



BOOK REVIEW TRANSPARENCY

The uphill road to free information

No law can enforce truly open government, but disclosure rules can give a nudge in the right direction, says Samuel Brittan

Does the man in Whitehall sometimes really know best? This thought, articulated by the Labour politician and policy thinker Douglas Jay in the period after the second world war, attracted much opprobrium. But it was not the assertion itself that was wrong.

It is easy to think of many areas where a government adviser, however fallible, is more likely to be right than a member of the public taken at random. The crucial point is that the official analysis be open to scrutiny and, almost as important, to know which man in a Whitehall village of disparate views is in the ascendant and why.

Transparency is a series of essays mostly by professors of government and allied subjects on such themes. Too much space is spent logic-chopping about the meaning of this and related concepts. It is, moreover, not helpful to try to discuss business and government confidentiality in the same breath. Business confidentiality is a matter of balancing the rights of shareholders against competitive needs. Official confidentiality concerns weighing the claims of open government against the alleged effectiveness of decision-making behind closed doors. The two issues have become confused because of the blurring of the distinction between business and government, which has unfortunately become the hallmark of the so-called Third Way.

Transparency International is also the name of a very necessary pressure group that exposes corruption in government contracts, especially in the sale of arms, an important but slightly different theme. I would settle for the term “freedom of information”, which also happens to be the name of specific legislation in several countries.

It would be fair to say that the predominant view of the contributors is one of superior scepticism. The more theoretical writers treat it as a fashionable, but superficial slogan. The more empirical ones are impressed by the numerous ways in which governments can get round disclosure rules. The contribution on Canada is particularly illuminating here. Not

much is said about the UK record: the British Freedom of Information Act only came into force in 2005. Instead we have a useful account by the former official who was responsible for the implementation of the act. The main omission is the absence of any analysis of Sweden, which has long granted the public right of access to official policy documents.

One of the few real enthusiasts for freedom of information among the authors is Patrick Briginshaw. As he says: what is the point of freedom of speech if one is poorly informed? The reason why the secret British state relied upon censorship was because the criticism too often hit the spot. But he goes too far in calling open government a human right. The European Central Bank may be right or wrong in not publishing minutes of its monetary policy deliberations, unlike its US or British counterparts. But it hardly ranks with torture, press censorship or imprisonment without trial.

Secrecy can sometimes be justified if it enables negotiators to water down the more fanatical claims of interested parties. This is mainly, but not only in external affairs. Precarious though it is, the ceasefire in Lebanon was the work of private diplomacy spearheaded from the United Nations in New York. If the price is to enable Tony Blair to hint that the ceasefire is his work, so be it. Instead of Woodrow Wilson's "open covenants . . . openly arrived at", the slogan should be "open agreements privately reached". If open government is pressed too far, the real decisions will be taken in unminuted small groups, such as Mr Blair's notorious couchside groups of intimates. But although not a panacea, anti-secrecy legislation can help at the margin. For instance, the Financial Times used the Freedom of Information Act to obtain details of the UK departure from the Exchange Rate Mechanism in 1992 – publication of which caused John Major to reveal that he had written, but not implemented, a letter of resignation at the time.

Even more open-minded civil servants draw the line at revealing advice given by officials to ministers – a pernicious doctrine I have been fighting throughout my career. Inevitably most ministers are generalists who have come up through their speech-making abilities or understanding of the chemistry of one or other political party. Open government which stops short of the more expert advice they are given will never be the real thing.

But there is a subtler fallacy of books such as this. They assume that there is some ideal legislation which will give us the right amount of open government. True progress depends on revelations and leaks going beyond what governments, courts and parliaments will ever voluntarily offer up, whether it is the investigations into Watergate or the media inquiries that revealed the deceptions about weapons of mass destruction in Iraq. An open society emerges from competition and conflict and not from any once-for-all constitutional settlement.

Transparency: The Key to Better Governance?, Christopher Hood and David Heald (eds), Oxford University Press, 2006

Reviewed by Samuel Brittan in the *Financial Times* of Monday 9 October 2006