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Introduction

Nigel Bowles, James T. Hamilton, and David A. L. Levy

Around the world, governments are experimenting with initiatives in transparency and open government. These involve announcements of new government websites, more access to government datasets, and broader attempts to involve the public in government decision-making. The role of the media in open government, however, is often left unremarked and unexamined. This book explores the particular challenges and opportunities that journalists face in holding governments accountable in an era of professed transparency.

On his first day in office, President Obama issued a Memorandum on Transparency and Open Government that emphasised that government should be transparent, participatory, and collaborative. Prime Minister Cameron has similarly emphasised the value of opening up government data to wider access. Open government commitments have also become part of international policy discussions, with the adoption and implementation of national freedom of information laws in countries such as India, Mexico, and South Africa attracting widespread attention. In the US and UK many of these initiatives focus on data helpful to people in their role as consumers (rather than voters), or aim to draw on knowledge from citizens or experts to aid in the development of policies and regulations. To examine how transparency and open government initiatives have affected the accountability function of the press in the US and the UK, scholars and practitioners from both countries met at Oxford University's Rothermere American Institute in October 2012. This book emerges from the ideas generated at this interdisciplinary conference, convened by Duke University's DeWitt Wallace Center for Media and Democracy, the Reuters Institute for the Study of Journalism, and the Rothermere American Institute.

Rather than giving a chapter-by-chapter summary of key points, this introduction has three aims: to provide a context for how information works in theories of government transparency and accountability; to highlight themes that ran across discussions of how government and the media approach openness in their institutional operation; and to project how policies and changes in technology might affect the paths that journalists and government officials will follow as they consider questions of transparency and accountability.

Information and accountability, in theory

Delegated decision-making lies at the core of representative democracies. In the US and UK electoral systems voters delegate choices to elected officials, who ultimately face the sanction of defeat if their decisions stray too far from the preferences of voters. Economists call this type of arrangement a principal–agent relationship, where the principal (here a voter) delegates decision-making power to an agent (who could be a Member of Congress, or Member of Parliament). Principal–agent relationships in politics offer multiple advantages. The division of labour allows government officials to become experts in particular policy areas, and leaves voters free to pursue other interests without significant attention to the details of government decisions. The prospects of constituent dissatisfaction and electoral defeat in theory police the actions of agents and make them attentive to voter interests.

Principal–agent relationships, both in politics and markets, carry the potential for the agent to make different decisions from those that the principal might choose (see Kiewiet and McCubbins, 1991, the basis for the following discussion of delegation incentives). This potential arises because of hidden actions and hidden information. Since the principal cannot always be there to observe the choices of an agent, the agent can enjoy some power to make choices with which the principal might disagree. Principals cannot always see what choices an agent is making, and cannot often see the full set of ideas and data that an agent faced when making a selection.

In a relationship such as the hiring of bureaucrats and regulators, there are multiple ways to align the decisions of agents with principals: screening agents before they are hired to predict what they would do if given discretion; developing contracts and incentives to reward agents

who follow the terms of delegation; providing for the generation and processing of information that makes the actions of agents more apparent; and delegating tasks to multiple agents whilst requiring them to compete for the work's completion. Assessing how well the delegation of decision-making works, between shareholders and company managers or voters and elected officials, always involves looking at a set of trade-offs. What is gained by the delegation of choices to others, what are the possibilities that they will use the advantages of hidden action and hidden information to pursue their own agenda, and how can different institutional arrangements lead agents to make the choices that principals desire?

Examining how this works in political relationships carries two additional burdens. In the market one can assume that principals have similar preferences – for example, stockholders wish managers to maximise profits. Within an electoral district, a representative may have constituents with very different goals and values, which makes it difficult to measure whether a vote or regulatory decision is consistent with voter interests. Within the US system, a regulator may have multiple principals (e.g. a Democratic president, a Republican-controlled House of Representatives, and a Democratic-controlled Senate). Interpreting whether a regulator has chosen actions consistent with the agenda of her principals is challenging in a world of multiple principals. Delegation in representative democracies also carries an additional twist: voters in effect delegate power that can lead to their oppression. In policy areas relating to national defence or criminal justice, agents who go astray can ultimately deprive principals of liberties and their freedom, with little recourse for objection.

Since information is costly and attention spans limited, knowledge in the series of delegated decision-making relationships that make up government and market institutions is imperfect. Leaders may not know well the circumstances or ideas of their constituents, who in turn may lack data on the actions or choice sets of their representatives. Consumers may not know well the quality of products and services they buy, or the social impact of the companies which produce these goods.

Enter the media. News outlets offer information that can make agents work more closely to match the interests of their principals. The set of stories and outlets that survive in the marketplace will depend on the types of information individuals demand and the incentives of producers. In his *Economic Theory of Democracy*, Anthony Downs (1957) noted that people have four distinct information demands. As consumers, they search out data that help them make purchases. As workers, they want

news that helps them do their jobs. Some information is simply enjoyable to consume, thereby satisfying a demand for entertainment. As voters, people might benefit from learning more about candidates and issues as elections draw close. The degree to which producers will seek to meet these demands depends on a mix of incentives. Producers will create information to generate payments, advertising, votes, the satisfaction of changing people's views, or the pleasure of sharing ideas. These correspond to different models of news provision: subscription, advertising, partisan, nonprofit, and expression (Hamilton, 2004, 2011).

This mix of demands and incentives means that news about public affairs is likely to be underprovided in the commercial marketplace. Even if a voter cares deeply about politics and new information would help alter his selection of candidates, the likelihood that a single individual's showing up at the polls and casting his ballot will alter the election outcome is so small that the costs of becoming better informed outweigh the benefits of searching out additional information. Downs termed this calculation rational ignorance since it meant that, from an individual's perspective, investing in gaining more knowledge about government and politics might not pay, even though society as a whole might benefit if voters were more informed. Some people will seek out political news, because they believe they have a duty to be informed, have an intrinsic interest in learning, or like to follow politics as a sport or human interest drama. But the low return to an individual to reading about politics as a strategic investment of time means that news outlets face reduced demands for serious stories about public affairs.

The investigative reporting often involved in accountability journalism faces particular hurdles in the marketplace. The group 'Investigative Reporters and Editors' defines investigative reporting as 'the reporting, through one's own initiative and work product, of matters of importance to readers, viewers or listeners. In many cases, the subjects of the reporting wish the matters under scrutiny to remain undisclosed' (Houston and IRE, 2009: v). In economic terms, the time and resources a reporter spends on an investigation means that stories that hold institutions accountable can have high fixed costs, not least because the nature of investigative journalism often requires a far greater investment of resources than do other, more routine forms of reporting. If the stories generate changes in policies that translate into better outcomes in society, the news outlet that produced these positive spillovers on society might be unable to monetise these benefits. If an investigation were to reduce corruption or improve

the environment, for example, a paper might not see much additional subscription or advertising revenue despite residents benefiting from the stories' outcomes. The natural desire of agents, whether elected officials or corporate managers, to be free from scrutiny means that people running institutions will make it hard to follow their actions. One of the biggest recent investigations in British journalism in recent years, the *Daily Telegraph*'s exposure in 2009 of information regarding the expenses of UK Members of Parliament that Parliament had sought to conceal, brought much public attention and comment, a change in the rules and several criminal prosecutions, but did nothing to arrest the long-term decline in the *Telegraph*'s circulation. The transaction costs of finding out what agents are doing can thus be high.

Policies that make governments more transparent and open can potentially make it easier for voters, interest groups, and journalists to track the origin and implementation of policies. For investigative reporters, were more of the documents and data available to officials also available to the public, officials would be more easily held accountable. The costs of discovering stories might fall, the likelihood of positive spillovers from exposés increase, and the transaction costs of gathering and assembling information decline. Transparency is thus a highly valued instrumental good, since it is an input into a process of monitoring that increases the odds that voters or consumers get what they want from institutional actors. Transparency is also an intrinsic good for some voters, who believe that they have a fundamental right to know about the actions of public officials.

Discussions of the instrumental value of transparency often assume the desirability of institutions that lead representatives to make choices that are in the best interests of citizens (Przeworski et al., 1999). Assessing the functioning of transparency involves many questions at the heart of democratic theory: how to define representation, whether leaders should respond to short-run assessments of voters or long-run values not currently shared or appreciated by voters, and the importance of placing some policies (e.g. the rights of minorities) beyond quick decisions by majority rule. While open government policies that make monitoring by reporters easier might appear to be an unqualified good, there are some areas of policy-making (such as court decisions or monetary policy) where those who craft the division of labour in government try to make it easier to insulate decision-makers from popular opinion. The opposite may also happen. Ferejohn (1999) explains that agents will sometimes take steps voluntarily to make their decisions more transparent, in order

to increase the willingness of principals to delegate more power to them. This in part explains why prior to the age of freedom of information laws and transparency policies, governments adopted institutional designs to make their actions more visible to voters without labelling such policies as transparency. Overall, most theories of open government rest on assumptions that transparency begets responsiveness by those with delegated decision-making power, and that this responsiveness increases the value of policies formulated and implemented.

The desirability of transparency as an instrumental good involves trading off the real costs of making information and actions more accessible and observable versus the gains that come from decisions that more closely mirror the desires of voters and consumers. The benefits of transparency as an intrinsic good will involve similar trade-offs, including the balancing of other intrinsic goods such as rights to privacy of the people (e.g. government employees) whose actions are tracked in the data. In assessing the net benefits, some observers stress the 'dark side of transparency'. They cite a number of potential drawbacks when government debates and data are made more open: the skilful use by interest groups of government information to bend policy toward their ends; the chilling effect on internal debate within the executive branch because of potential revelation of internal policy disputes; and the focus by audience-driven media outlets on using FOI to ferret out politicians' foibles and scandals. Former prime minister Tony Blair shared this critical view of FOI policies in his memoir (2010), noting they were used as a 'weapon' by journalists and asserting that they undermined 'sensible government'.

The political economy of transparency means that the actual development and implementation of open government policies will be made by decision-makers concerned with a very specific trade-off, namely how transparency might affect their career prospects. As both politics and communications strategies designed to set the news agenda become increasingly professionalised, tensions between transparency and media management risk becoming acute. The benefits of transparency are widely dispersed across voters, while the costs are often highly concentrated on bureaucrats and elected officials whose actions are being monitored. The formulation of transparency policies that truly bind officials may depend on hoping that political actors will act against their short-term political interests. Transparency policies that sound desirable in election programmes, or as legislation is proposed, but have little or no effect might

constitute a more desirable outcome for re-election-oriented officials. Accordingly, open government can be more symbolic than real, since imperfect information might well hide the lack of enthusiasm or action in implementation from constituents.

The degree to which information might be produced and used in an open government initiative will depend on a set of political economy questions, including the following.

What specific information demands are met by the data?

Individuals will search out data in their roles as consumers, workers, or entertainment seekers, since if they do not consume the information they will derive no benefit. People will often sit back and remain rationally ignorant about political information since, from an individual's perspective, time invested in remaining apprised of policy brings little reward because the probability that an individual will determine the outcome of an election or policy dispute is tiny. It is precisely because the study and scrutiny that holds government accountable is a public good that so many potential voters are apt to free ride and let others pay attention to policy debates.

Who will use the data, given the problems of collective action and rational ignorance?

Interest groups and journalists are intermediaries that may bear the costs of collecting and analysing open government information. Which government data are extracted and used will thus depend on the set of interest groups, including NGOs, and media outlets which are sustained in a market. The rapid financial decline of local newspapers in the US and UK means that the likelihood that accountability coverage will be generated of local government actions has declined over the last decade.

How can you reduce transaction costs of use?

Some of the information released by government is unstructured data, such as pdfs of documents or live streaming of meetings, which are cheap to produce but require ordering and interpretation. While government agencies (and companies) have invested significant resources in mining data for their own analyses, they have been less willing to share or

subsidise the creation of software tools that would allow voters and their intermediaries, including journalists and NGOs, to mine government data.

What is the underlying regulatory context? Implementation strategy?

Regulatory programmes can involve a mix of command and control mechanisms, market incentives, and information provision requirements. If data are released in a command and control system, the feedback generated may be less immediate than data released in a market system, where prices may react more quickly to new information. The implementation of policy may be planned as a police patrol, where regulators check a sample of firms or areas for problems, or a fire alarm, where regulators rely on residents, consumers, or voters to complain (McCubbins and Schwartz, 1984). Insofar as political participation varies by income, reliance upon information to spur changes through political pressure at the neighbourhood level is likely to result in areas where income and education levels are lower being less likely to experience the benefits of information provision.

Is there a budget?

Making information freely available comes at a cost, in terms of making data accessible, readable, and clean. The time and resource demands generated by freedom of information laws and other transparency measures can be unfunded mandates, or can be explicitly budgeted for. The likelihood that open government policies will flourish and survive beyond initial implementation depends in part upon the dedication of specific funding.

Transparency and accountability, in practice and in the future

Transparency theories consider how information affects the operation of delegated decision-making in government and market institutions. Because of the longer lineage of freedom of information laws in the USA and the backdrop of the First Amendment, many in the UK see the USA as advancing more rapidly in the scale and scope of transparency

policies. Though political and media structures are very different between the UK and the US, the authors in this volume show some common problems that arise in the actual implementation of policies of openness and transparency in government and the media in both countries. This may be because of the similarity of incentives government officials and reporters face when they consider whether they want to reveal more fully their actions and methods, and whether consumers and voters seek out particular information about products, policies, and politicians.

The chapters in this volume follow a roadmap with four clear destinations. Chapters 1 to 4 outline the history of freedom of information laws and policies in the US and UK, discuss evidence about how these policies have been implemented, and reflect on the values inherent in government transparency requirements. Chapters 5 to 8 shift the focus to journalism and transparency, including discussions of how media outlets themselves could operate more openly and discussions of the difficulties that reporters still face in gathering data about the operation of administrations and agencies that profess to be open and transparent. Data are at the forefront of Chapters 9 to 11, which explore what open data and big data will mean for journalists trying to hold governments accountable and what smart disclosure requirements placed on private sector actors may reveal about the actions of market participants. How the digging that goes into the generation of new information will be paid for is the topic of the final two chapters (12 and 13), which examine the degree that nonprofit media and other NGOs can generate the scrutiny of public, private, and nonprofit sector institutions that is a necessary component of holding these institutions accountable.

Common themes

Transparency

Announced government policies of transparency and openness in the US and UK have made more information available to the public, but the data provided are more frequently those that government officials wish to release rather than those that might hold officials accountable.

Open government may involve government agencies inviting input from stakeholders to enlarge the set of ideas and facts considered in public decision-making, thereby involving public participation in deliberations.

A high priority for the release of government data will often be 'big data' sets generated by regulation of private activities or the operation of government services, information which entrepreneurs can use to build private sector businesses. In the US this process is often termed 'DC to VC', to capture the sense the federal government information can be released and used by new businesses (funded by venture capital funds) in regulated fields such as healthcare and finance. The potential for jobs and profits to be generated by the release of the data means that government officials concerned about generating economic growth will often spur the release of this type of data.

Regulators will be willing to facilitate the collection and release of data that hold companies accountable, such as 'smart disclosure' programmes which require reporting by firms about their product and service quality. Journalists are often not the envisioned users of open data, and policies set and formats offered do not always take into account the specific needs of reporters. Media organisations with reputations for high quality in public affairs coverage are often leaders in the use of data journalism to take advantage of information released by governments. The provision of databases and underlying documents used in stories, through innovative features such as DocumentCloud, means that reporters can be more transparent about the data underlying their conclusions. NGOs and media nonprofits have also been leaders in translating newly available data into accessible formats and into accountability stories.

Accountability

In marketplaces where advertising support for traditional media is often declining, it is difficult to fund the expensive, time-intensive reporting projects that help hold government officials accountable.

Media companies have not often chosen to use transparency to make the actions of their own editors and reporters more accountable to consumers. While the web holds great promise in allowing reporters to show more of their work, in terms of data gathered in the production process, and decisions made about what goes into a final story, few to date have been willing to experiment with giving readers the underlying data that would facilitate the making of alternative assessments. Quality competition in media markets on the web might eventually lead some outlets to be more transparent and accountable, as a means of building their brand reputation for substantive coverage.

The chapter authors acknowledge that the contexts for transparency policies differ between the two countries. US authors were likely to discuss the First Amendment, severe drops in newspaper staffs caused by declines in advertising, the rising role of nonprofit media and NGOs to fill gaps in accountability coverage, and the hard line taken by President Obama's administration on leaks relating to national security. UK authors are more likely to reference the Official Secrets Act, discuss cracks in the support for the BBC, and acknowledge the uncertainties surrounding press regulation in the wake of the phone-hacking scandals and Leveson Inquiry.

These contextual differences notwithstanding, the authors conclude that there are common policy changes in the US and UK which would facilitate the translation of transparency into greater government accountability.

Policies

Freedom of information laws and transparency policies should make it easier for reporters to get data that are the artefacts of governing – for example, officials' appointment calendars, expenditure contracts, personnel records. Too often the information provided under transparency policies takes the form of a second set of books – that is to say, information created expressly for release to the public.

Since journalists need to search for patterns and tell individual stories, government data provided should be in machine-readable, standardised formats. Tables of information locked in pdfs or emails printed out on paper and sent to reporters do not constitute effective transparency.

In an era of big data and time of heightened domestic security concerns, governments have invested in algorithms that permit the monitoring of actions of individuals as residents and consumers. This software allows the government to turn unstructured information, such as hours of video or audio recordings or mountains of reports and documents, into structured data for analysis. If officials wished to increase government accountability, however, they could support research into the development of software tools that would allow reporters, NGOs, and citizens to process the flood of government data made available.

Government should be willing to release information about government decisions, not simply government information about consumer or producer actions. This would lower the costs of journalists to constructing accountability coverage focused on public officials.

Tax policies should be changed to make it easier for media organisations to form as nonprofits, so that donors who support these public affairs news outlets would enjoy tax benefits akin to those derived from supporting other educational or charitable organisations.

The ancient phrase *Quis custodiet ipsos custodies*, 'Who will guard the guards themselves?', captures the dilemma at the heart of transparency and open government. Institutions inevitably involve delegated decision-making, and once the power to make choices passes from principals to their agents there arises the chance that the agents will act in hidden and surprising ways. Officials with delegated powers do push for transparency policies, but the authors here show that these policies often reveal the actions of others. Open government programmes might invite public participation, require other government agencies to reveal their actions, or mandate reporting by private sector actors. Less frequent are those occasions when policy-makers make their own actions more readily observable and accountable.

The sharp drop in the costs of monitoring, brought about by advances in technologies of data creation, transmission, and storage, have increased the expectation of what information could be made easily available. In media markets, this change might be expected to lead to greater competition in transparency about the reporting process among media outlets. In the political arena, it might increase voters' expectations of what they should be able to know about government actions, especially actions involving provision of services and expenditure of funds. Under such changed circumstances, individual citizens both in the US and UK are likely in their roles as consumers, producers, and voters to be better informed. Yet the conflict between officials' desires to have their choices examined and the increasing ease of tracking their actions means that, in the realm of transparency and open government policies, the gap between what is possible and what is probable will likely remain.

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