

DRAFT TECHNICAL NOTE

Sectoral Approach to Transparency: Pros and Cons

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As the Inter-American Development Bank develops its methodology for supporting transparency to fight corruption, based on my personal experiences in the field, I would like to provide some reflections on the advantages and disadvantages of various approaches.

Broadly, I contend that there are three distinct strategies for promoting transparency emerging, including comprehensive; targeted; and sectoral. The comprehensive approach may be described as more holistic with the primary objective of establishing an access to information law that is fully implemented, enforced and used. Some examples would include the civil society campaigns in Nicaragua and Honduras or the Government of Mexico's passage of the law and creation of the Federal Institute for Access to Information. The targeted approach, on the other hand, is an interventionist response to an identified problem. Targeted transparency requires "disclosure of specific factual information" with specific aims such as "to reduce needless economic losses to investors from corporate deception, to prevent deaths and injuries, to improve the quality of public services, or to fight corruption."¹ Instances of targeted transparency in the United States may include nutritional labels on food, vehicle emissions, and the toxic waste registries. Finally, the sectoral approach could be defined as the attempt to highlight ongoing transparency efforts or to advance a greater flow of information in one area of public administration, without engaging all of government or seeking specific all-encompassing legislation. Sectoral transparency initiatives include the Extractive Industry Transparency Initiative, the Global Transparency Initiative focused on the international financial institutions, and the various budget transparency projects. Both the targeted and sectoral approaches may be characterized by their reliance on disclosure (whether voluntary or mandatory) rather than compulsory responses to solicited information.

This paper focuses most directly on the pros and cons of a sectoral transparency strategy, particularly vis-à-vis the comprehensive approach. Briefly, I argue that a sectoral transparency policy allows for a more immediate and deeper penetration into the designated subject area whereas a comprehensive approach provides for a delayed and diffuse but potentially more sustainable transformation. I conclude with a number of suggestions for advancement.

¹ Fung, A., Graham, M., and Weil, D., Full Disclosure: The Perils and Promises of Transparency, xiii, Cambridge University Press, 2007.

Benefits of a Sectoral Transparency Strategy

The sectoral approach allows government, civil society stakeholders and the donor community to focus transparency efforts in one specific field or subject matter. This concentrated engagement may translate into more immediate results and impact, thus providing greater profile to the benefits of increased transparency and access to information.

A sectoral strategy takes advantage of the existing legislative framework and policies, and better integrates these with the policy reform notion of greater access to information as a tool to fight corruption. For example, in the area of procurement, there already may exist a public procurement law, policies related to procurement oversight by independent bodies, or public contracting statutes. By engaging at the sectoral level, these extant laws more effectively can be incorporated into the transparency efforts where appropriate or highlighted as in need of reform.

Moreover, in sectoral initiatives, it is often easier to identify and engage interested stakeholders. These groups already are invested in the theme, and often understand the issue more fully and are more amenable to utilizing new advocacy tools, such as access to information policies. The interested parties are more specialist and capable of adapting the new transparency mechanisms in their ongoing efforts. For example, the recently formed medicines transparency alliance draws upon entities such as the health ministry, the pharmaceutical companies, and NGO's interested in public health to foster support for the need for greater access to information. It does not create parallel structures, but rather provides an additional tool for already dedicated advocates. This allows the more effective and efficient creation of constituencies prepared to promote efforts toward greater transparency and the fight against corruption, and perhaps build a critical mass of persons dedicated to transparency.

Developing and refining governmental steps, such as implementation plans and training, and civil society campaign strategies may be more easily accomplished in the sectoral arena. Narrowly defined projects are more amenable to change, allowing the application of lessons learned.

In summary the key advantages to a sectoral transparency approach are:

- ✓ More immediate results and impact
- ✓ Builds on extant legislative framework
- ✓ More easily identifies and engages existing constituencies
- ✓ Develops and refines methods

Disadvantages to a Sectoral Transparency Strategy

Although there are clearly benefits, an exclusively sectoral approach to transparency has concomitant disadvantages. Perhaps the most critical risk is that a purely sectoral strategy will create the illusion of transparency rather than lead to the establishment of a

full and enduring access to information regime. In other words, could sectoral transparency become a panacea for genuine reform? Applying transparency to one slice of government may not effectuate a transformation in overall behavior nor imply the change of culture necessary to decrease traditions of secrecy. If all efforts and resources are placed in one sectoral area, this may not translate into the necessary broad and long-lasting public administration reforms. In Uganda, there is the much touted budget transparency in education initiative that has driven real change in the education system, but has not had an impact on Uganda's general establishment or application of transparency policies and arguably there is no greater overall transparency in the state.

Without a comprehensive legislative framework, it may be more difficult to enforce the new schematic. A key component of the holistic approach entails the passage of an enforceable right to information; this is rarely present in a sectoral or targeted approach. Lacking mechanisms to enforce access to sectoral information, the immediate gains may not be sustainable as resources are moved to other areas and government priorities shift.

The sectoral approach often leads to duplication of efforts and uncoordinated disparate initiatives, thus diffusing efforts. For example, in Peru there have been efforts at increasing transparency in the extractive industries, in budgeting and in judicial reform which have not sufficiently engaged with each other or with the activities to more fully entrench the access to information law.

Furthermore, it may not engage those civil society groups that have a long-term commitment to increasing access to public information. Depending on the sector chosen, one could imagine that the more generalist organizations dedicated to the promotion of democracy, good governance and human rights may be side-lined as resources are targeted to more specialist NGO's such as those that focus on health or environment issues. In Jamaica, the leading voice for access to information was Jamaicans for Justice, a more generalist civil society organization. Had the sectoral approach been utilized to promote access to information in public registries, for example, JFJ's incredible labors would have been ignored, and worse they could have been undermined.

Finally, in practice the sectoral approach may not be feasible. There are few, if any sectors within the public administration, that are independent. In developing a thematic approach, all entities concerned must be drawn in. For instance, one may suggest a focus on increasing transparency and access to information in the area of water. However, this could conceivably involve the ministries of finance, environment, health, sanitation, agriculture, public administration, public works and infrastructure and offices of contracting and procurement, as well as local government. Identifying all of the links may be timely, and properly engaging the various elements may undermine the values of the more limited strategy.

In summary the key disadvantages to a sectoral approach are:

- ✓ May not lead to overall greater transparency
- ✓ May not effectuate the necessary change in public administration

- ✓ Without enforceability, may not be sustainable
- ✓ Duplication of efforts and diminished coordination
- ✓ Marginalizes groups already engaged in the promotion of access to information
- ✓ In practice, it may not be feasible

A combined approach

I would urge governments, civil society advocates and the donor community to consider a combined approach to access to information, with efforts aimed at both a sectoral and comprehensive methodology. Simultaneously supporting the two different types of initiatives will allow the advantages of the sectoral approach to flourish and negate some of the potential disadvantages. As indicated, the sectoral approach can provide for immediate change and this impact may be used by the generalists in their quest for a comprehensive access to information law. The lessons learned from the more targeted sectoral focus can be applied to all of government as the comprehensive strategy generates an access to information law. Moreover, donor support of both strategies will engage all interested stakeholders and encourage greater coordination and promote the links between relevant constituencies. Finally, if successful, a dual-pronged strategy will secure the more immediate results of a sectoral approach while assuring the transformation and sustainability of an enforceable comprehensive transparency regime.