

The Political Origins of Transparency

Daniel Berliner University of Minnesota

Transparency has been hailed as the key to better governance, yet political actors have many reasons to resist transparency. This article studies one prominent transparency policy, Freedom of Information (FOI) laws, which have been passed by over 80 countries. By institutionalizing transparency, FOI laws increase the costs for political actors to use public office—and public information—for private gain. Why have so many states passed FOI laws despite this? I argue that, in competitive political environments, FOI laws can create benefits for political actors as well as costs. Uncertainty over future control creates incentives for incumbents to pass FOI laws in order to ensure their own future access to government information and to credibly commit to future transparency. Event-history-model results show that FOI law passage is more likely when opposition parties pose more credible challenges to incumbents and when recent turnover in executive office has been frequent.

Transparency has been hailed as the key to better governance (Florini 2007; Hood and Heald 2006; Stiglitz 1999). Access to information about official rules and activities can empower citizens and journalists, constrain politicians, and expose corruption. Yet for precisely these reasons, transparency is highly political. Most political actors prefer secrecy to openness and oppose constraints on their actions. For those who misuse public office for private gain, transparency increases the risk of exposure and decreases expected returns to future corruption.¹

One of the most prominent policies aimed at increasing transparency are Freedom of Information (FOI) laws, which have been passed by over 80 countries around the world. FOI laws institutionalize transparency by creating legal guarantees of the right to request government information. They have been praised for increasing transparency, accountability, and trust (Banisar 2006; Birkinshaw 2006; Florini 2007). Yet politicians routinely find these laws to be a thorn in their side. Former British Prime Minister Tony Blair, for example, famously expressed regret over passage of the 2000 Freedom of Information Act, itself a prominent Labour campaign issue in the 1997 elections. In his memoir, he called himself a “naive, foolish, irresponsible nincompoop” (Blair 2010, 511) for passing the law, primarily over its

frequent use by journalists to investigate government actions and expose scandals. Anticipating such costs, political actors in many countries have resisted and delayed FOI passage for years, even in the face of concerted domestic or international campaigns.

Why have so many political actors chosen to pass such laws, given the costs of transparency? This article argues that, under certain circumstances, passage offers political actors benefits that outweigh the costs. This is because FOI laws institutionalize transparency, thereby allowing incumbents to ensure that groups out of power in the future will not be shut out of access to government information and tools of monitoring. FOI laws also allow incumbents to make more credible promises of greater transparency and anticorruption efforts to wary publics. As political environments become more competitive, incumbent groups face greater uncertainty over the future control of office, increasing the salience of these two potential benefits. Thus, all else equal, passage is more likely under conditions of greater political competition. Indeed, I find robust support for this argument from event-history models of the timing of FOI law passage across countries. Two measures of political competition—the strength of opposition parties and the frequency of party turnover—are significantly associated with the likelihood of passage.

¹An online appendix with supplementary material for this article, along with replication data and code, will be made available at <http://dx.doi.org/10.1017/S0022381613001412> and on the author's website upon publication.

This article makes several contributions. First, it argues that one of the key functions of FOI laws is to institutionalize transparency in rules and procedures that are difficult to weaken at a later date. Understanding this role is crucial to understanding why they are passed and provides a framework for future research on the topic. Second, this article offers empirical support from a new policy realm for existing arguments about the importance of political competition in driving institutional changes including civil service reform, new oversight institutions, and independent judiciaries (i.e., Geddes 1994; Grzymala-Busse 2006; Ramseyer 1994). Finally, this article offers an important caution to the multitude of actors engaged in the promotion of transparency, open government, and anticorruption policies. Just because such reforms may offer benefits to society as a whole, and may be supported by coalitions of domestic and international actors, does not mean that political actors will automatically find it in their interests to support them. As new initiatives like the Open Government Partnership, sponsored by the United States government along with a collaborative of eight major donor organizations, gain in prominence, increased focus on the politics of transparency becomes ever more important.

Freedom of Information Laws

Freedom of Information laws, also called Access to Information or Right to Information laws, give “citizens, other residents, and interested parties the right to access documents held by the government without being obliged to demonstrate any legal interest” (Ackerman and Sandoval-Ballesteros 2006, 93). FOI laws aim to guarantee government transparency by allowing individuals to request information or records from government bodies and requiring officials to respond.

While the first FOI law was passed in Sweden in 1766, the canonical law is the United States’ Freedom of Information Act, passed in 1966. Following passage in the United States, other states passed similar laws at an increasingly rapid rate. There is surprising variation in the timing of passage across countries, which does not clearly line up with regime type or level of development. France, the Netherlands, Australia, New Zealand, and Canada all passed laws between 1978 and 1982, but the United Kingdom and Germany did not do so until 2000 and 2005, respectively. Among developing and transition countries, the first laws were passed in Colombia

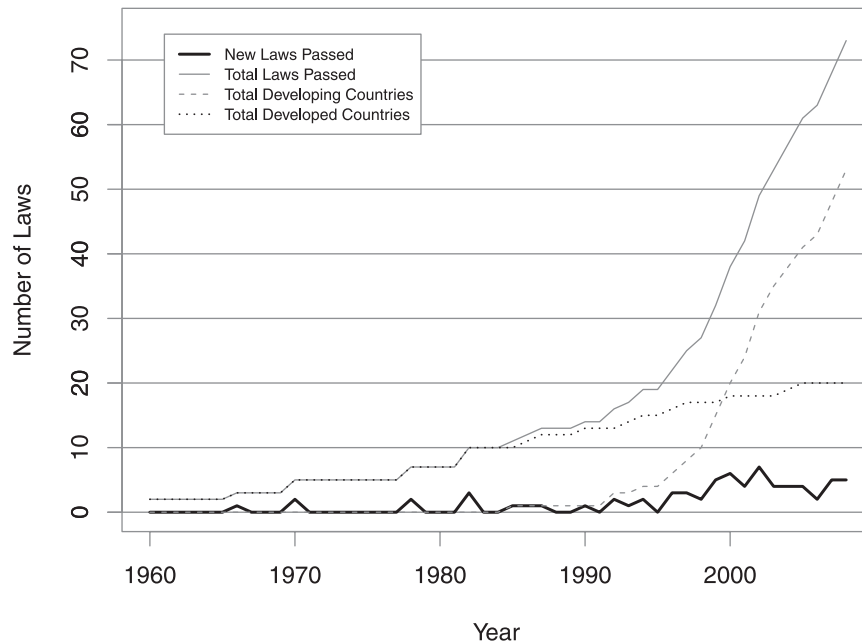
(1985), Hungary (1992), and Ukraine (1992). Passage of FOI laws subsequently spread to every region of the world, such that by the end of 2008, they had been passed by 78 countries on five continents. Figure 1 depicts the passage of FOI laws over time, while Table 2 in the online appendix presents the years of passage for each country.

FOI laws are a costly proposition for political actors. They curtail their ability to use public office (and public information) to pursue private gain by increasing the likelihood that corrupt actions will be exposed. They limit the range of actions that elected and unelected political actors can take to pursue survival in office and limit the extent to which political actors can obfuscate on policy matters. Indeed, the dominant understanding of FOI laws in the existing literature is that they are vehemently opposed by political actors and must be forced on them in a valiant struggle by local and international civil society advocates (Ackerman and Sandoval-Ballesteros 2006; Banisar 2006; Florini 2007; Puddephatt 2009).

However, while civil-society campaigns for FOI laws were dramatically successful in some countries, in many others similar campaigns persisted for decades without success. Michener (2011) summarizes three success stories for civil-society campaigns—Mexico, India, and Bulgaria—alongside continued defeat and delay in Brazil and Argentina. Other scholars have focused on other factors explaining where and when FOI laws were passed, but they still tend to see the incentives for passage as arising outside of the domestic political system. Grigorescu’s (2003) study of FOI laws in Eastern Europe emphasizes competing sources of information from international organizations. Roberts (2006) emphasizes pressure from international institutions and transnational activists and the increasingly important role of transparency as a global norm.

More recent work has addressed the role of domestic politics more directly. Michener (2014) argues that presidential strength is a key factor explaining the timing of passage and the strength of FOI laws in Latin America. However, he sees the impact of presidential strength in the ability to delay and resist the passage of FOI laws—where weak presidents are more likely to prove unable to resist pressure arising from other domestic or international actors. McClean (2011) sees different political configurations as likely to lead to the passage of FOI laws under different circumstances, but he finds that among developed democracies, two-party competition and presidential systems are more likely to lead to open political-opportunity structures. While

FIGURE 1 The Global Diffusion of Freedom of Information Laws from 1960 to 2008



Note: The bold line shows the number of new laws passed in each year, while the plain line shows the cumulative total number of laws passed in each year. The dashed line shows the cumulative total number of laws passed in developing countries, while the dotted line shows the cumulative total number of laws passed in developed countries.

these works offer nuanced and important explanations, they share a tendency to see passage as part of a “big push” by international and domestic stakeholders, while unwilling political actors can either succeed or fail in resisting their pressure. I argue that, while these stakeholders play important roles, we can better understand the passage of FOI laws by shifting focus to political actors themselves and identifying conditions under which passage may be in their interests.

There are many examples of FOI passage falling shortly before or after political transitions. Mexico’s 2002 law, for example, was passed shortly after the end of several decades of single-party dominance. The first two FOI laws in francophone West Africa—Guinea’s 2010 law and Niger’s 2011 law—were both passed by outgoing military juntas (both of which promised returns to civilian rule) shortly *before* elections which brought new leaders to power. In Canada, FOI had been a conservative issue through much of the 1970s, but the 1982 law was passed under the Liberal party, prior to Prime Minister Pierre Trudeau’s 1984 retirement and the Conservative party’s “widely predicted” landslide victory (Michener 2010, 45).

While these examples could be taken to highlight political competition as a key factor, an important concern is whether FOI passage simply tends to

follow democratic transitions or political openings, as in Moravcsik’s (2000) argument on the European Convention on Human Rights. However, while in some countries FOI laws were passed following transitions, this factor alone fares poorly at explaining the timing of FOI passage across countries. Most FOI laws were not passed under such circumstances, and many newly elected leaders who promised to pass FOI laws failed to do so or delayed for long periods. Instead, political competition best explains the timing of FOI passage in comparison with timelines of political turnover. This is highlighted in several cases in which passage did *not* follow such transitions, yet only came later.

For example, in Japan, lobbying for a FOI law began in the 1970s, but it was delayed for years by the long-ruling Liberal Democratic Party (LDP). Yet the law was not passed after the first non-LDP government in decades was elected in 1993, but rather in 1999, after the LDP had returned to control (Repeta and Schultz 2002).

In South Korea, a FOI law was not passed until December 31, 1996, despite an active advocacy movement since 1989 and election promises made by President Kim Young-Sam during his 1992 campaign (Lee and Moon 2011; Youm 1994). The law

was only finally passed after the April 1996 parliamentary elections, in which Kim's party lost its absolute majority, making the political environment significantly more competitive. Importantly, this occurred before the December 1997 presidential elections in which Kim's chosen successor was defeated.

In Nigeria, the law was passed in 2011, almost 20 years after the first civil-society advocacy on the issue in 1993 (Media Rights Agenda 2003; Obe 2007). Passage was delayed for years and even vetoed by President Olusegun Obasanjo, despite his promises to combat corruption (and despite having been a founding member of Transparency International). The bill faced continued delay under his successor Umaru Yar'Adua (whose election was widely considered fraudulent), and again under Goodluck Jonathan, who took office in 2010 following Yar'Adua's death. However, in January 2011 legislative action on the bill resumed, and in March, Jonathan publicly promised to sign it into law once passed by the legislature—which he did on May 28, 2011. The April 2011 presidential elections, in which Jonathan was returned to power, were hailed as among the country's fairest ever. Given Jonathan's apparent unwillingness to use electoral fraud to maintain power, his support for the FOI law must be understood in the context of the possibility of losing. Indeed, while Jonathan won the elections, they demonstrated, for the first time in years, the viability of the opposition in fair elections and thus the potential for future turnover in party control. While these are only illustrative examples, they highlight the importance of political uncertainty in cases where the political environment became more competitive, yet incumbent parties retained executive control.²

Institutionalizing Transparency

Understanding the passage of Freedom of Information laws requires taking seriously the incentives facing political actors and the informational effects of institutionalizing transparency. FOI laws are characterized by three key features in these regards. First, they enable increased access to government information as an end in itself. Citizens, civil society groups, businesses, and other actors all depend on government information for many activities, such as obtaining basic services, mobilizing for social goals, and

applying for public contracts. When political actors control access to information, they can benefit by demanding bribes in exchange, steering contracts to allies, obfuscating policy actions and goals, and restricting information about the policy process to privileged groups. As Pinto notes, "information as a commodity permits officials to allow selective access and can result in strategic leaks, patronage networks and rent-seeking behaviors" (2009, 45). Effective FOI laws limit the ability of political actors to maintain such control over information and thereby their ability to benefit from that control.

Second, FOI laws enable increased access to information not as an end in itself, but as a tool of monitoring. When political actors control access to government information, they can benefit from the difficulty faced by other actors in monitoring their actions. Principal-agent theory applies here, both to the government as the agent of some principal—the voting public in democracies (Barro 1973; Belsey and Burgess 2002) or a selectorate of elites in autocracies (Besley and Kudamatsu 2007)—and to bureaucracies as agents of the executive and legislative branches (McCubbins, Noll, and Weingast 1987). In both cases, agents have private information about their own activities that are difficult for principals to monitor, potentially leading to corruption and other agency failures. By creating a decentralized information regime allowing anyone to request any type of information not specifically exempted, FOI laws can serve as a form of fire-alarm monitoring (McCubbins and Schwartz 1984). Additionally, while most examples of FOI laws as tools of political monitoring involve their use by journalists, civil-society groups, and ordinary citizens, they are also used by politicians and parties seeking to expose wrongdoing or scandal on the part of their opponents. While this is commonplace in the United States, it also takes place in many developing and transition countries, including Bulgaria,³ South Africa,⁴ and India.⁵

Third, FOI laws not only grant members of the public the right to access information, they also institutionalize transparency in rules and procedures that bind future governments to maintain that right. Indeed, no FOI law has ever been revoked. While transparent practices can exist in the absence of FOI

³See <http://www.aip-bg.org/library/dela/case53.htm> (accessed January 28, 2013).

⁴"DA seeks answers about ANC 'oilgate,'" *IOL News*, 24 May, 2005.

⁵"BJP using RTI to nail govt," *The Times of India*, 22 October, 2008.

²See the online appendix for expanded versions of these cases, limited here by space constraints.

laws, such noninstitutionalized transparency gives less assurance that those practices will be sustained in the future or implemented impartially. For example, Argentina's "Presidential decree" for access to information is widely criticized as ineffective compared to other Latin American FOI laws (Michener 2011; Pinto 2009). Former Nigerian President Obasanjo's transparency promises upon taking office in 1999 were rapidly superseded by political contingencies and either ignored or used to target political rivals (Obe 2007).

FOI laws make commitments to transparency more credible through two related mechanisms: by raising the costs to subsequently weaken transparent practices and by empowering new domestic actors to serve as a constituency in favor of greater transparency. What costs do FOI laws generate to future revocation or weakening of transparent practices? First, the fact that they are written into law makes transparent practices more binding on future governments, as they cannot be undermined without generating widespread attention and criticism in the form of domestic and international audience costs (Fearon 1994; Lohmann 2003). Even weak implementation and enforcement of FOI laws has led to naming and shaming from transnational advocacy networks and pressure from international institutions. Second, FOI laws are decentralized, operating in numerous individual agencies at multiple levels of government. This not only makes them more difficult to root out at a later date, but it also keeps most routine disclosure decisions out of the executive's hands.

FOI laws also generate new constituencies and empower new actors. Because they apply to all citizens and all types of information that are not specifically exempted, FOI laws create a vastly larger constituency than policies limited to specific areas such as environmental or fiscal transparency, or which limit information requests to legally interested parties. This constituency represents a large body of actors to potentially retaliate against attempts by political actors to revoke or weaken access to information. FOI laws can also empower new actors with tools of political action. These include direct tools, such as attempting to make information requests and appeal denials even in countries with poorly implemented laws, and indirect tools, such as appealing to transnational advocacy groups and international institutions. Even individual information commissioners appointed to oversee otherwise weak FOI laws have, in some cases, turned out to be powerful advocates, using their positions to push for more transparent practices.

A key point is that even though not all FOI laws are fully implemented and enforced in practice,

passage can still be considered a credible commitment to transparency. While passage of a FOI law increases the costs of subsequent weakening of transparent practices, those costs are weighed against other factors that may still prevail. Yet by increasing the costs nonetheless, FOI laws make state commitments to transparent practices *more* credible than they could be otherwise. And by empowering new actors, FOI laws can change the nature of domestic political interaction over transparency issues, giving advocates new tools to "ratchet up" transparency.

Three examples from South Africa, Bulgaria, and Pakistan illustrate these arguments. In South Africa, the ruling African National Congress (ANC) party has attempted since 2008 to pass a Protection of Information bill that would substantially weaken the 2000 Promotion of Access to Information Act. Commonly called the "Secrecy Bill," it has been opposed by hundreds of domestic and international NGOs, prominent individuals such as Archbishop Desmond Tutu and U2 singer Bono and even some ANC legislators and supporters.⁶ Editors of a major newspaper called it "the first piece of legislation since the end of apartheid that dismantles an aspect of our democracy."⁷ In June 2012, after submitting a report to the UN Human Rights Commission, South Africa "received widespread international condemnation" over the bill, and representatives of the United States, Canada, Czech Republic, Germany, Norway, Poland, Portugal, Sweden, and Switzerland all expressed concern.⁸ While the bill was ultimately passed by both houses of the legislature in April 2013, several of the most offending provisions had been removed or weakened in response to domestic and international pressure. In September 2013, President Zuma finally acceded to criticism, declining to sign the bill and sending it back to parliament for revision, stating that it did not "pass constitutional muster."⁹

In Bulgaria, the 2000 Access to Public Information Act has led to a surprisingly strong information regime (Michener 2011; Open Society Justice Initiative 2006), despite several weak legal provisions and the fact that Bulgaria is usually considered one of the "laggards" of central and eastern European EU

⁶"Campaign Kicks Off Against South African FOI Proposal," *FreedomInfo*, 31 August, 2010; "Tensions Arise Over Protests Against ANC Secrecy Bill," *FreedomInfo*, 18 February, 2011.

⁷"Editors' Plea on Secrecy Bill," *Times Live*, 22 November, 2011.

⁸"South Africa's Secrecy Bill Attracts International Condemnation," *The Guardian*, 13 June, 2012.

⁹"Zuma Sends Secrecy Bill Back for Fixing," *Mail and Guardian*, 12 September, 2013.

accession countries (Noutcheva and Bechev 2008). A key feature has been the presence of the Access to Information Programme (AIP), one of the most active domestic civil-society groups working on FOI in the world. By monitoring implementation, promoting awareness, conducting trainings of journalists, civil society, and even public officials themselves, engaging in legal mobilization, and benefiting from close ties with groups around the world, AIP has contributed to a much stronger information regime than would otherwise exist in Bulgaria (Puddephatt 2009). Indeed, while Bulgaria's FOI law included no provisions for an independent Information Commissioner, AIP has functioned, in their own words, as a "grassroots commissioner," taking on many of the tasks that such bodies normally perform.¹⁰

In Pakistan, the 2002 Freedom of Information Ordinance is usually considered a "window dressing" law (CHRI 2003), yet this has not stopped civil-society groups and individuals from attempting to make information requests, sometimes with positive results (CPDI 2011). Nor has it stopped individual officials from acting on principled commitments to transparency. Indeed, the Secretary of the Election Commission of Pakistan was hailed on his retirement for his strong compliance with the law, described as having "turned the ECP into an 'island of free access to information' in a sea of secrecy."¹¹

The case of South Africa highlights the costs a government faces in trying to weaken a FOI law, while Bulgaria and Pakistan illustrate how FOI laws empower new domestic interests that can work to "ratchet up" weak FOI laws after they have been passed. It is because of such difficulties in weakening existing laws, and the empowerment of new actors, that FOI laws serve to institutionalize transparency, binding future governments to continue transparent practices.

Political Uncertainty and Competition

Principal-agent models have commonly been used to understand the benefits to society of transparency and accountability mechanisms (Barro 1973; Besley and Burgess 2002; Przeworski, Stokes, and Manin

1999). However, such models face difficulty explaining actual decisions by principals to bind themselves with those mechanisms. If FOI laws make it more difficult for political actors to benefit from the control of government information, increase the likelihood that corruption will be exposed, and create new rights which are difficult to revoke in the future, why do political actors ever pass them? Why would political actors sacrifice the perks of office that come with the ability to keep secrets effectively?

The answer lies in the fact that FOI laws bring not just costs, but also benefits. Indeed, the very institutionalization of FOI laws is the key to their political benefits. Competition can create conditions in which political actors see potential gains from the passage of FOI legislation. Political competition generates uncertainty, since while "some actors may be very powerful today . . . they cannot count on maintaining their positions of power in the future," as they may lose power to other groups of political actors (Moe 1990, 124). The competitiveness of the political environment thus reflects the extent to which incumbents face uncertainty over future control by themselves or their allies. Indeed, political competition has been identified as an important driver of numerous institutional reforms, including civil-service reform (Geddes 1994; Grzymala-Busse 2006), oversight institutions (Grzymala-Busse 2006, 2007), new administrative procedures (De Figueiredo and Vanden Bergh 2004), and independent judiciaries (Ginsburg 2003; Ramseyer 1994).

Political competition can create two types of incentives for incumbents to pass FOI laws. The first is to gain greater support from constituents who evaluate promises of transparency, anticorruption, and good governance more positively given the more credible commitment that a FOI law entails. Indeed, while Ferejohn (1999) argued that greater accountability can lead the public to grant politicians greater resources or support, he assumes that promises of transparency are credible. This is at odds with the fact that election promises of transparency are rarely kept and that unilateral, centralized transparent practices are easy to revoke or subvert. Passage of a FOI law, however, makes these more difficult, thus making promises of transparency more credible. Positive evaluations of such commitment may come from the public at large or from specific groups of constituents, such as civil society, local political leaders, or the press, which low-information voters may look to for political cues. The more competitive the political environment, the more salient the potential gains from offering a credible reform to

¹⁰ Author's interview, Access to Information Programme, Sofia, Bulgaria, 19 October, 2012.

¹¹ "A bureaucrat who retired honourably, with his head high," *News International*, 5 April, 2012.

such constituents, which can yield crucial support or at least foreclose potential avenues of criticism.

Second, political actors who anticipate they may soon be out of power can institutionalize transparency in order to guarantee their own future access to information. This is similar to insurance models in which political actors institutionalize independent judiciaries in order to protect their own future safety and property in case they lose office (Epperly 2013; Ginsburg 2003; Ramseyer 1994). Similarly, Alt, Lassen, and Rose (2006) see increased fiscal transparency among U.S. states as imposing constraints on future officeholders from opposing parties. Grzymala-Busse sees institutions such as civil service regulations, accounting offices, and anticorruption laws as “a way of constraining one’s political opponents from exploiting their access to state resources for their own gain” in case incumbents lose power (2006, 15).

Political actors who use their control of information for private gain may not want to lose access to information once they are out of power. Institutionalizing transparency helps to ensure future access both as an end in itself and as a means of monitoring. Further, if incumbents expect that they may soon lose power, they face a considerable chance that the costs of exposure created by a FOI law will be borne in the future by their political opponents. This calculation reduces the expected costs of exposure at the same time that the incentives for insurance are at their greatest. As incumbents’ uncertainty over maintaining office in the future increases, this option becomes more attractive. By binding themselves to transparency, they bind their opponents as well.

The competitiveness of the political environment—uncertainty over future political control—increases the salience of both these incentives. While idiosyncratic features of political competitiveness may influence passage in individual countries, there are two systematic features which can be expected to result in greater political uncertainty across cases: when opposition parties pose credible challenges to those in power and when frequent turnover in office has taken place. It is in such circumstances where, all else equal, FOI passage will be more likely.

Data and Model

I test the role of political competition using an event-history approach to model the timing of FOI passage

across countries. FOI passage should be more likely to take place, and occur sooner, where political competition and uncertainty create incentives for institutionalizing transparency. My primary focus is on the factors driving passage among developing countries in the period from 1990 to 2008. The change in the international environment at the end of the Cold War provides a natural starting point from which to study the spread of FOI laws. Only one developing country (Colombia) passed a law before 1990, and many countries in the former Soviet Union were not yet independent. It is debatable whether most developing countries could reasonably be considered “at risk” of passage prior to 1990. I also restrict the primary analysis to countries outside of Western Europe, the United States, Canada, Australia, and New Zealand. Many of these were among the earliest adopters of FOI laws, and those which passed laws relatively late may have done so for idiosyncratic reasons. Many aspects of open government which FOI advocates hope to achieve were already very much present in, for example, the United Kingdom and Germany even before those countries passed FOI laws in 2000 and 2005. Nonetheless, robustness checks show that the main results do not depend on the universe of cases chosen.

Dependent Variable

The dependent variable is an indicator of the year of FOI passage in each country, coded from Banisar’s (2006) global survey of FOI laws, updated from Vleugels (2010), and confirmed by news reports or other additional sources. While FOI laws vary on many dimensions, such as the scope of coverage and sanctions for noncompliance, the key features shared by all are the legal guarantee of access to information held by the executive and bureaucratic agencies, with rules governing the procedures for such access. I do not count as FOI laws “decrees” such as the 2003 presidential decree in Argentina, which has been much criticized precisely because it can easily be revoked at any time. Country-years following passage in a given country are omitted, whereas countries that had not yet passed a law by 2008 are included but considered right-censored (Box-Steffensmeier and Jones 2004). Following Beck, Katz, and Tucker (1998), I use a logistic-regression model including duration-dependent dummy variables for every possible number of years a country can be “at risk” of passage, capturing the changing baseline hazard. This approach is equivalent to a Cox proportional hazards model with time-varying covariates, but it yields logit coefficients.

Political Competition

I measure the concept of political competition in two ways, based on two different features of political systems: the strength of credible opposition parties, and the frequency of changes in party control of the executive. The variable *Opposition Strength* measures the vote share of the largest opposition party in the most recent legislative election, based on data from the Database of Political Institutions (DPI). A higher vote share means the ruling party faces a more credible challenge to their future power. I use only the largest opposition party, as an opposition made of many small parties is not as credible a threat to incumbents as a single larger party. Where there are no opposition parties, this variable takes a value of 0. As robustness checks, I also use the vote share of all opposition parties and a measure of changes over time in opposition strength.

The variable *Turnover Frequency* measures the number of changes in party control of the executive over the previous five years, based on the DPI's measure of years the executive's party has been in office. For each year, I code the number of times a new party has taken office in the last five years. The source variable codes as missing cases where there are no parties, where the executive is independent of any parties, or where the army is the ruling elite. I consider changes to and from spells of such missing values to be changes in party control.¹² Due to the coding of the source variable, multiple instances of turnover in a single year will register as only a single instance. For purposes of measuring political uncertainty that might create incentives to enact FOI laws, however, this shortcoming should not be problematic. Three changes in elite control evenly spaced over several years should create such incentives to a much greater extent than three changes in elite control just weeks apart but followed by a period of stability. I use turnover of the party in power rather than the individual chief executive, as changes in individual control while the same elite maintains power should not lead to the same kind of political uncertainty.

¹²This choice is necessary to avoid loss of many observations to missing data. Unfortunately, it means that changes from one elite group to another in such systems will not register as instances of turnover. This is, however, a minor concern, as during the period under observation most countries, even if autocratic, had political parties. Where spells of missingness in the source variable are present, most are cases where one elite group ruled for the entire period under study.

Control Variables

It is also important to take into account the role of international diffusion pressures in driving the passage of FOI laws. FOI has taken the shape of a global norm, following a pattern of norm cascade across countries (Finnemore and Sikkink 1998). As more countries pass such laws, they are increasingly seen as an appropriate policy choice for states seeing themselves as members of the liberal order. Scholars of international human-rights treaties have also argued that ratification may be pursued for expressive benefits: expressing a position which others consider appropriate (Hathaway 2002) and receiving positive press or improved image with international audiences (Simmons 2009). These same benefits may apply to the passage of FOI laws.

All else equal, the effects of these international diffusion pressures on a state will be greater when more countries in its region have passed FOI laws and when it interacts with other countries in intergovernmental settings where passage has become the norm. To reflect these, the *Regional Context* variable measures the proportion of other countries within 500 miles of a country's borders which have passed FOI laws, while the *IGO Context* variable represents socialization through intergovernmental organizations (IGOs) to which a country belongs, using an average of the proportion of FOI adoption among each state's IGO partners. Construction of this variable first calculates the proportion of adoption among members of each IGO to which a country belongs (excluding that country). The mean of these IGO-level proportions is then taken across all IGOs that country belongs to in a given year. Data on IGO membership comes from the Correlates of War project. Similar approaches have been used to measure the impact of IGOs on human-rights practices (Greenhill 2010) and democratization (Pevehouse 2002).

It is essential to control for the level of democracy, to ensure that the more specific competition variables do not simply capture underlying regime characteristics which may promote transparency (Hollyer, Rosendorff, and Vreeland 2011). I measure *Democracy* with the Polity 2 index from the Polity IV dataset. To address the possibility that wealthier countries may be more likely to pass FOI laws, I control for *Economic Development*, measured as logged GDP per capita. To address the possibility that integration with the global economy drives passage, I control for *Trade Exposure*, the logged ratio of the total value of imports and exports to the size of the economy. To assess whether passage is driven by conditionality from international

donors or lenders, I include measures of *Aid Dependence*, the logged value of foreign aid as a percentage of GDP, and *IMF Credit*, a dummy variable indicating the use of IMF credit in a given year. Data on the previous four variables are from the World Bank's World Development Indicators. It is possible that newly democratic regimes are likely to pass FOI laws as part of a general period of posttransition reform, even where political actors are not driven specifically by competition. One might even be concerned that Turnover Frequency is merely proxying for such a tendency. As such, I include an indicator of countries that have newly transitioned to democracy, *New Democracy*, which takes a value of 1 in the first five years following a democratic transition.

Given the attention to the role of transnational civil society in the global spread of FOI laws, it is important to control for the strength of such transnational influence. I follow the approach taken by many scholars of human rights and policy diffusion (Hafner-Burton and Tsutsui 2005; Neumayer 2005) by using data from the Yearbook of International Organizations (Union of International Associations 2009). The *International NGOs* variable is the logged number of groups which have members in each country in each year. While this counts all types of NGOs—whether focused on the FOI issue or not—having many international NGOs present in a country both creates more network ties to transnational civil society and an environment where NGOs working specifically on the FOI issue can most easily be effective.

Corruption is another important control variable, especially given that the political costs of passage should be related to the extent of political corruption. However, there are reasons not to expect a clear relationship between corruption and the timing of passage. Even though greater corruption should increase the costs of passage, it may also increase the salience of competition-driven incentives to pass FOI laws. Countries with reputations for corruption may also be under greater pressure from international stakeholders to undertake reforms. Thus, expectations regarding corruption's effects are unclear. I measure *Corruption* using data from Transparency International's Corruption Perceptions Index. This measure ranges from 0 to 10, where lower numbers reflect more corruption. Since this measure is not available for the entire period under study, and given how slowly corruption tends to change over time in each country (the average within-country standard deviation is only 0.37 on a range from 0 to 10), I use the average for each country over all available years up through 2008.

Finally, it is possible that the independence of the media plays an important role in explaining FOI law passage, as in Michener's (2010) study of FOI laws in Latin America. I measure *Press Freedom* with Freedom House's trichotomous Freedom of the Press measure. However, since data on this measure is available for fewer observations than the other variables used in the analysis, I include it only in a robustness check. All variables are lagged one year, except those based on data in the DPI which are already measured as of January 1 of each year.

Results

The results strongly support the role of political competition in explaining variation in the timing of passage of FOI laws. Table 1 presents results from these models. Model 1 is a baseline model with neither competition measure. Model 2 includes the Opposition Strength variable, Model 3 includes the Turnover Frequency variable, and Model 4 includes both. Each of the two political competition measures has a positive and significant effect on the likelihood of FOI passage, even when both are included simultaneously. FOI passage is more likely when opposition parties are stronger and when turnover in party control of the executive has been frequent; both are factors that I argue result in greater political uncertainty and thus a more competitive political environment. Additionally, the coefficient for Democracy is smaller and loses significance once both competition variables are included, indicating that some portion of what might otherwise be labeled democracy's effect is in fact attributable to these specific forms of competitiveness.

Figure 2 illustrates the substantive impact of Opposition Strength and Turnover Frequency in comparison with the impact of Democracy, all from simulations based on the results of Model 4. These simulations vary the value of one independent variable of interest for a hypothetical observation, while holding all other variables constant at their 2008 mean levels. The figure shows that the substantive impact of the Democracy variable on its own is small: even a shift from the lowest to highest possible values only shift the probability of a FOI law being passed in a hypothetical country from 0.09 to 0.16. Changes in Opposition Strength, on the other hand, have larger effects. The probability of passage in a hypothetical country with no opposition parties is 0.09. For an observation where the largest opposition party received 25% of the vote, the probability rises to 0.17, while for an observation where that party

TABLE 1 Results of Event-History Models of Freedom of Information (FOI) Passage

	Model 1	Model 2	Model 3	Model 4
<i>Opposition Strength</i>		2.456* (1.280)		2.926** (1.311)
<i>Turnover Frequency</i>			0.611*** (0.214)	0.673*** (0.220)
<i>Democracy</i>	0.116*** (0.035)	0.082** (0.039)	0.081** (0.036)	0.037 (0.042)
<i>Regional Context</i>	2.116** (1.035)	2.078** (1.042)	2.072** (1.030)	2.015* (1.039)
<i>IGO Context</i>	6.780** (3.041)	7.297** (3.040)	7.074** (3.058)	7.709** (3.056)
<i>New Democracy</i>	-0.278 (0.604)	-0.189 (0.608)	-0.458 (0.621)	-0.374 (0.631)
<i>International NGOs</i>	-0.066 (0.303)	-0.072 (0.311)	-0.054 (0.308)	-0.052 (0.318)
<i>Corruption</i>	0.015 (0.175)	0.008 (0.175)	0.100 (0.182)	0.095 (0.184)
<i>Economic Development</i>	-0.047 (0.270)	-0.106 (0.274)	-0.112 (0.268)	-0.182 (0.272)
<i>Trade Exposure</i>	-0.043 (0.363)	-0.154 (0.377)	0.063 (0.354)	-0.034 (0.367)
<i>Aid Dependence</i>	-0.124 (0.228)	-0.162 (0.232)	-0.183 (0.227)	-0.234 (0.231)
<i>IMF Credit</i>	-0.084 (0.399)	-0.120 (0.399)	-0.138 (0.400)	-0.174 (0.402)
<i>N</i>	2033	2033	2033	2033
<i>AIC</i>	420.830	419.112	415.027	411.997

Note: Logit coefficients are presented, along with standard error in parentheses. Constant term and duration-dependent dummy variables included but not presented to save space. Model 1 is a base model. Model 2 includes Opposition Strength. Model 3 includes Turnover Frequency. Model 4 includes both.

Standard errors in parentheses

*significant at $p < .10$; ** $p < .05$; *** $p < .01$.

received 50% of the vote, it rises to 0.29. The frequency of party turnover has similarly large substantive effects. For a hypothetical observation where no turnover has taken place in the last five years, the probability of passage is only 0.1. However, where such turnover has occurred one, two, three, or four times, the probability rises to 0.18, 0.29, 0.44, and 0.58, respectively. Although only one observation has a value of four, these remain results of considerable magnitude.¹³

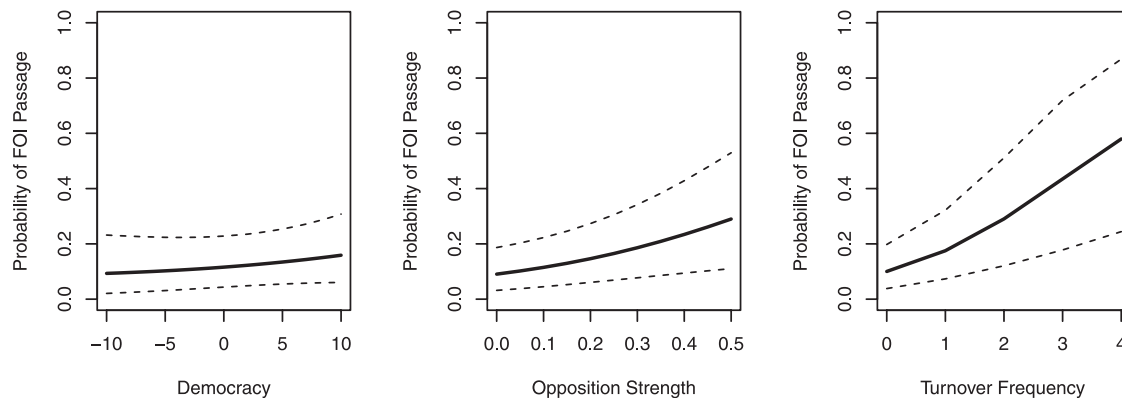
The role of international diffusion also receives support, as both Context variables are positive and statistically significant. When the level of adoption is high in a country's regional neighborhood, or in IGOs of which it is a member, FOI passage is more likely. Beyond the two competition variables, the two

diffusion variables, and Democracy, no other variable has any statistically significant impact on the likelihood of FOI law passage.

New democracies are no more likely to pass FOI laws than other countries. While some individual laws may have been passed as part of posttransition reform periods, no such effect is apparent systematically across all cases. There is a similar lack of evidence for the role of International NGOs. This does not deny the impact of NGOs and transnational advocates in many countries but simply reflects the lack of cross-national evidence for any systematic role they might play in driving passage. For every momentous civil-society victory, there are countries where advocates were met with delay and defeat for years or even decades. The results do not support any significant role for Corruption either. This may be because Corruption can have opposing effects on the likelihood of FOI passage, simultaneously increasing both

¹³Additional models presented in the online appendix offer robustness checks using alternative measures of Opposition Strength, Turnover Frequency, and Democracy.

FIGURE 2 Substantive Effects of Democracy and Political Competition Variables, Based on Simulations from Model 4



Notes: Each panel is the result of simulations varying the variable in question, holding all other variables constant at their mean 2008 levels. The black line shows the predicted probability of FOI passage for a hypothetical country with the value of Democracy, Opposition Strength, or Turnover Frequency indicated on the x-axis. The dashed lines indicate a 90% confidence interval.

its costs and benefits. Neither Economic Development nor Trade Exposure had any significant effect either. Interestingly, the measures of Aid Dependence and IMF Credit, which could highlight the role of conditionality from international stakeholders in driving passage, yield no such evidence.

While inclusion of the Press Freedom variable leads to a smaller sample size due to missing data, I test for its effect in a robustness check (see the online appendix). Press Freedom has no significant effect on FOI passage, and its inclusion in the model does not change the sign or significance of the competition variables. I also include a dummy variable for presidential systems. This variable is not significant, and its inclusion does not change the sign or significance of the main results. An interaction term between presidential systems and the Opposition Strength variable, however, is significant. This indicates that the effects of this form of competition are attenuated, though still positive, under presidential systems. Further robustness checks use different universes of cases than those in the primary models to ensure that the results are not driven by the choice of countries and time period under study (see the online appendix). In all such alternative models, the political competition and diffusion variables remain positive and statistically significant. Further, beyond these variables and Democracy, no other variable has any significant effect on FOI law passage.¹⁴

¹⁴Further robustness checks in the online appendix include additional control variables, alternative forms of event-history model, and models including spatial autoregressive terms.

Conclusion

Freedom of Information laws create substantial costs for political actors. By increasing the public's ability to access government information and monitor those in power, FOI laws make it more difficult for political actors to profit from the control of government information or to use public office for private gain. By increasing the risks of exposure, FOI laws reduce the expected utility of corruption. Most importantly, FOI laws institutionalize transparent practices, binding future governments to maintain them. In order to explain why political actors pass FOI laws, we must understand the circumstances that can create benefits outweighing these costs.

In this article, I have argued that when political competition is high, FOI laws can create benefits as well as costs for political actors. When ruling groups face uncertainty over their future control of office, institutionalizing transparency can allow them to make more credible commitments to transparency, and to ensure that they will not be shut out of access to government information and tools of monitoring in the future. The results presented here support this approach. Two measures of political competition are significantly associated with the passage of FOI laws. Aside from these, a control variable for Democracy, and two measures of international diffusion, no other variable in the models was statistically significant. While several other factors have been highlighted as playing a role in FOI passage in individual cases, such as transnational civil society, democratic transitions, and IMF conditionality, there is no evidence that these have a systematic effect across countries.

This article highlights the importance to scholars of understanding the incentives that political actors face when considering FOI laws and indeed any institution that constrains future discretion. Under circumstances of high uncertainty, political actors are willing to constrain themselves in order to constrain their opponents as well and to make credible commitments to key constituents. Indeed, these results offer support from a new policy realm to arguments that political competition is an important driver of institutional reforms. For scholars of policy diffusion, this article highlights the potential for domestic politics to block and delay adoption despite strong international pressure. For researchers and policy makers involved in evaluating, designing, or promoting new transparency and accountability mechanisms, this article highlights the need to consider the domestic politics that may lead those mechanisms to succeed or fail. Governments facing greater political uncertainty may be the most fruitful targets for policy promotion, and advocacy strategies that take into account the political incentives of groups in power should meet with greater success than those that do not.

Transparency does not just happen. Many good governance and anticorruption programs seek to make political principals more transparent and accountable to their agents. Yet such efforts usually require existing principals to commit to institutional reforms that are costly to themselves. This study highlights the importance of political competition *within* the domestic political system, rather than political pressure from below (domestic civil society) or above (international institutions and advocacy campaigns), in creating the circumstances under which political actors can find such commitments to be in their own interests.

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Daniel Berliner is an Assistant Professor at the University of Minnesota, Minneapolis, MN.