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FOI: hard to resist and hard to escape

Freedom of Information (FOI) laws are difficult to resist in opposition but hard to escape from once in power. A commitment to an FOI law sends out strong messages of radicalism, change and empowerment that new governments find difficult to resist. However, when politicians regret their promises, as they often quickly do, the same symbolism makes the reforms difficult to escape from.

To make the picture more complex, FOI laws bring little external advantage and generate internal unhappiness. One of the central paradoxes of FOI laws is that they are symbolically resonant but useless in electoral terms: politicians gain 'credibility' but not votes. Within government, FOI laws reach across the whole of government, running against the natural tendency of bureaucracy to be secretive (Weber 1991). Such laws carry the potential to delve deep into bureaucracies' work, triggering investigation of official decisions and procedures by those hostile to them. So how and why do governments pass them?

FOI laws are, it is argued, frequently passed out of naivety or inattention by inexperienced and new governments responding to reformist impulses from within or without or seeking to create a new 'open' approach after a scandal (Berliner 2014, Darch and Underwood 2010). Politicians have many motives for introducing FOI, from the simple politics of wrong footing or neutralising opponents to the longer-term, calculating intention of securing access to information when they are out of power (Berliner 2014). Context is also key, as laws are frequently passed amid wider change or as a response to a particular problem. As well as calculation and context there are a series of symbolic pressures. Politicians can, at least in the short term, earn a form of 'moral capital' from supporting openness (Birchall 2014; Michener 2009).

However, the conventional wisdom is that politicians rapidly fall out of love with transparency and the potential for exposure, uncertainty and unpleasant surprises it brings (Berliner 2014). Opening up equates to a loss of control and a potential empowerment of enemies and critics. So once in office, actors seek to stall, delay and water down commitments: the classic trajectory of FOI reform is one of survival through dilution.

Symbolism versus resistance

The story of FOI is of a clash between the power of symbolism and the resistance of institutions, between abstract ideals and concrete structures. The radical, modernising and democratic symbolism of FOI helps put it onto the agenda, sometimes gradually and sometimes quickly (Fenster 2012b). The move towards FOI, particularly in the countries studied in this book, is also shaped by long-term social and political changes, as the case for secrecy gradually erodes amid institutional reform, changing societal attitudes and technological advances. Pressure builds as parties and leaders commit themselves, especially when a commitment to FOI plays into the radical self-image of reformists and modernisers.

Governments quickly regret their promise once in office. However, dropping outright a promised policy that speaks of 'freedom', 'information' or a 'right' is problematic. The symbolism, radicalism and 'moral' angle of FOI, and even its resonant name, make it difficult to get rid of it quietly. The same values it embodies make the accusation of betrayal easy and somewhat dangerous. Buoyed by an alliance of institutional and extra-institutional 'opinion formers', the symbolic power frequently cuts off any line of retreat. What happens instead is that FOI proposals are stalled, blocked and channelled away as different factions seek to submerge the radical ideals in detail and manoeuvres behind closed doors while others, inside and out, fight for it to stay in its original form. What then emerges on the statute book, after lengthy internal battles, is a compromise.

Symbolic politics and laws

FOI laws fit with a wide range of policies and democratic activities that are laden with symbolic value, irrespective of their practical significance. Edelman (1985) likened political activity to a 'passing parade of abstract symbols' replete with 'easy objects upon which to displace … strong anxieties and hopes' (5). Even voting, the most basic of democratic actions, is a 'ritual act' intended to 'express discontents and enthusiasm' (3), and most democratic institutions are 'largely symbolic and expressive in function' (19).

While some symbolic activities serve as hermeneutic short cuts, others 'evoke emotions' more remote from reality (Edelman 1985, 5). Cobb and Elder (1973) created a broad typology of symbolic items, from the 'broadly applicable' and 'sali-

ent' objects, such as flags, down to more focused political norms or institutions. All symbols are either a 'threat or reassurance' (Edelman 1985, 7, 11). Symbolic actions frequently 'call forth a larger and more complex set of ideas than the basic meaning of the action' (Hart 1995, 386). They are 'primarily a vehicle for conveying a broader message' that 'highlight a symbolic purpose'. Such actions frequently run into difficulties when the ideal moves to policy substance, particularly as the symbolism is frequently 'decoded' or challenged by the media (386). Such symbolic acts and policies can drive new agendas and 'challenge authority relationships' as seen, for example, with the global spread of the human rights agenda (Brysk 1995, 561).

Edelman (1985) highlights laws as peculiarly symbolic objects that are often created through a mix of 'symbolic effect and rational reflection' (41). They 'suggest vigorous activity' and can cover 'noisy attacks on trivia' and represent 'prolonged, repeated, well publicised attention to a significant problem which may never be solved' (37–39). The names of laws themselves 'are important symbols' with 'subtle and potent' effects on interpretation (206). Stolz (2007) similarly argues that legislation 'in reality carries both instrumental (tangible) and expressive (symbolism)' aspects (311). Certain issues appear particularly conducive to symbolic laws, especially those that send out signals to an audience about their behaviour or concern the 'public designation of morality' (Gusfield 1967, 177). These include criminal justice issues, the war on drugs (Stolz 2007), domestic violence (Stolz 1999) and alcohol consumption (Gusfield 1967).

The importance of such symbolic laws lies not just in their enforcement or 'manifest significance' but also in 'what the action connotes for the audience that views it' (Gusfield 1967, 177; Gusfield 1968). Symbolic legislation sends signals, acting as a 'public affirmation of social ideals' or a 'statement of what is acceptable', a 'gesture important in itself' rather than a fixed end (Gusfield 1967, 177). It acts as a 'framing and signalling device' around a 'cluster of messages intended to change attitudes' based on 'narrative structuring and interpretive resonance' (Brysk 1995, 562). The idea of signalling 'effects' originates in economics, and refers to a process whereby informational asymmetry is resolved by one party 'signalling' information to induce trust or credibility (Spence 1973; Spence 2002). The signals of symbolic laws can be educative, aimed at 'simplifying complexity', or may serve to communicate a 'moral' message (Stoltz 2007, 312). Even the passage of such legislation 'persuades listeners', acts as an 'affirmation of a moral norm' and gives certain ideas 'legitimacy and public dominance' (Gusfield 1967, 177–178). Taken together, the act of creating and passing such laws constitutes a 'moral passage, a transition of behaviour from one moral status to another' (177).

The difficulty is that symbolic laws are fragile. Cobb and Elder (1973) argued that symbolic policies are often built around a 'rather shallow symbolic consensus' that may be easily exposed and frayed, and that they conflict with the 'stark realities' of power (87). Underneath the clear signal such laws can be quietly 'repealed in effect by administrative policy, budgetary starvation or other little publicised means' (37).

Matland associated symbolic policy with 'a lack of implementation'. Such policies frequently have 'substantial exposure at the adoption phase' but 'ultimately' have 'little substantive effect' and are 'almost always' a 'substantive failure' (1995, 168). In part, this is because they are, owing to their symbolism, 'conflictual' with 'actors intensely involved' (169). The 'victory or defeat' of symbolic policies is 'consequently symbolic of the status and power of the cultures opposing each other … Legal affirmation or rejection is thus important in what it symbolizes as well or instead of what it controls' (Gusfield 1967, 179). The 'significance of prohibition in America lay less in its enforcement than in the fact it occurred' (179).

Hart (1995) later expanded on the power and dangers in symbolic policy and signals, looking at the promise of the first Clinton administration to cut presidential staff, a 'one sentence' policy in the campaign intended to symbolise the new administration's restraint and commitment to 'reduce' government (385). The media doggedly pursued the detail of the policy, and the administration found itself bogged down in a series of debates over who constituted 'staff' and how 'numbers' were calculated. This eventually resulted, rather damagingly, in a loss of staff working on drugs policy and the environment (390–391). The case highlighted a series of problems with laws as symbolic devices. First, 'symbolism is simple but the substance was complex', and the reformers had 'little grasp of the substantive problems' (397–398). Second, as consequence, the media's 'decoding' of the policy led to, sequentially, 'questions, doubts, cynicism and, eventually, disbelief' (397). While reformers believed that the symbolism would 'speak for itself', it was 'weak and riddled with detail and complexity' (398). It was exactly this 'detail and numbers' that then 'generated a hostile reception from the media and congress' (402).

The radical roots of FOI: the most subversive idea of all?

Conceptually FOI is 'simple but revolutionary' (Wald 1984, 655). Transparency has long been championed by radicals, reformers and outsiders, and the possibility and call for greater openness punctuate history, frequently being tied to freedom of expression and the free press (Ackerman and Sandoval-Ballesteros 2006). Although 'isolated in time and space' these ideas can be traced across a lineage of very different thinkers and actors (Darch and Underwood 2010, 65). Castells (2013) sees 'free communication' as the 'most subversive practice of all' because it 'challenges the power relations embedded in institutions and society' (x).

The modern drive towards transparency has its origins in two revolutionary processes, one philosophical and one technological (Darch and Underwood 2010, 127). Though FOI may arguably have far older roots in ancient China, its modern form stems from the European Renaissance (Darch and Underwood 2010). Popper (2002) argues that the 'unparalleled epistemological optimism' of the Renaissance drove the impulse 'to discern truth and acquire knowledge' through perception and 'intellectual intuition' (6). Thus a veiled or distorted 'truth' would be revealed,

driven by a 'doctrine that truth is manifest' (8). This 'ideal of emancipation modelled on lucid self-consciousness' or 'absolute self-transparency' was then completed by the Enlightenment (Vattimo 1992). Popper points out how its logical opposite co-existed with it and gave it strength: 'the conspiracy theory of ignorance' stemming from Plato, holding that man was 'blocked from knowing' by 'sin', 'prejudice' or 'powers conspiring to keep us in ignorance' (2002, 9).

The doctrine drove thinkers from Bacon to Descartes, as well as modern science and technology. Popper wholeheartedly disagreed with the premise, labelling it a 'myth' for the 'simple truth is that the truth is hard to come by and easily lost' (2002, 10). Nevertheless, it was an example of 'a bad idea inspiring many good ones', as what he labels a 'false epistemology' became 'the major inspiration of a moral and intellectual revolution without parallel in history', providing the force behind the scientific revolution, the fight against censorship and educative reform (10–11). The idea evolved in parallel with nascent conceptions of a 'free society', 'open discussion' and the 'public sphere' (Vattimo 1992, 18).

The new philosophy was powered mechanically by the 'long revolution' launched by the invention of the printing press in the 1400s (Eisenstein 2005, 335). Such a change in communication technology was inherently revolutionary:

> any new technology of communication, such as the printing press, has challenged authority because the seeds of revolt existing in individuals can grow and blossom ... breaking the barriers to social mobilisation and alternative projects of social organisation. (Castells 2013, x)

The publication of vernacular Bibles, as one example, unleashed both democratic and patriotic forces, and was used to challenge orthodoxy and established elites with an unprecedented 'intensity', while printed books of law 'democratised', or at least potentially popularised, knowledge of laws, the legal system and rights (Eisenstein 2005, 189). The Protestant movement was one of the first groups to recognise the power of the new technology, using the press as 'mass media' to persue 'overt propaganda and agitation against established institutions'. Even attempts to clamp down backfired as the Catholic index of censored works gave free publicity to dissenters and provided detailed guidance as to where to find subversive ideas (Eisenstein 2005, 164–165).

The printing press was not simply an instrument of liberation as 'open books in some instances led to closed minds' (Eisenstein 2005, 189). Eisenstein points out how it led, paradoxically, to both religious schisms alongside orthodoxy and uniformity: Some governments became adept at using the new technology for political propaganda. Nevertheless, the combination of technology and intellectual push created a new conception of knowledge and, as a corollary, information. The revolutionary effects of this combination can be seen in the new names given to the abstract entities created: the 'Republic of Letters' or 'Commonwealth of Learning' (Eisenstein 2005). It was out of this milieu that FOI was born.

Like many radical ideas, FOI emerged from different revolutionary 'outbursts' as it moved from the realm of philosophy into politics. Accessing information is a modern offshoot of an 'age old struggle' over freedom of opinion and the press (Ackerman and Sandoval-Ballesteros 2006, 90).

Although its first appearance in law was in Sweden, the idea of opening government up appeared in bursts of 'pamphlet warfare' in England, America and France as revolutionaries seized the 'opportunity to shape the new polity in the cold light of reason' (Eisenstein 2005, 331–332). One starting point was the English Revolution. In the 1640s and 1650s, as a series of civil wars devastated Britain, there was an almost unique 'liberty of the press' with a 'continuous flow of pamphlets on every subject under the sun' (Hill 1991, 361). Framing this as a struggle between biblical 'dark' ignorance and 'light' illumination, Milton argued in *Areopagitica* of 1644, his famous defence of press freedom, that 'a flowery crop of knowledge' meant that a 'new light sprung up' (1979: 230–231). He pointed out that 'truth is compared in scripture to a streaming fountain: if her water flow not in perpetual progression, they sick into a muddy pool of conformity and tradition' (see discussion in Stiglitz 1999).

Nor was Milton alone. The 'Diggers' or 'True Levellers' of Gerrard Winstanley, an offshoot of the radical English Levellers who called for equal voting in the 1640s, proposed that two postmasters 'elected in each Parish' should be responsible for 'collecting and reporting statistical information about the health and welfare of communities and other important information' and distributing it to the populace (Hill 1991, 137). Winstanley also called for the end of 'trade secrets and patents', a call that still has distinct echoes today (Hill 1991, 138). Like Milton's, these calls were framed in biblical language, contrasting the 'blindness' of ignorance with the 'god given power of reason' or 'light' (Hill 1991, 138–139, 117).

Just over a century later, the world's first FOI Act, correctly a Freedom of the Printing Press Act, appeared in 1766, underpinned by the *fentlighetsprincipen* or 'principle of publicity' (Manninen 2006, 18). The origins of the first ever piece of FOI legislation are somewhat murky. A Finnish cleric and member of the Swedish Diet, Anders Chydenius, distilled (possibly wrongly) from ancient Chinese texts a principle of government openness, which he then championed as part of his vision of an anti-mercantilist, inclusive society (see Darch and Underwood 2010; Erkkilä 2012). Chydenius united with a Swedish pamphleteer, Peter Forsskål, to push this new or 're-discovered' idea. The suggestion played to a rather unusual context in Sweden at the time when a radical new reformist government was seeking to limit the power of the Swedish monarchy and prevent a coup after a long period out of power, during a brief 'age of liberty' (1719–1772) (see Robertson 1982) that also involved an 'early experiment in parliamentarism' (Manninen 2006, 20). No one is certain why the Act, intended to ensure liberty of the press, contained a provision on public access, and the law survived only for six years (Darch and Underwood 2010).

The next outburst of openness was in the political and intellectual ferment of the American Revolution, where it was linked to free speech and education. The institution of 'open meetings' and public decision-making in American towns, as practised in New England, echoed Leveller ideas (Hood 2006). In one of the most famous quotations on the virtues of openness, James Madison spoke of the importance of 'popular information' in the US:

> A popular Government without popular information or the means of acquiring it, is but a Prologue to a Farce or a Tragedy or perhaps both. Knowledge will forever govern ignorance, and a people who mean to be their own Governors, must arm themselves with the power knowledge give. (Emerson 1976, 1)

Although Madison was referring only to education in Kentucky schools, rather than FOI, the speech is now 'endlessly' quoted (Darch and Underwood 2010, 49), and is the reason why international Right To Know Day now falls on his birthday (Schudson 2015). Thomas Jefferson also spoke of how information could act as a 'self-correcting' mechanism: 'whenever the people are well-informed, they can be trusted with their own government; whenever things get so far wrong as to attract their notice, they may be relied on to set them to rights' (Darch and Underwood 2010, 50). It is unclear to what extent the revolutionaries would have supported any FOI law, and many scholars have their doubts, as they were keen to keep some discussion private, but their comments have been used ever since for political leverage (Schudson 2015; Chambers 2004). The French Revolution offered a similar burst of free speech and expression (Eisenstein 2005).

The belief in the virtues of transparency continued to then run like a thread through eighteenth- and nineteenth-century thought. Kant famously criticised secret treaties and the culture and morality behind secrecy (Chambers 2004). Rousseau extolled the power of the 'eye of the public' to prevent cabals (Hood 2006, 6–7). Tom Paine attacked the secrecy of the monarchy and argued that its exposure to the public gaze would de-legitimise it, characterising the institution as 'something kept behind a curtain, about which there is a great deal of fuss and a wonderful air of seeming solemnity … but when, by any accident, the curtain happens to be open, and the company see what is, they burst into laughter' (Keane 1995, xii). Jeremy Bentham then offered the 'strongest challenge to administrative secrecy in print', arguing that 'without publicity no good is permanent: under the auspices of publicity, no evil can continue' (Bok 1986, 174). Bentham's *On Publicity* discussed at length how openness would allow the government to know public wishes, and the governed to increase their knowledge and trust. He dismissed fears of the adverse consequences as spurious (see Hood 2006). The power of publicity and any consequent 'anticipatory reactions' would help create a 'system of distrust' to hold government power in check (Chambers 2004). Later J. S. Mill stated that the 'liberty of the press' was as important as the 'liberty of thought itself', and Karl Marx argued that to 'make public the mind and the disposition of the state appears

… to the bureaucracy as a betrayal of its mystery' (Darch and Underwood 2010, 96).

   Despite this intellectual heritage, the idea remained on the political fringes. As Roberts (2015) argues, transparency as a policy began to appear only as 'a reaction to some other transformation that had already occurred … usually the expansion of bureaucratic capabilities and the concentration of executive power' (6). This formed part of a 'broad pattern of … Polanyi-style frameworks of movements and counter-movements' as concern over growing state and bureaucratic fed greater demands for openness (Roberts 2015b, 9). By the early twentieth century two very different radicals pushed transparency as a rhetorical and political weapon, and these were among the earliest examples of politicians using their stance to position themselves and connote radicalism and difference (Moe 2015). In the US Woodrow Wilson's 1912 presidential campaign made the moral case for openness, arguing that 'government ought to be all outside and no inside', though in a now familiar pattern he did little in office to give effect to his words, rejecting press conferences and then passing the draconian Espionage Act of 1917 (Bok 1986, 170–171). His later 'Fourteen Points' made one of the first attempts at international openness when he committed himself to 'open covenants openly arrived at' (Hood 2006, 11). In 1918, in a very different environment, Leon Trotsky, Commissar for Foreign Affairs in the new Bolshevik government in Russia, published the previously secret treaties of the Allied powers. In an odd pre-echo of WikiLeaks, he announced that publication would eliminate 'secret diplomacy' and bring about 'honest, popular, truly democratic foreign policy' (Deutscher 1979, 349–350).

   From this point onwards, the idea of opening government up slowly moved into the mainstream, flowing from debates on freedom of the press after the Second World War, where the term 'freedom of information' was coined (Fenster 2012b). Mentions of the virtues of transparency and vices of secrecy spread across political and geographical divides. Radical outsiders of very different hues made the case for greater transparency, including Mohandas Gandhi's urge for government to be truthful (Fischer 1991), Deng Xiaoping's admonition to 'seek truth from facts' (Gaddis 2005, 195) and Sartre's attempt to create 'human life with transparency and totality' (Bok 1991, 52). In the democratic world, FOI began to be adopted slowly in the 1960s and 1970s (Bennett 1997; Darch and Underwood 2010). Even in authoritarian regimes, there were attempts at illicitly increasing information access: in the post-Stalinist USSR the creation and circulation of so-called *samizdat* (self-publishing) works began in the 1960s with a mixture of banned literature, news and poetry that gave way to regularly published underground journals (Applebaum 2003). The collapse of Communism, the information revolution and contagion and imitation have led to successive waves of information laws across the world, with estimates of more than 100 countries, democratic, authoritarian and some in between, having some form of openness law (Bennett 1997; Darch and Underwood 2010; Berliner 2014).

FOI and secrecy: signalling and symbols

So what is it that FOI symbolises and signals? The symbolic resonance of FOI is both wide and deep, an interlocking bundle of ideals, principles and effects. FOI laws still carry the aura of new relationships and a new moral tone while promising a series of instrumental benefits. For a politician, a call for transparency 'tells a transformative narrative' as it 'enables – and, indeed forces [a] virtuous chain of events' towards more accountable and democratic government (Fenster 2015, 151). The symbolic power is frequently magnified by the fact that FOI is often part of a wider set of legal, constitutional or political reforms and is given renewed force and momentum by a wider policy overspill (Evans 2008).

FOI offers a narrative about morals, rights and new relations. FOI is a 'moral idea', stemming from the idea that a government *should* be 'accountable' and 'open to scrutiny' (Darch and Underwood 2010, 49, 7). As seen above, it draws on a deep well of philosophical and political thought over the virtues of publicity and moral imperatives behind reasoned deliberative debate (Chambers 2004). In its more modern form, the argument runs through the 'market place of ideas', whereby the 'best test of truth is the power of the thought to get itself accepted in the competition of the market' (Moon 1984, 1171).

For a politician, FOI symbolises a decisive break with the past. While it brings little direct electoral advantage, 'transparency bestows cultural and moral capital on those who promote and implement it' (Birchall 2014, 77). In its 'moral passage' it offers to bind government to better behaviour and a new 'moral status' of openness rather than closure (Gusfield 1967). The arrival of a new government, often ideologically different from its predecessor, is frequently accompanied by a promise of FOI (Robertson 1982). Self-consciously 'reforming' administrations in the UK in 1997 and 2010, the US in 2009 and Italy in 2013 all made transparency a priority. Democratic transitions offer an even more powerful opportunity, as seen from Mexico to South Africa (Berliner 2014).

A promise of greater openness 'signals' a whole set of messages: that a government is somehow more 'democratic' in providing the raw material for rational, public deliberation, and is prepared to be monitored or overseen by the public. It also gives citizens the 'capacity to penetrate … defences and strategies' built up over centuries to preserve secrecy and offers them the chance to create Bentham's 'system of distrust' for monitoring their rulers (Bok 1986, 9). It also represents an 'apparently simple solution to complex problems – such as how to fight corruption, promote trust in government, support corporate social responsibility, and foster state accountability' and is an acceptable response to problems 'at moments of crisis or moral failure', a 'visible response to public disquiet [with] attractive, palliative qualities for politicians and CEOs who want to be seen to be doing rather than reflecting' (Birchall 2014, 77). On a symbolic level FOI 'allows an incumbent to make credible promises of greater transparency and anti-corruption efforts to a wary public' (Berliner 2014, 479).

Alongside this, FOI represents the 'giving' of a powerful new right. Its origins are as a negative right or as a bulwark to 'prevent the manipulation of information'. However, FOI has gradually become recognised as a positive, if not a human, right (Birkinshaw 2006; McDonagh 2013). It is bound up in a proprietorial or economic right to information in the sense that citizens 'paid for the government and abuse is theft of their goods' (Robertson 1982, 12). It can also be a 'leverage right' and tool for furthering proprietary rights, social justice or a political mobilisation (Darch and Underwood 2010, 43).

FOI also symbolises how government views its own citizens, as empowered partners in government with an active role to play, signalling the 'creation of a new mind-set, one which sees government as an agent of the citizens for whom they work' (Stiglitz 2002, 12). Ralph Nader, and it appears not Thomas Jefferson, famously spoke of how 'information is the currency of democracy' and how 'the good society requires the maximum free movements of ideas and knowledge' (Robertson 1982, 12; Schudson 2015). Stiglitz argues that this is

> the most compelling argument for openness … the positive Madisonian one: meaningful participation in democratic processes requires informed participants … if effective democratic oversight is to be achieved, then the voters have to be informed: they have to know what alternative actions were available, and what the results might have been. (Stiglitz 1999, 15–16)

Although knowledge is not necessarily power, it opens up the possibility: 'without knowledge … there is no chance to exercise power' (Bok 1986, 9).

It is hoped that FOI will also have powerful instrumental effects. These may be more or less tangible, but vital for democratic health: an FOI Act may increase public involvement and participation in decisions and, through a reduction in secrecy, public trust in government. The very existence of an Act may prevent corruption via anticipated reactions, while use and exposure will highlight and further deter maladministration and abuse.

Taking all these possible effects together, for a leader and a party, FOI offers the potential to create a 'distinctive position' that give those supporting it a 'purpose and recognition' (Carter and Jacobs 2014, 138). FOI represents a 'badge of progressive politics' and offers a powerful 'narrative identity' to politicians (138).

The symbolism of FOI contrasts sharply with that of secrecy, an ancient 'social control mechanism … signalling what behaviour is acceptable and unacceptable', bound up in 'beliefs, norms and values' and defined against 'threats and assaults' (Keane 2008, 111, 108). The idea of secrecy and the dangers in becoming enlightened or opening up secret matters resonate across mythology, from Pandora's Box to Faust (Bok 1986). The most 'primordial sense of government secrecy emphasises distance and sacredness', with absolute monarchy in the seventeenth century borrowing the mysterious 'aura' of religion (172–173). Its more modern variant has evolved into the need for concealment and protection of security and decision-

making, bound up in an 'aura' designed to 'elicit awe' (Costas and Grey 2014, 1425). It is also a social and culture process, embedded in group and organisational identity and often buried in a 'rich array of ritualistic and symbolic practices' (1426). Secrecy can take the form of formal rules and regulations, as a formal boundary or marker, or can be informal as a result of unofficial concealment, taboos and socialisation. Against the positive instrumental effects of openness, secrecy breeds suspicion and distrust (Keane 2008). Bok quotes Woodrow Wilson's aphorism that 'secrecy means impropriety' (Bok 1986, 8).

The clash between the two symbolisms equates, rather too simply, to one between good and bad, and between democratic and undemocratic. Georges Simmel (1906) wrote of how 'enlightenment aimed at the elimination of deception in social life is always of a democratic character' (447). It is rooted in a moral sense that secrecy, or too much concealment, is 'incompatible with democracy' (Bok 1986, 8). By contrast, secrecy continues to be associated with evil, with 'stealth and furtiveness, lying and denial' (8). This dichotomy over-simplifies a more nuanced reality, as secrecy is closely entwined with the more positive notion of privacy, while publicity can be associated with manipulation and distortion (Bok 1986). There are also broad swathes of social and political activity where confidentiality is deemed necessary, from juries to peace negotiations, and even Bentham qualified the power of publicity with the need to prevent injustice (Chambers 2004). Nevertheless, it is the stark symbolism between the two competing ideals that frames the debate as FOI laws develop. At its heart was the conflict 'over power: the power that comes through controlling the flow of information' (Bok 1986, 19).

Contested transparency

A further problem lies in the ambiguous nature of transparency and FOI. There is a 'general, widespread agreement that public sector transparency means access to government-held information', but its 'realization in terms of what, why and how information should be accessible is highly contested, and perhaps essentially contested' (Stubbs and Snell 2014, 160). FOI sits across various bureaucratic, legal and political dimensions that can make its operation problematic (Terrill 2000; Snell 2001). It resembles democracy itself, with a general consensus on the broad meaning of the concept, but with its detailed interpretation 'open to complexity, contradiction and numerous varieties'. It is in some senses an 'empty signifier' that can be 'filled' by very different interpretations or emphasis (Stubbs and Snell 2014, 160).

As explained in Chapter 7, FOI laws represent a legal framing or staking out of permissible access, amid a shifting landscape or information ecosystem where the borders are constantly moving. FOI serves as the legal 'backbone' of ever expanding and evolving transparency regimes, made up of diverse 'arrangements and policies' as well as 'practices, symbols, and discourses' (Ruijer and Meijer 2016). FOI disclosures sit alongside other laws, innovations such as Open Data and 'radical' actions

like leaks and mega-leaks in an evolving system where the demarcation between 'open' and 'closed' or between 'legal' and 'illegal' is constantly shifting (Pozen 2013). Meaning is greatly complicated by the closing off of certain issues, such as the transparency of citizens through government surveillance, a rarely mentioned aspect of the wider transparency debate that is frequently disconnected or separated from the broader discussion (Birchall 2014).

As well as the meaning of openness, the implicit assumptions within such reforms are contestable and contested. Darch and Underwood describe them as an 'ideologically determined political initiative that can be deployed to achieve a range of different agendas' (2010, 49, 7). Classic arguments for FOI, rooted in rational choice assumptions of behaviour change, are bound up with neo-liberalism (Darch and Underwood 2010; Birchall 2014). FOI can have numerous different aims and purposes, from public monitoring to hierarchical control of lesser bodies (Heald 2012). More challenging approaches address the reversal of assumptions around who is being open to whom and debating the size of the political spaces opened (or closed) by its arrival (Birchall 2014). Transparency remains a 'contested political issue that masquerades as an administrative tool' (Fenster 2012b, 449).

Symbolism meets institutions

The instuitionalist approach to policy development focuses on historical time and processes within political institutions (see Thelen 1999; Peters et al. 2005; Pierson 1994 and 2000). Institutions are marked by 'path dependence' and increasing returns that create 'self-reinforcing feedback and support for the status quo', with institutions populated with 'vested interests' determined to resist change (Moe 2015). Such path dependency appears partly technical but is also rooted in values, cultures and the existence of a 'shared script' (Thelen 1999, 387). This reinforcing 'stability' means that even politicians and reformers with radical intent and the political will may find change difficult (see, for example, Pierson 1996). Nevertheless, slow-moving changes erupt onto agendas, pushed by organised and multiply situated actors when bereft of popular attention. Symbolism plays a powerful role in any change, as 'ideas are crucial elements in the battle to place issues on the agenda' (Peters et al. 2005, 1295).

What could be seen as simply the 'clash' of radical policy and resisting body has been shown to be more nuanced. Even 'sudden' change is often preceded by the gradual erosion or de-legitimisation of previous policy or ideas, a process of erosion then used by advocates to lever change (Thelen 1999). Policy can also be altered by changing social circumstances and 'drift' as alterations in context make the policy different or by 'contagion' as established rules are manipulated to change their effect (Hacker and Pierson 2014). Moreover, certain radical periods of change encourage policy experimentation and lead to a 'co-evolution' as policies feed off other and change breeds change elsewhere (John 1999, 45). Political systems are

rarely coherent, and change can also be bought about by 'friction' between institutions (between government, courts and legislatures, for example) and even from within bureaucracies themselves (Moe 2015). As arrangements fail, politicians may sometimes seek to artificially sustain existing institutions 'politically' (Thelen 1999, 396). Within institutions political actors may shift and change according to their views on the 'feasibility, possibility or desirability' of a policy (Hay and Wincott 1998, 956). Battles are often many-sided 'conflicts' whereby the 'victorious side does not win a single encounter' but a 'more complex process unfolding over time' (Pierson 2015, 133). Moreover, the passing of policy is the beginning, not the end, as after this battle begins over the practical implementation and symbolic meaning of a law that can profoundly shape its success (Patashnik and Zelizer 2013; Moe 2015). As well as positive feedback, policies can generate negative returns, becoming self-undermining (Jacobs and Weaver 2015).

FOI and institutionalism

What happens when the symbolism of FOI meets concrete political institutions? At its root, the struggle for access to information is a 'political struggle' (Ackerman and Sandoval-Ballesteros 2006, 90). The exact dynamics and divisions vary from country to country. Transparency is 'not a sudden conversion' but one created by the 'specific conditions of competition for political power' (Blanton, quoted in Darch and Underwood 2010, 64). A number of studies of transparency have drawn on institutionalism, and its emphasis on time, to explain the growth and development of national transparency systems, including comparisons of the rules-based versus principles-based approaches in the US and Netherlands (Ruijer and Meijer 2016), the stalemate over openness in the European Union (Hillebrandt et al. 2014) and the shifting trajectory of the publicity principal in Finland (Erkkilä 2012).

As Michener (2011) argues, the 'primary dilemma is political. The symbolic qualities of FOI laws attract political support but the ideal effects – to expose the actions of politicians and bureaucrats to public scrutiny – weaken the will to enact strong laws' (146). This is further complicated by a host 'technical and legal issues' that confront what can be a complex change (146).

The interaction of the symbolism of FOI with the 'path dependence' of institutions goes to the heart of explaining why and how governments pass FOI laws. FOI offers the chance to remake politics, redistributing power and ending informational asymmetries and 'closed' cultures. This symbolism is powerful enough to place it on the agenda and to mobilise and, to an extent, cut off lines of retreat for governments wishing to renege. But it is not enough to overcome the entropy, opposition and problems of turning symbol into law.

Political institutions and organisations traditionally use secrecy to preserve their power, in a path-dependent and self-confirming process (Weber 1991). Pierson (2015) likens power to an 'iceberg' where the majority of influence 'lies below the waterline, built into institutions and organisational structures' (124). Secrecy is a

powerful exemplar of just such a 'hidden', iceberg-like structure, enmeshed within a complex interplay of laws norms, organisational cultures and ideas (Keane 2008). Weber argued that the 'concept of the official secret is the specific invention of bureaucracy and nothing is so fanatically defended … out of a sure power instinct' (Weber 1991, 233). This secrecy habit becomes self-perpetuating and expansive as secrecy then goes 'far beyond purely functional interests' (233). Such deep secrecy can express itself through either formal rules or regulations or more informal conventions and cultures (Costas and Grey 2014).

FOI emerges slowly over time, gathering force over decades, in part through its own symbolic value, as a beacon of democracy and as a 'right'. It can also be reinforced by failures of secrecy through scandals or very obvious attempts at oppression or suppression (Michener 2015). Government reactions then create 'gaps and lags' and openings. As this momentum gathers pace, FOI then appears to punctuate agendas, taking its place in manifestos and frequently co-evolving within wider reform programmes (John 1999). FOI thus exists within what Kingdon (1984) termed a 'policy window', when the arrival of a new government or event converges with a ready-made policy solutions to create opportunities (Worthy 2007; Michener 2011). Yet for all its symbolic power and appeal it attracts very little direct public support. FOI is a supreme example of a policy where voters are 'typically only dimly aware of the policy positions' (Hacker and Pierson 2014, 21).

The 'window of opportunity' is brief (Michener 2011). Once a government is in power, FOI is almost always a story of various small groups battling and shifting over 'feasibility, possibility or desirability' (Hay and Wincott 1998, 956). While the conventional portrait is of wholesale 'counter-mobilisation' across bureaucracy, there is more often conflict between supportive, hostile and less interested bodies. Though key departments frequently resist others fight, rethink and manoeuvre. Nevertheless, the process is frequently one of gradual weakening. It is a battle over the detail and meaning of the policy far away from public gaze: as with other changes, 'a tremendous amount of conflict is controlled by keeping it so private that it is almost invisible' (Schattschneider in Hacker and Pierson 2004, 17).

Passage of FOI: Trojan horses and hidden influences

The first attempt to map the process of passing FOI was Snell's (2000) exploration of two early developers, Australia and New Zealand, which was followed by an examination of Australian Federal state laws (Snell 2001). Snell explains how laws are 'formulated on the fringes' from a mix of 'political hopes and democratic motives' by small groups of reformers and political opposition, and how context is key, as proposals frequently use 'windows of opportunity such as new governments and elections'. In a process likened by Snell to a 'Trojan horse' within government, reformers are frequently met with support from a 'limited cohort of Ministers', with a wider group making only 'tokenistic public pledges' and 'bureaucratic responses [vary] from the lukewarm to the hostile' (345–347). The proposals are

then subjected to a 'refinement process' that will frequently 'produce a significantly lower quantity and quality of information than the original proposals' and leads to 'heavily compromised laws'. To survive, laws require 'white knights' and are often a story of 'lone crusaders and reluctant stewards' pushing against growing resistance (347, 349). Snell found state-level FOI passage to be generally a similar story of an 'external reformist movement … battling an entrenched and, with a few notable exceptions, non-receptive bureaucracy' (Snell 2000, 578). The movements were often 'narrowly based' groups of academics and lawyers, seizing opportunities to push a reform that was then 'guided by often hostile ministers and a foot dragging bureaucracy' (Gillis in Snell 2000, 579). One of the frequent difficulties is that FOI legislation faces not outright resistance but apathy or disinterest: rather than being persuaded to change their minds, many have to be persuaded to pay any attention at all (Snell 2000 and 2001).

Since Snell's work, other research has explored more deeply the hidden influences and motives behind FOI. Berliner (2014) challenges the conventional idea that political leaders cannot always gain from openness laws. It is true that most political leaders (privately) 'prefer secrecy to openness and oppose constraints on their actions' and that FOI laws create substantial costs, including 'increased monitoring' and 'increasing risks of exposure', risks that 'bind' not just present but also future governments (479, 480–481). It is for this reason that 'many newly elected leaders who promised to pass FOI laws fail to do so or are delayed for long periods' (481).

Yet in certain circumstances 'the benefits outweigh the costs'. On a practical level, by 'institutionalising transparency', FOI laws 'allow incumbents to ensure that groups out of power in the future will not be shut out', and the binding can work both ways (Berliner 2014, 479). Transparency can have further uses for a central or federal government, as a tool to monitor local government or remote agencies (Heald 2012). This explanation is frequently given for China's passage of transparency legislation (Weibing 2010). The People's Republic of China's seeming tolerance of netizens' exposure of corruption follows a similar logic (King et al. 2014).

Michener (2015b) also challenges the idea that 'political leaders uncontrollably shy away from strong transparency policies' and argues that the 'how' and 'when' of the legal or political events that underlie enactment are 'pivotal' (17, 15). Politicians require a 'justifying narrative', whether real or created, often a corruption case or legal ruling. This justification, combined with the control of agendas, means that a determined leader can 'enact strong transparency laws in spite of tacit or explicit resistance' (14, 18). In a study of Brazil, Michener found that politicians, particularly in broad multi-party coalitions, pass laws as a means of controlling information and enabling monitoring of their allies. Agency plays a vital part, and in the case of Brazil strong presidential support and the interest of the Chief of Staff and influential senators were crucial (13–14). Partisanship also plays a role. Cases across South America displayed a similar variety, with the nature of party and legislature control

a crucial variable (Michener 2015a). Research at state level in the US also found partisanship to be an important factor (Wood 2012).

The importance of partisanship also points to a further key influence. In the absence of electoral support, pressure for openness frequently comes from within political parties, through the grassroots or supportive groups in the legislature, which are linked to external campaign groups and which can then grow into cross-party support (Birchall 2014). Parties thus generate a 'competitive consensus' in an area relatively insulted from voters (Wood 2012). Such tensions between parties help to keep windows open for longer (Carter and Jacobs 2014). While competition between parties rarely ignites public interest, 'serious political challenges' from other groups create a positive momentum and 'reduces the risk of punishment in media and public debate' (Carter and Jacobs 2014, 138). Parties and backbench members frequently push for openness from below out of principle, while leaders recognise the branding power of FOI as a means to create a 'policy image' (Carter and Jacobs 2014, 138). Given its symbolism, FOI offers a 'radical' way of displaying 'political identity' (138).

Further support comes from the veto players who often choose inactivity. Berliner (2010) examined the various veto players within a political system with the power to stop FOI, from branches of government to political parties. He concluded that, rather than stopping a law, the presence of more veto players increased the likelihood of its passage. For the many veto players, FOI legislation allowed access to information for deals and the capacity to 'expose wrongdoing' (7–8). Like politicians, veto players feared also the risk of 'reputational or electoral harm' by opposition, either from the 'voting public' or from the increasingly powerful international transparency lobby (8, 10).

A final significant but often overlooked driver is reform-minded officials within government. As seen in the cases throughout this book, FOI generates internal battles rather than wholesale opposition. Certain departments and ministers do champion openness to reinforce their own power, gain credit or 'lock' government into wider reform processes. This internal push can be seen in other openness reforms, such as the international push towards extractives industries transparency (David-Barrett and Okamura 2016). Across governments, officials react in varying ways, with a mixture of support, hostility and acquiescence and, for reformers, can be a source of support as well as opposition (Moe 2015).

The UK: a most difficult case?

As a case study, the UK represents one of the most challenging environments for FOI in a developed democracy, and one of the least conducive to success. UK governments resisted reform throughout the 1970s, 1980s and 1990s, just as other Westminster countries and the UK's neighbours passed FOI laws.

For much of the twentieth century, the UK carried a reputation as the developed

world's most secretive democracy. 'Secrecy' according to Hennessy 'is the glue that holds the rambling structure of British central government together' (2003b, 346). A potent mixture of executive dominance, 'political tradition' and institutions created a formidable set of obstacles to opening up (Evans 2003). The Official Secrets Acts, passed in 1889 and 1911 and updated in 1989, were 'a prime illustration of the culture of secrecy which [has] dominated British public life' and 'symptomatic of the secretive nature of the state' (Bogdanor 2003, 413). Such legislation remains a symptom of a wider and deeper problem, with the 'law … only one part of a broad constellation of forces which impede the flow of information' (Vincent 1998, 11). On top of this were layered more 'than a hundred pieces of legislation that curb the flow of information from central government to populace' (10).

Secrecy was a historical, cultural and institutional phenomenon, with instruments built up since 1250, when the Privy Councillor's Oath swore all members to secrecy (Hennessy 2003b). A bundle of restrictive conventions and rules, from Collective Responsibility to the Royal Prerogative, created a constitution in which, as Leigh described it in 1980, 'secretive components are heaped one on top of the other' (20). The result was what Rowat described as a 'principle of discretionary secrecy' whereby 'all administrative information is to be considered secret unless the government decides to release it' (Rowat 1979, 19). Secrecy became 'the very essence of the establishment view of good government' and was 'built in to the calcium of a policy makers bones' (Hennessy 2003b, 346). It was partly instinctive and partly cultural, rooted in the 'idea that there existed a natural ruling class. Secrecy as a part of this rule was as natural as breathing' (Rogers 1997, 14). Hennessy, reflecting on Orwell's observation on the 'privacy of English life', pointed to 'obsessive secrecy' as its 'regrettable obverse' (2003b, 347). He argued that 'it is as natural for the secretary of a village cricket club to stamp the minutes of its committee meetings confidential' as it is for a Cabinet Secretary to keep Cabinet notes secret (347). By the 1980s, despite social and technological change, secrecy remained firmly in place with, it is said, even the brand of tea drunk by ministers technically an official secret (Hennessy 2003b).

The inherent secrecy of British government went deeper than individual laws or discretionary practice. Although it was an 'inheritance from the past, from earlier undemocratic times … later Executive government … preserved the tradition of discretionary secrecy for their own convenience' (Rowat 1979, 20). The Westminster system, with its executive dominance, one-party government and strict lines of control, made both for power hoarding and, as a corollary, information hoarding (King 2015). One 1980s study concluded that 'levels of secrecy [are] a direct consequence of the foundations of British democracy [in particular] the Sovereignty of Parliament and the oppositional nature of politics' (Robertson 1982, 22). It was not just culture and laws but systematic and institutional design that made for information control:

> All government information will be seen as having consequences for their ability to exercise the degree of control the structure of responsibility implies and for their political survival since any information may affect their reputation and popularity. (Robertson 1982, 2)

The 'minimal conception of liberal democracy' meant that information access and availability 'is not taken to be an important measure of democratic life' (Evans 2003, 189).

According to Diamond (2011) 'the structures and processes of central British government have endured historically because they appeared to offer very substantial power to the incumbent administration', and this 'power paradox' presented to reform-minded governments, 'which has provided a formidable obstacle to radical political change in Britain' (68). To pass an FOI law required not only overcoming 'secrecy' laws and layers of culture and practice, but potentially challenging and upending the UK's political system itself.

Methodology

The question that drove this book began as a relatively simple one: 'why did Labour pass FOI?' This then led to an equally interesting follow-up, 'why did it not drop it?' The Duke of Wellington famously warned against writing the history of a battle or a ball, and the same challenges of partiality, recall and revision face anyone wishing to trace the history of any policy. The process is also hidden, in that the very symbolism of FOI means that fighting is (mostly) done behind closed doors while in public there are palliatives and reassurances (Kennedy 1978).

Tracing the separate parts of FOI involved piecing together very different sources, reports and views from inside and outside government. The primary means of accessing the story was a series of interviews with twenty people with knowledge of the process from different perspectives, including ministers such as Jack Straw and David Clark as well as MPs, experts, campaigners and academics. A series of interviews were conducted between 2003 and 2005 with additional work in 2014 and 2015. Some of the interviewees wished to remain anonymous.

The interviews were supported by a number of primary sources. These included White Papers, draft bills, a series of Select Committee reports and minutes and Hansard. The hearings in 1998 and 1999 by the Public Administration Select Committee (PASC) and the ad hoc Lords committee HL 97 provided some enlightening testimony. The minutes from the Cabinet sub-committees are not yet available: the Cabinet committee documents for the Constitutional Reform Programme-Freedom of Information (CRP (FOI)) committee will remain closed for twenty years. However, in 2014 I put in an FOI request to the Home Office and the Ministry of Justice for any background documents relating to the process. The documents were, at the time, being used by the Independent Commission on

Freedom of Information and could not be obtained. FOI requests were also sent in 2016 to selected government departments and other bodies in order to measure to what extent senior politicians came into contact with requests; the results of which can be seen in Chapter 8.

Beyond the official record, the Campaign for Freedom of Information (CFOI) provided the most detailed commentary. Robert Hazell and the Constitution Unit followed the process with a series of practical, comparative and ultimately prescient analyses that correctly guessed what had been happening behind the scenes (see Hazell 1998 and 1999). In the media, the *Guardian* and *Independent* also followed what was happening in some detail from the outset, as did *The Times* to a lesser extent and some regional and local newspapers. A series of searches in the Lexis newspaper archive were used to trace media coverage, and the University of Glasgow's excellent Hansard Corpus was used to trace the history of the phrase 'freedom of information'.

In political memoirs FOI is generally mentioned only in passing, if at all, though the glimpses offered are fascinating. In 2011 Tony Blair rather surprised the world by devoting two pages to FOI in his memoirs, memorably describing himself as a 'nincompoop' for passing it and characterising FOI as an 'abused' law that served to 'undermine' sensible government and hand power to the media. In an interview with the *Guardian* he spoke of it as one of his biggest regrets. Blair claimed the law was developed 'with care but without foresight' (Blair 2011, 127) and wove a picture of a new, inexperienced government blundering naively into passing a radical law:

> At that time the consequences were still taking shape and it didn't impact much in 2005. It was only later, far too late in the day, when the full folly of the legislation became apparent, that I realised we had crossed a series of what should have been red lines. (Blair 2011, 417)

The Home Secretary Jack Straw devoted a more detailed and thoughtful chapter of his own memoirs comparing the creation, passage and impact of FOI with that of the Human Rights Act. FOI policy was also mentioned, again in passing, across other sources including diaries by New Labour's communications director Alastair Campbell (2011), the Liberal Democrat leader Paddy Ashdown (2002) and the Labour backbencher Chris Mullin (2011), as well as in the memoirs of Blair's Chief of Staff Jonathan Powell (2010).

A number of academics have discussed FOI. Robertson in 1982 and Chapman and Hunt's collection of 1987 were two of the of the first; they were followed by Vincent's fascinating 1998 work on Britain's culture of secrecy, which stopped on a rather hopeful note with the 1997 White Paper, and Robertson's updated portrait of Britain's move to open government, published in 1999. Flinders used FOI as a case study in 2000 in a neatly argued piece on the changing attitudes of the government from 'Whig' to 'Peelite'. Two rigorous analyses of Labour's wider reform agenda by Evans (2003) and Dorey (2008) had excellent chapters devoted to FOI. Patrick

Birkinshaw followed the twists and turns with some very clear-eyed legal analyses (Birkinshaw and Parkin 1999; Birkinshaw and Parry 1999; Birkinshaw 2001), as did Rodney Austin (2000, 2004 and 2007). There was also an overview of the whole process by CFOI (Gundersen 2008). The sheer extent of Labour's constitutional reform programme overshadowed FOI, but the latter was also mentioned as part of a number of other works (see for example King 2009 and Bogdanor 2009).

Since 2005, when it came into force, the Act has been the subject of academic analysis, some of which I undertook with Robert Hazell and others at the Constitution Unit, in terms of its impact on central government (Hazell et al. 2010; Worthy 2010; Worthy and Hazell 2016), local government (Chapman and Hunt 2010; Worthy 2013; Richter and Wilson 2013) and Parliament (Hazell et al. 2012) as well as the separate regime in Scotland (John 2014, Dunion 2011; Cherry and McMenemy 2013; Taylor and Burt 2010). There was also investigation of particular requester groups such as journalists (Hayes 2009) and non-governmental organisations (NGOs) (Spence 2010). Since its passage and implementation FOI has been the subject of two inquiries into its operation in 2006 and 2007 by what was then the Constitutional Affairs Select Committee. It was then the subject of detailed post-legislative scrutiny by the Justice Committee in 2012 as well as the Ministry of Justice in 2011, and by the Independent Commission on Freedom of information in 2016. The Justice Committee hearings proved to be a rich trove of material on the development of the Act (Justice Committee 2012d).

Care has been to taken to critically analyse sources and match them up. However, the picture presented here is necessarily incomplete. One of the reasons the law took the path it did was that it was created in a rather confused process, at a hugely disorientating time.

FOI has remained controversial. The sharp divisions between supporters and sceptics during its creation carried over into its operation. While those outside government see it as symbolic tool of anti-corruption and popular power, to some senior politicians and officials it is representative of a tendency for too much openness, something that damages trust and ties up government. The Act has perhaps come to symbolise something that is 'wrong' or 'right' about contemporary British politics.

For all these reasons, certain facts, events and timings crucial to the story have been lost or distorted. For example, few media reports or memoirs mentioned Lord Irvine's central role in the early stages of the policy. Blair, rather than realising 'too late' what his generous promises had wrought, had been alerted to FOI in 1998 and gave the green light to reversing the early radical proposals soon afterwards, specifically instructing Jack Straw to cut them back and even attempting to introduce a blanket protection for 10 Downing Street (Justice Committee 2012c). Straw himself played a dual role in FOI, acting as opponent in its White Paper incarnation and then, albeit grudgingly, pushing the Bill through Parliament with a high degree of skill and expertise. As policy lead, Straw was responsible for the Act and was blamed

for later reversals; he casts himself as 'the villain' of FOI in his memoirs. However, it was the government as a whole that rowed back on the law, weakening it through a mixture of fear and indifference. While relatively minor details, when rearranged, they combine to tell a rather different story.

The book then turns to a selection of other brief comparators to pull out commonalities and threads. It examines in turn three other important cases: the creation of the first modern FOI legislation in the US, one of the first pieces of legislation in a Westminster system in Australia in 1983 and India's powerfully symbolic Right to Information Act of 2005. It then takes a look at two rather different examples: the radical legacy and retrenchment of Ireland's 1997 FOI law, rebooted in 2014, and New Zealand's Official Information Act, driven almost wholly by the very insiders who normally oppose such change. Each case draws on detailed academic studies, as well as selected primary documents where available, to show that FOI is easy to promise and difficult to duck.