

THE INCREASING CONCERNS OVER GOVERNMENT SECRECY

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“Government ought to be all outside and no inside. . . . Everybody knows that corruption thrives in secret places, and avoids public places, and we believe it a fair presumption that secrecy means impropriety”
Woodrow Wilson

Abstract

In the democratic system, an informed and educated public and an open government are two main guardians of democracy. It is often viewed that the media is the traditional and regular means by which the public gains knowledge of government activities in a democracy. The long-running controversy over the Wiki Leaks case, which was the public release of classified United States government documents by an international nonprofit organization, illustrated the strong tension between the desire for government to keep many of its actions in secret and the desire of the public to know what its government is doing. Those who disclose government's misconducts have the compulsion to uncover any wrongdoings in government in order to protect the democratic process. On the other hand, they fear that disclosing secret information may harm the government. Despite the uncertainties and the potential risks, government whistle blowing does seem a necessary aspect of the democratic process. There is a very simple yet very important question that remains unanswered which is what, if anything, government should or must keep secret and to what extent government should keep secret including in the name of national security?

Key words: access to information, transparency, accountability, national security, government secrecy, citizen participation

The relationship between free access to information and responsible government is direct. The importance of an informed public with timely information in a democracy is the essential power to safeguard democracy. In his famous book *The Social Contract*, the great philosopher J. J. Rousseau implies that a government should recognize its fundamental reason of existence, which is the union of its members. Indeed, an underlying principle of democracy is that government authority flows from the people and is based upon their consent. In this sense, the end of democracy ought to be based on the individuals' wants and needs.

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According to John Locke, a government is to provide for individuals' safety and security, which is the end for which they are in society. However, safety and security are not the only desirable ends of democracy, but freedom, equality, individual rights, and justice, as well.

Furthermore, in his essay "On Liberty," John Stuart Mill defends the value and liberty of speech for two main reasons. First, the freedom of speech leads to the truth and second, it also leads to diversity and individuality in terms of a larger impact on social life (Ross 1972: 261-266). As J. S. Mill asserts, the first implied meaning of freedom of speech is truth-telling. Truth-telling in the workplace is seen as an effective and beneficial practice exclusive to liberal democracies, that is, to those social arrangements where not only violations of law are punished, but certain values such as free speech, transparency, and accountability are also cultivated (Mansbach 2009). The second account of freedom of speech is its larger impact on social life.

All governments engage in furtive behavior and in the name of national security commit acts they prefer to conceal. It is often too easy to oversimplify the contrast between "righteousness of openness" and "evils of secrecy" (Liber 2013). When governments are neither open nor transparent, secrecy increases; accountability withers away. In other words, limited transparency often nurtures corruption, fraud, and the undermining of democratic institutions. Secrecy is embedded in relations of trust and notions of responsibility, but it can also impede accountability. There are many cases like Daniel Elsberg, Wikileaks, Bradley Manning, Edward Snowden who exposed government secrets to the press and public. The latest breaking news, "Panama Papers" revealed the secret records about 143 politicians including 12 national leaders, their families and close associates from around the world who allegedly have been using offshore tax havens to launder money, dodge sanctions and avoid taxes. Every time, someone reveals a government's secret to the public, there is much debate opened by the press and the public on what should government keep secret.

When the public knows that the government keeps too many secrets, the trust in the government decreases. In other words, more secrecy leads to more distrust and more desire to expose government secret /Picture 1.1/. There is no doubt that the government has to keep some secret in the name of national secret and for the sake of foreign policy, but if the government wants to keep some secret, the government bears the burden of proving the necessity of restrictions on the right to information (Wenjing 2010). The reason is that the public has the right to know what areas of governmental activity its government wishes to keep secret, what the justifications are, and what respective independent review systems are

in place to serve the public interest. In the name of secrecy, we need privacy for the citizens and accountability for government.



Picture 1: The cycle of secrecy

As it is apparent that any government needs confidentiality for certain data and information and some government would like to keep secret as much as possible from the public, the roles of whistleblowers especially in the public sector are important. As whistle blowers expose unethical or illegal behavior of government organizations to external authorities and the general public, they keep democracy vibrant and have the potential to more radically affect democratic subjects and politics (Mansbach 2009: 363). In other words, whistle blowing safeguards democracy as keeping public informed and promoting openness and honesty in government because excessive secrecy discourages citizen participation, and thus destroys the democracy. The contemporary U.S. society accepts the fact that cultivating an atmosphere of trust and openness, where the individual is free to express opinions and bring problems into the open, is central to promoting accountability and integrity in the bureaucracy (Alford 2002: 369). Not only the United States, but also many developed countries including Australia, Canada, Netherlands, United Kingdom, and New Zealand adopted their different versions of comprehensive whistleblower protection laws and regulations. However, many countries including Mongolia, not only do they not have any protection for potential whistleblower, but they also often retaliate those who exposed government wrongdoing. Furthermore, based on the

comparative studies between different countries, she concluded that the reason the practices of whistle blowing vastly differs in different countries is not the presence of whistle-blower protection laws. Rather, it is the country's unique history, values, and institutional experience that stimulates or stifles whistle blowing and determines whether those who expose wrongdoing are considered heroes (Johnson 2004a: 140).

Arguments in Favor of Whistle blowing

As a Means of Ensuring Freedom of Speech

In his essay "On Liberty," John Stuart Mill defends the value and liberty of speech for two main reasons. First, the freedom of speech leads to the truth and second, it also leads to diversity and individuality in terms of a larger impact on social life (Ross 1972: 261-266). Indeed, whistle blowing is protected speech under the First Amendment to the U.S. Constitution. As J. S. Mill asserts, the first implied meaning of freedom of speech is truth-telling. Truth-telling in the workplace is seen as an effective and beneficial practice exclusive to liberal democracies, that is, to those social arrangements where not only violations of law are punished, but certain values such as free speech, transparency, and accountability are also cultivated (Mansbach 2009: 370).

Whistle-blowing as a Means of Ensuring Accountability

Indeed, insofar as public officials in a democracy always act with the license granted by others, on behalf of others, and with materials provided by others (Moore, Sparrow 1990: 129-147), the public holds them accountable for whether they act in accordance with the rule of law and the democratic frameworks, in an open and impartial manner. In fact, Transparency International, the global coalition against corruption, calls whistle blowing a '*fundamental principle of accountability*' that underpins the design of a good governance system (Johnson 2004b: 13). To sum up, whistle blowing ensures accountability of government officials to the public by keeping them responsible for their wrongdoings and misconducts and disclosing the results in a transparent manner.

Whistle-blowing as a Means of Eliminating Fraud, Waste, and Abuse

Whistleblowers sound an alarm within the organization in which they work, aiming to spotlight neglect or abuses that threaten the public interest. It has been suggested that whistleblowers also benefit the wider society by helping to eliminate and control individual and organizational misconduct. In particular, the immediate beneficial effects can be seen in high-stakes area of public health and safety. For instance, Barbara Moulton had a profound and lasting effect on the Food and Drug Administration in the early 1960s alerting Congress and the public to the dangers of close ties between the drug industry and the Food and Drug Administration. To sum up, whistle blowing secures the integrity and efficiency of the government

as it detects and deters fraud, waste, abuse, and violation of laws, rules, and regulations in government agencies.

Whistle-blowing as a Means of Fostering Sense of Community

A great Chinese philosopher Confucius observed long ago that the indirect effects of a statesman's actions were far more important than his direct decisions. In fact, the character of the community would be shaped in part by the power example set by public officials occupying the leading positions of public honor and trust (Douglas 1952: 20). Hence, if employees in the public sector can show the highest loyalty to the public interests with moral courage and integrity against wrongdoings of their organizations, it will set a great example to the larger community as well. Furthermore, a large group of political scientists believe that the leading problem in the United States currently is the loss of a sense of community and belonging. Robert Putnam writes that more Americans are bowling alone – that is, not participating in the civic life of the country (Alford 2002: 35). But, the whistleblowers can illuminate many others as they remind them that individuals belong to the larger world. To sum up, whistle blowing fosters a sense of community by sending signals to the public that they belong in a mass society.

Arguments Against Whistle blowing

Increased Regulation, Litigation, and Costs

Some whistleblowers are heroes due to great publicity, but it is a stereotype. In practice, however, there are almost always dire consequences to whistleblowers, to their careers, and to their personal lives as a result of their actions (Johnson 2004a: 327). According to the studies of 1980, 1981, 1983, and 1992, conducted by the U.S. Merit Systems Protection Board, a considerably large percentage of federal employees were reluctant to report instances of illegal or wasteful activities they had observed mostly because of the fear of retaliation and the belief that nothing would be done to correct the problem (U.S. Merit Systems Protection Board 2016). Furthermore, among those who did report such activities, a significant percentage felt they experienced some form of reprisal as a result. In 1996, the Board conducted a survey to discover if the passage of 10 years of the Whistleblower Protection Act changed the way the Federal employees responded to suspicions of fraud, waste and abuse, and they found minor indications of change from previous studies. Besides the negative consequences for whistleblowers, Sissela Bok, a contemporary philosopher and social critic, argues that the act of whistle blowing can be so damaging to programs, agencies, and to the people involved (Johnson 2004b). To wrap, whistle blowing increases regulation, litigation, and other related costs not only for whistleblowers, but also for organizations and for the society as a whole.

Whistle-blowing in the term of national security

The national security has always been on the spot when whistle blowing occurs in government main organizations. The domain of foreign policy especially required confidentiality and secrecy. According to Mark Moore and Malcolm Sparrow, there is a natural tension between the responsibility of a democratic government to provide the public with sufficient information to be held accountable, and the need for the government to conduct secret operations in the national interest. The strongest basis for keeping secrecy in government foreign policy is a consequence-based argument that the United States will be handicapped in its efforts to influence other nations if its internal deliberations are transparent (Moore, Sparrow 1990: 126-129). It thus becomes crucial to decide between the importance of preserving confidentiality in the national interest and the importance of enhancing the quality of policy deliberations through openness. To sum up, whistle blowing may interfere with the government necessity to preserve confidentiality in the national interest.

Breach of Loyalty

To be a whistleblower, an employee must reveal information the organization does not want revealed. To do so, an employee uses information obtained in virtue of membership in the organization Davis, M. (1996: 6). In this sense, whistle blowing is difficult to justify because employees have absolute obligations of confidentiality and loyalty to the organization for which they work. Revealing the information they trusted is definitely a breach of loyalty to the organization. In many instances, whistleblowers can weaken an organization's chain of command, pose a threat to its effectiveness, unsettle employees' confidence in their ability to use discretion, and create a sense of unpredictability (Johnson 2004b: 75). In fact, the publicity from whistle blowing might also cause financial losses for the agency, a reduction in public support, increased management turnover, and sometimes loss of cohesion within the organization. When employees blow the whistle, they exhibit disloyalty not only to their organization, but also to their colleagues. The memoirs of many whistleblowers have revealed that they lost contacts with many of their colleagues because of their actions. To wrap, whistle blowing infringes on the rights of the organization as its whistleblower employees exhibit disloyalty.

In another point, societies with closed-door government seem to be low-happiness societies. As a result of the comparison between countries, a top ten of the world's happiest countries in 2015 was elaborated. Eight out of ten countries including Switzerland, Denmark, Norway, Canada, Finland, Netherlands, Sweden, New Zealand all ranked high in World press freedom index, corruption perception index, world best democracy

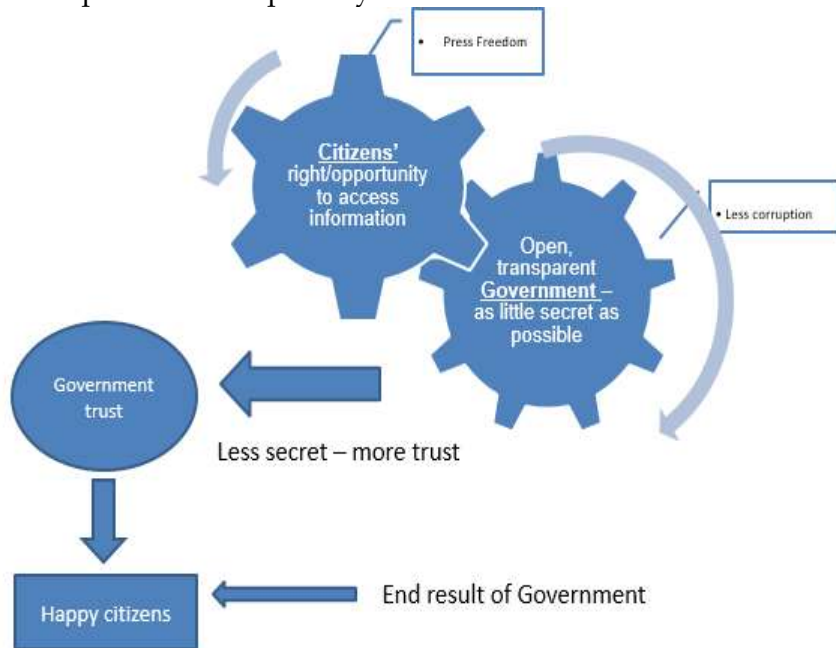
indexes. Of course, there are some overlaps between these ranking index indicators. The point here is that one of measurement to having happy citizens in the country is to give them opportunity to express their right to information and press freedom. Press freedom means there is less secrecy in the society. Also, government with low corruption means that the government is transparent and open. All these conclude that happy citizens are people who trust their government, and trust means honesty and openness. A state which does not trust its citizens will produce citizens who do not trust their state. When state keeps secrets, citizens feed on their own doubts.

World Happiness index 2015	CPI (Corruption perception index) 2015	World Press freedom index 2015	World Best democracies 2015
1.Switzerland	7.Switzerland	20.Switzerland	2.Switzerland
2.Iceland	13.Iceland	21.Iceland	
3.Denmark	1.Denmark	3.Denmark	5.Denmark
4.Norway	6.Norway	2.Norway	1.Norway
5.Canada	9.Canada	8.Canada	15.Canada
6.Finland	2.Finland	1.Finland	4.Finland
7.Netherlands	5.Netherlands	4.Netherlands	6.Netherlands
8.Sweden	3.Sweden	5.Sweden	3.Sweden
9.New Zealand	4.New Zealand	6.New Zealand	8.New Zealand
10.Australia	13.Australia	25.Australia	13.Australia
	8.Singapore	7.Austria	9.Ireland
	10.Germany	9.Jamaica	7.Germany

Picture 2: The comparison of countries' rankings in terms of "World Happiness index", "Corruption perception index", "World Press freedom index" and "World best democracies"(combined by author itself).

But, we have to admit that total openness and transparency is almost impossible. Only in an ideal world, governments should be completely transparent. The domain of foreign policy especially required confidentiality and secrecy. According to Mark Moore and Malcolm Sparrow, there is a natural tension between the responsibility of a democratic government to provide the public with sufficient information to be held accountable, and the need for the government to conduct secret operations in the national interest. The strongest basis for keeping secrecy in government foreign policy is a consequence-based argument.

For example, the United States will be handicapped in its efforts to influence other nations if its internal deliberations are transparent. It thus becomes crucial to decide between the importance of preserving confidentiality in the national interest and the importance of enhancing the quality of policy deliberations through openness. National security has been misused a lot in many countries by many governments simply to hide information from the public. From the public perspective, government should keep secret to a minimum level without abusing its power. To clarify, I am not suggesting here weak government is desirable, but we need open and transparent government. To cite a few examples here, in 2013, in Singapore, lack of transparency over population policy brought thousands out in an unprecedented protest. Also, in August 2013, a desire for openness in the treatment of military personnel and justice system prompted over 250,000 people to demonstrate before Taiwan’s presidential office. People want transparency.



Picture 3: The government secret (source: author itself)

Keeping some secrets may indeed be inevitable but it seems that the era of secrecy should be over by now. The excessive secrecy often leads to distrust. The art of deception should not be a tool in government’s domestic and foreign policy. Especially, in a democracy, transparency is the norm, not the exception. For this reason, my conclusion is that governments should keep secret as little as possible. As citizens of democratic society, we should have a consensus on the idea of accountable

and transparent government that should keep as little secret as possible. Excessive secrecy discourages citizen participation in government and destroys popular sovereignty.

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