

Comments—NBP Public Notice #20

The Public Sphere Project respectfully submits these comments in response to the Public Notice, DA 09-2431 released November 17, 2009, seeking information related to "Moving Toward a Digital Democracy." These comments refer to GN Docket Nos. 09-47, 09-51, and 09-137.

The Public Sphere Project (PSP) is a non-profit organization registered in Washington state. The mission of the PSP is helping to understand, design, and develop the world's "public sphere." The public sphere is the information and communication sphere within which all public dialogue occurs. We are particularly interested in democracy and the prospects of collaborative problem-solving. As part of our work we have developed e-Liberate for convening distributed deliberative meetings. We believe that e-Liberate was the first system to use Roberts Rules of Order, a set of guidelines for managing deliberative meetings, in an online, distributed system.

We have structured our response to reflect the structure of the Public Notice. We added a brief introduction and conclusion. Our response specifically focuses on the fourth area of the Public Notice, related to " Online Government Hearings and Online Town Hall Meetings" and we have responded to each question from the perspective of how e-Liberate could be used to help move toward digital democracy. We have also attached two book chapters, each written by Douglas Schuler, the president of the Public Sphere Project. The first is entitled "Online Civic Deliberation and e-Liberate (in Online Deliberation: Design, Research, and Practice, edited by Todd Davies and Seeta Peña Gangadharan; CSLI Publications/University of Chicago Press, 2009). The second one is entitled "Online Deliberation and Civic Intelligence" (in Open Government, edited by Daniel Lathrop, Sebastopol: CA: O'Reilly Press, 2010).

MOVING TOWARD A DIGITAL DEMOCRACY

Introduction

The Internet and other new information and communication technology (ICT) introduce vast new opportunities for effective citizen engagement in democratic societies. Realizing this potential will not be easy, certainly not automatic. If it is realized at all, it will be hard-won, the result of creativity, dedication, intelligence, and inclusiveness. Although deliberation is a critical cornerstone of democracy it is difficult to organize or convene effective deliberative venues and it is difficult for people to participate effectively within them. For many reasons citizen deliberation has rarely been tackled directly by ICT.

Here is the definition of deliberation from Schuler's chapter in the upcoming Open Government book published by O'Reilly that helps present our perspective:

"Deliberation is a process of directed communication whereby people discuss their concerns in a reasonable, conscientious, and open manner, with the intent of arriving at a decision. Deliberation takes different forms in different societal contexts and involves participants of myriad interests, skills, and values. It is generally more formal than collaboration or discussion. While some people may balk at this "tyranny of structure," it is the shared awareness of the structure that provides legitimacy and impetus towards meaningful discussion and satisfactory decision-making."

We define *Civic intelligence* as a form of *collective* intelligence that is directed towards shared challenges. Its presence or absence will determine how effectively local as well as global challenges are met. Civic intelligence exists to a greater or lesser degree in all societies. Significantly, deliberation is an important capability within the more general capability of civic intelligence. After a decision is made, there is presumably an opinion or frame, activity or plan that is shared by a larger number of people. The intended product of deliberation is a more coherent vision of the future. It can also result in increased solidarity within a group or nation.

A democracy can only be deemed healthy if meaningful deliberation occurs at all levels. So, although this Public Notice appropriately delineates certain domains to be within its purview, the ability of civil society to deliberate not just with government but within itself is also critical. Presumably many of the socio-technological approaches developed within this framework will be appropriate for groups and organizations within civil society as well.

a. What are the technological models across cities, states, the nation and the globe for citizen participation in government meetings and online town halls?

The development of a broad range of information and communication technology (ICT) has given rise to numerous experiments and approaches to public deliberation over the past 30 or 40 years. At this point there seems to be few standards and very little support for deliberation. To some degree it is the lack of shared models that helps prevent forward progress and integration.

Schuler first proposed using Roberts Rules of Order in his 1996 book *New Community Networks* as a possible solution to the lack of deliberation online. It was several years before the first version was developed by Schuler and his students, and has gone through several iterations. E-Liberate was developed to help groups of people who are separated by distance to deliberate together using an approach they were already familiar with. Roberts Rules of Order was the first major codification of a protocol for citizen deliberation in the U.S. Its immediate popularity (which greatly surprised its creator Henry Robert) demonstrated the pent-up desire for citizen collaboration and deliberation. E-Liberate is still very much in the development phase although a somewhat modified version has been used in several public deliberation settings by Fiorella de Cindio, at the University of Milan in Italy (as well as being on the PSP board of directors).

Our decision to use Roberts Rules of Order as the underlying methodology was based not only on the fact that it provided a model upon which to build. We respected the fact that the approach is in daily use by thousands if not millions of people in government and in civil society in the U.S. and elsewhere. We believe that the online environment offers several potential advantages beyond the reduction in travel costs and the ability to support the participation of people who would otherwise not be able to do so. This includes the ability to help guide participants in their use of the tool (by, for example, only showing the legal actions that can be initiated at each specific time). The help system provided by the tool also explains the purpose and effect of each action that participants can initiate. Thus we believe that the system actually helps *teach* deliberative approaches. E-Liberate also conducts voting and provides an actual transcript of the meetings it convenes.

On the other hand, we also realized that Roberts Rules of Order isn't the end-all and be-all of deliberative approaches. Our focus on Roberts Rules doesn't blind us to other options. To a large degree our choice is intended to promote a foundation or shared touchstone. In our next version, it will be possible to modify

the Rules to accommodate variants that various institutions use. It will also be possible to add additional group processes (such as brainstorming or straw polls). We are also interested in incorporating various "digital objects" (such as budgets and calendars) into our meetings in future versions.

The integration of e-Liberate and broad-band technology represents a variety of intriguing possibilities that we hope to explore as part of the process of moving towards digital democracy. In addition to using e-Liberate to help manage meetings, the system could provide an interface to a variety of information and communication sources, such as transcripts or other meeting documents, such as budgets or committee reports. It could also help provide user interfaces to a variety of devices to allow people to add to the public record, participate in straw polls, etc.

b. What are the barriers to the integration of these technologies?

The barriers to successful deliberation are not exclusively technological. Many political scientists and others maintain that deliberation in the United States has degraded over the years and that thinking about — and working towards — improvement of the state of our civic culture is as important as the development of technology. Having said that, it is clear that with some technological approaches, legitimate deliberation is more likely to occur. The key to successful deliberative systems is success with deliberative systems. This is unlikely to improve without thoughtful and sustained government incentives.

First it must be acknowledged that not only is deliberation is vastly more complex than e-commerce, there is a lack of financial reward for implementers — at least in the short run. This has undoubtedly hampered commercial development of viable commercial systems. It is also true that the technological environment is changing rapidly, thus presenting a target that is moving too quickly. For that reason people often declare deliberation to be an evolving or emerging property that is almost totally dependent on what is current technology, whether it is Web 2.0 or Twitter. From the potential participant perspective there is the a perceived lack of benefit from such involvement. The costs seem to significantly outweigh the benefits. Deliberation (at least at the more formal levels) is also far more difficult than conversation or buying things. There is presumably a learning curve to deliberative techniques (although our job is to make it less steep). Finally, it should be noted that people without a real understanding of Roberts Rules of Order (or other formalized systems of meeting facilitation) often feel lost when observing meetings in progress. Thus making whatever "rules" are used, as easy and as intuitive as possible is an important goal.

On the technological side, there is a lack of shared and formalized models. There also needs to be publicly available open standards for technology integration that support evolution over time. In addition to providing a model that has stood some tests of time, we are working on creating a customizable protocol language that can be used to create deliberative sessions and a protocol engine that can convene meetings based on the protocol (Roberts Rules of Order, for example) and information about the particular session.

In addition to further development of the technology, we need to think about how to reduce costs (real and perceived) and increase benefits (real and perceived) to participation. We need to increase transparency and legitimacy. These of course can all help rebuild our civic culture. Government needs to sponsor grand challenges that offer goals, incentives and encourage technological development and meaningful trials with real people in the real world. Without some type of sustained support efforts will generally be one-offs.

There are a host of legal and other aspects of the social environment in which the system operates that

must also be considered. In addition to establishing whether a quorum exists, a variety of other requirements including the timely distribution of the notice of meeting, who can attend, and what type of access must exist for all types of participants, must be translated in suitable ways into the digital medium. Finally we can only raise the issue of well does e-Liberate and other systems perform when used by larger groups. The only way to understand and learn about that is to host meetings with larger numbers of people — 50, 100, 1000 — and observe the results and interview the participants.

c. Do online town halls or online public hearings have a noticeable impact upon the quantity or quality of civic participation?

There is evidence coming in that online venues can have a positive effect on participants. To our mind, the most important answer to this question and the ones that follows is another question: *what needs to be done to help ensure positive outcomes?* And answering this question can only be via a by-product of two activities: developing viable deliberative experiments and encouraging extremely broad participation among all Americans.

The provision of a digital model can be integrated with broadband technology in many ways: (1) it can actually "drive" the meeting (as e-Liberate does in the non-broadband digital world); and (2) providing a user interface to the meeting that provides status information and other relevant information such as reports, budgets, etc. and (3) handling the exchange of non video and audio information, for example, if a person wants to raise a point of order, wants to be added to the queue for speaking, propose an amendment, or vote. This interchange should consider the integration of various germane "digital objects" into the meeting, a capability that was certainly not available to Henry Robert.

A meeting protocol is basically the model of how the meeting will be convened, including what types of activities and how individuals can participate. The idea of customizing this protocol allows for variants of the rules being used to be modified. It could also help unleash a creative outpouring of new collaborative modes. This feature would allow, among other things, the ability to integrate deliberative with other collaborative technology like brainstorming or collaborative editing. It is hypothesized that developing software that could support a variety of protocols, along with the ability to inspect and modify the rule-base, would make new deliberative projects plausible without necessarily changing the functionality of the basic Robert's Rules core. It may be possible to develop a variety of "plug and play" modules that could support exploration in the area of "deliberation-in-the-large" (discussed below) in which individual meetings or sessions ("deliberation in-the-small") are linked. It could also lead to integration of this point on the Public Notice with the other three capabilities.

At present, e-Liberate supports online deliberative meetings, discrete sessions that aren't linked in any way to each other. But deliberation is an ongoing process — not a sporadic, context-free occurrence that has neither history nor consequences. The ongoing nature of deliberation suggests that an online tool that helps maintain institutional memory would be especially useful (including the retrieval of agenda items that had been postponed in prior meetings). This suggests a need to link sequential meetings possibly including sub-committee meetings. In many collective enterprises, it is common to break the larger group into smaller working, distributed subsets like committees or consortia and the system should support that.

There are also several capabilities related to integration with other services like e-mail, fax, mobile telephones, etc. Invitations and other notices are already sent electronically to e-Liberate participants and there are other times when e-mail communication should be invoked.

d. Do online town halls or online public hearings bring new citizens into the process of government?

We believe that the answer to this question and the next have been addressed in the response to question c above. The technology can help bring new citizens in but policy changes may also need to be introduced. Partnering with educational institutions, civil society organizations, and the press may also be needed.

e. Would Internet-based technologies make it easier for those who have to travel long distances (such as people in rural and Tribal areas) or people who have difficulty traveling (such as some elderly or disabled Americans) to engage in the process of self government?

We believe that the answer to this question and the previous one have been addressed in the response to question c above. The technology can help bring new citizens in but policy changes may also need to be introduced. Partnering with educational institutions, civil society organizations, and the press may also be needed.

f. What is the history and current state of play of the relevant technologies with respect to online town halls or online public hearings?

Robert's Rules of Order was developed over a 40-year period by Henry Robert beginning in the late 1800s. Robert's "rules" defined an orderly process for face-to-face meetings in which the goal was to make decisions fairly. One of the most important objectives was to ensure that the majority could not silence the minority—every attendee would have opportunities to make his ideas heard. At the same time, however, the minority could not prevent the majority from ultimately making decisions. One of the interesting observations about the Robert's Rules process is that it seems to be useful at a variety of scales: groups with just a handful of members can use them as well as groups numbering in the hundreds or even more. Robert's Rules of Order is now used by thousands of organizations around the world every day, and in fact, its use is legally mandated in many government and civil society meetings.

Robert's Rules of Order is a type of "protocol-based cooperative work" system. It is related to Malone's "semi structured messages" work and the work done by Winograd and Flores (which was built on the "speech act" work of John Austin). Those examples all employ "typed messages." The message "type" is, in effect, a descriptor of the message content, and because it is discrete it is more easily handled by computer applications than natural language. There are several reasons why a strict regimen over communication may be imposed. Generally, this is done in cases where there is contention for resources. In the case of deliberation, the scarcest resource is the time available for speaking. This is generally true in situations when explicit objectives and/or formal constraints are placed upon the venue—in a courtroom or with a legislative body, for example.

Conclusions

Finally, as has been alluded to above, we live in an era where problems aren't always confined to one country. The need for international and other cross-border initiatives in which the participants are not elites is critical. The expression "deliberation-in-the-small" can be used to describe a single meeting. Although a single meeting is the foundation of deliberative discourse, it's only a molecule in the universe of social learning, or what could be called deliberation *in the large*.

Addressing the broader issues of deliberation in-the-large can be faced in several ways, from a piecemeal bottom-up approach, linking, for example, human rights groups in some way, perhaps via an e-Liberate

like system, perhaps not. The other, somewhat orthogonal approach, is to design and implement (and evaluate and critique, etc.) new systems that explicitly address this issue in a more top-down way. Our approach readily combines both approaches and allows for others not yet identified. We are proposing a loosely-linked, collaborative enterprise that combines both theoretical and applied research, information and communication technology (ICT) design and implementation, public and popular education, and policy work. We are looking into deliberation-in-the-large as an important "grand experiment" that should be taken up in a broad social dialogue. Part of this is related to inherent rights of people (to communicate, deliberate, participate, etc.), and part of this is related to the necessity of global communications on issues such as climate change.

References

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