

asylum, asylum seekers may also be entitled to compensation of some kind and to “satisfaction,” by which he means an appropriate apology for the harms they have faced).

To give just one example, after an initial discussion in chapter 1 (pp. 30–32) about the conventional way in which asylum is described and defended in the humanitarian literature, with which Souter takes issue, readers are left wondering whether the asylum that is granted must be permanent or whether it can be temporary, and which specific rights beyond basic needs fulfillment must be protected for a state to justifiably claim that it has met its reparative obligations. For example, are all those who are offered asylum entitled to citizenship and, if so, under what conditions and when? The answer is not clear. At one point, Souter says that asylum may on occasion be only partially reparative and that in some cases more may be needed—“at times through grants of citizenship, or at least further periods of residence” (p. 52). Elsewhere, in a very brief discussion of the claim that asylum is best understood in political terms and while responding to the fact that those who are forcibly displaced have lost membership and the corresponding rights protection that membership typically offers, Souter writes that there may well be a “*presumption* that reparative claimants are owed permanent protection” (p. 128). More generally, Souter’s analytical skills might have been directed more at specifying precisely the content of “asylum” requirements—in particular, with respect to which rights (beyond the basic) must be protected and when and why, if reparation is the objective—and how they relate to what resettled refugees are owed (he notes at p. 33 that they often travel together, even as they are treated separately in the larger literature).

In a later chapter, Souter considers how seriously the state should take refugees’ preferences; for example, with respect to where they are granted asylum (pp. 123–27). Perhaps refugees would actively resist being granted asylum in states that are responsible for their displacement. (I have worked in refugee resettlement for years, and an

Iraqi arrival to Ottawa once told me that she would never set foot in the United States after the way that country had destroyed hers). Or perhaps they have powerful identity claims leading to demands to be resettled as a group so that their identity can persist in the face of displacement, something that may be true, for example, of resettled Tibetans or Karen refugees.

These considerations are urgent. Correspondingly, much work in this space has moved in the direction of developing asylum and resettlement strategies that are more attentive to the expressed preferences and needs of refugees and asylum seekers themselves, in collaboration with refugee-led organizations that are perhaps better suited than academics in liberal democratic states to articulate the range of options that would satisfy reparative obligations. Souter has done extensive theoretical work to map out the normative considerations that are relevant to identifying which states are responsible for offering asylum. As a result, he is well placed to further consider the specific ways in which the voices of those to whom reparation is owed can and should be added into the conversation, thereby perhaps expanding the range of ways in which reparation can be carried out in more creative ways. What happens, readers might wonder, if those to whom reparation is owed do not appreciate the options they are offered? Can states claim thereby that they have carried out their obligation if these options are refused? Are repatriation, asylum, or aid to refugee hosting states the only options available?

Souter’s book is careful, well argued, and nicely structured. It offers an important additional consideration—a reparative consideration—to existing discussions focused on the way that responsibilities toward refugees and asylum seekers ought to be understood and distributed. It is the work of someone who is a real expert in the wide range of theoretical and legal work that has been done in this space. Scholars in these fields will learn much from Souter’s *Asylum as Reparation*.

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## AMERICAN POLITICS

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### **The Illusion of Accountability: Transparency and Representation in American Legislatures.**

By Justin H. Kirkland and Jeffrey J. Harden. Cambridge, UK: Cambridge University Press, 2022. 279p. \$99.99 cloth.

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In *The Illusion of Accountability: Transparency and Representation in American Legislatures*, Justin Kirkland and Jeffrey Harden consider an under-examined, yet fundamental aspect of legislative institutions—their transparency—as

indicated by the presence of open meetings laws. The central question is how do laws intended to promote openness in legislatures affect how these institutions function? On the one hand, transparency might be expected to enhance the role of citizens in the representation process. As the authors note, “by revealing the decision-making process, open meetings give citizens the ability to conduct substantive evaluations of the representatives, yielding evidence for assessing whether they are out-of-step or working for the constituents they represent” (pp. 12–13). Greater transparency, therefore, may lead to greater accountability of elected leaders. On the other hand, transparency may invite scrutiny by voters who could find the deliberations and negotiations distasteful.

Fear of potential voter backlash could make legislators less willing to engage in compromise, which ultimately leads to gridlock. The major finding to emerge is that greater transparency does not seem to influence either process—it does little to enhance representation nor does it thwart political compromise. Open meetings laws do, however, augment the role of interest groups in the legislative process. The authors characterize this as an “illusion of accountability” whereby greater transparency creates opportunities to influence government that flow not to citizens, but instead to interests defending the status quo.

The study begins by closely examining the open meetings and freedom of information movement. Advocacy by newspaper editors beginning in the 1950s resulted in the adoption of reforms that made deliberations in state legislatures more open. The basic argument of proponents was that such changes would afford citizens greater opportunities to monitor lawmakers (either directly or indirectly through the media) and ultimately make legislatures more responsive to the public’s concerns. Opponents of these reforms were often elected legislators, themselves, who worried that their legislative activities would be unfairly scrutinized and sanctioned by citizens who possessed limited knowledge of the lawmaking process. The end result, they claimed, would be an environment in which negotiation and compromise would be made difficult. Ultimately, states varied in their responses to the reform movement, with some states adopting extensive changes while others made only minimal alterations. Chapter 3 provides a series of figures documenting three separate measures of openness that demonstrate the wide variability in responses across states. These differences are modeled as a function of various state-level conditions with the strength of the newspaper industry identified as a strong positive influence on the adoption of transparency laws.

To understand the effects of these laws, the analysis begins by addressing the concerns of opponents to the reforms. A principal-agent perspective is used to assess how differences in transparency laws across states might affect the ability of legislators to negotiate and engage in bipartisan compromise. Does lowering the cost of monitoring by principals (voters) constrain the ability of agents (legislators) to engage in the give-and-take aspects needed for developing winning coalitions? To test this, states are compared based on the presence of transparency across five different indicators of political compromise. Open legislatures are expected to produce more legislation while exhibiting higher levels of polarization, partisan voting, policy stagnation, and budget delays. Analyses reveal that transparency has almost no influence on any of these indicators. Contrary to the concerns voiced by the opponents to reform, more open legislatures do not make deliberation and compromise more difficult.

The analysis next considers how transparency affects representation. Again, using a principal-agent approach,

the question is whether a more open system empowers citizens (principals) to have greater control over their elected leaders (agents)? Three different conceptualizations of representation are examined (policy responsiveness, policy innovation, and particularism) using both state-level data and district-representative (dyadic) data. The major finding to emerge is that open meetings laws have few effects on dimensions of representation. Contrary to the hopes of reformers, giving citizens an ability to scrutinize the legislatures has little discernable influence on the representation they experience.

The second half of the book assesses how open meetings affect public perceptions. Analyses using survey experiments and national opinion surveys show widespread support for open meetings laws rivaling perceptions of other institutional design options (e.g., term limits). These effects are most pronounced among those with more education and higher levels of interest. Contrary to expectations, transparency does not enhance political knowledge and likely depresses it. Such findings make it clear why open meetings are so inconsequential in affecting representation. Additional analyses show that transparency has little influence on the candidate pool or on incumbent vote shares, indicating that electoral accountability is quite weak. One area where transparency does seem to matter, however, is on the role of organized interests in the legislature. In states with open meetings laws, PAC fundraising by incumbents outpaces that of challengers by a wider margin and there are more organized interest groups involved in lobbying the legislature. Interest groups are well-positioned to make use of the opportunities that open meetings laws provide and allocate their resources accordingly.

The book’s major conclusion is that laws promoting greater transparency do not have the salutary effects on representation that some reformers had hoped. But at the same time, these laws do not have many of the negative consequences that opponents had warned against, such as gridlock. While voters clearly favor greater transparency, such reforms do little more than enhance the role of interest groups promoting the status quo. While such conclusions may seem disappointing, they are certainly in keeping with most of the literature on electoral accountability. Citizens are ill informed on most issues and have little inclination to take part in the political process. It is little wonder the political system is unresponsive, particularly in the state setting where citizens’ knowledge tends to be very low. These findings are also consistent with studies that point to the limits of changing institutional arrangements. Similar to studies that have examined the adoption of the initiative process and term limits, changes frequently do not have the effects reformers had hoped and sometimes carry unintended consequences that provide strategic advantages to those who already hold power.

This book does an exceptional job of testing various ways that open meetings laws could affect dimensions of

the legislative process. Sophisticated techniques are used to gauge the influence of variables and to identify those having only a negligible influence. One lingering question I had, however, is whether transparency as measured through open meetings laws is all that meaningful for altering the information environment. Chapter 3 shows the many different ways that open meetings laws can be measured and Chapter 2 demonstrates that lawmakers certainly had concerns about adopting such laws. But we don't learn much about how dimensions of transparency matter for the information one obtains about the legislature. In other words, what sorts of details about negotiations or compromises are revealed in states with open meetings laws compared to those without? Such information could be acquired from content analyses of news coverage or perhaps by conducting interviews of reporters familiar with the practical effects of these changes. Understanding how transparency alters the information environment is a critical link in the causal chain that requires further investigation. In the conclusion the authors mention the need to consider media effects and this is certainly a question worthy of future study.

Another area that deserves additional study is the role of interest groups. The analysis shows that open meetings laws increase the advantages that incumbents enjoy in PAC funding and lead to a growth in the number of lobbying organizations. Given these findings, future scholarship should consider additional dimensions of interest group involvement. Does it affect the strategies interest groups employ? For example, does the richer information environment provided by openness lead groups to focus more on insider strategies (rather than outsider strategies)? Does openness ultimately enhance the degree of influence these groups have on the policies that legislatures produce?


While much is left for future work, it is important to recognize the book's important theoretical contributions to the literature on legislative politics and representation. It leverages a stunning array of data made available over the past 10–15 years and uses sophisticated analyses to produce critical findings that will be cited for years to come. It sets a standard for how best to utilize differences across states to address important questions about institutional reform.

### **Throwing the Party: How the Supreme Court Puts Political Party Organizations Ahead of Voters.** By

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Wayne Batchis has authored a landmark book explaining how the Supreme Court has handed down decision after decision strengthening political party organizations at the

expense of the preferences of government officials and voters. From the start, in chapter 1, the author argues that “[i]ndividual court decisions may, on their own, appear logical and well-reasoned, but the big picture is all-too-often deeply incoherent” (p. 13). The “big picture” that Batchis refers to is the wild expansion of power and engrained constitutional protections political parties have been given by the Supreme Court, while those who would rein in political party influence have been left with few options for change. *Throwing the Party: How the Supreme Court Puts Political Party Organizations Ahead of Voters* is a thoughtful, thorough, and convincing indictment of Supreme Court jurisprudence that has enabled the two main political parties in the United States to metastasize into organizations that seem unable to be restrained.

The book consists of four parts and fourteen chapters, including the introduction and conclusion. Part I, titled “Foundations,” provides exactly that. The author explains how and why political parties are unique when compared to, say, interest groups and why applying judicial standards to other similar, but not the same, organizations is inappropriate and damaging to our democracy. Batchis argues that, in his view, political parties are made up of three separate groups: *party in the electorate*, *party organization*, and *party in government*. He explains that the *party in the electorate* is comprised of voters, or people who identify with one of the two major political parties. The *party organization(s)* are the leaders of two main parties, such as the people in charge of the Democratic and Republican national committees. Finally, the *party in government* includes elected members of either party. Each of these groups has different motivations—sometimes voters want more regulation on campaign finance or changes to the primary system—but the preferences of the party organizations almost always win out.

Part I also lays out the book's approach to examining the relationship between political party organizations and the Supreme Court. Using specific policy areas, such as who can access primary elections, campaign finance regulation, ballot access, and gerrymandering, the author explains how party organizations have captured control of these important levers of government and received constitutional protections via Court decisions.

Part II begins the work of uncovering how the Supreme Court has codified constitutional protections for political parties, beginning with access to party primary elections. It gives the reader an exhaustive history of how political parties began their primary election systems and how they have evolved through most of American history. Chapter 5 presents a hypothetical pair of voters who are engaging in the various types of open, closed, or semi-closed primary systems. In following these hypothetical voters, Batchis explains how some voters are content with current primary election systems, but also, and importantly, he discusses voters who do not fit neatly into either party or belong to the