Parliamentary Institutions and Cyber-democracy

by François Côté

The Internet has increased the public's freedom of information, freedom of speech and freedom of action tremendously. This article focuses on two challenges posed by the harmonization of cyber-democracy and our tradition of parliamentary democracy: first, how to marry active voter participation and parliamentary legitimacy; second, how to protect the separation of powers.

The "connected" public enjoys a level of autonomy, previously inconceivable. With even the most basic of web-surfing skills, people can quickly access an unprecedented wealth of information. Moreover, the Internet allows people to link with one another and to sometimes resolve directly issues that not so long ago would have been deferred to elected officials or bureaucrats.

This is one of the most beneficial uses of the Internet. It invites people to a new activism that is highly laudable. In addition, it allows many web surfers to forge virtual community ties, to form opinions and to seek out their collective voice. We applaud all of this because the clearest indication of a democracy in good health is the determination of individuals to involve themselves in political life.

However, in a society governed by the rule of law, the practice of democracy is not restricted to popular initiatives, however desirable they may be. Such a society is governed by laws that must be enacted by authorities whose legitimacy rests on universally recognized foundations. This holds even truer for a complex society such as ours, where the people do not govern themselves directly; rather, they express their sovereign will through the representatives elected to speak in their name.

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In Quebec, this authority is vested in parliament, composed of the National Assembly and the Lieutenant Governor. Within the National Assembly, the members, in casting their votes, give the sole legal expression to the common will.

Therefore, parliament is inevitably the hub of the process by which we formally and collectively declare who we are and how we wish to live. The rules and principles governing our collective life ultimately draw their legitimacy from decisions made in our parliament.

That is why parliament's role cannot be ignored in any consideration of cyber-democracy and the various actions which may result from it. We cannot allow parliament to be marginalized or people to imagine that popular demonstrations, whether in the streets or on the Internet, are the real expression of the will of the people.

Unfortunately, the Internet could contribute to fueling this misconception, as it lends itself readily to a sort of direct virtual democracy. In this guise, it enlivens what might be called "democratic competition", fundamentally a good thing for any free society. But it can also give web surfers the illusion that everything, or almost everything, can be resolved in cyberspace, without any other formality.

In short, to be real and effective, cyber-democracy must not undermine the role of parliament; on the contrary, parliament must be given a central place. This is why it is important to show the public that the best way to participate in their own governance is to forge a partnership with the National Assembly and its members.

The first challenge is thus to marry popular activism and parliamentary legitimacy.

Protecting and strengthening the separation of powers

The second challenge concerns the relations between parliament and the public service. As you know, our political system is founded upon two main principles: the separation of powers and the supremacy of parliament.

The separation of powers is fundamental to all democracies. It protects the people from the inappropriate concentration of power in the hands of a single group or individual. It also permits each of the three branches of power—the Legislative, Executive and Judiciary—to function independently, being circumscribed and balanced by the other two.

Parliamentary supremacy refers not only to the role of monitoring the Executive, which in our constitutional system is devolved upon to the legislature, but also to the fact that parliament alone has the power to establish the rules of public law.

Although the public service has greater resources than the National Assembly, its legitimacy hinges entirely on decisions made by the members of the legislature.

Too often, the terms "parliament" and "government" are confused in the minds of the public. People vaguely consider them synonymous with a complex and mysterious apparatus–a regrettably almost chronic source of cynicism.

Here again, the Internet, which we want to use in the service of democracy, may paradoxically, at times, be the cause of undesirable situations. The National Assembly and branches of the public service are already competing on the Internet with a multitude of organizations of all sorts. Moreover, the National Assembly and the public service are even competing with each other to some extent.

I mentioned earlier that "democratic competition" within a society is fundamentally healthy. However, some organizations must never be in competition with one another, and that is precisely the case of the National Assembly of Quebec and the public service of Quebec. Not only is competition between these two bodies contrary to the fundamental principles of our constitutional system, but it runs the risk of heightening the confusion that already exists in the minds of the public.

Such competition would also be profoundly unequal. The public sector is relatively extensive; it comprises more than 20 ministries alone, and each has its own website. The National Assembly has but one site and far fewer resources at its disposal than does the administration. Therefore, what must be done to establish a good partnership?

The primary objective is to eliminate any ambiguity in the relations between the various public organizations in their respective areas of jurisdiction. More specifically, with each action taken in cyber-space, the public must always understand who is involved, in what context and for what purpose.

In the case of an online consultation, for example, people must know not only which organization is sponsoring an initiative (governmental or parliamentary), but also:

- the circumstances or reasons behind its consulting the population;
- who exactly will hear witnesses—will parliamentarians be present, or only public officials;
- the rules governing the consultations;
- whether the hearings will be public or not; and
- what future decisions or measures will be affected by these hearings.

If these guidelines are put into practice, it should be relatively easy for the public to draw a distinction between the measures taken by the Assembly and those taken by the Executive. In fact, it goes without saying that simultaneous consultations on the same topic must be avoided. Therefore, if a parliamentary committee holds consultations on a given subject, the ministry or organization concerned should refrain from soliciting the public's opinions via the Internet.

This issue is an important one: at stake are the effectiveness of our respective actions and the need for the public to recognize their legitimacy.

> *In attempting to make cyber-democracy flourish, we must avoid creating "cyber-anarchy" at all costs.*

Those are the two major challenges cyber-democracy poses. I would now like to say a few words on the use of new technologies in a parliamentary setting.

Interaction between the public and parliament in the era of modern communications

Since the 1990s, the National Assembly has been trying to get the very best out of what new technologies have to offer as a way to strengthen ties between it and the public.

In terms of information, the National Assembly has established a whole range of programs to inform

Quebeckers about their parliament. However, the true cornerstone of our information initiatives is our website.

Inaugurated in May 1995, and continually expanded since then, our website contains a wealth of information on the members, the National Assembly's business, and our rich parliamentary history. Aside from new projects currently being prepared, including the possibility for people to add their name to mailing lists, it would be fair to say that our Assembly ranks very favourably with other parliaments around the world, in this regard.

We are up to speed in consultations too. As you are certainly aware, the public hearing of witnesses is the preferred means of parliamentary committees to broaden their knowledge in a particular field.

In fact, traditional hearings reach a limited segment of the population only. To correct this shortcoming, we have explored two avenues, at least as far as the first initiative is concerned.

The first involves three online-consultation pilot projects. Given the importance the Secrétariat of the Conseil du trésor has given to its new government portal for online consultations, allow me to elaborate on these experiments.

Between June 2000 and February 2004, National Assembly committees organized the three following online consultations:

- The first consultation was held in the fall of 2000 on the topic of the political and socioeconomic effects of the Free Trade Area of the Americas for Quebec (39 submissions and 25 opinions on line);
- The second online consultation was held in the fall of 2002 on reforming our voting system (134 submissions and 38 opinions on line); and
- The third online consultation was held in the winter of 2004 on new issues in food safety in Quebec (80 submissions and 112 opinions on line).

These three series of consultations were organized along similar lines. Through the Assembly's website, the public was invited to complete a questionnaire based on a working paper, which was also available on-line. Respondents were asked to identify themselves, since anonymous replies were not permitted. Participants were sent automatic acknowledgements of receipt containing the text of their answers.

Analysis of these three experiments led us to a number of conclusions with respect to the role and future of online consultations:

- firstly, it is too soon to hope for —or fear—massive public participation in such exercises. Turnout was very modest, particularly in the first two. The main reasons for these results might be the subject chosen, the complexity of the questionnaire, the publicity for this new means of expressing an opinion, or perhaps,

the proportion of the population with access to the Internet at the time;

- online consultations will not replace traditional public hearings; they will remain, in the foreseeable future, complementary to public hearings. The answers received were by and large brief and spontaneous, and very few respondents provided detailed information or the structured reasoning usually found in a formal submission. The vast majority of respondents likely had not even read the consultation document;
- the information collected was nevertheless useful. It made the MNAs aware of the opinions of ordinary citizens, drew their attention to aspects of the subject they might have missed and complemented the data provided by experts.

We are convinced that online consultations have a definite future in the National Assembly. However, before the practice is expanded, there is still work to be done. In this respect, we must pay particular attention to the formulation of the questionnaire, because it is a key factor in the success of consultations. Our questionnaires must be user-friendly and aim for the right balance between multiple choice questions and open-answer questions.

The same applies to working papers. They must be more reader-friendly if they are going to be read. The highly technical language common to many official publications must be avoided, and a clear and simple approach used.

The second avenue we wish to explore this fall will involve videoconferencing technology. In this experiment, a designated parliamentary committee meeting in a specially equipped room will hear witnesses from various regions of Quebec. Signals will be carried by phone line and perhaps even via webcam. To ensure the necessary technical support is available in each region, we will call on local partners, who will provide the required staff and equipment on site. At the end of the project, we will collect participating members' comments and suggestions in order to assess how to follow up this experiment.

Lastly, the highest level of interaction, which is active public participation – ultimately even in the parliamentary decision-making process itself – is an especially delicate issue, and we have yet to address it.

The current practices of certain parliaments, such as those of Australia, Scotland and a few American states, are of interest and should be documented. They include:

- inviting the public to address electronic petitions to the Assembly;
- holding online discussion forums, moderated by either a member or an expert, the goal and scope of which would vary according to the subject being studied and the committee's terms of reference; and
- accepting proposals for amendments from the public to bills under consideration.

While the potential benefits of these possibilities are enticing, they also present obstacles .

On the institutional front, they would require the National Assembly to change some of its procedures. They would also require expertise that we do not yet have – to organize and moderate online discussions, for example. Members not only would have to adjust to a different way of working, but would have to accommodate in their deliberations a public called upon increasingly to become an active partner.

Collaboration between parliament and the public service

Until now, I have emphasized mainly the distinctions between parliament and the public service. I do not, however, want to neglect the collaboration we must seek between these two entities. In specific terms, allow me to suggest three possibilities:

First, as both the National Assembly and the public service are launching into cyber-democracy, it appears to me completely logical for them to draw mutual benefit by sharing – on a purely technical level – the fruits of our respective experiences.

The National Assembly has already organized three online consultations; different government branches have done the same. To share our experiences, for example, with respect to advertising techniques, questionnaire drafting, technological environment design, etc, could be mutually beneficial.

As well, online consultations may become widespread in years to come. We would then have to ensure respect for the separation of powers; and I earlier suggested guidelines in this regard.

In addition to this, I believe that it would be useful for the National Assembly and the Executive branch to inform one another of all proposed or ongoing online consultations. By doing so, members and senior bureaucrats alike could better focus their respective actions and avoid overlap.

Lastly, since the National Assembly and the public service both operate in a society that is increasingly "connected", I believe it would be wise to start thinking about how these two institutions communicate with one another, specifically when it comes to parliamentary control.

Indeed, departments of the public service, through their minister, send the National Assembly more and more texts of bills and reports on their management and activities. Most of the time, however, only the hard copies reach the National Assembly.

Why not start right now thinking about a way to digitize and integrate this process? This question has two aspects I deem to be particularly promising:

- The electronic transmission for official "tabling" of all papers required by law to be tabled in the National Assembly; and
- The digital processing of the entire process of drafting, considering and publishing legislation and amendments, which is generally referred to as "bill processing".

I hasten to assure you that we are very much aware of the technical and other difficulties that digital legislative processing in particular would entail. However, we all share the duty to ensure modern and effective management of our resources, on behalf of taxpayers. New communications technologies offer alluring possibilities in this sense. In my opinion, it is our duty to look into them.

We live in an era that can be characterized as "revolutionary". Regardless of what some experts say, the shape our democracy will take at the end of this revolution remains, for the most part, unpredictable.

> *It appears, however, that cyber-democracy is not a panacea; it cannot, on its own, close the democratic deficit.*

As powerful as the Internet may be, it is but one of many tools. It must be used with skill, but we must also know when to choose another more appropriate tool

The pressure of new technologies is already such that we may safely wager that our representative democracy will not follow traditional models for much longer.

This is hardly problematic: parliamentary procedures are not and never were cast in stone. Over the centuries our parliamentary system has changed to the point of becoming unrecognizable now.

Our parliament must remain open and responsive to socio-cultural and technological change in our society. But we must avoid the temptation to rush these changes before we know the consequences. Let us take the time we need and give the thought required in order to design intelligently and with foresight, and to manage cautiously and wisely, the very best combination of our democratic heritage and the possibilities offered by the new technologies. Therein lies the real challenge of cyber-democracy.