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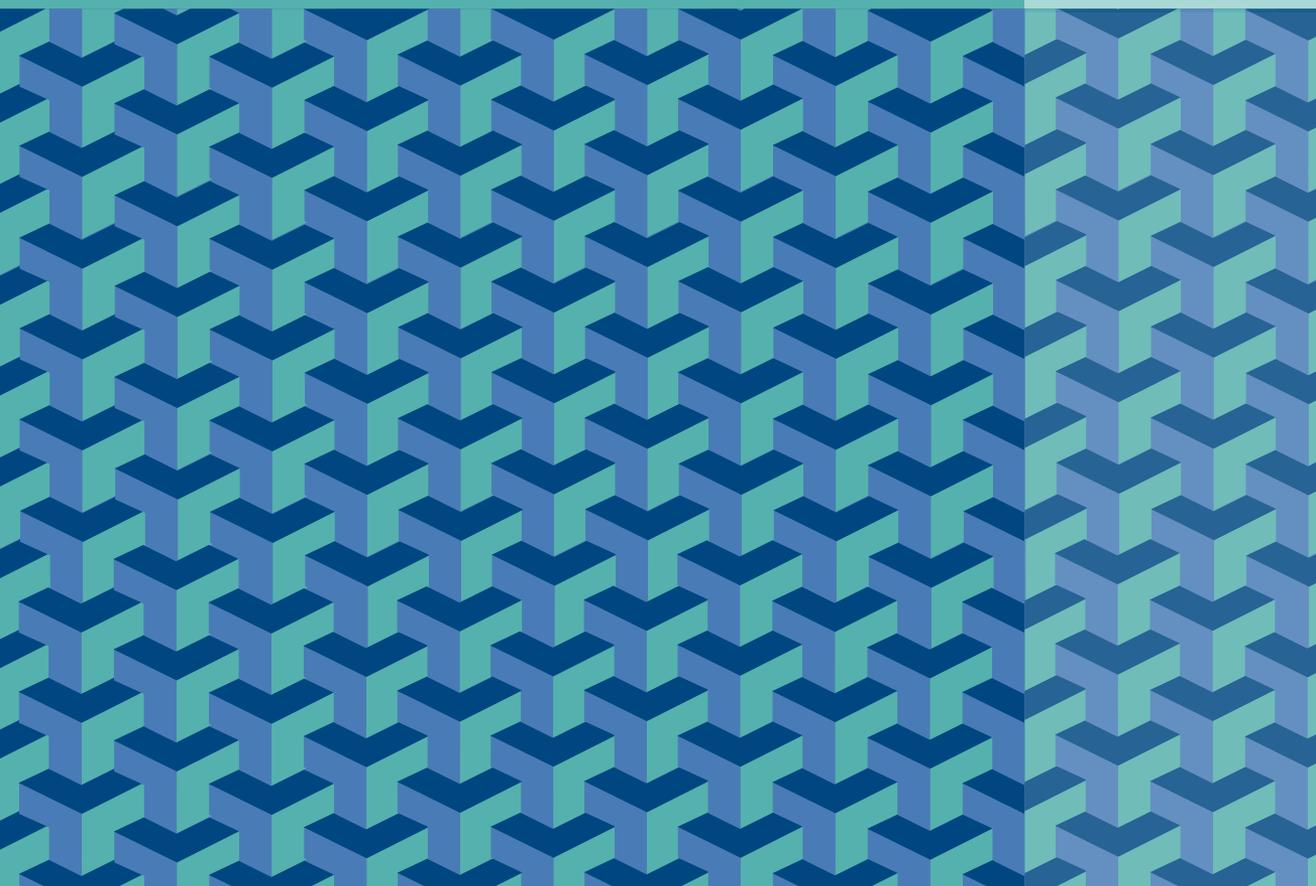
Chamber of
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The open parliament in the age of the internet

Can the people now collaborate with
legislatures in lawmaking?

Cristiano Ferri Soares de Faria

TEMAS DE INTERESSE
DO LEGISLATIVO



Brasília | 2013



Cristiano Ferri Soares de Faria holds a Doctorate in Sociology from the Social and Political Studies Institute of the Rio de Janeiro State University, a Masters in Public Policies from London University's Queen Mary College, and is an associate researcher of the University of Harvard's Ash Center for Democratic Governance and Innovation. He also has a specialization in Legal Order from the Higher School of the Office of the Public Prosecutor of the Federal District and Territories and another in Parliamentary Advisory Services and Executive Relations from the University of Brasilia, which is where he originally obtained his Law Degree. In his professional life he has been a civil servant attached to the Brazilian House of Representatives since 1993 during which time he has held several posts in various bodies under the aegis of the House administration. Since 2005 he has been coordinating a series of projects in the field of legislative quality and electronic democracy and was the idealizer and administrator of the e-Democracy (*e-Democracia*) project; the House of Representative's digital participation project.

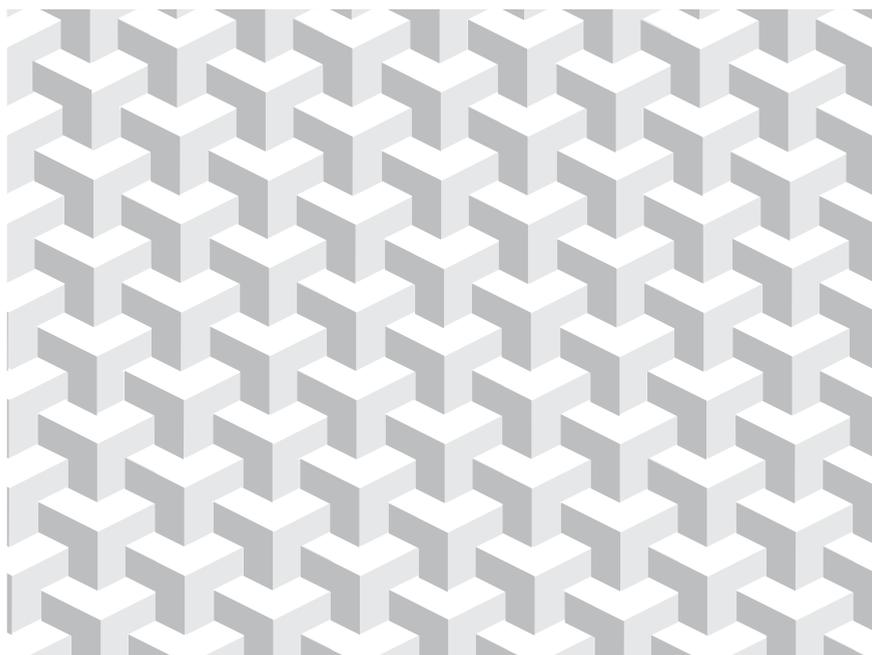
Is the co-existence of participatory and deliberative actions with the exercise of parliamentary office really feasible?

In what way has Information and Communication Technology fostered interaction between parliamentary representatives and society at large in the daily round of legislative activities?

Are we drawing closer to a hybrid system of representative and participatory democracy through the incorporation of effective ways of co-producing laws into legislative agendas? This work seeks to address those questions and evaluate other international experiences and experiments designed to achieve the same ends. The book is based on a study of two particular cases where parliamentary bodies designed and implemented participatory digital processes, namely, the e-Democracy Program developed by the Brazilian House of Representatives, and the Virtual Senator Program developed by the Chilean Senate. The text unfolds in the form of a systematic analysis of institutional aspects embracing political and organizational elements as well as the social aspects associated to the application of digital democracy in parliaments.

The investigation shows that at the stage they found themselves in 2010 those projects had only brought in very incipient results in regard to the aspects of enhancing representativity in decision making processes, aggregating collective intelligence to the legislative process or transparency to parliamentary performances, even though all of those are precious components of any democracy that deems itself to be participatory and deliberative. Nevertheless, such experiences have had the merit of contributing towards the gradual construction of more effective participatory mechanisms, complementary to the political representation system in place.

**The open parliament
in the age of the internet**
CAN THE PEOPLE NOW COLLABORATE WITH
LEGISLATURES IN LAWMAKING?





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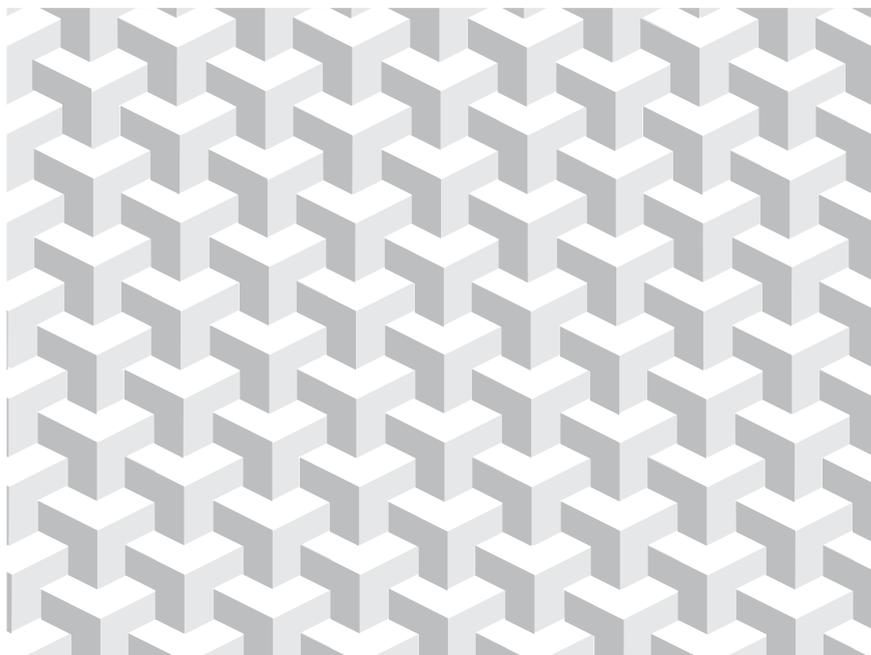
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Cristiano Ferri Soares de Faria
Translation: Martin Charles Nicholl



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Preface

Towards the end of the 18th century, not long after the French Revolution, French engineer Claude Chappe invented the optical telegraph system also known as the Napoleonic Telegraph. This Technological solution made it possible to transmit messages over great distances at unprecedented speeds for that time. The possibility of establishing a network of telegraphs that could connect individuals with little delay and at low cost was seen as opening up a unique opportunity for democracy.

The arguments so eloquently expressed by Rousseau as to the impossibility of direct forms of democracy existing at all seemed to have lost their meaning. The idea of representative democracy, albeit merely incipient at the time, seemed to be about to become obsolete given that it would suffice to be in possession of the code being used by the Napoleonic Telegraph for a whirlpool of ideas and positions to flow to and fro between the population and the French government. Events, however, took a different course and as time went by all that enthusiasm faded away and with it, with the possibility of democratic renovation.

In the course of the centuries that followed a similar story unfolded almost invariably with each of the communication and information technologies that appeared: first there was a euphoric enthusiasm, a



great will to go forward, but then, in most cases the wish was only partly fulfilled. There are many reasons for that but it can safely be said that part of the reason why those technologies failed to deliver their much heralded potential in the course of history actually lies in the lack of comprehension of the thinkers of the time in regard to the role of political institutions.

Those institutions are, inexorably, sources of obstacle and difficulties that lie outside the reach of technical solution. Indeed, it could be said that even today, the majority of academic work addressing the domain of electronic democracy, flying in the face of all the historical evidence, is permeated by a certain ingenuity that entirely overestimates their technological potential and underestimates the roles of the institutions, the social actors and their respective strategies.

One of the strong points that can be readily identified in Cristiano Faria's work is that he has not fallen victim to the temptation to make a techno-deterministic analysis of the institutions, organizational processes and social actors. His experience as an employee of the Legislative Branch together with his strict academic approach bring together qualities that are rarely found in works addressing governmental authority.

As a result, his work offers the reader an unusual vision that embraces the wide variety of factors that are involved in processes of institutional innovation mediated by technology. Although that perspective is present throughout the book it appears most extraordinarily and surprisingly in Chapters 4 and 5 in the case studies of the Brazilian experience (e-Democracy) and the Chilean experience (Virtual Senator). Motivating factors, limiting factors, institutional and organizational arrangements are attributed greater importance and they display before the reader elements that are often entirely neglected not only by the institution but also by the respective literature.

As an example of that, at one point the author underscores the essential role of the legislative consultants in articulating the mechanisms designed to ensure the participation of the ordinary citizen being put into effect by the Brazilian House of Representatives, and the actual decisions being made by the Legislative Branch. Being able to point out that fact, as is the case with several other situations portrayed in the book, is only possible for a person who is practically and viscerally associated to the functioning of the institutions in question.

Even if it were for that reason alone, this work would already be of inestimable value on the Brazilian and international scenes when

the subject under analysis is electronic democracy. There are, however, many other reasons why this work should be read and quoted by researchers, politicians, civil servants and ordinary citizens with an interest in the subject. It is worthwhile pointing out the paucity of the extant literature on the role of new technologies in regard to the Legislative Branch especially in the case of Brazil.

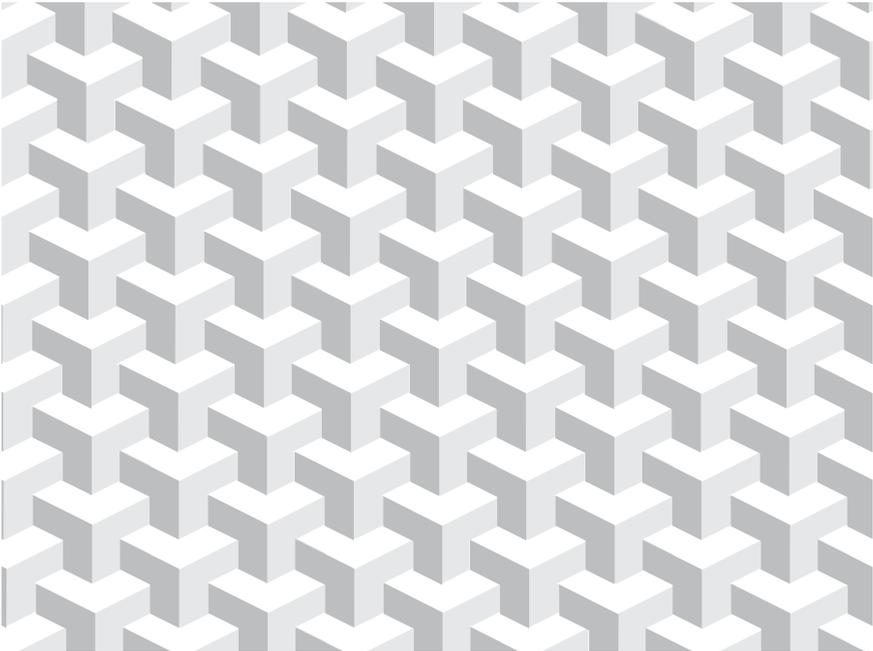
The generalized ignorance as to how public institutions operate and interact has led an increasing number of academics and observers to concentrate their studies on the Executive Branch. What is worse, in the very limited universe of studies dedicated to the sphere of the Legislative Branch, most of them are either superficial or merely extremely descriptive.

In strong contrast to such descriptive work, the approach adopted by the present work, while in no way lacking in details, never loses sight of the major guiding theoretical principals and norms that underlie the dialogue on electronic democracy. Such work inevitably puts the reader in contact with all the main arguments and theories associated to the issues of transparency, participation, political institutions, and innovational, organizational and technological processes.

Lastly there is presentation of several specific cases ranging from New Zealand to the Catalan Parliament; the book has the inestimable worth, not to be detracted from by time or technological progress, of being a historical record. In other words, Cristiano Faria captures the state of the art in regard to experiences involving electronic parliamentary democracy at the beginning of the 21st century. To ensure that those experiences have a destination very different from that of the Napoleonic Telegraph a perspicacious reflection is necessary and this book contributes precisely to that.

Tiago Peixoto
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INTRODUCTION





In recent years there has been growing criticism of the parliamentary system of representation. Parliaments are widely viewed as corrupt, inefficient and spendthrift. Public opinion polls and studies have revealed a profound degree of mistrust of public institutions, particularly parliaments (HIBBING and THEISS-MORSE, 1995, 2001) accentuated by the rapid social transformations in course around the world, generating ever more complicated legislative demands.

In the case of Brazil, the breakdown of corporativism in the workers movements that began in the 1990s, albeit they still retain their importance as even more pluralist – (CARDOSO, 2003), the social empowerment of minority groups and the feminist movement, alongside the consolidation of urbanization processes and the onslaught of capitalism in the rural areas that liberated the Brazilian rural laborer from individual, personal domination are just some of the facets of an evident tendency to individualization of Brazilian society in recent years. Such social pluralism and fragmentation boosted by the new religious movements now afoot, which have broken the former monopoly of the Catholic Church, are at the fulcrum of the difficulty being experienced by modern man to stabilize any encompassing or homogenizing identities (DOMINGUES, 2003).

Parallel to that there has been abrupt and undeniable technological development in the field of telecommunications and information that has allowed society to live its trend to increasing complexity in a geometric progression¹. As Castells (1999) puts it, commenting on the information society:

“The chief characteristic of the new paradigm is that information is its raw material: there are now technologies to handle information and not just information on how to handle technology as was the case with earlier technological revolutions.

¹ A mathematical analogy used here merely to emphasize the tremendous acceleration of the process.

The second aspect concerns the penetrability of the new technologies' effects. Given that information is an integral part of any human activity; all the processes of our individual and collective existences are directly molded (albeit certainly not entirely determined) by the new technological medium."

Boosted by technology typical of the internet and the availability of tools like virtual chats², blogs, discussion forums, and vide-conferences, according to Castells (2007), people can now communicate by various means in a totally free and diffuse manner processing information in various different levels.

Against that background, Ricardo Caldas and Carlos Amaral have called attention to the sudden importance acquired by information management in contemporary society as a methodology that provides organizations with the means to 'adapt to an environment that is in constant evolution with the aim of formatting their technological assets, making information or acquired experience readily available and, at the same time, remaining permeable for the addition of new levels of knowledge to enable them to perfect their decision making processes'" (CALDAS and AMARAL, 2002, p. 96, with adaptations).

In the political sphere, Pippa Norris (2000) believes that the unlimited amounts of information available could potentially enable the public at large to gain greater knowledge of public policies and enhance its social articulation capabilities through the use of e-mails, chats and on-line discussions.³ Furthermore, the internet has given rise to the formation of networks associated to specific publics, issues or problems; networks that connect the local, regional national and trans-national spheres. Norris also underscores the power of drawing closer together the citizens and their representatives.

In countries where civil society is not organized or politically militant such as the Baltic countries and Serbia, the internet has proved to be a highly important instrument in for setting up networks among the social movements, common interest groups and NGOs (SPIRO, 1995; PANTIC, 1997; HERRON, 1999). The internet is also used as a respectable channel for political discussions in countries in critical situations or under authoritarian regimes (HILL and HUGHES, 1998).

² Chat, in the context of the internet, is a way of holding a conversation in real time on line. Participants are allowed to insert texts, presented in dialogue form in applications that are made available in the internet making it possible for two or more individuals to converse.

³ It must be stated however, that this immense availability of data and information has not been accompanied by a parallel availability of analyses made of them. That phenomenon is a typical feature of the 'immediatist' consumerism that currently permeates contemporary society.

Nevertheless, one of the main points stressed by critics of the system of parliamentary representation is directed at the autonomy invested in the parliamentarians themselves. Once the election is over, parliamentarians exercise their mandates free from the scrutiny of their electorate, taking part in illegitimate negotiations and maneuvers to benefit vested interests. In that sense, the legislative decisions are seen as being made with no reference to the wide variety of opinions in society surrounding each piece of draft legislation.

The more powerful interest groups are seen as being given preferential treatment on the legislative agenda and, as a consequence, the decisions end up reflecting the interests of minorities with great influence in the decision-making centers which materialize in the form of unjust laws that favor some groups to the detriment of others and the citizenry at large. Thus there are various factors contributing to a situation wherein the existence of democratic deficits in the current system can readily be identified (FUNG, 2006).

Parallel to that, over recent years there has been a certain vitalization of instruments fostering participation in public decision-making processes. Ever since the last century innovative experiments in the areas of participation and deliberation have appeared in various parts of the world and one example of them is participatory public budgeting. Tested in a structured form for the first time in the city of Porto Alegre in the South of Brazil, the participatory public budgeting has been widely disseminated and today can be found in various cities around the world.

At the same time that the internet, at least in theory, has been making greater transparency of public actions possible, it has also shown its potential for enabling the creation or improvement of such participatory practices. On-line public consultations concerning draft legislation, digital participatory budgeting and electronic polls are examples of what can now commonly be found in digital democracy portals.

Thus the practical possibilities afforded by the information and communication technology, the new ICT⁴ and its principal tool, the internet, coupled to the relative degree of success achieved by some non-digital participatory experiences have raised the following questions among those interested in studying representative democracy: is it possible to imagine participatory parliaments, that is parliaments that make mechanisms for social participation in their legislative processes available? What impact would such participation have on the system of representation?

The aim of this work is to seek the answers to those questions. We intend to explore the development of participatory and deliberative democracy to serve as a complementary system to representative democracy. In opposition to the idea of gradually substituting the current system of parliamentary representation by a more direct participation of the populace at large in the decision-making processes of the State, we would prefer to align ourselves with that theoretical school of thought whereby the possibility is envisaged of conciliating political representation and political participation in such a way that the latter actually serves to reinforce the former. To be more precise, we intend to explore the following hypotheses in this work:

- a) The development of participatory and deliberative mechanisms in parliaments brings with it benefits to the parliamentary system of representation insofar as it reinforces the political mediation exercised by the parliamentarians as part of the legislative process.

⁴ New Information and Communication Technology (NICT) refers to technological communication methods that have emerged that have emerged in the context of the Information Revolution or Telematic Revolution or the Third Industrial Revolution and that have been gradually developed since the second half of the 19...s and above all in the 19...s. The overwhelming majority of them typically make contents communication more agile and more horizontal by means of digitalization and communicating in networks (which may or may not be mediated by computers) through the capture, transmission and distribution of information (text, image, video and sound). It is believed that the advent of these new technologies (and the way they are made use of by governments, corporations, individuals and social sectors) has made it possible for an 'information society' to come into being. Some experts prefer to call it the knowledge society as a way of attributing greater value to the human capital involved in a society structured into telematic networks. The following are considered to be examples of NICT: a) personal computers (PCs), b) mobile or cell phones, c) pay TV (cable or satellite TV), d) electronic mail (e-mail); e) internet; f) digital technology for remote sound and image capture and processing (wireless). Source: Wikipedia, with modifications. Accessible at: http://pt.wikipedia.org/wiki/Novas_tecnologias_de_informa%C3%A0o_e_comunica%C3%A0o. Consulted on April 4, 2011.

- b) Non-technological channels of participation and deliberation implemented in parliaments have limitations and consequently the recent development of new forms of participation and deliberation boosted and facilitated by information and communication technology makes more profound and effective interaction between parliament and society at large feasible.
- c) Digital channels for participation and deliberation developed in parliaments benefit the democratic process in at least three ways: enhancing the legitimacy of the decision-making process; enhancing information available by tapping collective intelligence in the elaboration of legislation and increasing transparency surrounding the actions of the legislative branch.

In Chapter 1 we discuss some of the more relevant theoretical postulates with a focus on the symbiosis among participation, deliberation and representation. After a brief discussion of the current crisis in democracy, the limitations to representation and the theory of democratic deficit, we go on to analyze the advantages and the challenges of participatory and deliberative democracy associated to representative democracy.

By examining outstanding examples of participation and deliberation in some other countries we seek to identify the various possibilities that exist for applying participatory and deliberative democracy for the purpose of forming a theoretical and practical reference framework that might make a participatory parliamentary system feasible.

Following that, in Chapter 2, we examine some of the good points for human life in general and for democracy in particular, stemming from the application of information and communication technology and identify its limitations and the challenges it presents. The chapter closes with a classification of the various experiments with digital democracy currently in operation ranging from its application to the electoral process to its use in the co-production of public policies.

Two classes of digital democracy projects are recognized: one embracing those that are developed by society itself without the direct interference of the state and the other embracing projects formulated and implemented exclusively by the State. It is the latter category, institutional e-Democracy, that occupies the attention of the research reported in the subsequent chapters.

In Chapter 3, in addition to an explanation of the qualitative methodology adopted for the research, we also portray the main participatory projects that have been instituted in parliaments without



making use of information and communication technology and we point out the limitations they incur in. Then follows an explanation of how ICTs can help to overcome such limitations, albeit they may introduce others of their own, and that is illustrated by the description and analysis of cases of experiments and experiences with digital parliamentary democracy whose formats, objectives, outreach and scale are relatively modest compared to others that are examined in the chapter that follows.

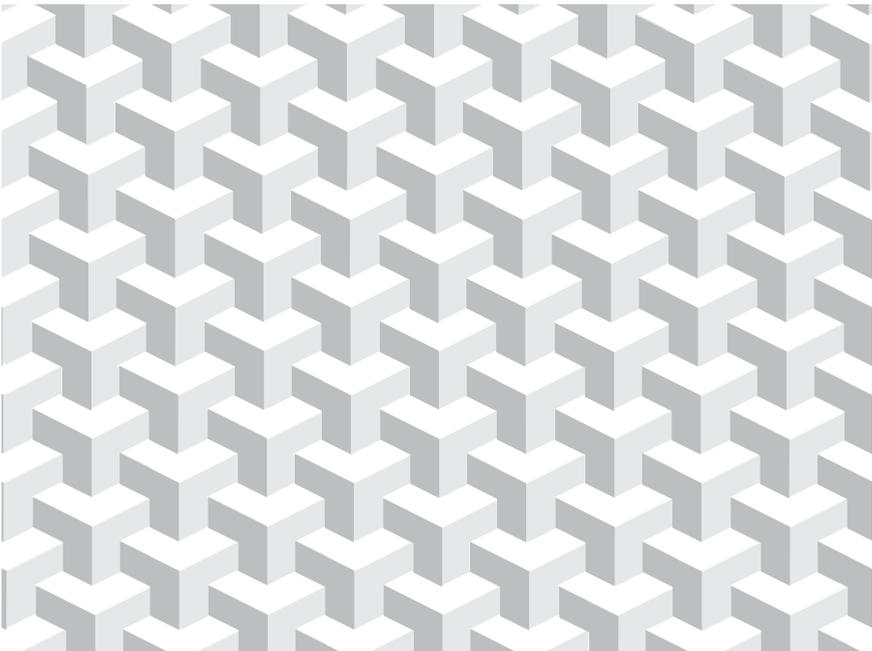
Chapters 4 and 5 present more in-depth descriptions and analyses of more impressive examples of digital participation with the aim of providing a more detailed and incisive vision of the benefits, impacts and challenges for representative democracy associated to such projects. The case studies presented are of the Chilean Senate's Virtual Senator Program (Chapter 4) and the Brazilian House of Representatives' e-Democracy Program (Chapter 5).

In Chapter 6 there is a systematic analysis of institutional aspects, embracing organizational, political and social aspects involved in the efforts to apply digital democracy in parliaments. It will be seen that both social and political elements have a strong influence on the successful outcome of such experiments. Organizational elements also have a considerable influence insofar as they can either facilitate interaction between the parliament and society at large or they can make it more difficult, but their greatest potential effect is in making it feasible for the contributions of participants to have effective repercussions in the decision making process.⁵

⁵ It must be pointed out that during the second half of the 4-year period of this research work we had the opportunity of spending fifteen months as an associate research fellow at the Harvard Kennedy School's Ash Center for Democratic Governance and Innovation, in Boston, USA where the academic activities, research material and the supervision of professor Archon Fung provided the essential conditions that enabled this work to be done.

1

CONTEMPORARY
DEMOCRACY: THE
COMPLEX SYMBIOSIS
OF REPRESENTATION,
PARTICIPATION
AND DELIBERATION



1.1 Introduction

In this chapter we intend to start off by analyzing the classic notion of representativity in the light of the contemporary context in which new political, economic, cultural and technological conditions have stimulated a broad discussion on the functioning of representative systems and especially on the way in which parliaments and legislators conduct and maintain their relations with the citizenry at large.

Indirect or representative democracy presupposes that the handling of public affairs is delegated to representatives duly elected by the people. While it is true that the emergence of indirect democracy is related to the impossibility in mass societies of exercising direct democracy in the way it was carried out in the original Greek version, nevertheless, new political participation instruments can ensure, at least in theory, that society interacts in an organized manner or otherwise more directly with the representatives of the State and in that way strengthen the system of representation, the people's will, and, above all, democracy itself.

To get to that point in the discussion, however, an analysis must be made of the main pillars that support the democratic regime and the representative system, addressing the mounting criticism they have received in recent decades and identifying possible solutions for the problems they air. After a succinct description of the main protagonists in the discussion this chapter will delineate a basic theoretical reference framework on which to base the chapters that follow.

1.2 Crisis of democracy, crisis of representation or democratic deficit?

While it is true that nowadays the democratic regime is widely installed in countries around the world, there has been a considerable accumulation of criticism of the way it actually functions in the last few decades and even questioning of its viability. Some of that criticism takes the form of identifying a 'crisis in democracy' that would suggest that structural changes are needed, a line taken by Barber (1984) and Pateman (1992), while other critics focus on more specific aspects that they feel need to be adjusted (BOBBIO, 2000; DAHL, 1889; NORRIS, 2001).

Pippa Norris (2011, Chapter 1) has made a great contribution to this debate especially based on the accompaniment of social phenomena in the 1990s such as the growing dissatisfaction of ordinary people



(DIONNE, 1991; CRAIG, 1993; TOLCHIN, 1999; WOOD, 2004) and their deep mistrust of government institutions (NYE et al., 1997; HETHERINGTON, 1998), outstandingly, in that respect, mistrust of the United States National Congress (HIBBING and THEISS-MORSE, 1995, 2001).

Norris believes that such perceptions are normally linked to social behavior indicators such as low turnouts at elections (TEIXEIRA, 1992), the erosion of “social capital” (PUTNAM, 2000) and the decline in support for political parties (ALDRICH, 1995). Thus it can be seen that there are many variations in the direct criticisms made of the liberal model of democracy but the nuances among them do not conceal that they form a strident current in the flow of recent political theory (ARTERTON, 1987; COHEN and ARATO, 1992; GALBRAITH, 1992; GIDDENS, 1994; MANIN, 1997; COLEMAN and GOTZE, 2001; COLEMAN and BLUMLER, 2009).

One of the main underlying principles of the liberal model of democracy is the limited participation of the citizens in the political sphere. Theorists of competitive elitism, an important line of thinking associated to that model, defend a position whereby the role of the citizens is to worry about their own personal and individual objectives and relegate the exercise of public administration to the elected representatives.

In that way of thinking the citizen’s primordial role in relation to the State would be concentrated mainly on his participating in elections and the vote would be the maximum expression of his control over the representatives, presumed to be professionals with experience in public policies. On the other hand, the State would be under the obligation to guarantee to the citizens the free exercise of their individual rights.

Outstanding among the lines of criticism directed at the liberal model of democracy are those made by the participationist school of thought which defends greater participation of the civil sphere of society in the political universe during the period a mandate is being exercised; and the deliberative school of thought which stresses the need for society to participate in the formats and specific objectives of the debate that set higher store on the search for ‘public reason’.

There is a group of intellectuals for example that alleges that modern society’s trend to ever increasing complexity has created a series of difficult demands that the State finds itself unable to address satisfactorily. From their point of view, State inefficiency is contributing towards exacerbating social injustice and consequently

making the citizens increasingly dissatisfied (HUNTINGTON, 1975; ROSANVALLON, 1981). In another example, Archon Fung and Erik Olin Wright (2003) also show how the actions of interest groups manage to get State resources channeled to favor their particular causes, to the detriment of the public interest.

In short, the liberal democratic regime sets a high value on the role of political leaders as being the legitimate representatives of the people's will and avers that any greater participation of society at large in public affairs can only serve to hamper the institutional arrangement that protects individual rights, especially freedom, and, furthermore, that the citizens are generally ignorant in civil terms and disinterested in public policies (SCHUMPETER, 1976; BURKE, 2009).

Max Weber (1946), who made a huge contribution to liberal thinking, concluded that the citizens lack technical capability and are not interested in the exercise of politics themselves. Accordingly, their main role would be to elect their political representatives. In Weber's view the technical complications involved in formulating and implementing policies justifies the creation of a bureaucracy made up of professionals specialized in dealing with public policies. Weber was also a precursor of the idea that the leaders are charismatic and the masses tend to follow them – an idea that lies at the origin of elitist theory.

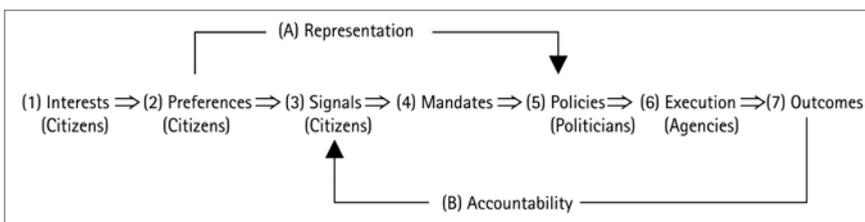
Another school of thought holds that actually there is only a crisis in the aspect of representation and not in democracy as such. Its proponents believe that problems occurring with democracy are merely associated to the limitations associated to the realities of the representative system in place, which are basically the following: the increasingly enhanced autonomy of parliamentarians and political parties during the period of their mandates and the accompanying failure to take into account the voters opinions; the extinction of any relationship of trust between citizen and parliament; the dominance of economically more powerful groups and their well-organized lobbies pressuring the parliament; the lack of respect for the legal order and poor quality of the work of elaborating legislation; the parliament's inability to respond to society's increasingly complex and varied demands; and a generalized lack of ethics among parliamentarians who make use of institutional resources to exercise their mandates in an irregular and improper manner, including unjustifiable absences from sessions of parliament, slackness in performing parliamentary work and other highly undesirable behavior.

There are other authors however that cannot descry any signs of crisis in democratic institutions. Marques (2008, p. 43) aligns his views with those like Bobbio and Norris who declare that democracy is merely in need of adjustments. In their view, instead of a crisis in democracy as such, there are practical problems in the way it is operated such as an outstanding need to improve the system that obliges parliamentary representatives to justify their actions as representatives of the State and the patent lack or inadequacy of mechanisms permitting citizen participation in the public policies system.

In a similar vein, Archon Fung (2006) feels that the routine governance over the public policies system is indeed subject to sporadic problems but that implementing specific participatory and deliberative processes could greatly contribute towards reducing such democratic deficits.

The scheme set out below represents Fung's view of the situation whereby the citizens have interests (1) and preferences (2) in regard to the public policy options that can best address those interests. They indicate their preferences to governments by emitting signs (3) expressed in their choices of candidates and parties that are in alignment with their preferences (2) and that is achieved by means of periodic elections. The vote of confidence expressed in the election confers a mandate (4) on the politicians who are expected to foster and further the citizens' interests by formulating and administering policies (5) with adequate technical assistance from the bureaucracy (6) which is composed of specialized professionals. Thus the results of the policies (7) would be expected to address those interests (1).

FIGURE 1 – The system of minimum representation in public policies according to Archon Fung (2006)



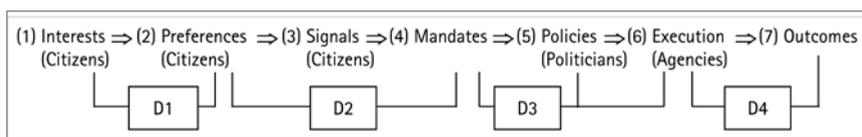
The discipline imposed by the elections creates two spheres each with its own dynamics – the sphere of representation (A) and the sphere of accountability (B) and they are what guarantee the integrity of relations between the interests of the citizens and the results of policies (B). In other words what Fung underscores is that the citizens (3) elect politicians that will represent them in defense

of their preferences (2) in the running of the State, but who are susceptible to sanctions in the form of not being re-elected if they should fail in that mission. The scheme is in fact a simplified map of the Liberal State itself and Fung (2006, p. 669) thought it well to add the following warning about it:

“These dual mechanisms of representation and accountability may produce responsive and just government with only modest citizen participation in many domains of law and policy under favorable circumstances such as competitive elections, strong parties with clear platforms, vigorous public vetting of contentious policy alternatives, an informed electorate, sufficient insulation of state from economy, and a capable executive state apparatus. For many public problems and under less favorable conditions, however, this minimal institution of periodic elections fails to secure a level of political representation and accountability that makes government responsive.”

To be more precise, Fung is alleging that the Liberal System in question presents four difficulties, or democratic deficits and they can be visualized in the second scheme set out below. One difficulty for example is that on many issues people do not have clear preferences irrespective of the policies that may or may not be adopted; or it may be that their preferences are liable to change abruptly when they are exposed to new arguments, information and prospects (D). In such cases, even if the elections have been well conducted, the results of public policies may nevertheless prove to be nefarious, because, as Fung puts it, “garbage in produces garbage out”.

FIGURE 2 – Scheme showing democratic deficits of the public policies system according to Archon Fung



On the other hand, when people have clear, stable preferences electoral mechanisms will only be capable of emitting very weak signals to parties and politicians in regard to the contents of their preferences (PREZWORSKI et al., 1999; GOODIN, 2000) (D2). The absence of a more solid and ongoing connection between politicians and the people means that the former do not really know what the latter want and, that being so, it is difficult to achieve any good level of representation.

Furthermore, Fung considers that the electoral mechanism is entirely incapable of serving to ensure that politicians are held accountable



(D3). In many of the State's decisions, the interests of politicians and public administrators may distinctly diverge from those of the majority of the people. That makes it difficult for voters to use the elections as a means of controlling what politicians get up to during the period of their mandates.

That is why the elites tend to dominate the political process, and all the more so when there is no effective competitiveness in the elections or when specific interests are in opposition to much more diffuse interests or when the results of public policies are difficult to monitor and evaluate. What becomes clear is that the considerable delegation of power and authority to public administration that is so typical of modern States has actually made it more difficult for politicians to call bureaucrats to account even when the citizenry has found ways of accompanying and controlling the politicians, but not, however, the specialists.

Finally, even if the system of representation based on elections and accountability were to permit the citizens to exercise effective control over their political and administrative representatives (in an almost ideal fashion) the State would still not be technically capable of bringing in reasonable results from public policies that attempted to materialize the citizens' preferences (D4). Fung alleges that in certain areas like economic development, the success of the respective public policies does not depend on laws and administrative actions alone but also involves the actions of other actors in the economic sphere. Similarly in areas such as the environment, education and public security, obtaining results requires the engagement and contribution of the people at large.

To minimize the noxious effects of the four abovementioned democratic deficits, and basing himself on observations of relatively recent experiments in a variety of local and national government contexts around the world, Fung declares that the mitigated incorporation of participatory and deliberative practices is capable of contributing to the strengthening of the democratic regime. However, he does not believe that actions to foster direct participation are necessarily the best or the most suitable whatever the context.

Thus, that author concludes that the symbiosis of representative and participatory institutions materialized in various formats, sometimes more strongly representative, sometimes more strongly participatory, according to the peculiarities of each given context and the nature of the political issue involved, would be the best solution to make it feasible for governments to be better connected to the interests of the people.

1.3 The essence of the representative system and its severest critiques

1.3.1 Why have representation at all?

Getting back to the origins of representation, John Stuart Mill (2006) spoke out in defense of the representative system as being the most practical way of ensuring the sovereignty of the people. In Mill's view there was no way to rationally exercise power other than by using the artifice of representation. Although he felt it extremely desirable that sovereignty should be exercised in the most direct manner possible by the entity that detained it, namely, the people, John Mill resigned himself to the fact of its being impossible in practice.

Edmund Burke (1942) in turn, was noted for his advocacy on behalf of the importance of the autonomy with which the legislative mandate should be endowed. In his view the only role of the people was to elect their representatives according to their wishes and according to the technical suitability of the latter so that they could exercise, in the name of the people, the power of decision on all public issues. Once they had formally taken office those elected representatives would enjoy significant autonomy in making decisions on the basis of their own opinions and ideas:

“It is his duty to sacrifice his repose, his pleasures, his satisfactions, to theirs; and above all, ever, and in all cases, to prefer their interest to his own.

But his unbiased opinion, his mature judgment, his enlightened conscience, he ought not to sacrifice to you, to any man, or to any set of men living. (...) Your representative owes you, not his industry only, but his judgment; and he betrays, instead of serving you, if he sacrifices it to your opinion.(...)But government and legislation are matters of reason and judgment, and not of inclination; and what sort of reason is that, in which the determination precedes the discussion; in which one set of men deliberate, and another decide; and where those who form the conclusion are perhaps three hundred miles distant from those who hear the arguments?

Parliament is not a *congress* of ambassadors from different and hostile interests; which interests each must maintain, as an agent and advocate, against other agents and advocates; but parliament is a *deliberative* assembly of *one* nation, with *one* interest, that of the whole; where, not local purposes, not local prejudices, ought to guide, but the general good, resulting from the general reason of the whole. You choose a

member indeed; but when you have chosen him, he is not member of Bristol, but he is a member of *parliament*.” (BURKE, 1942, p. 312)⁶

John Stuart Mill however thought that such representation needed to respect certain limits. In addition to electing its representative, society would also be responsible for monitoring parliamentary performances to ensure that the public interest was duly addressed. In that way, Mill, who had made a strong contribution to establishing the base of the representative system also recommended that there should be greater social participation in the process of inspecting the quality of the representation.

German scholar Hanna Pitkin (1976) takes the points made by John Mill one step further in her work ‘The concept of representation’, where she addresses relevant aspects of the discussion on representation. She is critical of the minimalist vision of representation adopted by Burke who takes his proposal to the unacceptable extreme of reducing the parliamentarian to being a mere technical operator who, being duly provided with the expertise and technical information needed for decision making, would be then in a better position to make than the great bulk of the ignorant masses. Another vision just as reprehensible as Burkes’, in Pitkin’s view, is the one that regards the issue of political choices as being merely a question of defining preferences subject to arbitrary and irrational decisions.

In her view the representatives do not only have to govern in the broadest sense of the word and foster the public interest, but they must also account to society for their activities in the sphere of their mandates. Pitkin also underscores the need for mechanisms to be established precisely to enable such communication:

⁶ Free translation: “É dever do representante sacrificar seu repouso, seus prazeres e suas satisfações aos de seus eleitores e, sobretudo, preferir sempre e em todas as ocasiões o interesse deles ao seu próprio. Mas sua opinião imparcial, seu juízo maduro e sua consciência esclarecida não deve sacrificá-las nem a vós, nem a qualquer homem ou grupo de homens. (...) Vosso representante vos deve não apenas o seu trabalho mas o seu juízo e vos atraiçoa, em lugar de vos servir, se o sacrifica à vossa opinião. (...) Mas o governo e a legislação são problemas de razão e de juízo e não de inclinação. E que tipo de razão é essa na qual a determinação precede à discussão, na qual um grupo de homens delibera e outro decide e na qual aqueles que assumem as decisões estão talvez a trezentas milhas daqueles que ouvem os argumentos? O parlamento não é um *congresso* de embaixadores que defendem interesses distintos e hostis, interesses que cada um de seus membros deve sustentar, como agente e advogado, contra outros agentes e advogados, mas uma assembleia *deliberante* de *uma* nação, com um interesse, o da totalidade, e portanto deve ser guiada não pelos interesses e preconceitos locais, mas pelo bem geral que resulta da razão geral do todo. Elegei um deputado, mas ao escolhê-lo, não é um deputado por Bristol, mas um membro do parlamento.” (BURKE, 1942, p. 312)

“Correspondingly, a representative government requires that there be machinery for the expression of the wishes of the represented, and that the government respond to these wishes unless there are good reasons to the contrary. There need not be a constant activity of responding, but there must be a constant condition of responsiveness, of potential readiness to respond. It is not that a government represents only when it is acting in response to an express popular wish; a representative government is one that is responsive to popular wishes when there are some. Hence there must be institutional arrangements for responsiveness to these wishes. (1976, p. 232)

Pitkin also insists that for such institutional communication mechanisms to work, they need to be established systematically and be in place for long periods. In that light, any isolated or sporadic acts of communication between representatives and those they represent cannot be construed as reliable instruments for promoting those satisfactory justifications for legislative actions which are the indispensable means of legitimizing those decisions, especially when they run contrary to popular demand.

All in all, Pitkin's collocations underscore how essential a well-facilitated communication process between representatives and those they represent really is. Considering that it is not uncommon for indispensable decisions made in the public sphere in the light of the complexity of the public policies system to meet with widespread unpopularity, the installation of such a system avoids the emergence of 'irresponsible populism', that is, only doing what the people want. A very common example of demagoguery in legislative decision making is when there is a proposal to institute some kind of new benefit without allocating the necessary resources: creating credit system for student's to finance their higher education without identifying the corresponding source of funding could in the long run lead to the introduction of a new tax.

To put it simply, there are three fundamental ways for society to participate in the political system: by electing its political representatives, accompanying the performance of the representatives, and constantly making its interests known. Thus there must be continuous connection in place between the representatives and those they represent. Furthermore, this more stable type of relationship between society and the parliament calls for society to adopt an active stance in regard to the process (PITKIN, 1976, p. 232).

While Pitkin stipulates the holding of free and periodic elections as necessary condition for any effective representation, she also



hastens to point out the dangers inherent to endless re-election. The best combination to ensure an effectively representative system would be a mixture of free and periodically held elections and other kinds of institutional arrangements designed to guarantee the active participation of minority groups and those in opposition to the government. To that end, the variety of representation present in the make-up of parliaments requires that investments be made in electoral mechanisms designed to reinforce and enable that kind of result, such as elections based on proportional representation rather than electoral district systems, for example (1976, p. 235).

In the same vein she sets high store on the idea of a gradual maturing process for political representative institutions, whose development would entail continuous reflection and re-thinking on their *modus operandi* and assessment of the need for adjustments to ensure that they achieve or at least strive to achieve the ideals of representation among which are 'a genuine representation of social diversity' and the pursuit of the public interest.

On the other hand, another important intellectual in this field of reflecting on the practical problems of the democratic system, Joseph Schumpeter, offers a definition of the term 'competitive elitism'. He considers that only a select group of people would ever have the technical capability and the time to dedicate themselves to a political calling and would be endowed with the power to represent the other citizens, a largely apathetic, disinterested group, unqualified to participate in the political sphere.

Thus the elite group of professional politicians will always be disputing the votes of confidence of the voters so that they could take power (SCHUMPETER, 1976, p. 269): "The democratic method is that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's voice".

To Schumpeter, the legislative (and governmental) bodies will always be an arena dominated by a small set of interest groups. The idea of participation in the process of elaborating laws is entirely unrealistic because the people would have neither the technical qualifications nor the time to do so directly. Accordingly their representatives acquire autonomy and begin to behave according to their own rules. Furthermore, Schumpeter believes that the 'common interest' is something unachievable, a mere dream.

At the beginning of the last century, Lippman resorted to irony to describe the apathy of the average citizen of his time whom he believed lacked cognitive conditions to be connected in any way to government likening them to “a deaf spectator seated in the back row who should keep his mind on his own mysteries, incapable of even staying awake” (LIPPMANN, 1992, p. 10; also BACHRACH, 1967).

In a similar vein, Coleman and Blumler (2009, p. 69) mention a poll carried out among 2,273 British citizens conducted by the Yougov organization⁷ in the period from September 11 to 13 2003. Seventy-three percent of respondents considered themselves to be ‘disconnected’ from parliament. In their responses to questions included in the survey, the ‘disconnected citizens’ identified eight types of ‘disconnected representatives’: a) the unknown b) the invisible, c) the distant, d) the alienated, e) the party members, f) the unreliable, g) the arrogant and h) the irrelevant.

Some authors state that surveys and studies of this kind reveal growing apathy (PHARR, PUTNAM and DALTON, 2000), cynicism (NYE et al., 1997), discontentment and a feeling of impotence in society at large in regard to political power (GASTIL, 2000; EISENBERG and CEPIK, 2002) and tend to prove the extent to which the liberal State, which Schumpeter declares to be elitist, has generated a large deficit of legitimacy in the democratic regime.

1.3.2 The complexity of the parliamentary work

Multiple commitments

In a bid to find the best possible conception of what political representation should be that neither transforms the representative in a mere ratifier of preferences nor into a technical professional solving a mathematical problem, University of Berkeley’s professor Hannah Pitkin has made a profound reflection on the complexities of representative institutions. To some extent the simplistic manner in which the complexities of representative institutions are usually addressed has led to formalist visions of political representation.

In Professor Pitkin’s view, however, political issues simultaneously involve facts and values, ends and means. Political life involves a set of commitments among the political actors and value judgments that interfere with the rationality of arguments and vice versa:

⁷ Accessible at: www.yougov.com.

“Political life is not merely the making of arbitrary choices, nor merely the resultant of bargaining between separate, private wants. It is always a combination of bargaining and compromise where there are irresolute and conflicting commitments, and common deliberation about public policy, to which facts and rational arguments are relevant.” (PITKIN, 1976, p. 212)

To gain an understanding of the representative system it is necessary to understand the complexity of parliamentarians’ behavior. The representatives in office are subject to myriad pressures and influences that undeniably induce them to behave in an ambiguous manner. In legislative deliberations the parliamentarian must take into consideration innumerable factors that they must be weighed and evaluated in varying manners according to the particular moment in the decision making process.

Before finalizing any such decisions the parliamentarian must first observe what his party’s position on the issue involved is and it may be that local party leaders are at variance with national ones. This last situation is very common in the Brazilian system whenever local interests conflict with national ones, and so the first site of tension is the political party itself.

Furthermore, as Pitkin points out, there is the influence of the parliamentarian’s own personality. Some parliamentarians are open and prepared to listen to what their constituents have to say, while others are less disposed to do so. There are those that abrogate the right to decide to themselves, based on their personal principles, others set more store by the commitments they have made.

Irrespective of the opinion of those he represents, on taking office the parliamentarian is also subject to a set of rules that are intrinsic to the institution. If he wishes to be successful, have his proposals considered and be nominated to important legislative posts, he needs to ‘play the game’, that is to say, he needs to make commitments, make concessions, and establish agreements. After all the parliament is a collegiate body; there is little that can be done by an individual alone (FIGUEIREDO and LIMONGI, 1995).

On the other hand, there is the influence exercised by those that financed the election campaign, who obviously defend very specific, concrete interests especially in the case of donors that are corporations or other legally constituted entities who frequently invest considerable sums in election campaigns. It is only natural to expect that a candidate that has received donations from a body that defends the interests

of banking institutions should have his parliamentary performance orientated to some extent by those same interests, even if it only be passively by omissions that contribute to fostering them.

Thus the parallel influences of a series of factors affect the parliamentarians during the decision making process and that can readily lead to apparent incoherence in their legislative stances in regard to the projects and ideals they defend.

Impossibility of knowing what those represented really want

Pitkin also considers that the process of getting to know what those they represent really want is highly problematic insofar as the opinions tend to be very heterogeneous and almost impossible to compute in a regular, fair, *fide digna* manner (also FUNG, 2006), even if a given member of congress should deliberately set out to find out his voters' opinions on the various issues under discussion in the parliament.

To exemplify, a given voter A may be in favor of research using stem-cells and the right of women to opt for an abortion but is against the administrative reform proposals because he is a civil servant and fears they may lead to the loss of some privileges. Voter B may also be in favor of stem-cell research but is against abortion in any circumstances and in favor of some of the administrative reform proposals. Voter C is in favor of all three proposals, and so on and so forth.

In that light, it can be seen that in practice it is impossible to express and absorb the diversity of opinion and expressions of vested interests involved in hundreds of issues of public interest on the part of thousands of people. The quest to discover what the electorate thinks reveals itself to be impracticable, given the existence of so many different segments of the electorate each with different and conflicting opinions on the issues.

In short, the intrinsic lack of organicity of the constituency is exacerbated by the way in which organizations, the traditional media, the internet and personal relations influence people to varying extents and in different ways. To illustrate that, let us look at another example.

Citizen A has a certain opinion regarding the political model for the health system. He is in favor of health service provision by the public sphere rather than the private sector provision based on health plan contracts. He formed that opinion after talking to voter B who, although he originally defended the private health system as a result of a negative experience with the public health system in a different state, had changed his opinion as a result of a conversation with citizen C, his father, who based his ideas on certain articles on the issue that he had



read in the newspapers and the internet. That is just a tiny fragment of the vast, dynamic, diversified and ever-changing social universe that the parliamentary representative has to address (PITKIN, 1976, p. 224).

Furthermore, it must be remembered that the relations between the congressman and his voters is not always bilateral or direct. After all, in many cases, the number of those being represented in a given district or state may run into the millions. In addition to establishing relations with bodies who, for better or for worse, represent specific interest groups and not society as a whole, the parliamentarian has to relate to other individuals and groups that intermediate communication with those he represents, namely, the local party, the traditional news media, party volunteers and non-representative social organizations.

Conflict between local and national interests

Besides all the abovementioned factors contributing to parliamentary complexity, there is also the question of the conflict between local interests and national interests in those cases where the representative is elected by the people of a given locality in the system of electoral districts or proportional representation to represent the interests of the local people in the national parliament. However once he takes office, he has to deal with national issues some of which are actually harmful to local interests.

What is the parliamentarian supposed to do in such circumstances? Should he identify what is best for country, the state or the district he represents? Obviously there will also be situations where a decision favorable to the local sphere is also positive for the country as a whole. Nevertheless the opposite is liable to occur where decisions that are useful and important for the country will incur in sacrifices to be made by certain localities or states. An example of that can be found in the discussions on tax reforms, the redistribution of onus and responsibilities that may lead one or other state of the union to lose income while at the same time benefiting other states.

1.4 The prospects for participatory democracy

There are other authors beside Hanna Pitkin that have made fierce criticism of the liberal democracy regime stressing the need for far greater interaction between the civil sphere and the political sphere, particularly during the period a political mandate is being exercised. There are classic examples like Jean Jacques Rousseau (2002) but there

are also other more contemporary authors like Carole Pateman (1992), Bernard Manin (1997) and Benjamin Barber (1984).

Manin (1997) declares that in the formation of modern democracies there was no institutional design included that embraced greater direct participation of society in public affairs other than the moment of elections. That is not to say that the public needed to take part in all issues of public interest being deliberated on by the parliament but rather that there was a need to establish mechanisms of interaction between the universe of political activity and the social medium. Rousseau (2002), one of the founders of republican-type democracy believed that the people's sovereignty should be exercised more directly by the people themselves. Such participation, he felt, would bring with it great benefits for democracy, among which, greater acceptance of the implementation of laws on the part of the citizenry as it would have contributed to their elaboration.

Centuries later, Creighton (2005) reinforces that idea in an analysis of the consequences of its implantation. In his view the opening represented by public consultations as part of the process of elaborating laws may prolong the deliberative process but nevertheless it facilitates the future implementation of the law insofar as the gains in legitimacy of the elaboration process generate greater levels of acceptance of the Law when it comes into force. It means that there is less legal contestation of it and the overall cost of elaboration and implementation is eventually less as well.

In Rousseau's view, only the Executive branch should be operated by representatives of the people because its function has to do with the application of laws, without any great questions of normative content being involved. In the definition of values, principles and measures to be written into the laws, however, society should participate directly with no delegation of representation, to ensure the full exercise of its sovereignty.

Rousseau also postulated that the citizens, over time, would learn about public policies and in doing so, he, like other authors after him (PATEMAN, 1992; BARBER, 1984), underscored the political educational aspect of the participatory process. Finally, the French thinker also stressed the importance of a feeling of community fostered by collective participation over time, which is at the very heart of the republican concept of the State. It means that people need to seek for the common good in opposition to the liberal economic vision of 'every man for himself' in the pursuit of happiness, provided the basic rules and regulations of social relations are respected (DOWNS, 1999).



Strongly influenced by Rousseau as she was, Carole Pateman (1992) has been the authoress of some of the most ardent criticism of political elitism. Initially she is ironical about the idea Schumpeter defends that the ordinary citizen is incapable of understanding or playing the political game when she pinpoints its inherent contradiction: the citizen is considered sufficiently intelligent and capable when it comes to choosing the 'more technically qualified' rulers but when it comes to participating in the construction of public policies, the same citizen is deemed to be too foolish and ignorant to do so.

Pateman also questions the elitists' conclusion as to the practical impossibility of society's having any direct participation in the affairs of State because, in fact, there have never actually been any vigorous attempts to install a new institutional design that facilitates, stimulates or makes feasible such forms of participation. In other words Pateman's point is, and David Held (2006) concurs, that the liberal regime has gone to considerable lengths to construct a reality that does not allow, or at any rate effectively hampers, the development of any system, instruments or methodologies to enable social participation in political affairs.

In his book *Models of democracy* Held (2006) explains that the problem with elitism is that it is based on a false empiricism. In Held's view Schumpeter is mistaken when he bases his elitist theory on the presupposition that it would never be feasible to implant a participative system. In fact the concretization of the Liberal State reflects a normative predefinition and not an empirical one. Accordingly, an institutional redesigning of the state that adopts the normative principles of participation has never been tried and therefore it cannot be presumed to be unfeasible as the elitists declare it to be.

More radical experimentation with the people's exercising control over their representatives has begun to appear in the form of experimental modules in some European countries in alignment with various different formats of the so-called imperative mandate,⁸ which unlike the mandate conceived by Burke, attributes little or no autonomy to those in office.

The Swedish *Demoex* and the Italian *Listapartecipata* are clear examples of social participation in parliamentary decision making. The

⁸ Putting it as simply as possible, in exercising the imperative mandate the parliamentarian would have very little to discuss or decide according to his own judgment. The mandate envisaged by Edmund Burke, on the other hand, sees the legislator as having been elected because of his skills, knowledge and experience which would entitle him to exercise autonomy in deliberation on public policies independently of any specific preferences evinced by those he represents.

Demoex⁹ which is short for Experimental Democracy, came into being as a result of the disenchantment of the Swedish population with the conventional four year mandates. The main complaint was about the wide degree of freedom allowed to the representatives during their period of office.

To contest such unbridled autonomy, a group of students and teachers created a party, the Demoex, which proclaimed itself to be non-ideological and to have the sole purpose of running for election in the local elections for the municipal council of Vallentuna. The only representative elected by the Demoex is obliged to vote according to the wishes of the Party members on all issues that come before municipal council for deliberation. Members manifest their wishes by voting on-line on every issue that comes up.

In a similar way and also involving a kind of imperative mandate, the Italian Listapartecipata¹⁰ consists of a group of people who, by various means and channels such as internet, telephone and regular mail, make binding decisions that their representatives in the Italian regional assemblies must stand by on pain of having their mandates extinguished.

One of the most enthusiastic authors in favor of including participatory processes in the democratic regime is Benjamin Barber and his book 'Strong Democracy' (1984) made quite a stir. Based on a concept of grass roots sovereignty similar to Rousseau's he suggests ways of making it feasible to return power to the rightful sovereign, the people, by means of a system for citizen participation that would substantially modify the current liberal format of democracy.

Barber believes that the starting point for a participatory system capable of expanding to attain the national sphere must be the intensification of community bonds in the local sphere. He also defends the idea of selecting direct representatives of the people with their own legislative power by means of a lottery draw and of expanding the use of referenda. Such ideas are at the bottom of what he calls 'strong democracy' as opposed to 'weak democracy' typical of the liberal state, which only contemplates any grass roots participation in the phase of elaboration the State's constitutional laws and even limited to the definition of the rules for the free competition among varied interest groups.

Barber's recipe for enhancing participation is that there should be mechanisms for improving the political information available as

⁹ Accessible at: www.demoex.net.

¹⁰ Accessible at: www.partecipata.it.



well as easier access for all to information on public issues. Those two mechanisms would qualify society to interfere in politics and reduce the so-called 'ignorance of the masses' referred to by Burke and Schumpeter and which they saw as an impediment to participation (also PATEMAN, 1992; DAHL, 1989; CREIGHTON, 2005). The end result of that process, accompanied by the heightened legitimacy of the decisions and political education, would be the creation of a feeling of community.

1.5 The importance of deliberative participation for democracy

Contrasting with the exaggerated value placed on freedom by liberal theory, the republican vision presupposes placing a high value on the community spirit and on making strenuous efforts towards achieving equality. Another great advocate of this line of thought, beside Rousseau, Hanna Arendt (1979) believed that dialogue among men was one of the keys to creating a spirit of cooperation that would minimize the effects of the power of money over men. She saw money as the great cause of the intense maneuvering in search of power and as being the creator of social inequality. In addition to Rousseau's republicanism and Arendt's communitarianism, the participationists have also been highly influenced by that latter author's critical view of liberal democracy.

Nevertheless, as Rosenberg (2007, p. 2), has pointed out, in recent years there have been intellectuals in the areas of human sciences coming out in defense of a more deliberative democracy as a kind of complement to the conventional liberal democracy now in place; it would be republican in inspiration but largely critical of the two visions; classic liberal and classic republican (HABERMAS, 1984, 1996; GUTMANN and THOMPSON, 1996; GUTMANN, 2004; COHEN, 1996, 1997; BOHMAN, 1997; DRYZEK, 2002; BENHABIB, 1996). Those defending deliberative democracy are keen on stressing the need to involve the ordinary people in public policy discussions and they see that as the means to ensure equal participation, mutual respect and the development of rational lines of argument during the debates, all of which are essential requirements to overcome differences.

One of the inventors of the term deliberative democracy, Joseph Bessette, sees it as a concept in direct opposition to the basic tenets of the pluralist and economic models which are, succinctly: politics must be seen as conflict of interests, a mere bargaining activity to the

detriment of public reason; the principal of rational choice is capable of providing rational models for decision making; the legitimacy of the government is minimalist, that is to say, it is based on the preservation of negative liberty (that which is not prohibited) of the individual actors; and finally, democratic participation is limited to the act of voting (BESSETTE, 1980).

The idea of deliberative democracy as applied to public affairs embodies effective participation in decision-making processes. In theory that would result in the production of decisions in the public interest; more legitimate, consensual, rational and fair. The same theoreticians also insist that deliberative institutions adjust themselves more readily to the essential democratic values and stimulate the ordinary citizen to take an interest in the common good so, in that sense, it appears as a balm and medicine to reduce the effects of the deterioration in course in the established democracies and a preventative antidote to any harm befalling emerging democracies.

One of the most robust among the founders of the deliberative democracy theory, the German Jürgen Habermas (1984) recommended that a public sphere should be established which, in practice, would be a system of interaction between society and the State in a way that would enable the ordinary citizens to exercise more effective influence on those deliberative processes that are the necessary precursors of decision making with public effects, provided individual rights and guarantees are preserved.

Habermas (1996) considered there were at least four conditions necessary for democratic deliberation to occur:

- a) Each person must have the skill to openly express his or her own ideas and criticize those of others.
- b) The alliance of concepts of force and power with social status needs to be eliminated.
- c) Arguments that merely appeal to tradition or dogma need to be exposed.
- d) Truth can be achieved by seeking for consensus.

In short, the deliberative theorists identify two sets of important factors. First the need to guarantee better deliberation conditions so that consequently they are concerned with the way the debating process is organized and structured. They also show much concern for



the contents to be discussed, that is, first care must be taken with the quality of the arguments' substance, ideas and opinions in order to be able to extract the best possible result from the deliberative process.

While participationists like Pateman and Barber declare the need to implement processes for society to participate directly in the State but that may be configured in a variety of different formats, the deliberative school of thought sets store on a very specific form of participation that allows, for example, for broad possibilities of argumentation on the part of the participants in the deliberative experience (FISHKIN and LUSKIN, 2005).

In that light, that very common instrument inviting participation to be found on certain government websites, where the citizen is called on to freely present any suggestions, comments or criticisms in regard to a given public service, is seen by the deliberative thinkers to be of little value because no reasonable conditions for discussion and decision have been created, such as organizing and stimulating an open debate where any individual could put forward arguments with equal opportunity to do so being afforded to all (after all, there are still many people without access to computers).

Amy Gutmann and Dennis Thompson (1996), who are more closely aligned with a reformist vision of liberalism are also critical of the lack of rationality in legislative decisions and more so in executive ones. In obedience to political principals that quite often represent conflicting interests, the resulting decisions expressed in legal terms reveal inherent contradictions and problems related to their application stemming from insufficient attention to the principles of reason and to the justifications that are need for their legitimization. That is why they call for much greater conciliation of politics and reason.

Gutmann and Thompson align themselves with other thinkers when they defend the need to redesign the State in order to incorporate participative mechanisms in the light of deliberative principles as a means to incrementing the legitimacy and rationality of the decisions made. Thus, in the same way as the classic liberal theorists, deliberationist thinking sets a high value on justifying public acts and accounting for them to society; the difference lies in the fact that the deliberationist school calls for a more in-depth process achieved through the intense exchange of information, impressions, experiences, arguments and ideas among politicians and members of society at large in a deliberation process that is at once institutional and democratic (BENHABIB, 1996).

The deliberationists, explains Marques (2008), are not enthusiasts of applying direct democracy instruments as a way of 'fixing' the problems with the liberal vision. In fact they resign themselves to the notion of the inevitability of political representation and the need for the system to be efficient, but they prefer to think of it in a reformulated version with the introduction of more robust devices to ensure accountability, that is to say, new mechanisms for allowing society to accompany, understand and interfere in the political processes that are being improved on (BOHMAN, 1992, p. 242, apud MARQUES, 2008, p. 108; GUTMANN and THOMPSON, 1996).

One example of that is given by Bohman (1996) referring to the elitist vision whereby what constitutes the insuperable barrier to the exercise of accountability by society is its deficiencies in technical capability. Max Weber (1946) underscored the need for a specialized bureaucracy to be formed to handle the issues of State because the ordinary citizen lacked the technical qualifications to carry out such work.

One of the essential points of the deliberative theory however, and Bohman has reiterated it, is precisely the development of practices that would contribute towards enhancing the citizen's knowledge concerning public policy systems thereby enabling them to accompany the performance of their representatives more effectively. That would undoubtedly put pressure on the representatives who would be obliged to do their best to show the citizens that the decisions they were making were the best possible in the given situation.

Gutmann and Thompson (1996) also stress the worth of having all political acts properly justified not only in the case of political representatives but also by the States bureaucrats in their routine work. In that way the strengthening of continuous and interactive accountability processes in the various spheres of the State would contribute to the transformation of the citizens into permanent partners, leading to greater transparency and efficiency in the public policies system.

To that end the pro-deliberative authors defend the idea that the justifications and the general information available in the public system should be widely publicized enabling the public at large to participate in the justification process. Imagine a situation in which society is invited to take part in a public consultation on the regulation of the telecommunications sector. That cannot possibly take place unless the respective regulatory body makes statistical information on the sector available, such as how many users have telephone lines, which regions



of the country have the greatest deficit of services, mapping of digital exclusion etc. So to make feasible a system of justification and reason provision such as deliberative democracy's proponents wish to see, it is indispensable that the general level of information on political problems should be high and that there should be ready access to it for all.

Furthermore, one of the deliberationists' greatest challenges is how to develop practices that will permit fair and equal representation in the deliberative processes themselves. Deliberationist authors are particularly critical of the position of Robert Dahl (1989). In that author's particular, liberal vision, democracy functions better when it brings together institutional conditions that foster free and fair competition among interest groups seeking for power, a situation that he refers to as polyarchy.

Dahl feels that rather than promoting spaces for participation, it is more relevant for the state to strive to ensure the representation of the greatest possible diversity of interests at the discussion table. The practice of this pluralist scheme, however, should, he believes, be conducted by the representatives of associations, companies, communities and any other kind of group interested in public policies.

Dahl sees polyarchy as provoking the decentralization of decisions, given that, for better or for worse, the main forces in play will be represented in the political negotiations. That point is criticized by Davis Held (1987), however, who does not believe it is possible to fairly represent groups so very different from one another in terms of power and influence and also there will be an absence of representation for those interests that do not have such well-organized and well-structured groups to defend them.

Fishkin (1991, p. 92) probes even further into the challenge of how to conjugate participatory experiences that allow for high levels of power of decision and egalitarian representation of the multiple voices. In other words, what Fishkin is referring to is the unfeasibility of reproducing today the conditions of direct deliberation that existed in the arenas of ancient Greece. In modern mass societies national voting in the election systems, as well as referenda are examples of experiences where there is indeed formal equality in terms of participation (one person, one vote) but little or no prior deliberation.

On the other hand, the system of parliamentary representation would be one offering great capacity for deliberation because, after all, the congressmen have various opportunities to discuss the issues that

come before them for their legislative perusal. Nevertheless, as Fishkin points out, the influence of large corporations and pressure groups can lead to considerable distortions in the equality of representation and consequent harm to the chances of expression for minority or disfavored groups. What Fishkin offers as a solution to those problems would be what he refers to as a 'deliberative polling', a practice that will receive closer attention later in the book.

Whether it be in the form of participation pure and simple, or by means of more complex deliberative processes, there is a considerable set of scholars that set high store on the institutionalization of interactive mechanisms as a means to achieving social justice and they insist that for it to happen ways must be found to include a wider variety of voices in the participatory process, especially the voices of those in less favorable socio-economic conditions. That is what underlies the concern of deliberationists to guarantee various forms of participation that could overcome the difficulties certain groups have to face to be able to take part (BOHMAN, 1996; DRYZEK, 2004).

Criticism of deliberative democracy

There are also many criticisms made of deliberative democracy some of which are the same as those made of the non-deliberative participatory proposals. Among examples of such criticism are, difficulties associated to the sheer territorial dimensions of large and medium-sized countries, the problem of the dedication required of the individual to prepare/qualify himself for effective participation in such processes, the growing complexity of administering social forces that are ever more varied and changeable, 'liquid' to use Bauman's (2000) term, and the need for an in-depth specialization that the technical aspects of public policies demands. Those are just some of the limiting factors arraigned against the implantation of efficacious participatory and deliberative processes.

Furthermore, as Marques (2008) stresses, there are more direct criticisms of the deliberative model such as: its failure to address the question of apathy and lack of interest and motivation on the part of the people to take part in political decisions; the unfeasibility of deliberation on a grand scale; the difficulty of achieving consensus or cooperation in an environment charged with tension and competition stemming from the interplay of different interests; the generalized disdain for the kind of negotiations and bargaining that are a usual



part of politics; and the cognitive deficiencies of the people at large, among other aspects.

As mentioned above, a deliberation presupposes certain conditions that are normally difficult to obtain on a regular basis among them, rational discussion orientated and moderated towards solving the social problems in question. In other words, the discussion needs to be organized in such a way that the inequalities present among the participants in terms of their economic power and differences of gender or 'race' for example are not reproduced in the debating platforms.

Sanders (1997, p. 370) argues that the deliberative model does not manage to eliminate or even significantly reduce the differences of status and hierarchy in discourses in a way that would ensure that the perspectives of all the participants would indeed be seriously considered in the discussion; nor does it guarantee that particular, segmented interests will not predominate to the detriment of the quest for the common good.

As an alternative to deliberation Sanders suggests that, to enhance value and contribute to the debate, it would be better to use forms of expression that are not necessarily aligned in rationalization and moderation processes, but rather, more individualized inputs alongside those that are aimed at the common good that the deliberationists defend.

Sanders believes in other ways of expressing opinions in public discussions such as the testimony of witnesses, narration of personal stories/histories, the words of a song or a video recorded specifically to explain a given idea. In that situation the people involved would not be engaged in an effort of alignment to compose a 'common voice' as the deliberationists Cohen and Rogers (1983, p. 17), recommend, but simply addressing the need to express their points of view in a much broader perspective of participation.

In support of this last argument, Hooks (1990, p. 27) points to the example of Afro-American artistes in the United States that use Rap music to express their criticism, explaining and questioning the problems of social and racial marginalization of the black suburban classes in that country.

Another author, Walzer (1999), explains how the 'atmosphere' of cooperation would be almost impossible to achieve in certain situations where power is being disputed by groups with little or no propensity for listening to or analyzing in a rational manner even the best of arguments, because many such actors are disposed to go to any

lengths to ensure they get their way and that includes using subversive practices, corruption, disloyal bargaining, and many other means.

1.6 Participatory and deliberative experiments

In practical life, participatory and deliberative democracy have shown themselves in different ways, especially since the 1990s, and in various formats and contexts around the world. Whether it be with a focus on local or regional government, in national or even supra-national deliberation processes, participatory and deliberative practices, whether furnished with information and communication technology or not, have taken increasingly varied forms and brought in vary varied results.

Many authors have endeavored to classify those experiences, among them Sherry Arnstein (1969), who in the 1960s was already observing the differences among participatory practices ranging from timid attempts merely to keep the citizens informed about the affairs of the State to other more robust processes that actually inserted the ordinary citizen in the decision making process as happened in experiments with forms of direct democracy. Goss (1999, p. 23) is another author who proposed his own public participation typology: availability of information, public consultations, innovative experiences with participation, group decision making and adequate support for decision making.

In the light of the great enthusiasm that has arisen recently for new participatory experiences, more contemporary authors have been able to obtain empirical study material to enable them undertake that kind of typological work. Archon Fung (2007), for example reports on a variety of participation experiences and identifies the differences among them. Those differences, in his view, stem from the institutional choices made by the public administration, which show themselves to be a determining factor in defining their design and, as a consequence, their results.

Fung has coined the term mini-publics to denominate deliberative practices that “intentionally gather citizens in discrete bodies to discuss or decide matters of public concern”. He refers to small and medium sized discussion arenas whose participants are a sample of society selected on the basis of random criteria. Thus the concept of mini-publics presupposes the existence of an attempt to bring in to the public discussion those who normally have no voice in deliberative discussions, thereby reducing inequalities in participation stemming from factors



such as economic power, gender, schooling level, or positions of power and control over the means of communication and production.

By means of a series of analyses of certain participatory experiences, mainly in the USA but in some other places as well, Fung has arrived at a classification of the empirical world of the mini-publics whereby he identifies four basic models of institutional design that predominate. Initially the *educative forum* is typified by its attempts to create almost ideal conditions for the citizens to form, articulate and refine opinions on a given subject by discussing it among themselves.

Deliberative Polls are a good example of an educative forum. In this model put forward by Fishkin and Luskin (2005), a random selection of participants leads to the formation of a heterogeneous group which is exposed to balanced information on the issue under discussion and then stimulated to listen to and weigh the arguments of all. Before the discussion and after the deliberative process the participants have to answer a questionnaire and express their opinions on the matter being discussed. In short, those authors conclude that the final result of the process is a change of opinion on the part of some of the participants and a general enhancement of tolerance of other people's ideas. People in the group do not necessarily become either polarized in their way of thinking or homogeneous.

The second type of mini-public called a *participatory consultation panel* aims not only to improve the quality of peoples' opinions on a given issue, but, like the educative forum, to align the participants' preferences with the public policies. It generally takes place in situations where there is more intense interaction between non-governmental organizations and state bodies. The Citizen's Meetings organized in some American cities by America Speaks¹¹ is a good example of this kind of deliberative experience.

In October 2001, three thousand five hundred people came together in Washington to deliberate on the strategic planning proposed by then mayor Anthony Williams. Every imaginable kind of city resident attended. The organizers had made strenuous efforts to involve low-income communities and certain minority groups normally left out of decision making processes and Fung reports that the mobilization effort was highly effective. The universe of those attending did indeed faithfully represent the composition of regional society.

¹¹ America Speaks is an American civil institution that has been organizing deliberative events in the USA since 1995. Its website is <http://americaspeaks.org/>.

Participants had the opportunity of getting to know the government's programs and expressing their preferences as to what investments should take priority in the coming years. At the closure of the event the government announced that over 700 million dollars were going to be invested in those services selected by the citizens attending the meeting. Skeptics argue, however, that those investments would have been made anyway and the government merely used the event to legitimize its prior decisions. Another problem with this kind of event is the high cost of organizing it, because it calls for a large group of facilitators to transmit information, articulate discussions and finally, to identify and formalize the preferences expressed by the participants.

Another form of experience that Fung points to as also being an important way of defining participants' preferences is exemplified by the health planning process in the state of Oregon where it took the form of consultative/participatory panels. In 1990, 46 community meetings were organized in which 1,003 ordinary people took part for the purpose of arriving at a consensus on the amounts to be allocated to finance health services in the that American state.

The government was interested in extending medical care to reach low-income populations. Given the limitations on the total health budget, certain kinds of treatment and medical conditions needed to be given priority over others. To make the decisions on priorities a Health Services Committee composed of experts was set up. There were legal provisions in place however that required that the committee's decisions should be based on criteria established by the community. Fung explains that because the committee's work was on a voluntary basis, that is, only those who wished to, participated, it, ended up by being predominantly composed of professionals, specialists and individuals with high socio-economic status. In spite of that drawback, Fung considers that the whole process was carried out in alignment with excellent deliberation rules.

At the end, the criteria indicated by the community for prioritizing services were, prevention and quality of life, followed by cost/benefit ratios, feasibility and equality. Based on those values indicated by the community the Committee selected 706 medical conditions/treatments that would take priority in the care services offer. In spite of the fact that participants did not effectively represent the overall composition of the local population, the results were considered to be very satisfactory, according to Fung, because the process set in motion by involving the community and the press coverage it received created strong support from society at large for health planning in the state of Oregon.



The third form of deliberative participation that Fung describes introduces an additional element into the discussion process, namely, problem solving and accordingly the process is called *participatory collaborative problem solving*. In addition to embracing the selection of policy and fund allocation preferences, the process also stimulates the selected social group to make active contributions towards solving the particular public problem that is calling for State action.

In the case of community policing in Chicago, for example, residents joined their efforts to those of the police and representatives of other public bodies in a bid to address security problems in their region. The Chicago Police Department divided up the city into community policing areas and encouraged meetings between residents and police officers to discuss ways of combating violence in the neighborhoods. The groups that met defined priorities, designed combat strategies, distributed specific tasks to members of the police force and members of the local community, reviewed the success of previous strategies and kept up an ongoing accompaniment of the implementation of all their collaborative endeavors.

Fung identifies some important points in that process. Residents from poor neighborhoods have a higher rate of attendance at such meetings because they suffer more from the problem of neighborhood violence than their counterparts in better-off neighborhoods. Another point is that the deliberative process unfolded in an unbalanced manner, that is, in some communities there was a stronger support structure with the assistance of facilitators and trainers provided by the police, than in others.

In some communities the outcome of the experience was highly positive and there was visible integration of community and police whereas in others the police were notably negligent and in response the discussion groups set up monitoring committees that began to perform as supervisory bodies exercising control over police actions in the community. Another point was that the police themselves acquired a better grasp of the peculiarities of each community and the best strategies to work with in that specific area.

The main feature of the fourth type of mini-public is that it incorporates voices directly into the policy determining process. Fung sees *participatory democratic governance* as a more sophisticated form of participatory deliberation in which the citizens discuss and define preferences, elaborate strategies and even have the power to make direct decisions on the final result of the policy. Participatory models of that nature seek to

compensate for the strong influence socially and economically powerful groups have on legislative and administrative bodies.

Thus the instruments of participatory democratic governance such as the participatory budget of the city of Porto Alegre would have the property of conceding real power to the poor sections of the population, enabling them to express their wishes in regard to budget allocation priorities, for example. In the situation in question, which began in 1989, the municipal government of the time under the control of the Brazilian Labor Party – PT (*Partido dos Trabalhadores*) organized massive meetings of more than 1,000 people at a time in the city's sixteen administrative districts. In the Participatory Budgets of 1999 and 2000, over fourteen thousand residents took part in the first round of plenary assemblies. Citizens were encouraged to analyze the budget of the previous year and assess to what extent the items set out in them had been effectively implemented.

In addition to the general assemblies, the citizens were enabled to participate in delegations elected to represent their neighborhoods at other stages of the participatory budget process. The overall result in terms of representativity was considered to be excellent with a notable predominance of the participation of the poorer strata of the city's population (FUNG, 2007).

In addition to the aspect of good representativity, Fung calls attention to the educational aspect embedded in the experience. Civil servants were enabled to get in depth knowledge of the citizens' preferences and to identify the circumstances in which given projects achieve success or failure. Similarly, the citizens got to know a lot of details associated to the complexity of budgeting operations as well as exercising democratic practices such as commitment and collaboration.

Fung also underscores the gains that accrue to the fight against corruption and clientelism' in the relations between public administrators, politicians and businessmen, by aggregating transparency to the entire participatory budgeting process. Baiocchi (2003, p. 50) reports how much the city of Porto Alegre improved after ten successive years of applying the participatory budgeting process: ninety-eight percent of residents had access to the public water supply as opposed to seventy-five percent in 1988; and also ninety-eight percent were attached to a sewage system as opposed to forty-six percent in 1988.

As an alternative classificatory system to Fung's and based on different institutional designs and public finalities, Graham Smith



puts forward another way of evaluating substantial experiences in participatory democracy. He analyses a representative set of practices he refers to as 'democratic innovations' that go beyond the conventional forms of political participation like elections, public consultations, focus groups and opinion polls. The democratic innovations all have certain features in common: engagement of ordinary people (not linked to any particular interest group); participation in national or international policies and achieving a reasonable combination of the six fundamental elements (SMITH, 2009, p. 13).

The first of those elements is inclusion, that is to say, the participatory practice must necessarily include a variety of actors representative of society at large with special arrangements to ensure the participation of minorities. Another important feature is that citizen control means participants real ability to influence the decision making process on public policies.

Smith also declares the need for the conditions in which the participatory practice to be structured in such a way as to facilitate informed judgments, that is, there must be a certain minimum condition of information on the issue in question to support the participation of the citizens involved in the experience. The transparency element refers to the indispensable need to allow all participants and observers to be completely aware of the rules of the participatory process and exactly how it works.

Furthermore, the participatory practices must result in structures that are reasonable and that can feasibly be implemented by society and public institutions. The question of costs and logistics cannot be so great that they make the participatory exercise unfeasible. This last element is called 'efficiency'. Finally Smith underscores the propensity of the successful participatory experience to be transferred to other political and social contexts different from the one it took place in so that it should at least be susceptible to being adapted to the vicissitudes of the new context.

Smith divides innovative participatory practices into four groups and analyses all of them in the light of six essential elements: Inclusion, social watchdog control, informed judgment, transparency, efficiency and transfer capability. The main participatory and deliberative experiences, according to Smith, are typical of mini-publics, citizen's assemblies, direct legislation and e-Democracy.

Juries, consensual conferences and deliberative polls are the main models for of mini-publics according to Graham Smith (2009, p. 72). One emblematic mini-public case was the British Columbia Citizens'

Assembly (BCCA), which mobilized a huge discussion on the electoral reform of the Canadian province of British Columbia, Canada, in 2004.

Many specialists believe to have been one of the most significant deliberative experiences ever and that the BCCA deserves special attention in the light of the complexity of its participatory mechanisms and the disappointing results obtained. The provincial government created the BCCA to study electoral reform proposals. 160 representatives chosen by random processes from all parts of the province met every other weekend for a year to analyze the alternatives proposed for the electoral system.

In 2004 the assembly recommended substituting the current majority-based system by a voting system based on proportional representation. That decision was then the object of a province-wide referendum. The terms of the referendum required that to be approved sixty percent of the total number of votes cast by individual voters and sixty percent of the province's 79 districts needed to approve it as well. This last requirement was easily satisfied because 77 of the province's 79 districts approved the proposal, on the other hand only fifty seven percent of the electorate voted in favor. Considering the voting to have been inconclusive, the province decided to put the proposal to the vote again in May 2009 when it was rejected by sixty-two percent of the electorate (WARREN and PEARSE, 2008, p. 10).

Smith feels that one of the great qualities of mini-publics like the BCCA is the inclusion it promotes. Any citizen, on the basis of a random draw, can participate in the process and that means that it is possible to form fairly representative samples of society at large. He also remarks on the high level of participant motivation as compared to other forms of participation.

However, in spite of considering such experiences as strongly legitimizing the respective participatory decisions, Smith observes that the mini-publics still seem to fail to bring in any results with high impacts on the final decisions made respecting public policies, as witness what happened with the British Columbia Citizens Assemblies. It is unlikely that Fung (2007, p. 179) would agree on that point as he has cited the participatory budget as an effective instrument of citizen participation in decision making or as Smith would have it, of social (popular) control.

In fact Smith would classify the participatory budget under this heading of assembly rather than mini-public, because what most typifies the experiences with participatory budgeting is the most basic form of deliberation, namely, in assemblies which have their origin



way back in Athenian democracy. People gather in the streets to discuss public problems and, in some cases, make decisions. Thus in Graham Smith's analysis the volunteers that take part in the assemblies are the result of a self-selection process as opposed to the random selection processes of the mini-publics, necessarily more representative¹².

The third form of democratic innovation deserving attention, in Smith's view embraces referendums and citizens' initiatives: in other words, direct legislation. The experiments with referendums in Sweden, in various American states and Italian cities as well as in some other parts of the world all have in common the fact of making it possible for a group of citizens belonging to a given community, to reject a draft bill or invalidate a given law provided certain requirements are fulfilled, such as a minimum number of signatures for example (2009, p. 112).

Society is also engaging in direct legislation when it put forwards citizens' initiatives which can take place in various ways according to the legal provisions regulating it in each country. The differences among them are related to: a) whether there is concurrent direct and indirect participation (legislative bodies and executive bodies); b) the time stipulated for the presentation and analysis of the legislative instrument involved; and c) the minimum requirements needed to allow their presentation and appreciation, such as quorums stipulated or the number of voting sessions needed to approve them.

In the State of California in the USA, a citizens' initiative can be presented through a direct vote of the population and does not need to be analyzed by legislative or executive bodies. The whole process is only supposed to take a matter of days. In the case of Brazil any draft legislation proposed in the form of a citizens' initiative must be submitted to the National Congress and if approved by the two Houses, go before the President to be sanctioned. Since the Brazilian Constitution of 1988 came into force, there have only been four such initiatives¹³ and none of them has ever really prospered in their passage before the legislative branch.

¹² In the system of self-selection, the participants present themselves of their own volition and register themselves to take part in participatory or deliberative processes. Some critics condemn that form of selection alleging that it could readily favor privileged social groups who have greater inclination to participate in such experiences than others that are almost always left out of the process. On the other hand, random forms of selection would have the advantage of selecting representatives from a variety of social groups all with varying views and opinions on the issue being examined and accordingly that would guarantee a sample that was more representative of social diversity to engage in the participatory or deliberative process.

¹³ Information valid up until March 2, 2011.

The Federal Constitution requires that at least one percent of the national electorate must have subscribed to such an initiative for it to be considered and furthermore the signatures must be distributed among at least five states in which the number of signatures for each state must correspond to at least three tenths of one percent of its registered voters.¹⁴ In reality, the administrative bodies of the Brazilian House of Representatives does not have the practical conditions to evaluate if those requirements in regard to the signatures collected have been met and so for a merely administrative reason, this instrument has been ineffective in Brazil, since its creation.¹⁵

Smith also refers to the case of Switzerland where a model of indirect legislation similar to the Brazilian one was adopted and in the case of proposals to modify the constitution, they too must go before the parliament and the government. The normal requirement is for a minimum of 100 thousand voters (2% of the electorate) which must have been collected within a period of 18 months and be approved by a simple majority of Swiss citizens, and that majority must be reflected in more than half of the twenty-three Cantons.

In Smith's analysis, the way in which the political entity (city, state or country) defines the combination of requirements for co-holding a referendum or turning a citizens legislative initiative into law, profoundly affects the results they obtain. In comparing them with mini-publics and open assemblies, he emphasizes that the former pair are far more capable of putting effective decision making power into the hands of the citizenry than the latter.

Indeed the results of referendums and citizens' direct legislative initiatives are non-mediated expressions of the citizens' decisions, far different, for example from the experiences of proffering advice to government bodies so common in the mini-publics. Another aspect that Smith underscores is the question of inclusiveness associated to situations of one citizen one vote, that is to say that any citizen with the right to vote is eligible to participate.

Another positive aspect of direct legislation is the way it can be made compatible with the representative system. In fact what is proposed is

¹⁴ In accordance with the provisions of Article 61, § 2, of the Federal Constitution and the respective regulatory law nº 9.709/98 (art. 13).

¹⁵ The solution that the House of Representatives found for the problem was to permit Representatives to subscribe to such projects originating as citizen's initiatives thereby legitimizing the power of the initiative because parliamentarians are obviously allowed to put forward legislative proposals. Thus what were citizen's initiatives are then formally processed as propositions without the status or denomination of 'citizens' initiative'.



not to substitute democracy based on political representation,; not to substitute the list of candidates' names on the voting sheets by a list of multiple choice options on certain issues. but instead, for it to function as a complementary decision-making instrument which, at least in principle, makes it feasible to submit certain deliberations to the direct decision of the population at large.

Smith reminds us that the representative systems' institutions such as political parties, normally take part in the entire deliberative process of referendums and citizens legislative initiatives. The problems, however, that result from this particular participatory modality can be attributed to the power of influence and manipulation of the elites in the processes that form the citizen's opinions. Thus the result of a referendum on whether to legalize abortion or not, for example, may well have been jeopardized by the predominant influence of the big media groups and certain powerful vested interest groups during the period the issue was being debated.

Finally, e-Democracy, the last to be mentioned in his categorization, Graham describes as being a set of participatory experiences that involve the use of technology. He devotes a separate chapter to the topic as he does to the other categories mentioned above, open meetings or assemblies, mini-publics and direct legislation.

Among the examples of e-Democracy, he mentions both open and restricted access on-line discussion forums, on-line deliberative polls, and direct legislation making use of information and communication technology – ICT. Smith sees ICT as instruments that boost the powers of essential elements involved in the participatory experiences, namely inclusion, social control, informed judgment, efficiency and propensity for transferal (SMITH, 2009, p. 160).

In that sense e-Democracy can be understood as a field of study that addresses, and is interested in the incorporation of digital mechanisms to democratic practices and the impacts that such incorporation generates on the political institutions. There are various synonyms in use such as electronic democracy, digital democracy, cyber-democracy, hyper-democracy but, in essence, there are no noticeable difference in their meaning. The coming chapters will be dedicated mainly to an analysis of the advantages and limitations associated to the application of technology in participatory experiences, especially in parliaments.

In synthesis, Smith and Fung demonstrate how the results and effectiveness of each participatory experience depend a lot on what they set out to achieve. It remains then to be seen which kinds of

participatory practices, similar to those already analyzed or not, are applicable to parliaments; representative institutes *par excellence*. We can state at the outset that in legislative chambers the participatory experiences will be seen to be predominantly weak in their decision-making powers, serving much more as auxiliary instruments to support the main legislative decision making process.

1.7 Participatory institutional design

So far in this chapter we have examined the discussions on the crisis in democracy, crises of representation and democratic deficits. We have also gone into greater depth examining the theoretical basis of the representative system, endeavoring to combine the ideas of some classical and contemporary thinkers on the issue and addressing in a synthetic manner the critical discussions on the limitations of political representation.

We have also probed into possible solutions and new models for democracy, especially along participatory and deliberative lines, and have tried to report some of the main criticisms directed at those models. Part of the chapter was also dedicated to a panoramic vision of the recent empiric work given the implementation of some outstanding projects designed to foster participation and deliberation in the political process, likewise listing their advantages and limitations.

The aim so far has been to delineate the theoretical context of the study object of this work to enable us to evaluate the empirical part on the basis of the theories described. There has been no intention of exhausting the ongoing discussion of democracy and especially the aspects of democratic representation, participation and deliberation; quite the contrary, the aim has been to situate the discussion thereby enabling us to make further progress in the analysis.

Accordingly no attempt has been made to address the question of whether the so-called crisis in democracy or representativity really exists or whether it has grown to such proportions as to cause concern about the very functioning of democracy. After a quick look at some of the main schools of thought that are critical of the liberal democratic regime we wish to portray, on the other hand, the democratic deficit school which perceives, on the basis of empirical observations, that there are specific problems inherent to the classic representative system.

That is why authors like Archon Fung favor an incremental proposal directed at improving liberal democracy itself by applying



a varied combination of participatory and deliberative practices to representative institutions according to the specific needs of each public policy context and area.

Recent works, as we have seen in this chapter, have analyzed both the benefits and the limitations of such participatory practices designed to 'solve' or at least minimize problems stemming from democratic deficits by implementing more effective mechanisms to ensure participation in the process of elaborating and executing public policies. Marques (2008, p. 156) has listed them as follows:

- a) Citizens can present strategic information to contribute to the improvement of planning and policies;
- b) While it is true that participation may require more time in the process of formulating public policies, especially because of the logistics involved in listening to what a greater number of people have to say, as well as the need to process and organize their contributions in an effective manner, that extra time spent will be compensated for during policy implementation. That will happen insofar as the participatory process will have stimulated people to "behave in a more favorable and less antagonistic manner in relation to the policy" (CREIGHTON, 2005).
- c) Instituting participatory practices is capable of reducing the practices of clientelism and patrimonialism according to the extent the citizenry increments its power of decision thereby reducing the need for bureaucratic intermediaries to address their demands for agility in the execution of works or in administering processes concerning their interests.
- d) The process of gradual gains in participatory skills and knowledge such as identifying the reasons and arguments of debate, as time goes by, will contribute towards curbing arbitrary obstacles set by the bureaucracy to obstruct the progress of policies or the provision of services (ALMOND and VERBA, 1963, p. 171).
- e) The introduction of participatory experiences would have the positive side effects of stimulating the mobilization of civil society to make much better use of such mechanisms (BARBI and JACOBI, 2007).
- f) The opportunity presented to low-income citizens to take part in participatory processes enabling them to become

increasingly aware of their rights in relation to the State and to actively participate thereby making a difference to the decision eventually made can generate great benefits for the democratic system, as witness the participatory budget experience.

- g) Perception of the ongoing benefits accruing from the aggregation of strategic information and creativity stemming from the contributions of society at large could bring about a cultural change in the way political institutions accept and recognize the value of such participation (GASTIL, 2000).
- h) The population's confidence in government institutions that engage in or permit participatory processes could increase. In that light, the gains in credibility would bring with them enhanced legitimacy of the democratic regime (ALMOND and VERBA, 1963).

Thamy Pogrebinschi and Fabiano Santos (2010) conducted a study of a concrete example of social participation that had positive repercussions on the political representation system. According to those researchers, the National Conferences held in Brazil have been decisive forums of deliberation and participation dedicated to the definition of directives to govern the formulation of public policies in the federal sphere.

Those conferences are organized around specific themes by the Executive Branch through its Ministries and Departments. With participants coming in equal parts from government and organized civil society, they are, as a rule, preceded by preparatory municipal, state and regional conferences. Pogrebinschi and Santos report that in the period from 1988 to 2009, eighty national conferences were held involving thirty-three policy areas such as aquiculture and fisheries, social assistance, cities, culture, communication, rural development and human rights.

The researchers point out, as an example, how the process of constructing the National Plans for Combating Racial Discrimination and the Policies for Women reinforced a series of anti-racist and feminist organizations enabling them to participate not only in the construction of the public policies that embrace the causes they defend, but also in mobilizing society to ensure the implementation of the said policies.

The resounding participation of the social movements in those conferences and in the councils that determine the directives that orientate the National Plans have vastly expanded their social legitimacy and consequently greatly assisted the government in the task of transforming them into concrete policies as well as keeping the social



movements mobilized to conduct the monitoring and accompaniment of the entire process.

One of the most important points detected in the results of that research was the posterior approval on the part of the National Congress of legislative measures that inserted into the legal framework many of the directives that had been approved by the conferences, thereby concretizing the institutionalization of participatory and deliberative practices related to the exercise of legislative processes as Thamy Pogrebinsch declares in these terms:

“(…) social participation should not be seen as the opposite of political participation, that is, no antagonism exists between participation and representation and, furthermore, representation in no way implies in non-participation and vice versa, That is to say that participation does not imply non representation. Participatory and deliberative practices such as the National Conferences reproduce internally a similar representative logic to that adopted by the Legislative Branch but the difference lies a) less in the aspect of the supposed absence of electoral and party mediation of the differing preferences of the citizenry and the actions of the representatives, and b) much more in the quality of the deliberations they produce, in the degree of specialization of the themes being debated and in the real possibilities of altering the citizens’ preferences as the process unfolds, insofar as information produced by the civil society sector directly involved with the theme that is the focus of the participatory practice (national conference) is presented.” (2010, p. 59)

Thus, even if we were to consider the current version of liberal democracy to be in perfect working condition without any serious malfunctions as some thinkers would have us believe, it is, nevertheless, increasingly relevant to observe, analyze and try to understand the benefits that might accrue from participatory and deliberative practices applied in parliaments and to do so in at least three main dimensions that are dear to the democratic regime: enhanced legitimacy of the decision making process, making full use of the available social intelligence when elaborating legislation, and enhancing the transparency of legislative actions.

As we have seen, innovative and experimental participatory practices have appeared and spread out around the world, especially from the 1990s on. Many of them have begun to receive the support of information and communication technology which has undergone a geometric progression in terms of its development and now permits forms of interaction that until recently were unimaginable.

The focus of our work from here on will be on analyzing how this technology has can contribute to the development of participatory practices more specifically directed at that maximum expression of representation, the parliament. Truth to tell experiences with a more direct form of participation on the part of the population in the legislative process that have involved such technology have been few and far between and most of them have had little or no impact on the final legislative results as we will observe later on.

The great innovative point whose development intensified in the years 2000 has been the adaptation of technological processes to the traditional non-digital participatory processes, as well as the creation of new experiments and trials. One of the objectives of the present analysis is to evaluate the first results obtained by some of these practices currently being applied around the world, especially in the aspects of legitimacy gains, making best use of collective intelligence and transparency in those parliaments that have adopted them.

Two outstanding scholars and enthusiasts of the idea of developing parliaments that are more permeable to society at large, Stephen Coleman and Jay Blumler (2009, p. 38) envisage a parliamentary system with multiple participatory possibilities: "A more deliberative democracy would seek to connect a wide range of consultative and participatory projects, as well as fragmentary and informal public conversations, to the everyday workings of political policy formation and decision-making".

The panorama delineated by Coleman and Blumler raises some crucial questions that will be the guidelines for the rest of this work. Could it be that the appearance of new participatory practices in parliaments is part of an attempt to carry out an institutional redesign of the democratic State intended to perfect the liberal institutes such as parliamentary representation? Or, on the other hand, could it be that they are superficial experiences with little effect that appear as a product of juvenile enthusiasm that has sprung up around the benefits the internet has introduced? Is there any middle term between those two views?

If we consider the question of legitimacy for example, in what way would participative re-designing help towards including minority groups in the discussion of their interests on the legislative agenda? How effective would the digital systems used for public consultations in websites be in guaranteeing that individuals and groups, usually very poorly represented in the parliamentary context, would have any influence at all in the construction of the legislative texts?



Furthermore, many private organizations have benefited from collective intelligence or as others say, from the 'social capital' of their consumers and clients by making use of ICTs. As an example, the Apple computer company created a platform for software development (Apple Store) that enables anyone, provide they pass through the iPad's filter, to develop applications for their own mobile apparatus Today there are over 300 thousand programs in existence developed by third parties and they have brought with them benefits for the consumers of the applications consumed by means of mobile phones.

In view of all that has been set out above, is it not possible to imagine that parliaments should also know how to take advantage of citizens' intelligence, knowledge and creativity in the process of formulating their policies? Is that really a feasible prospect? In what way can participation really be reflected in the final decisions on policies?

For transparency aspects it worthwhile knowing to what extent the participants in participatory parliamentary experiences are capable of a better understanding of the legislative process or of accompanying the performance of parliamentarians more closely, in greater detail and more effectively. Could it be that such experiences are just for appearances sake, merely to mask the reality and endow with false legitimacy a decision-making process that is not as open as it was intended to be?

Finally, a more intense incorporation of the elements of participatory and deliberative democracy, digital or otherwise, into state institutions like parliaments could serve to channel more effectively the wishes of the people that are not supported by the political and bureaucratic elites that dominate and control the state. Domingues considers that the State in itself is a form of domination and that accordingly, 'citizenship instituting mechanisms' could make it possible, in his view, to reverse the control, that is, enable society to control the State, thereby striking a balance in the relations between the two:

"We need the empire of the State just as we need instituted citizenship; we need serialities of an open and closed type (we do not need to say the former) that are consecrated in constitutional or infra-constitutional law, just as much as we need bureaucratic arrangements, hopefully beyond the sphere of any form of clientelism; dense, tenuous or bureaucratic.

(...)

Thus the state actually needs to be re-colonized by society to make it more representativity of the people's will; it needs grass roots coalitions that are capable of changing the face of contemporary modernity and getting beyond neo-liberalism, fragmentation and administrating

poverty, well as the radical situations of ethnic and religious policy. This is the moment for instituent democracy, – in that sense also participatory, whatever way we decide to divide it – as being self-limiting in regards to guaranteeing each and every one the freedom to debate and disagree in general but maintaining the imperial sway of the Law; it is the moment of constitutional democracy with its elements of instituted citizenship.” (2009b, p. 569)¹⁶

In seeking for answers to those questions, the eventual intention is to investigate the ways in which the development of more elaborate technology-assisted participatory processes in parliaments can contribute to the improvement of the representative system by attuning the representatives and those represented on the one hand and strengthening the direct relations of the citizen and the parliamentary institution on the other.

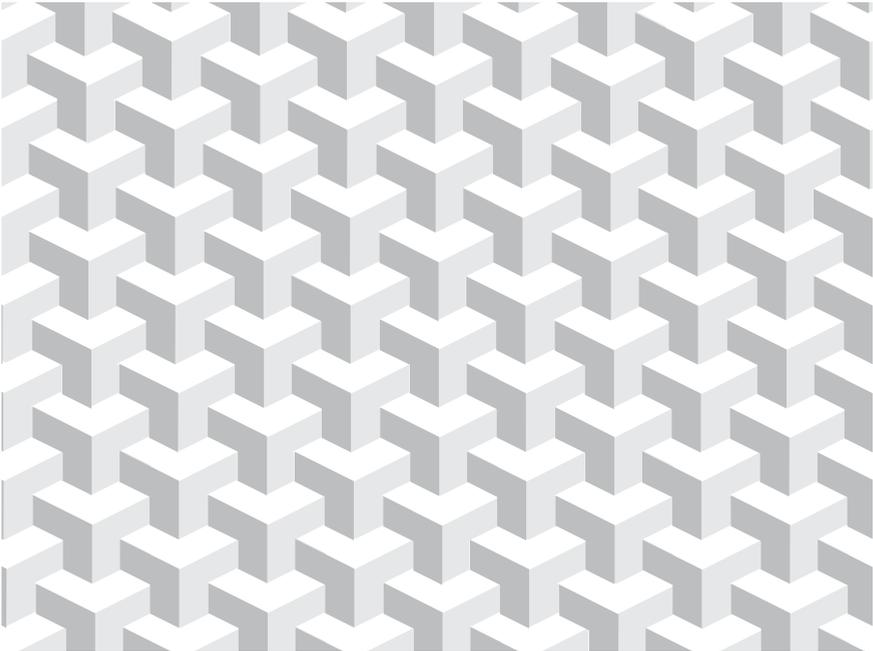
¹⁶ Free translation: “(...) Necessitamos o império da lei, necessitamos a cidadania instituída; necessitamos serialidades de caráter aberto e fechado (não é preciso dizer, em especial as primeiras) que estejam consagradas no direito constitucional ou infraconstitucional, bem como em arranjos burocráticos, oxalá para além de qualquer forma de clientelismo – denso, fino ou burocrático.

(...)

O Estado precisa ser, portanto, recolonizado pela sociedade, de forma que se torne mais representativo da vontade popular; precisa de coalizões populares que possam mudar a face da modernidade contemporânea para além do neoliberalismo, da fragmentação, da administração da pobreza, bem como das situações radicais da política étnica e religiosa. Este é o momento da democracia instituinte – nesse sentido, também participativa, seja lá como a divisemos – como autolimitante no que se refere à garantia de liberdade para qualquer um debater e discordar, de maneira geral mantendo-se o império da lei; é o momento da democracia constitucional, com seus elementos de cidadania instituída”.

2

TECHNOLOGY
MEETS DEMOCRACY



2.1 The advantages information and communication technology offers to the State and society

Participatory democracy theorists have alleged that the limitations of traditional communication media make the exercise of freedom of expression regarding decisions made in the sphere of the state very difficult. That means that any improvement in the general communication such as that fostered by the internet would have a very positive effect in strengthening democracy (ABRAMSON, ARTERTON and ORREN, 1988; BARBER, 1984; DAHL, 1989; ENTMAN, 1989; FISHKIN, 1991; PATTERSON, 1993; PUTNAM, 2000; ROSEN, 1999).

There are many potential benefits that can be obtained by applying ICT to the various processes for achieving political participation and in this chapter an attempt will attempt to show some of them without any pretension of exhausting all the possibilities. Neither does the chapter set out to analyze their effectiveness but rather to exhibit the range of possibilities that can be explored. Following that, the challenges to be faced in applying them to political life in practice will be identified and analyzed and a description given of some of the main categories of technology application in various political processes.

2.1.1 The internet and its almost infinite powers

2.1.1.1 The public sphere organized in networks

Before the advent of the internet, individuals in a modern society organized the production of goods, in the broadest sense,¹⁷ in two ways: as employees in companies obeying orders from their superiors; or as individuals in the market competing on the basis of the rule of prices. The emergence of software production by volunteers, experts in computer science, ushered in a new model of organization for collective production purposes which Yochai Benkler (2006) has called commons-based peer production. That renowned Harvard Law School professor has been outstanding in demonstrating the various benefits that accrue from working in internet-based networks.

In this new model, individuals successfully develop large-scale collaborative projects. Participants are motivated by social incentives of their own and they do not follow the rules or logic of the markets or

¹⁷ We are obviously simplifying the process which necessarily involves other stages such as the distribution of goods and so on.

obey the orders of their superiors in any given hierarchic organization. To Benkler (2006, p. 212) that signifies the emergence of a new public sphere organized in networks. In that light, networks make collaborative work feasible in various ways. As an example, individuals can monitor the public sphere, deflating the power of conventional media forms, and they can also organize political activities. Using the various forms of access to the internet, individuals and groups can become more prone to observe, report, comment on and analyze facts taking on the function of media agents capable of attracting the public's attention to a variety of political issues.

In the same vein as Benkler, one of the most famous network society theorists, Manuel Castells, proposes that humanity is in a phase of change moving from the industrial age into the age of information and driving that movement is the development of the new information and communication technology (1999, p. 77; 2000). While it is still a capitalist society, the product with greatest value in the new model is information and not raw materials or industrialized goods. That implies there will be a brutal transformation in the organizational sphere, especially with the introduction of horizontal relations among people and organizations, parallel to the traditional hierarchic relations:

“Networks are open structures capable of expanding in an unlimited manner integrating new nodes provided they are capable of communicating within the network, that is, provided they share the same communication codes (as for example values or performance objectives). A social structure based on networks is a highly dynamic system susceptible to innovation without that representing any threat to its equilibrium. Networks are appropriate instruments for a capitalist economy based on innovation, globalization and decentralized concentration; for work, workers and companies directed at flexibility and adaptability; for a culture of continual deconstruction and reconstruction; for a policy destined for the instantaneous processing of new public values and humors; and for a social organization that seeks to supplant space and invalidate time. But the network's morphology is also a source of drastic reorganization of power relations (...).” (1999, p. 498)¹⁸

¹⁸ Free translation: “Redes são estruturas abertas capazes de expandir de forma ilimitada, integrando novos nós desde que consigam comunicar-se dentro da rede, ou seja, desde que compartilhem os mesmos códigos de comunicação (por exemplo, valores ou objetivos de desempenho). Uma estrutura social com base em redes é um sistema aberto altamente dinâmico, suscetível de inovação sem ameaças ao seu equilíbrio. Redes são instrumentos apropriados para a economia capitalista baseada na inovação, globalização e concentração descentralizada; para o trabalho, trabalhadores e empresas voltadas para a flexibilidade e adaptabilidade; para uma cultura de desconstrução e reconstrução contínuas; para uma política destinada ao processamento instantâneo de novos valores e humores públicos; e para uma organização social que vise à suplantação do espaço e invalidação do tempo. Mas a morfologia da rede também é uma fonte de drástica reorganização das relações de poder (...).” (1999, p. 498)

In Castells view (1999, p. 498), organizations evolve to operate around projects that have a beginning, middle and end, and not around capabilities (such as the accounts sector, human resources and so on). Thus the 'information age' worker needs to be flexible, capable of adapting to the requirements for inclusion in a given network formed for the unfolding of a given project, and for his exclusion from the same according to the changing needs of the organization.

Domingues (2007) situates the network society in a broader context and as part of a 'complexifying' process inherent to the current stage of living which he refers to as the third phase of modernity, strongly marked by the presence of molecular social movements that form the base for the collaborative networks. A good concrete example of the dynamics he envisages is the environmental movement that has emerged in recent years as a diffuse emerging global right.

In a more specific analysis focused on Brazil the author notes that there is a part of Brazilian society that manifests itself by means of voluntary collaboration and through the new forms of social manifestation, often de-centered and contingent, that is, whose objectives, motivations, forms of internal organization and coordination vary:

"Both classic corporativism and European social democratic neocorporativism are based on hierarchic mechanisms in which the coordination of social action is done through a vertical chain of command chain. The increasing 'autonomization' of people and communities (the expansion of their freedom of action and movement in spite of glaring inequalities in exercising them and the continuation of hard-line domination systems) means that identities and interests are not only becoming more plural but they are also becoming more difficult, or even impossible to control from the top down. Generally speaking the points where a variety of demands arise and where social creativity is practiced in a sustainable manner or sporadically are in the mechanism of networks based on *voluntary collaboration*, and they have provided new forms of coordination of social action and articulation in more concrete levels of social solidarity." (DOMINGUES, 2007, p. 200, author's italics)¹⁹

¹⁹ Free translation: "Tanto o corporativismo clássico como o neocorporativismo europeu social-democrata basearam-se em mecanismos hierárquicos – com a coordenação da ação social realizando-se mediante comandos verticais. A crescente autonomização das pessoas e das coletividades (a ampliação de sua liberdade de ação e movimento, a despeito de desequilíbrios gritantes para exercê-la e a manutenção de duros sistemas de dominação) implica que identidades e interesses não só se pluralizam como também se torna mais difícil, se não impossível, controlá-los de cima para baixo. De forma geral, nos pontos em que demandas variadas surgem e a criatividade social se exerce de maneira sustentada ou episódica, são os mecanismos de *rede*, baseados na *colaboração voluntária*, que têm proporcionado novas formas de coordenação da ação social e a articulação, em planos mais concretos, da solidariedade social." (DOMINGUES, 2007, p. 202, grifos do autor)



Thus the mounting wave of horizontalization and network formation that inundated Brazil in the 1990s increased the feasibility of social participation in the elaboration of public policies and the exercise of citizenship, as exemplified by the much-cited participatory budget. Such factors become even more influential with the abrupt development of information technology.

2.1.1.2 Collaborative knowledge creating mechanism

Perhaps one of the most celebrated benefits of networking is means it provides for the process of constructing human knowledge. The phenomenon would seem to be dramatically transforming the outreach, scale and efficacy of collaborative production, so rudimentary before the advent of the internet.

Benkler (2006) lists certain elements that are crucial to the development of collaborative work in the internet such as the possibility of breaking up the act of human communication into tiny sub-components. Initially that means allowing for human expression in various levels of quality and depth, ranging from the simple emission of an uninformed opinion to a carefully argued and well-founded analysis with a scientific basis.

According to Douglas Rushkoff (2003), the collaborative construction of softwares serves as an inspiration for other possible forms of collaborative work such as the production of legislation:

“One model for the open-ended and participatory process through which legislation might occur in a networked democracy can be found in the ‘open-source’ software movement (...) By publishing software along with its source code, open source developers encourage one another to correct each other’s mistakes, and improve upon each other’s work. Rather than competing they collaborate, and don’t hide the way their programs work. As a result, everyone is invited to change the underlying code and the software can evolve with the benefit of a multiplicity of points of view (...) The implementation of an open source democracy will require us to dig deep into the very code of our legislative processes, and then rebirth it in the new context of our networked reality.”

This set of possibilities the internet offers, to create, organize and distribute human production, has repercussions on the system that motivates collective endeavor. In Benkler’s view collaborative production gives rise to new elements of motivation not found among those that motivate the markets (money) or the corporate world (orders). After all, why would anyone invest time and personal effort in a given project if he or she were not going to extract some benefit? Furthermore, what

would be the cost of organizing this set of collaborative contributions? Who would undertake the concatenation of those contributions?

Benkler believes that there are two essential elements capable of explaining the peculiar system that motivates collaborative work. First of all, the people involved are less influenced by financial incentives than by other incentives of a psychological and social nature. Secondly, the way collaborative work is conducted makes modular, granular production possible and with a low cost of integration according to that author's taxonomy.

In his analysis of the first aspect, the nature of the motivation involved, Benkler Calls attention to three main kinds of incentives applicable to any human activity:

- a) Monetary, referring to an amount of money received directly or indirectly, in the short or long term in exchange for carrying out a given task.
- b) Hedonist, referring to the pleasure that a given activity gives to the agent performing it.
- c) Psycho-social, referring to the benefit accruing to the agent's reputation in the social milieu or to the status the activity confers in on the agent in his or her social environment.

In the case of collaborative work the importance of the psycho-social incentives surpasses that of the incentives associated to market production and corporations where money is the prime incentive. Collaborative construction of softwares is a simple example of this phenomenon and the Linux²⁰ operational system is the outstanding emblem of this working methodology.

In this kind of collaborative endeavor, the benefit accruing to the voluntary participants is the 'good name' they have in the community of collaborators. That social respect functions as a kind of currency and can open many doors to future projects, whether they involve monetary gains or not.

²⁰ Linux is an operational system created by Finnish national Linus Torvald who has become a symbol of collaborative work facilitated by the internet, insofar as since the beginning it has been improved and perfected by a legion of amateur and professional programmers in all parts of the world. In addition to being an open source code, which means that it can be continually improved by voluntary contributions from the community of developers, it is also available free for use by anyone representing, a serious rival to those closed operational systems that have to be paid for belonging to multinational corporations like Microsoft with its Windows, system and Apple with OS.



The second point that Benkler brings up is about the nature of the collaborative work itself. To function properly a collaborative project needs to have the three qualities already mentioned, modularity, granulation and low integration costs. The quality of modularity means that it is possible to break down the overall task into modules or components that can be produced independently of one another and later concatenated to form the whole.

The project has also be susceptible to granulation which means that the collaborators can make contributions however great or small, superficial or profound; and do so in the form of individual inputs in an incremental and non-synchronic manner. The collaborative systems in turn are capable of accumulating and organizing those various efforts undertaken by different individuals with different skills and contributed at different moments. For the whole thing to work in a coherent manner the cost of integration needs to be low; that is to say the various inputs received as part of the construction of the project need to be fitted together with a minimum of human intervention and the system needs to be capable of easily eliminating badly elaborated, noxious or untimely contributions.

2.1.1.3 Accreditation systems

Benkler (2006, p. 383) points out yet another advantage of the internet. The various forms of human expression can be organized or agglutinated by means of systems that analyze the aspects of relevance and credibility:

“Relevance” is a subjective question of mapping an utterance on the conceptual map of a given user seeking information for a particular purpose defined by that individual. If I am interested in finding out about the political situation in Macedonia, a news report from Macedonia or Albania is relevant, even if sloppy, while a Disney cartoon is not, even if highly professionally rendered. Credibility is a question of quality by some objective measure that the individual adopts as appropriate for purposes of evaluating a given utterance. Again, the news report may be sloppy and not credible, while the Disney cartoon may be highly accredited as a cartoon.”

He considers that relevance and credibility overlap to some extent because they both involve more or less subjective perceptions of a given object. Systems to define relevance and credibility have become abundant in the internet and they help human beings to find and select contents that are specifically of interest to them. A good example of

such systems is the Netflix,²¹ a website that makes movies available to its users via internet. After watching a given movie the site user is requested to express an opinion of it on the site.

Thus the website can help the user to select the next movie to watch by making specific standardized suggestions like: “If you enjoyed this movie then you might also enjoy these others”. In another version “Other people that liked this movie (which you the user have approved) also liked these others...”. So the chain of comments leads on. In that way the Netflix site’s relevance and credibility system makes it possible to construct a growing base of information about the individual user’s preferences which he or she expresses voluntarily and which, over time, tend to become increasingly refined.

2.1.1.4 The internet’s distribution power

In addition to the internet’s facilitation of the development and segmentation of contents, Benkler highlights its power of distribution as one of the essential factors driving the development of network mechanisms. In conventional media forms the functions of creating, selecting and disseminating contents is carried out by the media company itself.

The *Rede Globo* in Brazil develops and selects program material for TV broadcasting and its network of broadcasting channels enables it to carry out large scale distribution of the material. On the other hand, the internet makes it possible to pulverize those functions. Thus any musician can come up with a composition of his own, distribute it to various web sites among those available in the internet and the quality and popularity of his work will be evaluated by the relevance and credibility systems of the specialized websites.

Castells (2007) refers to such power of propagation as ‘mass personal communication’. In other words, people exchange various kinds of messages among one another in different formats and levels of profundity that are capable of activating mechanisms that carry out the mass dissemination of those contents. Twitter for example is social network website that allows users to send messages of up to 140 characters into a system that is accessed by literally millions of people around the world interested in accompanying and sharing highly diversified types of information.

²¹ Access at: www.netflix.com.

In other words, Twitter²² is a social network²³ platform that makes it possible to connect people and above all to exchange information. By using key words known as 'hashtags' it is possible to launch a question such as 'Can anyone recommend to me a study on the benefits of a tax reform in my country?' Anyone in the world, especially in the country in question, connected to Twitter and interested in the subject can offer information that is useful to the questioner. Moreover, all those that access such information can, if they wish, pass it on (re-Tweet it), allowing others to receive it.

For political purposes the possible uses of this kind of digital tool are unlimited. The voter that wishes to accompany more closely the movements and positions of the candidates during an election campaign, or the Secretary of Education who wishes to communicate actions being unfolded by his department to thousands of teachers in a particular state are just two examples of the possible political use of such social network tools in the internet. Furthermore it is possible to accompany political events in detail in real time by monitoring how those present at the event describe their impressions in short messages.

2.1.1.5 Access to information and knowledge management

Patrícia Marchiori (2002, p. 72) states that access to information and the possibility of managing knowledge are among the greatest benefits conferred by the internet. In her view, the technological potential is capable of sustaining "broad access to information, the convergence of different types of information (textual, auditory, graphic, visual, etc.) in information entities (or objects) which can be composed and made available according to the particular needs of any given individual or group".

In the organizational sphere, Caldas and Amaral (2002, p. 96, 97) underscore the need to implement knowledge management mechanisms that include the identification, analysis, interpretation and evaluation of the specific knowledge of each organization in order to make better use of resources and enhance satisfaction in their

²² Twitter can be accessed at: www.twitter.com.

²³ Social networks are social structures consisting of people or organizations connected by one or various types of relations and that share common objectives and values. One of the fundamental characteristics that defines such networks is their openness and porosity which make horizontal relationships prevail among participants rather than hierarchical vertical relationships. The virtual social networks are specific groups or spaces in the internet that share information, ideas and emotions among one another which may be of a general nature or more specific and may take many forms (texts, images, videos, audio, etc.). Softwares and applications that are typical of the internet support the organization, interaction and registration of contents and members of the social networks.

market, enabling them to provide conditions facilitating adaptation to circumstances.

Marchiori states that the possibility of almost unlimited access to information in the internet may well contribute to strengthening democracy but for that to happen the information must be not only accessible but also organized and properly managed. As the discussion in Chapter 1 made clear, thinkers believe that well informed citizens have a better chance of enriching public opinion as a whole, of paying more attention to politics and of eventually making better decisions when they are involved in political processes (DAHL, 1989). Well informed citizens would also be better qualified to contribute to the social capital that is needed to strengthen democracy (DEWEY, 2004; PUTNAM, 2000; CALLAN, 1997). Fishkin (1993) also believes that expanding access to information in a bid to reduce the informational gap makes it possible to minimize the differences in individual capabilities in their political participations and the effects of voters' ignorance.

However, to take advantage of those internet benefits, Marchiori insists that investments must be made in providing individuals and groups with essential skills related to the creation, search for, analysis and interpretation of information. Furthermore, as the information demands are becoming ever more complex and dependant on a multiplicity of different sources, it is becoming increasingly important to the decision making process that the quality of the sources themselves should be accurately assessed.

Marchiori also warns about how the ongoing development and substitution of technologies challenges the skills of laymen and information professionals alike in their bid to understand them, dominate the use of them and effectively manage them. That is even more relevant in the case of civil servants that staff the State's bureaucracies.

As it is usual for the institutional rigidity installed in public bodies to stifle and hamper the development of more agile processes for incorporating innovation and modernization, so the discrepancy between the information management needs of the public authorities and their technological conditions and qualifications of their human resources gradually increases. That is what we will be examining in coming chapters where analyses will be made of actual cases.

2.1.2 How the internet benefits politics

2.1.2.1 Social mobilization and political participation

According to Zhang et al. (2010, p. 2), political participation can be understood in two ways: civil society participation, or political participation as such. The former refers to engagement in community work by means of actions that have no relation to government or elections as for example voluntary work to help the elderly or needy children in the neighborhood's community center. The second meaning embraces all activities related to participation in formal political processes such as election campaigns or the formulation, implementation and monitoring of public policies (DELLI CARPINI, 2004). Distributing pamphlets on behalf of a candidate in elections for the House of Representatives, or sending in suggestions regarding the formulation of legislation would be examples of this second understanding of the term.

Recent political science and political sociology works have reported on a series of studies to support the thesis that the internet stimulates political participation (in both senses) because it allows for greater access to politically useful information, facilitates discussion and fosters the development of social relations, as well as providing alternative forums for political engagement and expression (POLAT, 2005; WARD et al., 2003).

In that direction, in his analysis of the websites maintained by the parliaments of Latin municipalities, Carlos Batista (2009) noted how making information available on how they are structured and how they work, offering access to parliamentarians and opening up digital communication channels between the public and the parliaments qualifies the respective communities to take a more active and participatory role and to accompany the actions of the parliamentarians. In Batista's opinion that generates a virtuous cycle that greatly benefits democratic institutions because a society that is more highly provided with information and access can demand a better performance from its local legislative bodies (also BATISTA and STABILE, 2011).

The 'participationist' line of studies has much to say on the benefits of using e-mails and other internet instruments to facilitate social relations (ROBINSON and MARTIN, 2009; WELLMAN et al., 2003; BOASE et al., 2006; CASTELLS et al., 2003, among others). Their body of research constitutes a counterpoint to another range of studies referred to as 'isolationist', which considers the internet to be a factor

that generates self-isolation (KRAUT et al., 1998; BARBER, 2001; SHAW and GANT, 2002).

According to the participationists Wang and Wellman (2010), the internet, like the telephone and face to face meetings facilitates the making of new friends as well as keeping in touch with family members. Their study also showed that internet users actually have more face to face meetings with friends and more involvement in civic activities than those that do not use it.

Based on a survey of Canadians' habits in regard to the internet, Veenhof et al. (2008) found that people use the internet to intensify their existing social relations by arranging live meetings with them. In addition to arranging face to face meetings and telephone contact, friends exchange e-mails, talk to one another in on-line chat spaces, send instant SMS messages via telephone and communicate by means of blogs.²⁴

Veenhof et al. also concluded that the internet brings about changes in the forms of civic participation. The authors detected signs of a reduction of participation of the ordinary citizen in his geographically defined community (neighborhoods, districts, cities) but at the same time the internet fostered the formation of other communities bound together by common interests and whose members may reside in different cities, states or even, in many cases, in other countries. That means that internet users became less focused on political and civic activities in their immediate surroundings and preferred to concentrate on social relations associated to their political interests, such as the environment, education, and so on.

Another aspect addressed by the same study was the changes brought about in the ways internet users access information they are interested in. Because the internet offers access to every and any type of information, the common-interest based communities organize themselves in a way that offers greater abundance of specific information. Thus an internet user with access to all the information carried by the main media (newspapers, television, radio) complements it with the information available in the internet, which also reverberates the information offered

²⁴ The word Blog comes from Web Log and it is a website that is structured in a way that allows for rapid updating by adding material referred to as 'posts'. The posts are usually arranged in a reverse chronological order and they will usually have something to do with the blog's theme of interest. Depending on the policy of the blog's proprietor a variable number of people may be allowed to add posts many blogs offer comments or news items on a particular subject, while others function more like an on-line diary. A typical blog will contain texts images and links to other theme related blogs or media. Usually the feature that enables readers to post their comments and in that way interact with author and other readers is usually an important part of any blog. Source: Wikipedia with modifications.



by the conventional media and vice versa. In addition, the internet user checks information with friends and contacts in the specific theme-based social networks and then goes back to accessing the conventional media and on internet websites. Thus what Veenhof et al. found was in fact a continuous circle of seeking information and validating it.

Based on an analysis of twenty-eight studies all of which investigated (internet) effects, Boulianne (2009) concluded that there was a subtle connection between political engagement and internet use. She singled out two groups of researchers interested in the impacts the internet has on political and civic engagement.

Pippa Norris (2000) belongs to the first group and believes that the internet facilitates involvement in political activities for those that are already engaged in them anyway or that are predisposed in some way to conventional political activities and that what forms is a virtuous cycle. The internet intensifies that vocation because it cuts down on the time and effort required offering greater facility and opportunity for participation (also BIMBER, 1999; BONFADELLI, 2002; DIMAGGIO et al., 2004; HENDRIKS VETTEHEN et al., 2004; KRUEGER, 2002; NORRIS, 2001; POLAT, 2005; WEBER et al., 2003).

The second group feels that the internet catalyses the ingress of new participants because it offers better access to information (BARBER, 2001; DELLI CARPINI, 2000; KRUEGER, 2002; WARD et al., 2003) and in doing so reduces the deficiencies in knowledge and information usually blamed for non-involvement in political activities. In Delli, Carpini and Keeter's (1996) view, for example, greater access to information can have a positive effect on the differences in knowledge levels between rich and poor, men and women, the young and other age groups. Furthermore, Nam (2010, p. 307) found that the internet had a positive influence on both groups, that is to say it facilitates the participation of those that are politically active off line and at the same time stimulates the activism of new participants.

In addition to the research referred to above there have been others that obtained important results by showing that there is indeed some form of relation between the real world (off-line) and the virtual world (on-line). The central idea that this discussion seeks to stress is the use of information and communication technology, particularly the internet as an instrument to intensify those social relations that could have some impact on politics in general but more especially on the public policies system which is the object of this thesis.

Zhang et al. identify the existence of a relation between the two worlds, the real and the virtual. In short, according to the research reports they studied, individuals access the internet to meet people that they know in the real world, that is, people that already belong to their social circle. The research survey in question was conducted by telephone among the residents of a city in the American Southwest and it investigated the use of social network websites like Facebook, MySpace and YouTube.²⁵ The results they obtained revealed that those websites not only increased existing social bonds among homogeneous communities but also stimulate the formation of additional social capital (bridging) among the heterogeneous groups.

The analyses of virtual communities conducted by Batista and Brandão Junior (2009) focused on the virtual communities²⁶ created by supporters of presidential candidates during the presidential elections of 2006 and they noted that such communities were largely used to organize the network of militants and collaborators (including the facilitation of contact with the off-line volunteers) rather than for promoting any discussion on the candidates' proposals or for attempts to win electors over.

2.1.2.2 Applying technology to foster participatory and deliberative democracy

Now is an important moment to outline some aspects of technology as applicable to participatory and deliberative practices because there has been a lot of discussion on its potential effects on democracy as, for example, in the works of the English scholars Coleman and Blumler (2009). They propose that some of the greatest obstacles to the development of deliberative democracy can be overcome by applying ICT to certain participatory processes.

For example, one of the common criticisms of deliberative democracy is that not all people have the same amount of free time available, which means that apart from those that are politically engaged anyway, it will be those that are better off financially that will be in a better position to dedicate themselves to acquiring information of political interest, participating in political activities and sacrificing their free time to take part in to political life in some way.

²⁵ Among the most important sites that facilitate social relations are www.facebook.com, www.orkut.com, www.ning.com, www.twitter.com, www.myspace.com and www.youtube.com.

²⁶ Virtual community is a community that establishes relations in virtual space using means of distance communication. It is typified by agglutinating individuals with common interests who exchange experiences and information in a virtual environment using interaction tools such as forums, blogs, chat shops, polls, etc. Source: adapted from Wikipedia.



Apart from the question of the time needed, the question of physical space also makes a difference because a large group of people together in a given spot for the purpose of holding a deliberative assembly, for example, involves complicated and costly logistics, all the more so when the objective is to discuss national issues in continental-sized countries.

Coleman and Blumler insist that digital tools can greatly assist in overcoming or at least minimizing the drawbacks not only regarding time and space but the problems associated to scale as well and that can be achieved using the auto-synchronized instruments of the virtual debate that make the mass participation of individuals feasible at any time.

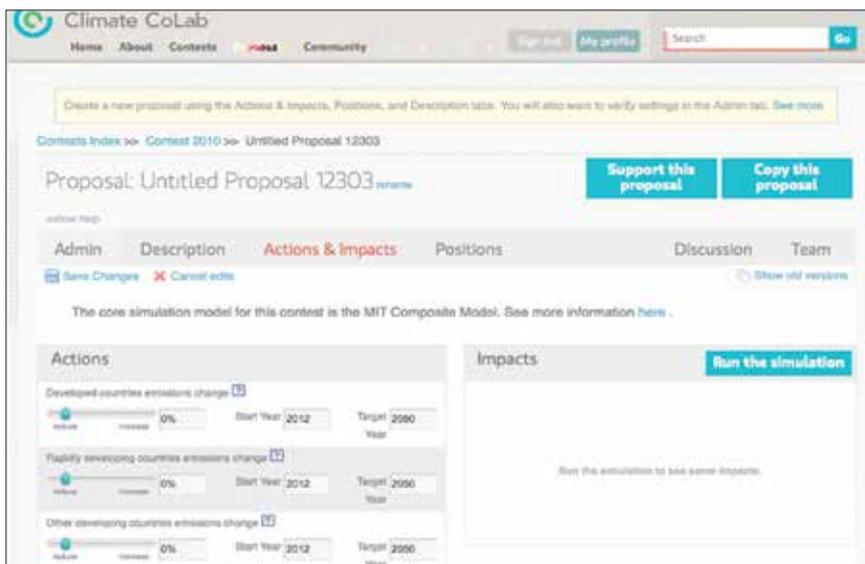
A group of researchers has been working to find those solutions. By establishing semantic associations among terms, softwares manage to provide graphic representations of large scale discussions in course without their participant's having to read every text that is produced (SACK, 2000; BUCKINGHAM-SHUM, 2003; VIEGAS and SMITH, 2004; VERHEIJ, 2005; RENTON and MACINTOSH, 2007; DELLAROCAS et al., 2010).

A good example of that was developed by the Massachusetts Institute of Technology's Center for Collective Intelligence in the USA. It is a digital deliberation platform based on collective intelligence principles, designed for the complex discussion in course on climate change and known as the Climate CoLab.²⁷ It proposes discussion contests whereby it launches a relevant question and invites all those with any interest in the issue to collaborate by contributing a response. In the 2010 contest CoLab posed the following question: "What international climate agreements should the world community make?" Participants were encouraged to propose their own solutions and also to argue the pros and cons of the solutions offered by other contestants and finally to vote for what they considered to be the best solutions put forward. The author of the most voted proposal received the contest prize.

The CoLab also makes reality simulation models available to help participants to found their arguments on possibilities of changes in reality that are actually feasible. As an example, before a contestant suggests any solution or puts forward a proposal he or she must test their idea in the simulator developed by the MIT known as the Composite Model, which combines a set of other climate simulation models and also makes it possible to estimate the costs stemming from impacts and damage done to the environment.

²⁷ The Climate CoLab portal can be accessed at: <http://bit.ly/1FjtK>. Consulted on October 18, 2010.

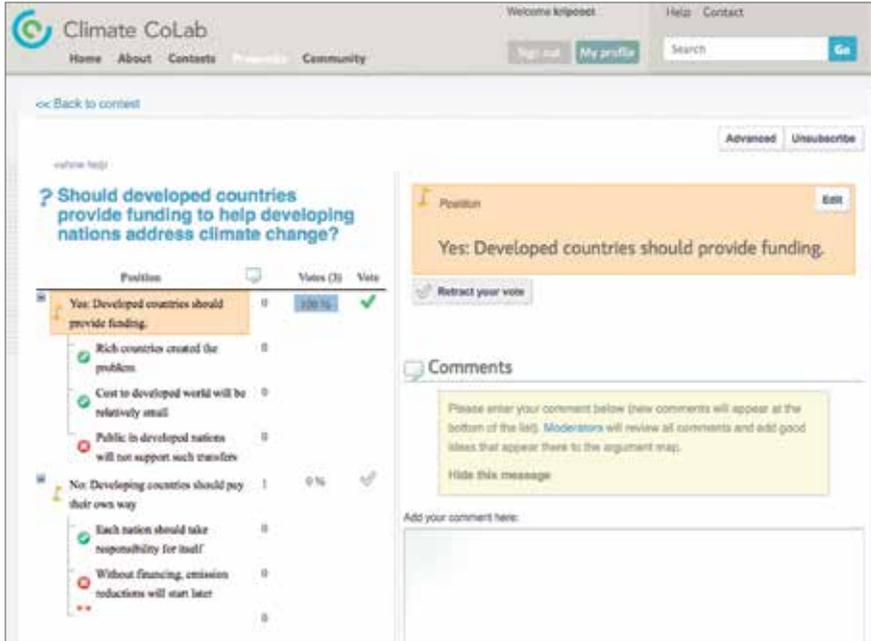
FIGURE 3 – The climate simulator page in the CoLab portal



One valuable feature of the kind of participation facilitated by the CoLab is that participants are also allowed to propose new simulator models which means that the collaborative intelligence is not only applied to the elaboration of the discussion contents but it also works on improving the quality of the very instruments being used to facilitate the debate. In short, this kind of platform stimulates responsible participation in the form of the presentation of proposals based on evidence. With the help of the simulators the portal obliges participants to calculate the impacts of the actions they are proposing and accordingly, to make an assessment of their feasibility.

Another CoLab feature is the way it maps the discussion in course. A person may have no intention of making a proposal (a solution for the problem delineated by the question) but can still participate by presenting arguments for or against solutions proposed by others as the latter are visualized in the discussion maps as can be seen in the image that follows.

FIGURE 4 – Screen showing CoLab mapping of the discussion



The insertion of such arguments into the discussion is moderated, however. The CoLab has a team of moderators to analyze arguments and aggregate them to the corresponding proposal in such a way as to maintain the debates' cohesion and good quality. The breakdown into a generalized disorder²⁸ that is a common problem in many digital discussion forums never happens neither is there any accumulation of deleterious or insignificant contributions from 'noisy idiots' because of the moderating process. The actual cost of organizing the discussion production is low thanks to the interface design which enable organization to be done during the discussion process and not after it is all over. However, even with this self-organizing system in place, the work demands a lot of the moderators whenever there is very large-scale participation (where participants sometimes number thousands).

The main drawback to this form of on-line discussion lies in its 'usability' insofar as it demands that only proposals that have been scientifically simulated should be presented and in its process for moderating the arguments contents the discussion attracts participants

²⁸ It is very common in virtual discussions for the debate to heat up and for order to break down leading to loss of objectivity, getting away from the issue in question, superficiality in the arguments, lack of evidence to support opinions, even heated exchanges of offensive remarks and little residual organization of the discussion.

with a high level of relevant technical knowledge of the subject, but that may also 'put off' other less-qualified, non-specialist, potential collaborators who could eventually have been aggregated to the discussion.

Another problem frequently cited by detractors of deliberative practices, as we have seen above, is that the general public's technical capacity and knowledge is too poor to allow for participation in the affairs of the state (SCHUMPETER, 1976; BURKE, 2009). That limitation would tend to be further exacerbated in the case of digital deliberative practices which presuppose that the participants not only have good knowledge concerning the theme of the public policy in question, but also know how to handle a computer connected to the internet. Many believe that would accentuate the unequal conditions of participation favoring those better off financially and better educated (EBO, 1998; HINDMAN, 2009).

Coleman and Blumler (2009, p. 32) address that dilemma by citing a series of tendencies detected in recent studies showing that there are some differentiated benefits associated to digital political participation as opposed to non-digital (off-line) political participation. And that they have actually overcome some aspects of the said limitations such as engaging new participants. For example some works highlight the fact that participants in on-line debates are more disposed to expose themselves in a heterogeneous discussion than participants in similar experiences off-line (PRICE and CAPELLA, 2002; GRAHAM and WITSCHGE, 2003; KELLY, FISHER and SMITH, 2005; JANSSEN and KIES, 2005; ALBRECHT, 2006; MUHLBERGER and WEBER, 2005).

Furthermore, as the social status of the participants in on-line debates is not apparent, people are able to concentrate more on the contents of what is being said rather than on who is saying it (MCKENNA and BARGH, 2000; STROMER-GALLEY, 2002; KENNY et al., 2007). On-line deliberation also offers greater opportunities for knowledge exchanging and the construction of long-term communities (PLANT, 2004; JOHNSON and KAYE, 1998; DE CINDIO and SCHULER, 2007). There are other studies that find in favor of the mobilizing effect on-line deliberations have on the participants, that is on the group of citizens that feels itself more strongly stimulated to participate in interactions with the State via internet than it would do to participate in events that required their physical attendance (JOHNSON and KAYE, 1998; SHAH et al., 2001; HERRIGAN et al., 2001; PRICE and CAPELLA, 2002).



Another common problem in deliberative experiences concerns the seemingly inevitable process of aggregation of preferences in the decision-making processes. Social choice theorists stress that the nature of preference aggregation in any kind of deliberative practice implies in the adoption of mechanisms like voting, for example, that contribute towards excluding minority preferences and values present in any given group (ARROW, 1963; RIKER, 1986).

Thus the prevalence of mechanisms that favor the decision of a given majority, such as voting in plebiscites and referendums means that certain less well-informed participants, less concerned about the question under discussion can be manipulated by the more organized group of actors highly interested in ‘winning’ in the decision making process. As an example, the personal ‘cost’ in terms of time and effort for a voter to really get to know all the arguments circulating in the debate on whether to hold a plebiscite on the death penalty is very high. Most people are not disposed to waste time on the process. Such a participant falls easy prey to manipulation by those large groups with more intense interest in the issue at stake.

Coleman and Blumler (2009, p. 35) retort that the instruments that are currently available in the internet have presented partial solutions for those problems insofar as they enable collaborative construction of contents that express the a great variety of preferences, and do so in an inclusive manner. A pioneering example of that is Slashdot,²⁹ a virtual discussion space where participants can express their ideas, discuss arguments, pass judgment and define preferences in a very open manner. One of Slashdot’s strong points is its moderating system which makes it possible to continually rectify the inputs of previous moderations, that is, it moderates the moderations thereby fostering a filtering system that is highly decentralized and democratic.

Mouffe (2005) voices yet another criticism of one of deliberative democracy’s proudest banners, namely, the belief that it is possible to obtain consensus that is both rational and universal. It is a presupposition of deliberative democracy’s that the use of reason in argument and discourse is innate to human beings but in his criticism Mouffe emphasizes indifference and other forms of discourse that are not exactly rational and that are brought into play by citizens with different social, cultural and educational backgrounds. Young (2000) is more specific and identifies three categories of such alternative forms of discourse: rhetoric, greeting, and

²⁹ Accessible at: <http://slashdot.org/>.

storytelling which he declares to be emotional, testimonial or vernacular forms of expression quite free from the bonds of reason.

Coleman and Blumler (2009, p. 37) highlight the ways in which the numerous internet instruments like forums, blogs, and chats allow on-line discussion participants to express themselves anyway they wish to, whether it be rationally in alignment with a certain formality and coherence or entirely personally, in a fragmented and informal manner.

Introducing a video with recorded testimony of a witness into a given discussion forum is an example of a form of manifestation that is quite free from the usual deliberative rules. Inputs like that could represent authentic contributions, faithful to ideas and feelings that it might otherwise be difficult for participants to express in more rational and institutionalized formats of deliberation.

2.2 The challenges of applying information and communication technology to enable participation

In spite of the fact that the benefits of ICT for politics are becoming increasingly apparent, especially in regard to political discussions and the development of social networks with political objectives and their interaction with the State, as some of the studies that have been analyzed above were able to show, it is important to bear in mind their limitations and this topic will address exactly that.

2.2.1 Fragmentation and polarization

Cass Sunstein is one of those that have identified some problems in the way the internet facilitates the exercise of politics. In his work *República.com 2.0* (2007), he criticizes the excessive fragmentation brought about by the internet. Because it vastly expands access to information in general and because it makes it so much easier to form social networks, the internet actually functions like a huge open forum where people and ideas circulate freely. According to Sunstein, that unlimited freedom of access and expression can actually be dangerous for democracy.

In addition to access to information and ease of forming social networks the internet also makes it feasible to customize services and individualize preferences. Sunstein gives the example of the Amazon electronic bookshop.³⁰ By making use of a collaborative screening

³⁰ Accessible at: www.amazon.com.



process, on buying a book from the Amazon website, the user receives suggestions of other books on the same subject veiled in statements like ‘others that purchased this book you are interested in also bought these’.

Examining this kind of mechanism in the light of its possible impacts on politics and bearing in mind the example of blogs as instruments that facilitate the expression of political stances, Sunstein observes that such functionalities do allow for greater inclusion of minorities because they are a channel for political expression. In general, however, that facility and freedom to express preferences and opinions about everything and anything including for political purposes, actually generates fragmentation and polarization in the political discussions.

In short, people tend to be more radical when they are given those means to express an opinion and that contributes to downgrading the collective discussion and participation experiences and consequently hinders the quest for the common good, which Sunstein considers to be one of the most fundamental values for the exercise of democracy. In other words, the internet actually reduces the feeling of community.

Sunstein gives several examples of how participants in homogenous groups discussing polemical issues like abortion or the death penalty tend to defend exactly the same position after the discussion is over as they did before it, but to do so in a more radical manner. For example, a person who is a racist will not be likely to change his opinion from having participated in discussions where most or all of the participants defended racist ideas.

Because the internet makes it so easy to define preferences, people tend to choose to participate in internet discussion groups that have something to do with their own affinities forming what are known as ‘argument pools’. A pro-abortion activist will tend to be interested in the discussions of feminist groups for example. In Carl Sunstein’s view, then, the internet can actually jeopardize the possibilities of discussions far richer in their diversity of ideas ever taking place, and such diversity is essential if there is to be any search for consensus and the common good within our grasp.

The overall effect of this process, according to Sunstein, is to generate a greater degree of polarization of positions in the discussion with recrudescence of the positions held before it began. In that light the internet would seem to intensify the aforementioned radicalization process. In the same perspective a recent survey has shown that 94% of political blog readers only read blogs that are

aligned with their segment of the ideological spectrum; that is, left-wing readers will read blogs run by left-wing militants and thinkers and so on. Furthermore, Blog followers are more polarized than non-followers or than consumers of journalistic TV programs. The survey found that followers of left-wing blogs take a more active part in politics than followers of right-wing blogs (FARREL et al., 2010).

However Fishkin and Luskin (2005) contest that polarization argument and point to deliberative practices (not necessarily involving digital instruments) that offer conditions capable of avoiding polarization or bias in conducting the discussions, citing the example of deliberative polling.

These last authors affirm that Sunstein's Law of Polarization is only applicable to situations where one of two factors is present: or there is a lack of equilibrium in the variety of arguments or there is a mechanism of social conformity in operation. In other words, people become more radical in their points of view when the discussion is limited to very few arguments, all of which boost and bolster their existing opinions thereby generating a conservative posture and obviously not very amenable to any change in opinion.

So then deliberative polling would be an ideal or nearly ideal environment in which those undesirable conditions would be overcome thereby guaranteeing that the discussion would be rational, balanced with well-informed arguments and moderation coordinated by facilitators duly qualified for that purpose. In this model proposed by Fishkin and Luskin (2005), as was mentioned in Chapter 1, the participants are chosen by a random process to make up a heterogeneous group exposed to unbiased information on the theme under discussion and its members are stimulated to listen to all the arguments and weigh them one against the other.

Before and after the deliberative process, participants respond to questionnaires and express their opinions on the respective issues. In short, the overall result of this process, say the authors shows that there has been a change of opinion on the part of some of the participants and there have also been gains in the form of their enhanced tolerance for the ideas of others. People do not necessarily polarize their opinions or become homogeneous in their ways of thinking.

2.2.2 Many speak, few listen

Other critics of information and communication technology point to the existence of sophisticated mechanisms of exclusion adjacent to the internet. Mathew Hindman (2009), for example considers the much propagated idea that the internet is essentially a democratic instrument where all those who were formerly deprived of the use of traditional means of expression can now express themselves freely, to be totally false. In his view it is just as important to be listened to as it is to speak. He observes that the great majority of political blogs and websites have very small, or even ridiculously small publics.

Hindman reveals that the ten³¹ most popular American political blogs answer for forty-eight percent of all the followers of such blogs and if a few more blogs that receive at least 2,000 visits a day are added to those ten, that accounts for seventy-two percent. In synthesis, the vast majority of American political blogs, not counting the top ten, only attract twenty-eight percent of the American public interested in politics in the internet. While it may be true that people are free to express themselves in the internet, there are very few of those that do so in the form of blogs that receive the slightest attention.

2.2.3 Those most heard are few

Another internet myth that Hindman shoots down is that the availability of a vast universe of information helps to foster and support political discussions. Because of the incredible volume of information available it has become necessary to create filtering systems such as the renowned 'Search' sites like Google and Yahoo³² in order to decant the information to meet the needs of the individual user.

What has happened is that the major search engines have adopted filtering mechanisms that favor the presentation of some information to the detriment of other. The most popular search engine in the world, Google, for example uses an algorithm called PageRank and establishes a ranking to determine which websites appear first favoring those that have the greatest number of links from other websites.

In short, the most popular websites and blogs will tend to be listed in the leading positions in the Google search system and that will apply to the most popular political blogs and websites too, so they

³¹ At the top of the list is the Daily Kos, which can be accessed at: www.dailykos.com. It alone answers for ten percent of the public interested in politics according to Hindman's research.

³² Accessible at: www.google.com and www.yahoo.com, respectively.

will appear first whenever anyone looks for political information and accordingly they will be the most liable to acquire new followers. The way it is structured generates a system that hypertrophies attention (HINDMAN, 2009, p. 45).

Accordingly, the internet would seem to be developing another form of political exclusion. At the same time as it minimizes the problems of exclusion of political information production insofar as it gives minorities the chance to express themselves, it also creates a new species of exclusion in the filtering that is done in making the information available.

Again Hindman disagrees that the internet broadens the range of political voices because his survey work shows that most of the popular American political blogs are written and run by a very small group of bloggers who, with rare exceptions, all have a very similar profile: a high level of education, predominantly white males and belonging to the American elite.

2.2.4 More information, less reflection

Specialists also commonly identify the super-abundant amount of information made available on the internet as a problem in itself and there has been a lot of discussion about its real worth. There are some that criticize the effects of the internet on the human mind. Carr has identified changes brought about by the internet in the way people read texts, incessantly moving away from the former focus on a more in-depth reading of literature typified by addressing a few subjects and largely involving book reading, to a highly dynamic and superficial form of reading dispersed over a multiplicity of themes in the internet. Carr uses the metaphor of a diver who formerly acquired his information exploring deep down in the sea but nowadays prefers to skim along over the surface on his Jet Ski (CARR, 2008).

Researchers at University College London (UNIVERSITY COLLEGE LONDON, 2008) conducted a five-year long observation of the behavior of the users of two popular websites that offer a wide variety of texts; one of them is operated by the British Library and the other by a consortium of United Kingdom educational entities. The results showed that the great majority of those navigating the sites only read short stretches of texts and rapidly passed on to other material. It was very rare for anyone to read a complete text.

2.2.5 The tenuous relationship between the internet and political efficacy

According to the classic concept enunciated by Campbell et al. (1954, p. 187), political efficacy is “the feeling that political and social change is possible, and that the individual citizen can play a part in bringing about this change”. It represents the golden ideal of all the participatory experiences with political aims, namely, to generate effective impacts on the State.

It is also held to be the fundamental point for consolidating a system of ongoing participation insofar as it affects the citizen’s motivation to carry on participating. After all, what is it that leads people to spend time and energy to make their opinion known about a law of local interest or to perform as an activist in a political group mobilized against companies that fail to respect environmental legislation? The participant continues to be motivated if he or she perceives that concrete results are being achieved in regard to the political objective being pursued. There are authors like Lee (2006) that insist that the internet does indeed vigorously provide the instruments that boost and enhance the possibilities of political efficacy.

He believes that the internet boosts political efficacy insofar as it helps its users to interact with other activist groups that are pursuing similar interests. Furthermore, the internet reduces the costs of participation by enabling the citizen to gain access to the means of participating without leaving his home.

On the other there are many other studies that were unable to demonstrate any robust connection between internet use and political efficacy (JENNINGS and ZEITNER, 2003; LIN and LIM, 2002). Johnson and Kaye (2003, p. 28), for example, report that although the internet boosts a feeling of empowerment in individuals (as if they really did have the power to take part in public decisions) and also heightens the level of political engagement, they were unable to find any evidence of significant impacts on the political system stemming from internet-based mobilization actions. Based on an on-line survey conducted among 422 internet users during the 2000 US presidential elections, the researchers concluded that, at the most, it may have had an indirect influence in strengthening the power of mobilizing the local electorate.

2.3 Categories of digital democracy initiative

Currently there are innumerable citizen participation experiences in course using a variety of ICT instruments that seek to stimulate, facilitate, organize and make feasible the participation of ordinary citizens in issues of public interest that are being processed within the sphere of the State. As we have seen in the course of this chapter, there also many other ICTs that are capable of mobilizing society for other political processes not necessary directly related to interaction with the State but which, nevertheless, seek to promote public benefits such as the actions in favor of transparency and other social mobilization actions.

Authors propose a variety of different concepts and classifications for e-Democracy (KRIMMER, 2009, p. 8), as for example Trechsel et al.:

“E-Democracy consists of all electronic means of communication that enable/empower citizens in their efforts to hold rulers/politicians accountable for their actions in the public realm. Depending on the aspect of democracy being promoted, e-Democracy can employ different techniques: (1) for increasing the transparency of the political process; (2) for enhancing the direct involvement and participation of citizens; and (3) improving the quality of opinion formation by opening new spaces of information and deliberation.”(2004, p. 10)

Although that definition certainly embraces important aspects it needs to be subjected to a critical reflection. It seems clear to us that as Trechsel *et. al*, insist, any form of digital participation must have some form of accountability embedded in it even it be merely in an indirect form. That however does not seem to be the only purpose of digital democracy practices. Especially in experiences where there is stimulus for the presentation of constructive ideas or strategic information in policy elaboration processes, one important objective of the State's is to take advantage the citizens' creativity and knowledge, that is, of collective intelligence to construct more efficacious policies.

Without any pretension to present an exhaustive mapping of categories, the more so because every minute some new form of e-Democracy is being tried out somewhere on the planet, we will nevertheless list at least a few of the more relevant categories inspired on the Trechsel et al. definition albeit with slight modifications.

In the first class of experiences are those conducted by society with political or civic objectives in mind but without any formal interaction with the State. We can refer to it as non institutional e-Democracy and

it encompasses at least four main categories: a) electoral mobilization; b) social activism; c) citizen journalism; and d) transparency.

The second class includes those experiences that are actually organized and provided by the State especially associated to processes like the formulation and implementation of public policies and we can call this kind of collaborative production 'co-production' for the purposes of this work.

In classifying institutional e-Democracy we are not interested here in the experiences of e-government because they are essentially associated to instruments designed to improve the State's efficiency, such as inter-institutional communication and organizational processes within the sphere of government administration, and they manifest themselves chiefly in the form of making public services available via internet. A good example is the on-line income tax returns service or the emission of 'clean record' certificates.

2.3.1 Non-institutional e-Democracy

2.3.1.1 Electoral mobilization

For election purposes the 2008 campaign of then Senator Barak Obama for election to the presidency of the United States has been considered one of the most successful experiences in using ICT instruments to mobilize people during the electoral period.³³ Among the instruments used by candidate Barak Obama's campaign committee were e-mails, social relationship portals, blogs and cell phone messages, not only to organize sympathizers and supporters but also as strategic instruments to bring in new supporters.

One of the most innovative features of Obama's campaign was attributing authority to any sympathizer to 'coordinate' the campaign in his or her locality in whatever way they felt convenient and as often as they wished, according to the opportunities to do so that they descried. In that way the campaign committee valued each collaborative action and each donation, however small and that elevated the volunteers' feelings of their own importance.

By means of a well-oiled digital communication system, the supporters organized themselves and collaborated for the holding of

³³ It is worthwhile mentioning here another pioneering experience involving Howard Dean made his bid for the Democratic Party nomination as presidential candidate in 2004. Dean lost the dispute for the nomination to Senator John Kerry but he did mobilize the use of the internet as an instrument for fund raising as well as for mobilizing volunteer supporters.

events, for activities of digital propagation of the candidates' messages as well as to respond to attacks and provocations proffered by the adversary, Senator John McCain. Via the internet Obama and his fellow party members managed to achieve instant communication with the entire support base and that in turn led to the reverberation of the messages in other communication environments. Thus a virtuous message propagation cycle was formed such as had never been seen before in election campaigns.

At the time, Obama's campaign coordinator John Plouffe had insisted on the need to develop a new communication system to dislodge the support being given by the Democrat Party establishment to candidate for the party nomination Hillary Clinton, when the campaign was still at the stage of internal disputes for nomination within the party:

"Our e-mail list had reached 13 million people. We had essentially created our own television network, only better, because we communicated with no filter to what was to amount to about 20 percent of the total number of votes we would need to win... And those supporters would share our positive message or response to an attack, whether through orchestrated campaign activity like door-knocking or phone calling or just in conversations they had each day with friends, family, and colleagues." (2009, p. 364)

Plouffe argues that lining up a set of supporters and encouraging the multiplication of autonomous canvassing on their part was strategic in order to give Obama the aura of 'a man of the ordinary people' with the message of attributing the same importance to any man or woman; and it worked.

That was only possible however because of the technology of the Web-2.0-based³⁴ communication system made it possible to make real time transmissions of written messages, photos and videos of the candidate, send cell phone messages, and make integrated telephone calls using digital interaction tools like Facebook, Flickr, YouTube and MySpace. The

³⁴ The term Web 2.0 or internet 2.0 refers to refers to the new phase of the internet in the first decade of the new millennium which was marked by the appearance of applications capable of intensifying interaction between man and computer. Thus while the first phase of the internet in the 1990s was marked by the existence of simple websites merely displaying information and e-mails and offering at most the possibility of chats, the internet 2.0 ushered in new applications like blogs, more sophisticated chats (live) and even the possibility of visualizing the image of the person at the other end of a conversation, webinars (digital distance seminars), RSS and a series of other mechanisms designed to support communication and the insertion of contents by users. It is worth highlighting the use of internet associated to other electronic devices apart from the computer, and with new applications such as videogames, digital cell phones and TVs and these last have recently come up with a series of innovative interaction possibilities including new interfaces that mean they can be used in different ways and for different forms of human expression.



communication system made it possible to break the various publics and interests into segments and devise customized and appropriate messages for the different social strata of the population.

In Jeffrey Alexander's (2010) view, Obama's team was highly successful in creating a communication structure that placed a high value on images, emotions, and performance; three aspects that are essential to the construction of a vision of a hero capable of facing up to the great challenges that the country had to address. Indeed, his supporters did manage to get that message widely diffused to the electorate even in the most out of the way corners of America.

2.3.1.2 Social activism

Social activism or social mobilization lays emphasis on the use of the internet as a means of organizing people, ideas and information to further the ends of social, civic, or political movements or causes. In a similar way to electoral mobilization, social activists' powers of articulation through the use relationship portals, e-mails and blogs using computers and cell phones has acquired great importance/visibility especially in countries with authoritarian governments (HILL and HUGHES, 1998).

The differences between electoral mobilization and social activism lie mainly but not exclusively in their differing purposes. The former seeks to aggregate people to benefit the candidature of a given individual or group attempting to take public office under a mandate while the goal of the latter is to favor a cause, which may have a greater or lesser social impact. In the case of social activism it is more commonly marked by spontaneity and a capacity for self-coordination (SPIRO, 1995; PANTIC, 1997; HERRON, 1999). Elections are organized by committees and unfold a series of pre-defined articulated mobilization activities that include the use of digital mechanisms as was outstandingly apparent in the US presidential elections of 2008. Mobilization for social causes, on the other hand, usually arise from self-organized processes in civil society and almost always, spontaneously as for example in the case of the uprisings in the African Arab countries and the Middle East at the beginning of 2011.

Unbridled tyranny may trigger such processes and they may grow rapidly without necessarily having any kind of centralized coordination and that may be because the movement is forced to organize itself in a pulverized and diffuse manner because it would not be strategic to have 'heads' that are easy targets for elimination by repressive systems. When, however, coordination is apparent, then certain leaders run the

risk of being visible and means of camouflaging their identities must be made use of such as using fictitious names and avatars.

The uprising in Minsk in March of 2006 against the Dictator-President of Bielorus Alexander Lukashenko and the protests in June of 2009 against the results of the elections in Iran are examples of that. In the latter case the Internet was widely used as an instrument to mobilize people that were supporters of Moussavi, the losing candidate. As a way of stimulating public protests against a supposedly rigged election, demonstrators placed photos of public events of a phenomenon known as flash mobs on the internet, that is people using their mobiles to produce instantaneous photographic content ready to be made available on the internet.

The most extraordinary episode of the Iranian protests was the images produced by a student whose name, Neli, means voice in the Farsi language and who was shot by the Iranian police during one of the protest marches against the results of the presidential elections that confirmed the re-election of the president in office Mahmoud Ahmadinejad. She died almost immediately. Those images of the last moments of the student which were recorded on cell phones by people that were there, replicated in the internet in various ways were circulated around the whole world. The video became the symbol of the movement against the repression in that country and a means of propagating a message in favor of freedom (KENNEDY, 2009).

In spite of all the Iranian government's efforts to suppress the events, to censure the press bodies and to block activist's sites in the internet, it proved to be impossible to control all the entry points for activists' messages and information. Cyber-optimists like Shirky (2008) believe that such practices, insofar as they give the impression that something is really going on, reduce the inhibitions of potential activists. On the other hand more skeptical observers point out the existence of serious problems related to the efficiency of cyber-activism. In the case of Belarus, according to Mozarov, a tyrannical government knew how to make use of tools available in the social networks of the internet to destroy the uprising. State officials strictly monitored all the messages about the movement posted in blogs. They attended the events that activists had scheduled and either photographed some of the participants' faces for future use or actually arrested people. Even the photographs the activists themselves took and that circulated in the internet were used by the police to identify demonstrators.



Thus Morozov (2009; 2010) sounds a warning as to the potentially dangerous use that can be made of the social networks. Once a given activist is arrested it is easy to identify others by checking his list of fans in Facebook. Morozov makes the ironical comment that an analogical militant, that is one that does not use the internet, would be free from such problems.

2.3.1.3 Citizenship-based journalism

Each day that passes the internet has surprised futurologists with the practically unlimited possibilities it offers for practical life and especially political processes. It is worth noting, because it has a direct influence on politics, the challenges that now face the news media, given the appearance of innumerable freelance reporters with no formal links to journalism companies. In the words of McChesney (2007, p. 10), it is very rare nowadays to find New York Times or a Washington Post reporter that manages to make a news scoop before someone has posted it on some blog in the internet.

The effect of this has been what McChesney calls a critical juncture of the press. This happens whenever there is a revolution in communication technology that has a strong impact on a discredited press in a context of social and political crisis, that is to say, when society is calling for change and the political institutions are incapable of responding satisfactorily. Thus the power of access to information and the capacity for diffusion of the internet have been crucial for conventional journalism.

Herman and Chomsky in the classic work 'Manufacturing Consent' (1998), address the subject of the ways in which news is used by the media to defend the interests of the American elite functioning as a disguised form of propaganda. A very clear example of that was the behavior of the American press after the September 11 event and especially in 2002 and 2003 when it published a series of lies and exaggerations to justify the military invasion of Iraq (RICH and GARDNER, 2006).

In that sense the internet has challenged the misuse of the supposed neutrality of journalism as an undercover way of furthering political ends, as Herman and Chomsky were able to show. In the context of crisis, experiences of so-called citizen journalism began to appear, based mainly on the voluntary support of internet users who, with varying degrees of professionalism, take on the role of accompanying and analyzing facts in an independent manner. As the process of audio-visual recording has now become so much cheaper, any ordinary

person can play the role of an autonomous journalist and often the only working tool with which to do so is a smartphone.³⁵

2.3.1.4. Transparency

Nowadays there are many websites that make information available with a view to enhancing the transparency associated to the activities of public authorities. The experiences in this field are varied as are the aspects they focus on but many of them are directed at the actions of the Executive branch. We will endeavor to present some of the more interesting practices, in this case in the sphere of the Legislative Branch, which, after all, is the main subject of the present work. Some of them concern the performance of parliamentarians in the exercise of their mandates and others concern the legislative institution as a whole.

The portals that will be described here were designed and developed by civil society as a way of compensating for the absence of information or for the parliamentary institutions' either failing to make it available or making it available in very limited amounts. In the view of Pippa Norris (2000, p. 5), parliaments should structure their respective websites in two fundamental dimensions: a) vertically, in the case of providing detailed information on the legislative process and parliamentary activities thereby imbuing the institution with greater transparency; and b) horizontally using communication channels that make it possible for the public scrutiny of the representatives by those they represent and ensure that the former account for their actions.

In an international perspective, comparing the situations in different countries the level of information made available on parliamentary websites varies greatly (BRAGA, 2007; NORRIS, 2001). There are some portals that offer extensive information on parliamentary activities and the legislative processes while others are not so generous. Against that background, the websites developed by civil society are capable of filling the information gaps and they also stimulate and facilitate critical analysis of both the workings of the legislative bodies and the performance of its members.

In addition to the question of the cost of organizing the provision of legislative information, parliaments face problems of a political nature in regard to making certain kinds of information available. As an example, data on the performance of a given representative such as number of

³⁵ Smartphones are cell phones with built in multi-media functions so they not only send and receive telephone calls but they can access the internet, take photographs and shoot videos play music and can be used for entertainment in the form of videogames.

unjustified absences from deliberative sessions or information on the way parliamentarians make use of institutional funds, if revealed, could very well irritate or embarrass certain parliamentary groups and so they generate a certain resistance, on the part of the group, to their publication. Therefore, making available detailed cross-referenced information that makes it possible to form a critical vision of parliamentary behavior has been carried out more vigorously by websites that are external to the institution and they are the ones that offer greater possibilities for transparency and public scrutiny as proposed by Pippa.

Some of the most successful and most emblematic examples of so-called legislative transparency are associated to the American OpenCongress experiment and the British TheyWorkForYou experience. There are similar sites in various other countries but with differences among them that suggest there is a tendency for each country to develop digital tools for transparency purposes according to its own peculiarities.³⁶ The main ventures in this direction in Brazil have been the Congresso Aberto (Open Congress) platform and the *MeuParlamento* (MyParliament) platform. The latter is currently being implanted.³⁷

Some of those experiences offer the possibility of interactivity which represents a different vision of transparency (*Transparência 2.0*), whereby it is not sufficient merely to provide information on the parliamentarians' performances or the legislative process; the citizen himself must be allowed to register his comments, ask questions, raise issues and register his opinion by responding to multiple-choice survey instruments, or by taking part in discussions in blogs, for example.

OpenCongress is an American multi-functional information portal providing information on the United States Congress. Users can vote on proposals for laws thereby registering their preferences and they can also comment on the wording of the texts of the draft or proposed bills. The portal also has an automatic bill tracking system so that any individual can accompany the progress of draft bills.

³⁶ A concrete example of that can be seen in the following comment posted by a website user that was analyzing the progress of a draft bill: <http://www.opencongress.org/articles/view/-The-Vast-Majority-of-Bills-Go-Nowhere>, accessed on January 9, 2010. He refers to a draft bill before the Congress designed to regulate the use of firearms in the country by creating certain licensing requirements. The citizen in his remarks stresses that the bill is unlikely to pass because of the vacillation in processing it and he shows how that comes about in actual parliamentary practice, that is to say, the maneuvers parliamentarians carry out to slyly obstruct the progress of any piece of legislation that they are against.

³⁷ There are similar initiatives in place in France (www.nosdeputes.fr), India (www.praja.org), Australia (www.openaustralia.org) and Italy (<http://parlamento.openpolis.it/>), just to mention a few.

One of the best features of the OpenCongress portal is the system that integrates it with other portals and Web 2.0 devices, which greatly expands its power of disseminating the information it carries. As it combines information provision with interactivity, the website allows the user to gain access to much more than the raw information such as the progress of a given bill or its text. The user can go on to obtain the opinion of experts on legislative process that can contribute towards revealing the reality of the facts in the parliamentary world.³⁸ For example, for each draft bill under discussion there is an option provided to access blogs that aggregate comments on the issue the bill addresses. That helps the user to accompany the discussion on it in the internet.

Furthermore, websites like the OpenCongress help the citizen to perceive the discrepancy between the considerable attention paid by the public to certain legislative material under discussion in the blogs and in the OpenCongress website itself and the generalized lack of interest on the part of the American Congress to deliberate on the issue.³⁹ Thus it also contributes to revealing the preferential topics of interest of American society in general, or at least that part of it that visits the website, as opposed to attention and priority given to other legislative material in parliament based on the preferences of small parliamentary interest groups with a lot of influence.

In the same line of concern for legislative transparency, the OpenLegislation portal is a legislative search engine similar to Google in terms of its design, under the aegis of the State of New York Senate. The user can readily conduct searches by themes, bill proposers' names, recent votes, and select committees.

Once he finds the piece of legislation in question, the user is able to make a comment on its contents and subscribe via RSS⁴⁰ or by e-mail in order to receive updates on it and visualize the later comments of others. Another feature that must be mentioned is that the data is displayed in a format that makes them re-usable so that external developers can construct their own applications thereby contributing to the co-production of ICT tools of public utility like the OpenCongress

³⁸ Accessible at: www.congressoaberto.com and www.meuparlamento.org.

³⁹ Donny Shaw, a political blogger, gives the example of the draft bill H.R.1207 – Federal Reserve Transparency Act of 2009, which is designed to enhance the transparency of the American Federal Reserve <http://www.opencongress.org/articles/view/-The-Vast-Majority-of-Bills-Go-Nowhere>, consulted on January 9, 2010.

⁴⁰ RSS stands for Rich Site Summary, a system that allows internet users to connect to news and information websites. The user will subsequently receive updated systematic feeds of those contents of interest. It is a practical way of obtaining information from various websites at the same time without having to access them one by one.



website. In other words, systems that liberate information like the OpenLegislation feed websites like the OpenCongress. Thus the most important feature of the OpenLegislation is that it serves to boost other transparency portals.

While the tools available on OpenLegislation are very interesting, the OpenCongress offers many more information options as well as displaying contents in visual formats that make it easier for site users to understand. By presenting information on legislative processes in an educational manner, the ordinary citizen, who usually has no special knowledge on the subject, is enabled to gain a better understanding of the intricacies of legislative work as well as to accompany the progress of any given legislative proposal. Such functionality aggregates considerable value insofar as it makes more ‘visible’, that is, understandable, processes like the summary mode of legislative deliberation which curtails and impoverishes the deliberation process. The use of summary processes like the ‘extreme urgency’ regime for voting bills in the Brazilian House of Representatives and in some other legislative bodies as well, shrouds in obscurity the legislative deliberations and the amendments and isolated clauses known as *destaques*⁴¹ that are approved without society’s being duly informed or without their having been sufficiently discussed.

On the other hand, to make projects like OpenCongress, OpenLegislation and TheyWorkForYou function properly, those entities and groups developing the digital mechanisms must have access to primary data concerning the legislative routine and freely supplied by the legislative institutions and other public bodies.

In the Brazilian case, public bodies in the federal, state and municipal spheres of government are all poorly qualified for developing more sophisticated transparency applications or Web 2,0 digital participation tools, that is, the kind of instruments that facilitate interaction in the social networks.

There are two reasons that explain the phenomenon. The first is political: the evident resistance of the more conservative political groups to the introduction of such intense transparency as the ICT is capable of providing, as it does in the examples mentioned above. Consequently,

⁴¹ *Destiques*, in the Brazilian legislative process are parts of a draft bill that are deliberated on separately from the main provisions set out in the text of the bill. It is a technique that is often resorted to separate polemic items when it has proved impossible to obtain political consensus. Voting it separately makes it easier for the parties to come to an agreement on other items in the proposed legislation where consensus is possible.

parliamentary administrative and technical staff do not get the political support they need to carry out more effective actions in the area of transparency. That being so, such transparency projects are never attributed the priority that would mobilize administrative efforts.

The other reason is organizational and accordingly a little more complicated. Public bodies, including parliaments, experience considerable difficulty in developing new technologies and getting them operational. That is mainly because the development of new technology takes place at a fast pace driven by the intense rhythm of the market. In the chapters ahead a more in-depth analysis will be made of this important point.

That is why one of the best ways to minimize the obstacles represented by the low levels of transparency in some parliaments is to simply let society do it, as has been the case with the portal mentioned in this section. The OpenCongress portal for example is a project that has been developed by the Sunlight Foundation, an Americana non-profit organization that develops and invests in actions and projects mainly directed at enhancing government transparency. In a similar way, the TheyWorkForYou portal was created by the English foundation MySociety, which also focuses its activities on projects, fostering social participation in the State and transparency in public affairs. Such endeavors are generally run by nonprofit civil society entities, research institutes and so on. Because they are not bound to any political or organizational processes associated to public institutions they are free to promote digital transparency and participation more independently.

2.3.2 Institutional e-Democracy

In this section we will get to know some technological experiences that have facilitated and stimulated interaction between society and a wide variety of public bodies, and done so as a way of aggregating knowledge, opinion and power of decision that further their institutional ends and meet their needs. This set of experiences represents doorways that the State opens for the citizens to participate in elaborating laws and public policies, organizing public services, implementing policies and even evaluating them. Generally speaking it implies establishing a form of partnership between society and the State. Among the many experiences and experiments, it is worth mentioning that interaction between society and a political party can be seen as a formal co-production process when the interaction occurs in the parliamentary setting for legislative



purposes, for example. However, political parties can also catalyze or participate in social mobilization movements making use of digital means but without any direct repercussions on formal processes in the sphere of the State.

An example of co-production in the sphere of the USA's Executive Branch is the open government policy represented by the Open Government Initiative⁴² implemented after the first year of the Obama administration which has unfolded several e-Democracy actions in the US. One of them is the Open Government Dialogue which has enabled the American citizen to suggest ideas, make comments, define preferences and even collaborate in the construction of the texts of draft proposals on pertinent issues which are likely to be deliberated on during Obama's term of office (BINGHAM, 2010).

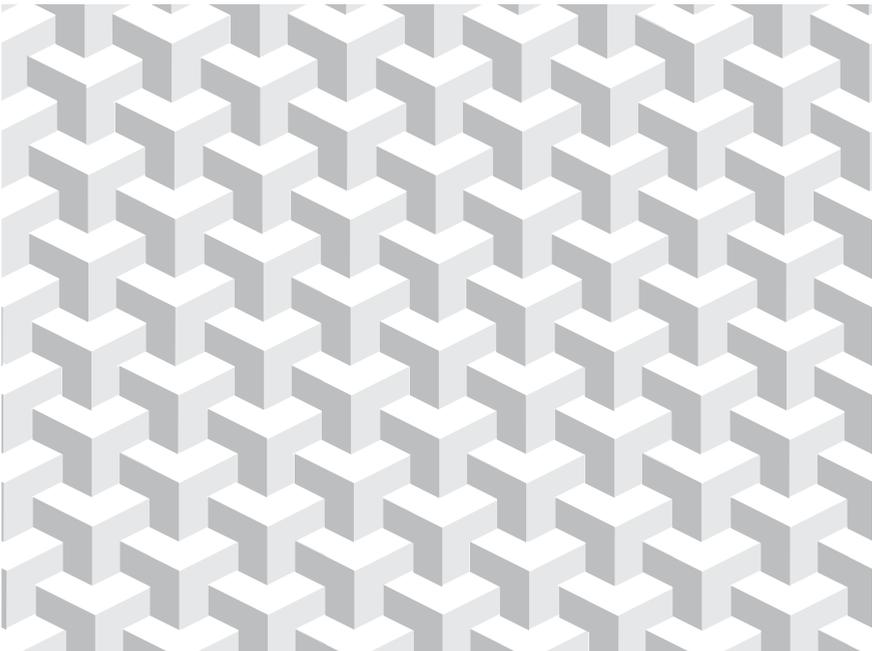
So it can be seen that 'e-Democracy' embraces innumerable experiences such as e-voting, the use of electronic means and devices in the voting process and informal decision making, the e-petition, the presentation of suggestions and requests to government bodies by the citizens, the electronic public consultation, the reception of suggestions and information on specific public issues from society on the part of public boards and agencies; and the digital public participatory budgeting process that enables the public to state its budget allocation preferences. New classes of digital experiences in institutional democracy are constantly appearing around the world.

The work of this book will, from here on, be concentrated on analyzing the manifestations of this kind of e-Democracy, especially those experiences directed at legislative production. The questions are: to what extent is it feasible for parliaments to interact with the citizenry in elaborating legislation or in exercising surveillance and control over the Executive Branch? In what way can information and communication technology help to make parliaments more open, permeable, transparent and participatory? Have experiments and experiences in that direction really been effective? The aim of the next chapter is to start giving some answers to those questions.

⁴² The Open Government Initiative is a management policy of American President Barak Obama designed to unfold a series of actions and projects that seek to enhance government transparency and stimulate the collaborative participation of society at large in the State's activities. For further information follow this link: <http://www.whitehouse.gov/Open>.

3

THE PARTICIPATORY
PARLIAMENT



3.1 Non-digital participatory parliamentary experiments

Before embarking on a full analysis of digital participatory experiences associated to parliaments, it is essential to evaluate the non-digital participatory instruments parliaments employ, that is, those that facilitate, stimulate and make possible any kind of participation in the legislative process or in exercising surveillance and control over public administration, but without any strategic use of information and communication technology.

Even though they may make use of some kind of technological means of enablement, such experiences are not digital democracy experiences. The idea here is to display the advantages and limitations of non digital participatory mechanisms commonly employed by parliaments and later to observe to what extent the digital instruments improve or enhance such mechanisms (or introduce new limitations).

3.1.1 Typology

3.1.1.1 Public hearings

These are the most common means of participation, a classic practice based on listening to what the citizens, representatives of interest groups, experts or authorities have to say in specially designated public sessions⁴³ which may be associated to specific collegiate bodies such as before parliamentary select committees, or in less specialized environments such as the plenary sessions of legislative bodies.

The main aim of the practice is to obtain technical clarifications on given aspects of proposed legislation or to sound the opinion of organized civil society on an important legislative question (FARIA and VALLE, 2006). On the surveillance and control side, the public hearings with ministers of state and other authorities offer a possibility for parliamentarians to question and call to account the Executive Branch in regard to its actions and to require information.

⁴³ Some of the Brazilian State's Regulatory Boards make use of a different type of open participation which is the Public Consultation, in which case the hearing is conducted in the form written proposals that are sent in normally, but not exclusively via internet. In a public consultation a certain timeframe is established sometimes determined by the date scheduled for some future normative act that will regulate the issue in question. The form of participation is simpler. But on the other hand it provides no possibility for healthy exchanges of ideas and positions among those interested parties taking part which is normally considered positive for any debate although not necessary so much for the decision making process that it seeks to be the object of as in the case of these regulatory boards.



As they usually take place during public sessions, the public hearings have taken on greater importance in view of the fact that they are transmitted live not only by the traditional media like TV and Radio but also on the internet, which means the population at large can readily accompany what goes on in them.

What constitutes the greatest single limitation of the public hearings is the question of scale, that is, the impossibility of hearing more than a very restricted number of people in any given session. Accordingly, issues that involve very complex discussions may call for a series of public hearings and a long drawn out and costly process and with poor representativity, as they provide little chance for minority group representation.

3.1.1.2 Other forms of manifestation

Petitions, complaints and denouncements form a set of demonstrations stemming from the citizens that are made directly to the parliament for a variety of purposes; to suggest that a given proposal should be given priority on the deliberators' agenda; to defend a certain interest of legislative importance; to complain about the quality of service provision by the legislative body or about parliamentary performance in general; to denounce problems detected in the Executive Branch; or to permit the manifestation of any other such demand that lies within the scope of the parliament's mandate.

Such demonstrations are expressed in the form of written documents handed in to parliaments by the citizens or by representatives of interest groups and they may be sent in by regular post or electronic means. Another form of presentation is orally in a formally programmed session. They are eventually sent on to bodies created specifically to accompany such manifestations, such as the parliamentary ombudsman's offices and a variety of other internal parliamentary bodies that vary according to the institutional arrangements of each legislative body. There now follows a set of such instruments which, despite their common objective, are very different in their formats.

3.1.1.3 Pre-paid letter of reply

This is one of the typical forms of expression of this particular category of participation which created the possibility of presenting suggestions, requests, questions or complaints to any federal representative, parliamentary select committee, the presidency of the house or the Ombudsman. The great distinguishing feature of this project was that the postal expenses were met by the House of

Representatives itself because the postage of the reply envelopes distributed around the entire was pre-paid.

The project was designed to reach that considerable part of the Brazilian population with no access to the internet and consequently without the skills to use electronic means to that end. As the pre-paid reply letters were distributed by the Brazilian postal service they reached parts of the country that were very far from Brasilia, establishing a complementary communication channel between the population and the parliament. It is worth noting that the Brazilian postal service is a state-owned company with branches in most Brazilian cities and a very wide territorial outreach.

However, the high cost associated to the internal organization of the system by the House of Representatives administration led to the canceling of the project (created in July 2003). The letters had to be received, analyzed, forwarded to whomever they concerned and their eventual legislative effects monitored, and those that sent in letters had to be kept informed of their repercussions in the parliament.

The reply letter gave the sender three choices of destination: the Presidency of the House, the Ombudsman's Office or directly to the parliamentarian concerned. Most of them went straight to the parliamentarians' offices, which were not usually adequately structured to handle them, and it was up to each Representative to decide whether they should be replied to or not. Generally speaking they were not answered. The project lasted a little under three years and of the more than 100 thousand letters that were sent in to the House, only around a quarter received any response from the bodies concerned. In spite of its being innovative and inclusive this instrument of communication proved to be costly and impracticable.⁴⁴

⁴⁴ Information gathered by means of questionnaires administered to civil servants that were involved in the whole process of administering the Prepaid Reply Letter system at the time.

3.1.1.4 Tribunes of the plebs

These are quite common especially at local legislative level.⁴⁵ They offer the citizen and representatives of civil society a chance to express themselves in special sessions of the local legislative body in regard to community problems or matters of legislative interest. They may go under different names but the tribunes of the plebs make it possible for society to express itself in the form of petitions, complaints, declarations and even verbally regarding public problems.

The form the tribunes of the plebs take varies according to the institution. Some only allow for representatives of interest groups to participate while others are more open and any duly registered citizen with an appointment can make a presentation before them. This last situation tends to be commoner in places with small populations where the number of applications for an appointment is naturally smaller. In larger populations the numbers would tend to be excessive and might make the practice unfeasible altogether because parliaments that adopt this practice usually only have one day of the week or a few hours of a session available for such representations, which usually take the form of oral presentations with the possibility of the authors filing a complementary document should he wish.

Some parliaments open their doors on special occasions to hear what the people have to say. The Estonian parliament (*Riigikogu*) has an annual open house day on April 23 to celebrate the anniversary of its founding in 1919 (BEETHAM, 2006, p. 76). In a special session the citizens can take part in the debates with members of the parliament.

3.1.1.5 Itinerancy: the parliament goes to the people

Versions of this practice are quite frequent whereby groups of parliamentarians make temporary visits to places that are far from the center where the parliament is located. The idea is to minimize the problem of accessibility, especially in countries with vast territories. Botswana, for example, set up its 'Parliament on Wheels', whereby

⁴⁵ Although they are institutions that take a variety of forms we cannot help registering the coincidence of the name with the institution tribune of the plebs created in the early days of ancient Rome, around 494 BC. The office of tribune was exercised by an individual who represented the interests of the common people, plebs, as opposed to those of the patricians, the elite of the Roman state. The tribune held an interesting form of power, the veto, that is the power of negative legislation or decision; he might not be able to determine what should be done but could determine what should not. We believe that this institution eventually came to be a factor influencing the creation of the presidential power of veto, such a highly important institution in the checks and balances of power in the western democracies of today.

members of the parliament travel around the country explaining the role of the parliament to the people (BEETHAM, 2006).

The South African parliament uses its 'Democracy Road Shows' initiative to reach communities that do not normally have ready access to the Legislative body and to provide information and education on how the parliament works and the ways in which people can participate in the legislative process. Each year the second chamber of the parliament known as the National Council of the Provinces goes to different communities, usually in rural areas, staying there for a week, during which time they hold meetings with the ordinary citizens and representative entities.

Another example is Zimbabwe which has established parliamentary information centers to inform voters in all districts. In them parliamentarians receive and listen to what people and local civil society entities have to say in an endeavor to identify the most relevant local problems and the areas that require greatest attention. The centers are set up in places that are easy to access and have the added advantage of being near to the offices of local and other authorities which facilitates and improves coordination with them.

There are other robust experiences of this type that must be mentioned. For example, the Mongolian parliament, The Great State Hural, has established permanent outlying nucleuses in five districts with the following objectives:

- a) Facilitate the interaction of the members of parliament with their voters and of local administrators with civil society at large in a systematic manner.
- b) Organize local training sessions, public hearings, with debates and seminars.
- c) Involve local media and politicians in parliament-related work.

David Beetham (2006, p. 76) underscores the fact that such activities are not restricted to developing countries. The Swedish parliament (*Riksdag*) has installed support centers in three cities: Gothenburg, Malmo and Sundsvall. Each center has a library and computer stations where parliamentary sessions can be watched via internet. Furthermore, regional members of parliament use the centers to meet with their constituents and hold debates with the citizenry at large.

3.1.1.6 Citizens legislative proposals

The proposition of draft legislation on the part of ordinary people is widely used by many countries each, naturally, with its own variations



of format. Switzerland has pioneered the institutionalization of this kind of project and has the most open and far-reaching, complete experience of this kind of citizens' initiative. The Swiss model is used to input proposals to modify the text of the federal constitution. The instrument is also used in the Cantons for the proposal of ordinary laws.

The proposal must acquire at least 100 thousand signatures of registered voters during the eighteen months of its official publication. In the case of revision of the entire constitution, the petition will then be submitted to a plebiscite. Santos (2009, p. 77) explains the legislative procedures involved:

"To conduct a partial revision of the Constitution of the Swiss Confederation, a citizens' proposal can be accepted in the form of a precisely elaborated proposal or as a merely generic proposal couched in general terms.

In the former case, if there is any formal error or material error or any infraction of the binding provisions of International Law, the Federal Assembly must declare the initiative partly or totally null and void. The initiative must be submitted to popular vote and the vote of the Cantons. The Federal Assembly recommends the approval or rejection of the initiative or it may make a counter proposal to it. In the case of a generic proposal, if the Federal Assembly agrees with the initiative, then it should write up the text of partial revision based on that citizens' initiative and submit it to the vote of the people and of the cantons. If the Federal Assembly rejects it then it must be submitted to the vote of the people to decide whether it should be approved or not. If the people vote in favor of it, then the Federal Assembly will be obliged to elaborate it in the form of draft bill. Should there be a counter proposal put forward by the Federal Assembly, the proposal and the counter proposal will be voted at the same time and it is possible for both of them to be approved. To address that possibility the voter is asked to indicate which of the two he would prefer if they are both approved. In these processes that seek to alter the constitution, if there should be a tie, where one project receives more votes from the people but the other from the cantons, then the one that will go through is the one that has the

highest percentage of preference votes when the people's votes and the cantons votes are added together."⁴⁶

Italy is another country with a tradition of grass roots legislative initiatives and has formal procedures in place to implement them. The minimum requirement is 50 thousand signatures and the country is noted for having organized the logistics for authenticating signatories which as it happens has been a chronic problem in other democracies, even to the point of making the institution entirely unworkable. To get round the problem Italian law delegates power to various authorities within the federal regional and local spheres of the Justice Branch and the Executive Branch who are called on to validate the registration and signatures of voters subscribing to such initiatives (SANTOS, 2009, p. 80).

Brazil requires that at least one percent of the electorate should be signatory to such an initiative and they should be from at least five Brazilian states (or four states and the federal district) and that for each of those states the number of subscribers should represent at least three tenths of one percent of the total number of registered voters. While there have been four such attempts with legislative projects originating from the populace since the creation of the institution, most of the proposals never got to be properly formulated as such because of the difficulty of implanting the means of validating the signatures presented.

The usual solution found for that was for a group of parliamentarians interested in the proposals to underwrite it themselves and then

⁴⁶ Free translation: "Para revisão parcial da Constituição da Confederação suíça, admite-se a iniciativa popular formulada, na forma de uma proposta elaborada, e a iniciativa popular genérica (formulada em linhas gerais). No primeiro caso, se houver vício formal ou material ou infração às prescrições obrigatórias do Direito Internacional, a Assembleia Federal deve declarar a iniciativa nula no todo ou em parte. A iniciativa deve ser submetida ao voto do povo e dos cantões. A Assembleia Federal recomenda a aprovação ou rejeição da iniciativa, podendo, também, oferecer um substitutivo (*counter-proposal*) à mesma. Em se tratando de iniciativa popular genérica (formulada em linhas gerais), se a Assembleia Federal concordar com a iniciativa, deve elaborar a proposta de revisão parcial com base na iniciativa popular e submetê-la ao voto do povo e dos cantões. Se a Assembleia Federal rejeitar a iniciativa, deve sujeitá-la ao voto popular para que o povo decida se a iniciativa deve ser aprovada. Em caso de prevalecer o voto favorável, a Assembleia Federal elabora o projeto correspondente. Quando há o projeto e seu substitutivo (*counter-proposal*), a votação sobre os dois ocorre ao mesmo tempo e ambos podem ser aprovados nessa fase; portanto, nesse processo de votação simultânea, o votante deve indicar qual dos dois projetos é o de sua preferência, para o caso de ambos virem a ser aprovados. No desempate de alterações da Constituição aprovadas, se um projeto receber mais votos populares e o outro mais votos dos cantões, entra em vigor aquele que obtiver o maior somatório do percentual de votos populares e dos votos dos cantões quanto à preferência, ou seja, na questão subsidiária para desempate."



present it as a project of their authorship.⁴⁷ The Clean Sheet Project is an emblematic example of an initiative stemming from the Brazilian populace. It was aimed at preventing politicians with a ‘dirty record’, that is condemned in a legal process related to corruption during the exercise of previous mandates or other similar situations, from being candidates. The project was supported by one million seven hundred thousand voters, mobilized several organized groups and the populace at large and was given continuous publicity in the Brazilian media. As there was no way of validating the signatures, some members of the House of Representatives formally proposed it before the House and it was eventually approved, albeit with some modifications. The corresponding Law is now in force although several of its provisions have been contested separately in the Supreme Court on the allegation that they are unconstitutional.⁴⁸

Citizen’s initiatives are materializing in many places around the world and vary somewhat according to the country. In Ecuador, for example, after such a proposition has been approved by the parliament the President has the power to introduce amendments but he cannot veto it completely. The great merit of citizens’ initiatives has been that, because of the political importance that generally accrues to them, they receive priority treatment in the legislative process. However they are processes that are used only as exceptional measures with limited scope.

3.1.2 Special participatory bodies in the Brazilian House

The way in which the participatory structures described above have been implemented varies considerably, according to the organizational and political context of each parliament. Some legislative bodies do allow for a diffuse participation by offering various channels for it. Others offer few channels and a centralized coordination with greater limitations to access. Some of the more outstanding initiatives in this direction that have materialized in the form of bodies specifically created for that purpose will now be described. They symbolize and exemplify relevant non digital participatory practices in parliaments.

⁴⁷ It is interesting to note that draft bills associated to draft bills stemming from citizens’ initiatives start their legislative processing in the House of Representatives. Nevertheless, if the constitutional requirements are not met they could actually take the form of draft legislation proposals originated by senators but that does not generally happen. This leads some to view the representatives’ attitudes in adopting them as political opportunism on the part of those of them that are more attuned to the dissatisfactions of the people.

⁴⁸ Information obtained on March 29, 2011.

3.1.2.1 The parliamentary Ombudsman

The Brazilian House of Representatives' Parliamentary Ombudsman is a typical example of a body specifically created to receive, examine and forward to the due destination denunciations, offered by individuals or legally constituted entities, of irregularities or illegalities in general committed in the sphere of the federal public administration. Its duty is to respond to the citizens or bodies lodging the complaint informing them of the steps taken by the House and to direct the complaints or representations to the Office of the Public Prosecutor, the Federal Accounts Court or other appropriate body.⁴⁹

The complaints that are lodged with the Parliamentary Ombudsman generally fall into the following categories: denunciations of irregularities or illegalities in the sphere of public administration; complaints about the actions of a civil servant or parliamentary representative in regard to their political or functional behavior; praise in recognition of some service provided; free expression in form of a protest, complaint or disclosure on issues with some relation to the House; suggestions of improvements that could be made to the legislative process or the House's administrative services; requests for information about the progress of a given legislative process or about the performance of parliamentarians.⁵⁰

As can be seen the Parliamentary Ombudsman offers few possibilities of any participation in the legislative process, which could only occur to some extent in the case of suggestions made of alterations to the text of draft legislation, expressions of preference in regard to the parliamentary agenda or denunciations of irregularities in the legislative process itself. The Ombudsman serves much more as a communication channel between the citizen and the body that is responsible for solving the problem that has been identified. In fact however, such contributions have had little or no influence on the parliamentary legislative routine.

3.1.2.2 Participatory Legislation Committee

Parliamentary commissions created specifically for the purpose of interacting with society have appeared in very few parliaments although participation in other theme-based select committees is relatively common. Mixed systems like the Brazilian House of Representatives offer both those possibilities, that is to say, in addition to being able to petition any of the thematic select committees, there is also a special

⁴⁹ House of Representatives Resolution n° 19 of 2001.

⁵⁰ According to information displayed on the site of the Parliamentary Ombudsman: <http://www2.camara.leg.br/a-camara/ouvidoria>.



committee designated specifically for receiving proposals from society at large and known as the Participatory Legislation Committee.

However, this committee only receives suggestions coming from organized civil society groups such as non-governmental organizations, associations, class organizations, unions, or even public administration bodies provided, in this last case, they have equal participation of civil society in their composition. Political parties are not permitted to present proposals to the Committee (BRAZIL, 2010).

The suggestions or legislative proposals are analyzed by the Participatory Legislation Committee and if the collegiate body approves them they are transformed into draft bill proposals and are processed in a regime of priority. In the sphere of public surveillance and control, civil society is entitled to present suggestions for summoning authorities or to request for information to be supplied by ministers of state.⁵¹

The objective of the Participatory Legislation Committee created in August of 2001 is to act as bridge between society at large and the House of Representatives in a bid to draw representatives and those they represent closer together, independently of the actions and activities of the political parties. The creation of this Committee in the House of Representatives stimulated the appearance of several similar experiences in other Brazilian legislative bodies. As Santos (2009) reports, by the year 2009 there were participatory committees installed in eleven Brazilian legislative assemblies and thirty-four municipal councils.

The common profile of those entities that activate the committee is that of civil associations without any great powers of direct political articulation in the National Congress, that is, they have very little lobbying power. Associations dedicated to defending minority rights or making general representation on behalf of communities also make use of the Committee. One example of that is the Social Defense Council of the municipality of Estrela do Sul in the State of Minas Gerais, which has presented almost 200 proposals to the Committee since 2005.

As for the contents, the most common are proposals to alter legal codes like the civil code, the penal code, civil process and penal process. Generally speaking their chances of posterior success in being processed is greater when they are very well prepared technically and if they are proposed by notoriously respected and recognized entities.

From when it was set up in 2001 up until February 2011 the Committee received 815 suggested alterations to the law, requests for

⁵¹ House of Representatives Resolution nº 21 of 2001.

public hearings, budget amendment proposals and other requests of a legislative nature. Of those 331 were approved, 332 were rejected, 23 were extinguished for technical reasons and 50 were handed back. Of the draft bills eventually formed, only one was definitively approved by the House of Representatives and the Senate, duly sanctioned by the President and transformed into law.

The weak impact of the Participatory Legislation Committee as a canal to facilitate participation of the ordinary people, in the view of Leonardo Barbosa (2006), stems from the lack of mechanisms to accompany and promote the legislative propositions it creates. As in any other legislative process, the proposals that manage to pass through all the screening processes and come to be finally approved in the House of Representatives are almost invariably those that have been the object of some kind of lobbying support.

In other words in the immense universe of the 15,942⁵² legislative proposals being processed whose authors, supporters and associated interest groups in the political and civil spheres are all disputing priority for them in the legislative process, the Committee ends up obtaining very little progress for its propositions precisely because it lacks any such legislative lobbying instruments to boost and support them.

Another explanation for the ineffectiveness of the Participatory Legislation Committee's legislative production is the lack of interest shown by parliamentarians, to the extent that every year a considerable number of seats of the Committee are not taken up by the political parties represented in the House. Generally speaking the representatives do not see the Committee as being the robust instrument for interlocution with society at large that it was intended to be when it was set up (FERREIRA JÚNIOR, 2008, p. 23; SANTOS, 2009, p. 110).

That is underscored by Ferreira Junior (2008) when he reports that the only legislative proposal originating from the Committee that was ever finally approved by the House and the Senate and sanctioned by the President of the Republic actually took five years to complete the legislative process and finally become Law; "over twice the average time necessary to approve normative material stemming from a variety of other legislative agents".

⁵² Data computed on January 31, 2011 based on information of the House of Representative's Documentation and Information Center. The figure includes draft legislative decree proposals, constitutional amendment proposals, ordinary bills, complementary bills and draft resolution proposals.



Draft Bill n° 5.828 proposed by the Participatory Legislation Committee which was first put forward in 2001, the same year the Committee was created, was finally transformed into Law n° 11.419/06 which regulated the electronic mechanisms designed to modernize the Judiciary Branch. The original author of the proposal was The Brazilian Federal Judges Association which is renowned for elaborating proposals of the highest technical quality and that obviously contributed greatly to its successful passage through the National Congress.

That however was the single exception to the rule of generalized failures in the procedures handling the Participatory Legislation Committee's proposals. Barbosa (2006) and Santos (2009) conclude that due to its lack of an active protagonist performance the Committee has contributed very little to constructing any effective mechanisms enabling interaction of society and the parliamentary institution.

3.1.3 The limitations of non-digital participatory practices

While all the experience described in this section are of some relevance, they have inherent limitations to their effects on the parliamentary institutions. Instruments providing for individual inputs such as petitions can be used to further proposals that address interests of a personal nature or the particular interests of a given group and as such they do not contribute to the formation of a sphere of public deliberation in the quest for the common good.

In the opinion of Gastil (2000), requests made to ombudsmen, criticisms received via free-call telephone (0800) and other similar participatory instruments actually stimulate a form of interaction that is predominantly utilitarian only and bypasses those healthy exchanges of opinions and arguments on public policies that are so important for enriching the conditions in which parliamentary decisions are made.

Furthermore, parliamentary practices like the tribunes of the plebs have obvious limitations. One of them is the time limits because the time allowed for such presentations tends to be restricted. In the case of federal parliaments, transporting people to the site of the parliament may be costly and time-consuming, making access of people interested in using such instruments very difficult.

Additionally, participation in the form of making legislative proposals directly to participatory committees suggests that their proponents should be prepared to lobby in favor of their proposal during its passage through the legislative procedures once the committee has transformed it into a draft bill.

However the work of pushing the legislation through the procedures is costly and practically impossible in the case of certain interests whose defense cannot count on powerful supporters or a strong organized lobby. In the Participatory Legislation Committee of the House of Representatives the majority of those that present their demands to the Committee are precisely those that are not in any position to carry out that kind of lobby and that are using the means of the Committee for that very reason. In our research we were unable to find similar committees specifically designed to foster legislative participation in other parliaments that would have enabled us to make comparisons.

Furthermore, most of these non digital participatory experiences only embrace a part of the population. Projects like establishing parliamentary nucleuses in various parts of the national territory as a means of facilitating interaction with those populations that have difficulty in accessing the parliament are very costly, and it is practically unfeasible for them to reach out to the population on a large scale.

So, the application of information and communication technology, in principle, could contribute to reducing such limitations, albeit there exists the implicit danger of creating others. Accordingly the objective of what now follows will be to evaluate the qualities and the challenges inherent to some of the digital experiments with participation in parliaments, but first it will be necessary to describe in detail the methodology that will be used to analyze those practices.

3.2 General analysis methodology

After a brief description of those instruments for participation in parliaments that are not anchored in information and communication technology, attention will now be directed at the empirical universe of digital participatory experiences associated to legislative houses. There are some outstanding practices in progress, which, however much they may vary in format, objectives and effective outreach, do have in common their power of facilitating interaction between society by means of individuals or social groups and the parliaments, especially collegiate bodies such as parliamentary groups, and select committees as well as individual parliamentarians. All of them also have in common their use of a digital interface as the means of interaction.

The material that follows this chapter will be dedicated to a general analysis of a set of similar experiences and experiments from places



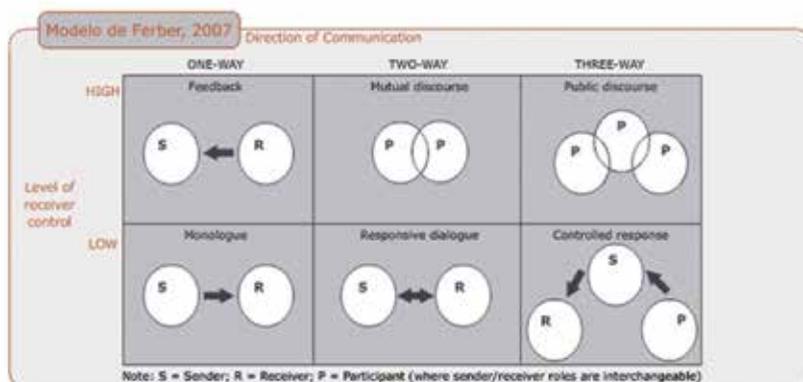
around the world that attempt to meet those criteria. The aim is to map out the various practices of digital democracy conducted by parliaments and their various nuances, basically, less profound and less structured experiences of participation in parliaments which we will refer to as mini-cases, and to do so in a bid to contextualize the two other full case studies that will be the topics of the coming chapters namely, the Chilean Congress's Virtual Senator platform and the House of Representative's e-Democracy Programme.

The model adopted to select the case and mini-case studies for this research will be based on the proposal of Paul Ferber, Franz Temas de Foltz and Rudi Pugliese (2007) for classifying levels of interactivity between institution and citizen. According to those authors there are six types of interaction between the portals maintained by any given institution (whether parliament or political party), and society at large.

Their scheme was based on an earlier concept of McMillan's (2002) who only envisaged four levels and he in turn had adopted the dimensions proposed by Bordewijk and van Kamm (1986) of receiver control and subject choice associated to Grunig and Grunig's (1989) concept of asymmetrical (one-way) and symmetrical (two-way) communication. Ferber, Foltz and Pugliese made some modifications to McMillan's original model adding two more categories to make it possible to analyze applications in portals permitting intense interaction with the introduction of multi-interactive spheres that would allow for a public debate to take place (stemming from the introduction of the so-called Web 2.0).

In the scheme illustrated below the circles represent the function of the portals as senders (S) of information and the individuals as receivers (R). The function participant (P) is the function of a sender that becomes a receiver and vice versa, that is when the portal allows interaction to the point where publishes contents that provoke responses from the individuals.

FIGURE 5 – Original six-part cyber-interactivity model designed by Ferber, Foltz and Pugliese



According to Ferber, Foltz and Pugliese, there are two essential factors that correlate with one another: the direction of communication and the level of receiver control. The idea of these authors' scheme is to distinguish among the degrees of interaction portals offer to the citizenry. Although they make use of their model to analyze political portals elaborated by society or by political parties, in this work the model will be used to analyze internet portals or functionalities developed by parliaments or made available on parliamentary portals, because the objectives of the latter institutions in terms of interactivity are very similar.

In the first column (one-way) are those relations that involve a minimum of interaction. Whenever there is very little control exercised by the user, that is the portal user merely receives information, then it is referred to as a monologue situation (below). In the upper quadrant situation denominated feedback the portal user can not only receive information but also send in suggestions or carry out some other kind of insertion of material but without knowing whether he will receive any response to it.

The second two-way column is related to the existence of some kind of dialogue between the portal and the portal user. It may be responsive dialogue (lower quadrant) when the portal offers services that depend on some kind of interaction with the user. For example portals with the search engines for locating legislative proposals request the user to input the number, subject or author of the draft bill for it to supply the requested information.

In the upper quadrant is the situation of mutual discourse, which implies that messages are sent and received in both directions between



portal and portal user. Up to this point, Ferber, Foltz and Pugliese's modification of McMillan's concept only takes into account instruments that enable bi-directional, inter-personal communication such as exchanges of e-mails between citizens and the legislators to take place. Such interaction is not public; it takes place between the two parties alone.

Ferber, Foltz and Pugliese's great contribution however, has been to structure a third column which is focused on those new tools that make it possible to actually conduct a public debate with the participation of groups of people in deliberative processes. In the lower quadrant of this column is the controlled response system which contemplates collective interaction of the citizens with the portal but where a certain degree of control over the extent of participation exists.

The use of polls and surveys is a good example of controlled response because the portal (S) presents the questions with pre-defined response options and the citizen makes a choice from among them. Afterwards the portal will present the results of the poll or survey. In another example, participation in forums may be closely controlled by the portal by means of a moderating system when the posts are only actually published after the moderator has authorized them.

Lastly, in the upper quadrant of this column there appear the situations that provide for broad participation and interaction of society at large in discussion forums, blogs and other internet applications where there is a great margin of freedom for exchanging messages and information not only between the parliamentary institution and the citizens but among the citizens themselves. Ferber, Foltz and Pugliese call that public discourse.

The experiences with digital participation in parliaments selected for this chapter will be examined from three different angles: a) the level of interaction classified on the basis of Ferber, Foltz and Pugliese's scheme; b) the institutional origin of the experience that was unfolded; and c) the parliamentary sphere concerned (national versus local).

In regard to the level of interaction, the experiences that will be analyzed are all in the two-way communication portal category, that is, bi-interactive according to the classification of Ferber, Foltz and Pugliese. Examples are the e-Democracy and the Virtual Senator portals that will be seen in the coming chapters. The selection of these two particular cases is mainly because of their sophisticated and elaborate institutional formats which either attempt to involve the citizen more intensely in the legislative process, or have been systematically and permanently structured within the respective legislative institution.

Furthermore, the selected institutional e-Democracy experiences were developed, and are administered by parliaments, that is to say, society interferes merely as a user and collaborator but has no part in the design and development. That is the second angle of analysis; society only participates in the construction of the contents, putting forwards ideas and arguments for example, but using the portal that was developed by the parliamentary organizations alone. That is a different situation from that of the portals studies in chapter 2 like the TheyWorkForYou and OpenCongress, which are organized and developed by social groups and citizens and have a function much more associated to calling parliaments and parliaments to account for their work and performances.

The third important aspect analyzed in this research has to do with promoting discussions on legislative processes in the federal or regional sphere and. consequently, no experiences conducted in the local sphere have been included. A considerable portion of all current experiments with digital democracy are taking place in the municipalities and small communities and that is true as much for successful ones as for unsuccessful ones, as for example the e-Democracy portal.⁵³

The predominance of *lato sensu* e-Democracy experiences in the local sphere as compared those in the national sphere like the *e-democracia* portals in general and the Virtual Senator portal has not been the object of much discussion in the academic world. Some argue that local experiences of digital participation are associated to issues that the local population has greatest access to, those which society is used to handling in daily life, to the detriment of national issues whose complexity and remoteness from the citizen's daily life may discourage his engagement (PATEMAN, 1992, p. 145).

For example a resident on the poor outskirts of São Paulo may be very well aware of all the local education problems because he experiences in his daily life the difficulties faced by his children who attend the local municipal school, for example. The same citizen also knows all about the lack of proper sewage installations or the unpaved roads in his neighborhood and similarly he is able to discern the eventual discrepancies between the council taxes he has to pay every year and the public services that are effectively provided in the form of paved streets. Every day he suffers the problems with security in the

⁵³ The portal www.edemocracy.org brings together a set of virtual discussion communities debating local and sub-national issues of parts of the United States, the UK and New Zealand. They are organized by civil society and do not have any great interaction with public institutions.



neighborhood so those issues are all part of situations that the citizen experiences first hand and are of his immediate interest.

In principle, the same citizen would not be in such a good position or be sufficiently knowledgeable about national issues such as the tax reform, or the national education policy or the social security system. Such issues involve a far greater degree of complexity and abstraction compared to the tangible local problems. Obviously, it is important to admit that there are some discussion that are also extremely complex in the municipal sphere like the one on the transport system of the city of São Paulo for example. Generally speaking, however, the discussions on local issues are more tangible for the local community resident. That is why this research is interested in finding out to what extent ordinary people are willing to take part in national discussions whose difficulties seem to be so much greater.

Another equally relevant aspect of the national e-Democracy versus local e-Democracy discussion is the much closer relations of trust and respect that exist among members of a local community (FOUNTAIN, 2001). Relations established and improved as a result of living together in the same neighborhood enhance the process of digital discussion. The same factor is not present in national discussion experiences, especially in countries where the physical distance from the federal center of power makes it very difficult for the citizens to attend actual live meetings, as is the case with Brazil and even Chile in terms of latitude, as the country is a 4,000 km long strip, almost as long as the Brazilian coastline. That is one of the reasons why this work is so interested in uncovering the challenges involved in digital interaction projects addressing national issues.

3.3 Digital democracy in parliaments: mini-cases

There have been innumerable digital interaction experiments in national and sub-national parliaments all over the world. One of the commonest instruments that we can examine first is the on-line forum, whereby institutions foster discussions on legislative proposals as a way of enabling society at large to express an opinion and of permitting people to ask questions of parliamentarians.

For the purposes of this work we will classify the examples that are about to be given as mini-cases because, while they do present certain innovative elements in terms of interaction, they do not do so in the

same proportion or with the same intensity and or as systematically as the experiences that will be the subjects of the next chapters. The analysis of the mini-cases has been based on secondary sources of information and on direct observation of the respective portals.

We have sought to highlight under the heading 'mini-cases' those experiences that show some outstandingly different features either in the type of innovation they introduce or in some peculiarity they have developed in deference to their particular political or social contexts or because they represent a pioneering practice among the many similar ones that have been unfolded especially in the last five years.

Latin America has been the notable birthplace of many such experiences as Andrea Perna (2010), who made a detailed study of good digital participatory practices in Latin American parliaments, has reported (also BATISTA, 2009; BATISTA and STABILE, 2011). At first glance they all appear to be very similar and that may well be due to the natural interchanges among the Latin American countries facilitated by their common language (Spanish, except for Brazil) and by a certain historic identity stemming from the democratization process of the last two decades against a background of varying degrees of participation (AVRITZER, 2002; AVRITZER and COSTA, 2003; DOMINGUES, 2009a).

Andrea Perna (2010, p. 159) points out how the Chilean Senate's Virtual Senator experience has become a model for countries like Paraguay and Colombia whose parliaments have established inter-institutional agreements with the Chilean Senate and implemented the Virtual Senator in their own parliaments.⁵⁴

Along the same lines but with some different features of its own there is the *Parlamento Virtual* of the Peruvian National Congress⁵⁵ which brings together some of the participatory instruments commonly found in the web like sending suggestions and criticisms to members of parliament and discussion forums. One feature that deserves attention however is the session of 'legislative forums'.⁵⁶ For a pre-determined period the select committees receive specific suggestions from the citizens through the mechanism of these legislative forums.

People are invited to comment on and offer their objective opinions of a given legislative proposal and they may declare themselves for or against it and/or propose alternatives. The main drawback to

⁵⁴ Up until February 2011 the platform had not been completely implemented in Colombia.

⁵⁵ Accessible at: [http://www.congreso.gob.pe/Sicr/ParCiudadana/Documentos.nsf/Inicioboletinsweb/\\$First?OpenDocument](http://www.congreso.gob.pe/Sicr/ParCiudadana/Documentos.nsf/Inicioboletinsweb/$First?OpenDocument).

⁵⁶ Accessible at: <http://www.congreso.gob.pe/pvp/forosl/presenta.htm>. Consulted on February 2, 2011.



the scheme is that the suggestions are not made publicly available. The participants only get to know the contents of other people's contributions after the period of interaction is over when they receive a descriptive report on it. That means there is no multi-interactive arena established for discussing the proposal.

The Argentinean House of Representatives has made an initiative called *Banca 93* available on its internet portal. After a quick registration process the user can send in comments on draft legislation being processed in the parliament and express approval or disapproval of it. Based on a rudimentary ranking system the portal has actually enjoyed very little participation on the part of society and it has had no significant repercussions on the legislative agenda. As Andrea Perna (2010) reports, the main problem with most of the Latin American experiments is precisely their failure to have any repercussions on the actual legislative processes. We will now examine some singular experiences in legislative e-Democracy in other parliaments around the world.

3.3.1 E-petition form – New Zealand parliament

The New Zealand parliament has made a different system available to its citizens for them to participate in the legislative process.⁵⁷ Citizens or interest groups are invited to comment on draft legislation other propositions being processed by the parliament and make suggestions using a submission form. The select committees responsible for making detailed analyses of materials that lie in the sphere of their attributions receive the submissions during a pre-determined period of time. For example the Commerce Committee received submissions concerning the draft bill designed to regulate the operations of radio broadcasting companies in the country.

⁵⁷ Accessible at: <http://www.parliament.nz/en-NZ/PB/SC/MakeSub/>. The information on which the analysis of this experience was made were taken from this site and also obtained by means of interviews with the technical staff responsible for it.

FIGURE 6 –The New Zealand parliament portal's submissions page



To that end the citizen needs to fill in a form or write a letter in a standardized format defined by the parliament. In either document the person's identity is given and a synthesis of the reasons he or she approves or rejects the proposed legislation together with any other relevant remarks or suggestions of alterations to the text of the draft bill or proposal. The form can be filled in on-line or sent in letter form to the parliament. The citizen is also entitled to request an opportunity to make a live presentation before the committee to justify his arguments and explain his point of view in greater detail.

With the expiry of the period allowed for such inputs the committee starts to analyze the recommendations. It is usual for the Committees final report on whatever draft legislation is being discussed to contain some brief reference to the number of submissions that were received but without any mention of their contents or whether they were for or against the bill.

In parliamentary practice however the submissions are used by the legislators during the discussions to back up their own arguments on a given issue, that is to say they merely serve as a means to fortify certain positions adopted during the debate. The parliament conducts no



systematic quantitative or qualitative analysis to provide information such as what the participants are most concerned about, which topics are raised most often, who the participants are or what interests they are associated to.

Although in the participatory sense the New Zealand submissions system has positive implications for the democratic parliamentary system, it also has very obvious limitations. The first concerns the way in which participation itself takes place. In order to be able to participate, a citizen must be capable of understanding the legislative texts that are made available.

Generally speaking a person with no specialized knowledge of the subject or with little experience with the legal language and terms involved will find it difficult to form an opinion or present any relevant comments or suggestions. As there is no mechanism in place for moderating citizens' participation that prerequisite obviously favors the technically qualified participant or interest groups that are active in the area under discussion and are naturally more familiar with the issues involved.

Thus the New Zealand project shows no intention of promoting any broad, far-reaching interaction with society at large because participation is limited to a very specific format and other forms of participation such as polls, chats with parliamentarians and discussions in blogs and forums are not contemplated.

Another obvious limitation is the lack of publicity given to the submissions. There is no information on the parliament's website as to who the authors of submissions were or what the contents were submitted. That means that any use eventually made of them depends only on the parliamentarians volition and they do not feel themselves subject to any strong legitimate pressures from society. The way it is set up, it is impossible to tell if there has been any overriding topic of interest or if the submissions were dominated by a particular interest group. While it may be true that the parliamentarians generally make some mention of some of the submissions, those that are not mentioned go entirely unnoticed and society never receives any information as to the contents of those that were passed over in that way.

The way the New Zealand project is structured also makes no provision for any more outreaching discussion between parliamentarians and society at large. It is what the Ferber, Foltz and Pugliese model classifies as one-way feedback because there is no guarantee that the citizen will ever receive any response to his

suggestion. Two-way communication, that is, dialogue, occurs only on those rare occasions when the citizen is allowed to make an oral presentation before the select committee and even that has various limitations imposed on it.

3.3.2 Parliament 2.0 – the Catalanian parliament

The portal of the legislative body of the Spanish region of Catalonia, the Parliament 2.0⁵⁸ deserves special mention because permits communication with the citizens through a multiplicity of social network instruments available in the internet, such as Facebook, Twitter, YouTube, Flickr and Netvibe. This means that the ordinary citizen can obtain information about the parliament in various ways: watching a video on Youtube, looking at photos of parliamentary events on Flickr or accompanying what is going in the legislature on Facebook or Twitter.

In short, the portal offers a set of sophisticated ways of accompanying parliamentary routine. Added to that, the citizen can register to receive specific information via e-mails or by RSS, which means that the user automatically receives updated information by means of an application installed in his own computer.

That is certainly the biggest advantage of the Parliament 2.0; its ability to facilitate the citizen's access to information, especially in the case of people that are familiar with the advanced tools made available by the advent of the Web 2.0. An example of that sophistication can be found in the various ways that are offered to the citizens enabling them to customize the way they receive legislative information. As a result the portal makes it possible to monitor legislative information to an extent that has rarely been achieved by any other parliament. A person can use Netvibes, for example, to visualize various different sets of legislative information on a single screen and have them organized in columns.

The illustration below shows this process with columns dedicated to the parliamentary agenda, news items of parliamentary interest, legislative proposals and also offering access to Youtube videos. This format does require a certain level of ICT skill on the part of the user, however.

⁵⁸ Catalonia is an autonomous region situated in the northeast of Spain and it encompasses four provinces and various municipalities, including its capital, Barcelona. The Catalanian parliamentary interaction portal can be accessed at: www.parlament.cat/web/serveis/parlament-

FIGURE 7 – Parliament 2.0 portal page offering information organized according to user preference



The multiplicity of interaction possibilities offered for participation in the portal has led to a certain degree of confusion as has the lack of clarity concerning the objectives of participation. The portal also offers links to the blogs of parliamentary representatives and groups where people can post their remarks or criticisms of the legislative process. It is also possible to present petitions to parliament when the motive is to persuade the parliament to take action respecting individual or collective rights. As that right to petition is explicitly provided for in the Spanish constitution the petitions themselves have to be analyzed and addressed by a Committee specifically created for that purpose.

So we can see that according to the interactivity model of Ferber, Folz and Pugliese the Catalanian Parliament 2.0 has one-way, two-way and three-way interaction processes. Its drawback however is actually the excess of participation options and possibilities, which make the interaction with the House highly diffuse and leaves the ordinary citizen somewhat bewildered. Furthermore, it lacks a system to provide information of any effective repercussions the contributions and inputs have on the legislative processes or any contribution they make to the surveillance and control of the Catalanian Executive Branch.

3.3.3 Citizen participation – the Basque parliament

The parliament of the Basque country, mainly located in northern Spain,⁵⁹ has a set of political forums in which the citizens are invited to participate and make their contributions or raise questions concerning legislative proposals. Any political party can voluntarily reply to them.

FIGURE 8 – The Basque parliament participation portal

Temas	Preguntas/Propuestas	Respuestas	Asesor	Último mensaje
Educación	[Pregunta] Queriera saber que documentación tendría que presentar un centro de educación primaria para poder impartir el método Montiquit, así como los pasos a seguir para su aprobación y aplicación, un saludo.	2	EUSKALDEUSKADIA EUSKALDEUSKADIA EUSKALDEUSKADIA	Jan 07a 07: 2011 0:48 pm 08:00
Educación	[Pregunta] Queriera saber si en el colegio central de Ibañeta de Euzen que se de primaria y tienen un acuerdo de 1º y 2º de secundaria para el próximo año los niños de esta localidad y alrededores podran cursar en este centro con otro acuerdo por cierto sucesivos 3º y 4º de secundaria, para que no tengan que desplazarse a Irujo de este centro a otras localidades cercanas como por ejemplo Ibañeta, y poder tener los mismos derechos que tiene otros niños en otro centro de esta localidad que pueda ofertar el ciclo completo, gracias por su atención y espero respuesta.	2	EUSKALDEUSKADIA EUSKALDEUSKADIA EUSKALDEUSKADIA	Jan 07a 10: 2011 11:00 pm 08:00
Administración Pública	[Pregunta] Precisamente a Ibañeta, no al Ayuntamiento en el que he dedicado más de 18 años de trabajo, en el que intento promocionar y en el que no quiero renunciar mi experiencia profesional, alegando que soy 15 años a las que se refiere la disposición 16ª deben de ser un precepto y no una cuestión de preferencias como interinos. Me comentaron que si existe alguna normativa que me de la razón, comentando así mismo, pero no encuentro nada al respecto (aunque me habrán tenido que acudir a los tribunales por semejante tema) ¿algunos sabéis si existe dicha normativa? gracias por todo.	2	EUSKALDEUSKADIA	Mar 07a 11: 2011 4:37 pm 08:00
Educación	[Pregunta] Queriera saber concretamente que paso tiene que hacer el Ayuntamiento de Irujo para que su departamento pueda pedir presupuesto para la realización del inicio en el año 2011, del los cual se ha presupuesto con la cantidad de 1.900.000.- euros, ya se que usted también hace un año dice al ay no sé algo parecido pero me me quede claro que paso falta para que este tema por parte del ayuntamiento sea totalmente factible y se pueda en el año 2011, empezar los obras de este así en esta localidad tan necesaria para nuestro niños, gracias por su atención esperamos volver en la inauguración del nuevo colegio respuesta.	1	EUSKALDEUSKADIA EUSKALDEUSKADIA EUSKALDEUSKADIA	Mar 07a 01: 2011 12:40 pm 08:00
Administración Pública	[Pregunta] Con relación a la pregunta que lancé hace unos meses sobre la disposición adicional 10 de la Ley de Función Pública vasca (Ley 1/2009) solicito me indiquen en dónde puede alegar un justificante oficial a una promoción, la motivación es la que trabajo actualmente que los años trabajados como funcionario interino no me cuentan para sustituir la situación a la que hace referencia la disposición mencionada. Agradecería mucho la contestación por parte de EUSKADIA para así ser incluido en la lista de aspirantes por la que necesito por favor disponer de alguna forma que la interpretación que hacen en el departamento de personal de en Ayto. sea equivocada y poder basarme en algo que los quede más claro y no puedan decirme: (responder que hace más de 18 años en total trabajando en eso	2	EUSKALDEUSKADIA	Abr 07a 11: 2011 10:00 pm 08:00

The format of the Basque experience⁶⁰ is somewhat original insofar as it stimulates the political parties to compete with one another in responding to the messages input by the portal users. Because the questions and doubts of the citizens are visible to all, the responses reveal which political parties dedicate more attention to this kind of participation. That means the portal also stimulates interaction among parliamentarians via their political parties. In the example that now follows the rivalry between two parties in responding to the citizen is clearly revealed.

⁵⁹ There is a small Basque enclave in the extreme southwest of France as well.

⁶⁰ Accessible at <http://partaide.parlam.euskadi.net/>. Consulted on January 18, 2011.

FIGURE 9 – The Basque Parliament Portal – an example of citizen participation



Furthermore the citizens have the option of simply expressing their approval or rejection of any given piece of draft legislation. That means the extent of popular support for the proposal will be revealed in their manifestations. One aspect that should be stressed is the care that is taken to avoid frauds. The citizen must supply an ID number that is validated by the system and his or her complete name and address in order to participate in the debates.

In spite of the richness of the formats and possibilities for discussion, the Basque system of parliamentary forums has not managed to stimulate much participation on the part of the public, which means that it has had very little effective impact on the work of parliamentary institutions. Peixoto and Ribeiro (2009) suggest that the type of language used may be one of the basic problems behind that inefficacy. Instead of using simpler everyday language such as that used by non-governmental blogs, the parliamentary digital participation experiences generally establish a highly 'official' tone employing institutional language that impedes communication because the ordinary participant with more limited powers of expression will find it hard to reproduce such language and that will inhibit participation (PEIXOTO and RIBEIRO, 2009, p. 9).

Even though the participation format installed is three-way according to Ferber, Foltz and Pugliese's classification, in the Basque model some control is exercised over the questions and so it actually comes under the heading 'controlled response'. Also, on observing the contents of participations, it can be seen that there is little interest on the part of

the participants or of the political parties that supply the answers in conducting more in-depth discussions of the legislative proposals. That is visible in the prevalence of very specific, limited-scope questions most of which concern doubts related to the personal sphere and concerning problems that the citizen encounters in his own daily life.

One citizen for example wants to know what kind of document he needs to present to a government run school in order to exercise a certain right; another wants to know how to proceed with a certain labor law benefit. Such questions reveal a certain level of misunderstanding of the actual attributions of the parliament itself. The overall impression is that the Citizen Participation system of the Basque parliament actually functions as if it were an Ombudsman service.

3.3.4 On-Line Town Hall Meetings: The United States' National Congress

The project 'On-Line Town Hall Meetings: Exploring Democracy in the 21st Century' that was conducted in the sphere of the American National Congress has brought in highly relevant elements to support an analysis of interaction between society and the parliamentarians. In fact it was a research experiment conducted by David Lazer of the Harvard Kennedy School and Northeastern University; Michael Neblo, of Ohio State University; Kevin Esterling, of the University of California-Riverside and Kathy Goldschmidt, of the Congressional Management Foundation (LAZER et al., 2009).

The aim was to analyze how the internet could facilitate dialogue between the citizens and the congressmen. Twenty Open Digital Meetings were organized with Representatives in individual sessions in 2006 and just one with a senator in 2008 and involving 600 participants altogether. The researchers themselves moderated the meetings. Each congressman was interviewed in a session dedicated to a certain public policy, in this case, the policy on immigration. The congressmen and the moderators use a device connected to a computer that enabled them to speak and listen to one another. The participants sat in front of their computers in their own homes or workplaces and they could listen to the congressmen's replies, send in written questions and post remarks. Only material that was irrelevant to the theme under discussion, unintelligible or offensive was filtered out by the moderators who did their best to ensure that everyone participated, giving priority to contributions from those that had not taken part in the discussion so far rather than those of more pro-active participants.



Participant selection was based on random criteria and they were divided into two groups; one that would actually take part in the meetings (treatment group) and the other that would not (control group). The two groups were interviewed on three different occasions: before the meetings, one week after the meetings and right after the elections. Participants taking part in the meetings were previously provided with specific information on the subject of discussion so that they could be better prepared for the debate.

The experiment arrived at some interesting conclusions. For example, the rate of approval of the parliamentarians that took part in the meetings went up after the experiment was over. In other words the voters that took part in the sessions were able to get a better picture of the parliamentarian's qualities such as the extent of his involvement in the work, accessibility and capacity to carry out parliamentary work.

It was also found that participants rate of approval of the parliamentarian's opinions on the public policy being discussed went up. In short, the participants were influenced by the arguments put forward by the parliamentarians after they had had an opportunity to listen to and understand the latter's point of view and, as the researchers responsible for the study observe, there were changes of opinion of some voters on the point in question. As an example, representatives that were in favor of penalizing illegal immigrants to the USA managed to convince a portion of the meeting participants that prior to the experiment had been against that idea.

The composition of the group was marked by the participation of voters with the most varied types of relations with politics. There were those that were frustrated and skeptical in regard to the political system and others that were disciplined activists and enthusiasts of the traditional ways of conducting politics. Irrespective of their stances, after the meetings the participants were more disposed to turn out for the elections and to persuade others to participate as well, as the authors of the study concluded.

To try and ensure that the sample selection process would form groups that were really representative of the diversity typical of any given constituency, Lazer et al. (2009) took seven demographic factors into account, namely, age, racial minority, gender, religious persuasion, strong identification with a given political party, income bracket and schooling level. One interesting conclusion of the study was that young people, members of racial minorities and low-income workers were significantly more disposed to take part in the experiment, than those

with the opposite characteristics (adults that were not young, members of racial majorities and citizens in high income brackets). Similarly women, citizens with lesser party allegiance and those that did not attend churches showed slightly more propensity to participate in the experiment.

What took the researchers by surprise was that only one of the seven demographic factors taken into account was accompanied by results that were in keeping with those of other studies, and that was 'schooling level'. It turned out that citizens with higher levels of education are more likely to participate in the On-Line Town Hall Meetings than those with low schooling levels. All the other factors were associated to results that were contradictory to certain traditional tenets in regard to participation whereby young people and low-income workers participate less than older adults and people in high-income brackets.

Participants were invited by a personal message of invitation that they received directly and not as a result of any widespread announcement of the project in their district. The researchers believe that helped them to involve voters that traditional selection methods do not reach out to. The fact that the selection was randomized made it possible to avoid auto-selection that would have facilitated the participation of those groups that already normally engaged in politics. In that way parliamentarians were able to interact with those of their voters that did not normally use the traditional means of getting in touch with them.

Regarding this point the researchers reveal excessive enthusiasm insofar as the way the selection was made actually did limit the access of participants, restricting it to those that had their own computers. Furthermore the initial selection was based on a list of voters that had expressed their willingness to participate in an experiment of that nature (LAZER et al., 2009, p. 31). Accordingly the extent to which the selection process was randomized is actually questionable.

Lazer et al. (2009) insist that the high level of deliberation associated to the experience whereby standards were set to guarantee: the quality of information on the issue in question supplied to participants; insistence that arguments should be based on exact facts; equality in the process of participation (everyone would participate with the same degree of intensity) and that there should be respect for alternative points of view.

The probability of the participants' voting for the parliamentarian they interacted with increased considerably by the end of the experiment. Furthermore ninety-five percent of the participants agreed to take part in any future participatory project of this kind. Also these



positive effects were reproduced in the bigger session. In the meetings with representatives the groups consisted of fifteen to twenty-five voters. In the meeting with senator, there were around 200 voters involved but the results were very similar.

Another outstanding point in Lazer et al.'s description of the experiment was the user-friendly interface which contributed considerably to making the participatory process feasible. To ensure that, the researchers opted for software that was very easy to handle and that also does not require very sophisticated computers to function thereby making it easy for it to be installed and executed by users whose computers only meet minimal requirements.

In short, Lazer et al. considered the digital medium to have been very useful in drawing voters and parliamentarians together particularly because it allowed for interaction in real time; participants could hear the voice of the parliamentarian live answering the questions they had just sent in. However in the Ferber, Foltz and Pugliese classification scheme this experience would be classified as three-way but with controlled response because the questions presented by the participants were moderated and there was no discussion of them. There was in fact no public discussion environment provided that would have allowed for greater and more generalized interaction.

While it is true that this experience revealed the non existence of mechanisms that might ensure continuous interaction between representatives and those they represent in the democratic system, nevertheless whenever experiences of this nature take place the representation process is enhanced and people start to believe in the political system a little more, even when they are in disagreement with specific opinions expressed by the parliamentarian on public policies.

Another aspect of this project that should be taken into account is how strongly it is marked by the kind of relationship between the parliamentarian and the voter that is so typical of the American system, that is, of the representative with those represented in the light of the micro-politics of the Capitol. This kind of experience is very different from that of the British parliament which will now be examined and in which great value is placed on forming a public sphere for discussion based on the interactions of groups of citizens with the parliamentary institution (mainly represented in this case by the standing committees and technical bodies). The discussions range around legislative propositions and themes and there is far less emphasis on the specific occasional relation between the representative and those represented.

3.3.5 Thematic public consultations – the British parliament

Since 1998 the British parliament has been promoting a series of on-line discussion experiments. Up until 2009 there had been more than twenty On-Line Parliamentary Consultations moderated and organized by the Hansard Society, an independent, non-party civil organization that carries out research, surveys, actions and projects directed at modernizing the parliament.

The idea was to recruit participants with ample knowledge and experience of specific subjects associated to policies that are under discussion such as domestic violence, credits stemming from taxes that affect families, stem-cell research, constitutional reform and the policy addressing diabetes treatment.

Stephen Coleman and Jay Blumler (2009, p. 91) made a detailed analysis of two of the main debates that took place, namely, the public consultation on domestic violence, and the draft proposal for the communications act. The principal objectives of those discussions were to:

- a) Gather qualified information from the public to help parliamentarians to gain a better understanding of the subject;
- b) Recruit citizens that could contribute with evidence that would not normally reach the parliament through the traditional channels or that were liable to be rejected for some reason;
- c) Make it possible for discussion participants to learn from one another about a subject of their common interest;
- d) Allow participants to raise strategic policy points and issues that would not normally be presented by other means;
- e) Make it feasible for parliamentarians to interact with the participants by means of the on-line platform;
- f) Summarize in document form the various points of view put forward in the discussions and deliver the said document to the parliament as official evidence of the legislative discussion process.

The first such experience analyzed by Coleman and Blumler concerned domestic violence, took place in the month of March 2000 and was conducted by a parliamentary group known as the All-Party Domestic Violence Group. Its aim was to stimulate women survivors of domestic violence to testify before a group of parliamentarians interested in developing a new policy on that issue.



The other discussion, conducted by a Jointed Parliamentary Committee with members from the House of Commons and the House of Lords that was specially set up for the purpose. It took place in May 2002. Unlike the discussion on domestic violence this debate on communication policy facilitated the participation of society at large as part of the preparatory stage for parliament's deliberations on the issue.

The contributions made to both discussions were analyzed by a group of specially prepared technical personnel who administered questionnaires to participants and interviewed the parliamentarians at the end of the experiments.

In the case of domestic violence, where the virtual discussion was denominated Womenspeak, the Hansard Society worked in collaboration with Women's AID, a civil entity dedicated to protecting women which had confidential access to a national network of shelters for women victims of domestic violence. Other civil entities active in the defense of women and of people with visual deficiencies also assisted the process.

In October and November of 1999, five months before the on-line discussion began the proposal was publicized by publishing announcements in the on-line newspaper of the Women's AID organization. A series of regional meetings in various places around the British Isles also took place to recruit participants. Most of the registrations were made in person to person meetings with the participants or by mail.

Coleman and Blumler call attention to two outstanding challenges associated to this discussion, namely accessibility and security. Many of the women participants had access problems because they were unfamiliar with the internet or had no access to it. Some of them were able to use the internet in the shelters that are provided to women in that condition, that is in secure situations, which helped them in the process of getting their life experiences 'off their chests'. Furthermore there were people available trained to help them to perform acts like posting their comments for example.

Coleman and Blumler underscore how propitious the on-line environment was for the women's participation in the debate. They even state that had the process been structured around meetings in the parliament to be attended in person then their participation would probably not have occurred because, according to those authors, many of the women would not like to have their names publicly registered as witnesses. In the on-line discussion format some women preferred to create fictitious names

for themselves to avoid public exposure. In the post-discussion research survey, eight-five percent of the participants considered the website to be a secure environment. An average of 1,574 accesses a day were registered and 199 women submitted 960 messages altogether.

On the other hand, the recruiting process for the discussion on the communication policy went very smoothly, as was to be expected, because it did not involve any problems associated to exposure. The group of advisers assisting the mixed parliamentary committee prepared a list of potential participants most of whom were specialists in the subject and supplied it to the Hansard Society. Other names less well known in parliamentary circles were added later. An average access rate of 1,949 a day was registered and 373 people posted 222 messages.

While in the discussion on domestic violence what predominated was the sharing of experiences and opinions among the participants in a process of mutual support, in the debate on communication policy the emphasis fell on the participants' wish to influence the policy that was to be formulated (COLEMAN and BLUMLER, 2009, p. 94).

Ninety-four percent of the participants in the discussion on domestic violence and eighty-four percent of the participants in the discussion on communication policy were not affiliated to any civil society entity with any relation to the subject under discussion. In practice there was almost no representation of interest groups as such in the discussion.

Another aspect that differentiated one discussion from the other was the degree of interaction among the participants: eighty-two percent of all the contributions to the discussion on domestic violence were responses or retorts to previous messages sent in by other participants, which surely reflects the high degree of sociability of that discussion in comparison with the discussion on communication policy where only eight percent of the messages were responses to other earlier messages.

The post-debate survey showed that ninety-two percent of the participants stated that they had learned something new during the discussion on domestic violence; in the case of the discussion on communication policy the figure was seventy-two percent. The slight participation of parliamentarians in both discussions registered 3.2% of the messages in former discussion and 3.6% in the latter.

Three quarters of the participants in the discussion on domestic violence stated that they had agreed to participate because they saw it as an opportunity to interact with members of parliament. In spite of the low level of participation on the part of the parliamentarians, ninety-four percent declared that they considered the experience to have



been a positive in that very aspect. In the case of the communication policy discussion, fifty-three percent of participants declared they were satisfied with the extent of parliamentarians' involvement and eighty-seven percent stated they would be willing to participate again in an experience of that type.

The wry conclusion of Coleman and Blumler (2009, p. 97) was that "If an objective of on-line consultations is to increase public trust in politicians as good listeners, the exercises reported here do not provide grounds for optimism". In the interviews conducted after the debates were over, parliamentarians had differing views. Some felt the experience was highly valid, especially insofar as it had underscored points that were already known on the subject in question and had also brought into play aspects not previously addressed, while others alleged that they had found it difficult to accompany the discussions for lack of time.

In their study, the two English researchers used three criteria to evaluate the deliberative quality of the experiences: a) the way in which the messages were supported by external information; b) the frequency of message posting; and c) the extent of interaction between messages and messages posted earlier. This last aspect has already been commented on above; the discussion on domestic violence achieved much greater interaction among the messages than did the communication policy discussion.

In regard to the first criterion, Coleman and Blumler report that thirty-two percent of the messages in the domestic violence discussion made mention of external sources of information. In the communication policy discussion that figure went up to forty-eight percent. That reflects the fact that the first discussion was very much in the nature of an exchange of subjective personal experiences whereas the second achieved a better deliberative quality because it had provided a platform for discussion based on well-founded rational arguments.

In regard to the frequency of message posting, around fifty-two percent of the participants in the domestic violence discussion posted just one message and ninety percent posted less than ten messages. Furthermore, twenty-one percent of the messages were posted by just two of the participants and one third of them were posted by eleven percent of the participants.

In the communication policy discussion eighty-two percent of the participants submitted only one message and among the frequent participants only four percent contributed less than ten messages. In

other words, the level of interactivity was lower than in the case of the domestic violence discussion.

In drawing their conclusions Coleman and Blumler remark that considering the fundamental differences between the two discussions, the experiences with the same aim of drawing closer together the public and civil spheres can be configured in various formats and define distinct objectives but with positive results however much they may differ.

While the domestic violence discussion took on a relatively informal aspect in the bid to gather information stemming from people's personal experiences, the debate on communication policy was much more strongly bound to the formal legislative process, in addition to adopting a multi-media strategy to facilitate the access of interested citizens at large.

In any event, Coleman and Blumler considered that there had been "an environment of greater inclusion for public deliberation purposes" because in general the participants did not belong to the 'traditional' class of participants in such deliberations, such as political party members, lobbyists or other interested parties that circulate in some government spheres.

The authors add that those other voices that stand out in the virtual discussions would not normally be heard by the parliament at all; it was only possible in this way. They do, however, underscore the need for special preparation for the process to work such as the focused publicity that announced the discussion on domestic violence and the support given to minimize problems of digital exclusion. As for the political efficacy, that is the effective impacts of the discussions on the legislative process, the participants in the domestic violence discussion ended up more pessimistic about them than those in the communication policy discussion.

These on-line discussions are of the three-way type but they also embrace the formation of a public discourse in the terms of Ferber, Foltz and Pugliese's classification scheme. That means to say that they allow for maximum interaction not only between citizens and parliamentarians but among the participants themselves. Coleman and Blumler take the precaution of stating that the study has been based in discourse quality indicators that are merely elementary:

"(...) significant proportions of messages to both consultations referred to external information, frequent posters did not dominate the discussion to the exclusion of others; and, in the case of the Womenspeak consultation, there was a high level of interactivity.

These were, by almost any democratic standards, civilized and productive debates.”(2009, p. 101)

3.4 Case study methodology: what is the best way to study electronic democracy experiences?

3.4.1 Applied qualitative methodology

Conducting this study of electronic democracy projects that are in full course of development and evolution called for a special effort in the definition of suitable methodology for two reasons: first of all digital democracy experiences do not fit readily in the format of the ‘traditional’ participatory experiences that have been the object of so many studies especially by sociology and political science scholars and with increasing vigor starting in the 1990s; as witness experiences like the participatory budget of Porto Alegre and the deliberative experience of the Canadian state of British Columbia that have already been mentioned.

Because they involve some extraordinary features like the technology they use and the interaction with digital social networks, the experiments and experiences with electronic democracy defy conventional qualitative research methods particularly because they are in constant mutation, rapidly incorporating new technology and the interfaces that are established reflect that dynamic context. When this work was being finalized for example the Brazilian House of Representative’s e-Democracy portal and the Chilean Senate’s Virtual Senator portal were both undergoing a process of re-elaborating their interfaces and substantial changes were expected to be made.

There are several methodological formats could be applied to the cases that have been selected. The methodology used by Archon Fung (2007) for example with his analysis of mini-publics, and that of Graham Smith (2009) in regard to democratic innovations are interesting examples of analytic methods applicable to participatory experiences that are not necessarily digital, even though in the work of both there are elements relating to electronic participatory experiences at some point. However, if those methods were to be adopted it would mean ignoring aspects that are essential to any understanding of digital participatory experiences such as the technological interface and the institutional factors that collaborate for their development, maintenance and evolution.

The other challenging aspect about the question of methodology to be used in studying these experiments concerns their experimental design. Hundreds of digital participatory projects developed by society, the State (Executive, Legislative and Judicial branches) or by international bodies come into being practically every day, each with a different outreach and approach. Because the innumerable technological instruments (software and hardware) are constantly undergoing an accentuated process of evolution, experimentalism in this field, an endless process of trial and error, has become the rule and not the exception and the academic and technological communities are making strenuous efforts to refine and comprehend the results.

In that direction qualitative methodology theorists have defended various different lines of analysis for incorporating heterodox instruments into scientific research. Laurel Richardson for example considers it important to use forms of expression that are capable of giving a better description of the complexity of social phenomena in a world that is itself increasingly complex, such as including poetic texts to describe interviews with social actors that are part of qualitative research surveys. In that case, he argues, the poetry "(...) helps to construe the problematical aspects of reliability, validation, transparency and truth". (RICHARDSON, 2000, p. 933).

Without going to such extreme lengths, in our analysis of the two case studies we have adopted an approach that embraces political, social and institutional aspects with special attention to this last aspect in view of the overriding importance that elements of parliamentary administrative organization have in the development of the technological interfaces and in the management of participatory contents and the respective effective results of the experience.

The methodology used differed in the two case studies in regard to the relation of the researcher to the experiences that were the object of the study, although in both cases qualitative analysis was applied. The main instrument used was semi-structured interviews with the actors involved in the two projects, which made a detailed exploration of each case possible. The questionnaire was only used when the actor in question expressed a preference for it and that was more common among the parliamentarians. Although the answers to the questionnaires have been essentially objective they brought to light important information discoveries for the research work. In any event we used the same questions in the interviews with a prepared script as we used in the questionnaire.



The questions were divided into three categories according to the nature of the person being interviewed: civil servants, participants from society at large and parliamentarians. We chose to interview civil servants that had participated in the design, development, execution and routine maintenance of each experience.

The only difference between the e-Democracy and the Virtual Senator in this aspect is that former includes a class of civil servant that is not contemplated in the latter – legislative consultants. In the Brazilian House there are about two hundred professionals specialized in the twenty-one themes that are the object of public policies and they advise the representatives in the legislative process in general especially in regard to technical aspects. The Chilean Senate does not have any such professional career or organized body of professionals in its composition. Some small modifications to the questions proved necessary to adapt them to the peculiarities of each project.

In the Brazilian House of Representatives' e-Democracy project the author of the present research work played the role of observer and participant insofar as he had had a direct hand in developing and implementing the project. However he withdrew from the project in August 2009 and did not take part in the pilot stage of it, which lasted until August 2010.

Consequently the author took no part in the contents discussions of the virtual communities of the e-Democracy project. During that period, in addition to accompanying the discussion directly in the respective portals, we conducted the semi-structured interviews and administered the questionnaires to 21 people among whom were parliamentarians (6), participants from society at large (7) and civil servants (4 designers and executors and 4 legislative consultants).

Atkinson and Hammersley (1998, p. 111) point out the various situations that may prevail for a participating observer especially in the following aspects: the extent to which his status as a researcher is known to those that make up the study object; the kind of activity he carries out in the groups; and the extent to which the researcher consciously or unconsciously adopts the orientations of those being studied in the activities he carries out as a participant.

In spite of the fact that the figure of the participant observer is more usually present in ethnographic research and the object of our present research does not come under that heading, we still consider this kind of approach to be satisfactory in the present case in view of the depth that such immersion can provide to the analysis, but care

must be taken to watch out for the danger of introducing bias. In view of all that, care was taken to concentrate the research on digital participatory practices with relevant social dynamics which does not mean that it was an experience that exhausted all the possibilities. The technological interface and the contents of the discussions, for example are also essential elements for gaining an understanding of the cases being studied.

Some instruments typical of qualitative methodology were also used for the research on the Virtual Senator project, such as semi-structured interviews and questionnaires administered to civil servants project designers, developers and executors (6), senators (3) and those participating in the portal (7) totaling 16 altogether. We also conducted a direct analysis of the Virtual Senator website and of the documents that the team responsible for administering the project made available to us.⁶¹

In this case, the author of the present research performed as a distant observer. The chart set out below displays a synthesis of the structures of the cases selected for study purposes. Three macro-aspects of the experience will be analyzed: the technological interface, participation management, and the eventual impacts on legislative decisions.

FIGURE 10 – Chart showing methodology for evaluating digital participatory experiences in parliaments

Elements Analyzed	Technological Interface (instrument enabling interaction)	Participation Management	Political Efficacy (impact on legislative decisions)
Questions	a) How are the instruments enabling interaction developed and organized? b) How do the participants interact with the institution?	How are the parliaments' internal administrative processes coordinated in regard to the preparation organization and processing of the contributions resulting from participation?	What repercussions do the citizens' contributions have on legislative decisions?

⁶¹ Some printed and digital documents were used for the analysis of the experience: a) the material of the presentations made by the Head of IT and the Head of the Information Sector of the Chilean Senate; and b) various statistics on the use of the Virtual Senator portal. The same documents can be consulted by sending in a request to the *Oficina de Informaciones* of the Chilean Senate.

3.4.1.1 Technological interface

The aim of analyzing the technological interface is to gain in-depth knowledge of the design of the proposed participation-enabling instrument in order to understand better the consequences of its particular format. Lawrence Lessig (2003) underscores the importance of the underlying internet architecture as a determinant factor in obtaining its results. The idea of 'free culture' advocates on behalf of making intellectual property rights and copyright regulations governing contents displayed on the internet more flexible so the greatest possible number of people around the world can have access to such material, transform it into new contents and diffuse them widely and freely in the web.

In Lessig's view the rules embedded in the way the internet is organized are strategic in defining the effects using them has on people. For example, according to that author, if a certain producer develops a cartoon but imposes limitations to the use of the product in the internet, he is actually impeding other artists, producers and directors from eventually using those contents to elaborate new products, thereby undermining human creativity and capacity for innovating.

In the 1960s, classical media thinker Marshall McLuhan (1997) pointed out that the media could not be thought of as merely a passive channel for information. They also structure thinking processes; in other words, they model and control the scale and form of human association and action. From that idea stems McLuhan's maxim that "The medium is the message" that is, the way a given material/content is structured affects the contents of the message that it is intended to transmit.⁶²

In the light of Lessig and McLuhan's teachings we will endeavor to analyze the form of participation enabled by the technological interface as an aspect that determines its results. For example, when the architecture of the Chilean Virtual Senator platform conditions participation to a scheme of multiple choice options it diverges considerably in terms of incentive and results from the format proposed by the e-Democracy portal which calls for a more open form of participation directed more towards public deliberation on the issues as will be shown later on.

Our research here investigates legislative portals that offer a variety of devices for interaction with the citizen. It is important to know to

⁶² In keeping with the thoughts of Saint Thomas Aquino whereby the form is the boundary of the contents.

what extent the degree of interaction and the format adopted generate differing results for the respective legislative institutions. The impact of a wealth of detailed information on legislative proposals that have been displayed on parliamentary websites but without provision of any tools to enable participation may be very valuable in terms of enhancing transparency of the legislative process but will have little or no effect on the legislative decisions. On the other hand, setting up blogs on legislative portals may offer a space for legislative discussions that have some chance of having an effect on the parliamentary routine.

Zack (1993, p. 212) suggests some factors that are essential to define interaction, not necessarily restricted to digital interaction. According to him, the form of communication should make it possible for a simultaneous, ceaseless exchange of mutually shared information to take place. For example, one participant should be able to help another to construct phrases during the dialogue and so on. Furthermore, it should be possible for participants to spontaneously, unexpectedly and developmentally elaborate contents together, but at the same time they should be able to interrupt communication whenever they wish, and they may also change their minds, re-write or re-edit their contributions.

Zack also highlights the importance of multiple, non-verbal communication. Interaction among people may be achieved by communicative processes that include, gestures, body language, tone of voice, manner of speaking, reiteration, pauses and others.

The great challenge faced by the new technologies is to create conditions that are very similar to those of communication in a physical presence encounter and, by doing so, make it possible for participants to interact intensely even though they are not situated in the same physical space. Moreover, the digital universe sets out to provide new discourse situations that would not be possible or would have very limited possibilities using conventional forms of interaction or physical presence encounters.

In that direction there has been great progress in recent times in the form of forums, blogs and Wikis (collaborative construction tool)⁶³ all of which are in the internet and enable people and organizations to communicate at different times and in different ways. Furthermore, as Chapter 2 showed in some detail, there is high built-in capacity to

⁶³ Many other forms of digital interaction have been created. As an example, there is the progress that has been made with interactive digital TVs especially the case of videogames with devices that capture the users body movements which permits interaction between user and digital device by means of gestures: Nintendo's Wii (<http://www.nintendo.com/wii>), Microsoft's Xbox (Kinect) (<http://www.xbox.com/en-US/kinect>) and Sony's PS (Move) (<http://us.playstation.com/ps/playstation-move>).



retrieve the contents of participants' contributions; something that is not possible with the conventional forms of interaction.

So from this point on our interest will be in gaining a better understanding of participatory experiences whose interfaces allow for and, indeed, stimulate the highest possible degree of interaction, multiple three-way interaction, according to the classificatory scheme proposed by Ferber, Foltz and Pugliese. The two experiences to be analyzed in the form of case studies are the Chilean Virtual Senator project and the Brazilian e-Democracy project, both attempts to create an arena for public participation where various forms of interaction are possible involving groups of people. The aim of this element of analysis of the technological interface therefore is to investigate how the interaction at the interface takes place and which are the elements of the interface that affect the quality and quantity of participation.

In the last few years, new parameters have been established for measuring the interaction quality of internet websites. One of the criteria used is 'usability'. According to one of the leading scholars in this field, Jakob Nielsen, there are five essential aspects to usability:

- a) Learnability: the ease with which the user manages to carry out basic tasks the first time he or she visits the portal.
- b) Efficiency: once the user has learned to perform the tasks, the speed with which he or she manages to perform them.
- c) Memorability: after a period of time without accessing the portal, the degree of effort the user needs to make to re-acquire his or her former proficiency in handling the tasks.
- d) Errors: the kind of navigation mistakes users make and how they recover after making them.
- e) Satisfaction: how satisfied the user feels after using the portal.

The question of usability is especially important in any analysis of portals in Ferber, Foltz and Pugliese's three-way interaction category. As they allow for interaction among various users, the organization of the various applications (softwares) of such portals in such a way that they are practical to use is far more complex. What use would a portal be that offered its users various possibilities for interaction and participation if the users cannot readily find what they are looking for?

The series of interviews conducted with e-Democracy and Virtual Senator participants and the access we had to the body of

suggestions and complaints sent in to the respective administrative bodies responsible for the projects, revealed important information as to how the participants perceive the objectives of those projects and whether the form of the interface that has been installed has really been successful in stimulating efficient participation.

Thus it is worthwhile gaining an understanding as to how the interaction devices of each portal have been organized and made available to the participants and what effects they have had on the participative process. Does the proposed form of interaction actually help or hinder the relations with the parliament? What effects does the form of the interface have on the legislative process? Those are just two of the questions that must be addressed to acquire an understanding of this element; the form of interaction.

3.4.1.2 Managing participation

Given the relevance of observing the form that participation takes it is equally relevant to find out what is done with the contents that result from it. This second item of analysis, participation management, concerns the administration of internal processes in the legislative organizations designed to ensure that the citizens' contributions actually get to the parliamentarians. Problems stemming from management of information generated by participation instruments in Latin American parliaments have been identified by Andrea Perna (2010). She highlights how, in the case of the Brazilian House of Representatives, the various means of digital participation offered by the House have brought about problems in the internal management of the inputs which has jeopardized their usefulness in decision making.

What kind of internal organizational processes are needed to transform the contents stemming from participation into something concrete that can actually affect the parliamentary routines? Are the parliaments organizationally qualified to handle this new procedure, participation management? Are special human resources necessary to process this new routine?

Furthermore, how do the internal and external communication policies address the question of the participatory process? What are the costs in terms of time and energy spent to achieve the objectives of experiences of this kind? How important is the participation of public policy specialists in the process as a whole? In short, any evaluation of the effectiveness of the participatory process consists largely of

an analysis of how the administrative machine works by thoroughly investigating its organizational aspects.

3.4.1.3 Political efficacy

In addition to tracing the path followed by participatory contributions within the structure of the parliamentary organization, we need to observe what the real repercussions of the contributions are on the legislative process. Accordingly it would be relevant to find out to what extent the experiences of the Chilean Virtual Senator project and the Brazilian e-Democracy project implemented processes that effectively influenced the opinions of parliamentarians in each country and consequently affected their decisions in regard to the draft bills under discussion.

It must be stated at the outset, however, that there are inherent difficulties in any attempt to measure this aspect because of the concurrent influence on parliamentary decision-making of many other elements. As an example, parallel to the digital participation of the virtual community discussing the Statute of Youth, one of the debates that was conducted on the Brazilian e-Democracy portal there were other non-digital participatory and deliberative processes in course such as live public hearings, meetings between parliamentarians and social leaderships to discuss the question, parliamentary discussions in the sphere of the parliamentary committees and so on.

Thus the challenge is to find a way to separate the effects of digital participation from those of other processes on parliamentary decision in order to be able to evaluate them. The interviews conducted with parliamentarians, technical staff and participants went a long way towards meeting that challenge and gaining an understanding of the impacts on the legislative process that were specifically attributable to the digital participation, as will be explained in more detail later.

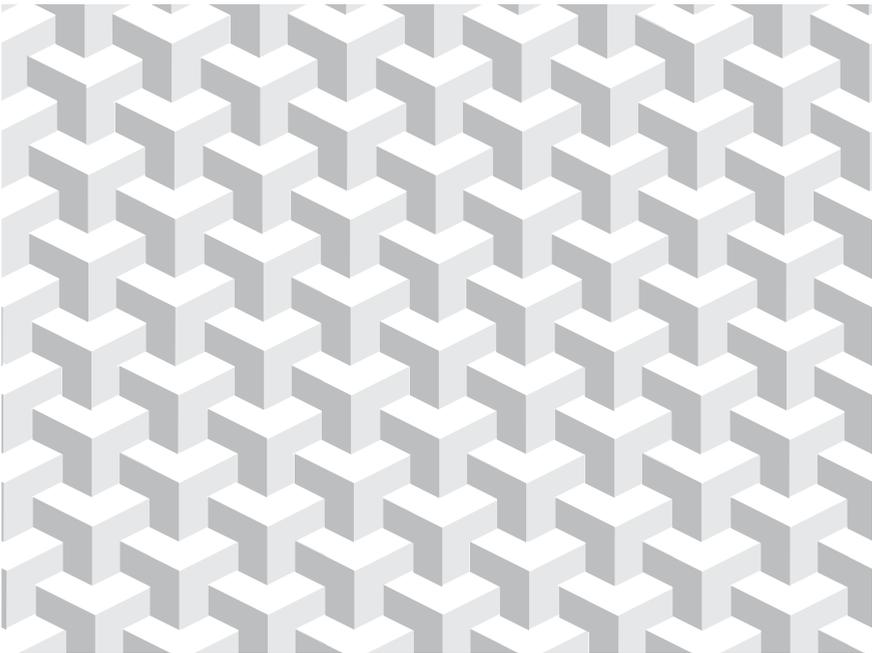
Thus, in addition to the effective impact on the elaboration of legislation as such, we wish to detect the extent of any impacts of the participatory process on the parliamentary routine in general, that is to say, on those legislative activates that precede the elaboration of legislation. For example, does participation of this kind have any effect on the proceedings of the Select or Standing Parliamentary Committees? Do Representatives or Senators discuss any of the ideas put forward by participants in the Brazilian House of Representative's e-Democracy portal or the Chilean Senate's Virtual Senator portal during live public hearings they attend in person? Has the participation affected the legislative agenda in any way, by accelerating the progress of a proposal

for example? The contrary is also important: in what way were the actions of parliamentarians reflected in the participatory process?

So we can see that the analysis embraces, a) the technological interface, that is the form or the entry point by which the participatory contribution 'enters in the organization; b) participation management, referring to the internal processes of those contributions in the parliamentary organization; and c) the political efficacy of participation, that is its effective results in terms of impacts on the legislative elaboration process in question. In the following chapters we will be applying that analysis scheme to the two cases selected for study, the Chilean Senate's Virtual Senator portal and the Brazilian House of Representative's e-Democracy portal.

4

CASE STUDY:
THE CHILEAN
SENATE'S VIRTUAL
SENATOR PROJECT



4.1 Description

4.1.1 Definition and objectives

The main means of interaction in the Chilean Senate's Virtual Senator portal through detailed polls on the main draft bills being processed by that country's National Congress. Once citizens have registered with the portal they can express their opinions on the draft legislation displayed on the digital platform Virtual Senator. The contents of each draft bill are divided into two parts. First the citizen is invited to express an opinion on the bill as a whole and its general contents. In addition the portal offers an opportunity for the citizen to express an opinion on each of the principal points or articles set out in the draft legislation and he or she can approve, reject, or abstain from giving an opinion. The basic idea is to provide the portal user with conditions that enable him (or her) to analyze the legislative proposals as if he himself were a senator, hence the name 'Virtual Senator'.

The original reasons that motivated the creation of the Virtual Senator portal were political, in the sense and of its being an attempt to draw the people and the Senate closer together, but also technical, associated to the need to disseminate basic concepts involved in the procedures for processing legislation by applying them in practice. What is outstanding therefore is the system of communication feedback between the senators and the Chilean population at large that allows the senators to systematically gain knowledge of society's views on legislative proposals and at the same time, for the people be kept informed on the discussions and decisions of the senators. Some of the civil servants that were interviewed also identified the objective of improving the negative image that Chilean society had of the National Congress.

4.1.2 Technological Interface

In addition to participating in the polls and surveys the citizen is also permitted to submit suggestions in the form of alternative texts with different readings from those of the official draft or to propose additions to it that were not addressed in the original version of the proposed bill. Each draft bill is exposed to this kind of participation for a limited period at the end of which the final results are sent in to whichever select committee is responsible for analyzing the bill in

question. Accordingly the period during which the draft text is made available to receive opinions and suggestions always begins before it goes before the respective select committee; the main parliamentary forum for such discussions.

FIGURE 11 – Typical page of the Virtual Senator participation platform (random example)



In order to participate, the citizen must register by filling out an on-line form supplying his full name, place of residence, e-mail, sex, age and profession. The aim of such formal registration is to provide more highly qualified statistical information on participants and to avoid frauds in the voting processes carried out via internet.

Without individual registration the voting could easily be distorted because of a single individual's voting many times. One curiosity that is immediately apparent is that the registration system admits the possibility of participants living outside of Chile taking part. Even before casting his vote in favor, or against or abstaining, the citizen can access the preliminary results of the voting on any of the draft legislation proposals under discussion to find out how the other participants are voting.

FIGURE 12 – VS screen showing partial results of participant voting on a given draft legislation proposal



Furthermore, the system gives the citizen access to a page displaying a synthesis of his or her own voting record and expressions of opinion so that he can have an overall visualization of his participation in the Virtual Senator Portal. He can also access the original texts of the legislative proposals and accompany its progress at any time. All such information is made readily available on the participation page associated to the draft bill in question.

FIGURE 13 – VS screen showing comments posted by participants



4.1.3 Project development

The first impulse for the creation of the Virtual Senator project came in the form of a request from senator Sergio Bitar and the Secretary of the Treasury Committee made to the Senate's IT Coordinator. The senator called for the construction of a participatory website that would make it possible to collect information on the public's opinion regarding a highly polemical draft bill that was before the house at the time designed to regulate divorce procedures in that country.

In response, a group was formed consisting of the secretaries of all the select committees, staff attached to the Information Department and other staff attached to the Press Department of the Chilean Senate. The group then worked together to establish the first guidelines for the project. Members of staff of the National Congress Library also took part in the first meetings to develop the project because obviously it was going to be necessary to integrate the proposed Virtual Senator platform with the library's databases to provide documental support.⁶⁴

The first challenge to be faced was the complexity and technical nature of the legislative proposals themselves which demanded a certain level of knowledge concerning the issue under discussion and an ability to interpret the language used in the legislative texts for any discussion to be at all possible, qualifications which the average citizen was unlikely to possess.

The first presentation of a proposal met with a certain degree of rejection from the group of Senate employees that would actually be working with it on a daily basis. While it was true that the proposed format allowed for a more elaborate form of participation on the part of society it also implied a tremendous amount of work on the part of the Virtual Senator team to process it. Accordingly the system of polls and surveys was developed that facilitated a simpler form of participation organized in a way that required less human intervention in compiling its results for distribution to the senators. Initiated in August 2001, the first version was called e-Legislación (e-Legislation) and then after it had undergone a series of adjustments it became the Virtual Senator portal launched on July 30, 2003.

⁶⁴ The Library of the National Congress is an autonomous body attached to the Chilean National Congress that provides technical support to representatives and senators as well as to other technical sectors of the two houses. The library has its own permanent staff and runs independent projects. It has recently taken part in the generalized re-structuring project financed by the Inter-American Development Bank. It is outstanding for the great quantity of innovative actions and services such as the *Ley Fácil* (Easy Law) which presents basic information on important Laws in simple and accessible language. Accessible at: http://www.bcn.cl/guias/index_html.

The transformations were actually materialized after the decisive intervention in the process of the Senate's pro-secretary, Sr. José Luis Allende, who was exercising the office of Head of Administration at the time. With the permission of the then president of the Senate, senator Hernán Larraín, he coordinated the committee made up of a multi-disciplinary group of senate officers who developed the new version.

A process for selecting those draft bills that would be made available on the Virtual Senator portal was incorporated to this new version to enable the performance of the specific form of participation devised and an information processing system was also added. At the beginning, in order to encourage citizens to participate, very little information was requested for them to register on the portal and the various obligatory fields to fill out that are so common on most sites in the internet were dispensed with. For example the participant was not requested to register his place of abode. Some years later that simple registration system was substituted by a more modern one because the earlier one generated a series of problems associated to the process of certifying the participant registration which tended to irritate the portal users. The new registration system includes mechanisms to avoid any duplicated votes.

The software installed was developed by the IT Department itself without resorting to any external consultants, which would have called for lengthy and complicated administrative procedures to contract them. However a company specializing in graphics was contracted to elaborate the visual aspects of the Virtual Senator website

4.1.4 Managing participation

The first point to highlight under this heading in regard to the Virtual Senator portal is the way in which the draft bills that are to be made available for participation are selected. The screening is done by a committee especially created for that purpose. It is made up of some secretaries of the select committees, the head of the Press Department and the head of the Information Department all of whom are permanent civil servants at the service of the Chilean Senate. That means that not all draft legislation is subject to participatory analysis via the Virtual Senator platform.

The committee members base themselves on pragmatic political principles in their selection of draft bills to be made available. In fact the political sensitivity and experience of the committee leads it to select material that is the greatest interest to the public or that proposes substantial social changes. They also weigh the question



of the administrative feasibility of investing the time and energy of the team in making draft proposals available that will require an extraordinary amount of work to ‘translate’ the legal language or that require exorbitantly advanced levels of technical knowledge on the part of the citizens for them to effectively participate.

After selection, the respective texts are transcribed into simpler, self-explanatory language to make them intelligible to ordinary people and the contents are prepared in the form of questions. This work is carried out by the secretary of the select committee that is analyzing the legislative proposal in question. The secretaries are invariably trained lawyers with experience in legislative technicalities although not necessarily specialists in the subject of the proposal.

This draft document of questions for the participants to answer is forwarded to the committee which is empowered to approve or reject it or to present an alternative text. The committee also accompanies the progress of each legislative proposal. For example a decision may be made to extend the period allotted for participation if there proves to be great interest on the part of society at large in the question being analyzed or if it is felt that more time is needed to publicize the participation period being offered.

After the text has been converted into more accessible language and structured in question form, the committee secretary sends it in to the Information Department which will use the moderating platform to manage the entire Virtual Senator participatory process. The moderating platform is an interface designed and developed for the use of the Virtual Senator team and more particularly by the staff of the Information Department and it is purpose-built to enable them to manage the participation. More details of the moderating platform will be provided in the next item.

The most strategic body for the functioning of the Virtual Senator is obviously the Information Department because in addition to its work of overall administration of the moderating system, it makes contact with the participants informing them, for example, about the timeframe for participation in the discussion on the new draft bill proposal.

Once the participation period has expired, the Information Department prepares a simplified report containing a synthesis of the quantitative data gathered, such as the number of participants, the overall results of the voting process, the number of suggestions sent in, all accompanied by demonstrations in graph form as can be seen in the attachments at the end of the book. Those reports however do

not present the contents of the suggestions but set out the electronic address of the Virtual Senator portal where they can be consulted.

The reports are made available for consultation on the Virtual Senator website and also sent in to the parliamentary committees and to the senators that are members of the select committee⁶⁵ appreciating the respective legislative proposal. In the sphere of the committees the senators receive the material and then decide to what extent the contents stemming from the participatory process expressed in the way the participants voted on the various issues and their suggestions and remarks should be considered in the elaboration of the final text of the draft bill.

The moderating platform

The moderating platform makes it possible for its administrator to: a) insert the simplified texts of the draft legislation proposal on the Virtual Senator site in the form of questions; b) gather data and statistics concerning participation such as the number of participants and their respective places of abode; c) exclude messages that violate the principles set out in the users manual of the Virtual Senator platform such as obscenities or messages that have nothing to do with the subject of the proposed legislation; d) manage the message administration system customized to suit individual participants; and e) define the key words that will operate the classification system applied to the suggestions posted.

In addition to the objective form of participation available to the participant whereby he or she can approve, reject or abstain from voting on each item of the draft legislation displayed, Virtual Senator participants are free to post suggestions and send in new ideas that have not been contemplated in the legal texts. Each comment or suggestion will be classified in an appropriate category so that the participant can visualize the final results of the participation as can be seen in the following example.

⁶⁵ The parliamentary committees consist of senators representing their respective parties and their purpose is to unfold actions concerning the legislative process such as defining the agenda for the floor of the House for example. In many ways the work like the collegiate groups of party leaders in the two houses of the Brazilian Congress.

FIGURE 14 – Chart with VS Portal participation results for the draft bill proposing prohibition of monopolizing commercial information of a personal nature

Questions	Yes	No	Abstentions
Do you agree that information commercial should be freely available to other companies and its monopolization banned?	255	344	69
If not, do you feel that such information should be administered by the State?	421	190	57
Suggestions and Contributions	Total		
Commercial Information	32		
Monopoly of commercial information	10		
Permission to concede administration to other companies	10		
Administration by the state	35		
Other subjects	54		

Contents showing partial results for participation in this legislative proposal consulted on September 10, 2010.

The chart displays the results of the objective participation (votes for, votes against and abstentions) for the two main points of the draft legislation proposal, which were presented in the form of questions. Furthermore, there were suggestions made that fell into five categories defined by the Senate’s Information Department: commercial information, monopoly of commercial information, administration permission, State administration and other subjects. Here are two of the suggestions in the category commercial information:

“1. Neither the State nor the companies should store information about people. It does not matter whether the information is commercial, political or otherwise, except information need for the purposes of police or judicial investigation or obviously information for civil registration purposes. Such information should be non-transferable, that is, it should never be handed over to other institutions except in the aforementioned situations.

(...)

7. Commercial information with details of a person’s commercial and financial record (banks and similar institutions) should be administered by those institutions only and by the State. Such institutions must be forbidden to disseminate the information for any purpose whatever, unless the person concerned expressly authorizes it. There is a steady trafficking in information among companies

that make profits using information that does not belong to them for discriminatory and improper purposes.”⁶⁶

Thus the staff of the Information Department and the parliamentary committees needs to constantly feed the platform with questions concerning each draft bill that is the object of participation in the form of polls. The digital form shown below is used help this process by presenting the set of fields that need to be filled in, such as a general synthesis of the draft bill, the period allowed for participation, and the general and specific questions that will make up the Virtual Senator polling instrument.

FIGURE 15 – Virtual Senator moderating platform: form used to input questions for the polls

⁶⁶ The contents of the suggestions cited here were accessed on September 10, 2010 at <http://www.senadorvirtual.cl/aportesclasific.php?ideleg=eidclasi=enombre=Informaci%Fn%comercialeque=eorigen=>. It is necessary to register with the system to gain access to the address. These are the originals of the texts that were displayed in a free translation on the previous page with their respective order of contribution numbers:

“1. Ni el Estado ni los privados deben mantener información de las personas; ya sea comercial, política, u otra, salvo la que es necesaria para efectos de investigación policial, judicial y la que por razones obvias debe manejar el servicio de registro civil. Esta información debe ser intransferible; es decir jamás debe ser entregada a otras instituciones, salvo que sea requerida para los efectos anteriormente descritos.

(...)

7. La información comercial, en lo respectivo a antecedentes comerciales y financieros (bancos and instituciones afines) debe ser manejada solo por la institución en cuestión y el estado, esta institución debera tener prohibido difundir estos antecedentes por cualquier via o propósito salvo que el titular lo autorize expresamente, hay un verdadero tráfico de datos entre empresas que hasta lucran con antecedentes que no les pertenecen, esto se presta para discriminación y mal uso.”

The following illustration shows how the moderating platform allows the administrator to define and organize the categories of suggestions.

FIGURE 16 – Virtual Senator moderating platform: suggestion-classifying system



It is also possible to administer informative and motivating messages to be sent to the participants. Messages like ‘Thank you for taking part’, ‘join in the voting on this other bill as well’ or other messages that provide strategic information such as ‘the draft bill you voted on has been processed by the Senate and has now been transformed into Law’ are very common as the following illustration shows.

FIGURE 17 – Virtual Senator moderating platform: message management system



4.1.5 Additional information

From the moment the forerunner of the project called e-Legislación was created in 2001 up until May 2010 the Virtual Senator had over 75 thousand participations in 181 legislative proposals that were put to the vote in polls on its website as can be seen in detail in the table below.

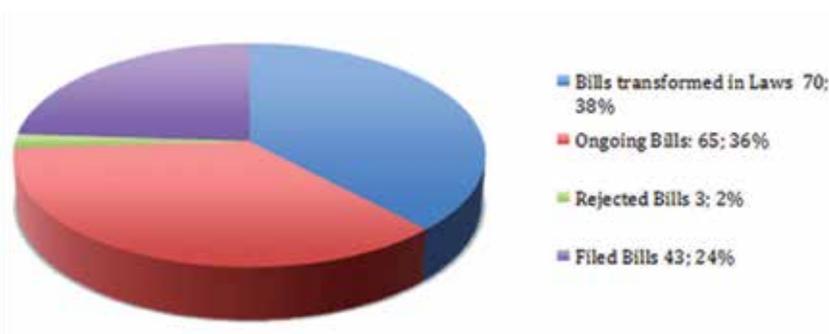
TABLE 1 – Virtual Senator statistics

Year	Nº of draft bill proposals	Nº of votes	Annual average Nº of votes per bill
e-Legislación (2001-2002)	9	1,474	164
2003	16	1,925	120
2004	35	9,890	283
2005	28	8,882	317
2006	25	7,249	290
2007	20	6,458	323
2008	23	9,289	404
2009	14	22,976	1,641
2010	11	7,425	675
Total	181	75,568	418 (overall average votes per project)

Source: Information Department of the Chilean Senate. Updated on April 30, 2010.

Of all those 181 projects, 116 were actually appreciated by the Chilean Senate and resulted in 70 draft bills that came to be approved, rejected or shelved as shown by the graph below.

FIGURE 18 – Graph showing stage of processing of draft legislation submitted to the Virtual Senator portal



In the period from 2001 to April 2010 the Virtual Senator register received 35,187 requests for registration and on April 30, 2010 there were 31,633 active participants. As can be seen, around 58% of those active participants (19,960 users) have participated in the Virtual Senator at least once since it was created.

4.2 Analysis

4.2.1 Technological interface

Limitations to freedom of participation

In the model proposed by Ferber, Foltz and Pugliese, the Chilean Virtual Senator experience would be classified as a three-way collective discussion arena of the controlled response type. That is to say, the Senate (sender) by means of the portal gives out information on draft legislation, registers and measures citizens (receiver) choices and comments and makes them available to the public.

The portal closely controls the emission of contents on the part of the citizen who can only make one insertion per legislative proposal. The participant is not given an opportunity to reformulate his opinion or even to continue participating in the discussion on the draft legislation in question with other participants and the parliamentarians. In short the interface allows for participation but not deliberation.

The restricted liberty of the participation makes it easier to administer the participatory contents because neither the voting result nor the suggestions or comments receive any kind of treatment such as is done in the Brazilian e-Democracy project where the preparation of the synthetic reports demands a considerable amount of human effort. The way the team of Virtual Senator moderators functions, only offensive suggestions or those that violate the behavioral norms established for the portal are discarded and consequently not published.

Instead of all the organizational problems encountered by the Brazilian House's e-Democracy portal because of its demand for strong human processing effort, the Virtual Senator is automatically ready for publication on the portal itself or in printed report form to be delivered to the senators. The reduction of administrative and organizational costs, however, is associated to the small degree of freedom allowed to the participants insofar as they are not able to interact with parliamentarians or other participants.

In regard to usability, the portal's navigation system is very simple. By presenting a list of draft bills that can be voted on the first page with a button to the right saying 'vote' the VS portal demands an absolute minimum of effort on the part of the user. All he has to do is click on the button and answer the questions that appear. Furthermore there is 'Users Guide' tab where the user can find out exactly how to participate and how his opinion will be processed.

FIGURE 19 – Virtual Senator screen inviting participation



Thus the simplicity of the VS platform makes it readily accessible to any class of participant. The two forms of participation, a poll and the opportunity to post suggestions, do not raise any doubts, the format of the interface makes navigation easy and reduces the chances of the participant's not understanding how to participate. Those that were interviewed in the course of the research had no problems of that kind although some did complain about how inflexible the participation scheme was "The participatory format is very rigid, it should allow for more interaction; sometimes I found myself in agreement with some points of a draft bill but not others but in the final assessment all I could do was approve it, reject it or abstain from voting".⁶⁷ In any event learning the VS participation process requires little effort.

⁶⁷ Free translation of the following original statement: "El formato en que uno participa es muy rígido, debiera permitir mayor interacción, a veces yo estaba de acuerdo con algunos puntos de un proyecto y en contra de otros, pero en la evaluación final siempre tenía que aprobar, rechazar o abstenerse".

Evolution of the interface

In regard to the sustained evolution of interface, the VS has made little or no progress in the course of its existence. The biggest change that occurred with it was the transformation of the first version (*e-Legislación*) into the Virtual Senator and recently there were some alterations to the visual aspect of the pages to make it more user-friendly. However, there have been no major changes to the way in which participation takes place, that is to say, the system of a polling structured around set questions and the possibility of registering open suggestions has been maintained throughout as confirmed by Marques (2008).

No new functionalities have been added that might stimulate interaction so typical of the web 2.0, like deliberative forum platforms, blogs or chats. Neither has there been any attempt to integrate the VS platform with social network platforms like Facebook or Twitter, or to include mechanisms for the automatic accompaniment of information registered on the portal such as RSS. So, however pioneering it may have been in introducing digital interaction back in 2001 when such 2.0 interaction processes were merely incipient, the Virtual Senator project has made no notable progress to a more advanced form since then.

One of the main factors determining the interface's failure to evolve, according to one of the technical staff members of the team has been "the Senate's unwillingness to give priority to investing financial resources in developing new functionalities for the Virtual Senator". Admittedly, there are considerable costs involved in engaging the human resources from the Chilean Senate's technological sector in the work of developing new functionalities. As various processes of public organizations are to some extent related to the incorporation, development and application of technology, their IT teams are invariably highly overloaded as is the case with the Chilean Senate's technology team.

At the same time the evolution of the softwares that are used in the internet takes place at an overwhelmingly rapid rate and IT teams attached to public bodies, like the Chilean Senate, have great difficulty in keeping up with new tendencies and adapting them to the peculiarities of their respective organizations. The process of contracting external technological services, so necessary as a short term means to aggregate innovation, is slow because it involves complex public tendering procedures.

In other cases, modernization requires specialized training for technical staff and contracting those training services and the respective

staff incurs the same difficulties in the form of the moroseness of public tendering processes. In short, the structural organization of public bodies makes it difficult to incorporate new technological tendencies. When they are incorporated they are already out of date because the process took so long. It is quite clear that the institutional contexts of both the Brazilian e-Democracy (as we shall see later on) and the Chilean Virtual Senator are severely afflicted by this problem.

The participatory system

There is another relevant aspect to be examined when evaluating the amount of participation and its results. Before expressing an opinion the participant playing the role of a Virtual Senator can observe the preliminary results of participation to date by clicking on a tab marked 'Preliminary Result'. This mechanism has been criticized by scholars of participatory processes (SALGANIK, DODDS and WATTS, 2006; SALGANIK and WATTS, 2008) because they believe that having access to the partial results may very well influence the participants decisions because fostering a tendency to conform to the votes of others.

For example, a participant that has no pre-formed opinion on a given issue and on checking the partial results finds that the vast majority has voted against the draft bill may be induced to do the same without having bothered to examine the bill or look into the issues in greater depth. Thus the influence of conformity coupled to the fact that the VS portal does not allow for any discussion of the issues among the participants does not foster the process of forming an opinion on the draft legislative proposals that are the object of participation and may well introduce a considerable bias in the results.

4.2.2 Managing participation

Automatic management

Certainly one of the most positive points about the VS is the way participation management has been organized. By elaborating a moderating platform the IT team brought the costs of administering the moderating process right down. The simplicity of the user-friendly nature of the moderating interface have made it easy to handle for the committee secretaries and Information Department staff that have to deal with it.

Any functionality that led to more open deliberative processes would inevitably mean a lot more administrative work for the team



managing the Virtual Senator; indeed, that was one of the main problems identified in the Brazilian e-Democracy project. The expression of more profound ideas and values by the participants in a deliberative platform requires a great effort of organization and analysis on the part of the participation team at the end of the discussion to screen the contents, transform them into readily understandable information and make it available in report form to the senators.

On the other hand, the moderating platform makes wide scale communication with the participants possible, and makes it easy for the secretaries of the select parliamentary committees to insert the questions for the polling on each new draft bill in discussion on the Virtual Senator, as well as facilitating the administration of other aspects of the participation process. Consequently the process of stratifying the results of the participation becomes practically automatic. Thus the final report on the participatory process is elaborated with a minimum of work for the team involved, unlike the e-Democracy portal, which gives the legislative consultants a lot of work to screen the participation contents and results, as will be shown in detail later on.

High-level coordination

Another highly relevant aspect in the evolution of the Virtual Senator, in the early stage from 2001 to 2003, as well as in the maintenance of the project over the nine years of its existence, is associated to its administration. The project acquired sustainability and managed to obtain greater commitment on the part of the bodies involved in the Senate from the moment the Senate pro-Secretary, the Senate's top administrator, took over the coordination of the project.⁶⁸

In the beginning, when it was still e-Legislación, the Virtual Senator project was modest in its objectives and its administration was decentralized and shared by staff from the committees, the Information Department and the IT sector. With the strategic participation of the then pro-Secretary of the Senate in 2003, the project, too, acquired a new status. The coordination was centralized and a committee was created expressly for that purpose.

This new management model has proved to be highly useful in incorporating and maintaining processes that introduce innovations in

⁶⁸ In terms of hierarchy there is only one person higher than the pro-Secretary and that is the Secretary of the Senate, responsible for advising the president of the Senate and the relations between the parliamentary and administrative spheres of the organization. However, the administration itself is actually headed by the pro-secretary who reports to the Secretary on the work being done.

public organizations that are as complex as parliaments are. Thus, as was the case with the Brazilian e-Democracy project, the fact of being coordinated by a person from the highest echelons of the institution's administration ensured sufficient administrative and political support to bring about the necessary organizational changes and accommodate the new functions into parliament's administrative routine.

After all, innovative projects in environments dominated by the inertia typically associated to bureaucracy usually meet with resistance from bodies that are used to routines. Such projects call for new procedures and consequently there is more work for all concerned. That means that the political and administrative force of the top administrators of the House is indispensable to minimize resistance and incorporate the new activities into the routines of the bodies involved until such time as the political and administrative benefits of the project become apparent to all and it becomes consolidated.

4.2.3 Political efficacy

As the Virtual Senator does not provide for any detailed analysis of the contents generated by the participatory process, the system as it stands fully meets the need to produce simplified printed reports that display the basic statistics and the set of suggestions contributed by the participants in regard to each piece of draft legislation. Those reports do not provide other information that might be useful and relevant such as the regions of Chile that have registered the highest numbers of participants for each round of participation in draft legislative proposals, for example.

From the political standpoint such information is vital to the senators especially for electoral purposes. After all any parliamentarian would like to know in which part of Chile there is the greatest interest in a given draft bill, or which social group is interested in a given proposition or what those voters that live in his own constituency think about the draft bill in question.

At the same time, considering that the impact of those reports on the Senators' opinions has been minimal it is hard to assess whether reports with more information and more in-depth evaluations of the contents generated by participation would have any greater impact on them.⁶⁹

⁶⁹ In the same way as it was done in the e-Democracy project, especially in the case of the virtual community that debated the Statute of Youth.



In short, there is not enough evidence to make it possible to state that there is a causal connection between the suggestions presented by the virtual senators and the contents of the Bill that eventually came and to be approved by the real-life senators. In other words the extent to which senators do actually read the reports stemming from Virtual Senator participation and take the contributions into consideration cannot be distinctly affirmed.

After the participatory process has finished, the team that works with the Virtual Senator project does not accompany the legislative decision making process that follows. That then is the first point that stands out in this analysis, the very slight publicizing and dissemination of the final reports on participation forwarded to the senators. The material is delivered in printed form but it is also available on the Virtual Senator website. The technical staff of the VS team state categorically that they have no idea what the real effect of the Virtual Senator might be on the decision making process, as the remark of one of them that was interviewed makes clear:

“Our work ends when the participation reports are delivered because we leave it entirely up to the senators whether they read them or not. Personally, I believe that some of them at least take a look at the participation results but we do not know if these reports are in fact taken into consideration when the decision is made.”⁷⁰

One of the senators who were interviewed also expressed skepticism about the impact of the Virtual Senator participations on senators’ performances:

“I do not have enough information to generalize but at first sight, it seems to me that the senators, in spite of receiving copies of the (SV) reports are not exactly keen readers of those proposals and perhaps they inform themselves more with the votes in favor or against that the participants cast.”⁷¹

Furthermore, there is no expressive involvement of the Senate’s Communication sector in publicizing that report. Accordingly the information on the final results of the participation attract interest that

⁷⁰ Free translation: “O nosso trabalho termina quando os relatórios da participação são entregues, pois deixamos os senadores totalmente à vontade para utilizá-los como quiserem. Eu, particularmente, acredito que há alguns que pelo menos dão uma olhada no resultado da participação, mas não sabemos se esses relatórios são de fato considerados na tomada de decisão.”

⁷¹ Free (adapted) translation of the following original text: “No tengo elementos suficientes para generalizar, pero a simple vista tengo la percepción de que los senadores, pese a que se les hace llegar copia de los aportes, no son asiduos lectores de dichas propuestas y con suerte tendrán presente como dato la votación favorable o de rechazo que los participantes emiten.”

is practically restricted to the participants in that specific legislative proposal who have accompanied the discussion of the issue as was the case with the draft bill designed to regulate questions of designating responsibility for harm done by dangerous animals.

Also, there is no space provided on the VS portal for comments, discussions or analyses of the results that might stimulate the debate further and propagate the results in the political sphere in a more vigorous way. To sum up the material produced tends to be made use of very little by Chilean society or the senators. Also, the fact that the new ideas, suggestions and criticisms that are made are only displayed on the portal, that is to say, they are only available electronically. That certainly makes it more unlikely that senators will access them as they are more used to receiving information in printed form.

In common with the Brazilian e-Democracy projects, the Virtual Senator does not involve the participants in the actual decision making, they are merely permitted to express an opinion and there is no guarantee that doing so will affect the senators' decision regarding the draft legislation being analyzed; the opinions are merely suggestive in nature.

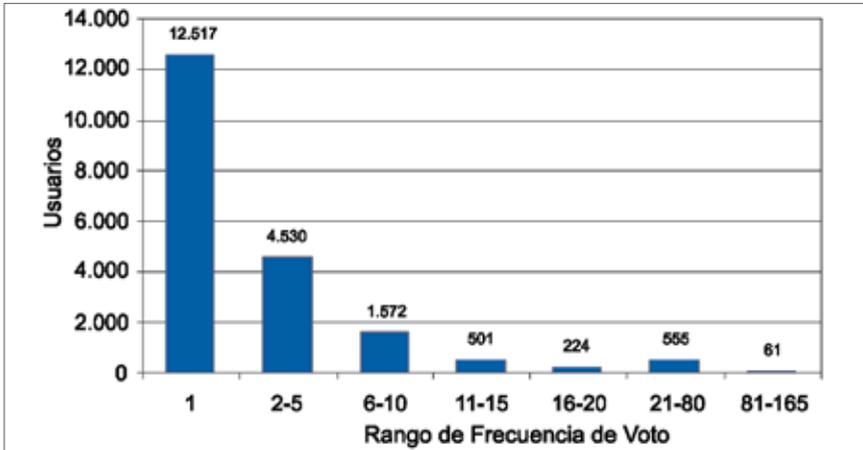
Nevertheless, the presentation of new ideas and criticisms of the draft bill is one of the Virtual Senator's greatest qualities. In addition to approving or rejecting each provision of the proposed legislation, the participant can make a creative contribution, freely express his or her opinion or present relevant strategic information concerning the law in discussion and in that way help the senators to solve a public problem that the proposed law is intended to address. That material, however, does not get to the Senators. They can if they wish file a written request in which case they receive such material systematically, but it was clear that the senators hardly ever make any such request. Maybe it would be better if those responsible for the system were more pro-active and started to send such material to the senators without waiting to be asked.

Furthermore, such deficiencies affect the participants' motivation and their willingness to continue to engage with the Virtual Senator portal and offer their opinions on proposed laws. Thus the system does not collaborate by maintaining participation feedback mechanisms which, if they were in place, would ideally enable the person participating for the first time to perceive that his ideas and those of other participants had some repercussions or were taken into consideration in the final legislative decision and accordingly he or she would feel stimulated to participate again and return to the portal to give an opinion on other

items of legislation being proposed, thereby forming a virtuous circle of participation.

The graph below shows the frequency of portal users' participation in the period 2001 to 2010. The vast majority of 19,960 portal users that effectively participate (62 percent) do so only once. At the same time 22 percent of users voted from 2 to 5 times while less than 7 were effectively active portal users with more than ten participations registered.

FIGURE 20 – Graph showing participation frequency over the period of existence of the Virtual Senator portal



Legend: Usuarios = Users Rango de Frecuencia de Voto = Voting Frequency categories
 Source: Information Department of the Chilean Senate, Period August 2001 to April 30, 2010.

The data displayed in graph form shows how little desire people have to continue their collaboration with the Virtual Senator portal given that the great majority (62%) only took part once and never came back. However that fact can perhaps be tempered a little by the hypothesis that many of the participants may have only taken part once because their interest was specifically in just one of the subjects that came up for participation.

Most voted draft bills

The bill establishing responsibilities for harm stemming from stray animals received the expressive participation of 11,778 votes in forty-seven days, far more than the second and third most voted bills as the table below clearly shows.

TABLE 2 – Most voted draft bills in the Virtual Senator system

Order*	Draft Bill	For	Against	Abstentions	Total votes
1	Regulates the question of responsibilities for harm stemming from dangerous animals	1,680	9,601	497	11,778
2	Defines voting by automatic registration, voluntary suffrage and the vote of Chilean overseas	2,678	250	121	3,049
3	Incorporates the use of electronic surveillance and control bracelets for serving alternative sentences outside prisons	1,856	184	71	2,111
4	Allows employers to demand drug-use tests before hiring a worker	991	777	72	1,840
5	Creates the system of licensing to drive with points	1,159	201	64	1,424
6	Facilitates workers unemployment benefit claims from companies that have declared bankruptcy	1,072	13	45	1,130
7	Sets out provisions on the concession and use of doctors' sick Leave certificates	885	200	131	1,216
8	Concedes working parents the right to feed their infants	1,142	134	68	1,344
9	Establishes the new political parties law	247	642	117	1,006
10	Establishes the right of workers to choose between public and private pension schemes	755	77	18	850

Source: Information Department of the Chilean Senate. Updated to April 30, 2010.

* Decreasing order

Basically the most voted draft bill proposed the following changes to the law:

- a) Classify certain animals as dangerous and determine restrictions on their circulating in public places.
- b) Authorize the health authorities to carry out castration and euthanasia on animals with no owners.
- c) Empower the Ministry of Health to establish a fertility control system when animals are found to be proliferating in an uncontrolled manner.
- d) Attribute responsibility for harm caused by ownerless animals to the Municipal authorities.

The draft bill began its passage through the house in on May 5, 2009 and the Health Select Committee filed an opinion. Immediately afterwards the Executive Branch requested that it should be shelved to which the floor of the Senate agreed on March 9, 2010. Almost one month later, on April 7, Senator Guido Girardo requested that it should be activated once more and the floor of the senate agreed. The draft bill was passed on for further analysis by the Health Committee where it has remained ever since.⁷²

Of the 11,778 votes that were cast by participants, eighty-one percent rejected the bill.⁷³ Because it involved sacrificing stray, ownerless animals wandering the streets and considered to be dangerous it attracted a great deal of attention from Chilean society at large; not just from groups dedicated to the protection of animals, but also from a lot of pet owners who became very emotional and upset at this type of alteration to the text of the law and the intense participation in the Virtual Senator reflected that social mobilization.

It was not possible to gauge the degree of influence that the participation in the Virtual Senator had in halting the progress of the bill based merely on the interviews conducted as part of our research or the coverage given to the passage of the bill by the Chilean media. That is a pity because obviously the participatory process should serve not only to help in the formulation of legislation but also to impede the progress of a legislative action when the public demands it, that is,

⁷² Detailed information on the passage of this bill can be found at: <http://sil.congreso.cl/pags/index.html>. Consulted on January 30, 2011.

⁷³ Information can be accessed at: http://www.senadorvirtual.cl/resu_general.php?ideleg=enroboletin=-. Consulted on January 30, 2011.

when the participants declare themselves not in favor, the equivalent of the rejection of a bill in a legislative process.

Thus we cannot conclude that the failure of the proposal to advance in the legislative process was exclusively the result of the massive voting against it in the VS site because, at the same time, other forms of interaction with senators continued to take place like sending in e-mails, meetings with senators in the streets, direct expressions of opinion, articles and reports discussing the issue in the national media, and so on. It would be more reasonable to suppose that varied set of physical and virtual demonstrations of society's opinion on the issue, one of which was the voting on the Virtual Senator portal, combined to produce effects on the definition of the legislative agenda.

There are some signs, however, that highly controversial issues such as those involving the extermination of stray animals become the drivers of participation as a result of the mobilization of public opinion in favor of or against a given legislative proposal that certain interest groups are capable of. However that may be, it can readily be seen from the preceding table that the ten most voted bills all addressed issues that were relatively easy for society at large to understand, although future studies may make it possible to make a more reliable analysis as to what kind of legislative issues really arouse the interest of the general public and who their defenders are.

Other proposals that were well-voted (and approved by VS participants) were the draft bill that makes provisions on automatic voter registration, voluntary suffrage, and the voting of Chileans overseas in elections and the bill addressing the use of electronic surveillance bracelets by those serving alternative sentences. To sum up, of the ten draft bills that stimulated the greatest participation set out in the table above, only the one that gives working parents right to time to feed their children was approved by the House of Representatives and sent in to the Senate for revision where it has been stuck since May 12, 2009. The others at best received the go ahead from the select committee designated to analyze their merit and that was all.

Also, of those ten projects, the only two rejected by portal participants were the draft bill determining responsibilities for harm done by dangerous animals and the draft of the new political party law. The others were all approved by a considerable majority of participants with the exception of the proposal that employers should be permitted to demand a drug-use test before hiring an employer. This proposal received 991 votes in favor and 777 against it.



In short, generalized approval or rejection of a legislative proposal on the part of VS participants seems to have little or no effect on the fate its passage in the Chilean parliament. That underscores the conclusion, and reinforces the statements given by senators and civil servants that work with the VS portal that there has been little impact stemming from the results obtained from the VS portal virtual participation results on the real legislative process.

4.2.4 Other aspects: the profile of the participants

The Virtual Senator requires detailed information from the participant the first time he or she signs in and that often irritates the citizen who would otherwise have been interested in participating and who is already a bit weary of filling out this kind of registration form on so many other websites. Thus the system does call for an initial effort on the part of the citizen wishing to participate but on the other hand there are obvious advantages associated to the requirement, particularly the possibility of creating a database with a variety of data delineating the participants' profiles. The Brazilian e-Democracy scheme on the other hand, has a very simple form of registration (name and e-mail) but on the down side, the system eventually has not even the minimum information concerning its participants' profiles.

On examining the VS database it is possible to draw certain conclusions. In the Table below we can observe a certain alternation in predominance of the age groups B (aged 18 to 30) and C (aged 31 to 50) during the period analyzed, from 2001 to the beginning of 2010. In the years 2005, 2007, 2009 and 2010, age group B participated more than any other.

TABLE 3 – VS participation by age groups

Year of Registration	Age Groups				
	A	B	C	D	TOTAL
	<18	18 TO 30	31 TO 50	>50	
2001 to 2001 (e-Legislación)	551	817	990	233	2,591
2003	78	390	562	186	1,216
2004	161	908	958	459	2,486
2005	73	1,148	1,042	497	2,760
2006	64	490	873	965	2,392
2007	46	644	579	444	1,713
2008	39	320	613	583	1,555
2009	2,499	12,651	3,622	917	19,689
2010	58	364	237	126	785
TOTAL	3,569	17,732	9,476	4,410	35,187

Source: Chilean Senate Information Department; updated on April 30, 2010.

In the overall voting totals, age group B leads the other groups by a significant margin showing that the young adult public shows more interest in this kind of digital participation scheme especially up to the age of 30 and that has been a common situation in the internet as a whole (DELLI CARPINI, 2000).

It should be mentioned that the young public was decisive in the participation concerning the distribution of responsibilities for harm done by dangerous (stray) animals as shown by the huge increase in participants in the 18 to 30 age group in 2009. Special mention must also be made of that year insofar as the number of age group B participants went beyond the 12 thousand mark almost certainly boosted by the polemical bill proposing the extermination of dangerous stray animals. The sudden significant jump up in participation figures in 2009 as compared to 2008 was an increase of over 1,200 percent. According to Ms. Maria da Peña, head of the Information Department, two causes were behind the increase:

“(…) at the end of 2009 the system for registering with the Virtual Senator portal was altered enabling users to substitute the password

supplied by the system by one of their own choice thereby making participation easier.

The increase can also be attributed to the great interest in participating in the process of the proposed legislation attributing responsibilities associated to harm stemming from dangerous (stray) animals (permitting euthanasia for stray dogs) and the one that creates the driving licensing system with points.⁷⁴

An analysis of the following table displaying participants' age, gender and geographical location shows the predominance of women participants. Furthermore the regions with the highest number of votes (numbers 13 and 5) are the Metropolitan Region of Santiago and the Valparaiso respectively. The two regions are notoriously more highly developed than Chile's other regions and account for about 50% of the country's entire population. The three regions showing the lowest level of participation, 11 (Aysén), 15 (Arica and Parinacota) and 3 (Atacama), are sparsely populated and together account for a mere 3% of the Chilean population, accordingly the participation figures are not surprising.

⁷⁴ Free translation of the following original text: "(...) a fines de 2009, se modificó el sistema de inscripción en Senador Virtual, permitiendo a los usuarios reemplazar la contraseña automática que genera el sistema por una propia, facilitando de este modo la forma de participación. El incremento es atribuible al gran interés en participar respecto de los proyectos de ley sobre responsabilidad ocasionada por perros peligrosos (que permite la eutanasia de perros vagos) y el que crea el sistema de licencias de conducir con puntaje.

TABLE 4 – VS participants' profile

Ages> Region	<18		18 to 30		31 to 50		> 50		Total
	F	M	F	M	F	M	F	M	
1	44	42	182	159	115	152	33	62	789
2	63	60	240	205	117	199	35	83	1,002
3	15	18	71	64	41	90	6	28	333
4	51	68	15	128	66	105	25	77	672
5	208	174	1,434	1,034	593	608	346	377	4,774
6	80	54	274	250	129	161	27	83	1,058
7	31	51	166	232	121	177	66	82	926
8	123	134	806	659	282	411	135	221	2,771
9	55	50	379	311	47	212	86	118	1,358
10	68	53	322	249	159	237	65	131	1,284
11	5	7	25	25	27	40	9	15	153
12	11	12	107	70	51	78	26	41	396
13	1,183	891	5963	4,264	2,465	2,605	1,050	1,293	19,714
14	16	5	129	104	36	35	10	15	350
15	10	9	46	26	19	16	10	18	154
Other**	110	43	822	214	477	172	104	97	2,039
Total	2,073	1,671	11,118	7,994	4,845	5,298	2,033	2,741	37,773

F = Female

M = Male

** Not identified or foreigners

It is worth noting that the VS presents a rich set of information delineating the profile of its users but it is not made publicly available nor is it delivered to the senators unless they specifically ask for it. Publicizing this information, especially when it is dis-aggregated by age groups and geographic locations for each of the draft bills that was voted on by participants would be extremely useful to support decision making on the part of the senators and would contribute to ensuring greater value was attributed to the participating and especially to the comments and suggestions offered by the participants themselves. In that way there might be greater repercussions of the participation on the legislative process itself.

4.3 Partial Conclusions of the Case Study

In synthesis, the Virtual Senator experience has various aspects that merit our attention. Although the project came into being in response to a demand from the parliament, it has not received the political support it needed and deserved from the senators themselves who fail to descry any great political benefit to their political careers stemming from this kind of digital participation.

Without adequate political support the project evolved very little since the time it was created in 2001 except for some superficial improvements to the registration mechanism. On the one hand, the failure to incorporate the new tendencies in Web 2.0 mechanisms deprives the user of the possibility of using all the interactivity that is currently available in the internet.

In the medium term, the interface as it is now could lead to frustration on the part of the site users precisely because it does not offer modern forms of interaction. That question becomes all the more relevant in view of the fact that it is now widely known that the visual appeal of the format in which information is presented and interaction is enabled is a great stimulant, attracting and keeping internet users' attention on the site. While it is apparent that the high level of engagement of members of the Virtual Senator's administrative team has had a very positive effect, greater improvements to the site would demand that human resources be allocated exclusively for that purpose and that is something hard to achieve in the public service. For example, the team has been studying the possibility of aggregating discussion forums to the project but the work of moderating and accompanying the discussions in such forums would make it necessary to mobilize human resources normally dedicated to other functions.

On the other hand, the simplicity of the form of participation in the Virtual Senator portal is a highly positive point and, indeed, simplicity has been crucial to the interaction developed in other internet portals like Twitter and Wikipedia, which had their beginnings in very simple straightforward ideas.⁷⁵ Another point is that participants that were interviewed stressed the value of the VS portal as a means of obtaining more detailed information on draft bills, compensating for the paucity of traditional media coverage of them.

⁷⁵ On the other hand projects like the Brazilian House's e-Democracy that are complex right from the outset have inherent usability problems.

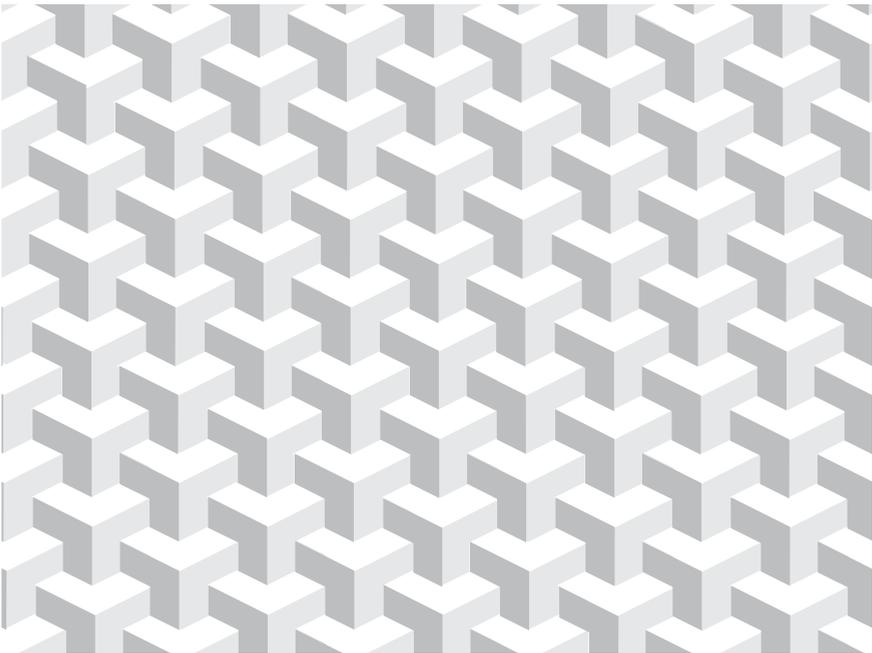
What the real factors are that motivate people to participate in the VS portal is something of an incognito, but there are some aspects that can be identified. One strong factor is when people have personal reasons because of their interests in a particular issue that the proposed legislation addresses; another is when the issue has created public controversy and received a lot of coverage in the media. In that aspect the VS team takes great care in selecting the draft bills that will be put forward for participation on the portal and also in the way the questions that structure the participation process are formulated.

The great risk the project runs however is of falling fall into discredit with participants, because there is little or no effect on the final decisions made by senators stemming from the citizens' participation and many of them also complain about the lack of any response as to whether to their suggestions and comments have been accepted or considered. After all people do make an effort and give their time to participate in the polls and vote and that effort may even involve proposing new ideas and innovations.

If there were some way to show that the decisions of the Virtual Senators had at least some slight effect on the decisions of the real senators, then a virtuous circle of participation would be established, stimulating the participants to carry on offering their opinions about the legislative proposals, and the VS portal would become more widely known and disseminated through the participants social networks. Furthermore, there could be a system of institutional incentives specially designed for VS participants, establishing participation prizes or awards or sending them official letters of thank, for example.

5

CASE STUDY:
THE E-DEMOCRACY
PROJECT OF THE
BRAZILIAN HOUSE
OF REPRESENTATIVES



5.1 Description

5.1.1 Definition and objectives

The Brazilian House of Representative's e-Democracy portal is an interactive virtual space with a user-friendly interface created with the intention of stimulating citizens and civil society organizations of every description and area of interest, to contribute to the process of formulating federal laws and also to assist the Representatives in actions of surveillance, inspection and control. It makes it possible for Brazilian society to participate in the legislative process via internet by: a) sharing information, studies and other contents in written or audio-visual form that are useful to support and inform discussion on draft bills; b) participating in the deliberative process in the discussion forums for that purpose; c) organizing social networks by themes for legislative purposes; and d) presenting collaboratively composed legislative texts to support the Representatives in their decision making.

Its main objectives are to improve interaction between society at large and the House of Representatives, strengthen the role of the Legislative Branch in formulating public policies, stimulate responsible and constructive social participation, enhance Brazilian society's understanding of the complexities of legislative work and increase transparency associated to the legislative processes and procedures.⁷⁶

The e-Democracy experiment was launched on June 3, 2009 in the form of a pilot project. First of all two discussions based on draft bills being analyzed by the House were organized in virtual communities. One was on climate change policy and the other on the Statute of Youth. Gradually in the second half of 2009 and the first half of 2010 other communities were created to conduct discussions on the Amazon, Space Policy and the Regulations to govern Digital Inclusion Centers (Lan Houses).

The e-Democracy system seeks to conduct discussions on specific themes especially those of the greatest interest and that are being processed in the House in the form of draft legislation proposals. In addition to the virtual communities established around specific themes the e-Democracy portal offers a space for free discussion (Free Space) on any subject that affects the House of Representatives and the discussion is not necessarily organized into virtual communities.

⁷⁶ Information gathered on the e-Democracy portal (<http://edemocracia.camara.gov.br/o-que-e>), consulted on September 20, 2010 and also based on declarations of the staff responsible for developing the portal in interviews held as part of the research for this book.

In the Free Space discussions there is no moderating of contents as there is in the virtual communities, only the form of the participation is moderated by the group of House staff members responsible for verifying, for example, the occurrence of offensive messages or others that violate in one way or another the participation codes of the e-Democracy portal.

FIGURE 21 – Homepage of the e-Democracy portal



Accessible at www.edemocracia.gov.br. Consulted on September 21, 2010.

5.1.2 Technological interface

Each virtual legislative community consists of a digital social network of people interested in a given issue. Accordingly, an e-Democracy participant can choose which community he or she would like to take part in and be duly included. On doing so, they will have an opportunity to view the profile of the other community participants. The underlying idea is to create social capital, even if it be only temporary, around a given legislative issue.

The e-Democracy portal offers various ways of participating. The portal developers refer to this as multiple participation mechanisms. The offer of options is designed to stimulate and encourage the citizens to interact by whichever means they prefer, be it participating

in multiple-choice polls or inputting studies and strategic information that are of interest to the discussion in course and in that way building up a virtual library; participating in collective chats, or simply accompanying the discussion with a view to obtaining information.

If the participating citizen wishes to intensify his or her participation there are two other tools available for that purpose. The first consists of the theme-based forums, discussion arenas for debating specific topics associated to draft bills before the House, and they presuppose the existence of a moderating scheme (moderating both form and content) in order to refine and organize the debate. The other instrument, offering a more robust form of participation, is the Wikilegis, an application designed for the collaborative construction of legal texts.

The Wikilegis is an attempt on the part of the e-Democracy programmers to implement a form of interaction that not only facilitates participation but facilitates the organization of the ideas by having them written down in legislation form. Because participants' contributions in the forums are far less restricted, the Wikilegis obliges them to transform their suggestions into texts that emulate legislative proposals.

Participants are allowed to write their own version of the draft bill under discussion or suggest alterations to specific parts of the text, either of the original draft or of the version produced by the select committee's rapporteur. In fact it functions in a similar way to other Wiki tools that are available in the web, although the programmers have tried to build in some features that make it more appropriate for writing legislative texts.

Another aim of the Wikilegis is to stimulate contributions that are more practicable and constructive. The reasoning behind it is as follows: the need to put their ideas down in the form of a legislative proposal obliges the participants to evaluate the practical consequences it. The process also requires that they exercise tolerance because the text is constructed in collaboration with other participants simulating, in that aspect, the work of the real parliamentarians who have a basic need to negotiate important points in the legislative process and express them in the wording of the legal text.

FIGURE 22 – Wikilegis screen of the virtual community discussing the regulation of lan house activities.



Accessible at: www.edemocracia.gov.br. Consulted on September 21, 2010.

The efforts to foster broader participation in legislative discussion involved adapting the platform and its possibilities to the specific mechanisms of formulating legislation. In principle it allows any citizen to input basic or strategic information regarding a public problem that a draft bill under discussion in the House of Representatives purports to address and do so as part of the initial discussion.

Citizens can also share ideas and put forward normative proposals suggesting specific ways to solve the problems that gave rise to the legislative discussion in course. After all, the overriding objective of the legislative texts is to introduce innovations into the legal order that represent solutions for a problematic social situation that the Legislative Branch is attempting to address.

On putting forward suggestions of possible ways to solve or minimize a public problem under discussion, the e-Democracy participant is offered two ways of doing so. It may initially be done in the form of a simple unpolished suggestion, that is to say a variety of ideas and suggestions that may have something valuable to contribute will be input to the discussion.

In addition the citizen can, if he wishes, put forward a more elaborated proposal in the proper legal format typical of legislative texts. It was found that for reasons that will be explained later, mostly

technical in nature, most citizens prefer to present their ideas in the more simplified format and in that case the technical work is subsequently undertaken by a legislative consultant.

Apparently then there are wide possibilities for democratic participation in the e-Democracy platform. Although the way participation has been formatted is basically propitious for formulating legislation, it can also be used as an instrument to exercise the functions of surveillance, inspection and control of the Executive Branch. Although that possibility has been confirmed by the staff that developed the project, no discussion for those purposes has ever been registered on the e-Democracy portal.

5.1.3 Project development

The e-Democracy portal was designed and developed by a mixed group of technical personnel consisting of various permanent civil servants, various outside consultants and one person holding a position of trust in the House of Representatives. Within that group there were individuals with good experience and knowledge of: legislative processes, institutional communication, virtual communities, information management and information technology.

The project was an initiative of the group's which received the approval first of the higher echelons of the House of Representative's administration and then from the political administration of the House to go ahead with a pilot project in the years 2009 and 2010. The group was attached to the Strategic Management and Projects Office subordinated to the House of Representative's General Management Body. The overall objective of the Office was to create projects aimed at improving legislative quality, stimulating citizen participation and legislative intelligence. It is worth noting how the office is directly connected to the top level administration of the House with authority over the other legislative administration bodies.

The original idea for the e-Democracy initiative, however, came from the International Legislative Practices Observatory, a small research group attached to the same office which carried out applied research activities that were of strategic interest to the political and administrative leaderships of the House to support innovative projects to be implanted in the house. The research activities led the group to perceive the possibilities of using Web 2.0 instruments to foster greater interaction between society at large and the parliament. The overriding objective was to imbue the legislative process with greater



transparency and to obtain greater participation of the citizens at large in the parliamentary debates.

First the group made a survey and inventoried experiences with electronic democracy in parliaments in other countries in the period from June to November, 2008. They discovered blogs, forums and simplified opinion polling systems but none of them with any structured deliberation process involved like those of the Basque and New Zealand parliaments described in the preceding chapter.

During the second half of 2008, various possibilities were considered for the format of the e-Democracy experience. Finally the group charged with developing the project opted for a system of virtual communities associated to the legislative process itself to allow the population at large to participate in the elaboration of the laws and to deliberate on them; a system very different from the very objective participatory mechanisms adopted by the Chilean Senate's Virtual Senator system.

Once the format of the project had been decided on, the group immediately received the support of the top administration board and the go ahead to develop it. The next step was a parliamentary consultation about the idea and about possible themes for discussion as part of the pilot project. Accordingly the team members held interviews and meetings with Representatives, heads of administrative departments, technical staff and civil society groups during which they presented the idea and received suggestions to assist in the formulation of the project's first version.

Some of the Representatives were highly enthusiastic about the project because they could see the great opportunity it offered to really improve the interlocution with society and to enhance the visibility of the parliamentary work. After that, at the beginning of 2009, the president of the House of Representatives, Michel Temer, gave permission to run the pilot project from June 2009 to August 2010 and to apply it in the form of virtual discussions on actual legislative propositions.

The next challenge was to select the themes that would be offered for discussion during the pilot project stage. The e-Democracy team, together with Administrative directors and those representatives that took part in the meetings⁷⁷ established three criteria to be used in determining the themes: the likelihood of parliamentarians taking part in the discussions, the feasibility of conducting those specific policy

⁷⁷ Representatives that took a special interest in the process were Ricardo Trípoli, Sarney Filho and Roberto Rocha.

themes in a virtual environment and the question of whether the issue being examined was politically 'hot' in the context of the project period (June 2009 to August 2010). Various possibilities were examined and in the end after analyzing all the political and administrative pros and cons the e-Democracy team and the House's top administrators decided that it would be relevant to create a virtual community to discuss the draft bill on Climate Change in deference to requests made by Representatives closely linked to environmental issues. At the launching of the e-Democracy portal on June 3, 2009, in addition to the creation of the virtual community to discuss the legislative proposal on climate change, a free area was offered on the portal called *Espaço Livre* (Free Space)⁷⁸ for general discussion of any draft legislation of interest to the digital participant. The second e-Democracy virtual community was created in August 2009 during the elaboration of the draft bill to create the Statute of Youth.

Prior to the portal launch the e-Democracy team was very worried that there might be mass participation with hundreds of thousands of participants putting forward contributions of relevance for the discussions. Accordingly they had given considerable thought to the logistics involved in organizing and processing such material which has usually proved to be a big problem in virtual discussions with massive participation and also about the cost of organizing it in such a way that it would be made best use of, especially in the light of what they knew to have been the case with the public consultations of American agencies (SHULMAN, 2006).

That was the reason behind the creation of two spheres of discussion, one moderated, consisting of the virtual communities formed around legislative themes, and the other not moderated, the Free Space. Thus there would be special organizational linguistics provided for the virtual communities with intense participation of the e-Democracy team in planning and coordinating the discussion and researchers, committee advisers and legislative consultants would all be involved in feeding, moderating and analyzing the participatory contents and that involvement and commitment would extend to parliamentarians who would be included in the discussions. In view of the high cost of all that organizational support only five virtual communities were eventually formed during the period the pilot project was run.

On the other hand, the Free Space received no such administrative support and set no limit on the number of discussions that could be

⁷⁸ The name was changed to *Espaço Livre*, formerly it was called *Espaço Cidadão* (Citizen Space).

conducted. Once the portal user has registered, he or she was free to create any discussion on a legislative topic of interest. In fact, the Free Space hosted eighty five discussions on legislation-related topics started up by the users themselves⁷⁹ in the same period, that is, from June 2009 to August 2010.

5.1.4 Managing participation

The organizational process of the e-Democracy project can best be examined in the light of the following questions: what should be done with all the contents generated by the participation, the participants' contributions? How are they processed and incorporated to the legislative process in course? What should be the role of the technical bodies in the participatory process?

During the pilot stage of the project in 2009 and 2010, some bodies of the parliamentary administration took part in the e-Democracy's logistics support contributing to its development, or administration or daily functioning in spite of there being no integration of the portal with other bodies offering open participation like the aforementioned Parliamentary Ombudsman's Office and the Participatory Legislation Select Committee. There follows a list of those entities that participated the most in managing the e-Democracy pilot project and their respective functions:

- a) Communication Department (Secom): played an active role in integrating the House's communication system with the e-Democracy project insofar as it publicized and diffused it to the various audiences of the TV and Radio channels maintained by the House and its newspaper. The Secom is therefore an entity of fundamental importance for the mass mobilization around the themes to be discussed on the e-Democracy portal. According to the e-Democracy team, one of the project's strategic objectives is to improve the integration of the contents of its virtual communities with the program agendas of the House's TV and Radio stations, its News Agency and its newspaper, in addition to the work of the House's press office in publicizing and disseminating them.
- b) IT Center (Cenin): the e-Democracy project created a demand for the continuous technological development of the tool. Other

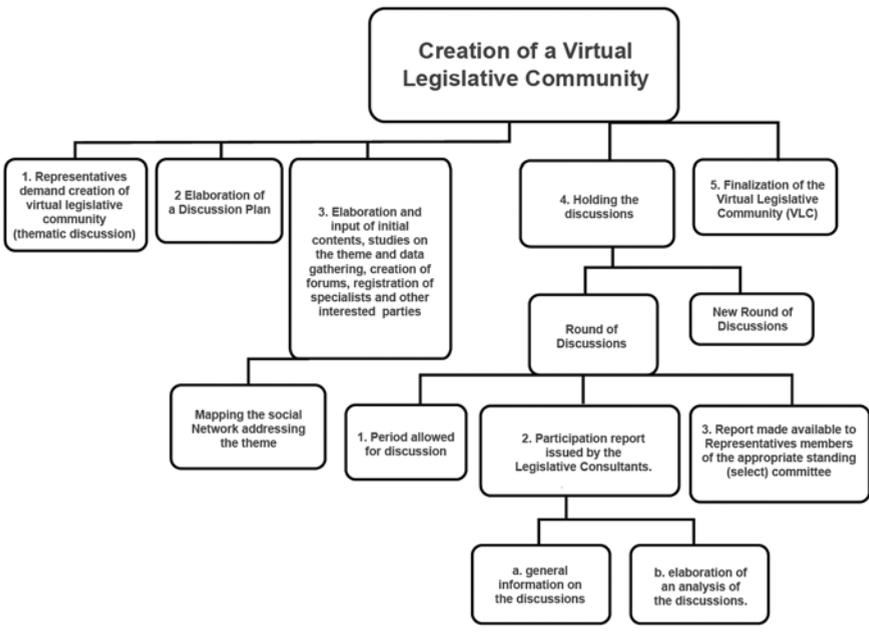
⁷⁹ Data gathered by direct tallying on the portal www.edemocracia.gov.br. Consulted on August 17, 2010.

aspects concerning the technological development model will be discussed in the analysis that follows this description.

- c) Document and Information Center (Cedi): this center promotes research and surveys to gather informative material to support the e-Democracy discussions as well as contributing to the work of screening the participatory contents.
- d) Legislative Consultancy: the legislative consultancy is a permanent body within the functional framework of the House of Representatives and it can count on around 180 specialist consultants covering 21 fields of knowledge.⁸⁰ Its primary function is to advise the parliamentarians in their debates and discussions in the select committees and plenary sessions as well as to elaborate technical opinions and studies of strategic interest to the House among other activities. Preparing the initial contents for each virtual community, moderating the actual discussions, screening and organizing the material produced by the participations and analyzing e-Democracy participation are all tasks that fall to the Legislative Consultants.
- e) Select Committees Department (Decom): because the discussions on draft legislation that come before participants on the e-Democracy portal take place with the greatest intensity in the respective select and special committees the Committees Department does its best to promote new actions designed to intensify inter-relations between the the debates in live meetings such as public hearings and those going on in the e-Democracy virtual environment on-line.

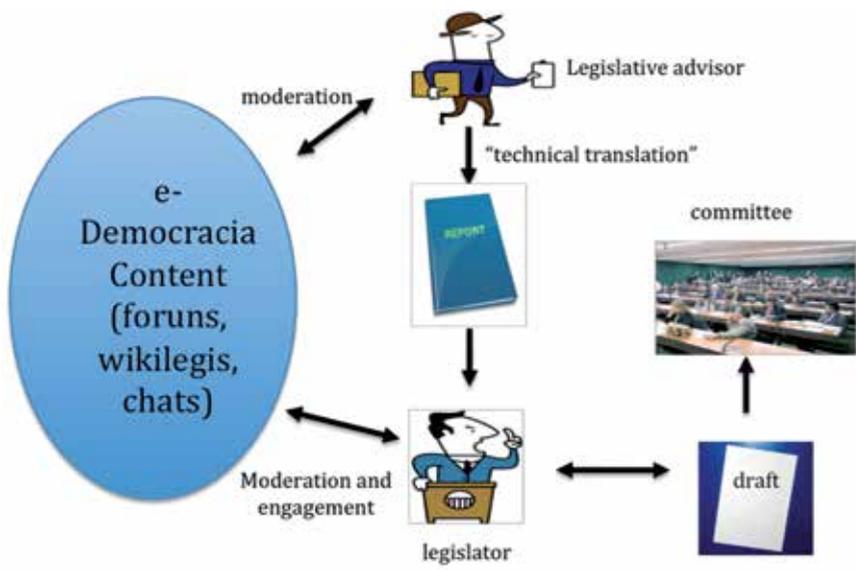
⁸⁰ Information available at <http://www2.camara.leg.br/a-camara/estruturaadm/conle/>. Consulted on September 22, 2010.

FIGURE 23 – Administrative organizational flow chart of the e-Democracy’s virtual legislative communities (LVCs)



The Participatory Contents is the complete set of all the participations (contributions) effected by the members of a given virtual legislative community in forums, Wikilegis, chats or polls. The following illustration shows more details of the process for incorporating participatory contents into the legislative process.

FIGURE 24 – Legislative processing system for participatory contents



In the e-Democracy's participatory process, the contents of the discussion of each legislative virtual community is compiled, organized, studied and evaluated by a small team which as a protagonist the specialized legislative advisor (consultant) who also plays the role of moderator of the virtual community discussions. In principle the consultants elaborate the plan of the discussion, determining the initial discussion of relevant topics that should eventually be part of the future legislative text. Discussion forums are determined around the major themes of this structure and the plan of discussion will serve as a reference for the entire virtual e-Democracy debate that subsequently unfolds.

In each forum the discussion usually starts with a provocative remark made by one of the parliamentarians or the consultant regarding one of the points selected for discussion. Right after that, participants will start posting their messages in the forums in response to the provocations. Some parliamentarians are more assiduous than others and continue to play a moderating role in the discussion as it unfolds while others only insert a comment or a post occasionally. Generally speaking parliamentarians' participation has been sporadic.

In each forum the participants are allowed to bring up or create new topics. The e-Democracy system sends out e-mails informing recipients of the messages that have been posted in the forums thus enabling the participants to keep track of the discussions even if they do not access the e-Democracy portal directly.

The consultants carry out the work of organizing and processing all the material for two basic purposes: a) to be able to produce synthetic reports containing the main points that were discussed that will enable the representatives to learn about the participation contents, because many representatives do not have time to access the portal directly themselves, and b) to analyze the technical feasibility of the ideas and suggestions presented.

According to the study conducted by the Legislative Consultant, the parliamentarian responsible for elaborating the final text of the draft bill and issuing an opinion will decide which suggestions will be accepted and incorporated to the emended text he will submit to the committee if that should be the case. However this committee rapporteur may decide to simply reject the draft that is under discussion or to approve it without making any alterations; in either case the ideas presented by the participation will not be made use of.

The final step is for the legislative consultant to assist the parliamentarian to elaborate his report and opinion and, should it be

the case, incorporate those of the participants' suggestions that the parliamentarian has selected into the text of the version he will be submitting. In this part of the work the consultant serves as a kind of technical translator because he has to transform the ideas put forward in the e-Democracy environment many of which are in colloquial or over-simple language into legislative text and carefully expressed in legal format and obedience to the norms that govern the legislative writing of the House.

Following that the modified version of the draft text with the rapporteur's report is presented to the respective select committee to be appreciated and deliberated on. At this point the representatives composing the select committee may accept the text as it is or reject it altogether or propose alterations to parts of it, and they may even accept and include suggestions from the e-Democracy contributions that the rapporteur did not accept.

The e-Democracy managers used a moderating platform that is available as part of the software used for the portal itself, namely DotLearn.⁸¹ It enables the e-Democracy team to carry out various procedures to organize and monitor the virtual discussions as well as to communicate things to portal users as for example sending out informative e-mails to the participants.

The team is also empowered to register users or cancel registrations and to provide general input to the site such as inserting relevant news items and documents in the various communities. Access to the moderating platform serves is based on levels of access so that different administrators are endowed with greater or lesser powers of management within the sphere of the platform itself.

5.1.5 Other information

Since the e-Democracy portal was launched in June 2009, the team has been investing in strategies to publicize it and make it widely known

⁸¹ The software used to develop the e-Democracy portal during pilot project phase was the DotLearn, which can be accessed at <http://dotlrn.org/>. It has been developed on an open source code basis that allows developers to modify the program and it is free. The DotLearn was originally conceived for distance learning purposes and working with virtual communities. Once a consultant specializing in that software had been contracted, the team was able to adapt it to the specific needs of the project. When the period of the pilot project was over the portal was reformulated (during the second half of 2010) using a different software, the Liferay also developed on an open code basis and accessible at www.liferay.com. The team is empowered to register users and cancel registrations if necessary and is responsible for inputting contents to the portal such as news items on the themes under discussion or documents of interest to the virtual communities. Access to the moderating platform is structured into various levels of access and each administrator is attributed greater or lesser powers within the moderating platform environment.

in order to stimulate participation. Immediately after the launch there were news reports and articles containing general information on the project published in electronic versions of newspapers and magazines.⁸² In addition, access to the e-Democracy site was facilitated by inserting a link to its page on the website of the House of Representatives.

Members of the team have also accessed specific blogs and social networks inviting their members to participate in discussions on themes such as Climate Change policy and the legislation proposed for the Statute of Youth. The e-Democracy project also has accounts in social network websites like Twitter, Ning, Facebook and Orkut and uses them to disseminate information about the progress of the various discussions in course.

In quantitative terms, the participation figures can be seen in Table 5 and they refer mainly to participation in the discussion forums, which is the tool that participants use most. Participation the Wikilegis, polls and virtual chats, posting comments and news items occur more sporadically so that they do not present such solid numbers. The data refer to the forums in the two portal spaces: theme-orientated forums and the Free Space. In each forum discussions arise on topics corresponding to individual items of the draft legislations and constituting sub-themes. In that way the general forum discussion is organized and segmented to handle the details.

For example in the LVC on space policy the initial forum was entitled 'The New Directions of Brazilian Space Policy'. Within that main theme there are four topics available: a) what is right and what is wrong with current Brazilian space policy? b) what are the main obstacles and how can they be overcome? c) what objectives should the space program pursue in the light of global transformations? d) what role should the National Congress play in re-assessing the Brazilian space policy?⁸³

⁸² The following are the electronic addresses of some of the material published about the e-Democracy project: <http://info.abril.com.br/noticias/internet/e-Democracy-rede-da-camara-estrela-amanha--.shl>,
http://olhardigital.uol.com.br/digital_news/noticia.php?id_conteudo=,
http://www.adadigital.com.br/index.php?option=com_contentview=articlecatid=cidaniaeid=:o-que-e-e-DemocracyItemid=,
<http://www.folha.uol.com.br/folha/informatica/ultu.shtml>,
[http://blogs.estadao.com.br/link/lan-house-deixara-de-ser-%E% casa-dejogo%E%/,](http://blogs.estadao.com.br/link/lan-house-deixara-de-ser-%E% casa-dejogo%E%/)
[http://blogs.estadao.com.br/pedro-doria///quando-todo-mundo-estiver-online-o-congresso-sera-inutil/.](http://blogs.estadao.com.br/pedro-doria///quando-todo-mundo-estiver-online-o-congresso-sera-inutil/)

⁸³ Accessible at: [http://edemocracia.camara.gov.br/web/politica-espacial-brasileira/inicio/.](http://edemocracia.camara.gov.br/web/politica-espacial-brasileira/inicio/)

It must be understood that the contributions to the discussions are made in the form of posts made by participants, that is to say the comments, opinions, arguments and ideas that they insert in the forum page.

TABLE 5 – e-Democracy – Quantitative data in the forums*

Participation Spaces		Forums	Topics	Contributions	Registered Participants
Theme-based Virtual Legislative Communities (VLC)	Climate Change	5	9	18	779
	Statute of Youth	4	13	299	404
	Lan Houses	5	12	107	828
	Space Policy	5	12	12	99
	Amazon Symposium	4	14	8	132
Free Space	General	5	72	232	2,129
	Climate Change Forum**	1	13	40	
TOTAL		30	145	716	4,371

*Data computed for the period from June 3, 2009 to August 17, 2010⁸⁴, during the pilot project phase.

** Within the 'Free Space' area of the portal a specific forum on climate change was also created. In keeping with the 'Free Space' format, no virtual community was established so the discussion is restricted to the forum and no links to other participatory applications like Wiki or polling mechanisms are made available neither is there any moderation of contents.

5.2 Analysis

5.2.1 Technological interface

In the classificatory scheme proposed by Ferber, Foltz and Pugliese the e-Democracy interface is considered to be of the three-way interaction type with little possibility for the portal administrators to exercise control. One of the portal's strong points is precisely the

⁸⁴ The start up date coincides with launch date of the e-Democracy portal when the first virtual community on Climate Change issues was formed and started to function. The end date corresponds to the end of the pilot project phase. Although the e-Democracy virtual communities continued to exist after August 17, 2010 the participatory process was reduced to practically zero and contributions were extremely rare. That was because the date marked the beginning of an election period and the representatives turned all their attention to the electoral process. As usual there was little or no legislative activity during the period leading up to the elections.

freedom of interaction it provides to participants who are free to present their suggestions in forums, register their objective opinions in polls, comment on the news, formulate their own versions of draft legislation in the Wikilegis, or input studies and other informative material to the platform.

In the theme-orientated communities like the ones formed around the Statute of Youth and the Lan House regulations that freedom is mitigated somewhat because of the discussion contents.

In those communities there is minimum structure imposed on the debate because it is linked to a given draft text contained in a bill proposal that has its own organization already established. While the participant can make innovative suggestions not to be found in the original draft version of the proposed legislation, he must, nevertheless, limit himself to the topics that have been determined.

In the Free Space, on the other hand, the participant has greater freedom of discussion and may even propose new legislative themes to be addressed. He or she is also free to discuss other draft bills that are not the object of any discussion in the thematic forums and those may eventually come to be the object of a new virtual community in the future.

There are certain aspects associated to providing the participant with several interaction options that are very positive even though they do create a variety of contents management for each different mode of participation.

Let us make a closer analysis of the forums for example. The virtual community that formed to discuss the Statute of Youth received 299 posts relating to thirteen different topics each one created in the form of a forum. Some of the 440 participants in that community expressed generic opinions or technical opinions and went on to suggest creative solutions or to input valuable information. However, appreciating and grasping the contents of each such post required a complete reading of the associated text and many of those texts addressed more than one aspect of the issue so that sometimes it was hard to distinguish an opinion from a suggestion, for example.

That meant that the organizational and intellectual costs involved in processing the contents were extremely high because there was nothing built in to the interface to facilitate the task. It meant that the legislative consultants had to make tremendous efforts to synthesize the contents for them to be presentable to the representatives. The participants



also found it difficult to take part in the discussions as some of them remarked in the interviews.

What seemed to be necessary to minimize the problems was for the interface to offer ways of inputting contents that pre-organized them by providing specific fields to be used with orientations such as 'select the type of contribution you wish to make –opinion, suggestion or information, and then write in your text in the appropriate field'. The e-Democracy designers however, argued that there were no better ways available to customize the actual forum application because the structure (including programming staff) created to develop the pilot program was very limited.

No doubt greater investment in the interface would bring down the cost of contents processing and that is highly relevant in terms of ensuring the effectiveness of the participatory process because the work of processing participants contributions and transforming them into useable reports is carried out by legislative consultants that already have their time occupied in advising and supporting parliamentarians in other ways. The report they are supposed to produce is supposed to inform the representatives in a succinct manner about the contents of the contributions because most of them will not have accompanied the virtual discussions on the e-Democracy portal.

Intrinsic interface elements

Other relevant aspects of the interaction offered by the e-Democracy interface deserve to be mentioned. Among them are the features of asynchronicity, non-linearity, and evolutionary capacity, collaboration and spontaneity. **Asynchronicity** refers to the possibility of participation's occurring at different moments. A participant that wishes to make a more extensive contribution has the option do so in parts, each part being inserted at a moment of his or her convenience.

The feature of **non-linearity**, which bears some relation to asynchronicity, provides for a more complex form of intervention on the part of the participant who may present contents in various different forms (text, videos, and audio material) and is permitted to interrupt the communication and come back to it later, according to the discussion agenda.

The 'complex' aspect concerns the use of various instruments (forums, wikis, polls) with different types of messages (texts presenting arguments in forums, texts structured in legal language in the wiki and objective opinions in the multiple choice opinion polls) and to do so at

different stages of the discussion (discussion on the underlying public problem, discussion of legislative solutions, and discussion of the form of the final legislative text). In short, it allows for non-linear participation.

The participation proposed by the e-Democracy portal is also **evolutionary** by nature. People accumulate ideas and information, the discussion stimulates the gradual enrichment of the text and the final objective is the achievement of an improved version of the legislative text. Thus the deliberation that is allowed for in the e-Democracy process has the effect of stimulating the clashes of ideas and arguments.

The aspect of **collaboration** is present in the way the platform offers conditions for constructive work. The availability of the wiki tool, in this case the Wikilegis presupposes collaborative and evolutionary work among the participants albeit it has been widely under-used.

Furthermore, the range of interaction tools including forums and polls supports that collective construction of knowledge as it enables each participant to contribute in the modality that he or she prefers, although there have been technical problems in the usability of those tools that have hampered them from fulfilling all their potential in the e-Democracy environment.

Participation in the digital debates is also **spontaneous**; people join in whenever they wish to. That idea is strongly associated to the question of unpredictability, an essential facet of freedom of expression. Thus, unlike the participation in the multiple-choice polls with their pre-determined answers present in the Virtual Senator model, e-Democracy participants can express their ideas spontaneously.

However, in spite of the fact that all the above mentioned processes and characteristics have been built into the e-Democracy portal, it is surprising to see how non-functional and under-utilized they are. For example, the possibility of collective and evolutionary work is hampered by the lack of integration of the various e-Democracy tools and that, added to the portal's communication problems makes full use of all its potential very difficult.

Usability and communication policy

In regard to usability the interviews revealed that participants had experienced some problems especially in understanding the participatory and deliberative processes installed in the e-Democracy portal and also in understanding the legislative processes involving the draft proposals under discussion in the platform. As one of the legislative consultants put it "It was clearly visible that the participants could not fully understand



the legislative process. Each ordinary citizen has his own difficulties in handling law-making processes with which he is not familiar”.

One aspect of usability is ease of navigation and in the e-Democracy it presents both positive and negative aspects.⁸⁵ With just a few clicks the portal user can quickly access all the participatory instruments on offer, such as chats and forums. Starting from the home page, three clicks will enable him or her to start writing a message in the forums of the theme-based virtual communities. That means there is little chance of the portal user’s getting lost in navigating to that point as the options lead directly to the respective participation applications.

However there is a central problem associated to the e-Democracy participatory process, which is a lack of understanding on the part of the portal users as to what it really is and how it works; what they, the users, need to do and to what objective purpose. It was found that users were not readily able to perceive that they were being invited to participate in the elaboration of legislation the first time they visited the portal. Participants reported that they had not immediately understood what it was all for.

In the absence of any explanatory tutorial to guide him the portal visitor is obliged to deduce the way in which he can contribute to the discussions albeit, it is true that in some of the virtual communities, the e-Democracy administrators had published information that served as guidance for some steps to be taken in order to participate. Also associated to the tab ‘about e-Democracy’ there is some superficial, general information about how to register.

In the earliest version of the e-Democracy interface there was actually more instructive information about the portal and information on its objectives and the way it worked than in the second version, which was inaugurated in October 2009, by which time the information had been removed. While the second version contained fewer instructions it is apparent that there were considerable gains in usability with the greater use of images as can be seen in the two versions presented below.

⁸⁵ Many of the problems identified in this analysis were minimized or totally corrected for in the new version of the portal that was launched on June 15, 2011.

FIGURE 25 – Homepage of the e-Democracy portal when it was launched on June 6, 2009



FIGURE 26 – Homepage of the second version of the e-Democracy portal launched on November 25, 2009



So it can be seen that the e-Democracy development team experimented with the interface and brought about substantial changes to the layout in just four months of its existence. As time went by, the team introduced links and applications to enable the portal to integrate the social network platforms like Orkut and Facebook as well. Nevertheless the usability problem persisted because the informative tutorials were not coupled to the participation mechanism and normally



site users do not have the patience to waste time reading instructions before they start participating. The main problem therefore was the lack of a tutorial process embedded in the participation process that would enable the user to learn while doing as has been the case with games and videogames where the tutorials are absolutely practical. The problem with this kind of embedded tutorial is the high cost of designing and developing it and the budget for the e-Democracy project in the pilot stage made no provision for it.

In addition, the question of the *modus operandi* of participation is also related to a lack of understanding of the legislative process itself. The ordinary man-in-the street tends to underestimate the complexity of the legislative process which involves various stages and procedures during the passage of proposals before the standing and select committees and the floor of the house and involving formal evaluation of the merit of the proposal and of other aspects of it such as constitutionality, financial and budgeting suitability and the wording of the legal text.

Some weeks after the new layout had been launched, the e-Democracy team displayed information about the legislative process on the House of Representative's institutional portal and established a link to it under the heading 'Get to Know the Legislative Process' among the highlights on the e-Democracy homepage. Even so the result did not entirely satisfy the need to instruct the participant because the contents that the link led to were static contents and did not offer any specific information on each phase of the discussions of the e-Democracy communities, which would have been more instructive than any presentation of general information on legislative processes as a whole.

Once more, no firm connection was established between the general information on legislative processes and the participatory process in course on the e-Democracy portal so that portal users found it all very difficult to understand. If there had been information on legislative processes injected into the debate during the discussions of the e-Democracy communities and if it had been duly contextualized to be relevant to the sphere of debate in each community then it would certainly have minimized the problem.⁸⁶

⁸⁶ In the new version of the e-Democracy portal launched on those problems were mitigated insofar as a System of informative tabs on the respective legislative and participatory processes was introduced under the heading 'Guide to the Discussion'.

However, there is another problem concerning the question of the interface which some participants were at pains to point out in their interviews: the difficulty they found to contextualize the virtual discussion. For example, participant Deny Eduardo who took part in the Statute of Youth community declared “...when I entered the discussion, I thought I was not going to be able to collaborate because the debate was already in the middle and I took a while to get into it.” This kind of problem showed the obvious lack of a communication policy in the e-Democracy project that would make the project’ intentions and the way it was designed to function more readily perceptible.

The lack of connection between the interface and legislative process reality

In addition to the lack of a clearly established connection between the interface and the real legislative process and the problem of the poor understanding of the legislative process on the part of the participants in the virtual communities we were able to detect yet another problem regarding legislative dynamics: the relation between the e-Democracy participatory process and the real legislative process in course.

In the sphere of the e-Democracy project participants have great freedom of participation restricted only by the limitations of the legislative agendas, which in turn, tends to be very flexible and open in the Brazilian parliamentary system. The internal regulations of the House of Representatives which regulate its entire legislative process are endowed with a series of instruments and mechanisms designed to concede to the parliamentarians a certain degree of freedom in debating and managing the discussion (FARIA, 2007).

There are several factors that can influence the passage of a draft bill. One of the most relevant, for example, is the degree of complexity and outreach of the issue being addressed by the bill, which tends to determine the rhythm with which it progresses through the procedures. It means that draft legislation to institute legal codes, for example, may actually take decades to be processed. In terms of complexity, the general rule is that draft bills must be analyzed sequentially by the standing or select committees. The House’s Constitution Justice and Citizenship Committee is normally the last on the list called on to issue its opinion and pass judgment on the constitutionality and legality of the proposal in question.

But there may also be special committees constituted to analyze draft legislation that is exceptionally complex, that is a draft bill that needs to



have its merit analyzed by more than three Standing Committees.⁸⁷ In that case, the project does not go before the standing committees because the setting up of a special committee is expressly intended to substitute them in the act of making a technical analysis of the draft bill in question.

Whenever a piece of draft legislation contains elements that are highly polemical and are opposed by a minimal group of parliamentarians, then regimental mechanisms exist embedded in the legislative practices that can be used to block its progress in deference to the rights of the minority. In short, the Brazilian legislative process does not follow the orthodox pattern of a linear progression.

There are, for example, various degree of 'urgency' that can be attributed to the voting on a bill that are capable of completing altering the course of events in the progress of a bill through the House. The most powerful of them is the regime of '*urgência urgentíssima*' (the most urgent urgency) which makes it possible for a piece of draft legislation to be appreciated almost immediately directly by the floor of the House. Each draft bill, according to its own characteristics, contents, complexity and the degree of social interest in it, among other considerations, is liable to follow different procedural pathways before it comes up for final voting.

That situation of variability in the legislative process and trajectories was not made evident in the e-Democracy portal. In other words the e-Democracy portal did not make that facet of parliamentary practices clear. Considering that the progress of each legislative discussion varies considerably the digital discussion in the e-Democracy portal would be expected to reflect that variability but in fact all the discussions are based on practically the same format.

All that means that the interface is not adapted to the real-life routine of legislative procedures and practices and that includes the live sessions. Although there have been examples of express references to events in the Committees, there is still a great lack of communication between the real events and the virtual ones. As an example, in the case of the virtual community formed to debate the Lan house regulatory legislation, the chairman of the Special Committee designated to analyze the respective draft bill, Representative Paulo Teixeira sent an e-mail message published in the respective forums inviting the members of the e-Democracy virtual community to attend a live public hearing that was to take place at a full session of the said committee.

⁸⁷ Article 4 of the House of Representative's internal regulations, Resolution nº 17 of 1989.

After the public hearing was over e-Democracy administrators published a very superficial summary of the discussion that had taken place in the same forum so that the participating citizens could get to know what had transpired. The summary merely listed the topics that had been addressed and the names of the speakers; there was no further mention on the contents of the speeches however.

It must be thoroughly understood that the legislative discussion can take on different formats. In the case of the legislation on the Statute of Youth there were conferences held on the issue in various Brazilian states with the participation of politicians, regional leaders of youth movements and other interested parties. The conferences took part at the beginning of the discussions on the draft bill proposal but there was no evidence of any reflection of the ideas and opinions ventilated in those conferences in the respective e-Democracy virtual community.

On the other hand, the legislative discussion on regulating the operation of Lan Houses began right off with public hearings in the Federal House of Representatives without any preliminary conferences in the states as there were in the case of the Statute of Youth. Such differences in the discussion dynamics can show themselves in many different ways because the two discussions, one on the Statute of Youth and the other on the Lan Houses were both based on Special Committees specially created for the purpose.

What is more usual however, is for the main discussions to take place in the sphere of the Standing Committees and there the procedures are somewhat different from those in the Special Committees. Furthermore there specific regulations associated to them that may either prolong or shorten their passage before the committee, like the one that allows for a simplified summary rite to be applied by the Committees on certain issues dispensing the need for them to be deliberated on by the floor of the House.⁸⁸

In synthesis, a more flexible interface that permitted the development of virtual communities that were adaptable to the real-life peculiarities of each particular legislative discussion could minimize those problems of participants' incomprehension of the legislative process and create a better connection between the real-life legislative world and the virtual discussion of the e-Democracy portal.

⁸⁸ Article 24, II, of the House of Representative's Internal Regulations (Resolution nº 17 of 1989) attributes a procedure that foresees conclusion of the process by the respective Permanent Committee without the need to go before the floor of the House to certain types of legislative proposals, usually those that address less serious issues and that do not involve questions of human rights.

Representative Sarney Filho underscored that fact when he tried to explain why the virtual community formed around climate change policy did not catch on, attracted very little participation and was closed down before the expected time:

“I am not very well informed on the discussions on the Statute for Youth or the Lan House regulatory bill but what I have been able to see is that those two bills are currently being discussed in the Committees, unlike the case of the climate change legislation. Although there had been various proposals put forward and being processed and much discussion of the issue in the House itself, there was no connection between the various processes.

(...)

In the case of climate change, the discussion did not evolve as had been expected because, in my view, at that moment, the draft proposals on the issue being processed in the House were not on the House’s agenda because the Special Committee that was to analyze all the proposals had not even been set up. So, while there was indeed a concrete object of discussion (the legislative propositions) the moment was not ripe for discussion.

(...)

(...) Again talking about Climate Change, no other issue has been discussed so much in recent years nevertheless, or perhaps because of that, the e-Democracy results fell far short of expectations. It would seem that in the case of climate change, the e-Democracy portal showed up as just one more of the many discussion forums. The same thing could happen with other issues unless there is very clear concrete objective regarding the expected results in the sphere of the e-Democracy.”⁸⁹

⁸⁹ Free translation:

“Não conheço a fundo o processo de discussão do Estatuto da Juventude e da regulamentação das *lan houses*. No entanto, pelo que pude apurar, esses projetos estão em fase de discussão em comissões, ao contrário do que ocorreu com os projetos relacionados à mudança do clima. Embora houvesse várias proposições em tramitação e houvesse, também, muita discussão relacionada a esse tema na Câmara dos Deputados, não havia conexão entre esses processos.

(...)

No caso de mudança do clima, a discussão não se desenvolveu como inicialmente esperado porque, em minha visão, naquele momento, os projetos de lei em tramitação sobre o tema não estavam na pauta da Câmara, uma vez que a comissão especial que analisaria as proposições sequer foi instalada. Assim, embora houvesse objeto concreto (os projetos de lei), o momento não era propício à discussão.

(...)

(...) Novamente citando a mudança do clima, nenhum outro tema tem sido tão discutido nos últimos anos e, no entanto, ou talvez em decorrência disso, os resultados do e-Democracia estiveram aquém do esperado. Parece que, no caso de mudança do clima, o e-Democracia constituiu apenas mais um fórum de discussão. O mesmo pode ocorrer com outros temas, se não houver um objetivo muito claro e concreto quanto ao resultado esperado no âmbito do e-Democracia.”

Is the e-Democracy viral?

Another aspect referred to by interviewees in regard to usability was how few sharing mechanisms had been incorporated to the site. It is very common now to hear the expression 'going viral' in the internet which, in spite of the idea negative usually associated to the word viral, in the internet context is something positive: it means the ability of a certain message or digital contents to be readily transmitted and replicated by the various social network mechanisms available in the internet.⁹⁰

The e-Democracy project only incorporated one such mechanism of that type: each new intervention in the discussion forums is automatically transmitted via e-mail to the other forum participants in the discussion in question. Thus at any moment the portal users can easily keep up to date with how the discussion is developing simply by consulting their e-mails without necessarily having to access the e-Democracy platform directly.

That however was by no means enough to make the e-Democracy discussion go viral. In fact the absolute and relative numbers regarding participation are very low, as we can see from Table 5 (p. 208) bearing in mind that the Brazilian population now stands at around 190 million people. The community with the most outstanding participation was the one on the Statute of Youth legislation followed by legislative proposal for regulating Lan Houses. The other discussion arena, the Free Space, hosted other contributions on a variety of subjects.

Another factor that has most certainly contributed to that relatively low level of participation in the e-Democracy communities is the lack of adequate mechanisms for making the discussions more widely known to the external public, that is, people that have never heard of the e-Democracy and therefore never participate in it. In that respect, we can highlight three basic features that are missing: integration with the social network platforms (Facebook, Orkut etc.), availability of instruments for making contents available (RSS) and sharing them (buttons for sending contents to and sharing them in social network platforms) and mechanisms making it possible to automatically accompany the external discussions.⁹¹

⁹⁰ The term 'viral' has been used a lot to refer to the speed of transmission of product marketing messages sent in the form of e-mails to prospective clients (spam), who, once they have been 'infected' pass on the message to friends who in turn pass it on to friends and so on, constituting a veritable 'epidemic' of information on the respective product (for more detailed information access: http://pt.wikipedia.org/wiki/Marketing_viral).

⁹¹ In the new version of e-Democracy launched in 2011 those deficiencies were redressed.



After analyzing each one of those missing features the e-Democracy team managed to minimize the lack of connection with social network platforms during the pilot phase by creating accounts in YouTube, Facebook, Orkut, Twitter, MySpace e Ning. That however did not lead to any significant increase in participation because the use of those platforms by the project was largely associated to communication rather than interaction, that is to say for presenting information on the e-Democracy discussions to others rather than for enabling others to participate.

By comparison, there are various other participatory experiences that use those very same social network platforms as the means for enabling participation, unlike the e-Democracy platform, which offers participation only by means of its own platform developed for that purpose. The American Space Agency Nasa uses Facebook, Twitter and other social networks to interact with American citizens. A good example of that is the virtual chats that take place between ordinary people and Nasa technical staff on specific agency themes whereby the specialists can answer questions about the moon or what it feels like to be an agency pilot for example.⁹²

The European parliament also makes some outstanding means of communication and interaction available to its citizens. With more than one thousand followers the European parliament's Facebook page presents news items reporting on events and provides legislative information as well as stimulating participants to make comments and participate in other forms of interaction regarding the issues that it announces.⁹³

There is no systematic mention made on the e-Democracy accounts in the Facebook and Orkut of the contents of discussions in the ambit of the Legislative Virtual Communities. That means that participants in the communities cannot visualize any repercussions of their ideas or opinions in those social network platforms; if they could it would undoubtedly help to stimulate them and foster the discussions. In short, the e-Democracy platform made use of those social networking sites in a very timid manner.

Currently very common on websites promoting interactive information, the instruments for contents-sharing are usually

⁹² These participatory instruments and others can be visualized at: <http://www.nasa.gov/connect/index.html> Consulted on September 30, 2010.

⁹³ Accessible at: <http://www.facebook.com/europeanparliament#!/europeanparliament?v=wall>. Consulted on January 20, 2011.

displayed in the form of buttons located near to messages of forums, blog articles, or any other contents being made available in the internet including videos and slide shows. This helps the user to transmit the corresponding contents immediately via e-mail or to his or her own social and professional networks (Orkut, Facebook etc.), as can be seen in the illustration below taken from a blog.

FIGURE 27 – Examples of buttons for contents sharing



So the process of transmitting information among groups of friends, colleagues, professionals or academics has now come to be an essential element in the rapid multiplication of contents. Given the current excess of information available on the internet people have been looking for ways to filter it.

The receipt of material coming from social networks of friends and colleagues as a process of natural selection of information sources leads to closer bonds of trust among people and trust is an excellent selection requirement. After all people value informative e-mails and indications of articles received by friends and members of their interest groups. Stone emphasizes how Facebook uses the mechanism of friends' recommendations as a multiplying factor for the impacts of advertising (STONE, 2010).

The RSS is another important instrument for disseminating information in the internet. According to Wikipedia⁹⁴:

“RSS -Rich Site Summary, often called Really Simple Syndication is a family of web feed formats used to publish frequently updated works, such as blog entries, news headlines, audio, and video, in a standardized format.

(...)

They benefit readers who want to subscribe to timely updates from favorite websites or to aggregate feeds from many sites into one place. (...) The RSS technology enables internet users to register themselves with sites that offer RSS feeds. (...) It allows users to avoid manually inspecting all of the websites they are interested in, and instead subscribe to such websites so that all new content is fed to their browsers when it becomes available.” (transcription with alterations).

In short RSS is one of the instruments referred to above as suitable for accompanying the discussions but which the e-Democracy project failed to include and that affects its propensity for propagation and capacity to stimulate engagement (viral effect). Many internet users like to accompany the discussions using feeds so that they are not obliged to be continually accessing the e-Democracy page to find out if there have been any new interventions from discussion participants. The feeds push the information automatically to the user’s blog or other personal pages.

The third aspect influencing the interaction and replication propensity of the e-Democracy contents is a little more complex insofar as it refers to the capacity of other instruments to provoke movements from outside to inside. The new tendencies in internet use have led to new ways of using the social network for participation purposes. The application Think Tank⁹⁵ is an example. The aim of this software is to make discussions in any website, blog or social network platform available by searching for it and incorporating it to internal discussions like those that take place on the ED portal.

In that light, the discussions on legislative projects do not necessarily have to be restricted to the virtual ED virtual communities that is, they can take place ‘anywhere’ in the internet and the contents they give rise to can be aggregated to the ED platform. In other words, it is up to the

⁹⁴ Consulted on June 11, 2010 at: <http://pt.wikipedia.org/wiki/RSS>.

⁹⁵ ThinkTank can be accessed at <http://expertlabs.org/thinktank.html>. There are other similar projects like: <http://status.net/> e <http://ostatus.org/>.

ED platform not only to attract society and encourage it to participate in the discussions but also to 'go where people are'.

By making the process of interaction with the social networks and the sharing of information difficult, the ED makes the communication and publicizing of its discussions in the existing networks difficult as well (outward movement) and at the same makes it difficult for the platform to absorb external contents (inward movement).

Cost of interface accessibility

There now follows a transcription of an e-mail sent in by Mário Brandão, a citizen participating in a virtual legislative community on the topic of legislation to regulate Lan House operation. The e-mail was addressed to a member of the ED team who had invited him to make use of the Wikilegis tool specially developed to assist collaborative participation in elaborating legislation.

Mário Brandão coordinates an association of Lan House and Cybercafé owners and has created a specific virtual community in the Orkut to discuss relevant issues affecting them and known as "Lan House and Cybercafé Proprietors'. The community has more than twelve thousand members.⁹⁶ He was writing about the fact that often he preferred to discuss the proposed regulatory legislation for Lan houses in the Orkut community because he found it difficult to use the ED's Wikilegis. At the time the e-mail was written the respective discussion was at an advanced stage and the rapporteur of the respective committee, Representative Otávio Leite had recently submitted his report for the committee to analyze. Mr. Brandão's e-mail was as follows:

"(...) we already have over 200 contributions to the text (referring to the discussions in the Orkut) and each item is being analyzed and receiving the most varied kinds of feedback. We intend to consolidate all the suggestions in a single text and then submit it to the ED portal. However, I must confess that I find it difficult, for example, to create a structure similar to that of the portal where each paragraph or article is explained and suggestions and criticisms regarding it can be added independently. It would make the participation process so much easier and more agile. If I could count on your good will to orientate me as to how I can create contents in the ED portal, dividing up the theme into sub-themes for example or some other possible solution. I would be extremely grateful. It is not a question

⁹⁶ Accessible at: <http://www.orkut.com/Main#Community?cmm=>. Consulted on October 3, 2010.

of unwillingness to participate in the tool but pure lack of knowing how to do so.” (transcription with adaptations)⁹⁷

An interview with Mr. Brandão was the means to finding out more about this episode and in it the usability problems associated to the Wikilegis tool became more apparent. He wished to comment on the text of the draft bill presented by the Committee rapporteur in detail, article by article. In that way he could explain the real meaning of each one. To that end he used the Orkut forums and not the ED’s Wikilegis option because the latter only allowed for the collaborative elaboration of texts with no possibility of comments.

Mario alleged that because of the inflexible format of the Wikilegis tool he decided to invest his efforts instead in feeding information to his virtual community in Orkut and all the more so because it could already count on 12 thousand members whereas the Virtual Legislative Community discussing the Lan House legislation in the ED portal could only count on a little over 800 members.

One of the legislative consultants pointed out another aspect “the ordinary man in the street does not understand how laws are made and that is why Wikilegis does not work well. I think it would be more feasible to encourage participation in Wiki formats in the elaboration of less technical laws because ordinary people cannot understand the texts written in legal language”.

Those two stances suggest we need to reflect on the effectiveness of the digital democracy projects. Would it not be a waste of time and public money to develop the parliament’s own platform like the ED? Why not make use of the existing social network tools like Orkut and Facebook, which not only offer applications that are already functioning but also congregate millions of people and groups?

Furthermore, what incentives exist to encourage Orkut participants, for example to spend part of their time, energy and attention in participating in the ED communities when there are other communities

⁹⁷ Free translation: “(...) já temos mais de 200 contribuições ao texto (referindo-se às discussões no Orkut), cada item sendo analisado e recebendo os mais diversos retornos, pretendemos consolidar todas as sugestões num texto único e submeter ao portal (e-Democracia), no entanto confesso que tenho dificuldade de, por exemplo, criar uma estrutura como a do portal onde cada parágrafo ou artigo é explicado e pode sofrer críticas ou sugestões de maneira independente. Isso agilizaria e facilitaria o processo de participação se eu pudesse contar com sua boa vontade em me orientar sobre como posso criar um conteúdo no portal do e-Democracia, por exemplo, dividindo um tema em subtópicos ou alguma outra solução. Eu agradeceria enormemente. Não é má vontade em participar da ferramenta, e sim o mais puro não saber como fazê-lo.” (transcrição com adaptações)

formed around the very same issues in the Orkut? How much do the difficulties associated to using the ED tools hinder participation in the discussions or even make it impossible?

One of the ED's co-developers, Rafael Godoy explains that it was necessary to develop a specific portal because the tools available in the social networks' platforms were incapable of handling or addressing specific aspects of the legislative process satisfactorily. He recalled that the original intention with Wikilegis was "to develop an application that would make it easy to construct legislative texts in legal language because none of the wiki tools that were available at the time could address that problem adequately".

However Rafael also points out that there were practical problems involved in implementing that intention. Because, at the beginning, the ED project was more of a trial, a pilot stage, the team was not able to establish the necessary conditions (especially in terms of human resources) to properly develop the contents of such an application. As a result the Wikilegis was 'born' with usability problems. In the Communities on the Lan House legislation there was only one contribution registered in the Wikilegis, the LVC on the Statute of Youth the situation was a little better but there were still only eight contributions and in the other LVCs there were no Wikilegis contributions at all⁹⁸.

Other team members underscored the fact that in the case of Facebook and Orkut, two of the largest social network portals were not created to generate knowledge but instead, to make social interaction possible. That meant that they did not have the technical resources built in to them that were needed for conducting more in-depth and effective discussions on the legislative process.

While those arguments do make sense it must be admitted that the ED achieved a very meager flow of participants compared to what it might have been. There can be no doubt that the missing features of the interface and other problems delineated in this section contributed to raising the 'cost' of participation which in turn had a negative effect on the participants' motivation and discouraged the ingress of new participants. Furthermore the absence of any mechanism to enable the

⁹⁸ The new Wikilegis version is easier to use than previous one, facilitating the engagement of citizens in the drafting work. For example, the Wikilegis of the Civil Process Code Bill and the internet Regulation Bill have several contributions from many participants, as it can be viewed in this screen: <http://edemocracia.camara.gov.br/web/codigo-de-processo-civil/wikilegis>, accessed in January 10, 2013.

assimilation of discussions taking place outside the sphere of the ED portal also had an effect, as has already been mentioned.

5.2.2 Managing participation

The effects of freedom of participation on participation management

There is an evident initial difference between the VS project and the ED project regarding the form that participation takes. In the former project the participant basically agrees or disagrees with the terms of the draft bill and is given a chance to present suggestions. The main emphasis is laid on binary participation in objective multiple answer opinion polls.

The ED project on the other hand stimulates a much more open and subjective form of participation and the participant is free to make various types of contribution especially in the form of posts in forums. Thus the participant can identify whether he agrees or disagrees with the bill, enumerate arguments, provide information, give an opinion, suggest ideas for a new version of the text or a new text altogether and so on. There were, however, very few opinion polls run during the pilot stage.

The fact that the ED portal offers such broad freedom of expression to its participants makes it all the more difficult to manage their contributions. As can be seen in Figure 24, (p. 204), the organizing and processing an analysis of the participation registered demands a tremendous effort on the part of the ED administrative team and especially of those performing the role of legislative consultant.

As has been mentioned above the legislative consultants play a fundamental role at every stage of the legislative process because they advise and assist parliamentarians in technical aspects such as searching for information on the subject in hand, elaborating texts with appropriate legislative structure and language, producing analytical technical opinions on draft bills and elaborating studies. According to data supplied by the House of Representatives Legislative Consultancy, ninety-five percent of the representatives have constant recourse to the services of the consultants.

Legislative consultants are also highly important to the functioning of the ED participation because they initially help to determine the structure of the discussion, contribute to moderating it, and analyze the participatory contents that it generates. In the course of the discussions it could be seen that some consultants in the climate change LVC raised issues and asked provocative questions to stimulate participants

responses and did so using their own names whereas others preferred to act as discreet moderators, not making any formal contributions in their own names but helping the representatives and the ED team to elaborate strategic questions or replies to some of the questions posed by participants.

The consultants' most relevant function, however, has been in the moment after the participation when they have to cull the results of the latest round of contributions. That role is all the more important because most representatives do not accompany the ED discussions directly (nor do they have staff they can designate to do so). In that light the ED team concluded that it would be necessary to elaborate a report addressing two aspects of the contributions: a synthesis of the discussions themselves, and an analysis of the technical feasibility of the suggestions put forward. The legislative consultants are eminently suitable for those tasks because they have extensive knowledge of the issues and subjects under discussion.

One of the first aspects introduced that served as a rudimentary filter for the messages was the definition of the topics addressed by each LVC according to the basic structure of the respective draft bill. For example in the LVC on climate change the following forums were created: general discussions of climate change as such; funding national climate change policy; harmonizing concepts for a national climate change policy; and principles, directives and objectives of the national climate change policy.

There were various distortions and digressions from that structure such as people posting messages in the wrong forums and the emergence of complex discussions involving more than two different topics at a time. However in the format in which it was first established it was possible for participants to get an immediate panoramic overview of the discussion and to contextualize their contributions with relative ease.

As has been stated, the work of reading, understanding, summarizing and analyzing all the forum contributions constitutes a tremendous workload for the consultants. After all forums like the one on the Statute of Youth for example resulted in 299 messages. Some of the messages present various pieces of information, complex arguments and specific ideas, all in a single message. That calls for very careful time-consuming reading and close analysis.

Albeit the forums are formally segmented at the outset, the participants are at liberty to write whatever they think and in whatever way they wish to present it. That initial segmentation does not constitute

a filter sufficiently robust to avoid the laborious work of separating ‘the chaff from the grain’. Actually a lot of nonsense appears in some of the contributions constituting what internet jargon refers to as ‘the noisy idiot problem’. Among the constructive well founded messages there may be others that are mere expressions of opinion or even protests.

In short, the ED puts a lot of weight on the shoulders of highly qualified human resources to make it feasible for the contributors’ contents to be eventually be made use of. That fact is highly likely to jeopardize the project’s sustainability if the number of participants gets up into the thousands and all the more so in view of the possibility of dozens of LVCs existing simultaneously in the future.

The legislative technical jargon that hinders participation

Lan House legislation LVC participant Mario Brandão also commented on this highly emblematic and important aspect of the great impact on participation caused by the hermetic legal language employed in legislation. After Representative Otavio Leite, the parliamentary committee’s rapporteur had published his version of the text of the draft bill for regulating Lan Houses, Mario Brandão commented on it in the Orkut community that he coordinates. He gave an explanation of each article using simple language. As an example see his comments on the ementa of the rapporteur’s text which is the part that sets out an explanation of the bill.

Original text of the *ementa*: “Declares the Digital Inclusion Centers – DIC (Lan Houses) (...)”

Mário Brandão’s comment: “although the text does not discard the use of the popular name ‘Lan House’ entirely it makes a point of using a Brazilian term for them, and while not abandoning the Americanized form of ‘Lan House’, the fact that it refers to them as ‘Digital Inclusion Centers’, which underscores one of their main values, is reinforced and presented as the preferential nomenclature, although there is no formal restriction placed on the use of the popular name.”

Original text of the *ementa*: “(...) as being of special social interest to the universalizing of access to the worldwide web of computers, the internet, and defines them as multipurpose service providing units as well as setting out other provisions.”

Mário Brandão’s comment: “declaring our spaces to be of special social interest clearly marks the line of thinking that predominates throughout the text, insofar as it indicates that the Lans produce more benefits than potential harm and that their existence should indeed be regulated but motivated by the idea that they are beneficial and treated as such due to their main activity, which is promoting

access to information and services especially for the poorer strata of the population.”⁹⁹

However much personal interpretation Mr. Brandão may have applied to the legislative text analyzed, he certainly did manage to ‘translate’ it into simple language to make it easier for the members of his Orkut blog to understand.

The whole situation has arisen because of the lack of a communication policy in the ED project that could contribute to improving understanding of legislative texts and thereby facilitate participation on the part of the larger universe of the ordinary citizens. That was done to some extent by the Virtual Senator team when they translated the legislative proposals into questions written in colloquial language.

The point is of the greatest relevance in cases where the participants’ contributions are capable of generating strategic knowledge of the reality the legislation is designed to address. Thus the informative contribution concerning possible problems stemming from the enforcement of the law enriches the legislative discussion and is precisely the kind of information parliamentarians need to receive before making their final decisions.

In the case of the Lan House for example it was very obvious how the context of each region of the country presented relevant differences that could affect the application of the law. There was a discussion for example as to whether children in school uniform should be allowed to frequent Lan Houses because there were many cases of children missing classes in order to play games on the computers in such establishments.

One Lan House proprietor from the north of Brazil declared himself against a prohibition based on school uniform use because he received many youngsters wearing school uniforms on Sundays because in fact

⁹⁹ Text available at: <http://bit.ly/BCXlx>. Consulted on October 7, 2010.

Free translation: Texto da ementa: “Declara os Centros de Inclusão Digital – CID (*lan houses*) (...)”

Comentário Mário Brandão: “embora não abandone o nome popular *lan house*, o texto trata esses espaços com um nome brasileiro e, embora o americanizado *lan house* não seja abandonado, o tratamento como centros de inclusão digital, que é um dos seus principais valores, é reforçado e tratado como nomenclatura preferida, embora não exista nenhuma restrição ao uso do nome popular.”

Texto da ementa: “(...) como de especial interesse social para universalização do acesso à rede mundial de computadores – internet, os define como entidades prestadoras de serviços multipropósitos e dá outras providências.”

Comentário Mário Brandão: “declarar nossos espaços como de especial interesse social dá nitidamente a linha de pensamento predominante em todo o texto, ao indicar que a existência das *lans* é algo que produz mais benefícios que potenciais danos, e sua existência deve ser regulada sim, mas principalmente motivada e tratada como benéfica dada a natureza de sua atividade-fim, que vem a ser a promoção do acesso à informação e a serviços diversos especialmente às camadas mais pobres da população.”

they were poor and the uniform was their only decent set of clothing, something quite common in his region.

To sum up, receiving a variety of contributions from participants from all over the country that are interested in the matter is essential to enriching the discussion. Nevertheless, the difficulty people encounter in understanding the legal language of the legislative texts limits the participation of those with lower schooling levels or no legal knowledge even though they might be the eventual targets of the law in question.

Because no qualified human resources were allocated for the purpose, the ED team was not in a position to provide explanations, details or simplifications of the legislative texts under discussion which, had it been possible, would have greatly facilitated the process as was the case in the example of the Easy Law project of the Library of the Chilean National Congress. In that experience the library portal offers simplified and explanatory versions, couched in easy language of the main legislation in force in that country, all organized and classified by subject matter.

FIGURE 28 – The library of the Chilean National Congress' Ley Fácil (law made easy project)



By clicking on a given subject matter of his or her interest, the user can visualize information structured in question form and explanatory answers to them and there is even an option to listen to a dramatized version explaining the contents of the law a bit like a radio-soap.

Furthermore, the citizen can go on to access other laws that have some relation to the one he examined first by means of the Easy Law portal.¹⁰⁰

Managing information

The ED project also showed some evidence of information management problems. It has already been explained how the problems associated to the interface arrangements made it difficult to organize the participants contributions. The legislative consultants themselves were obliged to screen the contributions contents in order that better use could be made of them. In addition to those interface problems, there were other management-related problems that helped to make the costs of utilizing participation contents extremely high.

For example, the forum contributions did not receive any indexing treatment of the 'tagging' type so common in the internet nowadays. The 'tags' are usually key words or references that contain important semantic elements in a given text.

Thus, after a certain period of time the tags can be used to separate posts in the forums according to certain categories. As an example, some messages in the forums of the LVC associated to the Statute of Youth legislation referred to the Youth Councils. In that case, the tags system retrieves all the messages containing the words 'council' or 'youth'.

Nevertheless, such filtering processes still require some human effort. In many forum systems it is the participant who will do that indexing by choosing appropriate tags for the text he or she posted. In the case of a participatory process like the ED the intervention of a team would be necessary to standardize the tags being used because often people would apply different concepts to the same subject. Once more, it calls for a certain amount of work and increases the administrative costs of LVC management.

There are other instruments available in the web beside the tagging system and they could be applied to this screening process and help to bring down the already high costs in terms of human resources, of processing and compiling all the messages. Indeed there is a notable scarcity of professionals with information management qualifications working with the ED who are capable of optimizing the process of synthesis of the participatory contents of the discussions, and in that way facilitating understanding on the part not only of the participants and Brazilian society at large but of the Representatives themselves.

¹⁰⁰ Information available at: <http://goo.gl/gnxV>. Consulted on October 7, 2010.

5.2.3 Political efficacy

A series of questions arises whenever an attempt is made to understand the internal workings of any given digital discussion. In the end, how were the ED contents made use of in the formulation of legislation? What relation did the live discussions in the parliamentary committees bear to the respective debates in the ED platform? Were there any effective repercussions of citizen participation in the legislative decisions or did they exercise any influence in the live debates in the committees?

The impact of virtual discussion on the live parliamentary discussions and vice versa

We were able to verify during the life of the ED experience how there is a dialectic relationship between the digital discussions in the ED and the live parliamentary debates although the latter seemed to have greater reverberation in the digital debates than the other way around. We can point to three factors that can contribute to an understanding of that relation: the non-linear nature of the parliamentary discussion, the political timing, and the different discussion formats in this ED digital discussion.

First of all the e-Democracy team realized that legislative discussion is not a linear phenomenon; the main focus of all parliamentary debate is in the Standing or Select Committees where the discussions are more detailed and profound. However those discussions may alternate moments of effervescent activity and other periods of weeks with no discussion whatsoever.

Due legislative process is supposed to obey certain rules of analysis and appreciation which normally consist of the presentation of a proposal to the political board of the House, its passage before the respective committees and its eventual appreciation by the floor of the house. There are however certain rules that are capable of making that trajectory more flexible such as declaring a voting regime of *urgência*

*urgentíssima*¹⁰¹ (extreme urgency) and the other situations where some legislation can be voted conclusively in the Committees.¹⁰²

Parliamentary debates and deliberation do not always follow a rational predetermined course. Because of the many varied subjects being addressed in different parliamentary arenas, establishing priorities on the weekly agendas depends on a wide range of regimental, political and social factors that are frequently unforeseeable. A given social or political fact may suddenly catapult a certain proposition to the front of the line and give it top priority on the agenda or in a similar manner but in the reverse direction, such facts and occurrences may relegate a series of topics to the 'shelf' for an almost unlimited length of time.

Associated to that aspect and in addition to differences inherent to the special conditions of each legislative proposition, such as the type of issue being addressed and the authorship of the proposal, there is also interference stemming from political timing. When there is consensual political interest for example, the parliamentary party leaders may agree among themselves to make use of the *urgente urgentíssima* regime and install a voting regime that dispenses altogether with the discussion in the sphere of the Committees.

In that case, obviously, there will be less debate and less opportunity for citizen participation. In a similar way the opposite may occur. When the political moment is seen to be unfavorable, or there is resistance on the part of powerful interest groups, parliamentarians linked to such groups can make use of regimental provisions to block the progress of draft bills (FARIA, 2007, p. 122).

¹⁰¹ Unabridged reproduction of the Internal Regulations of the House of Representatives (Resolution nº 17 of 1989) refers to the voting regime '*urgente urgentíssima*: "Article 15. Any material that addresses issues of relevant and pressing national interest, even if the session in which it was put forward has begun, may be automatically included in the order of the Day for immediate discussion and voting at the request of an absolute majority of members of the House of Representatives or of political party parliamentary leaders representing the equivalent of such an absolute majority, duly approved by the absolute majority of members and exempt from the restrictions set out in § 2 of the preceding Article."

¹⁰² Unabridged reproduction of the Internal Regulations of the House of Representatives (Resolution nº 17 of 1989) refers to the conclusive power of the parliamentary Committees: "Article 24. It is incumbent on the Standing Committees according to their respective areas of attribution, and all other committees in whatever part may concern them, to: I – discuss and vote on those propositions that are liable to deliberation on the part of the floor of the house, which are duly distributed to them; II – discuss and vote on draft bills without the need to refer them to the authority of the Floor, except in those situations foreseen in the term of § 2 of Article 132 and except in the case of draft bills in the categories of: a) complementary Laws; b) Legal Codes; c) Citizens' Initiatives; d) de comissão; or e) addressing matters that cannot be the object of delegation in compliance with § 1 of Article 68 of the Federal Constitution; or f) proceeding from the Senate or modified by the Senate and that have been approved by the Floors of either one of the two houses; or g) that have received diverging technical opinions; or h) that are being processed in the regime of 'urgência' (urgency); (...)"



In the specific case of the draft bills that came up for discussion in the e-Democracy portal, the respective processing took on various forms in the parliamentary praxis. For example, the debate on climate change spread to various forums in the sphere of the National Congress and even to the Executive Branch, whereas the debate on the Statute of Youth took place in the confines of a single Standing Committee in the House of Representatives and was preceded by external discussions in some states of the federal union.

The third aspect affecting the relationship between the parliamentary discussion and the virtual discussion in the sphere of the e-Democracy portal has to do with the specific form of each LVC created in the platform environment and that, to a certain extent, reflects the way the parliamentary discussion has been organized. For example, in the e-Democracy environment, the discussion of the Statute of Youth took place in consonance with the debate in the House's Standing Committee on Youth.

On the other hand, the discussion on Brazilian Space policy in the e-Democracy portal actually served as a supporting instrument for the House's Higher Studies Council and took place in the form of an independent virtual discussion, insofar as the said Council does not meet systematically as some of the other Committees do. In contrast, the climate change discussion was not anchored to any particular body or entity and it was handled in a disperse manner within the sphere of the National Congress as a whole as Representative Sarney Filho remarked in the interview already cited above.

The detailed analysis of the most lively LVC, that of the Statute of Youth, will examine the nuance of the relations between parliamentary actions and the discussion taking place in the sphere of the e-Democracy portal. The LVC that discussed the regulatory legislation for Lan Houses enjoyed considerable participation but because was still in full swing at the time the present research was finalized, there are no results available to examine and draw conclusions from, so it will not come under analysis here. The three other LVCs achieved very low even negligible levels of participation in the case of the Amazon and climate change debates and so they too are of little interest in regard to the issue in hand.

The Statute of Youth legislative virtual community

The legislative process

The House of Representative has twenty thematic standing committees, that is, twenty collegiate bodies considerably smaller than the floor of the house, and they are empowered to deliberate on draft bills addressing specific subjects.¹⁰³ However, the internal regulations of the House requires that whenever the complexity of a given subject goes beyond the joint fields of interest of three standing committees, a special temporary committee should be set up to examine the merit of the proposed legislation.

This mechanism is intended to facilitate the deliberative process insofar as, otherwise, more complex draft bills would have to be appreciated by five or six thematic committees which would create considerable complications and delays in processing it. The special committee is charged with issuing a technical opinion that should be a synthesis covering all the aspects that would otherwise be addressed by the five or six separate committees that are responsible for areas addressed by the draft legislation in question.

Ever since it was first introduced in the National Congress, Draft Bill Nº 4.529 of 2004, which was designed to institute the Statute of Youth and which has been the object of so much discussion, progressed at a very slow rate. It was only when a special committee was set up in June that the process began to speed up. In that same month Representative Manuela D'Avila of the Brazilian Communist Party (PCdoB) was appointed to be the Committee's rapporteuse.¹⁰⁴ The duty of the rapporteuse is to prepare a technical report or opinion on the draft legislation for instituting the Statute of Youth. In her report, the rapporteuse is entitled not only to declare herself in favor of or against the approval of the legislation by the committee but can also propose additions or alterations to the text or even put forward an entirely new text to substitute the original one, which is referred to as a substitutive text. That text is then the object of examination in the processing stages that follow, such as the deliberation by the floor of

¹⁰³ The standing committees are charged with discussing and deliberating on topics that lie within the field of interest that each one is designated for and that concern the sphere of public policies. Accordingly there are standing committees for Social Security and Family Affairs, Science and Technology, Constitution and Justice and so on. Unless a legislative proposal is specifically designated as 'urgent', it will normally go before the most relevant Standing Committee (in terms of subject matter) for analysis and discussion.

¹⁰⁴ Information on the legislative trajectory and progress of this bill can be accessed at <http://www.camara.leg.br/sileg/default.asp>. Consulted on October 10, 2010.

the House and subsequent analysis by the Senate should the House approve it.

In the case of the Special Committee for the Statute of Youth, the debate among parliamentarians was most intense during the second half of 2009. In the usual course of legislative routine the rapporteur will take pains to listen to various opinions on the issue in question before issuing a technical opinion of his or her own. To that end, the theme-based Standing Committees or Special Committees organize public hearing and invite experts and representatives of relevant interest groups to express their positions in regard to the matter in hand.

In the case of the special committee set up for the Statute of Youth legislation, there was a series of discussions held outside the sphere of the House of Representatives which is quite an unusual legislative practice. While it is true that representatives themselves may take part in discussion events all over the country, there have been very few occasions when institutional events have taken place outside the installations of the House of Representatives in Brasilia. What is more usual is for groups and individuals to be called on to participate in the discussions in specific meetings held in the House itself.¹⁰⁵

In this case, the members of the special committee decided to hold the discussions in two stages. The first would consist of a round of discussions in the states involving entities working with youth issues and young people, young people themselves and others interested in the issues involved. Committee members organized such events in their home states with a view to gathering supporting information for the subsequent discussions in Brasilia. The legislative consultant responsible for assisting the rapporteuse to prepare her report attended those events and endeavored to extract from them the main points raised so that they could be brought up and made use of in the discussions in Brasilia.

Furthermore, in the second stage there were another nine meetings within the sphere of the Special Committee itself, four of which were in the form of public hearings attended by entities and organizations involved with youth and youth issues, such as the National Industrial Training Service (Senai), the United Nations Educational Scientific and Cultural Organization (Unesco), the International Labor Organization (ILO), and

¹⁰⁵ Informal meetings among parliamentary leaders of political parties to discuss draft bills are also very common. Such meetings may take place with or without the presence of representatives of civil society and may take place in private or be conducted in public. One example of such events is the morning coffee sessions promoted by parliamentary groups around certain themes of their interest and which often represent a counterpoint to the political party influence in the National Congress.

direct representatives of youth organizations. The four other meetings were dedicated to as such among the Special Committee members themselves.

Both the rapporteuse, Manuela D'Ávila, and one of the legislative consultants that assisted her to elaborate the substitutive text that she eventually put forward declared that they had accompanied the discussions in the e-Democracy forum and that many of the suggestions that appeared there had been incorporated to the text. The Committee discussed the substitutive text during the first half of 2010 and in June of the same year, and after accepting further suggestions made by the representatives the rapporteuse delivered her report to the committee (D'ÁVILA, 2010) which duly approved it, as will be described in further detail below.

Virtual community dynamics

The Statute of Youth LVC has a digital library containing information that includes the relevant federal state and municipal legislation as well as the contents of the various legislative propositions associated to the same theme currently being processed. In addition it makes available various relevant studies, researches and surveys, links, blogs and portals.¹⁰⁶

While it is true that any LVC participant is entitled to insert suggestion and they are specifically invited to do so, the mechanism has been little used. Most participants have preferred to post information and studies directly in the forums. As mentioned above, the virtual discussion mainly takes place in the forums and participation in the Wikilegis option has been almost negligible.

Accordingly our analysis must focus on the contents of the virtual discussion forums. The debate was concentrated in three forums as can be seen in the table below. The arrangement of the forums according to the topics set out in the structure of the draft bill made it easier to filter the contributions, all the more so because most of the participants respected the way the discussion had been structured and in general the posts were appropriate and within the field of the chosen topic.

¹⁰⁶ Information available at: <http://edemocracia.camara.gov.br/web/estatuto-da-juventude/biblioteca-virtual>. Consulted on October 8, 2010.

TABLE 6 – Structure of the LVC discussion of the Statute of Youth

Forum	Topic (sub-forums on more specific topics)	Number of Posts
General Discussions	Youth Studies	6
National Youth System	Creation of National Youth Network	17
	System management and public policy evaluation and accompaniment	5
	Institution of National Youth System	27
	Reinforcing Youth Councils	38
	Financing and Priorities	15
Public Policies for Youth	Education, Sport and Culture	34
	Juvenile Participation	78
	Public Security and Justice	13
	Work and Employment	17
	Articulation of Existing Systems	8
	Capacity Building for Work	11
	Health	10
e-Democracy Forum	e-Democracy team and representatives' moderating messages	20
TOTAL		299

The definition of the above structure was the result of a pre-analysis made by the legislative consultant based on his own prior experience and expert knowledge acquired in participations in previous discussions and conferences addressing the issue and on an analysis of the content of about twenty websites dedicated to the theme. To that end the consultant made use of TextSTAT (Simple Text Analysis Tool)¹⁰⁷ software developed by the University of Berlin which was useful in mapping out and identifying the initial categories and key words associated to the theme of youth under discussion.

The consultant arrived at the structure for the discussion set out in the table above which was expected to mirror the structure of the substitutive text proposed by the rapporteuse after the round of participations and the discussion in the sphere of the special committee. Generally speaking, virtual community participants accepted that structure and there were no significant manifestations of any desire to change its design. The forum discussion usually starts off with a question or provocative statement made by a parliamentary representative.

¹⁰⁷ Accessible at: <http://neon.niederlandistik.fu-berlin.de/en/textstat/>. Consulted on October 10, 2010.

After the initial analysis of the discussions it is immediately possible to detect considerable differences among the types of contribution and they can basically be classified into six categories: a) technical or expert opinions; b) free opinions; c) innovative ideas; d) informative contributions; e) additional contributions; and f) useless messages.

The **first type** consists of contributions that are more technically qualified and they may contain personal or even corporate opinions backed up well-based arguments. They are generally presented by researchers, technical personnel or leaders with some experience in the area in question. Such contributions often articulate complex ideas or they may merely offer sporadic technical suggestions without any great repercussions for the legislative text.

In this category it matters little whether the arguments are authentic or not; what matters is the author's intention to articulate ideas and information to establish the basis for a given argument. It can also be seen that this type opinion commonly generates polemic in the discussion and leads to peaks of intense participation. That happened, for example, when a certain participant came out in favor of the policy of quotas for university entry within the scope of the draft bill under discussion.

Technical opinions tend not to explore the subject in depth or seek any greater understanding but rather, their authors are usually declaring themselves for or against an idea or solution that has already been presented. That was the case in the illustration above where the participant was replying to the question that set the forum in motion which was whether the Statute of Youth should set out the directives for creating a national youth system or not.

On the other hand, **free opinions** actually fail to aggregate anything significant in terms of gaining better knowledge of the problem or finding solutions to it. In fact they are usually merely expressions of generic political discourses or emotional declarations, protests, releases of bottled up feelings, impracticable or highly generic suggestions or arguments with no technical underpinning or basis.

The main advantage of the latter type of contribution is that it gives an idea of the 'feel' of the discussion, in other words, what a certain portion of the participants is interested in discussing and defending. In this category of contribution, the participants declare themselves to be in favor of or against a given proposal but fail to base themselves on any technical opinion or evidence. Accordingly, they add very little to the legislative work in technical terms as has been confirmed by other



similar studies preceding this one (COLEMAN and ROSS, 2002; DI GENNARO and DUTTON, 2006).

Other participants prefer to present **innovative ideas** and their main benefit is that they introduce creativity into the discussion in the form of entirely new proposals. The ideas may be expressed in two ways: as generalized ideas or as very specific ones. The generalized ideas usually address principles, values or beliefs that the author feels should permeate the text as a whole. Their contents are indeed useful although they are presented in abstract form. That means that legislative consultants have their work cut out to transform such contributions into legal texts.

As an example, many posts reinforce the idea that young people themselves need to assist government technical staff in implementing the policy on youth. However, very few posts actually suggested effective ways of transforming that idea into something concrete, effectively expressed in the legislative text.

The more specific innovative ideas contain more concrete proposals for solving public problems. We should remember that, as discussed earlier, the new Law needs to formally express solution for the problem it purports to address and which gave rise the legislative proposal in the first place.

If in the construction of the technical opinion people effectively discuss the problem in hand and appropriate ways of solving it, in the case of contributions of the 'innovative idea' type the participant puts forward proposals for entirely new solutions to the problem and new aspects that he or she feels the new law should address. Alternatively such innovative suggestions may serve to boost and fortify solutions that have already been proposed by introducing new aspects.

On the other hand **informative contributions** offer primary data that is useful to the discussion process but without necessarily serving as a basis for one argument or another in spite of the fact that many of them are proffered with the intention of reinforcing a certain argument. Thus the participant is allowed to input relevant statistics to the digital library, which may prove useful to the discussion, or to post them directly in the forums. In practice, up until now the latter option has prevailed because the author has the option, in the forum, of justifying his post and explaining the data he or she is making available.

Another common practice has been to present informative contributions with links to other important portals of relevance to the text in discussion or to present technical studies of the issue or to provide background information on local or regional contexts that will

enable participants and parliamentary representatives alike to get a better picture of the country's diversity, all of which will help to enrich the analysis of possible impacts stemming from the proposed law in the light of the diverse Brazilian realities.

Some contributions cannot be classified in any of these categories. Many of them, which we refer to as additional contributions, introduce secondary aspects only or subjects that are not central but correlated to the central issue and such contributions often give rise to unexpected phenomena in the discussion process. There is the case of questions posed by the participants themselves when they were in doubt about certain aspects of the discussion or were curious to get to know more about the reality of youth organization in other states.

Other participants preferred to identify problems in the implementation of the suggested ideas or even to question the need for elaborating a law such as the one under discussion. They state, for example that the problems associated to youth are not caused by a lack of appropriate laws but by the poor enforcement of them. Finally there are the useless contributions that are absolutely deleterious or totally devoid of meaning. Posts containing abusive statements, curses and swear words or direct attacks on other participants and politicians, or posts containing personal propaganda or advertising products are not considered valid nor are any posts that fail to address the proposal under discussion but refer to various others.

It should be noted at this point that the e-Democracy discussion platform makes all contributions immediately available, that is to say, there is no prior censoring of the inputs. However, the portal moderators subsequently carry out the work of evaluating those kinds of contribution and automatically eliminating them.

It was also found that many of the contributions contained a mixture of arguments, information and opinion. There are examples of participants who issue a technical opinion on a given issue (stating why they agree or disagree with a given solution) but then go on to present their own idea for solving the problem under analysis (how to do it) and they may even insert some information to serve as the basis for their arguments and ideas and all of that is contained in a single post or contribution. That makes it very difficult to make use of it in elaborating legislation. In short, the richer (the more qualitatively significant) the message the more difficult it is to extract all its value.

What then is the purpose of discriminating the contributions in this way? Why is it important to analyze the discussion contents in the light



of these categories? The real motive behind it is the methodological need to understand the ways in which those contents might be made use of by the parliamentary representatives. It can be seen that each type of contribution has a specific utility that will enable it to interfere to a greater or lesser degree in the legislative process.

After mapping the 299 contributions, it was found that most of them were technical opinions or free opinions. Innovative ideas, informative and additional contributions were exceptions to the rule in the discussion. The free opinions do not add any qualitative value to the draft bill but they are useful to the members of the Standing Committee involved and to the respective rapporteur insofar as they enable those parliamentarians to get the 'feel' of the discussion, that is to see what participants are most concerned about in regard to the bill's strong regulatory powers.

The technical opinions offered important arguments on which to found essential points of the draft bill. Together with the innovative ideas, whether generic or specific, they constitute, for the Representatives, the main source of qualitative utility stemming from the e-Democracy discussion and indeed, some points were incorporated by the rapporteuse to a greater or lesser extent as will be seen in the contents analysis that follows.

The informative and additional contributions had only a secondary impact on parliamentary performance but they helped largely to foster the discussion process itself. Such contributions functioned largely as discussion enriching elements. According to the e-Democracy team, there were very few contributions that were altogether useless, which was an aspect that helped to keep down overall organizational costs of the discussion in that aspect.

Content analysis

What then did the parliamentarians effectively take into consideration in this discussion of the Statute of Youth? How were the contents of the contributions delivered to the Representatives, considering that most of them never accessed the e-Democracy portal directly themselves? The team's original idea was to deliver a synthesis of all the discussion contents in the form of a written report while at the same time making it available on the e-Democracy portal and, accordingly, accessible to any individual. That report was supposed to be delivered after the digital discussion had been finalized and was

intended to serve as an instrument of support for parliamentarians in their decision making on the issue.

In practice however, no written synthesis report was ever delivered to the Representatives. What happened was that the legislative consultant who accompanied, supported and moderated the entire forum discussion, transmitted orally, in a simplified manner, a summary of the discussions directly to the rapporteuse who in parallel had been accompanying the e-Democracy portal and taking part in the virtual debate.

The rapporteuse agreed with some of the suggestions and arguments put forward by the participants and instructed the consultant to express them in adequate legal language and insert them in the substitutive text being elaborated. So it was that the rapporteuse's report in the form of a globally substitutive text was presented to the Standing Committee on December 8, 2009. After examining and including suggestions made by members of the Standing Committee, the new version was presented on June 6, 2010. The same text includes a reference to the discussions in the sphere of the e-Democracy portal:

"In addition to those spaces of interlocution, from August 25, 2009 on, a virtual community was formed in the sphere of the House of Representative's e-Democracy portal which has been fostering interaction and virtual discussion of society and the sharing of knowledge on youth and youthful realities in the process of elaborating the Statute of Youth .

(...)

As has been mentioned the present draft bill and its contents are the fruit of knowledge produced by youth groups over the last few years and by the most recent youth conferences as well as by the participation of society at large in the e-Democracy portal of the House of representatives and the more recent work of public hearings held by the Permanent Committee in this House and in the states."¹⁰⁸ (2010, p. 4)¹⁰⁹

¹⁰⁸ Accessible at: <http://www.camara.leg.br/sileg/default.asp>. It was made available and published on June 7, 2010.

¹⁰⁹ Free translation: "Além desses espaços de interlocução, a partir de 25 de agosto de 2009 foi estabelecida uma comunidade virtual no portal e-Democracia da Câmara dos Deputados, que vem promovendo a interação e discussão virtual da sociedade e o compartilhamento de conhecimento sobre a juventude e sua realidade no processo de elaboração do Estatuto da Juventude. (...)

Conforme anteriormente mencionado, o presente projeto e o seu conteúdo são provenientes do conhecimento produzido pelos coletivos de jovens ao longo dos últimos 20 anos, incluindo as últimas conferências de juventude, a participação da sociedade pelo portal e-Democracia da Câmara dos Deputados e os recentes trabalhos de audiências públicas desta comissão nesta Casa e nos estados." (2010, p. 4)



On analyzing the contributions and the final substitutive text presented by the rapporteuse, which is still being processed by the House, it can be seen that at least four sets of contribution were indeed considered, adapted and incorporated into the substitutive text. As can be clearly seen in Table 6 (p. 238) the themes that came up for the most intense discussion in the e-Democracy environment were the creation of a National Youth Network (17 posts), the institution of a National Youth System (27 posts), the reinforcement of Youth Councils (38 posts), education, sport and culture (34 posts), juvenile participation (78 posts) and work and employment (17 posts).

On November 2, 2010, the rapporteuse's substitutive draft was approved by the Special Committee which maintained the four sets of contributions that had been accepted and incorporated by the rapporteuse. Later the text was approved by the Floor of the House and currently it is under analysis in the Senate.¹¹⁰

¹¹⁰ Information updated on January 18, 2012.

FIGURE 29 – Chart showing repercussions of participants' contributions to the text of the draft bill on the Statute of Youth in the e-Democracy portal

Themes discussed in the e-Democracy environment	In what way?	Unabridged substitutive text produced by the Special Committee with participation contributions incorporated*
<p>Discussion on the situation of young students who study and work at the same time and the implications of such situations</p>	<p>Twenty-eight contributions in the sub-forums 'Work and Employment' and 'Capacity building for work' directly addressed these issues in addition to another thirty-four whose contributions addressed questions of Education, Sport and Culture.</p>	<p style="text-align: center;">SECTION IV THE RIGHT TO PROFESSIONAL TRAINING, WORK AND INCOME</p> <p>Article 19. The action of the public powers in ensuring the right of the young person to professional training, work and income shall embrace the adoption of the following measures:</p> <p>I – articulating programs, actions and projects directed at fostering employment, income and capacity building for work and regional economic development policies in compliance with the norms governing environmental zoning;</p> <p>II – promoting collective forms of organization for work, solidarity-based economic networks and youthful cooperativism in alignment with the following principles:</p> <ul style="list-style-type: none"> a) collective participation; b) democratic auto-administration; c) egalitarianism; d) cooperation and inter-cooperation; e) social responsibility; f) sustainable development and the maintenance of the ecosystems' equilibrium; g) entrepreneurialism; h) utilization of existing technological bases in higher education institutions and professional education centers; i) access to subsidized credit. <p>III – offering special working day conditions by:</p> <ul style="list-style-type: none"> a) making study hours and working hours compatible; b) offering teaching levels, modalities and forms that make it feasible to combine school attendance with regular work. <p>IV – making professional training vacancies available by means of international cooperation mechanisms with priority placed on Mercosul;</p> <p>V – establishing inspection and surveillance instruments to control compliance with the legislation and especially the observance of the provision set out in Article 429 of the Consolidated Labor laws which makes provisions concerning the reservation of vacancies for apprentices and Act nº 11.788 dated September 25, 2008 which makes provisions concerning trainee periods;</p> <p>VI – creating a special line of credit in the sphere of the Workers Support Fund destined for the use of youthful entrepreneurs;</p>

		<p>VII – taking state action to prevent and curb degrading labor exploitation of juveniles and young people;</p> <p>VIII – prioritizing first job programs and the introduction of learning in direct public administration spheres;</p> <p>IX – adopting mechanisms needed to diffuse information on actions and programs designed to generate employment and income to ensure due appropriation of the opportunities being offered as a consequence of their implementation;</p> <p>X – supporting rural youth in organizing sustainable peasant and family-farming production capable of effectively generating income y means of the following actions:</p> <ul style="list-style-type: none"> a) stimulating the diversification of production; b) fostering sustainable production based on agro-ecology in family-based agro-industries, in perma-culture, in agro-forestry activities and in sustainable extractive activities; c) investing in and stimulating appropriate alternative technologies for family and peasant farming duly adapted to local and regional realities; d) promoting the direct commercialization of family-based and peasant agriculture production and the formation of cooperatives; e) stimulating non-agricultural activities designed to promote the generation of income and sustainable rural development; f) guaranteeing basic access infrastructure projects to foster the shipping of production, with an emphasis on roads and transport; g) amplifying programs designed to promote formalization and capacity building in the cooperative financing and management and solidarity-based economy ventures.
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<p>Accompaniment and evaluation of National Youth System administration</p>	<p>Only five contributions actually addressed this topic but they received maximum attention from the rapporteuse as can be seen in the text on the right.</p>	<p style="text-align: center;">CHAPTER VIII THE ACCOMPANIMENT AND EVALUATION OF YOUTH POLICIES</p> <p>Art. 54. The National System for the Accompaniment and Evaluation of Youth Policies s hereby instituted with the following objectives:</p> <p>I – to contribute towards the organization of the youth network;</p> <p>II – to ensure there is accurate knowledge of the actions and projects associated to public policies on youth and their results;</p> <p>III – to promote improvements in the quality of management o the programs, actions and projects associated to public policies on youth.</p> <p>§ 1º Evaluation of public policies on youth shall embrace, at least, administrations, the Sinajuve units and results obtained by the youth policies and programs and shall be executed according to the following specifications:</p> <p>I – The objective of the evaluation shall be to verify:</p> <p>a) whether budget planning and execution are proceeding in a manner compatible with the needs of the respective Youth System;</p> <p>b) the efficacy of public financial resource use;</p> <p>c) the maintenance of financial flows taking into account the program’s operational needs, the reference norms and the conditions set out in the legal provisions established between the administrative bodies and the Sinjave units;</p> <p>d) the implementation of all other commitments made at the time the respective legal instruments were drawn up and signed and the extent to which public policies on youth have been put into effect; and</p> <p>e) inter-institutional and inter-sector articulation of the policies.</p> <p>II – The objectives of the evaluation of the Sinajuve units shall be to identify the profile of the impacts stemming from their activities, programs and projects taking into consideration various institutive dimensions among which the following are obligatory:</p> <p>a) the institutional development plan;</p> <p>b) social responsibility focusing particularly on their contribution to social inclusion and the socio-economic development of young people and their families;</p> <p>c) communication and inter-changes with society;</p> <p>d) personnel policies directed at professional qualification, improvement and development and working conditions;</p>
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		<p>e) their degree of compliance with referential norms and regulations;</p> <p>f) planning and auto-assessment in the aspects of processes, results, efficacy and efficiency of the project and its objectives; and</p> <p>g) financial sustainability.</p> <p>III – The objective of the evaluation of the results of the programs, actions and projects of the public policies on youth shall be at the very least, to verify the fulfillment of their objectives and the effects of their execution.</p> <p>Article 55. At the end of the evaluation a report will be elaborated describing the course of the evaluation work undertaken and setting out recommendations and timeframes for their implementation in addition to other elements that may come to be determined in the regulation of the Law.</p> <p>§ 1 The results of the public policies on youth evaluation process shall be made use of in:</p> <p>I – planning goals and determining priorities for the Youth System and its financing scheme;</p> <p>II – restructuring and expanding the youth network;</p> <p>III – adapting program, action and project objectives and characteristics;</p> <p>IV – drawing up and formalizing cooperation agreements with a view to correcting flaws detected during the evaluation process;</p> <p>V – reinforcing financing mechanisms designed to strengthen the youth network; and</p> <p>VI – enhancing and expanding capacity building for Sinajuve operators.</p> <p>§ 2 The evaluation report shall be delivered to the respective Youth Councils and to the Office of the Public Prosecutor.</p> <p>Article 56. Administrators and units receiving public funds are duty bound to collaborate with the evaluation process facilitating access to their installations, their documentation and all other elements necessary for the effective fulfillment of the evaluation.</p> <p>Article 57. The process of evaluating public policies on youth should involve the participation of young people, representatives of the three branches of power, of the Offices of the Public Prosecutors and of the Youth Councils and the form of that participation should be determined in the regulation of the Law.</p> <p>Article 58. The Legislative branch of the respective States or Federal District shall be responsible for accompanying the evaluations.</p> <p>Article 59. The National System for the Evaluation and Accompaniment of Youth Policies will ensure, by means of the methodology to be employed:</p>
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		<p>I – the undertaking of auto-assessment on the part of administrators and the respective units; II – external institutional evaluation comprising global, integrated analysis of physical installations, institutional relations, social commitment, and units’ project activities and purposes; III – respect for identity and diversity among the units and their projects; IV – the participation of the staff of each unit and the respective Youth Councils in the area of activity of the Unit under evaluation; V – a global integrated analysis of dimensions structures, commitments, finalities and results of public policies on youth; and VI – the public nature of all procedures, data and results of the evaluation processes.</p> <p>Article 60. Evaluation will be coordinated by a Standing Committee and carried out by temporary committees consisting of at least three experts with renowned performances in the field in question in accordance with specifications to be set out in the regulation of the Law;</p> <p>§ 1 The Standing Evaluation Committee shall not: designate as evaluators: I – permanent civil servants or employees attached to the administrative bodies being evaluated; II – persons related (in the first second or third degree) to heads of the administrative bodies under evaluation or to permanent civil servants or other employees attached to them; or III – persons facing criminal charges in legal proceedings.</p> <p>§ 2 The temporary evaluation committees shall aggregate additional members in compliance with the provisions of Article 52 of the present Law.</p> <p>Article 61. The information produced by the National Youth Information System will be utilized to support the evaluation, accompaniment, management and funding of the National, District, State and Municipal Youth Systems.</p> <p>Article 62. Periodic general evaluations made by youth organizations at National Conferences will be made with a view to elaborating recommendations that will be taken into account by those federal entities charged with the elaboration of public policies on Youth.</p>
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<p>Reinforcing the Youth Councils</p>	<p>Many (thirty-eight) of the posts in the sub-forum of the same name addressed this issue. It also came under discussion in the sub-forum 'Juvenile Participation' where there seventy-eight contributions.</p>	<p style="text-align: center;">CHAPTER IV THE YOUTH COUNCILS</p> <p>Article 46. The Youth Councils are permanent autonomous non-jurisdictional bodies responsible for dealing with public policies on youth and guaranteeing to young people, the due enjoyment of their rights and they have the following formal objectives:</p> <ul style="list-style-type: none">I – Support the process of elaborating public policies on youth that promote broad access to youth rights set out in the terms of the present law;II – make use of the instruments referred t in article 47 of this present Law in order to ensure that the State guarantees young people due exercise of their rights and restoration of the same when they have been violated;III – collaborate with public administration bodies in planning and implementing policies on youth;IV – study, analyze, discuss and propose the drawing up and formalizing of cooperation agreements with a view to elaborating youth-orientated programs, projects and actions;V – promote complementary studies on youth issues with a view to providing supporting information for the planning of public policies on youth;V – promote complementary studies on youth issues with a view to providing supporting information for the planning of public policies on youth;VI – study, analyze, elaborate, discuss and propose public policies designed to ensure that young people are integrated to and a participate in social, political, economic and cultural processes in their respective states or the Federal District;VII – propose to public administration bodies the creation of ways that will enable young people to participate;VIII – promote and participate in seminars, courses, congresses and events on themes relevant to youth issues;IX – undertake other activities of relevance to public policies on youth. <p>§ 1 In each state and in the Federal District, there will be a Youth Council made up of the following numbers of members:</p> <ul style="list-style-type: none">I – sixty for the Federal Council;II – forty-five for the state council and the Federal District council;II – thirty for the municipal councils.
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		<p>§ 2 There shall be a a corresponding Federal, state district or municipal Law to determine: I – the venue, date and time that the Youth Council will function; II – the remuneration of its members; III – the composition of the council; IV – the system of substitution when a seat becomes vacant.</p> <p>§ 3 Allocation shall be made in the Official Budgets of Federal Union, the States, the Federal District, and the municipalities of the funds necessary to ensure the proper functioning of the Youth Councils of the respective administrative units.</p> <p>Article 47. It is incumbent on the Youth Councils to: I – inform the respective Office of the Public Prosecutor of any act or fact that comes to its notice constituting an administrative or criminal offence against the rights of youth that are guaranteed by the respective legislation; II – bring before the appropriate judicial authority such cases as come under its aegis; III – issue notifications; IV – require information from public authorities who will be obliged to respond within thirty consecutive days; V – elaborate an annual report on public policies on youth in the respective spheres of public administration; VI – advise the local Executive Branch in the elaboration of plans, programs, projects, actions and budget proposals associated to public policies on youth.</p>
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<p>Antidrug policy as part of the overall health policy for young people</p>	<p>Some of the contributions referred specifically to the theme of Young People's health but very few addressed the issue of drugs which was what the rapporteuse was most interested in.</p>	<p style="text-align: center;">SECTION VI THE RIGHT TO INTEGRAL HEALTH</p> <p>Article 24. The Health Care policy specifically directed at young people's health consists of a set of articulated and continuous actions and services in the fields of prevention and integral health promotion protection and recuperation providing universal access to good quality, user-friendly services including special care directed at those diseases most prevalent among this population segment and obeys the following directives:</p> <p>I – development of articulated actions alongside teaching establishments, society at large and the family for the prevention of health problems among young people;</p> <p>II – guaranteed inclusion of issues related to alcohol and drug consumption, sexually transmitted diseases, Acquired Human Immunodeficiency Syndrome (AIDS), family planning and reproductive health in the curricular contents of the various schooling levels;</p> <p>III – recognition of the impacts of precocious or unwanted pregnancy from th medical, psychological, social and economic standpoints;</p> <p>IV – inclusion of the sexual and reproductive health as curricular subjects in health worker training programs;</p> <p>V – training health professionals in a multi-disciplinary framework to deal with abusive consumption of alcohol and drugs (narcotics);</p> <p>VI – qualifying teacher and health workers to identify symptoms of abusive alcohol consumption of addiction to narcotic substances and how to correctly handle and refer cases;</p> <p>VII – valuing partnerships with religious institutions, associations, and non-governmental organizations in addressing issues of sexuality and the use of drugs and narcotic substances;</p> <p>VIII – banning advertising of beverages with any alcohol content at all;</p> <p>IX – running educational campaigns and counter-propaganda against the use of alcohol as a dependence-inducing drug;</p> <p>X – articulating appropriate spheres of the health and legal systems for combating the abusive use of drugs, narcotic substances and anabolic steroids.</p>
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*Available at: http://www.camara.leg.br/internet/sileg/Prop_Detalhe.asp?id=271219. First made available and published on June 7, 2010.

Final remarks on the political efficacy of the Statute of Youth virtual community

The technological interface did not help towards making it possible to discriminate the different types of contribution. Each participant freely presented his or her ideas and opinions and was at no time required to classify the kind of contribution being made as is the case with some other virtual platforms where there is a self-screening mechanism installed for the contributions.

In the Climate CoLab¹¹¹ portal developed by the Massachusetts Institute of Technology's Collective Intelligence Center which was analyzed in Chapter 2, from the outset participants are obliged to define the kind of contribution they intend to introduce: a new idea, an argument in favor of or against an idea that has already been put forward, an open comment, or participation in a poll or survey.

On the other hand, the very free and open system of message posting that the e-Democracy portal provided led to a positive result and a negative one. By allowing contributors to make an immediate direct insertion, the e-Democracy portal undoubtedly made the contributors' situation easier insofar as they were free to express themselves right off without any need to delineate the kind of contribution they were about to make. On the other hand, that very same feature meant that deciphering the general trends and contents of the discussion, accompanying, understanding and extracting the different positive aspects of such a varied mixture of informative, normative and argumentative aspects of the contributions was an extremely laborious task.

That aspect will certainly have a lot of implications for future e-Democracy discussions if by chance the numbers of participants in each discussion should get up into the thousands, in which case it would become increasingly difficult for parliamentarians, legislative consultants or even the participants themselves, to apprehend the drift and contents of the discussion in course. In addition to that possibility of the discussion entering into a state of chaos, the administrative cost of processing and understanding such volumes of contribution would be prohibitively high for the House of Representatives.

There are two pieces of evidence to show that the raw material that circulated in the e-Democracy debate was effectively incorporated into the substitutive legal text presented by the rapporteuse. First, not only she but also the legislative consultant who gave technical assistance

¹¹¹ The Climate CoLab portal can be accessed at: <http://bit.ly/1FjtK>. Consulted on October 18, 2010.



and advice in the process of elaborating the document were categorical in stating that they had indeed analyzed the contribution of the e-Democracy forums and made use of several of the ideas put forward there in writing up the legislative text. Furthermore, the e-Democracy participants that were interviewed declared themselves to be satisfied with the final text even though it was clear that some of them were not fully aware of what its effects might be.

The second piece of evidence concerns the analysis that was made of the e-Democracy discussion contents. As has been made apparent so far, there was a notable correspondence between the virtual debate contributions and the items that appeared in the rapporteuse's version of the draft bill that was eventually approved by the Special Committee and later by the Floor of the House. However, it should be noted that such correspondence can also be detected when other forms of participation (off-line) provided for in Brazilian legislative process are analyzed such as the public hearings and regional conferences that took place before and during the e-Democracy virtual discussions regarding that same draft bill. It was not within the scope of the present research to verify to what extent the e-Democracy contributions on their own, isolated from the other forms of participation, had influenced the decisions of the parliamentarians on the issue in question.

Another important element concerning that same aspect, became evident in the opinion voiced by one of the participants in the virtual community formed around the legislation to regulate the operation of Lan Houses: "After the rapporteur's final version of the text was ready and presented to the public, I was unable to understand what, if anything, of our participation had been made use of. I cannot understand legislative texts and what I saw seemed to me to be completely undecipherable". It is possible that in the future, greater efforts on the part of the e-Democracy team may foster the process of making it clear to participants just what was and what was not approved and incorporated to the legal text. Such a process should also embrace the need to justify the decisions to include or not include some of the suggestions.

5.3 Partial conclusion of the case study

Unlike the Virtual Senator project, the e-Democracy portal offers more forms of participation that are at one and the same time, more open and more complex. The positive consequence of the system is the freedom enjoyed by the participant who can contribute to the legislative process in a variety of different formats and intensities. The citizen is at liberty to take part in an on-line chat with Representatives at one moment or express his ideas in depth in the specific forum discussions, or he may even assist the parliamentarians in the work of elaborating the legal text using the Wikilegis option.

There is a price to pay for such broad freedom of choice however, and in the case of the e-Democracy scheme it has been a high one. On the one hand it makes it difficult for the ordinary person to understand all that is going and participants referred to experiencing a certain sensation of disorientation on being faced with so many forums and other forms of participation in the Wikilegis, all of which are available at the same time. What seems to be lacking is for the e-Democracy team to do a better job of conducting the process and orientating the participant during the discussions.

Furthermore, the system definitely require greater volumes and better quality in the resources made available to it give that the administrative tasks involved necessarily embrace the preparation and formatting of the future discussion in the pre-participation stage, the execution of moderating functions and articulation among parliamentarians and participants, and even the work of preparing the reports after participation has ended. While the simplicity of the Chilean Virtual Senator scheme makes managing it easier, the complexity of the Brazilian e-Democracy scheme makes it very costly.

Compensating for that disadvantage however is one of the e-Democracy's greatest trumps, the involvement of the Legislative Consultants. The engagement of experts and specialists in the participatory process according to their respective fields of specialty and the themes being addressed by the draft legislation has been absolutely fundamental in supporting and advising the Representatives in the elaboration of legislation and has facilitated the connection between the results obtained from participation and parliamentary decision making thereby ensuring that the former had repercussions on the latter and in the final legal texts.

That was the way that was established of involving the representatives during the period of the participatory process and



was especially important in view of the fact that the vast majority of the parliamentarians do not access the portal directly themselves, nor do they have assistants who could do so and insert contributions on their behalf. Also, the printed reports summarizing the results which were supposed to have been produced for delivery to parliamentarians but which never actually materialized¹¹² could also foster greater involvement of the representatives to compensate for the scarce direct attention they pay to the virtual discussions. Nor should we forget that is they the deputies who make the final decisions in the process.

Furthermore, the e-Democracy project is still very young, it only started up in 2009, whereas the Virtual Senator project has been going strong and acquiring experience ever since 2001. The e-Democracy project actually gave rise to very few discussions and the level of participation was on a small scale, not more than a few hundred contributions altogether. However, if there were any exaggerated increase in the scale of participation in the future with various virtual discussions taking place at the same time and many thousands of participants, then the project could very well become unsustainable.

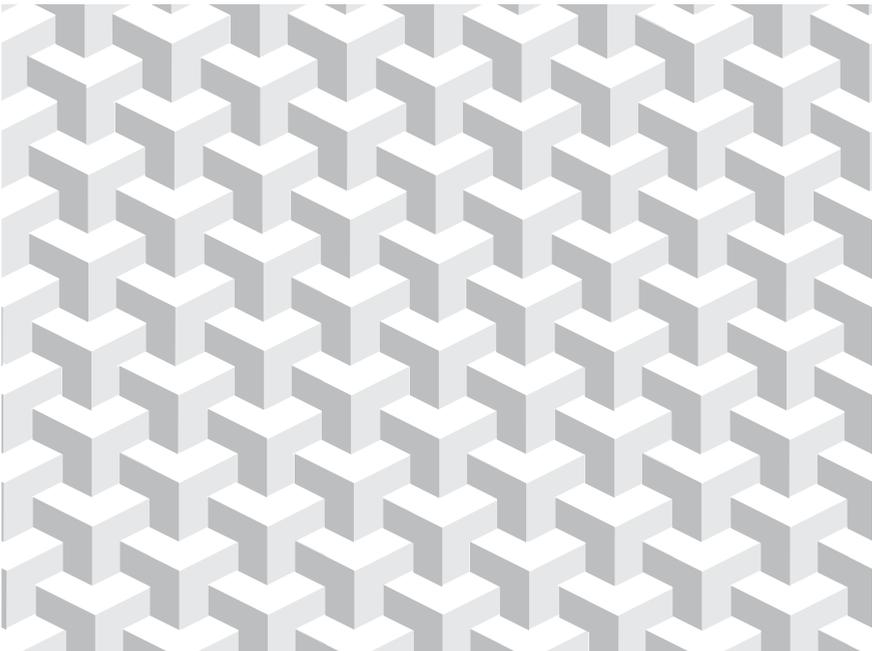
While it is true that usability and communication problems have helped to increase costs of maintaining portal accessibility, there has been a reasonable engagement of participants in less polemical discussions. The most successful debates like the one on the Statute of Youth and the other on the legislation for regulating Lan House operation led to collaboration among the participants even though they were not necessarily in consensus.

The discussion on the Statute of Youth did indeed have repercussions on the final text that was approved by the Parliamentary Committee specifically designated to deliberate on the issue although it was not clear how intensely the discussion influenced the outcome. After all that particular issue was conducted in conditions that were unique to it and that were highly propitious for obtaining that positive result namely, a legislative consultant intensely engaged in the participative process, parliamentarians that set a high value on the digital participation, the non-conflictive nature of the subject itself and the participants' youthful profile. It remains to be seen in what other sets of political, social and organizational conditions the e-Democracy scheme will be capable of bringing in such good results in the future.

¹¹² From 2011 on such reports have been produced systematically.

6

THE LIMITATIONS,
ADVANTAGES AND
CHALLENGES OF
INSTITUTIONAL LEGISLATIVE
E-DEMOCRACY



6.1 The complexity of institutional e-Democracy

This chapter is dedicated to a broader analysis of the consequences of digital participatory experiences in parliaments in view of their great complexity which has gradually become apparent as the preceding chapters unfolded. An analysis of this nature must inevitably examine two overridingly important aspects: the institutional aspect and the social aspect.

In regard to the institutional aspect, the main organizational and political elements that influence participatory process results are highlighted particularly the formulation, design and development of the participatory practices themselves and administrative and political processes responsible for enabling the contents of the participants' discussions to be reflected in the decision making process. The political aspects have to do with the participation of parliamentarians in the entire process as the eventual decision makers, and the degree of influence they have in general on the virtual debates.

This part of the work focuses mainly on institutional experiences with participation, those that have been made available by parliaments, usually national ones and not by civil society. In regard to social aspects it is intended to analyze elements external to the parliamentary organizations, that is to say, the extent to which society at large and its circumstances interfere in the participatory process.

That division is merely for the purpose of analysis because in practice the two aspects cross one another's boundaries. To exemplify, it is impossible to think about how the technical interface affects the participants without taking into account the social political and organizational elements that influence the process. Accordingly it was decided to explore the points highlighted in the case studies presented in Chapters 4 and 5 and the mini-cases in Chapter 3 in a broader more systematic manner and in greater detail. That is achieved by including an approach that addresses collateral aspects not examined or not clearly delineated in the earlier chapters and by establishing a more robust connection between the empirical part of the research and the theoretical questions raised at the beginning.

6.2 Institutional aspects

6.2.1 The challenges to developing and implementing institutional e-Democracy

In Chapter 2 it was easy to describe the two predominant currents of e-Democracy: projects unfolded by society itself without government participation but with a view to influencing, pressuring and monitoring the State, and the projects developed by the State aimed at creating channels for interactions with society for a variety of purposes, as in the examples of the experiences that were studied in Chapters 3, 4 and 5.

Each of those two schools of e-Democracy practices has its own problems and brings with it its own benefits. In the case of experiences carried out by society, for example, while it is true that the projects can be unfolded in formats that are absolutely untrammelled and with a variety of objectives, there is on the other hand, the problem that very often they have no direct repercussions on the State because they fail to get involved with the internal bureaucratic machine and the vicissitudes so typical of the political world.

Institutional e-Democracy projects developed by the State, on the other hand, may well have the advantage of facilitating the relations of the communication channel with the internal processes of each public organization. That means that they can have an effective impact on decision making even though they do have a series of limitations especially in the sphere of people's access to such channels and other problems that appear in the course of developing such practices.

The investigation undertaken into institutional experiments with digital participation has led to many revelations as to how problematic it is to engender such practices in the heart of parliamentary organizations. What will be explored in this section is the way in which such institutional e-Democracy practices come about in those organizations, and in doing so, to gain a better understanding as to how certain organizational contexts either propitiate or hinder the development of such endeavors.

6.2.2 Organizational activism: the role of the civil servant in developing digital e-Democracy projects

In the view of Fountain (2001, p. 252), "public administrators have a critical role to play in any attempt at understanding how information technology is being used in developing a Virtual State". Hugh Hecló (1974, p. 305, apud FOUNTAIN, 2001, p. 251) and adds "civil servants have

continually made far more important contributions to (...) the development of public policies than any political parties or interest groups”.

Without any *parti pris*, an analysis of the genesis of the many e-Democracy experiences shows that most of them were indeed idealized and developed by technical staff attached to parliamentary institutions, that is to say they came into being from the bottom up. The other possibility for such projects to be created could be as the result of a decision made in the upper administrative or parliamentary echelons, with or without social motivation, which would be a top-down process.

In the latter case, the driving force behind the initiative of opening the institutions gates to permit wider social participation would originate from the perceptions of parliamentarians themselves or those of the parliamentary administration possibly under the influence of social appeals.

In the Chilean Virtual Senator project the original demand for its creation came from an individual senator and it was subsequently taken up by the staff of the institution. That was not the case, however, with the e-Democracy, which actually came into being on the initiative of technical staff without any power of decision. At the time it began to be developed, in 2008 and 2009, there was no particular pressure on the part of Brazilian society at large for participatory mechanisms of that type to be made available.

When the e-Democracy portal began to be implanted in the second half of 2008, the Brazilian House of Representatives already had various tools to allow for citizen participation such as blogs and forums associated to a variety of legislative issues. However there were very few cases where such instruments were being made much use of (PERNA, 2009).

Other mechanisms available at the time were the Participatory Legislation Committee and the Office of the Parliamentary Ombudsman which were examined in Chapter 3. According to the records of the Ombudsman’s Office and the Participatory Legislation Committee for that period, there was no great volume of requests from society pressing for the installation of interactivity mechanisms.¹¹³

¹¹³ The function of Ombudsman’s Office is to receive suggestions, criticism and opinions from society at large regarding aspects of the House of Representatives field of activity. The committee administering the Ombudsman portal coordinates the various entities that are involved in developing, maintaining and inputting portal contents as well as receiving and relying to suggestions and complaints about the portal itself and the way it works.



The fact of the participatory projects and others designed to enhance transparency actually originated from initiatives set in motion by technical staff calls for a reflection on the nature on the profile of this type of employee. Generally speaking they are idealists moved by a desire to introduce innovations into the parliamentary institution. The Open Senate project of the State of New York's Senate is another example of that kind, alongside the Brazilian e-Democracy project.

Within the bureaucratic and highly politicized structures that parliaments are, innovative projects like creating ways of permitting citizen participation in legislative processes have commonly sprung from initiatives on the part of their technical staff that have subsequently acquired the support of the civil servants engaged in the administration of the Houses, and also the support of parliamentarians.

6.2.3 Strategic prioritization in parliamentary organization

The basic premise for electronic democracy projects that involve the introduction of new mechanisms permitting citizen participation in the public sphere is that they are innovative by nature. As the digital revolution of the 1990s intensified and new instruments facilitating interaction appeared, especially the Web 2.0 starting in 2004, digital participation processes began to multiply in a geometric progression with the presentation of new interfaces and the opening up of new possibilities for interacting with public bodies.

Digital participation projects that have been developed and instituted in public institutions like the Brazilian e-Democracy and the Chilean Virtual Senator give rise to internal demands within the organizations that have greater or lesser impacts on the bureaucracy according to the level of complexity of the project in question and its eventual outreach. In the research conducted into the two abovementioned cases many of those attached to the administrative areas of the respective parliaments that were interviewed laid great emphasis on the resistance manifested by the bureaucratic bodies concerned to the implementation of the participatory projects.

That clearly shows how the rapid changes of the new information age ushered in by the advent of the internet in the 1990s create growing tension between the new logic involving the free flow of information and social interaction and the solidity of public institutions based on the Weberian model of hierarchic and procedural administrative organization.

That tension is readily observable in the implementation of the two projects referred to, especially in the case of the Brazilian e-Democracy project. Several bodies within the administrative structure of the House of Representatives had to adapt themselves to the new demands stemming from it and that did not take place without shows of resistance. Considering that most of those bodies are normally overwhelmed by the amount they have to get through, the addition of those new demands was not received without attrition.

For that reason, electronic democracy projects of this kind need to enjoy the effective support of the higher political and administrative echelons of their respective parliamentary Houses if they are ever to be effectively implemented, sustained and further developed. If they fail to receive it then they will tend to lose force within the institution and may actually be gradually eliminated in the face of other organizational contingencies. Even when those with considerable support 'from above' as was the case with United States' Open Government Initiative which was vigorously supported by President Barack Obama, run up against the implacable resistance of the bureaucracy's routines.

Considering that nowadays many public services lean heavily on the use of technology either in their internal processes or in the provision of services to the public (electronic government or e-Gov), the technology teams usually have to work to the limit of their capacity. That is obviously applicable to any public institution so, inevitably, the addition to the list of demands made on technology of new demands associated to electronic participatory processes aggravates an already difficult situation.

On top of that, in countries like Chile and Brazil, the processes for new IT staff to enter public service are very sluggish. They involve the holding of new competitive civil service entrance examinations or alternatively contracting companies to provide the services but both the former and latter processes usually take months and sometimes even years for the administrative processes to be finalized. Furthermore, they call for investments to be made in the continual training needed to keep p the high technical level required by such services.

That complex set of problems clearly reveals the need for public institutions to prioritize their projects and actions especially those that involve the use of technology in any way. That is why parliaments in Brazil are increasingly adopting the practice of strategic planning which is based on the principle of defining the institutions' priorities: the Brazilian House of Representatives has been promoting strategic



planning since 2004 while the Legislative Assembly of the State of Minas Gerais began the process in 2009.

The whole issue is strongly linked to another problem that is typical of politicized public bodies. The lack or precarious nature of strategic planning is associated to direct political interference in the administrative processes which usually favors short term actions to the detriment of medium or long-term ones and there is even interference from 'last minute' requests.

All of that creates a situation of highly varied and uncoordinated demands. Accordingly, the technology teams tend to address first those demands whose authors have the greatest political power in accordance with short-term political projects and to the detriment of more strategic demands expressed in the form of projects with medium to long-term timeframes that would have a more structuring impact on the organizations.

Considering that digital democracy applications require special technological treatment, the diffusion of the efforts and attentions of technological teams in parliaments makes it all the more difficult to run them. That dispersion coupled to the exorbitant and always urgent demands made by technological projects all conspire to create a situation in which the technical team members themselves do not manage to form a clear well-based idea of their respective institution's 'line of business', and that obviously affects their performance, increasing the distance separating the areas of strategy and technology and hampering communication between the two. That means that the lack of strategic planning also harms the development of a systemic vision of the organization.

In view of all those organizational factors, the cost of developing technological interaction tools becomes very high for parliamentary institutions. Accordingly, digital democracy systems take a long time to implant or they may even prove impossible to implement at all due to the tremendous efforts involved in developing new softwares when in fact they are already available on the market. Once such difficulties are recognized it becomes easier to understand why government portals are often unattractive, not user friendly and consequently, inefficient and, furthermore, in many of them there is no provision for rapid daily updating of facts other than information regarding the voting agenda.

6.2.4 Development versus incorporating technology

Considering that digital participation processes call for constant innovation of the interface, any failure to continually enhance it may well cause it to age rapidly affecting its usability which, in turn, will affect participation performance. It is easy to observe the differences between the dynamic, interactive user-friendly websites of private companies and civil organizations like those of Apple and OpenCongress, and the complicated, bureaucratic portals of governments with their poor levels of interactivity

Participation also makes demands on the citizen's time and energy so that the efforts involved in learning to use the portal need to be reduced as much as possible so the portals are user friendly, easy to use, dynamic and modern, in short, attractive to the portal user. Almost all those that were interviewed in the category of society at large laid emphasis on that point. For it to become feasible, however, depends on the structure of the available personnel specialized in the technological development and improvement that are specially designated for that ongoing work. After all, construing something that complex (public policy participatory processes) in the form of very simple, user-friendly portals calls for a lot of hard work.

Due to a series of factors largely associated to their bureaucratic structures, as shown above, public institutions cannot keep pace with technological progress and that is especially true for progress related to digital, social interaction instruments. That affects the technological teams' performances especially when they opt to develop their own applications rather than incorporating and adapting technology that has already been developed by private enterprise or by the free software communities.

Given that the process of contracting new technical staff specialized in the various technologies is slow and difficult, the technical teams in some of the experiences that were studied preferred to develop applications in platforms whose programming functionalities were familiar to them, which meant that the capacity building needed would be merely incremental, that is, providing a minimum degree of updating.

So that was what was done, instead of investing in learning more about new platforms that would make it feasible to incorporate and customize the new technologies (not adopted by the respective Houses) to suit their institutional needs. This latter option would involve high costs with capacity building and training which would no longer be



merely incremental. Thus the technological development process is strongly bound up with the technological trajectory of each public institution, that is to say, the technical staff continues to use whatever knowledge and instruments they already possess to the detriment of other new instruments for which they are not prepared to pay the cost of learning about and that, of course, affects the way in which innovations come about in those organizations.

That is exactly what happened with the Brazilian e-Democracy project. The project's technical team decided to use the Liferay platform to develop the new version of the portal because it was in keeping with technology and infrastructure standards adopted by the House of Representatives. They preferred not to opt for platforms like WordPress for example (one of the PHPs) highly popular among developers because it is so easy to use and widely applied for social network purposes, because of the costs that would be involved in training the House's programmers in a new language.

That aspect is further exacerbated by the organizational aesthetic culture, so little familiarized with the rhythm of innovation that typifies the market, and which is responsible for the appearance and forms of navigation of government portals being impregnated with an 'air of bureaucracy' often accompanied by complicated, inefficient and scarcely humanized forms of interaction.

Nalini Kotamraju (2010) analyzed the navigation systems of government sites and mapped out the ways of thinking of people selected for his research in order to contrast the two. Comparing the excessively rational and procedural disposition of the government portals with the non linear and intuitive way that people think, he identified the great differences between one and the other underscoring, in that way, one of the reasons why government portals do not serve the ordinary citizen in a satisfactory manner. One conclusion Kotamraju came to was that people preferred to navigate in government portals according to their own intuition rather than follow the established institutional pattern. In that light, government portals would gain a lot of ground in terms of user satisfaction if they were to present information and services in a more intuitive manner. Furthermore, as the present research has clearly shown, digital democracy actions bring in better results when they are run by a team (web designers, systems analysts and programmers) exclusively dedicated to their operation and not by people that have been pulled in part time from other functions or other projects they are engaged in. Establishing an exclusive team also facilitates the continuous

upgrading and reformulation of the existing applications so that they can accompany the latest technological developments and tendencies.

Projects like the Brazilian House of Representative's e-Democracy project and the State of New York's Open Senate show how having a permanent group of technical staff with a mixture of specializations complemented by appointees to meet the occasion can aggregate considerable value in terms of creativity and as a consequence enhance the results obtained in regard to innovation capability.

Hiring external experts can also help to bring innovation to the electronic democracy portals provided the institution makes it feasible to integrate such contributions to the work of the internal team responsible for the site in order to avoid problems such as those that occurred with the Brazilian e-Democracy project at the beginning when the presence of an external consultant created tensions with the internal technological team. That is why it is essential for the long-term sustainability of the project, to involve the internal technical team responsible for ensuring the maintenance of services and ongoing incremental improvements right from the outset.

This incorporation of external visions is indispensable because the shielded way in which bureaucracy survives impedes it from accompanying the innovative tendencies produced by civil society which could eventually bring in great benefits in terms of usability and accessibility to experiments with citizen participation in parliaments.

Added to those aspects is the constant need to experiment, which is an essential element for the further development of parliamentary participation portals. As all the digital interaction portals are absolutely experimental, it is important to endow them with a certain degree of freedom of action to test and try, make mistakes and correct them in a typical trial and error procedure. That is where the pilot projects have proved to be so useful, as witness the early stages of the Brazilian e-Democracy and the Chilean Virtual Senator experiments, the United States Congress's Digital Open Meetings and the public consultations run by the British parliament. The pilot project stage makes it possible to evaluate the technology being employed, parliamentarians' reactions, the reception afforded by society at large and the general impact on the institution.

Inserting pilot projects has another advantage as a strategy for introducing full-scale innovative participation and transparency enhancement projects that can be expected to provoke greater political and administrative resistance if they are systematized as such from the outset. The idea then, is to start off in a small inoffensive way with pilot

projects that will serve as models for the design and development of later, more structuring programs.

6.2.5 The form of the participatory experience

6.2.5.1 The digital interface: form influences content and vice versa

Coleman and Blumler have reported that the way the on-line discussions are structured and the context in which they take place have significant effects on their eventual contents (2009, p. 99). Reinforcing that idea, Marques (2008, p. 165) declares that institutional design of participatory experiments must take into account socio-economic factors that “influence the political organization and the acquisition of a repertory of skills”, as well as socio-cultural factors that “indicate the need to make an effort to cultivate motivation in the civil sphere and the willingness of Representatives to invite the participation of other actors in the production of the political decision”.

Analyzing the Brazilian e-Democracy and the Chilean Virtual Senator projects we can see how the technological interface strongly affects the entire participatory process. More open forms of participation like the e-Democracy portal make it possible to in put more profound and more detailed considerations whereas forms of interaction that are narrower and more restrictive like the Virtual Senator portal require insertions to be more objective. While the former facilitates and values the debating of ideas like the system of public consultations run by the British parliament, the latter type functions basically in the mold of a public opinion poll.

The New Zealand parliament’s ‘Submissions’ system is another example of a system that requires that participants should be specialists in the subject under discussion because they are required to read and understand the legal texts of the draft legislation and send in technical suggestions using the instrument of a specific form with fields that require a certain degree of expertise for them to be filled in. That means that the possibility of inputs from citizens with no technical qualification in regard to the subject matter is highly limited.

At the other extreme are those participation channels that are not focused on discussions but rather on individuals’ interactions, such as ombudsmen and institutional e-mails for receiving complaints and suggestions, and they stimulate a kind of participation that is directed more towards the presentation of sporadic inputs which may or may not be of a private nature but which are contributed with very little debate or none at all. Furthermore the costs involved in receiving and replying

to individual inputs is extremely high and has little to do with the institutions overriding purpose, that is to say with the legislative process.

Accordingly, the quality, relevance and pertinence of participation contents as well as the level of engagement, representativity and scale of participation are all associated to the form of the interface, which, according to Marques, Coleman and Blumler must take into account the aspects of the social political and organizational contexts. In that light, those elements are seen to be either facilitators or hindrances to the interaction process and most certainly are determinant factors for the participation results.

6.2.5.2 Communication policy

Another crucial aspect of the interface is the way in which the citizen must use the portal, that is, the way he or she navigates in the portal environment; the path that must be followed to arrive at the desired location within the sphere of the electronic portal. It is notorious how relapse government websites are in this aspect. In the sphere of those sites that have been the object of analysis in this work, while it is true that there are some like the Virtual Senator and Basque parliament portals where navigation is relatively easy, most of the parliamentary interaction portals, especially those that contemplate broader, less restricted forms of participation, make their use by potential participants very difficult. Furthermore most of those navigation difficulties, and the Brazilian e-Democracy portal is a typical example, stem from the lack of a communication policy.

From such a policy there would stem benefits like incorporating simple self-explanatory tutorials to address the participants' basic understanding needs in accordance with certain guiding principles: a) explain what the intention of the participatory portal is; b) offer guidance on the participation process, showing how to participate and the right moment to do so; and c) offer guidance on the nature of legislative processes so that the person can gradually acquire an understanding of its complexity and be enabled to accompany the repercussions of the participatory process on it. In that way the learning effort demanded by the portal would be reduced which is important, because, as we have seen, in many cases it constitutes an obstacle to participation and that is even more critical in the case of parliaments whose credibility has been severely questioned in recent years.

6.2.5.3 Developing specific platforms versus making use of existing civil society-produced platforms

Another important question that permeated the observations of the experiences that were analyzed in the case studies is: to what extent might it be better to make use of social network platforms that have already been developed than for the State to develop its own virtual platforms? The conclusion was that both options have advantages and disadvantages.

Existing virtual platforms demand little learning effort to participate in them given that most users will already be familiar with social website networks like Orkut and Facebook. Also, the latter have the additional advantage of being frequented by millions of people while government sites have to struggle to attract citizens in processes that may take years or not even succeed at all.

Another aspect is that electronic democracy portals do have very specific requirements and the tools available in the social network sites (Orkut, Facebook and Ning) do not entirely meet them. In the case of the Brazilian e-Democracy portal, for example, the idea is to get people to participate in the process of constructing Laws and for that reason it needs instruments that will make it possible for texts to be elaborated collectively (Wikis) and they in turn need to be customized, that is, to be adapted to very specific needs that are peculiar to the legislative process and the flexibility that would allow such adaptation is not always to be found in websites like Orkut and Facebook.

Furthermore, new instruments are beginning to appear in the Web that make it possible to replicate contents in the internet. That means one platform can generate contents for another and set in motion a multiplying effect. Experiences like that of the Catalanian parliament which offers the options of several information channels and other interaction channels as well, and that of the Brazilian House of Representatives¹¹⁴ demand much greater efforts in the work not only of integrating the various channels with one another but also of integrating them to other social network platforms.

Recently developed instruments now enable citizens to accompany and participate in virtual discussions and participatory experiences without necessarily having to access parliaments' institutional portals. That is to say, the integration of the e-Democracy portal to Facebook, for example, would make it possible to use the latter to conduct legislative

¹¹⁴ As previously informed, accessible at: www.camara.leg.br.

discussions using the e-Democracy's Facebook account and the contributions in turn could be incorporated to the e-Democracy portal.

Another relevant aspect to be considered in this discussion is the question of control over the databases of external portals. If we are going to think about portals like Facebook eventually becoming great repositories of the most varied contributions to the legislative process made by means of accounts opened in such websites by parliaments, as is the case with the European parliament that has over one thousand followers registered in its Facebook account, then we also need to think about the implications of relegating control over such contents to the companies that own those platforms.

One of the great revolutions in the advertising market in recent years has been precisely the diffusion of advertising to segmented target publics and that is something that the Facebook company has been a pioneer in exploiting. The different types of information that Facebook users register in their accounts, such as age group, sex, marital status and personal preferences are used by the company for commercial purposes. That is why it is a matter for serious concern to provide companies with commercial objectives with contributions and opinions of citizens that were freely proffered in the public interest.

Equally deserving of attention in this discussion is the important element of politicians' participation insofar as the theme-based debates in course in the internet on the most varied public policy issues take place in thousands of different blogs, technical portals and social network platforms.

Direct participation of the parliamentarians themselves in such discussion forums, however, is extremely limited. One of the reasons put forward for the negligible participation of parliamentarians in those varied discussion arenas, apart from the allegation that they do not have enough time, is that this kind of exposure could have harmful consequences for politicians when they are obliged to handle unforeseen and unacceptable reactions from some participants. That was one of the reasons behind the option to develop their own institutional participation portals, capable of offering more strategic and 'protected' environments where parliamentarians can feel more at ease to participate freely because the institution is there to see that the rules of participation are duly imposed and respected.

Another interesting experiment in this direction is the US Army's Milspace portal. Envisaged to serve as a social network platform where young American soldiers could share their problems and solutions for



them during military operations, the Milspace website developed into a kind of closed circuit Facebook for those soldiers only.

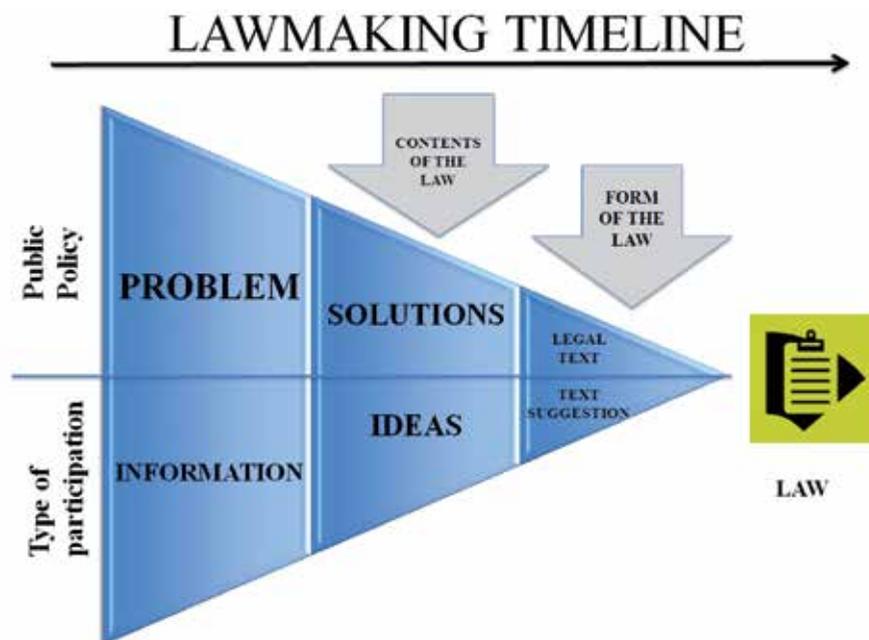
By offering a safe, protected environment for exchanges of information among soldiers with due respect for the chain of command necessary for military operations to function, the Milspace is an example of an institutional need of the State's to develop its own platform given the impossibility in this case of using the social network sites available in the market like Facebook, because of the obvious risk to the security of military operations.

6.2.5.4 The influence of the complexity of the policy construction process on the definition of the interface arrangement

A common flaw in e-Democracy projects, the lack of clearly expressed objectives in regard to participation results, can lead to non-fulfillment of expectations and frustrate participants. Another one that may be associated to it is the failure to take into account the complexity of the public policies system. Some of the experiences that have been described here exhibited forms of participation that were not uncommonly simplistic, failing, for example, to take into account the possible differences in levels of participation intensity, differences among the types of participants and differences among the objectives associated to each participation instrument. This last point is worth examining in greater detail.

The construction of public policies is structured on a legal backbone or framework. In that light, any discussion of legislative objectives should address at least three points that are essential in the process of constructing a law: a) the important public problem that the law is intended to address; b) the possible solutions to the problem or means of diminishing it that will make up the contents of the law; and c) the best way of expressing those contents, that is the way the law should be written. The scheme that follows shows the relations among important aspects that must be taken into account in the process of elaborating legislation, as well as the possible kinds of participation associated to them.

FIGURE 30 – Scheme showing types of participation during the formulation of a law



In regard to participation in the legislative process, people may contribute to the construction of a law by presenting information, ideas, opinions and so on. Generally speaking the elaboration of legislation springs from the state’s need to solve a problem of collective or general interest such as the negative consequences of environmental damage or the social and economic woes afflicting a certain area because of the lack of proper legal regulation.

With the aim of assisting parliamentarians to gain a better understanding of the dimensions and consequences of a given problem of public concern, citizens invited to participate in public consultation process can contribute by presenting relevant statistics or simply by testifying and relating their personal and professional experiences. In this last case there is no requirement for proven expertise in the subject because anyone can tell about problems that they have actually had to live with.

The second part of the legislative process involves the presentation of possible solutions for the public problem in question. It is worth noting here that the process of formulating a law is not linear; quite the contrary, it involves dialectic processes that admit the possibility of discussing the problem and the solutions at the same time. However,



for analysis purposes the need to understand the problem in terms of the construction of possible solutions has been separated as if it were a thing apart.

Thus the legal text is actually the expression of those solutions organized and conjugated in such a way as to minimize or eliminate the noxious effects of the problem. The way the citizens can participate and contribute to that end will inevitably vary according to the nature of the problem because it is the kind of work that calls for more complex and technical analyses of the public policy under discussion.

A patient in a public hospital, for example may very well contribute a statement about the poor quality of treatment he or she received (problem) but may not be qualified to put forward relevant ideas to solve the problem (which may involve shortage of staff, poor training of health workers, lack of motivation of staff, poor management or even the poor quality of the respective legislation, etc.).

However it is likely that the hospital administrator, doctors, nurses and experts on that field could make more appropriate contributions in presenting ideas that might minimize the problem, namely, the poor quality of the health services. Thus the task of formulation really requires the contributions of citizens with higher levels of expertise or professional experience in the area.

Then again, the phase during which the written form the law will take is determined is when the solutions that have been decided on must be transcribed into legal language in accordance with the norms governing the format of legislative texts and that is a very laborious and demanding technical task. The same task also requires other special skills usually vested in jurists, legislative consultants and other experts in elaborating legislation who may or may not be specialists in, the subject of the public policy in question. In that kind of work the ordinary citizen is unlikely to be able to contribute given that he is not qualified or trained in legal text writing.

Furthermore, at any stage in the process the citizen can give an opinion which consists basically of passing judgment on the main points of each public policy such as whether he is in favor of abortion or against it, whether the health system should be public or private, or whether the country needs a policy on youth or not.

It remains to be seen, however, to what extent the parliamentary experiences with e-Democracy provide forms of interaction that facilitate participation in accordance with the objectives of discussing the problems, finding solutions and constructing legal text on

the basis of information, ideas and opinions received or any other possible contributions.

The Brazilian e-Democracy project took the precaution of making a discussion system available that was organized according to the structure of the draft legislation text which most certainly facilitated the presentation of ideas and suggestions corresponding to each sub-topic that came up for debate. However there were many situations where the contributors' messages had complex contents with information, opinions and ideas all set out in the same text. After all it is reasonable to suppose that information might be needed to sustain or justify a given idea or the expression of a certain opinion.

However, the greater the mixture of such elements in the contributions, the greater were the efforts that had to be made by the team of specialists responsible for processing and organizing them. On a grand scale the need for such processing would make the participatory process unfeasible because the consultants have to gain an understanding of the text of every individual contribution, separate it analytically to make it more comprehensible to others and transform the information gleaned from such contributions into reports that can be delivered to parliamentarians because, as was pointed out in the case studies, the parliamentarians do not directly accompany all the virtual discussion themselves. Thus they need neutral professionals to screen the contributions and produce a synthesis of them, presented preferably in printed form.

The British parliament's public consultation system set a high value on gaining better knowledge of the problem and that was especially true of the discussions on domestic violence when those participants that had been victims of such violence in their homes were able to relate in detail all the nuances of the problem they had lived through. Nevertheless, forms of participation like those offered by the Virtual Senator portal, by merely calling on the participant to express an opinion on the solutions that are being proposed in the texts of a draft bill, fail to exploit the possibilities of debating the problem.

Mark Klein (2007a; 2007b) underscores the existence of great challenges in undertaking deliberation on a wide scale, especially in the aspects of the tendency to dispersion and the lack of organization of the ideas that are put forward for discussion in forums, the unequal attention dedicated by participants to the various arguments and ideas, differences in the ease of access to the discussions themselves, and of the problem that he refers to as hidden consensus; that is, he



shows how it is possible to detect parts of the discussion where there is consensus but which, in the heat and confusion of the discussion are imperceptible and on the other hand, how to discern the points of conflict as well. Klein and other specialists at the Massachusetts Institute of Technology (MIT) developed the Climate CoLab in a bid to solve such problems

As the analysis in Chapter 2 showed, the structure of debate embedded in the Climate CoLab requires the participants to define the type of contribution they intend to make. If a candidate wishes to take part in the discussion on climate change, for example, he must decide whether he wishes to introduce a new idea, present arguments for or against an idea already presented or merely vote in favor of some of the ideas circulating in the discussion.

However, as has been stressed above, while on the one hand that participation requirement solves some of the problems associated to very large scale discussions that Klein himself identified, on the other it requires the contributor to make a very clear definition of how he intends to contribute. The fact of having to pause and make that effort may discourage the participant from becoming more involved in the participatory process, especially in the case of potential participants with fewer technical qualifications but whose contributions could, nevertheless, be very useful.

According to Beth Noveck (2009) in her book *Wikigovernment*, governments should make use of collective knowledge as a way of perfecting their processes for formulating and implementing policies. The challenge facing participatory portals is thus how to make practicable, forms of interaction that give rise to inclusive debates that can contribute to the process of formulating laws, and at the same time how to embrace the enormous diversity of people's profiles bearing in mind that participants may prefer to participate in different ways and with different degrees of profundity. Some may wish to merely participate in the selection of ideas or the definition of preferences while others may prefer to accompany the discussions or moderate a certain forum.

Indeed, as Dryzek (2004, p. 54) has stated, there is really no need for the participatory process to be run on a huge scale with thousands of people participating, what is needed is that the various schools of thought and opinion should be represented and given an equal opportunity of expression. A user-friendly interface designed and structured in the light of the acknowledged complexity of public policy formulation processes

may well foster the inclusion and participation of groups of citizens that do not normally manage to have their voice heard in the parliament at all.

So there remains the central challenge facing the e-Democracy endeavors: to discover how, with the assistance of technology, means can be found and made practicable to make best use of any kind of constructive contribution proffered by a participant. The situations studied in the preceding chapters exemplified both successful and unsuccessful attempts to achieve that end, especially in addressing the problem of minimizing the effects of great differences in cognitive levels and forms of expression among human beings as a whole. If that can be done it will be possible to overcome the limitations discerned by Edmund Burke and Joseph Schumpeter who held it to be impossible for members of society at large to participate in the affairs of the State because of their technical incapacity to do so.

6.2.6 Repercussions on policy

6.2.6.1 How parliamentarians participate before making final decisions

The responses to the questionnaires that were administered as part of the case studies showed that discussion participants feel motivated to interact with the institution and especially when the interaction is directly with the parliamentarians themselves. Thus the direct involvement of parliamentarians in the virtual discussions is a decisive factor for stimulating participation in e-Democracy projects, given that the citizen feels highly encouraged on perceiving that his opinions have some effect, however small, within the sphere of the institution, even if it is merely the fact of catching parliamentarians' attention.

That was particularly noticeable in the public consultations held by the British parliament regarding domestic violence and communication policy and also in the e-Democracy project of the House of Representatives. Also, as was seen in the case of the United States Congress' On-Line Town Hall Meetings, the parliamentarians' participation in the debates had very favorable effects on the way the citizens in their constituencies viewed their parliamentary representatives.

This last factor is of even greater importance to participants that are not connected to any particular interest groups because they see the digital participation channels as a gateway that gives them direct access to the parliamentarians without the intervention of intermediaries



and because such access ways are public they stimulate the clearer definition of commitments on the part of the parliamentarians as well.

However it was also visible that many parliamentarians have no interest at all in working with this kind of democratic instrument for several reasons among which the facts that:

- a) they do not want to commit themselves during public discussions due to their other prior commitments, legitimate or otherwise, to certain interest groups;
- b) they prefer to maintain their relations with interest groups in face-to-face meetings only;
- c) their political interests are focused on more parochial (not necessarily legislative) issues with a view to obtaining re-election;
- d) they do not want to commit themselves to positions that they will not be able to honor before their peers or even more so, before their parties;
- e) they prefer to restrict their positions to the usual legislative routines which they consider themselves to have been elected to perform.

Members of the British parliament declared that they found it difficult to accompany the virtual discussions because of their overburdened regular legislative agendas. They saw the virtual discussions as yet another parliamentary task to add to their overload. In the case of the Brazilian e-Democracy project, some of the legislators considered that the virtual discussions could constitute an important space for parliamentary work to achieve visibility and accordingly they designated members of their own staff to assist them as a kind of digital public relations officer and some of the Representatives even went so far as to accompany and participate in the virtual e-Democracy discussions directly themselves.

Furthermore, there were parliamentarians that considered that this kind of participation had a better cost/benefit ratio than the individual replies they are obliged to issue by the hundreds to the regular correspondence and e-mail correspondence they receive every week. Andrea Perna (2010, p. 86) sums up the whole set of problems associated to the situation of US congress representatives that have to issue replies the e-mails they receive from citizens at large:

“According to Alperin and Schultz (2003) in 2001, the report entitled ‘E-mail overload in Congress: managing a communication crisis’ noted that the avalanche of e-mails was causing a heavy work overload in parliamentarians’ offices, in addition to increasing overheads and causing problems in the computer networks. Indeed the volume of messages received by the week by the average US parliamentarian soared from 175-300 in 1996-1997 to 719 in 1998 and by the year 2002 was up to 2,875 (DAVIS *et al*, 1997, *apud* ALPERIN and SCHULTZ, 2003). After the events of September 11 and the Anthrax attacks, when the volume of correspondence received by the Congress was interrupted, those numbers became even more expressive (VASISHTHA, 2001, *apud* ALPERIN and SCHULTZ, 2003). At first, to organize the flood of messages the parliamentary secretariat printed them out but later it adopted mechanisms such as automatic replies and other similar devices. The 2001 report also commented on an alarming fact: the parliamentarians themselves were underestimating the e-mails they received. Reporting on a research survey Scheffer (2003) added that those e-mails exercised considerable pressure on the parliamentarians because they demanded fast replies. Most parliamentarians declared that they read all messages sent in by their constituents but their office staff declared that they found it difficult to separate the ‘chaff from the grain’, that is to identify constituents and non-constituents. In regard to the time taken to reply, the latter study identified an average of 2.6 to 3.1 days for a given voter to receive a reply to his or her message. In 2003, Sheffer (2003) observed that electronic mail was widely considered to be an effective means of communication but was not being used as a political tool. After analyzing the sites of American congressmen for the period 1996 to 2001, Jarvis and Wilkinson (2005) concluded that the parliamentarians preferred not to present any information that would encourage on-line interaction with the public at large.”¹¹⁵

¹¹⁵ Free translation: “Segundo Alperin e Schultz (2003), em 2001, o relatório intitulado *E-mail overload in Congress: managing a communication crisis* observou que a avalanche de *e-mails* estava causando sobrecarga de trabalho nos gabinetes, além de aumentar despesas e problemas na rede de computadores. De fato, o volume de mensagens recebidas por semana por membro do parlamento norte-americano saltou de 175 a 300, em 1996-1997, para 719, em 1998, e atingiu 2.875, em 2002 (DAVIS *et al.*, 1997, *apud* ALPERIN e SCHULTZ, 2003). Depois dos episódios de 11 de setembro e do ataque de Anthrax, quando o volume de correspondências recebidas no Congresso decresceu ou foi interrompido, esses números se tornaram mais expressivos (VASISHTHA, 2001, *apud* ALPERIN e SCHULTZ, 2003). Para organizar o fluxo das mensagens, o secretariado parlamentar inicialmente as imprimia. Posteriormente, passou a adotar mecanismos como respostas automáticas e outros métodos similares. O relatório de 2001 ainda apontou uma constatação alarmante: os parlamentares subestimavam os *e-mails* recebidos. A pesquisa de Sheffer (2003) acrescentou que os *e-mails* causavam pressão nos parlamentares, pois implicavam respostas rápidas. A maioria dos parlamentares afirmou ler todas as mensagens oriundas de eleitores, mas seus gabinetes enfrentavam a dificuldade de ‘separar o joio do trigo’, ou, em outras palavras, identificar eleitores e não eleitores. Quanto ao tempo de resposta, o estudo revelou uma média de 2,6 a 3,1 dias para retorno ao eleitor. Em 2003, Sheffer (2003) constatou que o correio eletrônico era considerado um meio efetivo de comunicação, mas não vinha sendo utilizado como ferramenta política. Jarvis e Wilkerson (2005), após analisar os *sites* de deputados e senadores do Congresso americano, no período de 1996 a 2001, concluíram que os parlamentares preferiam se abster a apresentar informações que encorajassem a interação *on-line* com o público.”



Summarizing, because they reach out to hundreds of people at a time, sporadic participations in virtual collective deliberations can result in better political benefits than those obtained from responding to individual e-mails, for example, which involve a lot of hard work for the parliamentarians' staff. This if the scale were to be greatly increased and go from hundreds of participants to thousand and consequently with greater repercussions in the main media, it might, in the near future, stimulate the development of a new political culture, fully aware of the political fruits to be reaped from such forms of citizen interaction.

The e-Democracy project also showed how the political leadership displayed by a single parliamentarian can make all the difference to the success of a virtual legislative discussion. That means that the engagement of parliamentarians with a special connection to a given theme or area or exercising parliamentary leadership in relation to it will have the power of stimulating the engagement of the corresponding social network and the opposite may also take place; the participation of parliamentarians that enjoy no credibility with groups that are active in a given field of interest may actually make the respective virtual debate unfeasible.

Another point referred to across the board in the case studies was the problem constituted by the lack of any legislation covering the field of e-Democracy. A law that established the rules for instituting digital participation in public bodies would be highly advantageous in stimulating the parliamentarians to engage in such interaction and would also facilitate the process of implementing the necessary mechanisms on the part of the administrators of those bodies.

6.2.6.2 Political efficacy: the real impacts of participation on decision-making

In expounding the theory of Democratic Deficits, Archon Fung (2006) refers to the citizens' non definition of their preferences and the lack of any connection between the representatives and those they represent as being harmful factors that affect the quality of democracy. In Fung's view one of the objectives of participatory democracy is to contribute towards solving or diminishing such deficits and in that way reinforcing the representative system.

The lack of any political reactivity to the contributions made by society in the participatory forums is certainly the central problem in regard to the efficacy of the participatory experiences. One of the internet's greatest achievements has been the creation of innumerable

communication channels not only among people but also in relation to public institutions.

How then have the digital participations really resounded inside the spheres of the public institutions? Do digital mechanisms enabling participation in legislative bodies really contribute towards better laws, the definition of parliamentary agendas or the enhancement of transparency in the parliament?

It can readily be seen that in the case of most of the legislative electronic democracy experiences studied in the earlier chapters, there was little or no definition of the effective implications of the results obtained by the participations. Parliaments set up blogs, thematic forums and chat spaces but there is very little information about the political effects they have.

That aspect, the lack of any feedback concerning their interventions, obviously affects the participants' motivation. It may even lead them to become completely disillusioned with the participatory mechanisms and jeopardize their ongoing engagement in the discussions. That factor is an inevitable determinant of another phenomenon identified by Peixoto and Ribeiro (2009), the tendency for participation to drop off after having passed a certain peak as the participants gradually begin to perceive the lack of any repercussions stemming from their contributions.

With no assurance of there being any real impacts on the institution the virtuous cycle of citizen engagement in the participatory mechanisms is broken. The ideal cycle would be: participants' contributions are received by the political actors who make at least partial use of them in formulating laws or implementing policies; those repercussions are expressly made known to the participants who feel themselves motivated to continue participating in the experience and to take part in other similar experiences and even to stimulate other citizens to join in and do the same.

Yet another important aspect revealed by the case studies is the internal logistics of the connection between the participatory process and the parliamentarians which is proper to each institution. What was readily noticeable is that very few parliamentarians actually access or find out about the virtual discussions themselves. That is why a fundamental part of the process is the way in which each parliament organizes the administrative activities designed to establish that connection.

An important axis of connection between the participatory instrument and the legislative process that was observable in the study of the Brazilian e-Democracy scheme is the interaction of the thematic standing committees and the virtual communities. An example of that

was the discussion on the regulation of Lan House operations and another was the discussion on the Statute of Youth both of which were handled by committees specially appointed for the purpose.

That particular aspect lends support to the argument proffered by Antônio Cintra and Marcelo Lacombe regarding the powerful influence of the House committees on the legislative process. In contradiction to the prevalent view in the literature which concludes that there has been a gradual weakening of the Brazilian House's parliamentary Committees in legislative deliberations over the last few years, Cintra and Lacombe emphasize the strategic role played by the commissions especially in articulations of organized groups of civil society and the Congress's deliberative processes. Backed by the results of studies conducted by Ricci and Lemos (2004, p. 124), Cintra and Lacombe point to the example of the Standing Committee for Agriculture and Rural Policy stating that:

"The groups (organized according to their common interests) may view the committee as a trustworthy representative of their interests and keep up constant contact with it, exchanging information and establishing plans of action to influence the direction taken by public policies for the sector. The Committee may also be instrumental in organizing them as appears to be the case with Agriculture which has become a focus for such interests and as a consequence encourages them to structure themselves." (adapted from CINTRA and LACOMBE, 2007, p. 175)¹¹⁶

Thus the participation channels can be increasingly used by the theme-based committees as instruments for gathering information of legislative interest, for interacting with organized civil society in addressing specific issues and as a means of disseminating information about the Committees work.

In regard to that aspect the Brazilian e-Democracy project and the Chilean Virtual Senator produce printed reports containing syntheses of the participations for each proposition submitted for discussion and distribute them to the Committees. Those reports, however, are incomplete, their distribution is limited, particularly in the case of the

¹¹⁶ Free translation: "Os grupos (organizados por interesse) podem ver a comissão como representante confiável de seus interesses e com ela manter um contato constante, com troca de informações e estabelecimento de estratégias de ação e para influenciar os rumos da política pública para o setor. A comissão também pode ser instrumental na própria organização deste, como parece ser o caso da de Agricultura, que se tornou um foco dos interesses e, com isso, também os incentiva a estruturarem-se." (CINTRA e LACOMBE, 2007, p. 175, com adaptações)

e-Democracy project, and in the case of the Virtual Senator, as we have seen, they are hardly ever read.

They do however have the function of keeping parliamentarians informed in a simplified manner, on the course of the discussions. It remains to be seen whether in the near future a new generation of politicians will manage to organize themselves to participate more intensely in this kind of experience or whether the political gains stemming from them will demonstrate their social, organizational and political viability.

6.3 Social aspects

6.3.1 Legitimacy: who are the participants and how do they participate?

One of the aspects most cherished by deliberative democracy is the incorporation of direct voices into the process of determining public policies, especially voices representing the interests of minority groups or others that are usually under-represented in the decision making forums (FISHKIN, 2005).

In non-digital deliberative experiences such as deliberative polls and citizens' meetings, there has never been any great problem about knowing who the participants should be. But, as the earlier chapters have shown, the identification of participants in digital participatory experiences is complicated. Information on location, associated interest group, or participants knowledge and experience levels are data not commonly found in electronic democracy portals.

Just like the e-Democracy portal which has no information available on its participants, other similar digital participation projects practically dispense with filters altogether and there are no identification processes elaborated that might make it easier to get a better idea of the profile of the participants as a whole. Such lack of control over the registration process may give rise to undesirable situations such as allowing foreign nationals to contribute opinions as if they were national citizens, a weak point that was detected as much in the Brazilian project as in Chile's own.

Besides those problems associated to participant identification, there is the problem of unbalanced participation to add to the list of challenges faced by digital participatory practices. In virtual debates, it

is very common for participants that dominate the discussion (super-participants) to co-exist alongside others who hardly participate at all (sub-participants) as can readily be seen in the case of the Brazilian e-Democracy experience. That has given rise to concern as to how technological processes could help to avoid such hypertrophied participation and predominance of interest groups that are already highly active in the off-line legislative processes.

6.3.2 The nature of the social networks and the context of each discussion

Usually both the intrinsic characteristics of each social network that coalesces around a given legislative discussion and its social and political and economic context have an overall effect on the participatory process. Although that aspect has not been the object of analysis in the the case studies, such elements became apparent in the interviews and they certainly deserve to be commented on.

There are two relevant sub-aspects to be considered in regard to the nature of the social networks in question: a) the nature of the object of discussion that is, its degree of complexity, citizens’ access to the issue (extent to which it is a social issue); and b) the participants’ profiles and the degree of conflict among members of the social network formed. In addition, the overall context of each legislative issue influences the way in which it will be dealt with in the parliaments.

FIGURE 31 – Chart showing the social elements of digital democracy

1. Nature of the Social Network		2. Social, political and economic contents of the issue under discussion
a) Type of object	Complexity of the issue	
	Accessibility of the issue	
b) Nature of the participants	Level of conflict propensity	
	Profile	

The object of the discussion in a virtual platform associated to a given type of policy such as health, education or fiscal policies, may call for varying minimum levels of knowledge of the subject on the part of participants for them to be able to participate in a technical sense. The highly complex nature of fiscal policies, for example, involves issues that are commonly hermetically inaccessible to the average citizen without any previous experience in that field, whereas other more ‘social’ issues

like health and education are obviously more generally comprehensible to the average man in the street who has had contact with them at some time in his life and which are therefore more amenable to discussion.

While it cannot be expected that the ordinary citizen should wish to participate in every kind of legislative issue that comes up for discussion, public institutions must, nevertheless, do their best to create conditions that foster maximum inclusion in the participatory processes in accordance with the best principles of deliberative democracy.

The fact is that these subjects whose very natures require a higher level of technical knowledge inevitably shortens the list of citizens that are qualified to participate and that problem has been widely taken up by the critics of deliberative democracy.

In addition to the subject's level of complexity, access to strategic information held by the federal government administration is a factor that can greatly enhance the quality of discussions conducted in virtual platform environments. Argelina Figueiredo and Fernando Limongi (1996) show how parliamentarians of the Brazilian House of Representatives prefer to put forward legislative proposals addressing social issues like health and education rather than those addressing other 'less social' topics like the tax reform legislation, for example. That tendency was confirmed by subsequent studies conducted by Fabiano Santos and Amorim Neto (2003). In the same vein, Martins (2011) identified very strong influence stemming from parliamentarians in the deliberative processes handling education-related issues that come before the National Congress for analysis.

One of the suggested explanations for that fact, apart from the obvious electoral benefits that accrue from promoting social legislation, is the difficulty experienced by parliamentarians when they attempt to address extremely complex issues, especially when doing so demands access to primary information that can only be found in databases that are in the hands of the Executive Branch which deliberately makes access to them difficult for parliamentarians.

A good example of that is the fact that Brazilian representatives have no access at all to the databases of the Brazilian National Petroleum Regulatory Board (ANP is the Portuguese acronym). Such access is obviously of fundamental importance to furnish information to support any discussion on related issues. Currently, information of that kind is furnished by the ANP to private corporations willing to pay a specified fee for obtaining them and they do so because of the economic value

such information has in enabling them to determine their investment targets in the petroleum sector.¹¹⁷

If the access of parliamentarians has been so restricted even though they are in possession of constitutionally determined instruments such as being able to issue demands for information or to summons government ministers to attend public hearings thereby obliging the authorities to provide information in the public interest on pain of being legally charged and liable to political sanctions, we can readily imagine how much more difficult such access is for society at large. That is true even though it must be recognized that such information does have an economic value placed on it. Accordingly, access to primary information on facts pertaining to public policies affects, to some extent, the quality of participants' discussions and their degree of motivation.

There are certain types of political discussion which by their very natures provoke a high degree of polarization and polemic in discussions conducted in the sphere of the Legislative Branch. That in turn can often lead to deadlocks and even make it difficult for some people to participate, as was the case with the discussions on the legalization of abortion because it involved religious, ethical and health considerations.

The anti-abortion groups tended to boycott the discussions altogether because in their hearts they would rather there no discussion at all of the issue and they felt that it should never have been placed on the legislative agenda. So it can be seen that the degree of conflict installed among the

¹¹⁷ The main source of information on the Brazilian petroleum sector is the Exploration and Production Database (*Banco de Dados de Exploração e Produção* – BDEP) managed by the ANP and operated by means of the Halliburton Corporation's Petrobank software. Access to the BDEP is public but it is not free of charge and only companies are registered users. It is worth noting here, that Petrobras is not a registered BDEP user and furthermore, the Brazilian Energy Research Corporation (*Empresa de Pesquisa Energética* – EPE) does not have free-of-charge access to it either. This last public corporation was created by the enactment of Law nº 10.847 dated March 15, 2004 for the purpose of providing research and study services generating supporting information for energy sector planning and embracing electricity, petroleum and natural gas and their derivatives, coal, renewable sources of energy and energy efficiency. The lower house of the Brazilian Congress, the House of Representatives, one of the Corporation's external controllers, is yet another on the list of those with no access to the BDEP. That means that energy sector planning and the Legislative Branch's proposals for the exploration and exploitation of the pre-salt layers have all been made without access to the main source of information on the Brazilian petroleum sector. It must also be underscored that the ANP does not even make the information available on the concession contracts for exploring petroleum which is the property of the Federal Union. It merely provides a brief summary of each round of the contract tendering processes. That means that Brazilian society is in no condition to accompany the contracts' execution or to verify whether the exploitation of a public asset is taking place in alignment with the nation's interests. Source: Paulo César Ribeiro Lima: former technical consultant to the Petrobras Corporation.

participants in the social network addressing certain issues may also affect the performance of a participatory process in various ways.

Future studies in this area may identify the kind of legislative issues that are most likely to bring in better results from virtual discussions between society and parliamentarians. In the case of the Brazilian House of Representative's e-Democracy project, the most successful discussions were those on non-controversial issues where no great conflict was involved: the Statute of Youth and the regulation of Lan House operations. A relative degree of success was also obtained by the British parliament's public consultations on violence in the home environment and on communication policy. Those issues do not involve ethical or religious questions and in principle were not liable to provoke any intense conflict among groups with antagonistic interests but the findings of the present research were insufficient for drawing any more incisive conclusions in that respect.

People are more likely to take part when the issues have some relation to their daily lives declares Pateman (1992, p. 145) because they are naturally more familiar with them. Facts revealed in the studies of the various experiences reported here tend to confirm that statement. People can readily express themselves in regard to problems they have actually faced in their lives (like domestic violence) and can also participate in the construction of policies that have to do with their professional activities. That means that e-Democracy projects must find feasible ways of enabling citizens to participate with whatever degree of intensity they wish (REIS, 2004).

Special attention must also be paid to the influence of the various types of participant profile on the successful outcomes of virtual debates. In the e-Democracy portal discussion of the Statute of Youth the comparatively youthful profile of the participants contributed to making that discussion far more effervescent than the others.

Gasser and Palfrey stress that the new generation of digital youngsters sees the real and virtual worlds as being part of the same reality whereby digital actions interfere in and are affected by actions in the real world (2008, p. 281). The 'digital natives' as Gasser and Palfrey call members of this new generation endowed with the potential for knowledge acquisition represented by the internet tend to increasingly demand faster systems of legislative deliberation and decision making as they grow up and become incorporated more profoundly into the processes of constructing society (GASSER and PALFREY, 2008, p. 286). In that light, some of the digital participation endeavors that have been



analyzed in this work have revealed the need for a legislative process that is more closely synchronized with real life and that the resulting Laws should be susceptible to constant improvement thereby enabling them to accompany the dynamism of contemporary life.

In addition to the presence of that youthful public, many issues like those related to Human Rights or the environment, for example, usually involve intensely engaged activists many of whom are well-versed in the new digital technologies and, as such, potential participants in virtual legislative discussions. In view of that fact it was expected that there would be a tremendous discussion in the virtual community addressing the issue of climate change legislation that was formed in the sphere of the Brazilian e-Democracy portal, but in actual fact that discussion received very few contributions.

One of the reasons for that, which became apparent during the interviews with Representatives and Legislative Consultants linked to that discussion, was that the issue had not previously undergone a political maturing process in the House itself and that corroborates the fact that the political context has a considerable influence on the legislative process and, consequently, on the participatory process. When political conditions do not exist to carry forward a given discussion, parliaments usually make use of mechanisms designed to 'keep it on ice' until a later moment. Economic and social conditions also have a powerful influence on the legislative-political environment.

John Kingdon (1995) affirmed that the most important Laws, which are the backbone of major policies, are only approved when three essential factors converge: the existence of a chronic public problem or an emergency, the existence of a duly delineated public policy (the best strategy for addressing the problem) and the existence of political forces interested in promoting it. Such conjunctions open up a wide 'window of opportunity' in the state's agenda to have a given policy discussed, approved and implemented.

In the case of the discussion on the draft climate change legislation that took place in the sphere of the e-Democracy portal, it became clear that the international context at the time was contributing towards the collapse of the discussion. The public problems stemming from climate change failed to become a sufficiently effervescent issue to mobilize political forces capable of putting pressure on the Brazilian National Congress's agenda in view of the subject's innate complexity, identified by parliamentarians and legislative consultants alike in the interviews that were made.

Robert Dahl (1998) highlights how important it is to try and ensure representation of the greatest possible diversity of interests in the discussion forums. Polyarchy, he declares, is the way to ensure that representatives of the greatest possible variety of associations, companies, communities and other groups interested in public policies are able to exert some degree of influence on decision making.

Countering that position, David Held (1987) doubts whether it is possible to ensure equal representation to groups that are so different in terms of their power and influence. In addition, Avritzer (2007) mentions the fact that representative entities always advocate in favor of the specific interests of those they represent and in that light they do not have any formal mandate for representing the wider interests of society at large. Future studies may well show what kinds of issues and public policies are most marked by missing representation or under-representation in the political battlefield. In other words, which are the issues that lack any organized, structured groups to act in their defense in the parliament and which, accordingly, occupy the least prioritized positions on the legislative agenda.

That was visibly the main reason for the House's Participative Legislation Committees lack of success, namely the lack of strong lobbying groups to defend the propositions that it approved. It remains to determine, therefore, how ICT can contribute towards organizing and making feasible virtual discussions capable of channeling the expressions of diffuse group and people engaged in causes that are not sponsored or backed by any organized pressure groups.

Propositions that are of an ethical nature such as the regulatory acts associated to political reforms and that are directed at curbing corruption in politics seem to be an example of such causes. The example of the Clean Record (*Ficha Limpa*) movement in Brazil demonstrated how ICTs could provide the instruments needed to mobilize and organize pro-ethics groups and individuals in the political sphere to achieve the approval of a bill that originally stemmed from a citizen initiative and that was designed to prevent the re-election or confirmation in office of corrupt politicians.¹¹⁸

¹¹⁸ It is interesting to observe how such organization actually came about to achieve a temporary objective and later was able to count on the support of others that coalesced very fast but dissipated as soon as the operation had achieved success. That seems to be an example of the 'liquid society' referred to by Bauman (2000) endowed with the ability to mobilize and demobilize very fast for a wide variety of purposes.

6.3.3 How can participation be screened for constructive contributions?

In an analysis that Peixoto and Ribeiro (2009) made of legislative blogs, they highlighted the relevance of a contributions' contents as the determinant factor for the discussions' successes or failures. In fact the problem is more closely related to the quality of the contribution screening mechanisms that endeavor to separate the 'chaff from the grain', to select the most highly qualified contributions and make best use of them.

The underlying problem here is usually referred to as the 'noisy idiot problem' and has been a widespread and recurrent problem for internet blogs. In any deliberative environment, the possibility of total freedom of expression obviously opens the door to the expression of opinions that have little or no technical basis and that add little or nothing to the debate in course. Naturally, legislative blogs are as susceptible to this as any others and the problem may become chronic if that kind of participation is allowed to predominate in the discussions.

In that case the unqualified and uncommitted participations may well discourage or inhibit more technical and well-based participations on the part of citizens with some measure of knowledge or experience concerning the issue in question. A specialist in education policy, for example, who would be a potential participant in any discussion of legislative proposals in the field of education might feel disinclined to participate in the forums if he were to discover that most of the contributions to the discussion were merely irrelevant messages or forms of complaint.

Why would a specialist participate, wasting his precious time and energy in innocuous discussions? Why would he go to the lengths of putting his reputation at stake by exposing his well-founded and responsible opinions in the midst of a sea of stupid messages posted by citizens who actually had no commitment to the issue in question whatever? In their attempts to overcome, or at least minimize that kind of problem, the experiments in electronic Democracy that have been reported above tried out a variety of different partial or palliative solutions.

In the debate on the legislation designed to regulate policies on Climate Change, the House of Representative's e-Democracy portal adopted the mechanism of separating the discussions into two separate arenas, one designed to accommodate participants with no

technical qualification in the matter and the other involving climate change specialists. Because the discussions eventually failed altogether it has been impossible to assess the efficacy of that segmentation of the discussion. However, the e-Democracy team did not apply that system to any other legislative discussions so, once more, it is impossible to tell whether or to what extent, the measure facilitated or could facilitate the process of making a qualitative selection of contributions.

Another commonly adopted solution for the noisy idiot problem is the message ranking system whereby the virtual discussion participants themselves classify the more relevant messages. An excellent example of that technique is the experiment implemented by the Obama administration in the United States which is called the Open Government Initiative.¹¹⁹ It means that the messages that received the most votes and lead the ranking are displayed in the upper part of the screen which is a classification and selection factor.

Even that system has its own particular problems, however. The main one concerns the question of conformity or 'herd instinct'. The most voted messages acquire a certain degree of popularity because they stand out among the other unknown ones and that may well influence many of the participants to carry on voting in favor of those same messages to the detriment of others as Salganik, Dodds and Watts (2006) have reported.

The ranking system also tends to favor the earliest messages received because they may receive more votes merely as a consequence of having been 'on the air' for much longer. That means that in a virtual discussion with large scale participation and a considerable volume of messages, the time of message exposure and the natural tendency to conformity may cause more recently posted messages of great qualitative value to receive poor classifications and little prioritization from participants and that will inevitably jeopardize the quality of the discussions and the representativity of the participation, both important fundamental principles of deliberative democracy. Accordingly, the adoption of ranking criteria for virtual legislative discussion purposes should be done with great care and only in certain conditions.

Technological evolution may eventually help by developing mechanisms that can automatically screen for participations by applying qualitative criteria so that best use can be made of them in the virtual

¹¹⁹ Accessible at: <http://www.whitehouse.gov/Open>.

discussions and that as a result the organization and comprehension of the debate can be optimized to the benefit of the participants.¹²⁰

6.3.4 The cost of participating: access to the participatory forums and digital inclusion

In the course of the present work it has been plain at very stage that political equality of participation is among the most important principles of the theories on participation. The development of participatory practices would, in principle, make it possible to include people in the decision making process or at least in its auxiliary or complementary processes.

Thus the mission of such democratic experiences would be to minimize the hypertrophied participation and influence of corporations and any other politically and economically powerful interest groups by ensuring a more democratic participation of those that are unable reach the political decision makers by other more traditional means and in the view of the cyber optimists information and communication would facilitate access to the opportunity of expressing opinions (CASTELLS, 2007).

The cyber pessimists, on the other hand believe that technology actually boosts participatory inequality insofar as those most qualified and skillful in using it are the same 'well off, well educated whites' as always (HINDMAN, 2009). Even in the case of non digital participatory practices like referenda, Qvortrup (2005, p. 31) notes the occurrence of low rates of participation among manual laborers and citizens with little qualification and the super-representation of more qualified individuals.

Thus one of the great advantages of electronic democracy would be the way it brings down the costs of participation. As was pointed out in Chapter 3, citizen participation in legislative activities can be achieved in various ways which may or may not involve information and communication technology. It was also noted that the conventional form of participation is usually by taking part in public hearings organized by the theme-based parliamentary standing committees¹²¹ with its accompanying quantitative limitations and limitations to the representativity of the opinions that come to be expressed in them.

¹²⁰ The system of idea identification developed by Princeton University professor Matthew Salganik attempts to minimize the distorting effects of internet polls by using a process of idea selection based on a pair-wise comparison system which allows the user himself to insert new ideas. The system can be accessed at: www.allourideas.org.

¹²¹ Examples are: the Committee for Social Security and the Family, the Committee for Education, the Committee for Work and Public Administration, etc.

Usually, only small groups of representatives of interest groups and renowned experts take part, at the criterion of the respective committee.

The ordinary man in the street, who is not necessarily connected to any interest group whatever, hardly ever gets to take part in such hearings and that is equally true for members of minority interest groups. Given the obvious limitations of time and space, the Standing Committee for the Environment and Sustainable Development, a permanent body of the House of Representatives would tend to listen to the president of the environmental inspectors union on issues concerning the National Climate Change Policy, and to do so to the detriment of some individual inspectors that disagreed with the stance taken by their leaders and most of their colleagues.

Similarly the Committee for the Environment might decide to invite just three non-governmental organizations active in the area in question to express their positions at a public hearing. Those opinions, however would by no means represent the ideas of the whole set of third sector organizations active in the same field because the other NGOs would not have had an equal chance to have their views heard.

In order to overcome or at least diminish those limitations, forms of participation that use information and communication technology could, theoretically, broaden the spectrum of participation by making available non synchronic, non linear, spontaneous, collaborative forms of participation capable of evolving further, that would facilitate the inclusion of other participants in the process of formulating laws.

One of the more relevant aspects of reducing participation costs is the financial factor. When traditional means unaided by information and communication technology are used, a given interest group has to make its presence felt in parliament in the person of its representatives who visit parliamentarians, spend money on travel and accommodation during their stay in the capital of the country, or it may perhaps contract a professional lobbying service to do all of that.

The digital participation endeavors studied in the present work are aimed at facilitating the engagement of ordinary citizens in the elaboration of legislation at a very low cost which in fact consists merely of having a medium capacity personal computer connected to the internet. In the case of Brazil, around forty percent of the population



(about seventy-eight million people) has access to the internet at home, or in workplaces, in public tele-centers, or Lan Houses.¹²²

Thus creating the possibility for members of that particular public to interact with parliamentarians without any need to translocate themselves to Brasilia is one of the great trumps of electronic legislative participation. While it is true that around sixty percent of the Brazilian population does not have access to the internet (the digitally excluded), there has been an undeniable gain in the access of the other forty percent.

Nevertheless, we must point out that there are two considerable implicit costs embedded in the overall cost of digital inclusion, namely, the digital costs and the educational costs. In other words people need to be capable of accessing and using technological tools that vary from medium to high degrees of complexity. So while it is true that the participant in a virtual legislative discussion has practically no need to spend anything in order to issue an opinion regarding a given draft bill, he does need to have acquired access to a computer connected to the internet and the basic skills that enable him to use it.

The need to access computers, digital TV or mobile phones connected to the internet and the level of skills needed to operate those devices make it difficult for the poorer classes to make use of them. And because the technology is also integrated to learning processes in general (COLLINS and HALVERSON, 2009), the negative effects of digital exclusion become increasingly intense.

Those effects tend to diminish; however, as governments begin to invest more and more in infrastructure to expand broad band connections, policies to facilitate access to computers and cell phones and the construction and development of public telecenters.

In spite of the gradual acceleration of digital inclusion, studies need to make a closer investigation of the relations between on-line society and off-line society. Are the digitally excluded totally outside the possibility of participatory processes and access to the information available in the internet? In fact some experiences have already demonstrated the possibility of connecting the digitally excluded to the world of the internet as well as connecting the digital illiterates, who have access but do not have the necessary skills to make use of the technology.

In the participatory budget promoted by the municipal authority of Belo Horizonte, capital of the state of Minas Gerais for example,

¹²² Data supplied by the Ibope/Nielsen Institute, on-line, in September 2011, considering internet users in the 16 plus age group.

the local government set up kiosks furnished with computers and operated by technical staff in various parts of the city for the purpose of sounding public opinion on how municipal budget funds should be allocated. That meant that citizens did not have to know how to operate a computer in order to participate, instead they needed to express their opinion to a member of the technical staff responsible for feeding data to the respective integrated database (PEIXOTO, 2008).

Furthermore, among the contributions that the Brazilian e-Democracy portal received was a special one that called for a reflection. Each one of the virtual legislative communities formed around a given theme or topic posts news items concerning its discussion subject. One of the items published by the virtual community discussing the Statute of Youth caught the attention of an unusual Internaut who posted a comment on it in the space provided for that purpose by the platform. The author of the comment was an indian (native) girl from Brazil's central-western region and she identified herself as a leader of a youth community in her ethnic group and declared her interest in taking a more active part in the space provided in the following terms:

“Hi there! It is good to know that young people are discussing things, that is the way, let's carry on. Here in Mato Grosso do Sul, in the Dourados Reservation, we have our own indigenous youth NGO, the AJI Dourados Indigenous Youth Action (*Ação de Jovens Indígenas de Dourados*) and it has been in existence for ten years now.

(...)

In all these years of activity we have received various forms of training...such as in audiovisual, photography, filming, and with that we have produced five videos that were screened during the *Índio Brasil Vídeo* events. We have published our first book of photographs, a really interesting book that portrays the lives of young indigenous people in Dourados. We also produce a newspaper, the *Agindo* (taking action) which circulates in the villages and is studied in the schools, and there are other activities that the AJI carries out in the village...

(...)

Well, as I am talking about young people, I would like to comment a little about the young indigenous people of the Dourados Reservation in Mato Grosso do Sul.

(...)

Yours Sincerely, Jaqueline Gonçalves – Kaiowá, 19 years old –member of the AJI.”¹²³

There was no further participation in the portal on her part but the fact that she belonged to a group with very few possibilities for expressing itself in federal decision making processes raises the following question: what is the role of literate people well-versed in the use of the internet like Jaqueline Gonçalves Kaiowá in relation to their communities? Can she act as the digital means of expression of her community? As a catalyst of opinions among the group of young people that she leads, can she express those ideas via the e-Democracy channels with any expectation that they will find an echo in the federal legislative process?

Whether the mechanism is viable or not, the e-Democracy projects was unable to offer proof but it has undoubtedly raised the question of the need for stronger governance in the field of human resources that sustain the project as well as greater political sensitivity to catalyze the type of participation described above. After all, participants like the young Kaiowá may act as connectors between digitally excluded communities and legislative discussions taking place in the federal capital.

6.3.5 Ways of collaboration in the process of participation: content development, elaboration and moderation

Item 6.2, referring to institutional aspects, clearly delineates the various administrative difficulties that hamper the development of interactive participation portals. Typical problems of bureaucratic paralysis have tended to intensify over the last few years in the face of the increasingly effervescent social universe that has come into being

¹²³ Free translation: “Olá, que bom saber que os jovens estão discutindo, é isso aí vamos em frente, é uma pena que só vi essa reportagem sobre esse encontro agora, nós aqui de Mato Grosso do Sul, da Reserva de Dourados, temos a nossa ONG de jovens indígenas, a AJI – Ação de Jovens Indígenas de Dourados, ela existe já há dez anos.

(...)

Nesses anos todos de trabalho, a gente os jovens passaram por várias formações, como o audiovisual, que é a fotografia, filmagens, nisso a gente já produziu cinco vídeos que foram passados nos eventos do vídeo Índio Brasil, lançamos o nosso 2º livro de fotografias, um livro bem interessante que trata da realidade dos jovens indígenas de Dourados, produzimos o *Jornal Ajindo*, que circula nas aldeias e é estudado nas escolas, e outras atividades, como a AJI realiza na aldeia...

(...)

Enfim, já que estão falando de jovens, queria aqui falar um pouco dos jovens indígenas da reserva de Dourados-MS.

(...)

Atenciosamente, Jaqueline Gonçalves – Kaiowá, 19 anos – integrante da AJI”

since the advent of the internet. The liquid society referred to by Bauman (2000) is colliding with the staid solidity of public organizations.

That is why innovative, experimental forms of technological development have been appearing in recent years designed to institute collaborative processes among government, society and the corporate world. In other words, the citizen can now present an unlimited number of suggestions and opinions regarding the contents of legislative propositions so why not contribute to the elaboration of such technology that allows for such interaction and in that way, contribute to reducing the problems with bureaucracy described above?

A good example of such efforts is the Apps for Democracy¹²⁴ movement. In a pioneering trial conducted in Washington, in the USA, the local government made unprocessed information available on its website and organized a competition for technology developers to design softwares for use in public services to be implemented in the government portal. In just thirty days, for an outlay of just thirty thousand dollars to run the competition, the government received forty-seven softwares which it incorporated to its portal. As an example, one of the softwares makes it possible to visualize data on areas where crime rates are highest. The applications resulting from the competition would have cost around 2 million 300 thousand dollars if they had been procured in the market by conventional means.

To sum up, internet technology makes it possible to construct new means of collaborative work. Another form of collaborative work that is currently being tried out is the work of moderating on-line discussions, a task that involves social articulation, stimulating the presentation of ideas, and, above all, enhancing the debate qualitatively and quantitatively.

Carlos Batista and Francisco Brandão Júnior (2009) produced a pertinent analysis of internet use during the presidential campaign in Brazil when then president Lula was seeking re-election in a second round run off against candidate Gerald Alkmin. After observing the way each candidate's virtual communities in the Orkut platform functioned the researchers pointed to the importance of the moderating that was done to the success of those communities.

Whenever the moderation of the discussions was inadequate or absent altogether, the community participants ended up migrating to other communities or even creating new ones. Batista and Brandão Junior noted that efficient moderation was usually of the kind that

¹²⁴ Accessible at: <http://www.appsfordemocracy.org/>. Consulted on February 12, 2011.

was neither excessively restrictive nor excessively permissive in its function of excluding topics, comments or community members. The underlying cause of those communities' success was undoubtedly the prevalence of rules imposing mutual tolerance and respect.

On-line discussion systems such as those run by the Global Voices project¹²⁵ are based on voluntary contributions and supported by a network of article contributors and moderators that conduct analyses and promote projects in favor of freedom of expression that embrace even the digitally excluded. The assessment made of the Brazilian e-Democracy system and the British parliament's public consultation system clearly reveals how crucial the performances of moderators and facilitators are to the success of such discussions. In the case of the Brazilian experience there was notable lack of a more decentralized moderating mechanism that would have enabled society itself to have contributed to that function. If on the one hand, the project overworked the legislative consultants in their moderating efforts, on the other, it committed the sin of not involving Brazilian society in that task as well.

However any attempt to involve society at large on a greater scale, not merely as a collaborator in contents contribution, but also in the logistics of the debate itself, that is, as a moderator of the discussions, would necessarily involve the creation of a system of formal and informal incentives capable of motivating the citizens to carrying out that task. Marques (2008, p. 173) illustrates that aspect very well when he finds himself:

"Alongside authors like Michael Delli Carpini (2000) and Verba, Schlozman and Brady (1995) when they affirm that to engage politically, citizens not only need (1) opportunities, that is, input channels that materialize the means to do so, but they also need (2) motivation (sense of responsibility, satisfaction, trust in the institutions, belief that their participation will receive due consideration that will make a difference) and they need (3) skills (this last aspect is strictly related to the availability of information and the level of formal schooling)." (author's italics)¹²⁶

To address that aspect, in the middle of 2010 the Virtual Senator team analyzed the possibility of creating a system of making some kind

¹²⁵ Accessible at: <http://globalvoicesonline.org/>. Consulted on February 12, 2011.

¹²⁶ Free translation: "Ao lado de autores como Michael Delli Carpini (2000) e Verba, Schlozman e Brady (1995), sustenta-se que, para se engajarem politicamente, os cidadãos precisam não apenas de (1) oportunidades, isto é, de canais de input que materializem meios apropriados, mas também de (2) *motivação (senso de responsabilidade, satisfação, confiança nas instituições, crença de que a participação será devidamente considerada e que fará a diferença)* e de (3) habilidades (este aspecto se relaciona, sobretudo, à disponibilidade de informação e educação formal)." (nosso grifo)

of merit award to the most active participants, those that promoted various types of participation and contributions to draft legislations being discussed in the portal environment. The Brazilian e-Democracy project also organized a voting scheme to determine the most active participants in one of the virtual communities and the winner was awarded a trip to the House of Representatives in Brasilia to get to know the House and take part in another interaction activity, in this case, the Young People's Parliament. In this last-mentioned project, young people from all over Brazil meet together in the House to learn about, discuss and simulate parliamentary activity.

6.3.6 Civic and legislative education

In his classic work 'On Liberty' (2006), John Stuart Mill underscored how public deliberation could generate educational effects on the citizens by fomenting a more realistic perception of the way public institutions like parliaments actually functioned. Similar ideas were expressed by Manin (1987, p. 354) suggesting that "Political deliberation and argumentation (...) constitute processes of education and training (...) they spread light (...) people educate themselves."

Pitkin and Schumer (1982) stress how political deliberations and action not only constitute processes conferring intellectual gains on the citizen but they are also accompanied by the acquisition of power and a sense of responsibility stemming from the participation as an actor capable of discussing affairs of public interest and even of making decisions. Mansbridge (1983; 1992, p. 7) points out the qualities of live deliberative processes which teach communities that constantly participate in them to seek solutions for their problems in a more collaborative manner (also BERRY et al., 1993, p. 3). Sanders (1997, p. 351) offers an effective synthesis of the educative and constructive effects of public discussions:

"It (deliberation) improves all citizens intellectually, by heightening their ability to consider policy and political problems; personally, by allowing to realize their untapped capacities for observation and judgment; and morally or civically, by teaching them about the political concerns of other citizens and by encouraging mutual respect."

Intensification of participatory processes like those proposed by the e-Democracy and Virtual Senator projects, among others, opens up



the possibility of helping the citizen to gain a better understanding of the complexity of government decision making processes. Bernardita Corvillon, a Chilean citizen participating in the Virtual Senator discussions, highlighted the very same point: “It was also useful to me to find out that there are projects that are made up of various points and that we can approve or reject one or another but, also, that it is not easy to decide whether a draft bill as such should be approved or rejected”.¹²⁷

That leads us to the following hypothesis; as time goes by, after years of existence of this digital participation process, the citizens will be able to learn how to conduct more effective participations in terms of their real impacts on the decision making process and the institutions, in turn, will gradually be benefited by that fact.

Once there is a better understanding of the legislative process a virtuous cycle of participation can be established insofar as people will be better qualified to accompany the legislative rite, find out for themselves the effective impacts of their contributions on the legislative agenda and no longer depend on the conventional media which imposes its own distortions on its versions of the process as Malena Rodrigues (2011) was able to confirm.

So, from the educational standpoint, has there been, after all, any effective impact on the participants stemming from the virtual process of deliberation? In the case of Chilean Virtual Senator experience it is impossible to answer that question because of the overly simple form of participation whereby almost no space is provided for deliberation at all. The citizen merely marks one of the multiple choice options presented that best represents his or her opinion and there is a possibility of suggesting new ideas but no opportunity to discuss them.

Prior to the launching of the Brazilian e-Democracy pilot project some of the parliamentarians that were interviewed reported having been concerned about the ordinary citizen’s capacity to fully understand the legislative process based on their own experiences in direct contact with their constituents which have revealed to them how the ordinary Brazilian person usually misunderstands the roles that are supposed to be performed by federal representative, state representatives, municipal councilors, mayors, state secretaries and so on.

¹²⁷ Free translation of the following original text: “También me sirvió para saber que hay proyectos que están formados por varios puntos y que uno aprueba algunos pero rechaza otros por lo que no es fácil decidir si el proyecto se debe aprobar o rechazar”.

In other words, in the view of those parliamentarians, the ordinary citizen fails to understand exactly the complex structure of power in Brazil which is split in three, on the one hand, among the Legislative, Executive and Judicial branches of power, and on the other is segmented into states and the federal district and they, in turn, into municipalities.¹²⁸

While there may have been some signs of lack of ignorance of the House of Representative's exact sphere of action and responsibility in the e-Democracy discussions that was by no means the main problem. What was more prevalent in the discussions was evidence that the participants had difficulty in understanding the basic rites of the legislative process itself, such as the work done by the standing and special committees.

Before any draft legislation is submitted to the floor of the house for final discussion, it has to be discussed in the appropriate theme-based committee which may be a permanent or 'standing' committee or a temporary one set up for the occasion, and they are empowered and charged with examining all the technical and political aspects of the proposal, in detail. They usually operate in the form of a discussion forum entering into far more detail than would be possible in any discussion by the Floor of the House where deliberation tends to be much more objective and restricted by the very nature of the process.

¹²⁸ Very briefly, the complete structure of public power and authority in Brazil can be described as follows: in the sphere of the Federal Union the Legislative Branch of power is exercised by the Federal Representatives in the Federal House of Representatives and by the Senators in the Federal Senate, assisted by Federal Accounts Courts; the power of the Executive Branch is exercised by the president of the Republic, assisted by the Ministers of State. In the states and the Federal District, the power of the Legislative Branch is exercised by the State or Federal District Representatives with external control being operated by the State Accounts Courts and the power of the Executive Branch is exercised by the State Governor. In the municipalities, the power of the Legislative Branch is exercised by the municipal councilors while the power of the Executive Branch is exercised by the Mayor who may be assisted by the municipal secretaries. To complete the picture, in regard to the Judicial Branch, there only two spheres of common justice, the Federal Sphere and the State or Federal District sphere each with two levels of jurisdiction. In addition there is the Supreme Court of Justice which is charged with ensuring uniformity of common justice decisions throughout Brazilian territory, and the Federal Supreme Court, which is the country's highest body of control over constitutional issues. Within the sphere of the Federal courts there are three distinct divisions, the Electoral courts, the Military Courts and the Labor Courts each with two distinct levels of jurisdiction and there is a High Court over them charged with ensuring the uniformity of decisions in those spheres throughout Brazilian territory. In addition there are the Offices of Federal and State Public Prosecutors charged with surveillance over the due application of the laws of the land, defense of the public interest and assets and of ensuring due exercise of all rights guaranteed in the provisions of the Brazilian Constitution.



In the committees, the discussion of draft bills is coordinated by a rapporteur, a member of the committee appointed by his fellows to examine the material and prepare a technical opinion for or against the proposed legislation and with or without alterations to the text. It is quite common for rapporteurs to accept suggestions from the general public or from fellow parliamentarians when they are elaborating the new version of the text they propose to submit, known as the substitutive text which will be submitted to the full committee for further analysis.

The whole process involving formulation, appreciation, and reformulation is continuous and may go on right up to the last moment before the floor of the house gives its final decision by voting on the bill. However, very little information on those aspects was published in a forthright manner in the e-Democracy portal. As a consequence, participants were not aware of the legislative timing that prevails in the Congress.

In addition to the difficulties people experienced in attempting to understand legislative processes there were others experienced in trying to understand the participatory process as has been mentioned before. That was mainly caused by the lack of a well-elaborated tutorial mechanism with explanatory videos and other graphic aids that could help to that end and which are widely used in the web. The function of such mechanisms is to accelerate the learning curve and minimize the effects of participants' lack of knowledge of legislative processes thereby stimulating greater participation in general.

A good example can be found in virtual games where the rules that govern the game are clearly shown right from the beginning. Outstanding in that respect is the game 'Spore', an advanced simulator that allows the player to create life in its primordial form and then evolve to achieve the height of the evolutionary scale. Spore players start off creating unicellular beings which are developed up to the point where they become creatures endowed with consciousness.

What is most notable about the game is its tremendous ability to enable the player to perform complex tasks in very little time, getting up to a maximum complexity level of administering the logistics of an inter-stellar empire. That is due to the fact that at every turn the game practically guides the player as if it were guessing and forestalling the player's possible doubts. In that way, the player rapidly, and almost imperceptibly, assimilates all the information of the great quantity needed to be able to play the final phases of the game.

Education experts have called attention to the advantages of using technology in educational processes (BECK and WADE, 2004; COLLINS and HALVERSON, 2009). Insofar as it makes it possible to use video and audio material, the technology enables the user to apprehend knowledge much faster than is the case with the conventional means of educating and that is partly due to the new forms of interaction it provides. Beck and Wade underscore the fact that the skills players acquire in games they play in the internet help them to learn how to handle decision making processes, resource administration and complex strategies in simulations of real-life situations.

There have already been some initiatives known as 'Serious Games'¹²⁹ testing ways of making more intense use of skills and capacities developed by those that play with such simulator games and their possible application in training future public policy administrators, managers and formulators.

No one can doubt the value of a participant's having at least minimal knowledge of the workings of the State in making the act of participation more effective. Understanding the legislative process will inevitably boost any citizen's participation capabilities. However, while technological tutorials can certainly help to reduce the time needed to acquire such knowledge, interactive platforms also need to provide mechanisms to conduct the citizen through the apparent maze of the participation process.

Making use of games technology can contribute towards meeting both those needs; getting to know the legislative process and getting to know the *modus operandi* of the participation process itself. By permitting an intense degree of interaction in a play environment, the application opens up the prospect of more widespread and more profound engagement of people in the participatory process.

The difficulties experienced by citizens in understanding the participation process were very evident in the e-Democracy project given that the freedom it offered them to participate using any one of the means of interaction provided led some of the participants to lose their perception of the beginning, middle and end of the discussion. In the Virtual Senator project, on the other hand, the script logic is based

¹²⁹ The British Floodsim game is an interesting example. The player has power of decision and administration over financial resources associated to the policy to combat and prevent flooding. Accordingly he has to define the allocations of funds he wishes to make for protective actions against floods, building houses and informing people about the risks of. It can be accessed at: <http://www.floodsim.com/>. Consulted on February 12, 2011.

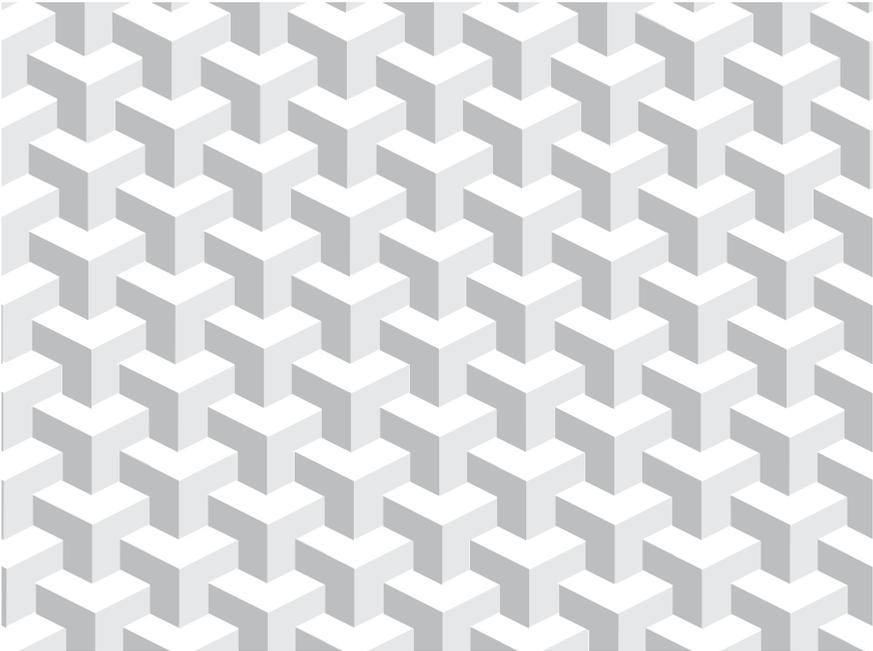


on a string of simple questions and answers. Although that model offers the citizen far less liberty in terms of deliberation it nevertheless permits ready comprehension of how to participate. In short, the citizen cannot get lost in the discussion as can happen with the e-Democracy participants.

To sum up, in the case of the portals analyzed in this study a great deal of communication work needs to be done, not just to improve and simplify the information supplied concerning the legislative processes and parliamentary practices but also to offer guidance on the participative process.

That means that only long-term qualitative studies will make it possible to conclude anything with any degree of assurance in regard to the educational and civic impacts on citizens stemming from digital participatory experiences since the elements encountered in the case studies presented here were insufficient to draw any more in-depth conclusions in that direction.

CONCLUSION



In the last few years, in the arenas of political science the debate on the so-called 'Crisis of Democracy' has achieved new heights of effervescence. The dynamism and complexity so typical of modern life in the information age have contributed towards boosting the discussion on the efficacy of the classical institutes of democracy such as the representative political system and the right to equality.

Some of the possible symptoms of that crisis have been identified by various scholars: increasing dissatisfaction among ordinary people (DIONNE, 1991; CRAIG, 1993; TOLCHIN, 1999); profound distrust of government institutions (NYE, ZELIKOW and KING, 1997; HETHERINGTON, 1998), and especially of parliaments (HIBBING and THEISS-MORSE, 1995, 2001); the State's inefficiency and inability to solve public problems and the glaring increase in social injustice (HUNTINGTON, 1975; ROSANVALLON, 1981).

Social and political indicators portray the situation in greater detail. Aspects such as the low turnouts at elections (TEIXEIRA, 1992); the erosion of social capital (PUTNAM, 2000); declining support for political parties (ALDRICH, 1995); and the growth of apathy, discontent, cynicism and a feeling of impotence permeating society in regard to politics (NYE et al., 1997; GASTIL 2000; PHARR, PUTNAM and DALTON, 2000; EISENBERG and CEPIK, 2002).

Another line of argument, critical of the classic neo-liberal model is directed at problems in the system of parliamentary representation. The high degree of autonomy attributed to parliamentarians and political parties during their terms of office and their flagrant disregard for the opinions of the voters at large once elected are supposed to be causing the destruction of the relations of confidence that once existed between the parliament and the people.

There are many critics riding that wave of disbelief in regard to parliaments, alleging that they are dominated by the more economically powerful interest groups with their highly organized lobbying structures. Other allegations are the parliamentarians' lack of commitment to law and order and the poor quality of their work in elaborating laws; the parliaments' incompetence in responding to ever more complex and varied demands stemming from society at large; the unethical behavior of parliamentarians who use institutional resources designed to support the proper execution of their mandates in illegitimate ways; and laziness in performing parliamentary duties, among others.



There are other thinkers however who consider that such allegations are highly exaggerated although they do admit the need for changes in the classic democratic system in order to improve the justification of public actions, increase social watchdog control over politicians, democratize the influence of interest groups in the circles of power and improve the efficiency of the public policy system (BOBBIO, 2000; DAHL, 1989; NORRIS, 2001).

In the same critical vein, there are outstanding thinkers who defend the introduction of participatory processes into the public policy system as a way of allowing society to interact with the State in the process of formulating and implementing policies and not just during the election periods.

In alignment with that vision, there are those who defend a structural reformulation of the democratic system that would strongly embrace and incorporate participatory processes (BARBER, 1984; PATEMAN, 1992), while others put more emphasis on a more mitigated use of participatory practices that would complement the representative system in accordance with the specific needs of each State (MANSBRIDGE, 1992; FUNG, 2006).

What deliberative practices presuppose is that there should be more people and interest groups involved in discussions of a public nature in order to guarantee increasingly egalitarian participation and mutual respect among the participants and to do so by means of developing debates based on the presentation of rational arguments and the search for a common understanding.

In the sphere of this discussion a special place must be allotted to Archon Fung's (2006) vision concerning democratic deficits. He observes that there are specific deficiencies in the democratic system that could be minimized by developing participatory deliberative practices and practices designed to enhance transparency, materialized in a variety of different formats and degrees of profundity but all with the same objective of complementing, to a greater or lesser extent, the exercise of political representation.

According to Fung's vision, the democratic deficit is made up of deficiencies: a) in the system that defines society's preferences in regard to public policies, b) in the form of connection between representatives and those they represent, which facilitates the expression of the aforementioned preferences, c) in the watchdog control exercised by society at large over its representatives, and d) in the State's inefficiency in implementing those policies.

Starting towards the end of the 1980s, many innovative participatory and deliberative experiments began to be tried out in various parts of the world. They may have different formats and even different specific objectives but they all share an overall goal of facilitating greater citizen participation in political processes in such a way as to complement the way representation is effectuated.

One example mentioned by Fung (2007) is the mini-public experiences functioning as public deliberation forums organized in a self-aware manner and whose members constitute a representative sample of social diversity with the inclusion of groups that do not normally participate in political processes.

Various relevant practices stem from them: educative forums that create conditions that are practically ideal for citizens to discuss a given issue of political interest and form opinions (deliberative polls); participatory consultative panels which not only promote debates, like the educative forums, but also enable participants to align their preferences in regard to public policies; participatory collaboration to solve problems which stimulates the participants to contribute actively in assisting the State to address and solve a public problem; participatory democratic governance, which according to Fung is the most striking participatory manifestation of all insofar as it effectively endows the participants with power of decision in determining policies as in the case of the participatory budgeting.

In short, in spite of their admitted limitations, most of those practices materialize attempts to imbue public institutions with greater porosity and, in doing so, reduce the effects of democratic deficits identified by Fung. In the same context, we can also highlight participatory and deliberative practices that intensify more specifically the relations between society at large and the parliament.

Thinking about a participatory parliament means primarily thinking about ways of aggregating participatory mechanisms that are capable of conferring heightened legitimacy on the process of elaborating laws. Bohman (1996, p. 183), inspired by the teachings of Habermas, declares that a law's legitimacy is a consequence of a participatory process that is fair and open to all citizens so that it aggregates all reasons that are publicly possible to bring together, even if, in the end, the representatives opt to prioritize certain values to the detriment of others.

Thus the idea that would underpin a participatory parliament would be associated to the intensification of the relation between representation and participation given that, in principle the incorporation of society's



contribution to the legislative process could aggregate benefits for legislative decision making and in that way, actually reinforce the representative system.

In the course of the research being reported here it could be seen that the interaction channels developed by the respective parliaments differed in their formats according to the peculiarities of each political culture and the organizational context of each legislative House. There are examples of the more classic ways of consulting society such as public hearings, tribunes of the plebs and parliamentary ombudsmen and they are furnished with a variety of instruments for receiving manifestations, opinions, suggestions, complaints and denunciations.

In some cases national parliaments take steps to translocate temporarily and others establish a set of branch representations scattered around the country as a means of facilitating communication and interaction with society at large. There are other more robust instruments facilitating participation as for example when society is authorized and empowered to present legislative proposals in the form of citizen initiatives or to channel their complaints by means of parliamentary committees specially constituted for the purpose such as the Brazilian House of Representative's Participatory Legislation Committee.

Nevertheless, however true it may be that those instruments bring society and the parliament closer together, they do have serious limitations. The low levels of representativity in the public hearings, the very small scale of the tribunals of the plebs and the operational difficulties associated to citizen initiatives, the political feebleness of the participatory committees and switching the focus of individual participations to the parliamentary ombudsmen instead of constituting public forums for public debates on the issues are just a few of the problems of such participation channels. Furthermore, they are rarely designed to include any supporting form of information and communication technology.

The development of Information and Communication Technologies (ICTs) intensified considerably from the 1990s on and with the massification of personal computers linked to the internet, new possibilities opened up for creating and improving channels for interaction between society and the parliament. It is worth noting that the ICT technologies largely centered on the internet as their main axis bring with them a series of possibilities for adding value to human labor such as facilitating knowledge management, offering much broader access to information and tremendous powers of dissemination.

Furthermore, information and communication technology brings other gains: by making it feasible to create systems that function as vectors of credibility that assist the processes of selecting and prioritizing information and other contents; by facilitating collaborative work, given its power of breaking the act of communication down into sub-components and the possibility of granular, pulverized production with very low integration costs.

More specifically, for political ends, the ICTs foster thematic discussions of the widest possible interest (that go beyond the local community sphere), the development of social relations, the creation of alternative channels of political manifestation and engagement, greater access to information of public utility and validation of that same information.

However many benefits the ICTs have to offer to political processes, they have also created side effects: the facility with which political discussions can become fragmented, the strong stimulus they provide to polarizing interests in the virtual debates, the dispersion of expression that has contributed to forming other kinds of audience attention elites in the internet, the loss of capacity to reflect in view of the unlimited access to information and the reduced levels of political efficacy associated to the virtual participation channels.

However, the advent of new interaction possibilities stemming from the further evolution of the internet in the decade beginning in the year 2000 and usually referred to as the Web 2.0 has made it easier to apply the new technological instruments to parliamentary situations for the purpose of improving existing non-digital participation channels. They have helped to overcome some of the limitations of such channels and to make it feasible to implant new forms of participation and deliberation.

The terms e-Democracy, digital democracy and cyber-politics first appeared with the first applications of ICTs to political processes. In the case of the specific purposes envisaged in this work two classes of e-Democracy practices are considered. There are those that are organized, developed and maintained exclusively by society which may take on various different formats: mobilization for electoral purposes, citizen journalism, transparency and many others; and on the other hand, there are the e-Democracy experiments and endeavors unfolded by the State that are mainly directed at actions of co-production unfolded jointly by State and society and which, for the purposes of the present work, we have designated as institutional e-Democracy.



The main aim of the present research has been to contribute to an assessment of the effectiveness of institutional e-Democracy practices associated to Legislatures. By means of analyses of mini-cases, that is less structural, less profound experiences, and two case studies involving very relevant practices, the Chilean Senate's Virtual Senator project and the Brazilian House of Representative's e-Democracy project, every effort has been made to thoroughly explore and identify both the benefits and the limitations of digital democracy as it has been applied in parliaments.

To foster and promote that analysis, the research work opted to guide itself by the symbiosis among the principles of representative and deliberative democracy and the classic institutes of representative democracy. To that end it was important to find out to what extent participative parliaments manage to aggregate greater legitimacy to the elaboration of legislation, incorporate collective intelligence to the decision making process and enhance the transparency of parliamentarians' performances in the legislative process.

Although the development of accountability mechanisms in the political representation system such as transparency surrounding parliamentarians performances is among the fundamental values of the classic democratic regime, the three values referred to in the preceding paragraph are actually important components of a contemporary vision of democracy with special doses of citizen participation that contribute towards reducing democratic deficits.

Three aspects were analyzed in the case studies: the technological interface of the parliaments' interactive digital portals, the internal administration of the participatory process in the legislative Houses and the effective, real-life impacts of the participation on the final decision making (political efficacy). With that done it was possible to evaluate the organizational, political and social consequences of the participatory process both for the development of the participation channels and for the way they functioned.

As regards the question of legitimacy, how can institutional participation be re-designed to ensure the inclusion of minority groups and citizens not connected to interest groups in the discussions of issues on the legislative agenda that affect them? How efficacious can digital systems for consulting citizens in parliamentary websites be in guaranteeing that groups and individuals that are rarely or hardly represented in parliamentary settings have some kind of influence on the construction of legislative texts?

In the investigation conducted to find the answers to those questions it was revealed that there were in fact sporadic gains in representativity associated to the digital participation process although various outstanding obstacles to achieving a greater degree of social inclusion in such experiences were also identified. There are glaring limitations intrinsic to digital participation in developing countries like Brazil and Chile. In the case of the Brazilian example, although the e-Democracy project makes it possible for any of the 78 million digitally included Brazilians (around 40 percent of the total population) to participate in the discussions in the environment of its portal there are still another 110 million digitally deprived individuals left out.

Nevertheless, from the quantitative angle, the gains in inclusion in the legislative process discussions propitiated by the e-Democracy portal, albeit timid, cannot be ignored. Formerly there were very few Brazilians that actually ever accessed the traditional forms of interaction with the house of Representatives, either in theme-orientated public hearings or by participating in lobbying activities in Brasilia or by entering into contact directly with the parliamentary representative for their own district. In any event, the fact is that 78 million Brazilians that use the internet were in a position to interact with the House to some extent, however precarious such interaction may have been, with little impact on the legislative process itself and restricted to a handful of legislative propositions.

Another feature to be noted was the great potential of participatory processes that connect the off-line and on-line worlds such as the insertion of links in participative processes as a whole, albeit the study was unable to provide conclusive evidence to that effect. Greater administrative, political and social efforts now need to be made to make it feasible to include non digital and digitally illiterate citizens in e-Democracy practices.

In regard to the Brazilian version of e-Democracy it was not possible to draw reliable conclusions about the qualitative gains accruing to representativity stemming from the participatory process because there was so little data available in the portal itself to delineate the participants' profiles. However the analysis of the conversations in the debates was more fruitful and showed that there was effective participation on the part of people and representatives of groups that normally have little or no mobilization power that would enable them to have their voices heard. They were able to express their opinions in the debates, albeit in somewhat irregular proportions and formats.



Another curious observation is that the most successful virtual discussions in the e-Democracy environment were those on non-polemical issues because they did not give rise to intense conflicts among the groups with interests in the respective legislation. Future studies may do a better job of elucidating how representation could best be achieved in the more intensely polarized types of discussion involving ethical or moral issues for example, like the question of legalizing abortion, or of civil union between individuals of the same sex; or involving structural reforms like the tax reform proposals that pit powerful pressure groups against one another.

In the case of the Chilean Virtual Senator project it could be seen how a predominantly female youthful public residing in Chile's most highly populated and developed areas was the most notable source of participants especially in the case of specific issues that proved capable of catalyzing rapid mobilizations to achieve temporary objectives.

A good example of that is the great boom in participation that took place directed at rejecting legislation that attributed responsibilities for any harm stemming from dangerous (stray) animals and included a clause permitting euthanasia for such animals. The proposal provoked a tremendous wave of resistance in the Chilean population at large.

The British parliament's public consultations, on the other hand, by guaranteeing special conditions for participation was able to include a public in the virtual discussions that would not normally have participated in any other form of public interaction with parliamentarians, as was the case in the debate on domestic violence. The American Congress's On-Line Town Hall Meetings also achieved good levels of representativity in the participatory process, successfully including population niches that normally showed little interest in participating in political processes such as young people, racial minorities and low income workers.

The second aspect this study must consider, apart from the question of legitimacy, is the extent to which parliamentary participatory experiences are capable of contributing towards the effective utilization of collective intelligence in the legislative process. The focus here is not on who participates, but on what the participants contribute and how those contents generate impacts on the legislative process.

In short, is it not reasonable to suppose that public institutions could take advantage of the citizens' intelligence, experience and creativity to enhance the process of formulating and evaluating public policies? How could that be achieved in the case of parliaments? In what way

could the contents of participatory contributions come to be effectively reflected in the final legislative decisions?

In the Brazilian e-Democracy debate on the Statute of Youth, it was possible to identify how some of the contributions had effectively been made use of in working up the final text of the draft bill, although there is no absolute certainty as to how far that was due their influence alone, as compared to influence stemming from more traditional forms of interaction that were taking place at the same time.

To be exact, in parallel and complementary to the virtual debate, there were real life participatory forums that people attended in person, being held in the form of regional conferences in the states and public hearings in the House of Representatives and they too exerted their influence on the text that was eventually approved. The search for a causal chain that could demonstrate the effective impact of the digital participation devices will continue to pose a considerable challenge to researchers in this field. Nevertheless, the interviews with Representatives, legislative consultants and participants indicated that the participations in the e-Democracy environment undeniably influenced the configuration of important parts of the text of the final draft proposal for the Statute of Youth.

In this case, the very openness and freedom of participation offered by the e-Democracy interface had facilitated the debate, not only among the participants but also between them and the parliamentarians, in spite of the fact that it caused a considerable degree of chaos in the portal administration and the work of organizing and acquiring a general understanding of all the contributions.

In the case of the Virtual Senator portal however, it was visible that the participants' contributions exercised a minimal influence on the composition of the legal texts in question. The main reasons for that are the generalized lack of interest for this kind of interaction on the part of the parliamentarians and the very hermetic format of the interface which did not facilitate any form of debate between society and the parliamentarians; quite the contrary, the interface places great value on the objectivity of participation which is highly simplified and one-way.

As for the other parliamentary experiences of the type known as mini-cases, there was once more little evidence of any use being made of the contributions by the parliamentarians to enrich the discussions although on this point, the British parliament's public consultations stand out from the rest insofar as they are the only experience with



formally declared objectives of aggregating collective knowledge to the process of elaborating legislation.

In that respect, what made it possible for members of parliament to obtain important gains in highly relevant information on the issue was the way in which the discussion participation was structured in the form of witnesses giving testimony, with facilitators present to help the participants express themselves fully, and the possibility of the participation's being anonymous. However, within the scope of the present study it was not clear how, or if the parliamentarians eventually used those contributions in the British legislative process.

Perfecting interfaces and discussion formats that will ensure that full use is made of the quality and diversity of all possible types of contributions so that, accordingly, it will become possible to aggregate collective intelligence to decision making in legislative processes is one of the important recommendations stemming from this study. Generally speaking, digital participation is capable of providing the necessary instruments to enable useful contributions to public policies to be introduced even when they are not the fruit of an ideal public discussion such as deliberative democrats envisage. However, no digital participatory process can ever be inclusive unless it offers varied options of forms of expression that can address the phenomenon of social diversity and its implicit complex of cognitive differences.

The third and last aspect of the analysis concerns transparency. What needs to be identified is the extent to which those participating in digital participatory experiences gain a better understanding of the legislative process, or even manage to effectively accompany, in greater depth and detail, parliamentarians' performances. Could it be that those experiences are being unfolded just for the sake of appearances; just to draw a veil over the undesirable legislative reality or to endow the decision making process with false legitimacy when in reality it is by no means as open as it is purported to be?

Widespread awareness of how public institutions work that would greatly assist the process of installing accountability is one of the great goals of those that defend democracy and not just those aligned with classic liberal schools of thought like John Stuart Mill or Robert Dahl but also those that are firm believers in highly participative democracy like Carole Pateman and Benjamin Barber.

In spite of the paucity of information on legislative process offered by the Brazilian e-Democracy portal, it did manage to provide forms of participation more in keeping with real-life legislative routines than

any of the other digital participatory experiences examined in this study. Nevertheless, there is much that needs to be improved in this inter-relation of the real legislative world with the virtual participation world given that participants in some of the discussions found it difficult to understand the way legislative processes unfold, although it was noticeable that some of the information posted concerning events in the theme-orientated parliamentary committees was the object of considerable comment in the virtual debates.

Furthermore, there was a certain amount of confusion in the e-Democracy activities caused by the format of the forums insofar as they receive messages with the most varied discourse and great differences in their quality and levels. However, although all of that makes analysis more difficult for many users, at the same time the format makes it possible for those interested, and with a minimum of patience and dedication, to find out to what extent the contributions have been used in constructing the text that was eventually approved. Such analysis can be made by comparing the contents of the contributions with those of the final text. Information on both is publicly available to anyone that has internet access, and that is certainly a considerable gain in transparency at least in regard to the legislative processes involving the topics discussed in the e-Democracy environment.

In the On-line Town Hall Meetings promoted by the US National Congress, the organizers claim that one of the main benefits has been the enhancement of the public's understanding of the legislative work and of the parliamentarians well-founded opinions on a given public policy issue in discussion, so much so that when the experiment was finalized the participants expressed a higher level of approval for the parliamentarian in question than before it.

In the system of 'submissions' adopted by the New Zealand parliament the formal publication of a document with justifications for the acceptance and rejection of the various suggestions also provides information on the stance taken by each parliamentarian on the issue in question. In the case of the Chilean Virtual Senator project there is very little connection between the participatory process and the legislative process. People only participate at the beginning of the process right after the first presentation of the draft legislation. After that initial moment has passed the subject is not discussed any further in the portal environment and furthermore, participants receive no information on the progress of the draft bill.



All the above means that the gains in transparency accruing to legislative institutions from the introduction of digital participation channels in the parliaments that were the object of this study have been very timid, although it is possible to perceive gradual progress in comparison with the traditional means of accompanying parliamentary performance in legislative processes.

Other factors that have been observed to affect, in one way or another, more than one of the points discussed here deserve special mention. For example, not one of the projects studied promoted any kind of action designed to capture strategic contributions available in other virtual environments outside the circuit of parliamentary interactive portals. Theme-orientated blogs, and social websites and networks like Orkut, Facebook and Twitter display masses of material for discussion on the most varied aspects of public policies fostered by individuals with considerable knowledge and experience in the respective fields, but little or no use was made of any such material by the digital participation projects studied here. That mirrors one of the most important flaws in such projects: by limiting themselves to a policy of issuing an invitation to 'come and participate here' instead of one that proposes to 'go to where the people are', parliaments miss an opportunity to enrich their participatory processes.

Authors like Coleman, Blumler, Fung, Pogrebinshi and many others declare that there is a need to redesign democratic institutions to ensure that they include participatory processes that will help to strengthen the representative system itself. In turn, Domingues (2009b) defends the idea of 'instituting citizenship' whereby the will of the people can be channeled by means of instruments that provide effective participation in the State thereby transcending the chronic domination of the political and bureaucratic elites.

It cannot be said that the digital participatory experiences studied in the present work are making such a movement feasible; indeed, as has been constantly noted throughout the study, there is still an immense amount to be done in that direction. In fact those practices merely represent a first step, the possible beginning on the long road to a more highly elaborated and effective participatory process that might serve as a new paradigm for democracy.

In reality, public institutions will have to find ways to solve the problems associated to implementing participation channels because it has become clear that there is still a huge gap separating the objectives that are intended to be achieved and the results

effectively being obtained. After all, many interaction portals spring into being, sometimes as a result of a juvenile enthusiasm on the part of participation enthusiasts, but without due attention to providing minimum functionality conditions or sometimes motivated by pure political demagoguery devoid of any serious commitment to the public interest or responsibility.

One highly relevant aspect of the complex set of problems analyzed at certain points during this study is the need to adapt the format and the depth of the participatory practice to the specific needs of each public policy system problem so that there can be effective gains stemming from the participatory process for the formulation, execution and evaluation of those policies. Furthermore, in some cases the question must be raised as to whether it is really feasible or desirable to institute participatory processes given that the construction or execution of the public policy in question depends entirely on eminently technical factors, in which case they should ideally be conducted specialized bureaucrats (FUNG, 2006; GUTMANN and THOMPSON, 1996).

The basic idea that emerges from the present work is, therefore, that overcoming the organizational, political and social obstacles to the implementation of participatory and deliberative channels connecting the parliament and society at large to address specific issues could lead to the coalescence of a more participative form of parliament and a corresponding reduction in the democratic deficits identified by Fung.

In such a model, the formal legitimacy of political representatives conferred on them by voting in periodically held elections and usually circumscribed by a territorial base, could be greatly enhanced by a kind of parallel, supplementary, legitimizing process based on the relations between the parliamentary institution in the form of its collegiate bodies (committees) and society itself organized around interests that were sector-orientated and not merely territorial.

After all, the experiences that have been analyzed in this study are all at the experimental stage typical of digital democracy itself. Predicting whether those practices or others like them are going to become consolidated as consistent democratic development mechanisms lies outside the scope of this work, only time will tell.

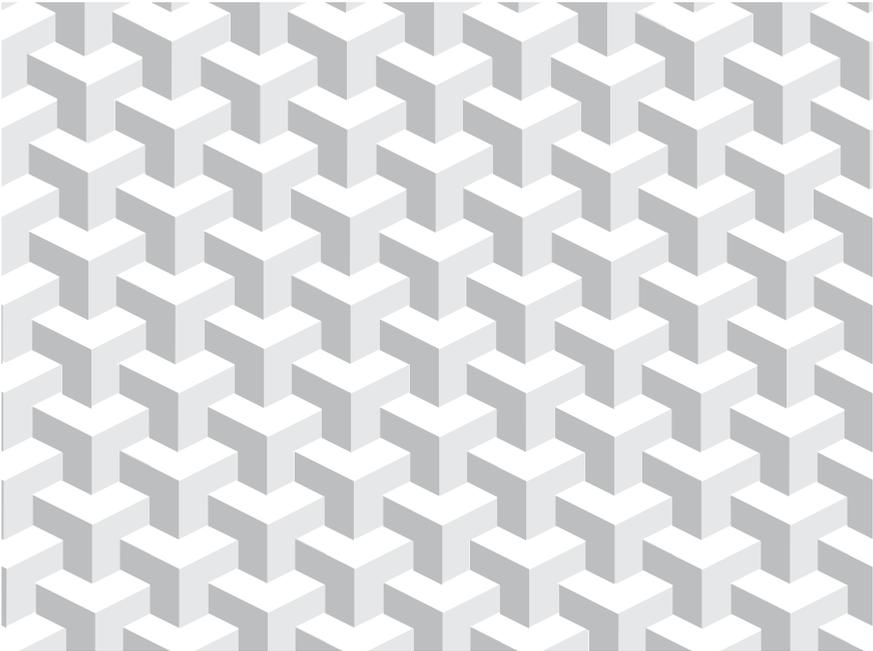
Jane Mansbridge (2010) proposes that “Deliberation leading to a decision takes place in many venues, from formal and informal spaces within legislatures making binding decisions to formal and informal spaces in the public sphere”. According to her, all deliberative experimentation has its own set of values such as inspiring the citizen,



teaching political skills, or stimulating decision making. Thus the joint set of all the deliberative actions is what she calls the deliberative system and it is something essential to democracy.

Thus, in the light of Jane Mansbridge's teachings, the merit of all those experiments and, above all, their major contribution to the institutional development of parliaments is that they show the tortuous ways beset with obstacles that must be overcome to achieve viable channels for effective interaction capable of fostering more intense symbiosis of representatives and those they represent in modern democracy.

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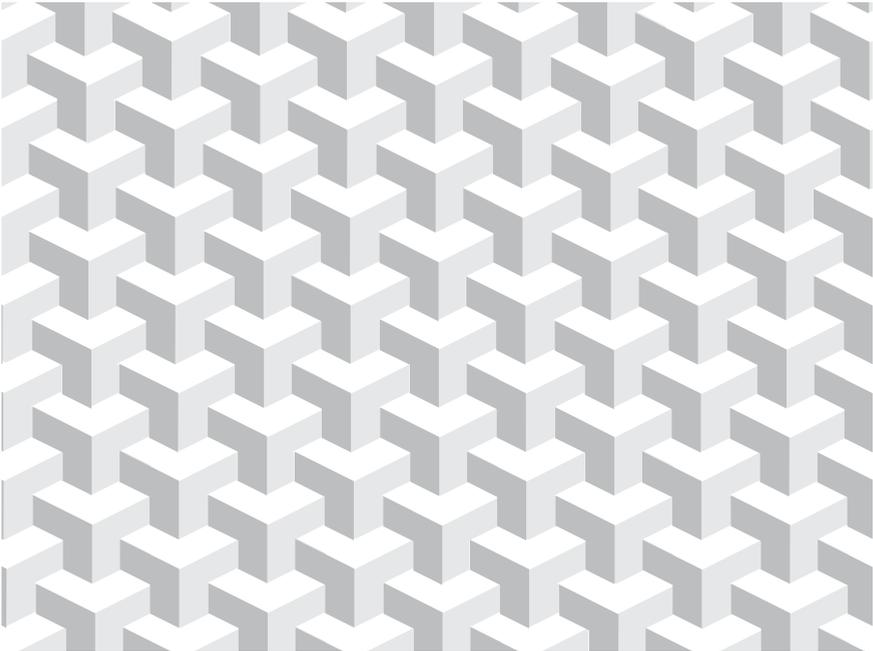
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GLOSSARY



Blog. Derived from the phrase Web Log, is a website whose structure makes it possible to carry out rapid updates by inserting small articles or items known as 'posts'. They are generally organized in chronologically reverse order and the posts are centered on the central theme of the blog. The posts may be written and inserted by a variable number of people according to its policy. Many blogs offer comments or news items concerning a particular topic, whereas others function more like on-line diaries. A typical blog combines texts, images and links to other blogs, web pages and media related to its central theme. The possibility of readers posting their comments and thereby interacting with the author of the blog and its other readers is an important feature of almost all blogs. Source: Wikipedia, with modifications.

Chat. This is a form of on-line conversation in real time. Participants can insert small texts using applications available in the internet and keep up a dialogue with one or more other participants.

RSS. The acronym stands for Rich Site Summary. It is a system that allows internet users to connect to websites specialized in supplying information and news items. The user will systematically receive constantly updated contents known as 'feeds'. It is a practical way of obtaining information from a variety of websites synchronically without having to access them one by one.

ICT. The letters stand for Information and Communication Technology referring to modern technology developed in the wake of the so-called Information Revolution also known as the Telematics Revolution or Third Industrial Revolution. Development of such technology has been taking place since the late 1970s but was greatly accelerated from the 1990s. Most of it is designed to make communication more agile and horizontal and its contents less physical or material by means of digitalization processes and communication in networks which may or may not be mediated by computers and to capture, transmit and distribute information (texts, images videos and sound) It is thought that the advent of this new technology (and the way it is made use of by governments, companies, sectors of society and individuals) has paved the way for the 'Information Society'. Some scholars prefer the term 'knowledge society' to give it a more human connotation and highlight the importance of 'human capital' in a society structured in telematic networks. Among the devices that come under the heading of ICT are: a) PCs, personal computers, b) mobile phones, c) paid TV (cable or satellite), d) e-mail, e) the internet, f) digital technologies for capturing



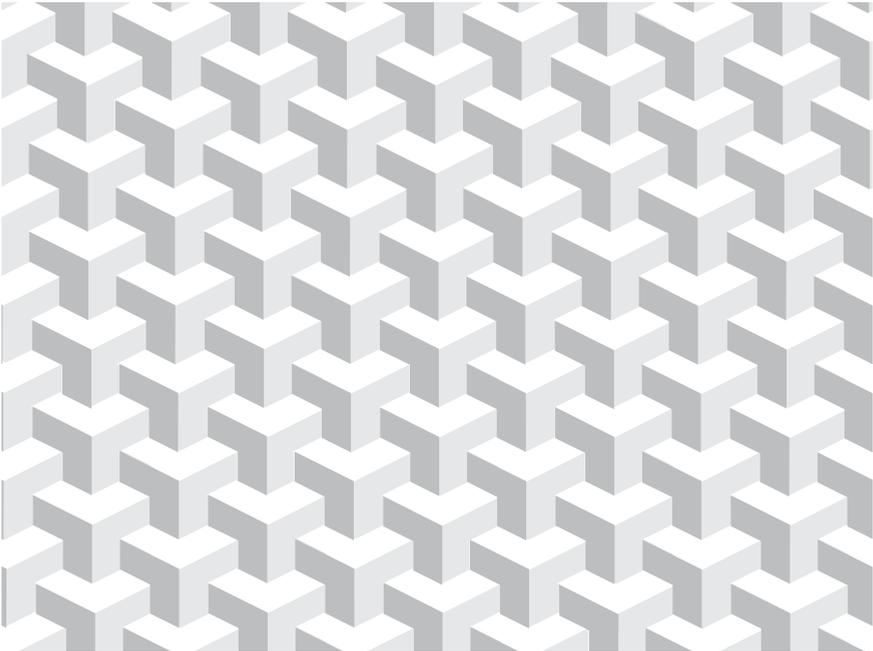
images and sound such as remote access technology (wireless). Source: Wikipedia with alterations.

Social Networks. These are social structures consisting of a people or organizations maintaining various types of relations that share common values and objectives with one another . One of the principle features of such networks is their porosity and openness which allow for horizontal, non hierarchic kinds of relations among their participants. Virtual social networks are specific groups or spaces in the internet that where it is possible to exchange information, ideas and emotions associated to general or specific fields and do so in various formats (texts, images, videos, audios, etc.). There are appropriate softwares and applications typical of the internet that facilitate organization, interaction and the registration of contents and members.

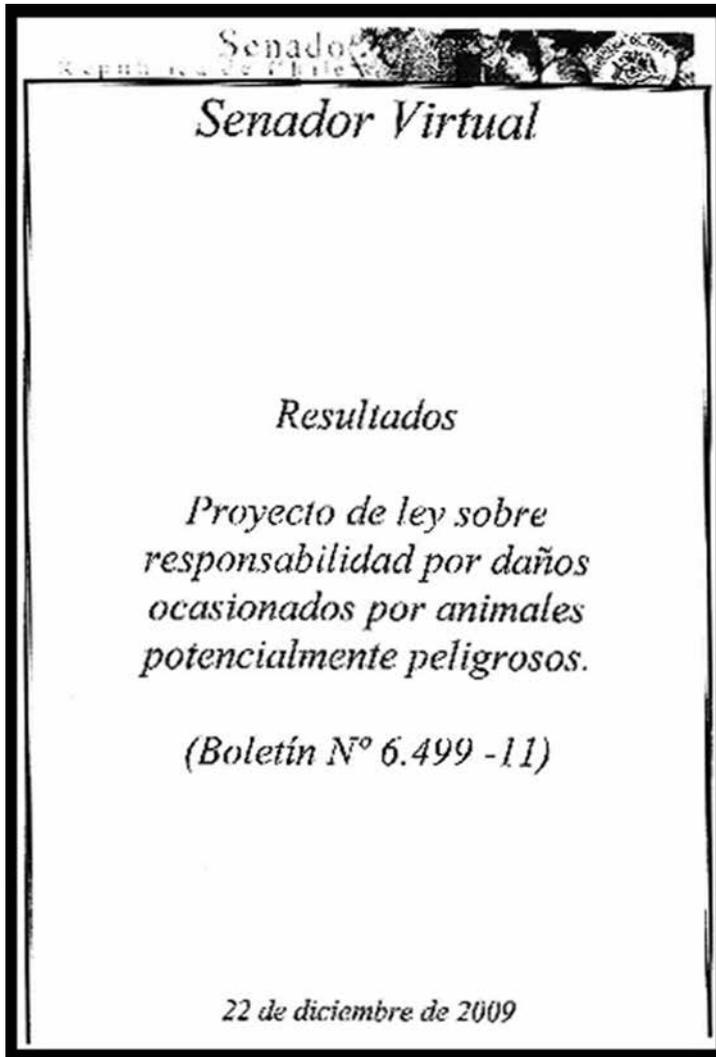
Virtual Community. It is a community that establishes relations among its members in a virtual environment using the technical means available for distance communication. It is typified by the agglutination of a group of individuals with common interests who exchange information and experiences in a virtual environment using the using the interaction tools and applications made available by modern technology such as forums, blogs, chats, polls and so on. Source: Wikipedia, with modifications.

Web 2.0. The term Web 2.0 r internet 2.0 refers to the most recent phase of the internet in the decade beginning in the year 2000 marked by the appearance of devices capable of intensifying interaction between people and computers. The first phase of the internet (1.0) during the 1990s was marked by the existence of relatively simple websites that were capable of handling information, e-mails and, at the most, chats. internet 2,0 introduced the possibility of blogs, more highly developed chat options (on-line chats) and included the possibility of visualization of the participants, also webinars (digital distance seminars), RSS and various other communication accessories. Another important feature of the internet 2.0 is its use by other electronic devices apart from computers and with new applications such as videogames, cell phones connected to the internet and a series of new interfaces making various forms of expression available to human beings.

ATTACHMENT



Example of a Virtual Senator participation results report



RESULTADO DISCUSIÓN EN GENERAL

RESPONSABILIDAD POR DAÑOS OCASIONADOS POR ANIMALES PELIGROSOS. (Boletín N°: 6499-11)

VOTACION EN GENERAL

A FAVOR 1677 EN CONTRA 9596 ABSTENCIÓN 496

IDEAS FUNDAMENTALES

N°		SI	NO	ABSTENCION
1	El proyecto de ley establece normas sobre la tenencia responsable de animales. ¿Está de acuerdo en que, tratándose de animales sin dueño, se faculte a la autoridad sanitaria y a las municipalidades para entregarlos en adopción, subastarlos o someterlos a eutanasia bajo control veterinario?	904	10375	260
2	¿Cree conveniente que las municipalidades cuenten con un registro obligatorio especial de animales peligrosos, que permita la identificación de ellos y sus propietarios?	8816	2133	522
3	¿Está de acuerdo en que el responsable de un animal deba responder civilmente de los daños, sin perjuicio de la responsabilidad penal que le corresponda?	9083	1607	758
4	¿Considera adecuado facultar a la autoridad sanitaria para calificar como peligrosos determinados ejemplares y fijar ciertas restricciones de circulación en lugares públicos con bozal o arnés?	6055	4828	561
5	¿Está de acuerdo en facultar al Ministerio de Salud para establecer un sistema de control de la fertilidad de animales cuando estos proliferen de forma descontrolada?	8895	2080	455
6	¿Cree conveniente que las municipalidades sean responsables por los daños que causen los perros vagos?	4628	5623	1192

OTROS APORTES O SUGERENCIAS

Clasificación	Aportes
Eutanasia, esterilización ver >	3324
Otros aportes ver >	681
Tenencia responsable de animales ver >	573
Animales peligrosos ver >	86
Registro ver >	75
Responsabilidad de las municipalidades por perros vagos ver >	319

VOTACIONES INVALIDAS:

17

Senador Virtual

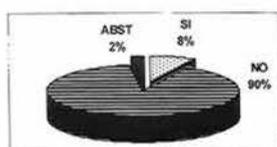
2

Proyecto de ley sobre responsabilidad por daños ocasionados por animales potencialmente peligrosos.

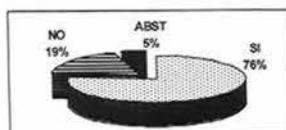
(Boletín N° 6.499 -11)

Participaron 11.769 personas.

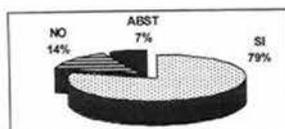
1. El proyecto de ley establece normas sobre la tenencia responsable de animales. ¿Está de acuerdo en que, tratándose de animales sin dueño, se faculte a la autoridad sanitaria y a las municipalidades para entregarlos en adopción, subastarlos o someterlos a eutanasia bajo control veterinario?



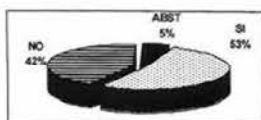
2. ¿Cree conveniente que las municipalidades cuenten con un registro obligatorio especial de animales peligrosos, que permita la identificación de ellos y sus propietarios?



3. ¿Está de acuerdo en que el responsable de un animal deba responder civilmente de los daños, sin perjuicio de la responsabilidad penal que le corresponda?



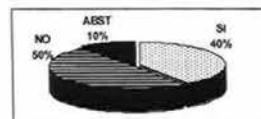
4. ¿Considera adecuado facultar a la autoridad sanitaria para calificar como peligrosos determinados ejemplares y fijar ciertas restricciones de circulación en lugares públicos con bozal o arnés?



5. ¿Está de acuerdo en facultar al Ministerio de Salud para establecer un sistema de control de la fertilidad de animales cuando estos proliferen de forma descontrolada?



6. ¿Cree conveniente que las municipalidades sean responsables por los daños que causen los perros vagos?



Nota: En esta oportunidad no se incluyen los aportes y sugerencias que los usuarios han efectuado a esta iniciativa legal, en atención a que se han recibido un gran número de éstos, los que puede consultar en la opción "Proyectos Votados" en el sitio web <http://senadorvirtual.senado.cl/>

