

A Complex Battle Over Openness

By [Alasdair Roberts](#)

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These are strange times for people who advocate for open government. On one hand, technological changes appear to make information about government more easily available than ever before. We live in a radically changed media environment, in which news about government misconduct seems to reach our televisions instantaneously. And if we look around the world, we see an extraordinary spread of laws like the U.S. Freedom of Information Act. Over 70 countries now have FOI laws, most adopted in the last decade.

And yet we seem to be more concerned with government secrecy than ever before. Indeed, some people claim that secrecy today is the worst in decades. How can both of these stories be true?

It might help to recognize that we are in the middle of an intense, global battle over the principle of governmental openness. In the heat of battle, there's a temptation to employ overheated rhetoric. The truth is that the *idea* of transparency has gained a lot of ground over the last 20 years. This is evident in the spread of FOI laws, and the number of citizens who say that open government is an important value.

Nonetheless, there are serious challenges to openness. One is executive pushback – the determination of political leaders to reverse laws or policies that guarantee openness. As pressure for openness mounts, this countervailing pressure also intensifies. Of course, we've seen a classic case of pushback in United States, where the Bush administration waged a campaign against openness even before the 9/11 attacks. The administration tightened rules governing the Freedom of Information Act and policies on access to presidential records, among other measures.

However, pushback isn't unique to the United States. The British government led by Tony Blair was elected on a promise to introduce a Freedom of Information Act in 1997, but took eight years to put it into force. The new law was in operation for little more than a year when the Blair government announced substantial fee hikes that could gut the law. The Indian government also adopted a Freedom of Information law in 2005, but within months senior officials were pushing for restrictions. A wave of protests – and hunger strikes – deterred Indian leaders from introducing new limits.

Such struggles will continue in the years ahead. Some advocates argue that FOI laws eventually introduce a "culture of openness" in government – but the evidence tends to support a more hardheaded view. As a Canadian politician once said, the struggle over access to information is ultimately a struggle for political power. A well-organized community of stakeholders, including journalists and public interest groups, is essential to make rules about openness stick in the long run.

Executive pushback isn't the only challenge. The very structure of government is also being transformed, often in ways that undermine openness. One obvious

example is the growing role of contractors in performing government functions. A 2006 study estimated that almost 8 million people work for federal government contractors – four times the size of the regular government workforce. As we've seen in Iraq, contractors now perform defense and intelligence tasks that we once thought belonged to government alone.

The problem? Most often, contractors aren't affected by FOI laws, so that internal documents about the use of money or power can't be accessed. Indeed, it may be difficult to obtain even the contract itself, which explains what contractors have promised to do, and how much they will be paid. Around the world, battles for access to government contracts are commonplace.

The structure of government is also being changed in more subtle ways. Since 9/11, we've all been reminded of the need to make difficult tradeoffs between security and openness. Less easily seen are the changes in the defense, intelligence, and policing sectors. Government agencies in different states (and different countries) are linking together more tightly, forming networks aimed at improving collective security. This is an admirable goal. But governments often agree to information-sharing agreements that allow inter-governmental confidentiality to trump FOI laws. OK as long as the network performs well – but bad news when the network fouls up, and journalists or citizens try to find out why.

Another subtle but important change: the growing role of international organizations. We live in a globalized economy, superintended by important institutions such as the World Trade Organization (which referees trade disputes), the International Monetary Fund (which monitors governments' economy policies), or the lesser-known ICANN (which rules the internet). Decisions made by organizations such as these affect the well-being of millions of citizens – but they are not required to comply with the transparency rules that we've imposed on national, state and local governments.

Are we making headway on governmental transparency? Frankly, it's too early to tell. The idea of transparency had gained ground. But it's not yet clear whether we will find ways of tailoring openness rules (like FOI laws) to fit new structures of governance. And we can expect political leaders to continue pushing back, especially as their capacity to control the outflow of government information is challenged more directly.

It's a long road ahead. But it's a road we must follow, if we want to protect the ideal of an open, vibrant democracy.

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