

GOVERNMENT BY THE PEOPLE

Beth Simone Noveck

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Our representative institutions of democracy create “single points of failure,” the concentration of power in the hands of too few, whether legislators in Congress, bureaucrats in the administrative agencies or cabinet officials in the executive branch. The insider-dealing and money-politics that have been the hallmark of the Bush administration exacerbate mounting illegitimacy and distrust of government. And with the complexity of our global economic and environmental crises, the strain on our institutions becomes increasingly manifest. Even in the absence of bad intentions and overt corruption, our political professionals are not in possession of the best information or expertise to make decisions in the public interest.

Bad decisions not only produce bad government; they lead to grave

consequences for jobs, the economy, education, healthcare and every issue of importance.

The solution is not only to pass laws against dishonesty and corruption. It is not even greater transparency and “sunshine” —knowing more about who takes an official to lunch. The answer to improving the legitimacy of our democratic institutions is nothing short of a fundamental overhaul of the practices of government to eliminate the single points of failure. We need to redesign democracy as a system of collaborative governance where more people are empowered to participate actively in making the decisions by which we order our collective lives.

We can now use Internet technology to build a 21st-century government that opens up many processes previously considered the realm of governmental professionals. There is a competition for talent between the public and private sector, but government need not lose this contest. Instead, we have the tools to extend the intelligence and improve the competence of an institution if we can connect it to the expertise of networks of people outside of government.

In the Peer-to-Patent project, the US Patent and Trademark Office has already begun by opening the examination process to scientists—not only to the examiners employed by the patent office, laboring under a dearth of pertinent information—for help deciding whether an invention deserves a patent. But this should be just the beginning. We could enable local communities around the world to submit information and photo-documentation to environmental authorities to inform decision-making about clean air and water and create accountability and impetus for clean-up. We could appoint citizen juries to “shadow” the work of every cabinet official or agency head. We could even empower local groups to spend money on our behalf —reporting back on how they addressed specific problems and thereby becoming eligible for more funding. We have the tools that allow government to

solicit help from those with know-how, passion and enthusiasm.

The notion that government knows best is a myth. Even in the absence of bad intentions or personally corrupt motives, the bureaucrat or politician in Washington simply lacks access to the right information and useful ways of making sense of good science. In a survey of environmental lawyers, for example, law professors J.B. Ruhl and James Salzman found that only 8% of respondents thought that the EPA has sufficient time to search for relevant science and only 6% believed that agencies employ adequate analysis. No matter how civic-minded the government official, she is blind to many opportunities to pursue the public good.

Ordinary citizens have more to offer than voting or answering polls. People can work together to gather and analyze information, and even make decisions. The official no longer needs to be the sole decision-maker. This is a radical idea, but one whose time has come. In the world before the Internet, it made sense to believe that accountability in a democracy could only happen once every few years at the polling booth, where individuals go to throw out unqualified elected officials. While we evolved new measures such as ballot motions and referenda, these also only allow for a thumbs-up or down vote. Ordinary citizens have more to offer than voting or answering polls. People can work together to gather and analyze information, and even make decisions. The official no longer needs to be the sole decision-maker. This is a radical idea, but one whose time has come.

The idea of citizen participation is not new, of course. Proponents of “deliberative democracy” have long argued for what they call the public exchange of reason and advocated for public hearings and town halls—and on-line versions of same—for citizens to talk about the business of government. But those deliberative conversations do not connect to action. They are generally one-off affairs, not tied to governmental practices of agenda-setting, policy-drafting and decision-making.

Effective government operations demand ongoing engagement—even if only for a few minutes a day.

Politics is hard and complicated. Most observers think that people are too busy to do the work of professionals in government. But such naysaying misunderstands the issues. The EPA doesn't need 100,000 people to work on the issue of asbestos or mercury. The congressman doesn't demand 10,000 citizens in a jury. While some issues attract a huge number of people, obscure (yet important) decisions get made every day in government that could be made better if we used technology to open up participation and oversight to a few dozen experts and enthusiasts, what blogger Andy Oram calls the micro-elite, the five or ten or hundred people who know best, and a percentage of whom will want to contribute to solving community problems or clarifying community knowledge.

Some will counter that more active involvement in government by private citizens self-selecting to participate will only increase the risk of corruption. If we design the practices of 21st-century governance to split up tasks into many smaller fact-gathering and decision-making exercises, we'll diversify against the risk of defection. It will also make it easier for busy people to do the work of participation. And if we design governmental decisions to be made in groups, group members will keep each other honest and blow the whistle if corruption occurs. In other words, if we start to think about governance as a much more granular and limited set of practices, we can delegate greater power to citizens to gather facts, spend money and make decisions.

Empowering people requires designing and building appropriate technologies and also enacting the best legal and policy framework to change the way government works. We should begin by:

- Employing “social networking” technology to create on-line networks based on expertise and interest in particular issues and decisions

- Delegating government practices like fact gathering and analysis to collaborative, on-line groups. This means getting governmental authorities to communicate their needs to citizens so that people understand what is being asked of them and can supply information to government in manageable and useful ways
- Mandating (through Executive Order) that every government agency develop a 21st-century government plan to engage citizens in its decision-making practices and report to OMB and to Congress on its progress. Every agency should undertake at least one pilot program each year
- Encouraging corporations, venture firms and philanthropies to support 21st-century government innovations by funding pilot projects for government institutions and awarding prizes for success
- Amending the E-Government Act of 2001 that was enacted to enhance access to government information by citizens through the Internet. Funds should be appropriated to institutionalize 21st-century government pilot programs
- Mandating (through legislation) that every congressperson and agency head convene a citizen jury to whom she regularly reports, and impose a duty to justify departures from the group's recommendations
- Mandating (through legislation) that the federal government provide information in formats designed for data retrieval and use, so that government information can be easily analyzed, mashed-up, visualized and used by those outside of government. This means offering the data in an open format that does not require special tools for reading, and in a documented, predictable structure that makes it easy to automate queries

- Creating a cabinet-level Chief Technology Officer post responsible for articulating and reporting to the nation a vision for 21st-century government and its progress

The most forward-looking companies know that innovation comes not from the center but from the periphery, from customers and employees, not from management. This same idea has yet to be applied to government. If we start collaborating actively to govern ourselves, we will both reduce corruption and strengthen democracy.

About the Author

Beth Simone Noveck is professor of law and director of the Institute for Information Law & Policy at New York Law School and the McClatchy Visiting Associate Professor at Stanford University, Department of Communication. Professor Noveck is the founder of the Democracy Design Workshop, an interdisciplinary “Do Tank” (<http://dotank.nyls.edu>) dedicated to deepening democratic practice through the application of both legal code and software code. She (and her students) blog at <http://cairns.typepad.com>. Her book, *Wiki Government: How Technology Can Make Government Better, Democracy Stronger, and Citizens More Powerful* will be released by Brookings Press in 2009.