

Voting \neq Accountability¹

How parties, presidents and populists survive by paying
nothing more than lip service

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Accountability is often thought of as an essential part of a functioning democracy, but its mechanisms are poorly conceived. The notion that voters have control over their representatives' behavior is, for the most part, a mathematical impossibility. Indeed, by using simple math, we show that political parties, presidents and representatives legislate in a world almost entirely devoid of voter accountability as the vast majority of issues are simply beyond the voter's reach. Tragically, this same accountability yields substantial leverage to special interests resulting in a situation whereby increased accountability often exclusively benefits pressure groups and those in power. By misunderstanding this dynamic, and insisting on increased accountability, reformers and institutionalists have since the 1970s increasingly pushed for sunshine reforms which leave governments open to capture and corruption. Thus, in order to shield democracies from capture and abusive special interests (including Presidents, foreign entities and the extremely wealthy) we recommend that recently opened governments (USA, Italy, France, Brazil, etc) should return to at least the secrecy level of Sweden.

¹ This paper is an early draft for part of a larger project and intended to support our claim that legislative accountability overwhelmingly benefits those in power. We have benefited from the thoughtful reflections of several colleagues, including Jenny Mansbridge, Jon Elster, Walter Oleszek, Bill Bianco, Bryan Hilderbrand and Scott Adler. We welcome – indeed we encourage – comments and suggestions.

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Voting ≠ Accountability

Voters do not have millions of dollars to invest into political outcomes. Instead they vote. As such their power to decide and determine legislative outcomes depends entirely on choice. The more choice that a voter has, the better voter accountability there is. For example, say a constituent disagrees with her representative on only one issue – his position on genetically modified foods in elementary schools. Now, for the constituent to hold her representative accountable, she would have to find a candidate, who is just like her representative in every policy area except for that single issue. It would be a bit like trying to find a candidate who resembles Barack Obama in every way except with regard to his stance on genetically modified food in elementary schools. This is not an easy task. Worse, for each voter who disagrees with Obama on a different issue, there would have to be another candidate added to the election who reflects that specific voter's views, otherwise voter accountability is not achieved. This creates a situation where the number of candidates doesn't just increase linearly, but exponentially as we increase the number of issues. And so for precise voter accountability, each election would likely require enormous numbers of candidates each with clearly defined stances.³

Instead, most elections revolve around an exceedingly small number of candidates, often just two, who have vastly different stances on the issues. As such, a constituent (in a two person race) is unlikely to switch her vote from her preferred candidate to the other candidate for anything but a major issue. This means that, in a two-person race, she has no one to turn to when she disagrees with her preferred candidate on anything minor – for example increasing a cotton subsidy in western Missouri by 0.04%. This lack of choice, however, equates to a lack of accountability. As such, her single vote cannot reflect her views on the subsidy.⁴ Worse, this same lack of accountability applies equally to thousands or even millions of even salient policy decisions. And therefore even moderate voter accountability, given even a dozen distinct candidates, is but a chimera.

It may sound daunting, but the actual math is stark (see Appendix A). In a policy space of just ten issues, there would likely need to be billions of candidates to choose from (each with clearly defined and differentiated policy choices) in order for the voter to precisely signal their intentions. But, limiting the government policy space to just ten issues is entirely unrealistic, as every year, each member of the US Congress is forced to decide on thousands of issues, each with potentially thousands of nuanced positions. Therefore, the number of candidates for there to be precise accountability, would likely need to exceed the number of stars in the sky. Clearly,

³ Some argue, correctly, that Proportional Representation increases the number of candidates with vary positions on the issues. While true, this does little to mitigate our argument. Whereas with proportional representation the candidate base increases substantially (perhaps to even a dozen candidates or more), the numbers required for precise accountability (as we show in Appendix A) are in the trillions.

⁴ If we interpret this lack of choice instead as a lack of voter interest, we get a powerful critique of direct democracy. It suggests that voters are unwilling to seek out new candidates and are likely overwhelmed with even small numbers of potential candidates, hence party line voting. Indeed, each election, with a tiny number of candidates (even 10 is way too low) can be considered a failure of direct democracy.

nothing could be more absurd. Not only could no newspaper list all the names, few (if any) citizens could sift through the mass of confusing, overwhelming and intricate data.

What happens instead, however, is that this lack of choice leads to an overwhelming lack of accountability. And on everything but the top two or three issues, voters are left absolutely powerless. We see this empirically. While issues like climate change, income inequality, teacher's unions, campaign finance or gun regulations resonate strongly with the public and remain high up on the list of issues discussed during elections, they simply are not high enough to be subjected to the voter's wrath. So candidates need pay only lip service to most groups.

This same math applies precisely to political parties as well. While numerous scholars look at parties as efficient ways for a voter to express large numbers of 'related' policy choices, the simple reality is that parties, like candidates, are virtually unaccountable to their constituents and get away with (are completely unaccountable for) vast amounts of empty promises and sloganeering. As long as a party (or a candidate) gets the top two or three issues right, they can sell out to the rich, continue to pander to special interests, and reverse their stances on thousands or millions of positions. Worse, unless candidates are presented with a reasonably similar, yet better challenger, they are under little pressure to produce results on even the top two or three issues.

This is why parties and candidates don't feel the need to bother with broad sets of issues, knowing that elections can only turn on a tiny handful of the most salient issues (the economy, war, a scandal, perhaps, or the rare, specific issue that rises to the top).⁵ In fact, numerous elections might appear to not turn on any issues at all and instead reflect differences in personality or perceived honesty. And the voters, seemingly aware of this daunting math (though it has not been calculated before), often throw in the towel, either by voting strictly along party lines (and therefore holding no one accountable) or not voting at all. Because of this, it is hard to imagine something less empowering (and even more humiliating⁶) than the action of stepping into the voting booth.

This math is hazardous for decision-making as well. Indeed, because of the lack of precision involved in voting, even the most well-meaning legislators have no way to determine what their constituents really want. An election victory is a case in point. A candidate's win might have nothing to do with policy at all – the victory could mean simply that the constituents merely fell out of grace with the losing candidate for, say, a sex scandal; or perhaps they liked the 'feel' of the winner's ads. But despite all the polling and statistics a candidate might use to determine the cause of victory, there is no way to correlate votes to policy. And in this muddle of confusion, what has the representative learned about the voters' views on policy? Likely nothing. Again,

⁵ We likely also end up in a situation where having any voting record at all is likely to be damaging to a candidate, hence leading to the election of political outsiders (i.e. Trump, Obama, George Bush, Clinton, etc.)

⁶ Studies have shown that the simple act of voting can decrease hormone levels in a way that is similar to losing a sporting event.

with such a small number of candidates and so many unrelated issues, a binary vote (or election) cannot contain sufficient information to isolate the voters' positions on anything.

Worse, there is no way for an elected representative to resolve this confusion. Polls are prohibitively expensive and increasingly inaccurate; and soliciting voter input, by visiting the district, is virtually impossible (for a member of the House of Representatives this would require interviewing 700,000 hard to reach constituents to query them about every issue). But there is no other supported method to truly get at the 'pulse' of the people.⁷ So how is a legislator to decide on the thousands of particulate issues where they have no clear constituent preference or pressure? Still, by opening a government to public scrutiny, accountability does exist. But to whom. Well representatives can be held accountable for all of their actions and decisions, but just not by the voters. As, we've discussed, the voter is in no position to take advantage of this accountability at all.

Instead, this increased accountability does benefit the most powerful groups directly, because (unlike the average voter) these groups are able to pressure individual decisions on virtually anything. And they do this by various methods. They can pour millions of dollars into the system, they can threaten negative advertisements, they can pressure other members to block a specific members cherished legislation, etc. As such, powerful interests can make specific and particulate demands on specific votes or MC decisions. And as such they can pressure cotton subsidies and GMO foods in elementary schools directly.

And because of legislative transparency, these special interest demands play out precisely as verifiable threats. Indeed to those groups with money, every amendment, legislator vote or markup is subject to precise and powerful accountability. Unlike a voter who cannot change his/her vote based on a particulate matter, a special interest can threaten each individual legislative action. As such, because of transparency, legislation tilts dramatically, and almost imperceptibly, toward the wealthiest and the most powerful interests. In the next section we will look precisely at this idea of "imperceptibility" where even under a regime of ideal transparency vast amounts of fraud can be transacted without being discovered by the public.

Blinding Sunshine

There are cases in which all the information about a policy is freely available to all, and even fully reported in the media, and, nonetheless, the policy smacks of opacity - or, rather here, of obfuscation.

⁷ It is absurd to think that a visit to the district will somehow give the candidate an idea of what all 700,000 voters think. What this means is that there are no general interests, there is no one who can claim to know what the public wants. Individuals and non-majority groups can only be special interests. And anyone who claims that a representative didn't vote the way the people wished, is likely only thinking about the way they wished. Determining the will of the people on anything more than one or two salient issues is next to impossible.

Obfuscation works, not by hiding anything, but in the way the policy and especially its objectives are formulated or framed.

– Salmoon & Wolfelsperger 2007

It is possible for an organization to be open about its documents and procedures yet not be transparent to relevant audiences if the information is perceived as incoherent.

– David Heald 2006

Government touches nearly every aspect of life. Each year regulations, taxes, and appropriations are written into law about food, weapons, banking regulations, credit cards, disease control, unionizing, worker safety, cotton subsidies, space exploration, genomic research, stem cells, trade, crime, health, obesity, aging, highway development, debt, communications, defense, theoretical economics, real estate, homelessness, education, fraud, congressional procedures, etc. Given this vast array of topics, there is no evidence to suggest that congressional scholars, journalists, citizens, or even members of Congress can or do effectively monitor the legislative process. Instead, there is plenty of evidence to suggest they don't and cannot. So even if, somehow, one were able to fix the voting problem of accountability (and constituents could somehow signal their desires to their representatives), the 'understanding and monitoring' part would still be broken.

Even at face value, the citizen's task of monitoring Congress is prohibitive. There is simply too much information (and as we will see mis-information). The congressional record consists of tens of millions of pages of hearings, amendments, votes, legislation and transcripts, all supplemented by thousands of hours of CNN video, critical analysis, etc. Worse, each line of the millions of pages of hearings or debates is likely to be subject to bias, grandstanding, omission, obfuscation, legislative warfare and conflicting viewpoints. And, each of the millions of technical details might contain errors that might only be snuffed out by someone with an encyclopedic knowledge of dozens or hundreds of subjects. As such it would be generous to label the congressional record as information (based on facts), but it is a torrent nonetheless. And because all legislation is tied together under one budget, this torrent is inextricably woven together into a byzantine and interlocking puzzle, where, for example, each extra dollar spent on a specific missile might mean less money spent on education, and every extra dollar spent on a highway in New Mexico might result in less funds available to struggling farmers in Iowa. Thus, each piece of legislation are involved in an enormous zero-sum game involving near endless streams of intricate and often conflicting pieces of 'information.'⁸

And even if this torrent of information were all precise and factual, it would still be problematic. As SEC Chairman Arthur Levitt (1997) notes "too much information can be as much a problem as

⁸ Even regulations are budgetary concerns as they require funds for monitoring, enforcement and implementation.

too little.” Research suggests that torrents of information can result in poorer decision-making and declining interest. As the metaphorical haystack grows in size, the needles get harder to find and fewer people even try. In one study, increased information made it significantly more difficult to detect even blatant fraud (Ripken 2006). In this vein, transparency scholars Fagotto and Fung (2015) write, “more information does not always make things better. Where there is a glut of information, it is often ignored. Worse still, it can be misused and cause harm,” and therefore “transparency can create an illusion of protection that leaves consumers more vulnerable.”

There may be no remedy for this, as it is not clear that legislation can be condensed, or whether anyone is even qualified to condense it. Removing a single word or substituting one word for another (even in seemingly innocuous amendments) can shift billions of dollars about and level industries. For example, replacing the word ‘shall’ to ‘should’ or striking the word ‘independent’, etc. can effectively repeal scores of regulations or taxes. As such, legislation cannot be summarized and reviewed without omitting essential parts.

And the idea that individual pieces of legislation can be parsed and analyzed retrospectively seems foolhardy. When *Sixty Minutes* asked Jack Abramoff “who on Earth” would understand the corrupt legislation he had inserted into the law, he responded flatly, “no one, except the chairmen of the committees” – the very chairmen he was focusing on in his lobbying efforts. He elaborated by stating “what we did was we crafted language that was so obscure, so confusing, so uninformative, but so precise to change the U.S. code.” Abramoff went further, citing one of his favorite examples of incomprehensibility, “public law 100-89 is amended by striking section 207 (101 stat. 668, 672)” – unintelligible to most, but greatly beneficial to his client.

This intended incomprehensibility is a driving force behind the increased complexity and size of the tax code and other legislation, and is expressly designed to blind and confuse the would be scrutiny of the public. Clawson (1998, 68) writes, “Much of [the 880 page Tax Reform Act] is incomprehensible – and intentionally so – even to a tax lawyer, unless he or she knows the hidden references. A huge amount of detective work is necessary to figure out which companies are referred to or how much money the taxpayers are giving them.” Barlett and Steele (1988) confirm this notion, “The process has become so byzantine that, at times, key lawmakers involved in writing tax bills profess their ignorance about breaks that they personally approved.” When interviewed about this incomprehensibility, Senator Bob Packwood, who led the most recent (1986) tax reform admitted the same, “I have no idea who the individual or corporate beneficiaries are.” Clawson (1998) continues “the task for a curious voter is made still more difficult by the fact that tax provisions are not necessarily contained in tax laws (and similarly with any other category)...if a measure is rejected by the tax committee, sometimes it can be slipped into a bill in an entirely different area.” He notes that included in a 1996 bill to raise the minimum wage there was a provision to suspend the tax on diesel fuel for recreational motorboats, and another deduction was given to convenience stores that have gas stations attached.

Still, even if a watchdog or think tank could somehow condense the information, what makes them any more reliable or effective than the members of Congress themselves? Watchdogs and think tanks are still subject to the same limitations of comprehension, venality and bias. And a watchdog's actions often receive less scrutiny than those of the legislators. Indeed, who is watching the watchdogs? There is not only no insurance that think tanks or citizen activist groups will resist attempts at bribery or intimidation, there is ample evidence to suggest the opposite – that they, too, succumb to outside pressures as well.⁹ Worse, to what benefit? Scholar Scott Adler suggests that there is no evidence to suggest that citizens would or could follow even a highly condensed version of legislation.

Unfortunately the problems only compound further. This is because, legislation is, by its very nature, non-deterministic. As such, the legislative process is nothing like a scientific experiment or a piece of software, where verification and testing are essential to the process and individual pieces can be isolated and verified. With legislation, all the outcomes are jumbled together making them both unpredictable and unverifiable. Instead, of the scientific method therefore, legislation is subject to political posturing, guesswork and bias. Concepts that appeared to be 'wrong' twenty years ago are revived willy-nilly to take on new life today. As such, legislative arguments can drag on for centuries and are never settled – this doesn't just happen with salient moral topics like abortion and capital punishment, but with everything: Should class sizes be smaller or larger? Should the minimum wage be higher or lower? Should the government protect an industry or subject it to the free market? What amount of a particular pollutant is acceptable? What level of regulations should be applied to bankers and farmers? How much money should be given to the victims of a hurricane? Etc. With legislation, the questions continue to resonate and accumulate, and no answer can ever be considered 'correct' or final.

Matthews et al discuss this problem of congressional 'decision-overload' at length, stating: "there are too many decisions to be made across too wide a span of subjects; the issues involved are too complex for quick decision, and there is too little time for anything else." And it is important to note that Matthews is suggesting that this decision process is overwhelming for the MCs themselves, who are paid to do this work full time and are given a staff of high paid help. Still, Matthews, though writing in the early seventies, fails to acknowledge that with increased transparency, the member's decision process is also substantially more complicated, as each vote on each amendment and bill, requires not just an understanding of the policy at hand, but also the political environment, as special interests, constituents and other political players jockey for power and use member's votes as weapons (discussed later). When their vote is secret, members can casually (or not vote) their conscience. When their vote is public, they have to consider the myriad of political consequences.¹⁰

⁹ See Lipton, Eric, and Brooke Williams. 2016. How Think Tanks Amplify Corporate America's Influence.

¹⁰ Notably, in 1989, congressional scholar Kingdon breaks down the complex decision tree that a member has to consider before voting. His decision tree highlights all the possible intimidating and political entities a member must take into account. The process seems endless. Yet, he fails to realize that if the vote were

Thus, between the tens of millions of pages of legalese (rife with bias, omission, errors, obfuscation, legislative warfare and diverging viewpoints), the thousands of highly technical topics, the non-deterministic quality of legislation and the near infinite political ramifications, it is therefore not only exceedingly difficult for a constituent (or even a resource rich general interest) to monitor the legislative process effectively, but it is likely impossible. As such, not only does the increased 'information' overwhelm, blind and confuse the citizens, but it also causes the same confusion and bewilderment of the legislators themselves.

The evidence confirms this analysis. Indeed, there is no evidence to suggest that constituents are even trying to engage. One member of the House said, "Only approximately 1 or 2 percent of the constituents are aware of how a member voted on even a single issue." (Matthews 1975, 46). And Mo Fiorina writes, "Fewer [than one third] can remember anything [their representative] has done for the district. Only about one in ten people can remember how their representative voted on a particular bill"¹¹ (Fiorina et al., 2009, 310). Even Fukuyama 2014 understands the two essential problems – the inability of voters to follow legislation, and how this void is filled immediately by special interests. He writes:

*"Democratic publics are not in fact able by background or temperament to make large numbers of complex public policy choices; **what has filled the void are well-organized groups of activists who are unrepresentative of the public as a whole.** The obvious solution to this problem would be to roll back some of the would-be democratizing reforms, but no one dares suggest that what the country needs is a bit less participation and transparency."*

As we will show in an upcoming paper, this 'void' that Fukuyama talks about is the Swamp. Because even though citizens (or even well-funded citizen groups) cannot analyze or monitor legislation (or hold them accountable even if they do), this does not mean that legislation is opaque or impenetrable. Indeed, one group has no problem monitoring legislation at all, and holding members directly accountable for even the most nuanced of issues. This group is the

to be secret, the only thing that a member would have to consider is whether the legislation benefits the voting public. Ironically, this consideration of the voter's welfare is the one question Kingdon leaves off of his decision tree, and might well be the only one that matters.

¹¹ We don't see this 'lack of interest' in just matters of the federal government. Overwhelmed citizens are given near endless information on dozens of topics that may even more directly effect their lives, all of which they appear to ignore as well – investments, loans, choice of doctors, medicines, consumer goods (many of which like ovens, microwaves and power tools that can be life threatening), car safety, emergency procedures, cancerous substances, automobile safety (brakes, airbags, etc.). Ironically, the most successful transparency campaigns according to Fung are those where the government provides simple, condensed versions, like the A, B, C health ratings of restaurants. It appears that unless the information is condensed into three simple letters and posted on the window of the restaurant it will likely be ignored entirely.

special interests. And the better funded they are, the more precise their ability to hold specific members accountable.

Appendix A

The Absurd Math of Accountability – 1.3 Quintillion Candidates for 16 Issues

Decisions are never binary. Budget decisions in particular can have infinite levels of variation. But even if we reduce the legislative space to simple binary decisions, we quickly find that the math gets overwhelming and even in the simplest of legislatures (ones with very few decisions to make) voters are mathematically entirely unable to hold our representatives accountable.

For example in a legislative space limited to just 4 ‘yes’ or ‘no’ decisions, the voter would require 16 candidates (all with clearly defined positions on each issue) in order for the voter to be able to hold their representatives accountable (the equation for this is 2^N , where in this case $N=4$). But, if the legislative space is increased to just 8 decisions, the number of required candidates for true accountability explodes to 256 (a number already pushing the realm of impossible). Worse, this math (in the blue column below), while prohibitive, is also assuming the order of preferences does not matter, and therefore, for example, cotton subsidies, the naming of a post office, funding for defense and funding for education would be treated as equally relevant issues, and the issue that comes up first might receive funds that are no longer available to the others.

		#Candidates Prefs Unordered	#Candidates Prefs Ordered	
	X	Y	Z	
	1	2	2	
	2	4	8	
	3	8	48	
	4	16	384	
	5	32	3,840	
	6	64	46,080	46 thousand
	7	128	645,120	
	8	256	10,321,920	10 million
	9	512	185,794,560	
	10	1,024	3,715,891,200	3.7 billion
	11	2,048	81,749,606,400	
	12	4,096	1,961,990,553,600	1.9 trillion
	13	8,192	51,011,754,393,600	
	14	16,384	1,428,329,123,020,800	1.4 quadrillion
	15	32,768	42,849,873,690,624,000	
	16	65,536	1,371,195,958,099,970,000	1.3 quintillion

In the real world, however, the order of preferences matters. Most of us care more about education than we do about boll weevils. But this increases the amount of information a voter would have to be able to display with their single vote, and therefore, it increases the number of necessary candidates. So in the case of ordered preferences, the number of candidates required for 4 issues would jump from 16 to 384 candidates, and for 8 issues, it would jump from 256 to

10.3 million. This means that in most cities and towns in America, the number of candidates required for the local elections would exceed their own populations. These numbers of ordered preferences are illustrated in the red column and they are calculated by multiplying the number in the blue column by the factorial of the number of issues (so the number of candidates required for accountability is $2^N * N!$ where N is the number of issues).

Thus in a policy space limited to just 16 'yes' or 'no' issues, the voter would require 1.3 quintillion candidates. The federal government decides on thousands, perhaps millions of issues, and few of them are as simple as a yes or no. This means that for true accountability to take place a voter would require more candidates than there are stars in the sky. That's not an hyperbole, that's mathematical.

One common critique of this idea is that parties make this process easier and more manageable. The trouble is, it works out in just the opposite fashion, and instead of clarifying what a voter might want, parties simply isolate the voter further. And the choice of a party carries the same abject lack of accountability that we get in the math above for candidates. Because while perhaps a majority of voters might be willing to walk the party line on most or everything, as long as there is one person who doesn't agree with any single issue, there is a problem with accountability, and new candidates would need to be added. But what happens in reality, is that parties simply mask this problem, and suffer from the same abject lack of accountability as any candidate might. This is why for example parties only need to pay lip service to minorities or environmentalists. Indeed, for parties to be held accountable, there would need to be just as many parties (nearly infinite) as there would need to be candidates. Therefore, parties, like candidates, can only be held accountable by something other than voting. Traditionally that 'something' is related to power and money.

More work is available at <http://congressionalresearch.org/>