

The Legislative Openness Movement

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In recent years, parliaments, together with civil society, have increasingly engaged around the concept of parliamentary openness. In my remarks this afternoon, I would like to address three issues: 1) why has parliamentary openness emerged as a global challenge, 2) what are some of the good practices being advanced by parliaments in partnership with civil society, and 3) how the Italian Senate and other parliamentary institutions can share information internationally on what works and what does not work on this issue.

Parliamentary Openness as a Global Challenge

We live in a time of technological disruption and extremely rapid socioeconomic change. One of the defining issues of our time is whether our governance institutions will be able to adapt rapidly enough to harness this change, or whether they will be overwhelmed by it. In the private sector, the tech industry praises disruption. If Uber, Lyft or another ride-sharing service disrupts the traditional taxi business, drivers may lose their jobs or need to be retrained, but the end result may be greater consumer choice. Disruption in politics is different — and the stakes are far higher. When technology disrupts politics, it can consolidate and embolden extreme viewpoints while undermining the role of traditional mediators in the press, policy shops, and representative institutions of government. This paves the way toward partisan gridlock, radical populist appeals and even interference in democratic politics by authoritarian regimes — ultimately damaging citizen confidence in democracy itself.

I would like to share two quotes that illustrate the challenge before us. The first quote is actually a tweet from San Francisco civic innovator Catherine Bracy: “Citizens using 21st cent tools to talk, gov’t using 20th cent tools to listen, and 19th cent processes to respond.” Parliaments are, by their nature, products of tradition and are slow to change. Tech entrepreneurs often boast about failing 20 times before succeeding, so long as the end result is a profitable venture. But if a parliament or government fails with just one out of 100 different laws or initiatives, it is considered a failure. A government may successfully thwart hundreds of planned terrorist attacks, but if it fails to prevent one, it fails with the public. Government institutions and parliaments are, by their nature, risk-averse and, as a result, have not adapted as rapidly as citizens’ expectations have evolved.

This brings me to the second quote I would like to share, which is from a group called Code for America that is working to make governments and parliaments more

user-friendly: “User-centered design isn’t just how we should be designing technology, it is how we should be designing our democratic institutions.” User-centered design is simply the idea that a product or service should serve the end user’s needs, desires and capabilities. We know what this looks like in commerce. Ordering a book on Amazon, for instance, is very easy. Now, you do not even need to go to a website. If you have an Amazon Echo in your home, you can just say out loud that you would like to order a book, or groceries, or a pizza, and it will be shortly delivered to your door. Compare this experience with what a constituent needs to do to understand what a bill does, where a bill is in the legislative process, how that bill impacts the existing body of laws, who their legislator is, and how to provide input into this process.

Making government more ‘user-centered’ is clearly not an easy task. At the same time that citizen expectations are rising, the ability of legislatures to respond to this challenge is, in some ways, becoming more difficult. The rise of social media has contributed to political polarization and made compromise more difficult. It used to be that a handful of television networks provided most news for most citizens; these networks were also fairly similar in terms of their perspectives. Today, increasing numbers of people get their information primarily through social media, and those news feeds are increasingly tailored to respond to their particular individual preferences. More and more of us live in a filter bubble, where we interact online only with people who share our worldview. This bias toward polarization has been further amplified by the existence of financial incentives to spread wholly invented “fake news” and the use of artificial intelligence and botnets to “juice” or amplify certain stories to appeal to particular constituencies.

Parliaments are feeling these effects, as they reflect the polarization in the electorate and as civil political discourse decreases. Google “parliamentary fist fights” and you will see examples from many parliaments in the world. At the same time, parliamentarians are being asked to navigate a more polarized environment, they are also being asked to negotiate in a far more transparent world. Too often, parliamentarians find themselves talking to their “base” and to the cameras, rather than to their colleagues across the aisle. Although it is almost impossible to negotiate a peace deal in public, parliaments are asked to negotiate laws in as public a way as possible, further contributing to the challenge. To a certain extent, the discussion of “parliamentary openness” is a discussion about how parliaments are grappling with these challenges.

The State of Parliamentary Openness

The good news is that parliaments are innovating and responding to this challenge, often in close collaboration with civil society, civic technologists and young people. Let me start with a story from Mexico about a well-intentioned effort that went wrong initially, but then got back on track. The Mexican Congress decided to build an Open Parliament App, but did not first consult with civil society organizations. They went about the procurement process in the traditional way, putting out a tender and presumably targeting their the standard vendors. The contract cost several millions dollars and was widely criticized in the press and by civil society, which dubbed it the “millionaire’s app.”

So far, this is a story of a well-intentioned effort gone wrong. But the story did not end there; instead, a civic organization sponsored a competition for hackers and civic tech groups to build a similar app at no cost to the Congress. A number of individuals and organizations developed several solutions that included nearly all the features asked for in the procurement. Many of these new solutions cost only as much as the iPads that were offered as a prize in the competition. The original contract was cancelled, and the competition winners were recognized in the Mexican Congress.

Co-creating solutions with civil society is just one way that parliaments are looking to open up their operations and innovate. Some parliaments are even taking a page from the private sector and looking to create a Chief Innovation Officer position, to help help manage change and experiment with ways of engaging the public and strengthening public engagement with, and confidence in, the parliamentary institution. Parliamentary openness tends to encompass three sub issues: transparency of parliamentary life and parliamentary data, legislative ethics and citizen engagement. I will quickly touch on a few good practices in each of these areas.

Transparency of Parliamentary Data: Transparency is being demanded by citizens, but we should not assume that transparency alone will build citizen confidence. Consider police body cameras, which have attracted much attention in the United States. These cameras can be used to build public confidence in the police. However, if underlying issues of police violence and misconduct are not addressed, then releasing recordings of their behavior will tend to further weaken public perception of police integrity. It is similar with parliamentary data. When done well, parliamentary data can provide a better sense of what parliament is working on at any time, and can help citizens and journalists better understand and navigate the issues and arguments. When done poorly, such as showing poor attendance rates in the plenary without showing other elements of parliamentary work or providing proper context, it can further undermine public confidence.

There are many good examples. Rather than expecting citizens or journalists to navigate thousands of pages of Hansard or hours of streaming video, there are now tools to visualize parliamentary debate and allow people to more easily understand how parliament is addressing an issue that they care about. One example is the *Fabrique de la Loi* project in France, which has been experimenting with new ways of presenting the history of a bill, so citizens can more easily understand how and where a bill changed in the legislative process.

POPVOX in the US is another platform for sharing information between members and constituents. It does two things: first, it makes it easier for citizens to navigate the legislative process — to understand different bills, to track where a bill is in the process, and to contact their elected representatives. Secondly, it helps members of Congress process the information and opinions they are receiving from constituents – helping to separate the signal from the noise. Rather than providing a member with a stack of random letters, POPVOX sends data in an organized and structured format, and verifies that feedback is coming from actual constituents in their district, not professional

lobbyists or bots. Dashboards and data visualizations also provide richer insights on the composition and timing of constituent feedback.

Many parliaments are improving transparency simply by getting more legislative information out on social media from an institutional, rather than partisan, perspective. If proactive social media outreach is left primarily to members and their parties, rather than the institution as a whole, there is a risk that social media outreach will contribute to further polarization and will miss an opportunity to educate the public on the negotiation and compromises required on complex issues.

Parliamentary Ethics and Integrity: A second area of parliamentary openness involves parliamentary ethics. Increasingly, parliaments that have lacked strong ethics codes are working to strengthen them while also enhancing transparency related to money in politics. This is an important element of building trust. The traditional ethics committee structure has also been complemented in many cases by professional, independent parliamentary agencies that support nonpartisan investigations — although this is often not particularly popular with parliamentarians. In the United States, the Office of Congressional Ethics is one such agency, created in the wake of the Jack Abramoff corruption scandal. As part of their Open Government Partnership action plans, both Ireland and Estonia have committed to stricter provisions on the regulation of lobbyists. Chile has also moved forward on this issue. There is also a movement to develop international norms and standards on parliamentary ethics. The Commonwealth Parliamentary Association has recently published benchmarks on parliamentary codes of conduct for Commonwealth countries, and Transparency International published a study of lobbying in the European context, highlighting the remaining challenges and ways to move forward on these issues.

Citizen Engagement: By far the most promise and experimentation has occurred with respect to the third and final area of legislative openness: improved citizen engagement. Many parliaments are developing more structured opportunities for constructive consultation and dialogue with civil society, including the Italian Senate. Sometimes, as in Georgia, it has involved creating a permanent dialogue mechanism with civil society on issues of parliamentary openness and reform. These outreach and ‘inreach’ mechanisms are not purely altruistic. Greater opportunities for engagement with civil society on parliamentary business can help parliamentarians understand civil society’s priorities for reform and build a strong case in support of draft legislation. Just as importantly, citizen engagement can help build a greater depth of understanding among civil society organizations regarding the challenges facing parliaments and members. The hope is that this leads to a more mature and constructive discourse, rather than a combative relationship that does not succeed in advancing reform and consists primarily of attacks on parliamentary performance.

Many innovations regarding citizen engagement are coming from newer democratic parliaments. Some have referred to this phenomenon as “democratic leapfrogging.” Just as newer market economies were able to skip landlines and ‘leapfrog’ straight to mobile telephone towers, newer democracies may have greater flexibility to experiment with

democratic processes than do older, more tradition-bound democracies. For example, the Committee on Government Assurances in Ghana has experimented with taking public input through WhatsApp, among other channels. Many have also cited the success of Brazil's Hacker Lab. Just as parliaments have historically provided facilities to help traditional media cover legislative business, the Hacker Lab provides a place (and parliamentary staff support) in the Chamber of Deputies where civic technologists, citizens and civil society can collaborate with deputies to solve problems. Brazil also developed an e-democracia platform, part of a global wave of more sophisticated and user-friendly online platforms for citizen comments to parliament. While these platforms are not a panacea, and while we need to make sure that they do not exclude voices from the debate who lack internet access or are less active online, they can be an additional complement to existing methods of engagement.

E-petitions are another mechanism increasingly being used to provide citizens with the opportunity to engage more directly in the parliamentary process. ManaBalss, or MyVoice, in Latvia, is just one example. E-petitions need to be approached cautiously so as not to further undermine representative democracy or amplify irresponsible populism; however, there are constructive ways to use these mechanisms. Often, e-petition processes are structured so that a petition simply requires a response, rather than an action, from the parliament or parliamentary committee if it attracts a sufficient number of signatures. While some petitions will be rightfully rejected if they are not in the public interest, they can provide opportunities for elected members to identify issues where greater public dialogue, education or awareness may be helpful.

Let me mention one example from President Obama's "We the People" platform, which required the President to respond to any petition obtaining 100,000 signatures. Several issues were raised on the platform that had not been part of the mainstream political discourse, relating to cell phone contracts with consumers, for example. However, efforts were also made to subvert the platform; such as a comical petition for the US to build a Death Star, as in the movie Star Wars. One response could have been to simply shut down the platform because it was abused. The Obama administration instead replied with humor, explaining that the Death Star was a colossal waste of resources which was rightfully destroyed by rebel forces — as anyone familiar with the movie knows. The White House then pivoted to a discussion of what NASA is doing to advance scientific knowledge and space exploration. Based on the number of clicks, this unplanned campaign was one of the government's most successful public education efforts on NASA space exploration.

The list of ways to improve citizen engagement is long — from bringing more parliamentary hearings to regions outside of the capital that are heavily affected by a specific problem, to parliamentary open days, to school programs, to model parliament programs. They often do not require the extensive use of technology. In an era when so many parliamentary budgets are under pressure, engaging citizens via these initiatives can build a greater awareness of the need to invest more in democracy and democratic institutions.

How to Share Experience on Parliamentary Openness

Parliamentary openness is developing rapidly and there is an increasing amount of experimentation around what works and what does not. I hope that the Italian Senate can continue to play a role in sharing its experiences with others. The Open Government Partnership (OGP) is a multilateral organization of 75 countries, including Italy, which are committed to working with civil society to strengthen government openness and citizen engagement. Originally created as a platform for dialogue between governments and civil society, I am proud that my organization, the National Democratic Institute, has pushed for parliaments to have a formal role in the process. We need not only engage governments and civil society in these discussions, but also intermediary institutions of representative democracy, such as parliaments and political parties. At an OGP Steering Committee meeting on the margins of last year's UN General Assembly, OGP adopted a policy on legislative engagement that, for the first time, creates a formal mechanism for parliaments to "co-create" openness commitments with civil society. A number of countries have already done so less formally, from Georgia, to Chile, to Costa Rica, to France and Ukraine. With more formal guidance and structure in place, we look forward to seeing this number expand.

OGP also supports a Legislative Openness Working Group that seeks to share learning within the OGP community on open parliaments. As with any OGP Working Group, it is co-chaired by a government institution (in this case, the Bicameral Commission on Legislative Transparency of the Chilean Congress) and a civil society organization (in this case, NDI). I have been very proud to work with Senator Hernan Larraín and his co-chair in the Chamber of Deputies, Patricio Vallespin, in moving this agenda forward. The next meeting of the Working Group is scheduled to take place in Ukraine on May 19 and 20. We would very much welcome participation by the Italian legislature and by Italian civil society groups in that discussion. The Working Group will be formally launching a Toolkit on Legislative Openness at that event. The Toolkit is currently available in draft form in English. This year, the Working Group will also continue to build out a Legislative Openness Data Explorer, which contains data on how parliaments around the world are doing on issues of openness.

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We live in a period of rapid social and technological change that provides us an historic opportunity to reinvigorate our democracies. It is an opportunity we cannot afford to waste. Success is all the more likely if we can collaborate in addressing our shared challenges – not only between parliaments and domestic civil society, but also across borders among democratic countries.

Authoritarian governments have welcomed the disruptive nature of the era in which we live. It provides both an excuse to clamp down at home and, in some cases, an opportunity to exacerbate tensions in democracies abroad. However, throughout history, it is democratic systems that have shown the most resilience in the face of rapid

change. While authoritarian governments are capable of short-term success, they ultimately become sclerotic and ossified, and tend to end in catastrophic reversal, often with great human cost. I suspect that, when we look back at this period of technological disruption, we will find that the same rule still continues to apply. However, it is incumbent upon democratic countries to do their utmost to take advantage of the possibilities afforded by the digital age to reinvigorate and strengthen our democratic institutions. NDI, and the OGP Legislative Openness Working Group, stand ready to assist in sharing experiences as parliaments around the world grapple with these issues.

I would like to thank the Italian Senate again for giving me this opportunity to share a few perspectives on the challenges legislatures are facing globally with respect to parliamentary openness, as well as ways that we can collaborate to address them. NDI wishes the Senate every success with its Open Senate initiatives and look forward to helping share its experiences with other parliaments around the world.