenue Watch Index 2010, the average score for transparency on access to resources was only 44 out of 100. The Revenue Watch Index finds that 22 countries disclose information regarding licensing procedures. Colombia, Liberia, Peru, Timor-Leste and the U.S. publish minerals contracts/leases on public lands in full. Afghanistan’s new minerals policy calls for public tenders and publication of bids as well as resulting contracts. Ghana’s 2011 Petroleum Revenue Management Bill requires the government to publish information on receipts from petroleum companies – online and in national newspapers – on quarterly basis. In addition, audited statements of Ghana’s oil accounts will be made public this year. Thirty-three mineral rich countries ranging from Azerbaijan to Norway and Peru are implementing EITI, which requires dual disclosure by companies and the government of resource related payments and receipts. A national multi-stakeholder committee of government, companies and civil society, creating an automatic public oversight mechanism, oversees the process. Liberia, Mongolia, Nigeria and Norway are considered to provide the most comprehensive information in a clear form through EITI.

More substantial steps

Goal 1: To make available more detailed information to allow the public to better assess and influence the quality of public natural resource management.

Justification: Successful natural resource management requires government accountability to an informed public. Resource projects can have significant positive or negative local economic, environmental and social effects, which should be identified, explored, accounted for, mitigated or compensated for at all stages of the project cycle. Alongside disclosure of information, government should adopt transparent processes for taxing, collecting and managing revenues, and for taking spending decisions. Transparency can improve the efficiency and effectiveness of government policies. Public disclosure requirements can improve the quality of data the government gathers and maintains. This makes it easier for relevant bodies such as financial, energy and mining ministries, as well as environmental and regulatory agencies, to do their jobs. Reliable and frequent data can make it easier for governments to plan and manage their budgets and long-term development plans. Transparency also lowers the cost of capital.

Recommendations

1. **Publish environmental and economic impact studies for all natural resource projects.** Such reports will help the public assess the costs and benefits of resource development.
2. **Publish regular reports of the contribution of the resource sectors (hydrocarbons, mining, forestry...) to the budget and other allocations.** Countries could regularly publish all revenue streams derived from the natural resource sector that contribute to the government's budget in a timely and comprehensive manner. Not all resource revenues go into the budget. Some may be reinvested by a State Owned Company, distributed directly to citizens, or put in a natural resource fund.
3. **Publish resource related revenue transfers to sub-national governments.** Countries could regularly publish all fiscal transfers to the sub-national level that relate to natural resource revenues or extractive activity. In a number of countries, sub-national units get a defined share of resource revenues, and these transfers may be very large and not be part of the national budget. Direct distributions to citizens should also be disclosed.

Country examples: The Revenue Watch Index found that only 15 of 41 leading minerals producing countries publish impact reports. They include Botswana, Brazil, Chile and Tanzania. Until 2010, Russia published the contribution of the resource sectors to the budget. In 2003, the Nigerian Ministry of Finance began publishing monthly in the newspapers how much oil money was being transferred to each governor and eventually, to each municipal authority. This was the first time the public had access to this information. Ghana and Indonesia have included sub-national transfers in their EITI templates.

Goal 2: To extend transparency and accountability rules to state institutions with important operational responsibilities in resource management.

Justification: The effectiveness of sovereign wealth/stabilization funds will be enhanced if there are transparent rules or guidelines for triggering asset accumulation and withdrawals, with any deviations subject to public debate and formal procedures. Reliable and frequent data can make it easier for governments to plan and manage their budgets and long-term development plans. Similarly, state-owned enterprises are more efficient when decisions are transparent and subject to market tests. Public oversight can help protect against the entrenchment of bad practice leading to poor outcomes. Citizens are best able to hold governments and companies to account where they, their parliamentary representatives and civil society organizations are well-informed and have the capacity and freedom to act on information they obtain. It is increasingly accepted that citizens have a basic right to information about government activities and use of public assets.

Recommendations:

1. **Publish all data related to Sovereign Wealth/Stabilization Fund holdings and management.** Countries could publish (a) regular reports showing contributions to the fund, earnings, holdings, withdrawals/distributions, including to the budget; (b) investment rules for the fund (c) regular independent financial audits. A growing number of resource rich countries are creating such funds to manage part of the revenues generated by resource sectors. Many manage hundreds of billions of dollars. Some funds are extremely opaque, others fully transparent. As hundreds of billions of dollars of public monies may be transferred and invested by these funds, they should be as transparent as the national budget.
2. **Publish audited accounts for all state owned extractive companies based on internationally recognized accounting standards.** Countries could regularly publish independent audit reports for all state-owned companies involved in natural resource exploitation at home or abroad. Of 41 countries in the Revenue Watch Index, 35 had a State Owned Company (SOC). As their operations directly affect the success and impact of public resource development, their operations should also be open to public scrutiny. More transparent SOCs also tend to be more successful and profitable for the state.
3. **List all State owned Extractive companies on a stock exchange.** Even if the state retains the majority of shares, listing will give both investors and the public (which is also a shareholder) access to a regular and detailed flow of information on the company.
4. **Ensure regular and free participation of parliamentarians, civil society and the media in the oversight of the natural resource sector.** Countries could guarantee systematic legislative and public hearings around licensing rounds and all major concessions to ensure it aligns with the development aspirations of the country and to minimize risks of corruption. Countries could create platforms for engaging civil society in the monitoring of contracts (particularly environmental and social aspects) and the oversight of revenues from the natural resource sector, including through initiatives such as the EITI.

Country examples: Timor-Leste and Norway have transparent resource funds. All of these recommendations are consistent with the Santiago Principles, a set of 24 voluntary principles and practices agreed by major sovereign wealth fund owners to ensure an open international investment environment. Norway's Statoil, Brazil's Petrobras are publicly listed and publish their audits. Transparency International's report on extractive industries companies' transparency –which assesses 44 major oil and gas producers (20 international and 24 national oil companies) – finds that non-listed SOCs are less transparent than their peers listed on a stock exchange. Example: Petronas and SINOPEC (listed SOCs) disclose more information on their anti-corruption programs, their organization and country operations than their unlisted

peers Sonangol, PDVSA and Sonatrach. Norway's parliament played a central role in the policy discussion regarding the oil licenses and the role of the petroleum sector in the development strategy of the country. In Sierra Leone, public and parliament's access to the agreement offered to London Mining by the government led to the review of the contract. In Brazil, the non-governmental organization IBASE has developed a sophisticated score card to monitor the social and environmental practices of extractive companies. The inclusion of civil society in the policy dialogue around the extractive sector is one of the most remarkable accomplishments of the EITI in the 33 countries where it is implemented.

Most ambitious steps

Resource-producing countries

Goal: To allow continuous public monitoring of natural resource development projects around the country.

Justification: The development of a country's natural resources should be designed to secure the greatest social and economic benefit for its people. Extractive resources are public assets and decisions concerning their exploitation and use should be a matter of public debate. Resource governance is strengthened when those decisions are subject to well-informed public scrutiny and when decision makers are held to account.

Recommendations:

1. **Create a national public web registry of all natural resource concessions.** Countries could create a national online registry that includes physical demarcation, identity of leaseholders, production volumes, costs and revenues for each lease.
2. **Create national policy and performance benchmarks and monitoring.** Countries could create a national policy on natural resources that (1) identifies a long term strategy for how the sector fits into national development, (2) sets clear economic, social and environmental performance benchmarks for the sector and (3) identifies a scheme for monitoring the country's progress.

Country examples: Angola has begun to do this with its oil blocks, updating monthly. South Africa has launched a web platform that will enable greater openness on licensing and concessions in its mining sector. Ghana is establishing a Public Interest and Accountability Committee with civil society participation to oversee the petroleum sector. NEPAD has committed to develop a self-monitoring and peer review process to benchmark extractive resource management using the Natural Resource Charter as a platform.

Capital providing countries

Goal: To have the home regulator of resource companies and/or providers of capital for the natural resource sectors observe and promote high standards of openness.

Justification: Some argue that applying strict standards of openness will reduce a resource rich country's ability to attract necessary investment to the sector. If capital exporting countries adopt high transparency standards, that concern (or

excuse) disappears. Transparency also reduces financial risk for investors and enhances security of supply for consumers.

Recommendations

1. **Require that all listed companies in the jurisdiction disclose their resource related payments to governments, country by country and project by project.** Payments, with underlying cost and revenue data, will enable citizens to know how much public value is being derived from national resource wealth and assess how economic rents are being shared between the state and the investor.
2. **Apply International Financial Corporation IFC transparency requirements to all export credits, political risk guarantees and other forms of support to extractive projects.** Countries could require all export credit agencies, multilateral investment guarantee and other sovereign lending and insurance arms for natural resource projects abroad to publish information on extraction projects. These projects are highly dependent on such official support, so transparency standards by export credit agencies and other sources of project finance and investment guarantees can help to increase openness and accountability globally.
3. **As part of aid transparency, report in detail and in one place all foreign aid funding for resource extractive projects. Transparency in overseas development assistance (ODA) flows (in cash and in kind) provided by bilateral and multilateral agencies would strengthen aid effectiveness in the sector, increase openness and accountability and complement transparency from lending institutions.**

Country examples: U.S. The 2010 Dodd-Frank Act requires inter alia all companies listed in the U.S. to publish the details of payments relating to resource extraction made to governments, country-by-country and project-by-project. Similar legislation is under consideration in the EU and Canada. Many companies, including Newmont and Talisman publish some country-by-country payment information voluntarily. Congress has required the U.S. government political risk insurance agency OPIC to follow IFC transparency standards for extractive projects. The World Bank recently began to map and disclose its support in the natural resource sector and beyond on a project-by-project basis. The practice could be universalized to other donors following IATI principles. Learn more about best practice in natural resource governance at <http://www.naturalresourcecharter.org/>.

12. Open government data

Contributors: Centre for Internet and Society - India

Openness in relation to information on governmental functioning is a crucial component of democratic governance. There are few things more abhorrent to democracies than lack of transparency in their functioning, and secrecy in public affairs is generally a sign of autocratic rule. Such transparency is the foundation for the seeking of accountability from those who exercise power over public policy issues and governmental functioning, including not only governments, but also large corporations, trade unions, civil society organizations, funding agencies and special interest groups. This information would also include all information on private bodies that can be accessed by public authorities.

Transparency helps citizens independently evaluate governmental functioning and thus hold accountable any instances of corruption or mismanagement whether at the level of policy formulation, or at the level of implementation. Thus, the freedom of speech and expression and the right to receive information, which are seen as two sides of the same right under most international covenants, are both deeply implicated in ensuring transparent and accountable governance.

Making public information that is produced by the government is slightly different from merely making public information on governmental functioning. While many instances of the former are subsumed within the latter (e.g.,

information collected by the government), there are also areas where the two categories do not overlap. Openness with respect to government-produced information is part of the right of the public to access any output of taxpayer funding. Thus the category of 'governmental information' or 'governmental data' can be taken to include information about the government, governmental functioning as well as information collected and produced by the government.

In addition, there can be two related but independent grounds on which the right of the public to governmental information is often founded. The 'open government data' movement—for it is now a demand cutting across multiple nations and deserves to be so called—is predicated upon there being a certain degree of transparency in public functioning, notably through the existence of 'right to information' or 'freedom of information' statutes. Specifically, the open data movement generally understands the public's right to information to include (1) the proactive disclosure of information; (2) the internet being the primary medium for such disclosure; (3) information being made available for access and for reuse free of charge and; (4) information being made available in a machine-readable format to enable computer-based reuse. As it would be meaningless to demand the additional components that go to make 'open government data' in an environment where the basic right to information does not exist, all recommendations here (including initial steps) presume that such a right exists.

Initial steps

Goal: A commitment by the government to provide proactive disclosure of existing digital data on the Web.

Justification: Most governments already rely on computers at least for information storage at most levels even if they often perform information processing and sharing (i.e., conduct governmental transactions, whether G2G, G2B or G2C) offline. This information that already exists in a digital form—quite often in the form of text documents and spreadsheets—can and should be made public based on a narrow negative blacklist. This blacklist should have a list of categories of information that should not be made available because of a narrow set of concerns such as privacy and properly classified state secrets. While this will undoubtedly result in the haphazard release of files that may be difficult to comprehend or use effectively, this is not a reason for keeping data offline and out of public reach. Once a process has been initiated of continually putting data up online, the data and the process can themselves be bettered through more elaborate technological and process-related improvements. Proactive disclosure steps can and should be taken even without the implementation of a robust procedural back-end for information gathering,

processing and sharing along with the technology that enables it. While such robust information architecture and back-end infrastructure is certainly desirable, it is not necessary for the immediate online release of already-digital files.

Recommendations:

1. The government should create a minimal front-facing infrastructure, in terms of both technology (namely, a website) and human resources (people who are tasked with the responsibility of uploading governmental records, documents, reports, and other information).
2. A negative list of information that may not be shared should be drawn up by each public authority so that all other material can be made public available immediately, keeping in mind the more general guidelines that exist in national and sub-national policies and laws on right to information.
3. A timeline should be put in place to ensure that proactive disclosure of existing government information continues to happen on a regular basis until more rigorous steps are taken towards open government data.

More substantial steps

Goal: All government data are made available must be of a form that ensures ease of use and reuse.

Justification: Making government data available online is just the first basic step. All information released requires a proper underpinning in informational policy and technological support to realize full transparency, citizen participation and full social and economic value. Governments should use smarter technologies to ensure that the policy commitment to open government data can be realized in practice. In particular, searchability in the system greatly helps to ensure accessibility for persons with disabilities. Such searchability is often easy when it comes to text, but ends up being more complicated in other areas. For this reason, some of the suggestions on this from are kept for the next section (on proposals for most ambitious steps).

Policy and process recommendations

1. Formulation of an information policy that deals comprehensively with best practices with regard to information collection, information storage, information retrieval and information management at the national level, and allowing for the adoption of that policy either with modification or directly by sub-national governments.
 - o Part of this policy must ensure that most new information is either created in a digital form, or is digitized from paper as soon as practicable, and that later transactions of this information happen, as far as possible, over electronic modes of communication.
 - o This policy must also ensure that as much as electronic receipt of governmental information is seen as a right of citizens, so is non-electronic receipt.
2. A technological policy that mandates the use of open standards in all e-governance to promote interoperability and prevent vendor lock-in, with only temporary and limited exceptions.
 - o This must be accompanied by a document on technological architecture (whether called an e-Governance Interoperability Framework policy, and a National Enterprise Architecture) that lays down the broad parameters of the technology framework to enable the information architecture policy, including the metadata standards.
3. The ability to re-use the published data must be guaranteed as part of a public sector information/open government data policy. This is crucial to enable journalists, civil society organizations, and others
4. All information must be provided free of cost at least in cases where:
 - o The government isn't monetizing the data, nor has plans to do so; or
 - o The data is for use by individuals and small and medium enterprises; or
 - o The data is available without any special fees under the Right to Information/Freedom of Information statutes.

Technology recommendations

1. All public authorities must be made to ensure that they use open standards, such as Unicode, prescribed in the e-GIF/NEA. In addition, their data processing and publishing processes must comply with that laid out in those architectural documents.
2. Sector-specific and use-specific metadata must be included in all files and objects made available to the public so that when they use the services to retrieve objects they can make sense of the objects and manipulate them appropriately.
3. This metadata must be standardized, as this is a crucial requirement to enable easy categorization and searching of information. An important part of searching through the data is also searching through the full contents of the data sets.

Most ambitious steps

Goal: To translate the publishing of open governmental data into better data via input from the public.

Justification: Public outreach and citizen-oriented tools are crucial to ensuring a vibrant online-and-offline public sphere where government data are used and discussed and a feedback loop is created, rather than it being a mere data dump. Using service-oriented architecture will help in ensuring platform independence, better scalability, greater code reuse, higher availability of services, parallel development of different components, and many other benefits in terms of provision of data for governments. A robust service-oriented architecture will enable citizens to be treated as yet another client querying for information, and will enable useful application programming interfaces (APIs) to be built that will allow for easy access for power users to the data.

Social media integration is a must, because it allows governments to leverage network effects and defray costs. Such integration will allow governments to go where many citizens are rather than trying to get the citizens to come to them. However, care must be taken to ensure such integration is done with adequate safeguards for privacy, long-term archival and data portability.

Policy and Process recommendations

1. The pro-elite bias that is often inherent in online technologies must be actively neutralized through policy. Such a policy must be designed to ensure that there is no elitist capture of the benefits of open government data, and that there is active promotion of 'offline translation' of data, especially in technologically divided countries where the gap between those who have access to technology and those who don't is wide.
2. Allow for correction of data by the public
3. Facilitate offline translation of data, especially in technologically poorer countries.

Technology recommendations

1. Structured documents with semantic markup, which allows for intelligent querying of the content of the document itself. Before settling upon a domestic usage-specific semantic markup schema, well-established XML schemas should be examined for their suitability and used wherever appropriate.
2. Multiple forms of access must be provided to the data. The data must be made available interactively through the web for non-technical users. For more advanced users of the data, the data must be available for bulk data downloads, and the data should also be accessible through well-documented open APIs.
3. There should be a single-point portal (such as Data.gov) to provide access to different public authorities' data.
4. All data should be Cloud-based to the extent that it ensures lower overheads for the government.

13. Procurement

Contributors: Transparency International USA

Governments spend from 15 to 30% of gross domestic product on procurement, notably for essential public services, such as clean water, education and health care. The global procurement market is estimated to exceed US\$14 trillion. With estimates that corruption can add 20 percent or more to the cost of procurement, failure to address this problem means a staggering potential financial loss, a disastrous impact on citizens denied adequate public services and distorted competition penalizing ethical companies.

Reducing corruption in government procurement requires government, private sector and civil society action to improve transparency, accountability and integrity. This proposal focuses on essential preventive measures by each stakeholder, including:

1. **Government:** Transparency of government procurement rules and procedures and growing use of technology for

information dissemination; accountability through asset disclosure and conflict of interest requirements;

2. **Private Sector:** Integrity through requirements for private sector suppliers that prohibit bribery, collusion and fraud; and,
3. **Civil Society:** Accountability through civil society engagement and oversight.

These proposals draw upon commitments made by the more than 140 Parties to the United Nations Convention against Corruption (“UNCAC”) and to other agreements, including APEC Procurement Transparency Standards, Inter-American Convention against Corruption and the OECD Foreign Bribery Convention. Securing implementation of these recommendations will require a mechanism for regular and public reporting with input from civil society. This proposal suggests, where possible, drawing on existing mechanisms for reporting progress on the accords enumerated above.

Procurement transparency and participation

Initial steps

Goal: Full implementation into domestic law and regulation of procurement transparency, access to information, asset disclosure and conflict of interest provisions (based on UNCAC, APEC Procurement Transparency Standards and other multilateral accords.)

Justification: Transparency in government procurement helps reduce corruption by permitting public oversight of the use of public funds. It increases the likelihood that public institutions will function fairly, openly and efficiently and according to a clear set of predictable rules and conditions necessary for economic development, fair competition. This will foster economic development and increased foreign direct investment.

Recommendations

1. Make publicly available information relating to procurement procedures and contracts that have been awarded;
2. Establish and publish in advance conditions for participation, such as selection and award criteria;
3. Except in cases of national security and law enforcement, make publicly available information on the government organization, functioning and decision-making processes of its public administration;
4. Make publicly available information on revenues and expenditures of each governmental organization.
5. Officials should abide by conflict of interest policies regarding matters before them and should certify that neither (s) he nor any family member or close associate has any direct or indirect financial interest in that procurement. These certificates should be made available to the public on a central website.

6. Transparency should extend to asset disclosure by high level officials, such as elected members of the legislature, the top tier of personnel of the executive branch and government ministries and locally elected officials (governors, mayors etc.), as well as those involved at any stage in procurement decision-making.
7. Asset disclosure information should be publicly available on a timely basis with investigations of unexplained enrichment.
8. Governments should require bidders to certify as part of the bidding process:
 - o Compliance with all applicable laws and regulations from bidding through contract execution;
 - o Maintenance of a code of conduct prohibiting fraud, collusion and bribery and protecting whistle blowing by employees, subcontractors and other third parties;
 - o Adoption of a code of conduct and implementation of ethics training for employees
 - o Adoption of internal controls for prevention, detection, remediation and sanctions.

Country examples: In 2007, APEC economies reported on their legal and regulatory implementation of the APEC Transparency Standards, including those relating to Government Procurement. The APEC Anti-Corruption and Transparency group has called for reporting of APEC leaders’ and ministers’ commitments on anti-corruption and transparency. Mexico has instituted an online asset disclosure system.

More substantial steps

Goal: Creation of single, countrywide, public, online database providing information about government procurement.

Justification: For citizens to truly monitor how government resources are spent and for suppliers to have fair competition, a wide range of information regarding public procurement should be easily available in a timely manner.

Recommendation

1. Each country should post on a single website available to the public (and not just to suppliers) a searchable database which includes: notices of planned procurements, procurement method used (and the justification for that method), value of procurements, contracts awarded, name of contractors and, for major projects, subcontractors, number of procurement challenges, appeals and decisions on procurement challenges and debarred contractors.
2. Given the growing decentralization of procurement, data on regional and local governments should be included.

3. The self-certification requirement can be instituted progressively starting with procurements subject to open bidding procedures and then eventually reaching smaller procurement subject to sole sourcing or other procurement processes. For those governments with such requirements in place, an additional step would be to require publication on corporate websites of codes, compliance programs, reporting hotlines, etc.

Country examples: Many governments, including Mexico, Chile and Korea have posted extensive procurement information online. The United States website, www.usaspending.gov, provides comprehensive information on all federal procurements and is searchable by date, type of procurement, name of procuring entity and contractor, type of goods or services procured, etc. The World Bank maintains a website of debarred suppliers at <http://web.worldbank.org/external/default/main?theSitePK=84266&contentMDK=64069844&menuPK=116730&pagePK=64148989&piPK=64148984>.

The World Bank and regional development banks have agreed to cross-debar suppliers found by one to have engaged in illicit practices.

Most ambitious steps

Goal: Participation of civil society in monitoring government procurement

Justification: Civil society can play a significant role in promoting accountability in government procurement. Civil society can contribute an independent and impartial voice in the procurement process. Using civil society to verify that procurement procedures have been followed and to review application of evaluation criteria and contract award validates the procurement and lessens the risk of corruption in the process. It also heightens the public awareness and trust in the process.

Recommendation

1. All countries should permit independent experts selected by civil society organizations to participate in all stages of government procurements above a certain threshold (which could differ from country to country based on the level of development), including procurement funded by international financial institutions such as the World Bank, and to publish their findings no later than ten working days after the award of the contract.
2. Governments should be responsive to civil society requests for information and resources necessary to perform meaningful oversight and should take corrective action on findings.

Country example: The Government of Mexico has permitted “social witnesses,” appointed by civil society, to participate in procurement proceedings since 2004. Since 2009, participation of a Social Witness is mandatory in procurements valued at more than about US\$ 23 million. The Social Witness is required to issue an alert if he or she detects any alleged irregularities in the course of the procurement. At the conclusion of the procurement proceedings, the Social Witness issues a publicly available statement including observations and, as appropriate, recommendations. The statement is posted on the website of the procuring entity, as well as on the Mexican central procurement website and in the file of the tender. In the Philippines, civil society is invited to participate in procurements and has done so in many cases. In addition, the Philippines procurement law allows any citizen to file complaints with the local Ombudsman in case irregularities are detected in a specific public procurement.

14. Right to information

Contributors: Access Info Europe and the Centre for Law and Democracy

Open, participatory and accountable government is contingent on members of the public having access to the largest possible amount of information held by public authorities: it is the right to know what the government knows. Information should only be withheld from the public where absolutely necessary on the basis of harm to legitimate interests where there is no overriding public interest in knowing the information.

The right of access to information (right to information or RTI) has been recognised by international human rights tribunals (Inter-American Court of Human Rights and the European Court of Human Rights) and leading international authorities (including all four special mandates on freedom of expression at the UN, OAS, OSCE and African Commission, and the Inter-American Juridical Committee) as being an intrinsic part of the right to freedom of expression.

There are now over 80 countries which have access to information laws, a massive increase from the 13 countries in 1990, but still leaving well over half of the 192 UN Member

States without a legal framework ensuring the public's right to information. Furthermore, in most of the countries that have access to information laws, practice is still mixed, with responsiveness to requests for information being unpredictable and proactive publication practices either poor or patchy. A culture of bureaucratic secrecy prevails in many public administrations and requesters are often asked why they want access to a particular document or piece of information. Exceptions are applied very broadly and time frames for responding are often not respected. Information is not always provided in the requester's preferred format and in many countries limits on reuse are imposed by government copyright and other rules restricting reuse of public sector information unless a fee is paid.

All countries, irrespective of the current levels of transparency, should make the commitment to provide effective guarantees of the fundamental right to information. Countries should then commit to move up to the next level on each of the indicators elaborated below. Many countries will not fit neatly into one level and will need to adopt a mix of commitments.

Initial steps

Goal: To ensure a basic right to information for all through a functioning legal mechanism for submitting requests and through proactive publication of core classes of information.

Justification: The right to information is not complete without the freedom to make use of that information to form opinions, to call governments to account, to participate in decision-making, or to exercise the right to freedom of expression in any other way. This right of access to information places two key obligations on governments. First, the obligation to publish and disseminate to the public key information about what different public bodies are doing. Second, governments have the obligation to receive from the public requests for information and the obligation to respond, either by letting the public view the original documents or receive copies of documents and information held by public bodies.

Recommendations

1. Legal framework guaranteeing the right to information:

- o The legal framework (constitution/statutory law/jurisprudence) recognizes the right to information as a human/civil right.
- o The legal framework creates a specific presumption in favor of access to all information held by public authorities, subject only to limited exceptions, calls for a broad interpretation of the RTI law, and emphasizes the benefits of the right to information.

2. Legal framework for reactive disclosure of information (i.e. requests):

- o An RTI law is adopted which meets minimum standards for the right to information, including that:
 - Everyone (including non-citizens and legal entities) has the right to file requests for information;
 - The right of access applies to all material held by or on behalf of public authorities which is recorded in any format, regardless of who produced it;
 - The right applies to all branches of government and all private bodies performing public functions or that receive significant public funding;
 - Public authorities are required to respond to requests as soon as possible and within a maximum of 20 working days
 - Filing of requests is free and centrally set fee schedules do not allow public authorities to levy charges that exceed actual costs of reproduction and delivery, Viewing records and receiving electronic copies is free and there are fee waivers for impecunious requesters.
 - Exceptions to the right of access protect interests, which are recognised as legitimate under international standards, and are subject to a test of a risk of actual harm and a mandatory public interest override. Partial access shall be provided for.

3. Protection:

- o An independent oversight body is established (e.g. an information commissioner) so that:
 - Requesters have the right to lodge an appeal free of charge and without the need for legal assistance;
 - In the appeal process, the government bears the burden of demonstrating that it did not operate in breach of the rules;
 - The oversight body has the mandate and power to perform its functions, including to review classified documents and to inspect the premises of public bodies;
- o The decisions of the independent oversight body are binding and it has the power to order the disclosure of information.

4. Promotion:

- o Public authorities are required to appoint information officers (and information offices in larger institutions).
- o Information officers and senior public officials from each public authority are trained on their openness obligations and on procedures for releasing information.
- o Public information about the right available is made available in key locations such as on websites and notice boards and in places where this information is likely to reach a wide public.
- o There is a commitment to review existing information management systems with a view to improving them in order to be able to answer requests within the timeframes established by the RTI law.

5. Proactive

- o Public authorities are under a legal obligation to publish core classes of structural, financial and operational information.
- o This commitment may, with a view to reducing the burden on public authorities, include a timetable for progressive rollout at different levels of government (central, regional, local) making use of the communication channels available, such as websites or notice boards.
- o Key operational and financial documents are disclosed both in full and in ways that are comprehensible for members of the general public. This includes citizen-friendly texts and publication in the major languages of user communities.

- o Sufficiently timely and comprehensive information is released about upcoming decision-making to facilitate public participation in from the early stages in both executive and legislative branches (including information about decision-making processes and substantive information needed to participate in them).

6. Open Government Data

- o Requesters have a right to request information by email whenever public authorities have functioning email systems.
- o There is a commitment to open government data policies and a clear plan to implement this.
- o The RTI law includes the right to access information in electronic format and the right to request and access entire datasets (databases) on the same cost basis as other information (i.e. free for electronic access).

7. Measure and Evaluate

- o All public authorities systematically collect data on the number of requests, rates of response, exceptions relied upon and classes of information proactively published.
- o Public authorities report the information above annually to a central body (for example an information commissioner), which publishes an annual report summarizing this; the annual report is presented formally to parliament and made widely publically available.

More substantial steps

Goal: To ensure that the right of access to information is fully developed in the legal framework of the country and works well in practice, that significant volumes of information are published on a proactive basis, and that there is effective oversight protection of the right.

Justification: There are significant variations in how the right of access to information is protected by law and respected in practice around the world. Much information is still inaccessible because the scope of access to information laws falls below internationally agreed standards, and because of governments' unwillingness or failure to publish information proactively. More comprehensive proactive publication of government information is crucial to governments becoming closer to citizens, and to increased public awareness and understanding of government policies, programs and obligations. Enhancing responsiveness and ensuring that the right to information is enforced and protected is essential to ensuring that the public knows what their governments are doing and can participate in a meaningful way in decision making.

Recommendations

1. Legal framework for reactive disclosure of information (i.e. requests)

- o The RTI law is amended to reflect better practice, for example by:
 - Extending the scope to cover the legislative and judicial branches;
 - Ensuring that the right of access applies to State-owned enterprises (commercial entities that are owned or controlled by the State);
 - Extending the scope of the right to the archives and to classified information;
 - Providing assistance to all requesters who need it, in a timely manner.
- o The harm and public interest tests are applied rigorously in practice for all exceptions.
- o The standards in the RTI law trump restrictions on information disclosure (secrecy provisions) in other legislation to the extent of any conflict.
- o Laws that include secrecy provisions are amended/repealed to bring them into line with the RTI law.

2. Protection

- o The independent oversight body has the power to impose appropriate structural measures on public authorities (e.g. to conduct more training or to engage in better record management).
- o Sanctions, administrative and/or criminal in nature, may be, and in practice are, imposed on those who wilfully act to undermine the right to information, including through the unauthorised destruction of information.
- o There are legal protections prohibiting the imposition of sanctions (of a criminal, civil, administrative or employment-related nature) on those who, in good faith, release information pursuant to the law.
- o There are, similarly, legal protections prohibiting the imposition of sanctions on those who release information which discloses wrongdoing (i.e. whistleblowers) as long as

they acted in the genuine belief that they were exposing wrongdoing.

3. Promotion

- o Basic training on the right of access to information is provided to all public officials and targeted training is provided to those in relevant positions.
- o Training is provided to relevant officials in private bodies performing public functions.
- o Awareness raising campaigns to inform the public of their right to information are undertaken using multiple media.
- o Responsibility and resources are allocated to a central body, such as an information commissioner, to promote implementation of the right to information.
- o Effective information management systems are in place (one indicator of success is the percentage of requests answered within 10 working days).

4. Proactive

- o Public bodies publish an index or register of information held.
- o All information released pursuant to FOI requests is released proactively, and is accessible via a searchable database.
- o All laws and other legal rules, in both original and consolidated versions, are made available free of charge in a searchable database.
- o Key classes of information needed for anti-corruption and accountability, such as contracts and reports on completion of contracts, assets declarations, and expenses data, are published in full (and not just in summary versions).
- o Public consultations are held to test how relevant proactively published information is and to refine practices accordingly.

5. Open government data

- o There is a commitment to ensure that all public authorities are online and email enabled within a fixed period of time.
- o Core classes of proactively published information are available in open and machine-readable formats.
- o In order to ensure that government information is reusable, when electronic access is requested, information is released in machine-readable and open source formats wherever possible.
- o Internal regulations and public procurement rules require disclosure-enabling features to be designed into IT systems, including through anticipation of the need to sever information, which is subject to a legitimate exception, such as privacy.
- o There is a commitment progressively to digitize information not presently held in digital format.

6. Measure and evaluate

- o All public authorities gather detailed statistics on requests and responses and on proactive publication and report every six months to the oversight body, which report is also submitted to parliament and made public.
- o The oversight body has the power to recommend remedial measures to public authorities.
- o The oversight body or another body conducts and publishes regular public awareness surveys on RTI.

Most ambitious steps

Goal: To reach maximum standards of openness, including a highly developed proactive publication regime, and fully functioning and effective mechanisms for requests with rapid response times.

Justification: Since 1990 the number of countries with access to information laws has skyrocketed from only 13 to more than 80. Governments with well-established right to information laws and systems already in place should focus on enhancing response times, measures for redress, citizen capacity to understand and exercise their rights, the depth, breadth and timeliness of proactive and reactive disclosures, the public's ability and freedom to reuse information, and the collection of statistics on how government agencies are performing on right to information-related matters.

Recommendations

1. Legal framework for reactive disclosure of information (i.e. requests)

- o The right is extended to private bodies when the information they hold is necessary for the protection of fundamental rights.
- o The RTI law is amended to contain an explicit override to exceptions which applies when requested information relates to violations of human rights, crimes against humanity, corruption or abuse of power, or threats to public health or the natural environment.
- o Other exceptions are narrowly construed in law and applied judiciously in practice subject to a well-developed public interest test elaborated through guidance from the information commissioner and courts.
- o Timeframes for responses are reduced so that requests are answered rapidly and in a maximum of 10 working days (with an extension possible for complex requests).
- o Effective internal measures are in place to address problems of access, such as delays, failure to respond, etc. For example, a central government body could be responsible for tracking and monitoring responses to identify problems and proposing solutions.

2. Protection

- o A system is in place for redressing the problem of public authorities systematically failing to disclose information or underperforming (either through imposing sanctions on them or requiring remedial actions of them).
- o Comprehensive whistleblower protections are in place, which are applied in practice.
- o The grounds for external appeals are broad, including systemic failures, for example relating to proactive publication obligations.
- o The information commissioner processes appeals and reaches decisions within an average time of 30 working days (for countries which currently have significantly longer time for processing appeals, the commitment should be to reduce current average time by 50%.)

3. Promotion

- o Measurable levels of knowledge among public officials (including in obliged private bodies) are achieved

regarding the public's right to know and proactive publication obligations.

- o Measurable levels of public awareness about the right to information are achieved.
- o Education on the right to know is introduced as a subject in school curriculums (for example for children in the 13-16 year age range) and courses on this are widely available at the university level (for example for law and journalism students).
- o Significant power and funding is provided to a central body to promote the right to information. This should include a substantial budget for public education and the ability to require public authorities to take measures to address structural problems

4. Proactive

- o Real time updates are provided for core classes of information.
- o Real time updates of financial spending information are provided.
- o National companies registers are made available in full, free of charge, in on-line searchable versions.
- o Searchable databases of court jurisprudence are available to the public free of charge.
- o Full use of ICTs, including effective tagging and powerful search engines, is employed to make proactively published information rapidly discoverable.
- o There is a commitment to move beyond core commitments to make proactively available all information that the public might be interested in, subject only to the regime of exceptions.

5. Open government data

- o The reuse of information released to the public is not constrained by government copyright or other intellectual property or licensing restrictions; where necessary there is a commitment to abolish government copyright (i.e. copyright on information created by public authorities).
- o Special arrangements (legal or practical) which permit some public authorities to charge for the raw data produced as part of their core functions are reviewed and repealed; instead, access to such data is provided free of charge, including for purposes of reuse.

6. Measure and evaluate

- o Quarterly statistics are gathered by the oversight body, and published and sent to parliament.
- o Public consultations/focus groups are employed to facilitate direct public participation in debate on how to improve government openness, including how to make proactive published information accessible, relevant and comprehensible to the wider public.
- o Detailed meta-data on all requests is published proactively on a regular (e.g. quarterly or monthly) basis in an open data format.

15. Security sector

Contributors: Open Society Foundations

Internal security and external defense, including their intelligence components, constitute a significant public expenditure by most governments, making the security forces a main competitor for resources in trade off with agricultural, industrial, and social sectors. Due in part to the role these forces play in regime maintenance in many countries, and also to avoid giving foreign countries insight into their military and intelligence capabilities, governments have often withheld information about such expenditures from their citizenry—making the security sector one of the least accountable areas of public budgeting.

Compounding the difficulty in achieving transparency and citizen oversight, internal police functions in many countries are spread across many national budgets (e.g., those having to do with revenue collection, border and customs controls,

wildlife protection, coast guard), as well as being spread across budgets for local, provincial, and national police forces.

Despite these challenges, the public's right to know about the functioning of the various security sector components is vital, in order to minimize corruption and promote an open discussion about their performance. Moreover, transparency is required to allow the judicial, legislative, and/or executive branches of government to hold these programs to account.

During the Cold War, governments on both sides accommodated some transparency in military and police spending without apparently compromising their security. Since the end of the East-West divide, the international community has sought to increase openness in this budget sector in all regions of the globe in order to build internal and international trust. Even in the area of intelligence budgeting, the part of the security sector that remains most firmly in the black, several governments have increased openness in recent years with no obvious harm to their national security as a result.

Military expenditure

Initial steps

Goal: Make military expenditure data available in an easily identifiable manner, and with a comparable measure of the scale of resources being directed toward military activities versus other public sector activities.²⁴

Justification: According to the World Bank, governments expend between 2-8% of Gross Domestic Product (GDP) and 2-30% of Central Government Expenditure (CGE) on the military sector, with the global average hovering at 11% of CGE since 2002.²⁵ Access to reliable and relevant data on military expenditure allows scholars and citizens to assess a government's priorities, allowing comparisons between spending on the military and spending on other sectors, such as health and education. It also allows for tracking of changes in the relative level of military expenditure over time, which could indicate how a particular state views its security threats: Rapid increases in military expenditure over a short period of

time may be a warning sign of imminent internal or external conflict²⁶ Finally, access to this information might help expose and deter corruption.²⁷

Recommendations

1. Governments make public basic military budget information, including for personnel, operations, and procurement. Include number of personnel and disaggregate basic categories of procurement. Release this information annually (indicating the time frame covered by the budget release). Publish the information online and in locally accessible formats.
2. Indicate the leadership responsible for this budget—i.e., the head of the Ministry of Defense and key officials in charge of procurement, manpower, and training—whether civilian or military.

²⁴ The definition of what is included in "military expenditure" varies. The most widely utilized data source for global military expenditure is from Stockholm International Peace Research Institute (SIPRI). SIPRI's definition includes all current and capital expenditures on: the armed forces, including peacekeeping forces; defence ministries and other government agencies engaged in defence projects; paramilitary forces when judged to be trained, equipped and available for military operations; and military space activities – to include the costs of personnel (military and civil) including retirement pensions and social services for personnel and their families; operations and maintenance; procurement; military-related research and development; military construction; and military aid (in the military expenditures of the donor country). http://www.sipri.org/research/armaments/milex/resultoutput/sources_methods/definitions

²⁵ World Bank, World Development Indicators, <http://data.worldbank.org/indicator/MS.MIL.XPND.ZS> (based on SIPRI Milex data).

²⁶ http://www.sipri.org/research/armaments/milex/researchissues/measuring_milex

²⁷ An IMF working paper in 2000 found that higher levels of military spending (as a percentage of GDP or CGE) correlate positively with corruption, and higher levels of weapons procurement most markedly correlate with corruption. Gupta, Sanjeev et al., "Corruption and Military Spending," IMF, Fiscal Affairs Department, February 2000, p. 16

3. Governments submit a simplified data form on military expenditure annually to the UN Standardized Instrument for Reporting Military Expenditures (MilEx). UN member states began submitting data on military expenditure to the UN in 1981. The simplified reporting form includes aggregate data on personnel, operations and procurement. In each of the past two years, approximately 20 countries submitted information via this form—including Armenia, Cambodia, El Salvador, Indonesia, Israel, and Lebanon. The UN collects this limited information and makes it public via printed documents and on a website.²⁸

Country examples: According to SIPRI, which has tracked global military expenditure data since 1969, the great majority of the world's countries meet the commitment of providing some basic data on military expenditure, in many cases over the Internet as well as in printed official documents. Only nine countries (Cuba, Equatorial Guinea, Eritrea, Guyana, Myanmar, North Korea, Somalia, Turkmenistan, and Uzbekistan) do not/have not released basic military expenditure data in recent years.²⁹

More substantial steps

Goal: Make more comprehensive information about military spending available in disaggregated form for both domestic and international consumption.

Justification: More detailed information in military resourcing provides a greater hedge against misallocation or misuse of funds and increases trust within and across borders.

Recommendations

1. Governments publish more detailed military budget data annually, including a breakdown for personnel (disaggregated), procurement, R&D (if applicable), construction, and operations.
 - o Specify whether paramilitary forces exist and, if so, whether they are included in this data. Information should include off-budget expenditure and revenue sources (industries or natural resource concessions under the control of the armed forces) and foreign assistance flowing directly to defense/security budget lines.
 - o This information should be published online in a timely manner, and also made available in libraries or other public facilities in appropriate languages.

2. Submit more detailed data to the UN via the Standardized Instrument for Reporting Military Expenditures (MilEx). The standardized form invites the submission of disaggregated data relating to expenditures on personnel, operations and maintenance, procurement and construction, and research and development.

Country examples: Around 40 countries provided data using this detailed form in each 2009 and 2010—including Burkina Faso, Colombia, and Nepal.³⁰

²⁸ <http://www.un.org/disarmament/convarms/Milex/html/Milexindex.shtml>

²⁹ http://www.sipri.org/research/armaments/milex/researchissues/measuring_milex

³⁰ <http://www.un.org/disarmament/convarms/Milex/html/MilexIndex.shtml>

Most ambitious steps

Goal: Full transparency, accountability and citizen engagement in all stages of military budgeting, spending, procurement and auditing.

Justification: More detailed information across each stage of the military resource chain provides a greater hedge against misallocation or misuse of resources and increases trust within and across borders.

Recommendations

1. Government publishes a detailed legislative proposal for the coming year's military budget, in order to promote open debate and amendment before the budget is finalized.
2. Publish all contracts for procurement of military or other equipment over a reasonable threshold (threshold will vary depending on the government's level of military expenditure). In order to minimize corruption around military procurement, states should have a national, publicly accessible database of all major procurement contracts.³¹
3. Subject military spending to an annual independent audit, including all sources of revenue, and publish the audit online and in locally accessible formats.
4. Submit information on weapons holdings and transfers to United Nations Register on Conventional Arms.

Country examples: While the US government provides voluminous budget proposals to the legislative branch, it has increased its use over the past decade of supplemental "emergency" budgets for military expenditure that are not subject to a high degree of scrutiny, according to the US Congressional Budget Office.³² Best practice is for governments to provide a singular inclusive, but highly specific, budget proposal for the coming year(s). The UK National Audit Office provides a model information portal on oversight of MOD budgeting, including clear and concise descriptions of the content of various audits and reports.³³ India also has a comprehensive military auditing system.³⁴ The UN created a register of conventional weapons holdings and trade in 1991, following the Gulf War. The "Transparency in Armaments" initiative invites states to provide data annually on the preceding year's military holdings, procurement through national production, and arms transfers in an effort to encourage restraint in the production or transfer of arms and to help identify excessive or destabilizing accumulations of weapons. Since its inception two decades ago, 173 states have submitted reports to the UN Register on one or more occasion. In 2010, three countries of the African region were among those that provided information on import and export of conventional arms in the calendar year 2009.³⁵

Police and public security

Initial steps

Goal: Governments make basic budgetary and personnel information publicly available in a timely and accessible manner.

Justification: In many states, police officers are the first line of contact that citizens have with their government. Competent and non-corrupt public security forces are essential to the realization of the rule of law. Insufficient or ineffective investment in the public security sector can result in weak or non-functioning security institutions, unable to respond to and deter crime and violence. Basic information about budgets and line accountability is necessary so that citizens can assess the costs of the police force relative to public safety outcomes, as well as other spending priorities.³⁶

Recommendations

1. Government discloses basic budget and lines of leadership and authority for national police force(s).
2. Government provides basic data on number of personnel, breaking out administrative staff from police officers and providing the number of police officers per capita, in order to allow comparisons with states at a similar stage of development.
3. Government reports recorded crimes, breaking out violent crime from property crime, and within violent crime, noting numbers of homicides and rapes. Government reports the arrest rate and clearance rate on an ongoing basis in a timely and accessible manner. It provides data on the number of people in pre-trial detention, acquitted, and/or in prison.

³¹ See, for example, <http://www.USAspending.gov> and <http://www.defense.gov/contracts/>

³² <http://www.ombwatch.org/node/3612>

³³ http://www.nao.org.uk/publications/1011/mod_performance_2009-10.aspx

³⁴ <http://cgda.nic.in/index.html>

³⁵ http://www.un.org/disarmament/convarms/Register/DOCS/2010-11-01_RegisterFactSheet.pdf

³⁶ Countries organize their police systems in different ways. Most of them have more than one police force—e.g., state police, communal police, municipal police, gendarmerie, and/or judicial

police. Some also undertake military duties (e.g., gendarmerie), and in some cases military forces supplement national police forces in national emergencies (Mexico, Egypt) and/or to help carry out basic police functions (Nigeria). There may also be special police forces or units that are less important in this context (e.g. tax and military police); the same may apply to certain categories of staff within the general police force (e.g. police reserves and cadet police officers). The USA has a particularly decentralized system of public security police, with the main forces residing at the state and local level, and the several national police forces being specialized on particular types of crime (Drug Enforcement Agency, Immigration and Customs Enforcement, ATF).

More substantial steps

Goal: Government discloses information about the actors involved in protecting citizens, and about patterns of criminality and justice in their communities.

Justification: Basic information about police personnel structuring, salary scales and seized assets can help protect against corruption and mismanagement and improve public perceptions of the police force and its motivations. Information about patterns of criminality, including distribution, and level and rates of crime allows citizenry to assess whether remedial approaches being taken are effective and whether the police are addressing crimes that affect the masses, or those that affect a specific sub-set of the population (e.g., the wealthy or the regime). Taken together with budget information, if a relatively high-level budget is being expended, and there are a small number of crimes being recorded and arrests made, then the government and the public are better positioned to raise questions around efficiency, mismanagement, and corruption.

Recommendations

1. Lines of authority are elaborated down the chain of command, with the identities of district police chiefs, station chiefs, and law enforcement officers being publicly identified and basic pay scales made public.
2. Data about assets seized by the police (including real estate, cars, weapons, drugs, and cash) are made public on an ongoing basis, in a timely and accessible manner.

3. Government collects and publishes more detailed information on crime and criminal justice statistics, including:

- o **Police data.** Provide basic demographic information on the police force and administrative staff, including sex, age group, and ethnic group or nationality.
- o **Prosecution statistics.** Provide data covering all steps of decision-making at prosecution level, such as initiating and abandoning prosecutions, bringing cases to court, and sanctioning offenders by summary decisions. Includes data on those in police custody, and pre-trial detention, as well as those under bail and electronic monitoring.
- o **Conviction statistics.** Provide data on persons who have been convicted—i.e., found guilty according to law of having committed one of the selected offences. Present information by offence and disaggregate offender information by sex, age group, and ethnic background or nationality.³⁷

Most ambitious steps

Goal: National crime statistics that can feed into international surveys and datasets to track progress over time.

Justification: Timely information on national crime statistics is essential to tracking and addressing overall trends and sub-trends, and making comparisons of criminal patterns across countries.

Recommendations

1. Government compiles and publishes an annual victimization survey/crime report so that overall trends and sub-trends can be monitored—along the lines of the US Annual Crime report produced by the FBI and the annual British Crime Survey published by the Home Office in the UK.³⁸
2. Governments feed data into the International Crime and Victimization Survey produced by the UN.³⁹

³⁷ European Sourcebook of Crime and Criminal Justice Statistics, fourth iteration, 2010, 382 pp. http://www.europeansourcebook.org/ob285_full.pdf

³⁸ <http://rds.homeoffice.gov.uk/rds/bcs1.html>

³⁹ UNODC crime and criminal justice statistics, <http://www.unodc.org/unodc/en/data-and-analysis/crimedata.html>

Intelligence Services

Initial steps

Goal: Governments disclose the key agencies involved in national intelligence gathering and create an independent body charged with overseeing their operations and spending.

Justification: The secretive nature of the work of intelligence services, their recourse to special powers, and their operation at the margins of the law have resulted in most governments shrouding this area of public expenditure in complete secrecy. In the past decade, as global concerns about terrorism have grown, intelligence services have been endowed with ever greater powers of collection and freedom of operation, and they now consume a larger share of public funds. These trends have generated renewed awareness about the need for effective oversight structures—whether to ensure that intelligence services conduct their work in compliance with the rule of law and international human rights standards or simply to protect against corruption around this highly secretive and unaccountable sector. Increased budget transparency and the establishment of independent oversight bodies are necessary to provide basic public accountability.

Recommendations

1. Government publicly discloses the elements of national intelligence-gathering (organizations) and their lines of authority—that is, there should be no security or intelligence agencies whose existence is a secret.
2. Governments create some form of select oversight body and process (executive, legislative, and/or judicial) that reviews the budget and detailed operations of the intelligence agencies behind closed doors.

Country examples: In South Africa this oversight function is vested in the National Assembly's Joint Standing Committee on Intelligence, and in the US a Select Committee on Intelligence in each the House and Senate set the budget levels and oversee policy behind closed doors.

More substantial steps

Goal: Governments disclose a top-line number for intelligence spending and the relevant sub-component agencies funded by that budget.

Justification: While disputed, many governments have argued against disclosure of even this most basic level of information, saying that such revelations would harm their national security or compromise their operations. In recent years, however, the UK, Canada, the Netherlands and others have published their overall intelligence spending levels, with no obvious negative security consequences.⁴⁰

Recommendations

1. Governments publicly disclose a top-line budget number and name the component parts of the national intelligence-gathering agencies that are funded by that budget, indicating the time period covered.

Country examples: The US declassified its total intelligence budget for fiscal year 1997 and 1998 in response to a court challenge brought under the US Freedom of Information Act.⁴¹ (It was \$26.6 billion and \$26.7 billion, respectively.) No resulting damage to US national security or intelligence methods was identified; however, the US Government still refused to voluntarily disclose such baseline information for another decade. Starting in fiscal year 2007, in compliance with a legislative requirement, the Director of National Intelligence began reporting the aggregated intelligence budget figure for all non-military intelligence activities appropriated for the preceding fiscal year that just ended.⁴² And in October 2010 the Secretary of Defense disclosed the size of the military intelligence program budget for the first time. Thus the total aggregate intelligence budget figure (national plus military) was finally revealed for the first time in a decade and was reported at \$80.1 billion—3 times as much as when it had last been disclosed.⁴³

⁴⁰ See Federation of American Scientists, *Secrecy and Government Project*, website at <http://www.fas.org/irp/budget>. Also "Annual Report 2008-2009, Intelligence and security Committee," chairman Rt. Hon. Dr. Kim Howells, MP, pp. 4-6

⁴¹ Included in the US intelligence community are the CIA, National Security Agency, Defense Intelligence Agency, National Imagery and Mapping Agency, National Reconnaissance Office, elements of the Army, Navy, Air Force, Marine Corps; the Federal Bureau of Investigation; Drug Enforcement Agency; and specialized intelligence units of the Departments of Energy, State and the Treasury.

⁴² As required by Public Law 110-53, since 2007 the US Director of National Intelligence discloses the aggregate amount of funds appropriated by Congress for and expended by the National Intelligence Program for the preceding fiscal year within 30 days after the end of the fiscal year. The NIP budget includes only the amount that is not devoted purely to military operations. For fiscal year 2010 that figure was \$52.1 billion.

⁴³ Ken Dilanian, "Overall U.S. intelligence budget tops \$80 billion," *Los Angeles Times*, October 28, 2010.

Most ambitious steps

Goal: Comprehensive information about component intelligence agency budget lines and increased opportunities for public and legislative discussion and debate about the performance and budgetary requirements of those agencies.

Justification: Most governments have an internal intelligence-gathering and analyzing service, often focused on combating violent criminal or political activity, illicit commerce, or other national crime. Some also have one or more foreign-oriented intelligence gathering agencies, perhaps part of the military or foreign affairs or trade/economics/industry ministry. In some countries, the intelligence function includes covert direct action, as well as information gathering, analysis, and dissemination. Ensuring effective public oversight of so many dispersed actors and their activities requires more detailed disclosures at the agency level, combined with more opportunities for public and legislative discussion and debate about the quality and quantity of intelligence services being supported.

Recommendations

1. Government publishes disaggregated budget lines for different intelligence component agencies or services and/or selected functional activities (e.g., collection, analysis, covert action).
2. Government publicly discloses intelligence budget requests, allowing some measure of “real time” public oversight debate.
3. Government establishes external (independent and empowered) oversight that is able to review the intelligence product and assess, in some manner, the outputs to help ensure against misuse or politicization of the intelligence.

Country examples: The Government of the Netherlands discloses annual overall intelligence budget amount, breaking the amount spent on “confidential expenditures” out separately. It also notes the percentage of the budget devoted to staff expenses, user allowance, and operational management and task funds.⁴⁴ While the US Government remains unwilling to provide any breakdown of spending beyond the overall figure,^{45,46} in February 2011, the Office of the Director of the National Intelligence revealed that the US Government’s requested total for its non-military intelligence budget for fiscal year 2012 was \$55 billion. This was the first time the top-line figure has been released publicly before Congress has acted to appropriate the funds, possibly signifying new openness in intelligence budgeting.⁴⁷

⁴⁴ General Intelligence and Security Service, Ministry of the Interior and Kingdom Relations [NL], Annual Report 2009, p.61.

⁴⁵ James R. Clapper, the director of national intelligence, told senators during his confirmation in July 2010 that he persuaded Defense Secretary Robert M. Gates to disclose the Military Intelligence Program budget so that the public could see the full picture. “I think the American people [are] entitled to know the totality of the investment we make each year in intelligence,” Clapper said. Ken Dilanian, “Overall U.S. intelligence budget tops \$80 billion,” Los Angeles Times, October 28, 2010.

⁴⁶ Dennis Blair, Director of National Intelligence said, “Any and all subsidiary information concerning the National Intelligence Program (NIP) budget will not be disclosed as such disclosures could harm national security.” Office Of The Director Of National Intelligence, Public Affairs Office, “DNI Releases Budget Figure For 2009 National Intelligence Program,” ODNI News Release No. 33-09, October 30, 2009.

⁴⁷ Brian Clappitt, “U.S. Intelligence Budget Request Revealed,” Harvard National Security Journal blog, Feb 23, 2011, <http://harvardnsj.com/2011/02/intelligence-budget-request-revealed/>

16. Service delivery

Contributors: Twaweza

The delivery of effective education, health and water services is essential to human wellbeing and spurring economic growth. Governments have expanded investments in these services in recent years; and in many countries today typically one third of public monies are spent on education, health and water. For citizens the use of these services provide the most common interface with their governments and the most tangible manifestation of the state-citizen compact, and this experience shapes their sense of trust in and expectations of government.

However, in practice, the value and reliability of basic services is often very poor. Massive investments have not led to achievement of outcomes. Many people, particularly the poor, are forced to fend for themselves as schools go without adequate books, teachers and learning, dispensaries lack medical supplies and trained personnel, and water points cease to function or cost too much. Large disparities among populations persist; further eroding the social fabric and undermining popular aspirations. In the face of these difficulties, local governance and oversight mechanisms tend not to function well, leaving citizens without practical recourse to remedy. Promoting greater transparency and imaginative opportunities for citizen engagement may help trigger better use of public funds, greater responsiveness and improved service delivery.

Initial steps

Goal: Governments make key information on basic service delivery policies, entitlements, budgets and performance meaningfully accessible to all people.

Justification: Most citizens do not know what their basic entitlements, responsibilities and performance, and are therefore unable to follow-up, assess value, or play their roles effectively. The lack of information also makes it easier for unscrupulous local officials and service providers to divert public resources for illicit gain.

Recommendations

1. Governments should make public citizen entitlements/ responsibilities, funds released and actual performance levels related to education, health and water (and any other basic services). The commitment should be specific: e.g. 'at least 80% of all citizens will be easily able to access this information'.
2. The information should be disaggregated to the lowest level (e.g. x and y services are free for pregnant women, z dollars per student will be sent to each school per student, x out of y students passed the examinations, there are x water points in your ward per population, and y of them are functioning, etc) and presented in a user-friendly (visual) manner so as to be relevant and meaningful to ordinary people.

3. The 'retail' popularization of information can often be best done by professional communication companies or CSOs; therefore governments should make such information (in raw data) available to these third parties and foster its dissemination to the lowest levels, including through radio, TV, internet (facebook) and mobile phone platforms.
4. Governments should commit to post information on public notice boards at all public schools, dispensaries, water points, libraries and local government offices.
5. Governments should foster easy feedback mechanisms and provide cooperation to independent monitoring efforts that seek to assess the reach and quality (meaningfulness, value) of the public dissemination of information, and commit to specify and take swift measures to remedy problems.

Country examples: Capitation grant disbursements (Uganda, Kenya, Tanzania episodically). Client service charters (but need to be compiled for citizen level, rather than central ministries).

More substantial steps

Goal: Governments make key information on the execution of policies, *attainment of results* and independent audits meaningfully accessible to all people, and in a manner that allows comparisons.

Justification: In many countries, the key challenge is not the need for better policies, but implementation of policies and the translation of funding and inputs into meaningful results. Particular emphasis should be placed on two aspects – procurement and achievement of outcomes – because these areas tend to be rife with problems and/or tend to be neglected, and can often enable tangible citizen engagement. In the information they provide, governments should explicitly disseminate and enable comparisons of different sorts (actual vs. policy; this year vs. previous years, our school vs. with other schools, the average monthly salary of a health worker vs. with monthly expenditures on travel allowances) because it is *in comparing that data achieves meaning*. Comparisons also allow citizens (and authorities) to more effectively compare performance, assess value for money and exercise choice and accountability.

Recommendations

1. Governments should commit to tracking and making publicly accessible a specific set of (quantitative and qualitative) measures to assess execution of policies and attainment of progress.
2. The underlying data used to assess progress should be made publicly available, in formats that can be easily crunched by third parties. Information should be provided to the lowest disaggregated facility or community level (e.g. school, health facility, village) and unit prices (per textbook, per water well constructed) so as to be meaningful and relevant to citizens.
3. The information should be available on user-friendly interactive online platforms that allow users to tailor searches and queries, and in particular make comparisons across time, geographies, sectors and against policy commitments. In particular, information from different sources should be presented side by side (e.g. administrative data, survey data, reports of the auditor general, reports of the public procurement authorities).
4. Because computer based internet access, while growing, is still constrained in developing countries, explicit efforts should be made to make information available on public notice boards, on popular mobile phone platforms, and to foster synergies with other mass media (e.g. FM radio) and mass institutions (e.g. faith bodies, fast moving consumer goods companies).
5. Governments should foster easy feedback mechanisms and provide cooperation to truly independent monitoring efforts that seek to assess execution of public services and quantity/quality of attainment, and commit to specify and take swift measures to remedy problems. While ad hoc monitoring as need arises can be helpful, establish systematic monitoring mechanisms that monitor what is happening at the lowest levels, and involve impartial academics and CSOs who produce credible 'report cards' to the nation would be more valuable. Because the quality/integrity of underlying data used by governments can be uneven, independent monitoring should also assess reliability of data used.

Country examples: Education Public Expenditure Tracking Surveys (PETS) in Uganda and Tanzania, Medical stock-outs (Ushahidi, Huduma Kenya), Data searchable to facility level (UBOS, Uganda), Popularizing audit reports (various), Data.gov (US, UK), Right to information/ government documents surrounding essential services to a very detailed level (Sweden)

Most ambitious steps

Goal: Governments foster wide civil society and direct citizen participation in information sharing, problem solving, innovation and practical accountability so as to improve service delivery.

Justification: The constituency most affected by and often most knowledgeable about realities, constraints and opportunities regarding service delivery are millions of citizens and grounded civil society associations (including local faith and business groupings), and yet this constituency is often least consulted and involved in solving persistent service delivery challenges. Creating serious and practical opportunities for citizen involvement may provide a huge untapped reservoir of knowledge and goodwill, align incentives effectively, and create greater trust that are all essential to solve service delivery challenges. New technologies and decreasing costs of communication, particularly the mobile phone and fast growing social media platforms such as facebook, enable unprecedented avenues for information sharing and demand-driven, contingent collaboration.

Recommendations

1. Governments should establish a set of clear principles, regulations and tools to foster an enabling open environment for multiple state and independent actors (including individual citizen) engagement to provide feedback and ideas.
 - o The key here is not only to establish a defined set of activities that are managed or coordinated by government, but rather to set the conditions in which interested parties can access and generate information and ideas easily, undertake their own analyses and communication, innovate new tools (think apps) and help catalyze an exciting 'ecosystem' of ideas and actions.
 - o The role of governments here would be to support third party (or autonomous government) bodies to facilitate such an environment, to encourage easier exchange and critique, to take feedback seriously and respond to it reliably, and to set incentives right within government to tap into new ideas, experiment and rigorously evaluate them, and adopt at scale.

2. Funding and awards can be set up to spur innovations and problem solving, also in a manner that allows comparison and rewards those in government who exercise bold leadership.
3. Feedback mechanisms should be set up that are built around what people already use and like (e.g. mobile phones, markets, prater groups, schools) and multiple opportunities to be provided so as to cater for different tastes and mitigate against some channels not working.
 - o A critical element of this approach is not only providing data, but documenting and telling (and challenging) stories (or enabling people to tell their stories) of how they brought change.

Country examples: Daraja (Tanzania), Huduma (Kenya), social audits, checkmyschool (India, Philippines, etc), Friends of education, Apps for Africa, MakerFaire, wananchi.go.tz, and numerous developed country examples like seeclickfix.com.

Annex I: Guiding principles and emerging best practice

The types of information needed

Public and private bodies engaged in funding and delivering aid, and those who deliver aid on their behalf, should proactively disseminate information on their aid and aid-related activities. They should develop the necessary systems to collect, generate and ensure the automatic and timely disclosure of, at a minimum, information on:

- **Aid policies and procedures** including clear criteria for the allocation of aid;
- **Aid strategies** at the regional, country and local; and programmatic, sectoral and project levels;
- **Aid flows** (including financial flows, in-kind aid and administrative costs), including data on aid planned, pledged, committed and disbursed, disaggregated according to internationally agreed schema by region, country, geographic area, sector, [disbursement/delivery] modality and spending agency;
- **Terms of aid**, including aid agreements, contracts and related documents, for example, information on all conditions, prior and agreed actions, benchmarks, triggers, and interim evaluation criteria; and details of any decisions to suspend, withdraw or reallocate aid resources;
- **Procurement** procedures, criteria, tenders and decisions, contracts, and reporting on contracts, including information about and from contractors and sub-contracting agents;
- **Assessments of aid and aid effectiveness** including monitoring, evaluation, financial, audit and annual reporting;
- **Integrity procedures**, including corruption risk assessments, declarations of gifts and assets, complaint policies and mechanisms and protection of whistleblowers;
- **Public participation**: opportunities for public engagement in decision-making and evaluation, consultative/draft documentation, copies of submissions to the consultation processes, and reports on how inputs were taken into account;
- **Access to information**: organizational structure, contact information and disclosure mechanisms and policies.

All aid agencies should ensure that the presumption of disclosure is made in the application of exemptions on aid information. The only restrictions on the proactive

Aid transparency principles

The following four principles that should be applied by all public and private bodies engaged in the funding and delivery of aid, including donors, contractors and NGOs.

1. Information on aid should be published proactively – aid agencies and organizations should tell people what they are doing, for whom, when and how.
2. Information on aid should be comprehensive, timely, accessible and comparable – the information should be provided in a format that is useful and meaningful.
3. Everyone can request and receive information on aid processes – ensure everyone is able to access the information as and when they wish.
4. The right of access to information about aid should be promoted – aid agencies and organizations should actively promote this right.

publication of this information should be based on limited exceptions consistent with international law and subject to consideration of the public interest in the disclosure of information.

All agencies and organizations engaged in aid should publish and register of the types of information that they hold, and wherever possible these should be organized so that all the documents linked to a particular country, program or project can be identified.

The development of a common standard

Research on the possible benefits of greater aid transparency found that they fell into two broad categories “(1) efficiency gains (such as reduced administration costs, less duplicate reporting, better planning of aid programs); and (2) effectiveness gains (such as improvements in services resulting from greater accountability, and microeconomic and macroeconomic improvements from greater predictability).”⁴⁸ A series of less tangible benefits have also been identified: the possibility of enhanced aid allocation – between countries, donors and sectors, better research, monitoring, evaluation and possible impact benchmarking, as well as supporting a greater willingness to give aid.

⁴⁸ Collin, Zubairi, Neilson and Barder, The Costs and Benefits of Aid Transparency, AidInfo, October 2009, p. 4.

Consequently donors have started to invest in building a common standard to get the most out of increases in proactive disclosure of aid information, making it possible to deliver on the potential of greater aid transparency and yield the most efficiency and effectiveness gains it offers.

A common standard is essential for transforming more information into better information. This makes information mappable, useable and searchable. The principle underlying a common format is that it allows aid agencies to publish once but use many times – both themselves and for other stakeholders.

Ensuring the common standard delivers for everyone

The common standard needs to deliver in a number of crucial areas:

- Organizations need to ensure the agreed standard is based on and fits with the reality and practice of donors' and recipient governments' internal systems – from accounting, to project management to monitoring and evaluation systems. Without this grounding in actual practice, there are serious risks that organizations will struggle to disclose to the standard, instead of it making things easier and streamlining information availability.
- The format agreed needs to also deliver on major external reporting formats required from aid agencies such as the DAC CRS, the IMF's government financial statistics functional classification and the UN's Financial Tracking System in order to ensure that time and resources savings are attained.
- In the run up to the next High Level Forum on Aid Effectiveness in Korea in November 2011, it is essential that publishing information in a common standard assists donors in delivering on the Paris Declaration and the Accra Agenda for Action aspirations and commitments. Transparency to recipient governments is closely linked to the Paris alignment targets for aid on budget and predictability. If information is not comparable and timely between donors and aid agencies, coordination conversations that lead to greater harmonization cannot progress to actual improvements in the division of labor. For highly aid dependent recipients, discussions of their ownership of the development process remain hollow without usable information on aid. Accountability cannot occur without the ability to identify and track what is happening or not.

- A particularly important area is information comparability – which means ensuring the compatibility of aid data classifications with recipient country accountability and budget systems. Without this element the Paris agenda is hard to achieve as noted above. More fundamentally, the common standard needs to ensure the critical link between improving donor aid and building the accountability of recipient governments to their citizens can be made. If recipients do not know what donors are doing it is hard for them to optimize the use of their own tax resources and be accountable to their taxpayers. Ensuring the agreed standard maps to national budgets is a pre-requisite for improving use of their own resources in highly aid dependent countries.⁴⁹

In the medium term, a time-series dataset needs to be constructed to allow for aid information availability country-by-country and programme-by-programme. A central premise for such an approach would be collecting information by recipient country, and for centrally allocated sectoral spending by program. Aid transparency could thus be assessed much more practically, in each recipient country or for each "vertical" program. This would give a much more powerful analysis and the ability for aid agencies and recipients to learn and change more rapidly, making it possible for the accuracy to be monitored both by the aid agencies operating in that country as well the citizens of countries receiving aid and citizens of donor countries. This is a large-scale project, depending on the evolution of a common standard, and would need investment.

⁴⁹ See Williamson and Moon, "Greater Aid transparency: Crucial for aid effectiveness", Project Briefing 35, Publish What You Fund, the Overseas Development Institute and International Budget Partnership, January 2010; and Moon, S. with Mills, Z., "Practical

Approaches to the Aid Effectiveness Agenda: evidence in aligning aid information with recipient country budgets", Working Paper 317, Publish What You Fund the Overseas Development Institute and International Budget Partnership, July 2010.



