

## The Uncertain Relationship Between Open Data and Accountability: A Response to Yu and Robinson's *The New Ambiguity of "Open Government"*\*



Tiago Peixoto

### ABSTRACT

By looking at the nature of data that may be disclosed by governments, Harlan Yu and David Robinson provide an analytical framework that evinces the ambiguities underlying the term “open government data.” While agreeing with their core analysis, I contend that the authors ignore the enabling conditions under which transparency may lead to accountability, notably the publicity and political agency conditions. I argue that the authors also overlook the role of participatory mechanisms as an essential element in unlocking the potential for open data to produce better government decisions and policies. Finally, I conduct an empirical analysis of the publicity and political agency conditions in countries that have launched open data efforts, highlighting the challenges associated with open data as a path to accountability.

### AUTHOR

Tiago Peixoto is Research Coordinator of the Electronic Democracy Centre of the University of Zurich.

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\*This title is a direct allusion to an article by Jonathan Fox. Jonathan Fox, *The Uncertain Relationship Between Transparency and Accountability*, 17 DEV. IN PRAC. 663 (2007).

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## INTRODUCTION

David Robinson and Harlan Yu are among the foremost scholars in the field of open government data research. With their 2009 article, *Government Data and the Invisible Hand*,<sup>1</sup> Robinson, Yu, and their colleagues were among the first in the academic community to offer a well-articulated rationale for the release of governmental data in open formats.

In 2012, Robinson and Yu returned with a new contribution to the field—*The New Ambiguity of “Open Government”*—providing an analytical framework that evinces the ambiguities underlying the term “open government data.”<sup>2</sup> The distinction suggested is a conceptual milestone in the field of open government and data and a welcome addition to a developing body of literature on the subject.

To build on the authors’ contribution, I put forward two arguments. First, I contend that the authors ignore the enabling conditions under which transparency may lead to accountability. I suggest that for adaptable data to engender accountability, it must fulfill at least two conditions: the publicity and political agency conditions. In discussing the agency condition, I also expand on Robinson and Yu’s argument by emphasizing the importance of participatory mechanisms to foster better services and policies. In this sense, I argue that the authors overlook the role of civic participation as an essential element in unlocking the potential for open data to produce better government decisions and policies.

Finally, I use the analytical backdrop of developed and developing countries in which national governments have recently promoted open data initiatives to conduct an empirical analysis of their publicity and political agency conditions. By doing so, I broaden the analytical scope adopted by Robinson and Yu—which tends to focus on the United States—while highlighting the challenges associated with open data as a path to accountability.

### I. THE CONDITIONS FOR ACCOUNTABILITY

A central element of Robinson and Yu’s argument is the notion that while governments may increasingly deliver open data, such initiatives are not necessarily conducive to achieving accountability goals. Given the ambiguity of the term “open government data,” the authors argue, public sector actors may project

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1. David Robinson et al., *Government Data and the Invisible Hand*, 11 YALE J.L. & TECH. 159 (2009).  
2. Harlan Yu & David G. Robinson, *The New Ambiguity of “Open Government,”* 59 UCLA L. REV. DISC. 178 (2012).

a veneer of openness by publishing data that has little or nothing to do with accountability.<sup>3</sup>

While such an assertion is correct, the authors disregard the possibility that even when publishing adaptable data that could promote public accountability (as advocated in their essay), actual accountability still might be far from achieved. Such analytical oversight stems from the absence of a more in-depth examination of the relationship between transparency and accountability, which is revealed by the authors' nearly interchangeable use of the two terms throughout their essay. I distinguish these terms below.

Public transparency broadly refers to a concept that encompasses the disclosure of actions taken by public actors and institutions.<sup>4</sup> While in part a relational concept—one must ask transparent to whom—public actors can still characterize transparency as a unilateral act of disclosure. Indeed, transparency may be realized without third parties scrutinizing or engaging with the disclosed information. Accountability, on the other hand, necessarily presupposes a degree of interaction, based on a principal-agent relationship<sup>5</sup> in which the former holds the latter accountable for its actions in the public realm.

Given these definitions, any accountability mechanism built on disclosure principles requires a minimal chain of events that can be summarized in the following manner: (1) Governmental information is disclosed; (2) The disclosed information reaches its intended public; (3) Members of the public are able to process the disclosed information and react to it; and (4) Public officials respond to the public's reaction or are sanctioned by the public through institutional means.

This path toward accountability highlights the limits of transparency. Even in the most simplified model of accountability, transparency accounts for no more than one fourth of the process. Building on previous research on the

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3. As stated by Robinson and Yu, Open data can be a powerful force for public accountability—it can make existing information easier to analyze, process, and combine than ever before, allowing a new level of public scrutiny. At the same time, open data technologies can also enhance service delivery in any regime, even an opaque one. When policymakers and the public use the same term for both of these important benefits, governments may be able to take credit for increased public accountability simply by delivering open data technology.  
Yu & Robinson, *supra* note 2, at 182.
  4. Jonathan Fox, *The Uncertain Relationship Between Transparency and Accountability*, 17 DEV. PRAC. 663, 663–64 (2007). In this simplified example we may consider citizens as the principals and public officials as the agents.
  5. Gary J. Miller, *The Political Evolution of Principal-Agent Models*, 8 ANN. REV. POL. SCI. 203, 207–09 (2005).

subject,<sup>6</sup> I argue that at least two conditions—the publicity and political agency conditions—must be fulfilled for politically important adaptable data to engender true accountability.

### A. The Publicity Condition

Defining accountability as a principal-agent relationship implies that citizens' capacity to hold public officials accountable depends in part on the amount and quality of information at their disposal. An extensive body of literature on the sources of accountability thus underscores the importance of citizens' knowledge of public actions,<sup>7</sup> demonstrating that transparency can enable accountability only when the *publicity condition* is fulfilled.<sup>8</sup> Scholars define this condition as the extent to which disclosed information actually reaches and resonates with its intended audiences.<sup>9</sup> Two implications emerge from this requirement.

First, for adaptable data to reach the public, it must be widely accessible. Even if opening data lowers the barriers for third parties to access and reuse it, the capacity to process data in machine-readable formats depends on a specific set of technical skills<sup>10</sup> and resources that are hardly accessible to most citizens. While it is important to acknowledge that “data is not just for developers,”<sup>11</sup> most citizens depend on technically skilled and resourced individuals and organiza-

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6. This argument stems from work by Catharina Lindstedt and Daniel Naurin, who put forward publicity and accountability as conditions for effective transparency. Catharina Lindstedt & Daniel Naurin, *Transparency Is Not Enough: Making Transparency Effective in Reducing Corruption*, 31 INT'L POL. SCI. REV. 301, 303–05 (2010). For conceptual and clarity purposes, however, I have replaced the term accountability with the term political agency, which refers here to the extent to which individuals are able to hold rulers accountable for their actions in the public realm.
  7. *E.g.*, PUBLIC SENTINEL: NEWS MEDIA & GOVERNANCE REFORM (Pippa Norris ed., 2010); Aymo Brunetti & Beatrice Weder, *A Free Press Is Bad News for Corruption*, 87 J. PUB. ECON. 1801 (2003); Claudio Ferraz & Frederico Finan, *Exposing Corrupt Politicians: The Effect of Brazil's Publicly Released Audits on Electoral Outcomes*, 123 Q.J. ECON. 703 (2008); Fox, *supra* note 4; Samuel Paul, *Accountability in Public Services: Exit, Voice and Control*, 20 WORLD DEV. 1047 (1992).
  8. Lindstedt & Naurin, *supra* note 6, at 303.
  9. See Daniel Naurin, *Debate: Transparency*, SWISS POL. SCI. REV., Autumn 2006, at 83, 90 (“[I]n order for transparency to alleviate agency shirking the information made available must also reach and be taken in by the principal—what I will call publicity.”).
  10. See Michael Gurstein, *Open Data: Empowering the Empowered or Effective Data Use for Everyone?*, FIRST MONDAY, Feb. 7, 2011, at 1, <http://firstmonday.org/htbin/cgiwrap/bin/ojs/index.php/fm/article/view/3316/2764>; see also Oren Perez, *Complexity, Information Overload, and Online Deliberation*, 5 I/S: J.L. & POL'Y INFO. SOC'Y 43, 55 (2009) (discussing the complexity of navigating the overload of data sources available on the Internet).
  11. Tim Davies, *Open Data, Democracy and Public Sector Reform: A Look at Open Government Data Use From Data.gov.uk 5* (Aug. 2010) (unpublished MSc dissertation, Univ. of Oxford), available at <http://www.opendataimpacts.net/report/wp-content/uploads/2010/08/How-is-open-government-data-being-used-in-practice.pdf>.

tions to mediate their access to adaptable data.<sup>12</sup> By its very nature, the provision of adaptable data cannot be automatically equated with transparency. Ironically, in many cases, adaptable data only realizes transparency goals when techno-mediators<sup>13</sup> process it for general public consumption.

Assuming the presence of the technological capacity to process politically important data, the existence of a vigorous free press (and internet) constitutes the second requirement for adaptable data to fulfill the publicity condition.<sup>14</sup> From this perspective, free press is conceived as a vehicle that de facto renders public the disclosed information,<sup>15</sup> thereby reducing the information asymmetry between citizens and governments. Similarly, the press serves as both a mechanism for external control of governmental action and a platform for citizens to voice their concerns.<sup>16</sup>

If the evidence demonstrates that free press is more likely to engender accountability,<sup>17</sup> then adaptable data is more likely to enter the accountability equation to the extent that media actors routinely convey it to the public. Otherwise, politically important data remains unknown to the public, undermining its potential to generate any accountability.<sup>18</sup>

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12. Adaptable data (such as CSV and XML files) stands in contrast to processed data, which citizens are generally used to accessing over the internet (for example, online journals and traditional government websites).
  13. In this context, I refer to techno-mediators as individuals and organizations that have the technical skills—such as software coding—and the computing equipment and other resources needed to convert open data into processed and finished information goods such as visualizations, summaries, or maps.
  14. Clearly, as the internet enables a growing number of ordinary individuals to become producers of content for widespread consumption, one may assume that it may play an increasing role in complementing the press's function as a publicity vector. The existing evidence suggests, however, that lowered reduced press freedom tends to be followed by limited freedom of internet usage. See Leonard R. Sussman, *Censor Dot Gov: The Internet and Press Freedom 2000*, 27 J. GOV'T INFO. 537 (2000); see also Katherine Ognyanova, *Careful What You Say: Media Control in Putin's Russia—Implications for Online Content*, 1 INT'L J. E-POL., no. 2, 2010, at 1, 1–2.
  15. See Lindstedt & Naurin, *supra* note 6, at 304; see also Greg Michener & Katherine Bersch, *Conceptualizing the Quality of Transparency* 10, 17–18 (May 2011) (1st Global Conference on Transparency, Rutgers University).
  16. The free press can act as a counterforce to political corruption. Brunetti & Weder, *supra* note 7, at 1810–21; Sheila S. Coronel, *Corruption and the Watchdog Role of the News Media*, in PUBLIC SENTINEL: NEWS MEDIA AND GOVERNANCE REFORM, *supra* note 7, at 111, 114.
  17. Alicia Adserá et al., *Are You Being Served? Political Accountability and Quality of Government*, 19 J.L. ECON. & ORG. 445, 454–59 (2003); Brunetti & Weder, *supra* note 7, at 1810–21; Lindstedt & Naurin, *supra* note 6, at 309–13; Daniel Treisman, *What Have We Learned About the Causes of Corruption From Ten Years of Cross-National Empirical Research?*, 10 ANN. REV. POL. SCI. 211 (2007); see also Ferraz & Finan, *supra* note 7, at 744 (noting that “public dissemination of corruption in local governments had a significant effect on incumbents’ electoral performance” in Brazil’s municipal elections).
  18. See Lindstedt & Naurin, *supra* note 6.

Hypothetically, a number of actors, such as civil society organizations, social movements, academics, engaged individuals, and even search engines could still enable the publicity condition in the absence of a free press. Nonetheless, the potential for this mediation to take place is a function of the political freedoms and civil rights in place. Unfortunately, more often than not, press freedom goes hand in hand with fundamental rights and freedoms. In contexts of limited press freedom, the potential for third parties to play a role in fostering the publicity condition is also seriously constrained.<sup>19</sup>

## B. The Political Agency Condition

In addition to the publicity condition, mechanisms through which citizens can sanction or reward public officials must be in place to satisfy the political agency condition.<sup>20</sup> Otherwise, in the absence of such a system, public officials have little incentive to be responsive and accountable to citizens' concerns, and transparency is all the less meaningful.<sup>21</sup>

From this perspective, the absence of free, fair, and periodic elections emerges as a clear constraint on transparency's capacity to enable accountability. A growing body of empirical research supports this claim, highlighting the limitations and even adverse effects of transparency in nondemocratic systems.<sup>22</sup> In other words, even when disclosed, politically important data may stand little chance of furthering accountability goals in the context of flawed democracies or authoritarian regimes.

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19. Marcia Grimes, *The Contingencies of Social Accountability: Examining the Link Between Civil Society and Good Government*, STUD. COMP. INT'L DEV., Nov. 2012, available at <http://link.springer.com/content/pdf/10.1007%2Fs12116-012-9126-3>.

20. In this essay I refer to political agency as the capacity of individuals to hold rulers accountable for their actions in the public realm and to have the opportunity to participate in public decision-making processes.

21. Brunetti & Weder, *supra* note 7, at 1803; see Fox, *supra* note 4, at 668–69; see also Timothy Besley & Andrea Prat, *Handcuffs for the Grabbing Hand? Media Capture and Government Accountability*, 96 AM. ECON. REV. 720 (2006).

22. *E.g.*, Simeon Djankov et al., *Disclosure by Politicians*, 2 AM. ECON. J. APPLIED ECON. 179, 192–94 (2010); Lindstedt & Naurin, *supra* note 6, at 314–15; Edmund Malesky et al., *The Adverse Effects of Sunshine: A Field Experiment on Legislative Transparency in an Authoritarian Assembly* (Ind. Univ.-Bloomington Sch. of Envtl. Affairs, Research Paper No. 2010-07-03, 2011), available at <http://ssrn.com/abstract=1642659>. To test the effects of transparency in an authoritarian regime, Malesky et al. devised a randomized experiment with delegates of the Vietnamese National Assembly charged with representing the interests of their local constituencies. *Id.* The authors show that the more a delegate's action is publicized, the more likely he is to assume a less critical position vis-à-vis the national government and its policies. *Id.* Furthermore, delegates whose actions are made transparent but who fail to adopt a conformist behaviour are the most likely to be removed from office in the next elections.

Although a well-established electoral system may enable transparency-based accountability, it does not guarantee it.<sup>23</sup> As prominent democracy scholar Larry Diamond eloquently summarizes, civic participation must go beyond the electoral cycle:

Without free, fair, and regular electoral competition, government cannot be held truly accountable to the people. But elections are not enough. Democracy, and especially liberal democracy, requires multiple avenues for “the people” to express their interests and preferences, to influence policy, and to scrutinize and check the exercise of state power continuously, in between elections as well as during them.<sup>24</sup>

Robinson and Yu thus neglect a major element that enables transparency to foster accountability—the need for participatory (electoral and nonelectoral) mechanisms. It is the combination of (publicized) transparency and institutions that promote governmental responsiveness and empower citizens to partake in public decisionmaking that leads to substantive accountability.

As Jeremy Bentham asserted two centuries ago,<sup>25</sup> “[I]n the same proportion as it is desirable for the governed to know the conduct of their governors, is it also important for the governors to know the real wishes of the governed.”<sup>26</sup> Bentham’s historic call for participation resonates with contemporary research demonstrating that in the absence of effective mechanisms for citizen participation beyond elections, transparency is unlikely to produce the expected results put forward by its advocates.<sup>27</sup>

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23. See Alberto Chong et al., *Looking Beyond the Incumbent: The Effects of Exposing Corruption on Electoral Outcomes* (Nat’l Bureau of Research, Working Paper No. 17679, 2011) (showing through an experimental exercise in Mexico’s local elections that the provision of information about corruption may be insufficient to promote accountability as voters may react to the information by withdrawing their participation in the electoral process); Macartan Humphreys & Jeremy Weinstein, *Policing Politicians: Citizen Empowerment and Political Accountability in Uganda* (Mar. 15, 2010) (unpublished manuscript), available at <http://www.columbia.edu/~mh2245/papers1/scorecard2010.pdf> (finding little evidence in a randomized controlled experiment in Uganda that politicians are likely to change their behavior when more information about their performance is provided to their constituency); see also John Gaventa, *Exploring Citizenship, Participation and Accountability*, *IDS BULL.*, Apr. 2002, at 1.
24. Larry Diamond, *Civil Society and the Development of Democracy* 3 (Juan March Inst., Working Paper No. 101, 1997).
25. JEREMY BENTHAM, *An Essay on Political Tactics*, in 2 WORKS OF JEREMY BENTHAM 299 (1843).
26. *Id.* at 311; see also Sandrine Baume & Yannis Papadopoulos, *Bentham Revisited: Transparency as a “Magic” Concept, Its Justifications and Its Skeptics* 15 (June 2012) (Transatlantic Conference on Transparency Research, University of Utrecht), available at <http://www.transparencyconference.nl/wp-content/uploads/2012/05/Baume-Papadopoulos.pdf>.
27. See, e.g., Kelly Zhang, *Increasing Citizen Demand for Good Government in Kenya* (May 2012) (unpublished manuscript), available at [http://cega.berkeley.edu/assets/cega\\_events/](http://cega.berkeley.edu/assets/cega_events/)

If, as put by Beth Noveck, “the ability of third parties to participate is what makes open data truly transformative,”<sup>28</sup> the existence of participatory institutions enables third parties to participate effectively. But unfortunately, to date, mechanisms of participation related to open data largely have been limited to ad hoc events in which technologists and interested parties collaborate on software-related projects (such as hackathons and competitions). These mechanisms may well prove to be effective in exploiting the expertise of third parties through the development of technologies and solutions that may serve public purposes. They do not, however, replace participatory institutions<sup>29</sup> designed to leverage the dispersed knowledge of citizens to shape decisions that affect their lives. In the absence of these institutions that enable political agency, adaptable data is toothless.

## II. EXAMINING THE PUBLICITY AND POLITICAL AGENCY CONDITIONS BEYOND THE U.S.

As the open data movement is internationalized and propelled through multilateral efforts and donors alike,<sup>30</sup> it becomes even more important to reflect on the meaning of adaptable data in an international context. Such an exercise, beyond widening Robinson and Yu’s analytical scope, highlights the challenges associated with open data as a vector for accountability.

Concerning the publicity condition, a first threshold requirement refers to the presence or absence of technical capabilities to process adaptable data to render it accessible to the broader public. Generally, there are a number of cases in which such techno-mediation has proven to be successful. For instance, previ-

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4/Zhang-Kelly\_Increasing-Citizen-Demand\_Kenya\_2012\_v2.pdf (explaining that in a field experiment in Kenya, villagers responded to information about local spending in development projects only when that information was coupled with specific guidance on how to participate in local decision-making processes); see also John M. Ackerman, *Co-governance for Accountability: Beyond “Exit” and “Voice,”* 32 *WORLD DEV.* 447 (2004); Samuel Adams, *Transparency, Regulation and Economic Performance in Africa* 15 (June 2012) (Transatlantic Conference on Transparency Research, University of Utrecht), available at <http://www.transparencyconference.nl/wp-content/uploads/2012/05/Adams.docx>; Samuel Paul, *Accountability in Public Services: Exit, Voice and Control*, 20 *WORLD DEV.* 1047 (1992).

28. Beth Noveck, *Open Data—The Democratic Imperative*, *CROOKED TIMBER* (July 5, 2012), <http://crookedtimber.org/2012/07/05/open-data-the-democratic-imperative>.

29. Participatory budgeting, citizen juries and policy councils are examples of participatory institutions referred to.

30. For instance, the Open Government Partnership (OGP), a multilateral effort that brings together governments and donors to make governments “more transparent, effective and accountable” has been an important platform for the dissemination of the open data agenda. *About, OPEN GOV’T PARTNERSHIP*, <http://www.opengovpartnership.org/about> (last visited Apr. 13, 2013).

ous research on the use of government data by third parties during the economic downturn<sup>31</sup> has shown a number of cases in which nongovernmental actors were able to provide information on recovery measures more efficiently than governments themselves.<sup>32</sup>

But the need of such techno-mediation to make adaptable data accessible to the general public raises questions particularly in the context of developing countries, where technical capabilities to process and extract meaning from open data may be either scarce or undermobilized for civic purposes.<sup>33</sup> In such contexts, one could hypothesize that the disclosure of government data—politically relevant or not—may well constitute an excellent artifice for governments to remain opaque while taking credit for championing transparency.

But even if we assume that the technical capacity to process data is in place, it remains only one part of the publicity equation. As discussed earlier in this Essay, in addition to the technical capacity to process adaptable data, the extent of press freedom in any given context remains crucial for determining the potential for transparency to produce accountability. For illustrative purposes, I conduct an empirical exercise to verify the state of press freedom in developed and developing countries that have recently launched open data websites.<sup>34</sup>

The results of this exercise are illustrated in Table 1 below.<sup>35</sup>

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31. For instance, during the economic downturn, building on publicly available records, the website Subsidyscope—developed by a joint effort of nongovernmental actors—delivered, with unique quality, information on the allocation of bailout funds for the financial sector in the United States. See Tiago Peixoto, *Stimulus Funds, Transparency and Public Trust*, in UNITED NATIONS E-GOVERNMENT SURVEY 2010: LEVERAGING E-GOVERNMENT AT A TIME OF FINANCIAL AND ECONOMIC CRISIS 9, 17–19 (2010).

32. *Id.*

33. While I assume that there are individuals with the necessary technological capability in most developed countries, my reservation refers to the extent to which large numbers of individuals are available to engage in pro-accountability activities.

34. For examples of open data websites, see <http://www.data.gov> and <https://opendata.go.ke>.

35. To assess the level of freedom of press in each of the countries, I use Freedom House's WORLD PRESS FREEDOM INDEX. FREEDOM HOUSE, FREEDOM OF THE PRESS 2012: BREAKTHROUGHS AND PUSHBACK IN THE MIDDLE EAST (2012), [http://www.freedomhouse.org/sites/default/files/Booklet%20for%20Website\\_0.pdf](http://www.freedomhouse.org/sites/default/files/Booklet%20for%20Website_0.pdf). This index is particularly appropriate to this analysis, as it also assesses the internet freedom in each of the countries. *Id.* at 3. I conducted desktop research to identify which countries have launched government-driven open data websites (or released open data within their already existing official websites) at the national level.

TABLE 1. Press Freedom in Open Data Countries

<b>FREE (57%)</b>		
Australia		
Austria		
Belgium		
Canada		
Denmark		
Estonia		
Finland		
France		
Germany		
Ghana		
Greece		
Ireland	<b>PARTLY FREE (24%)</b>	
Netherlands	Brazil	
New Zealand	Chile	<b>NOT FREE (19%)</b>
Norway	East Timor	Bahrain
Portugal	India	China
Slovak Republic	Italy	Morocco
Spain	Kenya	Russia
United Kingdom	Moldova	Saudi Arabia
United States	South Korea	Singapore
Uruguay	Tunisia	United Arab Emirates

As the table above illustrates, the analysis of press freedom in countries with open data portals presents mixed results.<sup>36</sup> While a considerable number of countries (57 percent) that have recently launched government-run open data portals have a free press, this is not the case for nearly half (43 percent) of the remaining countries, where the press is considered not free or only partially free.

In the countries with press freedom, Robinson and Yu's argument seems to suggest that politically important adaptable data may potentially foster ac-

36. One might argue that the use of digital technologies by individuals (for example, citizen journalists) may compensate for deficiencies with regard to the existence of press freedom. Nevertheless, as noted above I contend that the freedom of use of such digital technologies (the internet) is highly correlated with the levels of press freedom of a country.

countability.<sup>37</sup> Nevertheless, in countries where press freedom is nonexistent or only partial, the interpretation of the results is not as straightforward. This highlights one of the limits of Robinson and Yu's argument.

Countries without a free press might release uncontroversial data with little potential to enable accountability.<sup>38</sup> In that case, press freedom is irrelevant because politically important data is not released in the first place. A second hypothesis, however, based on the publicity condition, is equally disturbing: Even for cases in which governments disclose politically important data (as Robinson and Yu advocate), there is little chance that the data and, more importantly, the respective interpretations that follow, will freely circulate within the public sphere. Finally, a third—and skeptics would argue a less likely—hypothesis is also possible: Despite the adverse context in which these initiatives take place, such a fact reveals a positive move toward increased transparency and accountability. I discuss the implications of these different hypotheses in more depth below.

I conduct a similar exercise to examine the implications of the political agency condition. As a proxy for the ability of citizens to express their preferences about policies and to decide whether to sanction or reward their leaders, I look at the state of civil liberties and political rights for the year of 2013 in each of the countries reviewed in Table 1.<sup>39</sup> I present the results in Table 2 below.

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37. Even in that case some might argue that in countries with a free and vigorous press it might be difficult to anticipate the accountability potential that each dataset bears: Apparently uncontroversial data (such as municipal public transport data) may in fact become the object of increased scrutiny and engender accountability processes (that is, citizens may review and respond to the condition of public transport infrastructure in different districts).

38. This study does not carry out an analysis of the datasets released by each of the countries with regard to whether each is politically important rather than mundane. Although such analysis could illuminate the issues raised, they exceed the scope of this Essay. Part of my argument here is precisely that, in certain contexts, the nature of the data disclosed is irrelevant.

39. To conduct this analysis, I employ one of the most widely used measures of liberal democracy in comparative studies, the Gastil index of civil liberties and political rights, which is annually compiled by Freedom House. Political rights are assessed in terms of electoral process, political pluralism and participation, and functioning of government. Civil liberties encompass freedom of speech, belief, and association, as well as rule of law, personal autonomy and individual rights. For the full scores and presentation of the 2013 results, see FREEDOM HOUSE, *FREEDOM IN THE WORLD 2013: DEMOCRATIC BREAKTHROUGHS IN THE BALANCE* (2013), <http://www.freedomhouse.org/report/freedom-world/freedom-world-2013>. For a discussion of the Gastil Index, see PIPPA NORRIS, *MAKING DEMOCRATIC GOVERNANCE WORK: HOW REGIMES SHAPE PROSPERITY, WELFARE, AND PEACE* 52–53 (2012).

TABLE 2. Civil Liberties and Political Rights in Open Data Countries

<b>FREE (70%)</b>		
Australia		
Austria		
Belgium		
Brazil		
Canada		
Chile		
Denmark		
Estonia		
Finland		
France		
Germany		
Ghana		
Greece		
India		
Ireland		
Italy		
Netherlands		
New Zealand		
Norway		
Portugal	<b>PARTLY FREE (16%)</b>	
Slovak Republic	East Timor	<b>NOT FREE (14%)</b>
South Korea	Kenya	Bahrain
Spain	Moldova	China
United Kingdom	Morocco	Russia
United States	Singapore	Saudi Arabia
Uruguay	Tunisia	United Arab Emirates

Once again, interpreting these results is far from simple. On the one hand, given research on the importance of the political agency condition, the prospects for any open data, regardless of its political importance, to advance accountability in some these countries appears grim. Indeed, without fulfilling even the minimal political agency requirements of civil liberties and political rights, there is little hope that adaptable data will foster accountability. On the other hand, however, the very existence of open data initiatives in these adverse environments may indi-

cate a push toward greater openness, even in regimes in which accountability appears unlikely to occur.

These competing interpretations of the above analyses—that open data initiatives are likely to fail or represent the first step toward increased transparency—are not mutually exclusive, however. Indeed, the answer is more likely to fall somewhere along the continuum between these two. After all, a single policy is often designed and implemented by actors pursuing multiple goals intended to produce different effects.<sup>40</sup> Thus, while these policies may represent government officials' opportunistic pretense for accountability, they may also be supported by democratically minded reformers who view open data—and the current enthusiasm around it—as an opportunity to advocate for greater accountability reforms. The dismissal of these initiatives as examples of authoritarian manipulation therefore risks undermining reformers' efforts for change.

Yet, a strong hypothesis remains: Holding all other factors constant, open data's potential to foster accountability is proportional to the extent to which the publicity and political agency conditions are in place.

## CONCLUSION

Open government data, often equated with transparency by its advocates, emerges as the new low-hanging fruit of good governance. Yu and Robinson bring substance to such a debate, highlighting the importance of the nature of data to be disclosed for accountability to be generated.

Nevertheless, the nature of the data is as relevant as the context in which this data is disclosed. In the absence of a free press, open data stands little chance of entering the public arena to foster accountability. In a similar vein, in the absence of an environment that enables citizens to hold rulers accountable, express preferences, and influence policy, little can be achieved.

As a whole, this analysis advises caution on the part of policymakers and advocates with regard to the potential of open data to foster accountability. Even when data is politically important, accounting for the publicity and political agency conditions might be a commendable reflection for a better understanding of the prospects and limits of open data.

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40. MICHEL CROZIER & ERHARD FRIEDBERG, *L'ACTEUR ET LE SYSTÈME: LES CONTRAINTES DE L'ACTION COLLECTIVE* (1977) (showing how individuals may pursue different interests and goals among themselves when formulating and implementing the same policy).