

# Concepts and Problems Associated with eDemocracy

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**Abstract** Information and communications technology (ICT) plays a major role in modern society. The Internet has certain unique factors which make eParticipation and eGovernance particularly appealing, namely the size and extent of the Internet, which enables it to be a medium whereby information can be very widely dispersed. This in turn has made political participation easy online. However, there is also a propensity of ICT to be used to interfere with our right to privacy. There is a need to factor in present and future requirements in the scope of eDemocracy and eGovernance generally, and one of the key issues is the devising of methods to narrow the prevailing digital divide. There is also more need for creation of adequate support tools to enable the user to navigate through vast contents, while also engaging and interacting in a meaningful manner with others. For eDemocracy to flourish, what is needed are newer versions of ICT, interest in eDemocracy (both by the government and public), suitable legislation, financing, and a generally conducive environment for enhancement of democratic ideals. However, by its very nature, technology is not inherently democratic. To indulge in eParticipation, we need to understand the concept of ePersonality. This in turn leads us to the question of what is an ePerson? In order to enable the ePersonality to flourish, the authors propose the need to create a parallel online universe, where rights and liabilities mirror those found in our various earthly conventions and declarations related to human, cultural and political rights, but where the distinction between the real world and the online world persists—thereby creating a situation wherein the twain shall coexist but never meet. This is the cloned heaven specially made for Trishanku, a concept taken from Hindu mythology in an attempt to find the answer for the future from our past.

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# 1 Concept

## 1.1 Introduction

The role of information and communications technology (ICT) in modern society in conjunction with the Internet cannot be underestimated. Although governments in most developed countries around the world have used digital technologies for a very long time, it was only after the mass scale advent of the Internet and technologies associated therewith in the 1990s that the potential for interaction between the government and society took a giant leap.<sup>1</sup> In particular, it has led to the enhancement of the democratic process. This in turn has spurred further research efforts in this field throughout the world. This leads us to the study of the eDemocracy situation, and its main branches, namely eVoting and eParticipation and the phenomenon of the Internet which makes it all possible.

The Internet has certain unique factors which make eParticipation and eGovernance particularly appealing, namely the size and extent of the Internet, which enables it to be a medium whereby information can be very widely dispersed (especially when compared with the print medium); it helps us to understand, for instance, how Egyptian protestors were able to increase their numbers at a very high rate, much to the chagrin of their government which was unable to control this rapid explosion of information and freedom on the Internet.<sup>2</sup>

Further, the possibility for online users to remain anonymous and the general inexpensiveness of the Internet allow the Internet to be extremely effective in a high risk environment.<sup>3</sup> In a way, this could be said to reflect the anonymity offered only by a secret ballot in a democratic process, although traditionally public debate and enactment of legislation has, by its very nature, been a very public exercise of one's democratic rights.

Also, the characteristics of information exchanged, which in certain ways mimics how human societies in the past depended on oral forms of communication. The Internet allows for communication and interactivity which is almost instantaneous, just as in such tribal societies.<sup>4</sup> Thus, some researchers believe that the cyberspace is changing the law at a very fundamental level, and hence, it may not be enough to merely try to adapt existing rules to govern the Internet.<sup>5</sup> One can also draw a contrast between text-based legal positivism which insists on clarity and ease of flow of authority in a vertical manner (from ruler to ruled) on the one hand with older societies based on oral traditions/customs and modern ICT-driven societies. In these non-text-based societies, the essential features are surprisingly similar—being namely flexibility and ease of access in a multi-centric and horizontal system—which

<sup>1</sup> Hood and Margetts (2007), p. 202.

<sup>2</sup> Duvivier (2013), p. 41 at footnote 159, where Ghonim (2012) is quoted.

<sup>3</sup> *Id* 43, where in footnotes 173 and 174 the role of anonymity vis-a-vis public exercise in the legislative process as ruled in the US Supreme Court case John Doe (2010) is discussed.

<sup>4</sup> Howes (2001), p. 41.

<sup>5</sup> Duvivier (2013), p. 48 where Howes (2001) is widely quoted.

actually is how legal interactivism is defined nowadays.<sup>6</sup> eGovernance is usually seen as a basis of better service of people, development and innovation. As pointed out by some researchers, there have always been barriers to development.<sup>7</sup> When in 1445, Gutenberg invented the printing press, Western Europe recognised it quickly. However, in areas where absolutism was the rule, the printing press was seen as an evil. It seems that any development of technology available to public would create networks, raise the knowledge, ease the communication, and therefore, the citizens are harder to control.

## *1.2 The Changes Seen Consequently in Modern Society*

When compared with the past, it could be considered that political activism in the modern digital era is not as taxing as it used to be in the past. Thus, where at one time, a civic-minded activist-citizen would have been expected to take the time out to educate him with regard to the issue at hand and subsequently to compose a letter, to address it to the correctly identified recipient of the political message and then to actually post that letter out, things are different today. Nowadays, it is the norm for eLegislating requests to make use of personal data that is already stored in an online database, and further, only a click of a button to dispatch the eMessage through ICT means straight from the online user/participant's computer to the political representative's office. This whole process has become so much more easier, cheaper and less bothersome, that it has actually given rise to the use of terms such as "slacktivism" or "clicktivism", the image being one of utter lack of serious responsibility on the part of the eParticipant.<sup>8</sup>

Qualitywise, it is thus to be noted with some concern that positions articulated online by eParticipants often tend to be defined by their spontaneity (which should be actually read as a hasty decision based on the general knowledge, morals and viewpoint) and a form of herd mentality.<sup>9</sup>

Thus, it can be seen that eLegislating efforts can now have a greater impact in the world of politics, given their potential to empower citizens by giving them an opportunity to counter those privileged forces which could afford to pay full-time lobbyists to do their conventional lobbying/campaigning for them, often to the detriment of the ordinary citizen. This in itself is a very positive change, which if handled correctly can lead to further enhancement of democracy, since it harnesses ICT to bring about social development and political change.<sup>10</sup>

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<sup>6</sup> Howes (2001), p. 39.

<sup>7</sup> Acemoglu and Robinson (2013), pp. 213–216.

<sup>8</sup> Duvivier (2013), p. 55.

<sup>9</sup> Cynthia et al. (2012), pp. 132–133.

<sup>10</sup> Duvivier (2013), p. 76.

### 1.3 Words of Caution

However, before we get carried away by the euphoria of technology and its supposed fruits, a word of caution is due. Our modern democratic societies in Europe, built from the ashes of the Second World War and sheltered zealously from the debilitating numbness of the Cold War, have one singular premise that overrides all other aspects—and that is respect for fundamental rights. Yet, these very fundamental rights are exposed to risks from digital tracking and other surveillance technologies, products of the very ICT that we built to liberate our modern selves from the ghosts of our non-digital past.

What we are waking up to, with increasing disconcert, is the unbecoming reality of the propensity of ICT to be used to interfere with our cherished right to private life. This is partly due to the rapid technological developments in the field of ICT and also the slowness of the legal frameworks and safeguards to adapt to these changes.<sup>11</sup> Questionable practices of some democratic governments in enacting legislations, which allow broad surveillance of their citizens, have given rise to a bewildering array of capabilities and practices which have in turn made citizens to stop and think about the direction in which their societies are heading. This has in turn had an adverse effect on participation by citizens in social, cultural and political spheres, because of the real and present danger of undermining of the reasonable quest for confidentiality, or the rights to freedom of expression and information under Article 10 of the European Convention on Human Rights (ECHR). Some recent issues, such as protection of journalist's sources and the safety of the concerned persons (as so elaborately brought out in the case of Edward Snowden who was formerly associated with intelligence agencies of the United States of America (USA)), if not resolved can actually cause long-term damage to democracy itself.<sup>12</sup>

Article 8 of the ECHR binds Council of Europe member states to secure the right to respect of private and family life, home and correspondence, and consequently, states have an obligation to refrain from interfering with fundamental rights (i.e., a negative obligation) coupled with an obligation to actively protect the above rights (i.e., a positive obligation).<sup>13</sup>

Of particular interest to us is the modern day tendency of our citizens to rely on electronic devices (both fixed and mobile) in order to communicate with others, participate in various activities and generally to better manage their lives on a daily basis. But these devices are unfortunately double-edged weapons—since they all have the latent potential to collect and store all kinds of data and personal information. This includes, but is not restricted to, geographical locations and data

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<sup>11</sup> See Declaration of the Committee of Ministers on Risks to Fundamental Rights stemming from Digital Tracking and other Surveillance Technologies (2013), para 1.

<sup>12</sup> *Id* at para 2.

<sup>13</sup> *Id* at paras 3 and 4.

regarding Websites visited. This can lead to unlawful surveillance of a user's daily activities and can also result in leakage of sensitive personal information which can reveal in an intimate manner the details of a person's wealth, physical well-being, interest in political matters, beliefs or sexual orientation, etc. Over a period of time, this can all be collated and it gives rise to a detailed data bank about a particular person and his immediate circle of family and friends.<sup>14</sup>

These intrusive digital technologies can be used positively to develop new services for consumers/taxpayers for legitimate, commercial and law enforcement purposes. But conversely, these same technologies can be grossly misused, to the extent that they actually harm personal liberties and freedoms.<sup>15</sup> Further, the conflicts and collisions between European legal acts such as the ECHR and the EU Charter on fundamental rights pose a challenge as well.<sup>16</sup>

What is of relevance is the compliance of all such data collecting technologies with the appropriately applicable safeguards in the field of human rights. These cover the 1950 Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, the 1966 United Nations International Covenant on Civil and Political Rights, etc., which should incorporate the principle of proportionality. Also relevant are the safeguards set out in the convention for the protection of individuals with regard to Automatic Processing of Personal Data (ETS No. 108) and in its additional protocol, Recommendation CM/Rec(2010)13 on the protection of personal data in the context of profiling, the Budapest Convention for combating cybercrime which may cover unlawful surveillance and tracking activities in cyberspace, etc. Thus, it is vital to increase awareness among users of such digital technologies as well the developers of such technologies who should be sensitised to the concepts of "privacy by design" and "privacy by default".<sup>17</sup> Further, under Article 13 of CM(2011)175 dated 15 March 2012, being the Internet Governance—Council of Europe Strategy 2012–2015, emphasis is laid upon efforts to maximise the potential of the Internet to promote democracy by encouraging Internet governance, promotion of citizen's participation by online means, developing secure eVoting procedures and promoting greater transparency through Internet governance. The universality of human rights can also be revisited from the angle of eDemocracy.<sup>18</sup>

Equally important is the need to factor in present and future requirements in the scope of eDemocracy and eGovernance generally, and one of the key issues is the devising of methods to narrow the prevailing digital divide. There is also more need for creation of adequate support tools to enable the user to navigate through vast contents, while also engaging and interacting in a meaningful manner with others.<sup>19</sup>

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<sup>14</sup> *Id* at para 5.

<sup>15</sup> *Id* at para 6. Also see Walker and Grytsenko (2014).

<sup>16</sup> Kerikmäe (2014).

<sup>17</sup> *Id* at paras 7 and 8.

<sup>18</sup> Kerikmäe and Nyman-Metcalf (2012).

<sup>19</sup> Kotsiopoulos (2009), p. A-2.

It is therefore important that while introducing, implementing or reviewing eDemocracy, steps must be taken to ensure that it fully complies with obligations of human rights and fundamental freedoms, enhances democracy, complements traditional democratic processes and widens participatory choices for the electorate, respects citizens' trust in democracy and makes the entire process transparent, responsive and accountable. Public deliberation and participation are the key in this democratic process. Also equally important is the need to use education and public awareness methods to address the digital divide issue which can potentially exclude and discriminate against people. Further, a lot depends upon the use of technology-neutral means, including open-source solutions and open standards and specifications.<sup>20</sup>

### *1.4 A Brief Glimpse of the Dangers*

It should be noted that eDemocracy is susceptible to certain dangers, both technical and non-technical in nature. The fact is that technology is not always neutral in scope. This gives rise to the need to inculcate a general awareness of the characteristics of the technology in use.<sup>21</sup> Further, technology is an enabling tool which can serve to enhance democracy, but it is not the solution.<sup>22</sup> To be effective, eDemocracy tools should be designed to work in a secure fashion, and this responsibility vests upon the institution in charge of the eDemocracy project.<sup>23</sup> One good recommendation in this regard is to make the source code open for the public. This serves to enhance trust as it enables free and fair inspection of the solution. Such open-source codes promote transparency, interoperability, accessibility and also encourage inclusiveness in the field of eDemocracy.<sup>24</sup>

It must also be noted that although Internet-based electoral campaigns can be surprisingly cost-effective; when compared with traditional electoral campaigns, there is a risk of oversimplifying issues into a "yes" or "no" situation. This situation of a zero sum game can lead to citizens being misled and tricked into voting contrary to their true intentions.<sup>25</sup>

Typical responses from citizens, especially in terms of quality, indicate that a heightened discussion of politics online did not necessarily translate into acquisition of higher levels of knowledge in the field of politics and further, qualitywise, most online political posts by citizens tend to be reflective of their own opinions and

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<sup>20</sup> See Recommendation CM/Rec(2009)1 para 6.

<sup>21</sup> See *id*, Appendix thereto, Principle of eDemocracy 52.

<sup>22</sup> See *id*, Principle 50.

<sup>23</sup> See *id*, Principle 53.

<sup>24</sup> See *id*, Principles 54–57.

<sup>25</sup> Duvivier (2013), p. 51.

prejudices. Often there is nothing new or educative on display.<sup>26</sup> These online posts can actually be seen as, to an extent, encouraging further polarisation among those who hold political discussions over the Internet. It would thus be incorrect to assume that online discussions would lead to an exalted level of deliberative democracy.<sup>27</sup>

Thus, even if one were to assume that citizens could be coaxed, through the use of specially designed online forums, to indulge in political discussions in an orderly and civil manner, there is always the risk that such discussions could be distorted or disrupted, given the inherent propensity of ordinary online participants to remain just ordinary and lacklustre in their outlook thus the need for rules.<sup>28</sup>

Further, given the complex nature of legislation, it is easy for voters to become confused. Often citizens act with a herd mentality. Adding affiliation to certain groups or thinking processes can thus lead to polarisation of opinions, especially when there is increased interest of political and other interest groups in eLegislation campaigns.<sup>29</sup>

Furthermore, it would appear that eRegulation would empower the inclusiveness and, therefore, democracy. If one were to look at the situation in totalitarian states—for example in North Korea, mobile phones were even banned once (2004). Now, their usage is allowed, but it is not possible to call outside the country or to use free Internet. Becoming a citizen's Europe, the EU should give green light to innovation but do it with great care, avoiding problems of violation of privacy and possible use of the new technologies by terrorists. That is one of the reasons in glorifying legal norms that would lead to certainty, user-centricity and balance between the interests of stakeholders. Several mistakes and failures in creating more unified Europe should be sufficient lessons to avoid elitism and non-inclusiveness and ignoring the democratic process.

## 1.5 Suggested Safeguards

Hence, in the specific case of technology, certain safeguards are mandatory and worth considering. As mentioned previously, eDemocracy software should necessarily be open-source software, which should be liable to inspection or certification by an independent body.<sup>30</sup> It is further recommended that stakeholders in eDemocracy projects should draft contracts for eDemocracy applications which specify an open-source clause. This is especially beneficial since open-source software and applications provide open frameworks. This in turn leads to

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<sup>26</sup> Feezell et al. (2009), pp. 9, 16.

<sup>27</sup> Sherman (2011), p. 102.

<sup>28</sup> Dutton and Peltu (2007), p. 21.

<sup>29</sup> Duvivier (2013), p. 54.

<sup>30</sup> See Appendix to Recommendation CM/Rec(2009)1 Guideline on eDemocracy 57.

opportunities to share not only developments in this field but also costs incurred for maintenance purposes.<sup>31</sup> Using open-source software standards and specifications has the added benefit of ensuring interoperability of the varied technical components and services that comprise an eDemocracy tool, which in turn may have been obtained from varied sources, sometimes across borders.<sup>32</sup> Further, such initial processes to ensure openness in the eDemocracy software can help to prevent situations in the future whereby eDemocracy stakeholders feel tied down to a single vendor of software solutions.<sup>33</sup>

Another recommendation worth noting is the necessity of having an independent body appointed by the public authority (which is charged with introducing eDemocracy tools into society) which is empowered to carry checks on the eDemocracy tool and to evaluate it quantitatively and qualitatively to ensure its proper applicability, functioning and security.<sup>34</sup> This is particularly of essence when one considers that eDemocracy tools are often targeted at those who are unable to be physically present at a particular place to partake in democratic functions, and this list includes but is not limited to travellers, those living outside the territory, persons with reduced mobility and people whose absence can be explained by reasons of a personal nature.<sup>35</sup>

## 1.6 Detailed Analysis of eDemocracy

Having spoken briefly about eDemocracy and its attractive features and potential pitfalls in the preceding part of the introduction, it would be helpful to study this phenomenon in detail. It should be noted that eDemocracy comprises of the use of ICT (including the Internet) in order to enhance the democratic process. It can also be used to implement newer democratic processes within a democratic society. What is aimed for is the idea of making democratic processes more accessible to citizens, which in turn is hopefully linked to more expansive and direct participation of the citizenry in decision-making on issues which are primarily in the realm of public policy. Theoretically, eDemocracy is billed to be the grand enabler of broader public influence in policy outcomes which relate most to the citizens. This is hoped to be achieved by the belief that when more individuals from society are involved, the result is more transparent and subject to greater scrutiny and accountability. This in turn leads to greater legitimacy at the political level, and the adoption by governments of policies which are more in tune with the actual needs of the electorate.<sup>36</sup>

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<sup>31</sup> See *id.*, Guideline 58.

<sup>32</sup> See *id.*, Guideline 59.

<sup>33</sup> See *id.*, Guideline 60.

<sup>34</sup> See *id.*, Guideline 71.

<sup>35</sup> See *id.*, Guideline 74.

<sup>36</sup> Kotsiopoulos (2009), p. A-7.



It should be noted that eVoting (although vitally important and considered by many as the most popular of eDemocratic functions) is an important aspect, and the term eDemocracy itself leads to a much wider import and has presently expanded into every facet of the democratic system. The beauty of eDemocracy lies in the fact that it can be designed to be implemented on the vertical plane (from public authorities at various levels at the top and directed downwards, or from citizens at the bottom and directed upwards) or on the horizontal plane.<sup>37</sup> It should however be noted that in order to prosper eDemocracy requires on the one level political will and leadership, and also education, training and measures to cater to the requirements of broad-scale inclusion.<sup>38</sup>

For eDemocracy to flourish, what is needed are newer versions of ICT, interest in eDemocracy (both by the government and public), suitable legislation, financing, and a generally conducive environment for enhancement of democratic ideals.<sup>39</sup> On the other hand, eDemocracy is constrained by challenges such as willingness on the part of the various stakeholders to engage confidently in democracy by electronic means, the divisions in society in the digital and social spheres, and general availability and reliability of technological means in this field.<sup>40</sup>

Other significant barriers to eDemocracy include differences in understanding the role of democracy and the interests of the various stakeholders. Also of worry are lack of resources, shortcomings in the organisation and inability of the structure to meet the challenges which arise.<sup>41</sup> This is often accompanied in tandem by the potential risks attached to eDemocracy of the spectre of misuse (both technical or political) and a bland denial of the opportunities that ICT creates for reaching decisions.<sup>42</sup>

For eDemocracy to function effectively and with suitable safeguards, rules and regulations are a must. Of particular importance are security issues, namely “security of the information that is collected, security of the data that is accessed and stored, including compliance with data protection requirements, security of the mass of documents created, security of the entire voting process, Internet security, networking security and information system security”.<sup>43</sup>

Thus, one researcher refers to eDemocracy as the way the Internet can serve as a medium to enrich our democratic processes and thus allow for greater interaction between the government and the governed, at the same time allowing for feedback from the community to enhance good governance.<sup>44</sup>

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<sup>37</sup> See Appendix to Recommendation CM/Rec(2009)1 Principle of eDemocracy 59.

<sup>38</sup> See *id.*, Principles pp. 63, 64.

<sup>39</sup> See *id.*, Principle 68.

<sup>40</sup> See *id.*, Principle 70.

<sup>41</sup> See *id.*, Principle 71.

<sup>42</sup> See *id.*, Principle 72.

<sup>43</sup> See *id.*, Principle 78.

<sup>44</sup> Kotsiopoulos (2009), p. A-7 where in footnote 1, Clift (2003) is quoted.

All in all, the concept of eDemocracy is hoped by many to provide the means for enhanced participation with the help of the Internet, mobile communications and other forms of modern technology.<sup>45</sup>

It is therefore essential to see that eDemocracy is more akin to the path taken, rather than the end destination. As a process, it involves the use of ICTs in the field of democratic processes, and to further this aim there should be strategies and techniques (with goals of transparency, involvement and frank opinion formation by the masses) put into place.<sup>46</sup>

It must be noted that even though eDemocracy is seen as being synonymous with online forums and concepts such as eVoting or eConsultations, it is more than just being about technology. Further, the use of ICTs can often add an extra layer of bureaucratic red-tapism, making the whole experience even more slower. Thus, eDemocracy is not about “push button” democratic processes nor is it a ready-made solution for countering the democratic deficit which has seeped into our modern day societies.<sup>47</sup>

All of the above is remarkable, when one actually sees the dissonance between the optimism displayed by such eDemocracy initiatives and what has been actually achieved on the ground. What is needed are Web-based mechanisms which actually go beyond non-deliberative mechanisms such as voting, ePetitions, etc., and venture into the field of complicated online deliberation.<sup>48</sup>

Since eDemocracy has still not succeeded in becoming a more pivotal feature of democracy, there is need for an introspection in this regard. It is obvious that in its lack of acceptance by societies, there lie the undeniable facts of technical and societal issues. One key aspect is the registration of a secure, private and safe online identity for citizens. This is essential to enable elections and other interactions between the masses and the governing bodies. Such technical obstacles notwithstanding, there are also prevalent vested interests involving politicians, corporate houses, media and trade union interests, etc., which see such direct eParticipation as a potential threat to their own self-interest.<sup>49</sup>

Added to this are the more familiar objections of direct democracy, namely that eDemocracy can encourage dangerous populism and demagoguery in the political leadership. Further, it can bring forth the cascade of inequalities, stemming from the digital divide between the haves (with access to ICT tools which allow eDemocracy) and the have-nots. Thus, by its very nature, technology is not inherently democratic. This gets even more murkier when one sees the financial opportunities that arise for certain vested groups from the potential expenses which modern innovations in the field of eDemocracy can entail.<sup>50</sup>

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<sup>45</sup> See *id.*, p. A7.

<sup>46</sup> See *id.*, p. A7 where in footnote 2, Mendez (2007) is quoted.

<sup>47</sup> See *id.*, p. A8 where the NGO access2democracy is quoted.

<sup>48</sup> Perez (2013), p. 67.

<sup>49</sup> Kotsiopoulos (2009), p. A-8.

<sup>50</sup> See *id.* at p. A8 where in footnote 5, Barney (2000), is quoted.

### 1.7 *The Type of Citizen Around Whom eDemocracy Revolves*

One researcher has contrasted between two seemingly opposite models of democracy. One is the “Plato” model which can be loosely associated as focussing on an increase in the powers of the experts in the bureaucratic institutions of the state.<sup>51</sup> In his work “The Republic”, Plato supports political power for those sections of society (notwithstanding the fact that they may be in minority) that possess knowledge of how to use such power correctly. This elite body functions in a form which could be termed as enlightened paternalism, and not as totalitarianism.<sup>52</sup>

These in today’s world would be the experts who could be expected to guide modern society through the complicated maze of international law dealing with wide ranging topics such as economy, environment, security, etc. These are seen as areas where genuine public participation and/or transparency are perceived as being merely wishful thinking. This is in contrast to the model of “Open government or eDemocracy” which emphasises upon empowerment of the whole body of citizens to participate in the political process. Here, more weightage is given to the capacity of citizens to engage in meaningful contribution towards the political process. The key differences of this approach from Plato’s model are namely: the questioning of privileged access to knowledge of the technocrat and the insistence upon the ideal of harnessing collective wisdom for better public good—both by facilitating production of knowledge built upon through collaboration and by allowing for a mechanism to check the process of bureaucratic work through external checking. Thus, for example, the “Open Government Directive” (OG Directive) of President Obama of USA provides for participation of the public by contribution of ideas which can be used by the Government to adopt policies which are more in tune with society’s needs.<sup>53</sup>

This is a vein of thought which is also expressed by Popper, K. in his book wherein knowledge is described as being achieved through collective means of debating and arguing. Further, the right to criticise government policies is seen as helping in the growth of the faculty of reason itself.<sup>54</sup>

One researcher considers the model of citizenship that is used for eDemocracy purposes and has developed the concept of the “punctuated citizenship”. The researcher hopes to draw attention to the underlying tension between a highly idealised vision of eDemocracy vis-a-vis the actual ground reality.<sup>55</sup> The author will expand upon this concept in more detail in subsequent pages.

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<sup>51</sup> Perez (2013), p. 68.

<sup>52</sup> See *id*, p. 70 where in footnote 23, Plato. *The Republic*, is discussed.

<sup>53</sup> See *id*, p. 72.

<sup>54</sup> See *id*, p. 74 where in footnote 36, Popper, K. *The Open Society and Its Enemies* is discussed.

<sup>55</sup> See *id*, p. 68.

## 2 Definitions and Categorisation

### 2.1 *The Different Sectors of eDemocracy*

The different sectors of eDemocracy are laid down as follows. eDemocracy is basically all about eParticipation—it is a concept which has the potential to move forward involvement of/by/for citizens in the various democratic processes to a higher level.<sup>56</sup>

For eParticipation to truly succeed, the key requirements are to use ICT to help the system to become open, accessible and free for participation. Petitions are seen as an effective tool that helps the public to communicate directly with Parliament on matters of public importance. It should be noted that true success can only be measured when an individual's petition will be considered on an equal footing with a petition which has been signed by a large number of supporters.<sup>57</sup>

As an example, one can see the Scottish Parliament which has devised an electronic petitioning system called ePetitioner. Its main characteristics are that it allows the petition to be viewed online, to read additional related information online, a possibility to allow supporters to append their identity to the petition online and to allow participation in an online forum where they can voice their views (either in support or against) on each ePetition. An easy to read and short summary highlighting the key points raised is also helpful in focussing attention. Further, to make sure that the petitioners do not feel forgotten, they are kept informed of the progress made while their petition is under study in Parliament. Similar such measures are used in Germany and England.<sup>58</sup>

Other activities that reveal different types of eParticipation are Online Chats (for open communication between public and government officers), Online Meetings (where official meetings of the legislative branch are Webcast live), Online Meeting Places (where citizens can meet and exchange ideas), Online Debates (where electoral candidates can answer questions and hear what voters have to say), Online Protests (as seen from the events of the recent Arab Spring and demonstrations in Kiev, Ukraine, the public can use ICT and mobile phones to mount spectacular democratic protests that can rock the political class), Online Town Halls, Online Voting and Blogs.<sup>59</sup>

On a more elementary level, eDemocracy can be defined as the utilisation of ICT within the four corners of a political process by sectors which are democratic in nature.<sup>60</sup> It encompasses the following:

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<sup>56</sup> Kotsiopoulos (2009), p. A-9.

<sup>57</sup> See *id.*, p. A12 and also see footnote 16, where the researcher Macintosh (2003) is quoted.

<sup>58</sup> See *id.*, p. A12.

<sup>59</sup> See *id.*, pp. A13–A14.

<sup>60</sup> See Clift (2003).

eGovernment: The use made, most commonly, by administrative agencies to deliver public services and information to common citizens by effective use of electronic and ICT services.<sup>61</sup>

eParliament, which entails the usage of ICT by members of government for the purposes of involving citizens in a more active manner by allowing for better information and improved management of communication. It concerns legislative, consultative and deliberative assemblies at various levels. It can help to ensure a more deliberative form of democracy with greater participation by all stakeholders.<sup>62</sup> eParliament thus constitutes parliamentary processes in the nature of legislation which is assisted by electronic means, ICT enabled ballot processes and higher degrees of transparency.<sup>63</sup> For this, it is essential that eParliament enables greater communication between citizens and leaders, so that there can be greater input from citizens both in terms of preparing agendas and finalising decisions.<sup>64</sup>

eLegislation, which deals with the usage of ICT to make legislative procedures such as drafting, commenting, consulting, amending, voting and publishing laws by elected members more transparent, more readable and thus makes the public more aware about the laws.<sup>65</sup>

eJustice, wherein ICT is used in order to improve the efficiency of the justice system and the quality of justice. It includes communication through electric means, exchange of data and also access to judicial information.<sup>66</sup> ICT helps to speed up the proceedings in court, to provide online tracking of case proceedings, the use of videoconferencing techniques in court rooms, etc.<sup>67</sup> eJudicial advocacy: Interestingly enough in USA, eDemocracy has been used to attempt to influence judges in matters which are deemed of public importance by sending them messages—both online and through post.<sup>68</sup> This is an extension of American opinion culture, whereby the public chooses winners of reality TV shows, etc.<sup>69</sup>

eMediation, which entails the usage of ICT to help resolve disputes without requiring the opposing parties to be physically present in the same room.<sup>70</sup>

eEnvironment, which uses ICT for the purposes of greater public participation in the assessing, planning, protecting and using of natural resources.<sup>71</sup>

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<sup>61</sup> Duvivier (2013), p. 18.

<sup>62</sup> See Appendix to Recommendation CM/Rec(2009)1 Principle of eDemocracy 36.

<sup>63</sup> Kotsiopoulos (2009), p. A-9.

<sup>64</sup> See Appendix to Recommendation CM/Rec(2009)1 Guideline on eDemocracy 43.

<sup>65</sup> See *id*, Principle on eDemocracy 37.

<sup>66</sup> See *id*, Principle 38.

<sup>67</sup> See *id*, Guidelines on eDemocracy 46 and 48.

<sup>68</sup> For example, see Sacks (2012).

<sup>69</sup> Duvivier (2013), p. 20.

<sup>70</sup> See Appendix to Recommendation CM/Rec(2009)1 Principle of eDemocracy 39.

<sup>71</sup> See *id*, Principle 40.

eElections, eReferendums and eInitiatives use electronic means for the purposes of holding elections, referendums and initiatives.<sup>72</sup> eElectioneering has been further defined as involving the use of ICT to help voters to elect politicians. It should be noted that the use of the electronic medium for the promotion of electioneering and related activities was, unsurprisingly, the first step in the nascent stages of eDemocracy.<sup>73</sup>

eVoting, which entails the usage of ICT for casting of the vote by remote means, thereby making the process speedier, better monitored, votes get electronically registered and participation is not hampered by distances or handicaps.<sup>74</sup> eVoting thus essentially comprises electronic versions of the electoral processes, citizen's referendums and other public policy opinion garnering initiatives.<sup>75</sup> Referendums can of course vary in political nature and context—ranging from referendums to be organised in Scotland and Catalonia on the one hand and the recent referendum allegedly conducted in Crimea. This shows the political situation which can affect voting in general and eVoting in particular.

eConsultation, which uses ICT to allow the collection of opinions of target groups on specific issues. Decisions reached finally may thus be directly or indirectly influenced, although there is no obligation to act in accordance with the opinions so garnered.<sup>76</sup> This is also known as eRulemaking: This registers inputs from the public (by way of their online comments), to administrative rules proposed by the government. However, often the comments of the public are disregarded by the administrative agencies, thereby putting a question mark on the reason why these comments were invited in the first place!<sup>77</sup>

eInitiatives, which allows the usage of ICT by citizens to develop, initiate and forward political proposals.<sup>78</sup>

ePetitioning, which is the use of ICT by citizens to sign online petitions and to thus deliver a protest or recommendation to a democratic institution. This helps to foster greater debates in democratic circles.<sup>79</sup> This is based on the premise that ICT can be used by the public to actually influence how laws are drafted and enacted.<sup>80</sup> Petitioning the Government for relief or change by expressing one's ideas, hopes

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<sup>72</sup> See *id*, Principle 41.

<sup>73</sup> See also Macnamara and Kenning (2010) for an interesting insight into e-electioneering.

<sup>74</sup> See Appendix to Recommendation CM/Rec(2009)1 Principle of eDemocracy 42.

<sup>75</sup> Kotsiopoulos (2009), p. A-9.

<sup>76</sup> See Appendix to Recommendation CM/Rec(2009)1 Principle of eDemocracy 43.

<sup>77</sup> Duvivier (2013), p. 19 at footnote 47, where Assateague Island National Seashore, Personal Watercraft Use (2003) is quoted as an example. This case is available at <http://www.gpo.gov/fdsys/pkg/FR-2003-05-30/html/03-13578.htm>. Accessed 2 Apr 2014.

<sup>78</sup> See Appendix to Recommendation CM/Rec(2009)1 Principle of eDemocracy 44.

<sup>79</sup> See *id*, Principle 45.

<sup>80</sup> Duvivier (2013), p. 22.

and concerns itself is not, per se, a new activity.<sup>81</sup> Thus, for example, we can see this right to petition being mentioned in the Magna Carta.<sup>82</sup> In the English Bill of Rights 1689, the right to petition is also specifically provided.<sup>83</sup> The First Amendment of the US Constitution also states that people have the right to petition the government for redressal of their grievances.<sup>84</sup> An interesting version of an active online ePetitioning site can be seen in the case of United Kingdom.<sup>85</sup>

eCampaigning helps the public to engage with one another through the usage of ICT, thereby mobilising and influencing the shaping or implementation of policies which have a bearing on the public.<sup>86</sup>

ePolling/eSurveying uses ICT to obtain opinions from the public.<sup>87</sup>

## 2.2 Further Categorisation of Models

As enumerated by a researcher, eDemocracy models could also be categorised as comprising of two main types, namely the consultative mode, where communication flows in a vertical manner between the citizen and the state, and the participatory model, where interaction takes place in multiple directions and in a more complex manner.<sup>88</sup>

## 2.3 A Holistic Approach

There exists a third and more holistic form of categorisation, wherein increased transparency with regard to governance and government affairs (e.g. a government run official Website), increased participation by active citizenry in the decision-making process (e.g. eConsultation) and increased deliberation among citizens by means of forums, is stressed upon.<sup>89</sup>

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<sup>81</sup> See Borough of Duryea et al. (2011) at page 2495. [http://scholar.google.com/scholar\\_case?case=14079373987044019788&hl=en&as\\_sdt=6&as\\_vis=1&oi=scholar](http://scholar.google.com/scholar_case?case=14079373987044019788&hl=en&as_sdt=6&as_vis=1&oi=scholar). Accessed 2 Apr 2014.

<sup>82</sup> See Magna Carta (1215), para 61. <http://www.nationalcenter.org/MagnaCarta.html>. Accessed 2 Apr 2014.

<sup>83</sup> See English Bill of Rights (1689) [http://avalon.law.yale.edu/17th\\_century/england.asp](http://avalon.law.yale.edu/17th_century/england.asp). Accessed 2 Apr 2014.

<sup>84</sup> See U.S. Constitution, First Amendment, [http://www.law.cornell.edu/constitution/first\\_amendment](http://www.law.cornell.edu/constitution/first_amendment). Accessed 2 Apr 2014.

<sup>85</sup> See <http://epetitions.direct.gov.uk/>. Accessed 2 Apr 2014.

<sup>86</sup> See Appendix to Recommendation CM/Rec(2009)1 Principle of eDemocracy 46.

<sup>87</sup> See *id*, Principle 47.

<sup>88</sup> Chadwick (2003), pp. 9, 13, 14.

<sup>89</sup> Kotsiopoulos (2009), p. A9.

### 3 In the EU and Switzerland

The Lisbon Strategy (adopted in March 2000) led to the development of the eEurope Action Plan for the exploitation of the ePotential in Europe. Subsequently, the “i2010 eGovernment Action Plan—Accelerating eGovernment in Europe for the Benefit of All” laid emphasis on, inter alia, bridging the digital divide, increasing efficiency and effectiveness, ensuring data privacy and security, and in particular—strengthening democracy and participation by citizens in Europe. Under this citizens were sought to be empowered by means of offering of extended information, discussion and participation rights. To enable the citizens to control politics, eVoting and eElections are seen as the key.<sup>90</sup> Further, to create a society based on information and knowledge, other steps such as the use of computer aided expert systems and knowledge databases are required for community formation and to create public memory.<sup>91</sup>

#### 3.1 Important Legal Aspects of eDemocracy in the EU

Some of the important legal aspects of eDemocracy in the EU are covered by the following documents. First is the Recommendation Rec(2004)11 of the Committee of Ministers to member states on legal, operational and technical standards for evoting (Adopted by the Committee of Ministers on 30 September 2004 at the 898th meeting of the Ministers’ Deputies). Next comes the Recommendation CM/Rec(2009)1 of the Committee of Ministers to member states on electronic democracy (edemocracy) (Adopted by the Committee of Ministers on 18 February 2009 at the 1049th meeting of the Ministers’ Deputies). Then, there is the Declaration by the Committee of Ministers on Internet governance principles (Adopted by the Committee of Ministers on 21 September 2011 at the 1121st meeting of the Ministers’ Deputies). And finally, there is the Declaration of the Committee of Ministers on Risks to Fundamental Rights stemming from Digital Tracking and other Surveillance Technologies (2013).

#### 3.2 Salient Features of These Legal Documents

The author presents some of the salient features of these legal documents:

The Principles of edemocracys outlined in Rec(2009)1 broadly deal with certain truisms, namely that eDemocracy is in addition to and complements traditional

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<sup>90</sup> Meier (2012), pp. 2–3.

<sup>91</sup> See *id.*, p. 160.



processes of democracy. The essential point is that good governance is the key to eDemocracy. Further, eDemocracy offers an opportunity for enhancing participation in the civic processes by helping to disseminate information and encouraging deliberation, thereby enabling better decision-making at the political level. Being new technology, it is hoped to be more attractive to young people. It should be noted that its goals are transparency, accountability, accessibility and responsibility, along with fostering greater trust in the political process. However, to be properly designed and implemented, information should be widespread, nationality should be eschewed in favour of long-term residence and integration, citizen participation-ship should be heightened and citizen should be empowered, included and allowed to debate.<sup>92</sup>

The issues related with eVoting as outlined in Recommendation Rec(2004)11 are as follows. There is an increased emphasis by various governments to make the voting process suitably designed to attract voters and also to ease the voter's convenience. For this, eVoting can play a pivotal role. However, the question arises as to how to make eVoting fool-proof.

eVoting must also comply with core legal standards. Some of the principles covered herein are universal suffrage, which is an essential consideration and hence the system should be easy to understand and use. eVoting should be considered as an optional means of voting. Also important is the concept of equal suffrage, hence a voter should only be allowed to cast one vote. The voter should not be able to vote in the same election using multiple voting channels. Free suffrage should be ensured as voting must be free and fair. The voter should be able to change their decision with regard to their voting choice at any point in the eVoting process before he actually casts his vote. The previous choice should not be recorded in the system. In accordance with the principle of secret suffrage, it should be impossible to authenticate the identity of the voter. The votes should remain anonymous at all times.<sup>93</sup>

It should be noted that national digital smart/ID cards such as those adopted by Estonia, Italy and other nations have made authentication easier and more reliable, thus enabling smoother eVoting procedures.<sup>94</sup>

Equally important is the adherence to strict procedure and safeguards in this process. For this, it is essential that the following issues are focussed upon<sup>95</sup>:

Transparency: Voters should understand and have confidence in the eVoting process. The functionality of the process should be public knowledge. The opportunity to practise voting on the system before the actual casting of the electronic vote is beneficial. Also required is free and lawful access to the system by neutral experts and observers.

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<sup>92</sup> Appendix to Recommendation CM/Rec(2009)1 Principles of eDemocracy 1–34.

<sup>93</sup> Recommendation Rec(2004)11 of the Committee of Ministers to member states on legal, operational and technical standards for voting. Appendix I, Legal Standards, Principles.

<sup>94</sup> Kotsiopoulos (2009), p. A-27.

<sup>95</sup> Recommendation Rec(2004)11. Appendix I, Legal Standards, Procedural Safeguards.

**Verifiability and accountability:** The authorities must be able to verify and certify the components of the eVoting system. A duly appointed independent body of experts should verify the security of the system. There should be a possibility of recounting the eVotes which have been cast. Re-run of the elections should be allowable by the system.

**Reliability and security:** The possibility of fraud in the elections should be avoided. Serious issues that affect the eVoting system, namely malfunctioning of the system, breakdown of parts or denial of service attacks via the Internet should be especially catered for. Access to the central infrastructure, servers and electoral data should be closely monitored and controlled. Command and control should be dual based, and concentration of all powers in a single individual should be avoided. Further, the voting data should be encrypted. The voter's authentication information should be delinked from the voter's final decision at a specific stage in the eElection process.

The biggest fear of course is to verify that people are not selling their voter ID codes, especially in view of the fact that eVoting cannot be supervised at a voting station.<sup>96</sup>

One way around this tricky situation is to use electronic voting machines in voting stations. However, even these can have their faults, and hence, there is emphasis on researching ways to ensure that citizens know their votes have been counted. But this verification process can also be counterproductive, as it could potentially violate the principle rule of secret ballots.<sup>97</sup> Although the more sophisticated computer programs can overcome such hurdles, a key factor is also the prevailing political culture.<sup>98</sup>

Also in Rec(2009)1, "enablers, challenges, barriers and risks" to eDemocracy are studied in detail. Therein a host of enabling factors such as political will, trust and transparency, access to technology, user friendliness, accountability for citizen's inputs, etc., are enumerated.<sup>99</sup> It is also stressed how important it is that citizens should not be misled, lied to, and that there is no defamation, incitement, hatred or discrimination in the course of eParticipation.<sup>100</sup> Certain other key features that should not be overlooked are the main goals of forming rules to regulate eDemocracy is to ensure empowerment and to provide adequate safeguards.<sup>101</sup> Similarly, while anonymity and confidentiality have their advantages, voter identity and authentication should not be compromised in the course of eDemocracy.<sup>102</sup> Disclosure of public information should certainly go hand in hand with

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<sup>96</sup> Kotsiopoulos (2009), p. A-10.

<sup>97</sup> Kotsiopoulos (2009), p. A-10.

<sup>98</sup> See also Recommendation Rec(2004)11, where concepts such as operational standards for eVoting (Appendix II), Technical requirements (Appendix III) and security issues in the pre-voting, voting and post-voting stages (para.77 onwards) are considered in detail.

<sup>99</sup> Appendix to Recommendation CM/Rec(2009)1 Guideline on eDemocracy 79.

<sup>100</sup> See *id.*, Guideline 80.

<sup>101</sup> See *id.*, Guideline 81.

<sup>102</sup> See *id.*, Guideline 83.

confidentiality of the interests of the concerned stake holders.<sup>103</sup> When personal data are held by public authorities, it must be safeguarded against abuse and misrepresentation.<sup>104</sup> Also since eDemocracy methods are prone to misuse, there must be a zero-tolerance attitude towards such breaches.<sup>105</sup> It is particularly important that eDemocracy rules and regulations should safeguard human rights and fundamental freedoms.<sup>106</sup> The truth is that eDemocracy goes hand in hand with eSecurity, which includes security of information, data, documents, voting processes, Internet access, networking and ICT.<sup>107</sup> It is also important that there are appropriate levels of security in place, for each setting.<sup>108</sup> Further, standardisation of document formats, system applications and architecture, etc., should be rigorously pursued in order to simplify and speed up political documentation and decision-making.<sup>109</sup>

In this connection, it is interesting to note a case study of eVoting in Austria wherein an analysis of Rec(2004)11 was conducted. Since this recommendation comprises of legal standards, operational standards and technical requirements, specific instances of technical attacks during the eVoting period and countermeasures were studied in detail. Different types of attacks were noted during the eVoting period. They are described as follows:

### 3.2.1 Distributed Denial of Service Attacks<sup>110</sup>

This attack was noticed at least three days before the eElection by the staff who were providing security for the eVoting exercise. An Austrian organisation which was involved with issues related with the social uses of ICT published a particular Web tool. This Web tool was showcased as a server availability checking tool. It allowed users with computers to conduct a stress test on the eVoting system (at all times, several times of the day) to verify its availability, in an ostensibly legal fashion. This sophisticated tool written in javascript allowed a single computer to produce a heavy load on the Web server of the eElections. Further, this particular type of attack was well distributed (although managed centrally), thus making it difficult to detect the attackers or to block them. This attack worked on the basis of computer users who participated willingly (albeit unwittingly).

A suitable countermeasure was developed to stop this attack. However, it showed the various practical issues that arose with this type of distributed denial

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<sup>103</sup> See *id.*, Guideline 84.

<sup>104</sup> See *id.*, Guideline 85.

<sup>105</sup> See *id.*, Guideline 87.

<sup>106</sup> See *id.*, Guideline 92.

<sup>107</sup> See *id.*, Guideline 96.

<sup>108</sup> See *id.*, Guideline 97.

<sup>109</sup> See *id.*, Guideline 98.

<sup>110</sup> Ehringfeld et al. (2010), pp. 228–230.

of service attacks (dDoS) attack, namely: blocking all incoming traffic online from a particular source IP, although a common and effective measure, would have been unsuitable in this instance as it would have deprived an unknown number of voters from voting in this eElection. Further, last minute software changes or adaptations as counter measures to such dDoS attacks could possibly invalidate the certification for the eVoting exercise, thereby invalidating the whole election.

Thus, it was shown that the most effective counter measure was that eVoting was used as an additional voting possibility and was scheduled before the paper ballot election. In this way, legally speaking, it was possible to annul the eVote and enforce the paper ballot system instead. Therefore, a recommendation was made to alter Article 45 of Rec(2004)11 to the effect that remote eVoting should end before the paper ballot election commences and that eVoters should be informed in case of an annulment of the eVote so that they may cast the paper ballot instead.

### 3.2.2 Phishing Attacks<sup>111</sup>

A political party set up a Website which was deceptively similar to the official voting Website. Even the voting process was copied. The URL used was also deceptively similar. All of this was done to mislead the potential eVoters. Thus, it was hoped by the political party to gain sensitive data from the eVoters, or to cause irritation and annoyance to the eVoters.

Subsequent research showed that effectively counterattacking such a phishing attack requires the following acts, namely an official Website of the eElection should be established, and it should provide a single window system for all information related with voting in that eElection.

Further, it should be well advertised (in accordance with Article 46 of Rec(2004)11, especially since empirical data showed that most users navigated directly to the Website by manually entering the official URL into their browsers, or searched for the name of the election with the help of an Internet search engine.

Also in this regard, the Internet search engines should be actively monitored based on typical queries and their responses, phishers should be acted against immediately and decisively, domain names which are confusingly/deceptively similar to the official Uniform Resource Locator (URL) should be bought out in advance, the validation certificates used for proofing the integrity of the official Website should be of the highest order, and the eVoting Websites should be hosted exclusively within the exclusive domain space of the government.

The security layer of the citizen card used for the purposes of authentication should only allow access online if the connection is based on Hypertext Transfer Protocol Secure (HTTPS) and the connection should be exclusively to a government-related domain (which is not freely obtainable by non-government sources).

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<sup>111</sup> See *id.*, pp. 230–232.

The registration and use of domain names which are deceptively similar to the official eElection domain name, immediately prior to and after the eElection period, should be carefully monitored with extra vigilance.

### 3.2.3 Smear Campaigns<sup>112</sup>

These are designed to discredit the eElections by referring to them as unreliable, insecure or controverted. This is done by playing upon eVoter's irrational fears regarding the inherent non-transparency of the eVoting process.

In this particular eElection, an anonymous smear campaign was conducted by the use of a false video purporting to show how the eElection result was subverted. It was alleged that an eVote cast in favour of one candidate instead led to marking on the electronic ballot sheet in favour of another candidate.

To counter this, it was necessary to set up an incident response team to quickly react to such potential public relations disasters, and to do so via a public communication channel which was already in place and well established.

### 3.2.4 Buying of eVotes<sup>113</sup>

Attempts were made to discredit the eElections by use of advertisements in the form of false flyers which offered to pay eVoters for casting their votes in the presence of the election observers of a specific political party. Generally, in elections, it has been observed that only when votes are cast in secret then there is no possibility for the briber to supervise the voter. However, it is theoretically possible to buy a vote in all forms of elections which are conducted remotely, including in eElections. This could be countered through the use of Article 51 of Rec(2004)11 which states that the voter in an eVoting system should not be provided with any proof with regard to who was in fact voted for by him. It is also recommended to establish that an eVoter is aware of his responsibility to cast votes freely and secretly.

## 3.3 *eDemocracy in Switzerland*

Also in this connection, it is pertinent to see how eVoting is regarded in Switzerland, which although outside the EU is very close to it at the same time. eVoting is seen as a powerful tool in Switzerland, with potential to increase participation among the voters, improving voting quality and thereby helping political

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<sup>112</sup> See *id.*, pp. 232–233.

<sup>113</sup> See *id.*, pp. 234–235.

rights to be implemented within a democratic set-up. Risks regarding integrity of the system and issues pertaining to the digital divide though still persist. On the whole, the Swiss experience in this field (which has been ongoing since 1998) has shown the substantial benefits of eVoting, namely meeting the citizen's need for simplicity and convenience in democratic procedures; catering for voters with disabilities or citizens living abroad, who may prefer to use their home computers for the purposes of eParticipation; its inclusive nature, whereby more voters are incorporated into the democratic process, similar to the introduction of postal ballots of the past; and counting of votes electronically, thus reducing the risk of human error.<sup>114</sup> The overriding feature though is that of trust, namely trust in the eVoting environment and in one's computer.<sup>115</sup>

On the other hand, the risks associated with eVoting have been found to be the digital divide, security and confidentiality (which can only be ensured if personal data and the ballot are kept separately from each other) and information overload (which is sometimes sought to be countered by reducing information intake—a process which in turn encourages irrational and populist tendencies). Another area of concern is the lack of transparency, since a new set of technical skills is required to deal with the three main aspects of eParticipation, namely: data generation, data transformation and data storage. In the past, a citizen could feel a sense of control over the democratic process of voting by helping to count the votes. However, this is now done electronically and is too sophisticated for the average voter to comprehend or to connect with.<sup>116</sup>

Of the various eVoting systems studied, the one used in Geneva is most interesting. The voting card (along with other paraphernalia) is mailed to the voters well in advance of the voting date. The voting card can be used only once (thus ensuring the one man, one vote principle) and is valid only for the coming election. The verification process is enabled by entering of an individual identification number (which is stated on the ballot sheet). On entering the correct number, the system connects the voter to a secure server. Here, the voter enters his vote. The system restates the choice made and the voter confirms it by giving his date of birth and the unique PIN code which can be obtained by scratching the ballot sheet. Lastly, the voter receives a confirmation from the system that his vote has been registered.<sup>117</sup>

It is pertinent to note that in Swiss usage, eVoting is fast gaining popularity and is second only to postal ballots, whereas traditional ballot box voting is a distant third.<sup>118</sup>

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<sup>114</sup> Gerlach and Gasser (2009), pp. 3–4.

<sup>115</sup> See *id.*, p. 4.

<sup>116</sup> See *id.*, p. 5.

<sup>117</sup> See *id.*, p. 7.

<sup>118</sup> See *id.*, p. 9.

## 4 The Approach Taken in USA

### 4.1 Introduction to the Scenario in USA

As we are aware, USA is a world leader in Internet-related activities, both commercial and non-commercial. It is also a typical Western-styled democracy, along with being also the richest and most powerful nation in the world. Issues such as low voter turnout, low accountability of politicians and general disdain of the youth towards the political system are also highly visible in USA.<sup>119</sup>

In USA, it should be noted that information is disseminated in vast numbers, directly leading to increased transparency. However, citizen's involvement and/or participation in the decision-making process is very sparse.<sup>120</sup>

There is a lot of focus on deliberative initiatives such as online forums and citizen's communication with elected representatives (including call-in radio shows where citizens can speak personally with elected representatives and some of the data are then posted on a Website). Then, there are participation initiatives such as forums for receiving feedback from citizen's, initiating proposals on a ballot, provision for online bidding as a form of eProcurement (which in effect allows for the widening of eDemocracy by allowing businesses to openly and freely participate in Government tenders in a transparent fashion) and provisions for receiving feedback from citizens with regard to drafting the budgetary needs of the town/city. A large part of eParticipation is reserved for transparency initiatives such as blogs of an official nature which are set up and maintained by specific public departments to provide information directly to the constituents and not routed through intermediaries such as the press, Webcasting of activities of the legislature at various levels, use of RSS feeds, etc.<sup>121</sup>

Thus, we can see that eDemocracy in USA is mostly about providing transparency to the whole political process. This allows citizens to use their ICT tools to monitor official activities. This, in turn, is hoped to increase vigilance and interest among the voters. It also helps to curb dishonest practices by politicians.

Incidents such as the online protests in 2012 against two US legislative Acts designed to counter piracy, namely the Protect IP Act ("PIPA") and the Stop Online Piracy Act ("SOPA") showed how easily and effectively companies such as Google, Wikipedia and Facebook were able to mobilise public support and make the US politicians aware of public opposition to the above-mentioned proposed Acts. This was done in a very different manner than the lobbying actions that are usually conducted by "old economy" companies. This may even serve as an indication of how the web-universe is a very different and multidimensional entity

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<sup>119</sup> Kotsiopoulos (2009), pp. A-24–A-27.

<sup>120</sup> Peart (2007), p. 8, where this is attributed to prevailing American political culture.

<sup>121</sup> See Kotsiopoulos (2009), pp. A-25–A-26, where examples like those of Virginia's Governor Kaine's two call-in radio shows monthly and the discussion forum (<http://gov.ca.gov/ask>) which was used by Governor Arnold Schwarzenegger when he was in power in California, are provided.

when compared with the image of a flat eDemocratic ideal that one perceives eParticipation to comprise of.<sup>122</sup>

It must however be noted that the romantic vision of the emergence of ICT as a saving grace for the tottering system of modern representative democracy in Western countries such as USA (which are battling lack of public participation, disenchantment of young voters and a perceived lack of trust in politicians) has not really played out to its full potential.<sup>123</sup> There exists a view of great disillusionment with eDemocracy.<sup>124</sup> This view has been buttressed by various research activities which indicate that various eDemocracy tools such as online consultations, eForums, etc., have not really helped ICT to live up to its full potential of influencing policy changes and decision-making.<sup>125</sup>

Perhaps this is an indicator that the so-called cyber-democrats were wrong about their early optimism regarding the capabilities of ICT, and in their belief that simply placing the correct platform in place would serve as a guarantee for increased civic participation in the manner espoused by an electronically mediated deliberative democracy.<sup>126</sup>

Despite these setbacks, the enthusiasm of governments to engage in more projects related with eDemocracy continues unabated, especially as seen in the US with the OG Directive of President Obama—which stresses on the principles of transparency, participation and collaboration in the running of the government.<sup>127</sup> This in turn has led to the setting up of “open government” portals, the ability to single-handedly access high-value data from the databases of federal agencies, and development of initiatives such as Regulations.gov, the Open Government Dashboard, and Challenge.gov.<sup>128</sup>

This in turn has influenced other countries such as Canada, United Kingdom, Australia, etc.<sup>129</sup> Further, over 60 countries have signed the Open Government Declaration (OG Declaration) of 2011, being an international platform for domestic reformers committed to making their governments more open, accountable and

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<sup>122</sup> Perez (2013), p. 63.

<sup>123</sup> Shane (2012), p. 3.

<sup>124</sup> Ostling (2010), p. 4.

<sup>125</sup> Dahlberg (2011), p. 866.

<sup>126</sup> Perez (2013), p. 65.

<sup>127</sup> Orszag (2009) Memorandum from the Director for the Heads of Executive Departments and Agencies. Executive Office of the President of USA. p. 1. [http://www.whitehouse.gov/sites/default/files/omb/assets/memoranda\\_2010/m10-06.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/memoranda_2010/m10-06.pdf). Accessed 2 Apr 2014.

<sup>128</sup> Perez (2013), p. 66.

<sup>129</sup> See for Canada—<http://data.gc.ca/eng>. Accessed 2 Apr 2014. United Kingdom—<http://data.gov.uk/> Accessed 2 Apr 2014. Australia—<http://www.finance.gov.au/blog/2010/07/16/declaration-open-government/> Accessed 2 Apr 2014.



responsive to citizens.<sup>130</sup> Such activity has also spread to international organisations such as the World Bank and others.<sup>131</sup>

## ***4.2 The Flaws Which Are Perceived by some Scholars in the USA System***

In one research study conducted in USA,<sup>132</sup> an eParticipation consultative process was found to suffer from the following flaws namely that the search engine which supported the consultation Website was inadequate and unreliable (thereby rendering the collection of information difficult). Further, the collection of all the relevant data was a time-consuming and expensive affair, and was compounded by the fact that the entire maintenance of the system was consigned to just one man.<sup>133</sup> Also the participants in this program were inevitably experts, as the general public refrained from participating in most such complex and heavily loaded issues. The situation turned worse because the general public were cynical about their role in the online consultation process and its actual impact on the influencing of government policy. Further, many members of the public preferred to write directly to the politicians, avoiding the agency.<sup>134</sup> In this scenario, some of the ways to improve the system could include greater accessibility to information, possibility of follow-up action, support from higher authorities and being consistent.

Thus, it can be seen that eDemocracy often works in theory, but not in practice. Further, continued political support is the key to success for eDemocracy projects, since they require a lot of active intervention and this consumes a wide variety of resources.<sup>135</sup>

## ***4.3 A View of the OG Directive in this Regard***

The OG directive, when seen objectively, has shown the following positive effects, namely that it has given rise to a change in mindset. Thus, the government is perceived to be more transparent and participatory than in the past. It has also helped

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<sup>130</sup> See The Open Government Partnership comprising of over 60 countries. <http://www.opengovpartnership.org/>. Accessed 2 Apr 2014.

<sup>131</sup> See The World Bank ICT Sector Strategy at <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTINFORMATIONANDCOMMUNICATIONANDTECHNOLOGIES/0,,contentMDK:23118048~menuPK:8432091~pagePK:210058~piPK:210062~theSitePK:282823,00.html>. Accessed 2 Apr 2014.

<sup>132</sup> Perez (2013), p. 86.

<sup>133</sup> See *id.*, p. 87.

<sup>134</sup> See *id.*, p. 87.

<sup>135</sup> See *id.*, pp. 116–117.

like-minded members of the public (including ordinary citizens, experts and academics) to come together and discuss open governance. Further, it has led to a development of technology to help support and run eGovernance-related activities.<sup>136</sup>

However, there are some negative aspects too, especially when one considers whether there has been any improvement in democratic practices thanks to the OG Directive. One view is that continuity of the political support in regard to the OG Directive in the long run gives rise to uncertainty which therefore limits the potential of this program. Also too much faith is put in the belief that the technology itself will spur change in the social environment. This viewpoint ignores barriers such as sociological and psychological ones which in reality inhibit adoption of digital democratisation. The biggest challenges still remain in respect of creating public interest in eDemocracy.<sup>137</sup>

Convincing people that their views are important to the Government is especially difficult when officials view the public as being ignorant, ill informed and valueless.<sup>138</sup> A bigger challenge to eDemocracy is the fact that citizens are more often likely to be neither alert nor motivated enough to engage in online political engagement.<sup>139</sup>

#### ***4.4 The Road Ahead***

Thus, one scholar sees the following as the key to development and progress of eDemocracy in USA<sup>140</sup>: He proposes building motivation by using online communities and social media. There is also a need to understand the limitations of the online medium and to interject into the online dialogue with the help of human and technological intermediaries to help enrich the content. Prioritising specific issues/areas for more intensive civic engagement is an important task. However, the question arises as to who will determine these specific issues and what effect this will have on expectations of democratic neutrality?<sup>141</sup> Creating/encouraging new technologies to develop eLiteracy and online deliberation is also very helpful, as is supporting political intermediaries such as interest groups, non-government organisations, academics, press, etc., to deepen democratic engagement.

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<sup>136</sup> See *id.*, p. 118.

<sup>137</sup> See *id.*, p. 119.

<sup>138</sup> Stromer-Galley et al. (2012), p. 93.

<sup>139</sup> Perez (2013), p. 122.

<sup>140</sup> See *id.*, pp. 127–128.

<sup>141</sup> Perez (2006), p. 122.

## 4.5 *Involving Citizens of USA in the Legislative Process*

### 4.5.1 **Petitioning in USA and the Growing Role of eLegislation**

Traditionally, in USA, legislative processes relating to the federal system of government have been difficult to access for common citizens. However, eLegislation is changing this because of its ability to communicate voter's thoughts to legislators with the help of ICT. But, as was seen in the example above of the protests against SOPA in 2012, there can be some negative aspects, namely: manipulating members of the public by playing on their emotions, the anonymity of the protestors online and the use of (temporary) deprivation of services by influential Websites (such as Google, Wikipedia, etc.) to attract the attention of Internet users, often in favour of the opinions voiced by the owners of the Websites. Thus, it is apparent that eLegislating can be used in a constructive manner and also abused in an obstructive manner, and it is pertinent that common citizens are made aware of both sides of the coin.<sup>142</sup>

Given the large numbers of common people who use social media, it is but natural that the Internet will also be used for activities which are of a civic or political nature.<sup>143</sup> Thus, where earlier political speeches were given in the streets and parks to mould public opinion, a lot of such activities have now shifted into the realm of the electronic media.<sup>144</sup>

### 4.5.2 **Historical Perspective**

In the past, petitioning was most commonly exercised through the medium of letters or the gathering of multiple signatures on a petition.<sup>145</sup> Although the US Congress was not obliged to enact legislations on the basis of such petitioning by the public, the petitions were nonetheless reviewed in a serious manner.<sup>146</sup>

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<sup>142</sup> Duvivier (2013), pp. 10–11.

<sup>143</sup> Sherman (2011), p. 96.

<sup>144</sup> Duvivier (2013), p. 17. Also note pp. 11–12 where the influence of social media in political transition is discussed. For example, the Facebook Webpage dedicated to Mr. Khaled Said who had died allegedly at the hands of Egypt's secret police in 2010 led to a revolution on the streets of Egypt leading to the overthrow of the Egyptian government. Another stark example is the clever use of an online, state of the art electioneering campaign named Project Narwhal by Mr. Obama for the elections in 2012 to the office of the President of USA. This was more successful than the Website launched by his rival Mr. Romney, which performed unsatisfactorily.

<sup>145</sup> See *id.*, p. 26. Although there are historic reasons for their declining power at the Federal level, [in 1844, a rule was passed in USA whereby petitions would be referred to committees instead of being brought to the attention of the whole House of Representatives. This in effect meant that they could now be conveniently ignored under the guise of action by the committee (See p. 28)]. It should be noted that in 2012, 186 initiatives and referendums at the state level were voted for by citizens in 39 states of USA. (See p. 32).

<sup>146</sup> See *id.*, p. 28.

### 4.5.3 The Role of ICT in this Regard

From the above, it is clear that petitions and referendums, per se, fail in giving any role in legislation making at the Federal level in USA to citizens. But it is hoped that by the use of ICT, this can be changed. To give citizens a chance to share their collective expertise and information, there are some new possibilities in USA.<sup>147</sup> Thus, the White House has come out with an electronic petition platform incorporated in its “We the People” Website.<sup>148</sup> If petitions cross the stipulated threshold of signatures, then the USA administration promises to respond with their reply.<sup>149</sup>

It should be noted, that just like in other democracies, the voice of the citizens in USA is only audible to the politicians during elections. But laws are enacted during periods between election cycles, and it is not possible for voters to compete with vested interest groups who use expensive lobbyists to influence legislators. Opinions voiced at town hall meetings or correspondence by post/telephone is often not enough to get the citizen’s feeble voice across to the legislators at the time when public opinion actually matters the most—during the actual drafting and enacting of laws.<sup>150</sup> The use of ICT by voters to register their feedback with politicians is envisaged differently by different researchers—some see such online activism as being merely a “difference-of-degree” form rather than a “difference-in-kind” form, when compared with traditional activism.<sup>151</sup>

## 4.6 Difference Between Europe and USA

The European lead is exemplified by experiments such as those of Switzerland, Estonia and the UK. Meanwhile, the US emphasises in transparency rather than participation.<sup>152</sup>

Two key issues that arise as problem areas are related with voter identification and the different voting systems involved. The fact is that most Europeans have a unique identification number which is issued by their respective governments. This is the most important component of eVoting. Citizens in USA do not have such a numerical form of identification. Secondly, in USA, the political system is based around the principle of “the winner takes it all”. This means that a politician

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<sup>147</sup> See *id.*, p. 37.

<sup>148</sup> See <http://www.whitehouse.gov/blog/2011/09/22/petition-white-house-we-people>. Accessed 2 Apr 2014.

<sup>149</sup> Thus, in response to a petition to secure resources and funding, and begin construction of a Death Star by 2016, which crossed the required threshold of signatures, a Government response was guaranteed. For the response, please see <https://petitions.whitehouse.gov/response/isnt-petition-response-youre-looking>. Accessed 2 Apr 2014.

<sup>150</sup> Duvivier (2013), p. 39.

<sup>151</sup> Karpf (2010), p. 9.

<sup>152</sup> Kotsiopoulos (2009), p. A-71.

standing for elections in USA has a lot more to lose than his European counterparts who follow the “proportional representation” voting system. Thus, the European model is less prone to corruption or fraud.<sup>153</sup>

## 5 The eCitizen Question

### 5.1 Differing Views on eParticipation for Citizens

One researcher has compared the different approaches adopted by Steven Clift and Ann Macintosh.<sup>154</sup> According to him, Clift proposes to be proactive in building up the structures of eDemocracy and to construct a community of networks thereby facilitating ways for people to enter into political discussions which can then be used to influence good governance. The Macintosh approach is to use government funding to enable academic researchers to build and operate tools which allow the public to communicate with the legislative and executive branches on issues of public importance.<sup>155</sup>

However, it should be noted that research has shown that the existence of an “informed citizen” is a myth, particularly since it has been observed that most citizens are less informed and are prone to taking shortcuts when it comes to decision-making, and hence they need to be guided by intermediaries such as political parties, civic groups, mass media, etc.<sup>156</sup> Those who hold this view also point to the barriers which exist in our society towards a wider form of engagement of the public in a democratic set-up, namely: “epistemic scarcity, attention scarcity and motivational scarcity”.<sup>157</sup>

Further, research has shown that Internet-based democratic set-ups work best in an open-structured environment where social and technological entrepreneurs are actively involved. However, once the eDemocracy project is streamlined, centrally coordinated and furnished with a structured framework then the motivation and enthusiasm levels often crash.<sup>158</sup>

### 5.2 Citizen Archetypes

In this connection, it is interesting to note that one scholar has raised a distinction between various citizen archetypes. He defines citizens as being either the “info-lite” citizen who is passive, not very inclined to research and makes his political choices based on his limited experiences, or the “push-button citizen” who is willing to

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<sup>153</sup> Kuzelewska and Krasnicka (2013), p. 353.

<sup>154</sup> Kotsiopoulos (2009), p. A 14, where in footnote 21, Riley CG is quoted.

<sup>155</sup> See *id.*, pp. A-14–A-15.

<sup>156</sup> Perez (2009), p. 47.

<sup>157</sup> Perez (2013), p. 76.

<sup>158</sup> See *id.*, p. 80.

exercise his right to vote and participate in referenda, but still shies away from active deliberation, or finally the “actualizing citizenship”, who is most comfortable with open governance and fullsome participation of the public in the government process. Thus, eDemocracy technologies used by the Government should be mindful of these different types of citizens and their individual capacities. In this context, the scholar asserts that eDemocracy is “democratic space where anyone can stake a claim to be heard and respected and all proposals have a chance of being acted on”.<sup>159</sup>

### 5.3 *The Punctuated Citizen*

A different approach is that of the “punctuated citizenship”.<sup>160</sup> This definition acknowledges the above listed three citizenship types as coexisting in each of us, and that we ceaselessly vacillate between these three states. However, a citizen is neither constantly actualized nor continuously passive.<sup>161</sup> Further, since punctuated citizenship accepts that citizens have limitations when it comes to knowledge, attention and motivation, then their participation in the political process is punctuated, unstable and not maintainable over long periods. However, there exists a certain amount of latent political activity in all citizens, and this should be exploited for the purposes of eDemocracy.<sup>162</sup>

## 6 ePerson–ePersonality–eParticipation and the “Trishanku” Effect

To indulge in eParticipation, we need to understand the concept of ePersonality. This in turn leads us to the question of what is an ePerson? These questions are closely linked with our digital personalities. A recent study showed that there are at least four types of digital personalities, all of which are possible due to the influence of ICT in our everyday lives. These digital personalities vary from those who seek efficiency by going online to those who value increasingly sophisticated connectivity between various devices.<sup>163</sup> Perhaps one can look towards the ancient writings of Hinduism to draw surprising parallels to today’s riddle of ePersonality. In the Hindu Epic “Ramayana”, authored by Valmiki (the exact date of authorship is unknown but it is believed to be several thousand years old), the concept of Trishanku is explored in the 60th Sarga (chapter) in the Baalkaanda.<sup>164</sup>

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<sup>159</sup> See *id.*, p. 122–123.

<sup>160</sup> See *id.*, p. 124.

<sup>161</sup> Muller (2011), p. 3.

<sup>162</sup> Perez (2013), p. 125.

<sup>163</sup> Please see this press release from IBM (2012).

<sup>164</sup> Please see an online version of the Ramayana, along with its English translation here: <http://valmiki.iitk.ac.in/index.php?id=translation>. Accessed 2 Apr 2014.

Trishanku was an Indian King who wished to travel to Heaven in his own mortal body. Such an act was not permissible under the laws of Heaven. Trishanku prayed to the sage Vishwamitra to help him attain his goal. The wise sage agreed to this request and lifted Trishanku to the very gates of Heaven. However, here the entry of Trishanku was blocked by Indra, the King of Gods. Thus, pushed off Heaven, Trishanku fell towards the earth, beseeching the sage for help. Enraged at this turn of events, the sage created an alternate heaven for Trishanku, complete with clones of galaxies, stars and even Gods. This cloned Heaven is believed to be a southern version of the Ursa Major Constellation which is found in the Northern Hemisphere. Seeing this absurdity, the Gods proceeded to the mighty sage and worked out a face saving compromise which was agreeable to both parties. It was decided that Trishanku could stay in a heaven, but not in the original Heaven. Instead he could stay in the cloned version of Heaven, suspended upside down, for all eternity.<sup>165</sup> Here, he is neither subject to the laws of earth nor is he required to follow the laws of Heaven, a victim instead of compromise.<sup>166</sup>

The author is of the view that a similar fate awaits an ePerson who is enmeshed in the digital world of Internet and ICT. In order to enable the ePersonality to flourish, one must create a parallel online universe, where rights and liabilities mirror those found in our various earthly Conventions and Declarations related to human, cultural and political rights, but where the distinction between the real world and the online world persists—thereby creating a situation wherein the twain shall coexist but never meet. Once such a Trishanku’s cloned Heaven exists, then it is easier to identify the boundaries which can then be blurred sufficiently so as to create a semblance of similarity between the two distinct worlds. Thus, one’s human rights in the digital medium would mirror the human rights found in real life but would not be considered as being the same. Acceptance of such a state of affairs makes the concept of the punctuated citizen more easier to follow, because such citizens—namely the passive, the willing and the active, already exist in our non-digital worlds, and they thus mirror those that we see online.

## 7 Conclusion

### 7.1 *Some Eternal Truths*

Thus, we can see that eDemocracy can develop only when ICT and the Internet evolve further.<sup>167</sup> As was outlined by the OECD way back in 2003 in its article titled “Engaging Citizens Online for Better Policy-making”, some important points raised were that technology is not the solution, it simply enables us to reach towards the solution. Further, information must be provided online for success of

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<sup>165</sup> Please see another English version of the story of Trishanku here: [http://www.valmikiramayan.net/bala/sarga60/bala\\_60\\_prose.htm](http://www.valmikiramayan.net/bala/sarga60/bala_60_prose.htm). Accessed 2 Apr 2014.

<sup>166</sup> Calamur (2012).

<sup>167</sup> Kotsiopoulos (2009), p. A-15.

the eDemocracy system. But it should not be forgotten that information in terms of quantity cannot override quality. Also the online consultations should be actively promoted and effectively moderated to be successful. Also to be noted are the cultural factors which can affect citizen's online behaviour and subsequent engagement. These are distinct from the technological barriers.<sup>168</sup>

The author thinks that these points are still relevant today, after more than 10 years. Also what needs to be noted is the convenience that the practice and usage of Internet has brought into our lives. eVoting is thus the pinnacle of convenience in today's time and age.<sup>169</sup> But given the propensity of ICT networks to be subjected to surveillance or being hacked into, the bigger question that the author poses is whether we should fear the proverbial big brother?

Perhaps it is also pertinent to explore ePersonality from a different angle, hence the reference to the metaphorical "Trishanku" who is symbolic of the modern day ePerson, fully immersed in the digital world of Internet and ICT. His existence can flourish only in a parallel online universe, where rights and liabilities mirror those found in our various earthly Conventions and Declarations related to human, cultural and political rights, but where the distinction between the real world and the online world persists—thereby creating a situation wherein the twain shall coexist but never meet. By accepting this metaphor from ancient Hindu mythology, we can appreciate the concept of the Punctuated Citizen. Such citizens—namely the passive, the willing and the active, already exist in our non-digital worlds, and they thus mirror those that we see online.

## 7.2 *What eDemocracy Needs?*

### 7.2.1 Political Willpower

As stated by one researcher, political willpower is important for this venture, along with adequate human resources and capital, both of which are allocated much in advance.<sup>170</sup> Coordination between various government agencies is the key, because efficiency and cost savings can help the eDemocracy program. Given adequate time, the process can evolve under the glare of open participation and free flowing of information, coupled with support of a technical nature. A well staffed government agency alone can help ICTs to fulfil eDemocracy ideas in eGovernance by developing policies and monitoring the issues.<sup>171</sup> The Estonian example shows that once the technical requirements are met (with the usage of digital signature cards, multiple PINs, card readers, etc.) and the people have been adequately exposed to

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<sup>168</sup> See *id.*, p. A-53.

<sup>169</sup> Alvarez et al. (2008), p. 3.

<sup>170</sup> Clift (2004), p. 5.

<sup>171</sup> Kotsiopoulos (2009), p. A-53.



such technologies so as to make them feel comfortable using them, then acceptance for eVoting will grow steadily.<sup>172</sup>

### 7.2.2 Citizen's Involvement

When citizens stop voting or participating in the political process, it is indicative of the sad fact that they have lost hope and do not believe that their views matter to their government.<sup>173</sup>

The present state of affairs as far as democracy is concerned is rounded up in this quote from the report of a consultation paper: "We live in an age characterised by a multiplicity of channels of communication, yet many people feel cut-off from public life. There are more ways than ever to speak, but still there is a widespread feeling that people's voices are not being heard".<sup>174</sup>

The UK Government's eDemocracy strategy visualises the following key, related components, namely: democracy needs participation of the people which in turn is on the decline in the traditional sphere; citizens nonetheless remain motivated enough to dedicate time, effort and energies in matters which are of relevance to them; and ICT is changing society and can consequently help in broadening the engagement of the citizens in public policy matters. But the key to eDemocracy is democracy and not technology.<sup>175</sup>

### 7.2.3 Effective Consultation Techniques

The UK Government's Code of Practice on eDemocracy offers specific criteria for consulting online. These include timing of consultation—so that the consultation can have actual impact and is taken into account at each stage. Also needed is clarity about the questions asked, those who are questioned, the time frame and the purposes of the questions. A key feature is simplicity and conciseness of the consultation document. Widespread availability of all documentary information to all interested parties is especially helpful. Also time for collecting responses—ranging from twelve weeks or more for the consultation—is important. An analysis of the responses should be open-minded, and reasoned decisions must be the norm. And above all, a coordinator should be appointed to monitor and evaluate consultations, so that the lessons learned are shared and not forgotten.<sup>176</sup>

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<sup>172</sup> Beckert (2011), p. 4.

<sup>173</sup> Kotsiopoulos (2009), p. A-54.

<sup>174</sup> UK Government (2002), p. 8.

<sup>175</sup> Kotsiopoulos (2009), p. A-55.

<sup>176</sup> UK Government (2002), pp. 1–2.

### 7.3 Summary of Case Study Results

Two researchers have looked into certain examples and have stated in respect of Estonia that it has developed remarkably in the field of eDemocracy initiatives. Further, Internet is highly prevalent in Estonia. However, the democracy deficit and the general lack of faith in the government offices and working style remains.<sup>177</sup> Although voter turnout at elections to the European Parliament in Estonia has increased to up to 43 % (in 2009) when compared with 2004 when there was no provision for eVoting and voter turnout stood at 27 %, the link with eVoting is considered to be smaller in magnitude.<sup>178</sup> In the case of Italy, problems exist because of the deep digital divide, which has made eDemocracy inconsequential to a large proportion of the Italian populace.<sup>179</sup>

Switzerland has a strong federal structure. There is also a steady tradition of direct democracy, since any citizen has the right to initiate a vote on any issue of significance, provided that a certain number of co-signatories sign in. The use of ICT in such a situation would be ideal. However, as one researcher suggests, eVoting has not become generally acceptable because of arguments ranging from the risk factors, costs, the issue of digital divide to the aspect of its detrimental effect on the symbolism associated with the physical act of voting. This may also explain why some political parties still oppose it.<sup>180</sup>

Conversely, in the case of Latin America, one researcher suggests that eParticipation is often used as a ruse merely to advertise government activities and to attract funding, instead of improving democracy in general.<sup>181</sup>

Another researcher suggests that all the eParticipation requirements are unlikely to be met by any single, general size, sophisticated e-tool. This is especially so because of the various languages, cultures and technical skills that one sees in human society. These differences only serve to exclude some groups from eDemocracy.<sup>182</sup>

### 7.4 ICT and Democracy

Thus, the role of ICT in eDemocracy can be summed up as follows, namely that ICTs may not be used to their fullest value in a democratic set-up, unless the leaders want them to be so used. ICT usage in democracy is not faultless. Adaptation would depend on conditions, cultural and legal issues, and also on how it is

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<sup>177</sup> Peart and Diaz (2007), p. 13.

<sup>178</sup> Beckert (2011), p. 1.

<sup>179</sup> See *id.*, p. 22.

<sup>180</sup> Mendez (2007), p. 15.

<sup>181</sup> Welp (2007), p. 16.

<sup>182</sup> Kotsiopoulou (2009), p. A-65 where in footnote 88, Macintosh (2003) is quoted.

followed up subsequently. Success cannot be taken for granted, as it may differ in different countries and may be changed by new leadership. Also ICT has immense value and can help to enrich democracy with new tools. Thus, for eDemocracy to succeed—articulation, deliberation and dedication are important.<sup>183</sup>

## 7.5 *Dangers of eDemocracy*

As outlined by access2democracy NGO, eDemocracy is not bereft of dangers. If eDemocracy is not rightly implemented, it can become a tool in the hands of politicians for enforcement of wrong policies under the excuse of populism. Further, the threat to privacy is real, especially in the absence of accountability and transparency. There is also a need to be on the alert against malpractices and scam practices in the guise of online eDemocracy Websites which are designed to rip off innocent citizens by promising them access to policy-making. Mocking citizens (who are already disillusioned with politics) by the use of half-baked eDemocracy projects risks increasing public ire.<sup>184</sup>

Further, as a report stated back in 2003, there is a danger of fatigue creeping into the eConsultation process, particularly when there is a lack of suitable feedback from the government to the people. This in turn stokes the fires of disillusionment. There is also a need to institutionalise the process for analysing citizen's inputs and contributions, both solicited or otherwise. All of this is compounded by the lack of studies on eEngagement that clearly draw a link between such engagement and consequent influences on the decision-making process, leading to actual changes in government public policy.<sup>185</sup> The author feels that one decade later these issues still persist and are relevant.

As another researcher has stated, ICTs are not an equal opportunities provider for all concerned citizens, since they tend to be inherently undemocratic. The electorate is often divided into the haves (with access to the modern tools and knowledge of their use) and the have-nots.<sup>186</sup>

Looking towards eVoting, the main dangers can be summarised as follows: First is the issue of free and secret voting, for example, in the context of family pressures in voting matters. It is thus presumed that remote voting cannot guarantee the true privacy of a secured voting booth. Secondly the digital divide, which manifests itself in an upper class bias, is an important issue. Such divides (even though subtle at times) are evidence of how eElections are actually less

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<sup>183</sup> Clift (2004), pp. 37–38.

<sup>184</sup> Kotsiopoulos (2009), p. A-68.

<sup>185</sup> Macintosh (2003), pp. 24–25.

<sup>186</sup> Kotsiopoulos (2009), p. A-69 where in footnote 93, Barney (2000) is quoted.

representative than traditional electoral processes. The question of culture is related with the civic ritual of casting one's vote physically in a secured voting booth situated in a public area is as much a communal affair, which eVoting insulates a citizen from. Fourthly, complicated structures, namely the technologically complex logistical issues with ensuring the success of eVoting make them more complicated than traditional voting procedures. Lastly, the effects on behaviour are seen when one views voting in an isolated environment (such as at home on a computer). It gives rise to a more individualistic identity (based on self-interest) unlike when one votes in a communal setting, surrounded by others. Further, the perceived threat of eSurveillance online can alter one's voting preferences. All this in particular affects the "floating" voters (similar in context to the swing voter) who can often turn to be the key determinant factor in an election.<sup>187</sup>

Added to the above is the fact that eVoting cannot and should not be compared with eCommerce, since free and fair voting is at the very essence of our democratic roots. Any affront to this principle can delegitimise the entire eVoting process, unlike in a commercial transaction which, if affected, has a limited impact on unrelated transactions. Further issues with transparency, anonymity, security flaws online, symbolism attached with voting, etc., have also been considered elsewhere in this chapter.<sup>188</sup>

## 7.6 Conclusion

Thus, we can see that eDemocracy and eParticipation are relatively new fields that have their plus points and their pitfalls. Further research is essential to study their long-term effects. eDemocracy has found a lot of takers in Europe and USA. eVoting is a logical expansion of the principle of postal voting and will only get more entrenched as time passes.

The Internet is present all around us and continues to increase its influence in our daily lives. Due to increasing computerisation of public administration, coupled with the need to involve the youth more proactively, there is a need to work on aspects related with convenience, efficiency, cost-effectiveness, etc. All of these can be provided for effectively with eGovernance.<sup>189</sup>

However, if it is not properly implemented, then it can potentially become a carrier of wrongful policies and bad practices. Further, facilities such as eVoting can result in significant alteration of the voting context, with hidden dangers that may someday manifest themselves in surprising ways.<sup>190</sup>

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<sup>187</sup> Oostveen and Van den Besselaar (2007), pp. 2–5.

<sup>188</sup> Beckert (2011), p. 3.

<sup>189</sup> See *id.*, pp. 2–3.

<sup>190</sup> Kotsiopoulos (2009), p. A-71.

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