For many years the global anti-corruption movement has promoted transparency as a key tool for reducing corruption around the world, on the assumption that sunlight is the best disinfectant. This agenda has received a major boost in recent years because of the increasing availability of ‘big data’ and the computer processing capacity to analyse it. Put transparency and big data together, and you get ‘open data’, data that is freely available and may be re-published. Open data derives from many sources and includes scientific data, such as the results of experiments, and corporate data about the activities of companies, as well as data published by governments. Within the subset of government open data there are again many types of data. Some of the data that governments publish is about the public, for example, information on health trends or crime rates in local areas. Another type of data is intended to facilitate economic activity, for example, data about transport connections. Yet another type is about the activities of the government itself, such as information about public spending on goods and services or the salaries of public officials. It is this latter category of data that is associated with efforts to improve the accountability of government, and hence there is much excitement about the potential for this to serve as an important anti-corruption tool.

Open governments, open data?

One extreme example of open government data is the Wikileaks movement, which has sought to leak sensitive government data in order to increase public scrutiny, particularly in areas prone to secrecy, such as diplomacy and security. Whilst its methods remain controversial, the campaign has arguably prompted governments to be more proactive about publishing data themselves, leading to initiatives such as the Open Government Partnership (OGP). The OGP is a voluntary international standards-setting initiative that sees national governments committing to make available as much data as possible about the public sector. Since its launch in 2011, 65 countries have signed up, which has required such countries to meet a set of eligibility criteria and appoint a lead ministry or agency to draft an action plan.

Openness has thus become a way for countries to build an international reputation with their peers. Whilst joining the OGP is relatively straightforward, countries need to follow up on their commitments if they are to really reap the reputational benefits. The Global Open Data Index, produced by the Open Knowledge Foundation, keeps up the pressure by ranking governments on their openness. The UK has taken the top spot in recent years, with other Commonwealth countries such as Australia, New Zealand and India making it into the top ten. Overall, though, Commonwealth governments vary widely in their openness, according to the index.

Critics argue that the index is superficial. A country can score well because it has the right legal framework in place for opening up government data, despite its record on implementing the rules – which is harder to monitor – being poor. Romania, for example, keen to demonstrate its anti-corruption credentials to the EU, has made far-reaching commitments to government openness. Yet academic researchers report that the reality on the ground is that the authorities are often reluctant to release information in a useable format.

The UK also risks losing its top spot if future versions of the index pay greater attention to implementation rather than just policy commitments. Take information about ministerial meetings, for example. Although the government is committed to publishing such information in a timely manner, ministries vary greatly in how promptly they publish the data and how detailed the information is that they provide. Such inconsistencies make it difficult to conduct a rigorous analysis. Another common problem is that governments publish data in PDF format, meaning that researchers must...
manually input it into databases before it can be analysed. In short, open data is not always provided in a big data format. Governments, for their part, complain that the open data agenda is imposing a costly administrative burden and that the money might be better spent elsewhere.

Does transparency pay?

The costs might be less controversial if the evidence about the benefits was more certain: although it is often assumed that sunlight is the best disinfectant, there is little empirical evidence for or against this. Theoretically, transparency should help to improve accountability in two ways. First, it should increase the rate at which we detect any misconduct – or, indeed, incompetence and inefficiency. Second, transparency is expected to deter deliberate misconduct and encourage responsible behaviour; so that fewer cases of corruption occur (because individuals both in government and in business fear exposure and punishment, and hence modify their behaviour accordingly).

However, it is difficult for researchers to disentangle these two effects, particularly when using data about corruption investigations or prosecutions as the outcome variable. If the rate of detection increases, the number of prosecutions of corruption will increase; it might thus appear that corruption has increased. However, if more cases of corruption are prevented this would mean fewer prosecutions of corruption. Thus, greater transparency might be successful in both detecting and preventing corruption, but this would not be as easily discernible from the data.

Much of the academic research has sought to evaluate the impact of transparency on governments, rather than companies. This work suggests that transparency only improves accountability where there is a supportive ‘ecosystem’ of checks and balances, including media freedom and active civil society organisations that help the public to analyse the disclosed data. That ecosystem is not in place in many Commonwealth countries. Hence the open government and open data agenda needs to be accompanied by more support for civil society, including training in how to interpret open data. Moreover, if irregularities are uncovered, the government needs to be ready to respond appropriately by initiating an investigation and, potentially, taking action if irregularities or misconduct are uncovered. Opening up government will not necessarily improve accountability if these other conditions are not present.

A promising agenda

Nevertheless, the promise of open data remains compelling. Some academics – primarily a team led by Mihaly Fazekas – have developed new ways of analysing public procurement contracts, for example, to identify areas of high corruption risk. Given that this is an area where vast amounts of public money are spent, and also a common site of corruption, efforts in this regard could help us to identify where public money is going astray.

Another area where the interface between governments and the private sector is coming under scrutiny is the extractives sector, which has come under considerable pressure to improve transparency and, indeed, been compelled to do so by new legislation in the USA and the EU. In 2002 a group of global non-governmental organisations (NGOs) came together to launch the Publish What You Pay (PWYP) coalition. The group was concerned about the persistent ‘resource curse’ problem, whereby developing countries with large endowments of natural resources seem unable to convert those resources into economic growth or widespread improvements in living standards. The NGOs, in common with many development agencies and prominent thinkers, such as Jeffrey Sachs and Paul Collier, suspected that corruption was part of the problem. PWYP therefore sought to deter corruption by lobbying governments to ‘publish what they earn’ and companies to ‘publish what they pay’, in an effort to encourage honesty and improve public scrutiny.

In the UK, the Blair government built on the PWYP philosophy to develop the Extractive Industries Transparency Initiative (EITI). This worked on the same principle of mutual disclosure followed by reconciliation of the two sets of figures, but put the onus on governments to sign up and then require companies operating in their countries to comply. This helped to overcome problems where companies argued that publishing what they paid would prejudice their relationships with government clients; the latter argument is still made in non-EITI countries. The initiative has proved surprisingly successful, with 31 governments now having undertaken the necessary reforms to achieve compliance. Many governments have come to regard the EITI as a way to boost their reputation with the international community of lenders and donors, helping them to gain debt relief or unlock aid. The more responsible global companies, meanwhile, claim that the initiative helps them to build legitimacy with local populations.

With the EITI having achieved such success, some campaigners tried to further tighten the screws by seeking to enshrine disclosure rules for extractives companies in law. Thus, the Cardin-Lugar amendment of the US Dodd-Frank Act 2010, subsequently elaborated as section 1504, imposed transparency requirements on all listed oil, gas and mining companies, requiring them to disclose payments of taxes and other fees in excess of US$100,000 made to foreign governments.

However, this apparent victory has yet to manifest as concrete rules. In July 2013 the DC District Court gave a summary judgment vacating this portion of the Dodd-Frank Act, with US District Judge John Bates stating that the Securities and Exchange Commission (SEC) had not adequately weighed other countries’ laws prohibiting disclosure of payments nor used its discretion in evaluating whether some information should be withheld from public release. In September 2014, with the SEC having failed to issue new rules, Oxfam America launched a suit against the SEC over the delay, but the law remains in limbo. In the meantime, however, the European Union has introduced similar changes as part of a review of its Accounting Directive; EU member states are now in the process of translating these into national laws.

References


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