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Online Democracy, Is it Viable? Is it Desirable? Internet Voting and Normative Democratic Theory

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Internet voting has become a challenging field of action for political scientists, computer companies and legal advisers. Its introduction is on the current reform agenda of nearly all democracies (and semi-democracies). In various projects all over the world, the technical details for ‘Internet voting’, ‘online elections’, ‘cyber vote’ and ‘e-voting’ are being worked out (I will use all these terms synonymously). The academic discussion about Internet voting is centred upon various technical, empirical, analytical and constitutional questions which arise from the new voting technique. Surprisingly, the underlining normative arguments and the implicit democratic theories which are at the core of the digital reform project and which were the driving force behind the movement for online voting have vanished from sight in the course of these debates.

The number of policy options for future reforms towards Internet voting is quite impressive. The introduction of online voting forms part of a number of measures designed to promote ‘multi-channel-voting’: citizens shall be free to cast their vote through the traditional paper ballot or the postal vote, the proxy vote, the vote in advance, the vote at an embassy and the Internet. The supporters of Internet voting share an implicit and rather radical vision (see Corroda and Firestone 1996; Lyntha and Pal 1998). All channels to cast votes shall still be available in the future, but the slogan of a computer business company in 2001, ‘Vote in your underwear!’, truly forecasts the dreams of most advocates of Internet voting. If their dreams come true, voting computers will be installed in polling stations, shopping malls or public libraries. Moreover, the regular voting procedures of the future will actually be based on the use of home PCs and cellular phones from any place in the world. According to this vision, all other channels to cast
the vote will eventually become remnants from the past. Estonia is the first country to put this vision into practice; the Estonian parliament recently decided to make use of the net in their national elections scheduled for 2005.

Such plans challenge today's way of voting far beyond mere technological aspects: their implications reach to the normative self-understanding of modern democracies. The recent debate about online voting, however, is deficient in two ways: most arguments pro and con online voting are exchanged without reflecting the contextual components of elections. Thus most arguments fail to develop proper normative reasons, which are sensitive to the different contextual components of voting procedures. Accordingly, this chapter is in two parts. In the first part (the first two sections) I intend to present a systematic framework of three contextual components for e-voting by introducing three analytical distinctions, followed in the second section by the main arguments in favour of Internet voting emphasizing the high expectations originally connected with this kind of reform.

After these systematic preliminaries, I will discuss the most radical technique of Internet voting for general elections in the second part of the chapter (the remaining sections). I pay special attention to three aspects of online voting: the consequences of online voting for the legitimacy of democratic procedures; Internet voting and the principle of mandatory secret voting; and, finally, the probable effects of political decisions made spontaneously behind the scenes. These last three sections raise serious doubts:

- First, with the argument that all forms of Internet voting have the potential to undermine the legitimacy of modern democracies in those situations where election results are close. Thus reasons are given why Internet voting would lead to a serious proneness to crises of legitimacy in modern democracies.
- Second, with the argument that e-voting in the public domain is incompatible with a mandatory secret vote. Thus, Internet voting would have to be ruled as unconstitutional in most European countries.
- And third, by taking the main liberal arguments in favour of democracy as a starting point for an – admittedly partisan – speculation about the loss of democratic rationality in a future Internet democracy.
Basic distinctions: the context, form and status of Internet voting

Ongoing pilot projects are making use of different computer technologies, and they differ from each other with reference to their context, form and status. I will skip the technological aspects of Internet voting here, however interesting they may be. Instead, I will concentrate on those three aspects of Internet voting which become crucial when one tries to evaluate Internet voting from the point of view of democratic theory. In order to get a systematic overview of the confusing variety of current Internet voting practices, three basic analytical distinctions must be introduced (see Gibson 2001; Internet Policy Institute 2001; Lange 2002):

- The first distinction deals with the various contexts of Internet voting,
- the second distinction puts the emphasis on the forms of Internet voting, and
- the third distinction is focused on the status of online voting.

The contexts

On a contextual level, two dimensions appear to be of particular interest. First, the political definition of decisions made through the Internet (should it be considered as part of the private or of the public domain?). And second, the constituency of Internet voting and its scale or spatial distribution (ranging from the local to the international level) (Table 3.1).

The requirements which voting procedures have to meet differ according to the context. With respect to the dimension of scale, the possible difficulties which may result from Internet voting on the international level are mainly of a technical and legal character. In most cases, the obstacles are not fundamental enough to prevent joint solutions.

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When we look at the distinction between the private and the public sector, things look less promising. The easiest cases are met by organizations in the private domain of civil society. The practice of elections and voting in a wide range of groups in civil society (sports clubs, civil associations, philanthropic organizations, etc.) normally meet much lower standards than in those of the public domain. Consequently, voting procedures in organizations in civil society are only marginally affected by legal arguments.

Even in cases in which voting procedures within the private domain are fixed in a detailed manner (as in private firms and stock corporations), they are more easily altered than those in the public domain. In the public domain constitutions normally prescribe particular standards which voting procedures have to meet (e.g. access, security, secrecy), and procedures are usually prescribed by constitutional law and very difficult to change (if at all). On the other hand, there is no European constitutional law which says that elections in stock corporations necessarily have to be held in secrecy.

The forms
The second matrix deals with the form of Internet voting (see also Gibson 2001: 566). The actors responsible for computer technology (public PC; home PC) and the level of mobility (fixed; mobile) add up to the four basic forms of Internet voting (Table 3.2).

A brief look at the four basic models indicates differences in concept and political practice:

- @community. In this form, the computer system simply substitutes the old Florida-like voting machines in the traditional public polling station. They may – but do not have to – be connected to a central server to allow all voters (including those who happen to be on vacation) to use any polling station they want.

- @kiosk. In the kiosk system, additional polling stations connected through the net to the central server are installed in places where

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people frequently show up in their daily routines (like shopping malls and public libraries).

- @home. Voters use their own home PC to cast their vote.
- On-the-run. Cell phones and other mobile forms of communication can be used to participate in elections.

The defenders of the different forms of Internet voting claim different advantages, which it is up to empirical research to prove:

- In the @community model, the claim is that its main advantage is the provision against a repetition of the Florida disaster.
- The @kiosk system is primarily extolled for its alleged capacity to enhance voter turnout.
- Similarly, the arguments in favour of the @home system and the 'on-the-run' model say that both forms will lower the cost of political participation for voters even more and will have a positive effect on voter turnout.

The status

The third distinction is about the status of Internet voting. According to some champions of the new technology, Internet voting should be introduced – at least in the beginning – as an additional and optional form (like the postal vote today). According to others, it should become the regular form as soon as possible and substitute traditional voting practice (Table 3.3).

The status of Internet voting involves not only aspects of technology and finances; a brief look at the history of voting procedures illustrates the degree to which these procedures are part of a much more complex political culture. Voting procedures are embedded in a political culture, and they influence political culture at the same time. It is only plausible to imagine that Internet voting – as all its predecessors before – has the potential to generate and regenerate a particular dominant voting culture. There can hardly be any doubt that Internet voting as the

| Table 3.3  Status of Internet voting |
|------------------|------------------|
| **Short term**  | **Long term**    |
| Optional        | A                | B                |
| Regular         | C                | D                |
official and regular form to cast the vote will influence the attitude of candidates, voters and political campaigning. However, such effects are plausible to claim, but difficult to verify empirically. I will come back to this point in the last section of this chapter.

**The near future: coexistence and competition**

The three analytical distinctions help us imagine the multitude of policy options reformers face when they think about introducing Internet voting. The differences between the options make a safe bet about the face of future developments in the field of Internet voting almost impossible. Most probably, the near future will be a pluralistic one: we will probably observe the coexistence and competition not only of different computer software technologies, but of different basic forms and contexts as well. The rising interregnum of Internet voting pluralism will become an era of various technological experiments and pilot projects. It will turn out to be a vein of gold for some political scientists, computer companies and legal advisers.

Part of this pluralistic picture is the large group of today's electoral reformers and leading computer companies trying to push the reform agenda on a much more radical track. They envision future elections with people voting from their home PCs or simply by using their mobile phones. Their courageous vision challenges today's mode of voting in more than just its technological aspects; the implications of their radical vision reach deep into the normative infrastructure of modern democratic theory and deserve particular attention and extensive reflection.

**Promises, promises: the main arguments in favor of Internet voting**

Before discussing the radical vision in more detail, one has to keep in mind the expectations originally connected with Internet voting in general. Over the last decade, advocates of Internet voting have claimed a number of positive effects for the future of democracy, and at least five different arguments have come into play (see KPMG 1998; Schweizerischer Bundesrat 2002; Local Government Association 2001):

- **Cheap democracy.** Elections and other voting procedures cost a lot of money, and the use of computer technology would make it much easier and cheaper for municipalities and communities to organize and hold elections. Internet voting would not only save paper, but also spare the communities such tasks as the appointment and
training of polling officers, the preparation of suitable rooms, and the costs of the equipment required. The hope is that after a transition period of investment into new technology, future elections will be much cheaper than today and require but a small number of voluntary polling officers.

- **Fast and efficient count of votes.** The argument says that computers count votes not only faster but more accurately than human beings. The count will be much faster, which means that we do not have to wait for hours to get the final outcome. Florida is used as an example that humans are not as neutral as necessary when it comes to reading the butterfly ballot.

- **Higher voter turnout.** According to the defenders of online voting, its greatest advantage is that voting would no longer be confined to one particular location. The casting of votes from a mobile voting kiosk, the home PC or a mobile phone is less complicated and a lot more spontaneous than applying for a postal vote. The expectation is that Internet voting will raise voter turnout, in particular among the younger generation.

- **Additional election options.** A fourth advantage of e-voting is that new election procedures, which are more complicated but would be more reliable in taking into account the intentions of the electorate, will be introduced on a fair technological basis. Complicated procedures that currently exist in Ireland and in some other European countries, like the splitting of the vote, cumulative voting, the single transferable vote or the preference vote, can easily be introduced. And, in addition, new forms of splitting the vote (e.g. to give 60 per cent of my individual vote to party A and 40 per cent to party B) need no longer be confined to the imagination of those who care for the preferences of voters. Or we could think about a plebiscite, in which voters can mark intervals between just ‘yes’ and ‘no’, or list the particular percentage they would prefer for, say, the reduction or increase of certain taxes. All such visionary electoral reforms (that truly respect the authentic expressions of citizens) can easily be introduced without incurring any additional cost in time or materials while ensuring absolute accuracy of the count.

- **Strengthening direct democracy.** The fifth advantage of the cybervote is its potential to strengthen direct democracy. When elections of persons to the parliament become possible from a computer, the vote on issues no longer faces technical obstacles. Computer democracy marks a huge step in enabling voters to decide political issues directly by simply pushing a button.
Economic interests lend an additional (but still crucial) motive for the high pressure behind e-voting programmes. Politicians and managers see Internet voting as a strategic building block for the expanded use and user radius of computer technology. It is not surprising that computer and mobile telephone companies such as Cisco, Nokia and British Telecom willingly sponsor experiments of this kind. The new election technology is a big market and already highly competitive.

In the face of this variety of arguments, anyone taking a sceptical position towards e-voting could easily be suspected of suffering from technophobia, of oversleeping, of missing the boat, or of thoughtlessly thwarting the chance for the revival and modernization of democracy. However, such a reaction is not as impressive at it may look at a first glance, since the procedures of Internet voting raise at least some questions which cannot be left to wait for technological and practical answers.

Over the last three years, a second generation of arguments in favour of Internet voting has already tuned down the euphoric rhetoric of the early 1990s. The disillusion has to do with first experiences and first empirical findings (see California Online Voting Task Force 2000; Caltech/MIT 2001):

- Estimates of the financial investments necessary to start Internet voting on a larger scale seem to grow as fast as cannabis during a long hot summer.
- Opinion polls indicate that large numbers of citizens in most countries do not really trust the new technology.
- It seems that the transaction costs which voters have to cover in order to secure the vote (time, sophistication, additional technologies) are too high to be an incentive for a larger number of citizens.
- The experiences with voter turnout or the social composition of participants in pilot projects ('digital divide') are at least ambivalent.
- And the media's interest in producing quick vote totals on election nights in the USA has switched after the Florida debacle to revile any technology that appears to produce false results.

Issues like these are at the top of the agenda of social scientists and computer technicians who deal with Internet voting. Although one can expect that some of the empirical findings about voter participation and computer security will contradict the optimistic claims made
in the beginning, no reliable final conclusion can yet be drawn from the empirical findings (see the controversial results of Solop 2000; Alvarez and Nagler 2000; Lange 2002; Kriesi 2003 and Grönlund, Norris, Pratchett and Kersting in this volume). For any given empirical outcome, it could simply be the case that the first data to be obtained (this holds true for both higher and lower voter turnouts in all social groups) will find their main explanation in the pure fact that online voting is such a new practice.

Instead of relying on the weak empirical support the debate needs a normative turn. Such a turn, however, has to avoid the contradiction that usually appears when normative theory meets empirical research: normative theory starts with a demanding normative concept of democracy – only to complain in the end that the political reality is insufficient. Such a confrontation of an ideal with reality is somehow naive; life will always be insufficient to some degree, and this particularly holds true for democracy. In contrast to such an idealistic approach (at least in the first two objections), I will rely only on those normative standards for democracy which bear a broad consensus among modern democrats.

Democratic legitimacy: towards a procedural legitimation crisis

Anecdotal evidence indicates that, due to our daily experience with computers, we all have developed a healthy skepticism when it comes to trusting computer technology. Sometimes the computer works pretty well, but on some days all these crazy things happen. And on other days it looks as if the computer can be influenced by friendly words. We have developed a basic trust in computer technology and at the same time a certain kind of distrust in it. This attitude can be called our daily 'computer common sense'.

With respect to Internet voting, safety or computer security is the single most important criterion for confidence in the technology. Listening to current debates among political scientists, citizens or computer technicians, one easily finds that one question is always stressed as the crucial one how safe is voting via the net? A majority of critics within the computer scene doubt the technical security of online elections, especially with respect to hackers and other online virtuosos (see Internet Policy Institute 2001; Grimm 2001; Mitchison 2003). Does encryption really and definitely guarantee the safe transfer of ballots from the voter to the central computer? Is it even likely
that the computer will be used as a method of civilian surveillance? Is it possible to prevent and exclude manipulation of election results in the central computer?

The underlying question one has to answer is: can we (and do we) want to expose our elections to such risks? Defenders of online voting sometimes give the following reply to the question as to how high the security standards in the Internet have to be until citizens can trust the procedures: A process can be considered secure when the same people who have doubts are willing to do their financial transactions over the same system. This answer, however, is misleading. There are no comparable corrective mechanisms in e-voting and e-commerce. As opposed to an incorrect financial transaction, there is no way to reclaim a vote. In the case of fraudulent financial transactions, the victim usually realizes some time later what has happened, and he or she can normally recoup the loss to the last cent. To make possible the recoup of a vote contradicts the very principle of the equality of votes, which would be lost if someone were given the opportunity to reclaim his or her vote. Even if the voter protests that he or she will vote again exactly as on polling day, there is always the possibility that the voter will have some strategic calculation in mind, which the voters on polling day were unaware of, hence making the vote unequal.

Security is only as strong as its weakest links, and against the background of security misgivings it is hardly surprising that the question of security is foremost for all organizers of Internet voting. A recurring mantra one can hear from companies involved in the development and promotion of Internet-based voting systems is that they have conducted 'public tests' and that their systems are therefore secure. Such an argument is hardly convincing. Just because hackers have not broken into the system so far, no system can be declared definitely successful. Using such 'public tests' as a validation technique runs sharply contrary to well-established engineering verification practices and makes fun of the extensive testing processes which are required by other computer systems. In addition, it is unlikely that people with an interest in subverting electoral processes in Western democracies would contribute to the improvement of computer systems in a test phase.

But even if we were to imagine that thanks to intelligent technology all these worries about security could be dispelled, and that electronic voting systems have been officially certified to comply to high security standards – even in this highly unlikely scenario the procedural problems of Internet voting could not yet be considered as solved. And
even if only a minority of voters feared security problems with online voting, this would still be sufficient to undermine the legitimacy of the entire process (For a cross national study presenting high rates of distrust in computer technology for voting procedures see Taylor Nelson Sofres (2001)). Trust in the system and its procedures are the source of any modern democratic legitimacy. In the history of political elections, traditional ballot papers have certainly been falsified, or they have mysteriously disappeared, but as votes are physically evident and because they are stored in ballot boxes and counted in the open, frauds on a massive scale are usually easy to detect. This is not the case with cyber-elections.

To emphasize my argument at this point: confidence in the procedures is crucial to modern democratic legitimacy. Therefore, democratic procedures require techniques which can be challenged and proven. Even in regular elections, there always remains an irremovable hint of distrust which will flare up every time there is a surprise or a very close call that at least seems to undermine the legitimacy of the election result – just take a look at Florida again. But at least in cases like Florida in the 2000 presidential elections, there is some 'evidence' worth inspecting, and there are witnesses who can be interviewed afterwards. This is not the case with elections via computer and the Internet. In the fall elections of 2002, voters in Florida used new and expensive touch-screen voting machines. Due to technological problems that still remain unclear, some votes obviously got lost, and there is no way to figure out which ones.

Things get even worse when intentional fraud comes into play. Take the case of spoofing: how do I know that my vote really got counted and that no smart counter-technology has yet been developed in order to overcome the official computer system? The most successful and refined cases of manipulation in the Internet stand out for the reason that nobody knows about them except the culprit. Even when there is a suspicion, it is due to the technology that manipulations are later difficult to prove with certainty.

In situations in which citizens expect close election results, there will always be a suspicion that is much more difficult to counter than with the traditional mode of voting. The US presidential elections of 2000 would have triggered much harsher conflicts if the voting had been done via computers only. Would Swiss voters have believed the results of a computer count of votes in the election of 2003, which made the right-wing party the strongest group in parliament? And what about less stable democracies? To sum up my argument: the leap to electronic
democracy requires having the 'courage' to risk a permanent legitimacy crisis, even in cases in which no manipulation has taken place.

Democracy not only means an equal right to vote, it also means an equal right to understand the techniques of voting procedures and an equal right to prove the results. Democracy includes full transparency in all its procedures. Thus, in a democracy, all elements of the voting process (including the software) must – at least in principle – be easy to follow and to understand for all citizens. Citizens who agree to give up that right, and to put all their confidence in technicians who will judge the security of computer software in their place, have already agreed to transfer all power to an aristocracy of a handful of people.

**Constitutionality: on the road to optional secret voting**

The secrecy of the vote is one of the most important principles in Western democracies. While some voters might tolerate the risk of his or her vote not being counted because of technological errors, most of them will positively not stand for a disclosure of his or her choices in public. Keeping the secrecy of the vote is a serious problem for Internet voting. If one follows the radical protagonists, Internet voting is simply a sophisticated variation of the traditional postal vote (postal vote here means – in contrast to the Scandinavian terminology of 'advance voting at the post office' – the 'absentee ballot' by mail). In both cases, citizens cast their votes in the privacy of their homes, and deliver them afterwards (by mail, computer or cellphone) to the polling station.

The analogy to the ballot by mail points to a crucial constitutional barrier to the new technique. To take the case of Germany (see Buchstein 2000a; Will 2002), postal voting (as defined above) has been practiced in West Germany since 1956, but it has been accepted only as an exception to the rule (which requires citizens to cast their vote personally at the polling station), and only under certain conditions.

The precarious 'exceptional' status of the postal ballot, is illuminated by a contrasting look at the voting practices and theories in the former German Democratic Republic (GDR). Similar to the West German Constitution, the GDR Constitution provided for a secret ballot but, notwithstanding, votes in the GDR were mainly cast in the open. And the constitutional doctrine of the GDR did not judge the electors' abandonment of the polling booth as a violation of the universal principle of secrecy. Instead, it justified it with the argument that the use of the secret ballot was not mandatory but an option. According to this doctrine, it is up to the voters to finally decide whether or not they
believe they have to claim this right. Between 1949 and 1989, quite obviously more than 95 per cent of East German voters 'voluntarily' decided that there were no reasons to cast their vote in secret.

Cases of dictatorial misuse such as in the GDR have supplied reasons for a strict version of the secrecy provision in Western democracies. In this version, the optional claim to use secrecy is seen as insufficient. Instead, secrecy is considered a mandatory lawful duty. You are free to tell anybody for whom you voted; but you are not free to prove your claim. Only you will know whether what you said was true. It is easy to see how hard it is for Constitutional Courts to accept even the postal vote (absentee ballot by mail). How can the state ensure that the postal voter is not at the 'mercy' of curious glances at his vote (from family members, neighbours, or political fellows)? The difficult and highly controversial nature of the postal ballot can be observed by a brief glance at some European countries. Less than half of the current EU member states allow postal ballots (among them, Germany, the UK, Ireland, the Netherlands, Portugal) while all other countries strongly rule it out. Scandinavian countries, for example, have a tradition of stressing the secrecy of the ballot, and they enforce a rather restrictive mail-voting legislation.

On two occasions, the German Constitutional Court has ruled to accept the postal vote as constitutional (1967, 1981) – but only as long as voters convincingly claim that they have no other alternative than casting their vote by mail. The postal vote was weighed up between two basic suffrage principles – the 'universality' and the 'secrecy' of the vote. Postal votes are only accepted as an exception on important grounds (sickness, work commitments) which prevent citizens from casting their ballot at the polling station (and which have to be proved in some states). In Germany, the number of postal ballots has steadily risen from 4.9 per cent in 1957 to 14.7 per cent in 1998 and close to 16 per cent in 2002; in cities like Frankfurt, Hamburg and Berlin the ratio is already up to 30 per cent. This increase has led prominent constitutional lawyers to make demands for a stricter enforcement of the postal ballot provisions.

Speaking in the language of constitutional law: The introduction of the Internet is only constitutional in those cases in which it literally substitutes the postal ballot. But it is obvious that such a distinction of cases would be difficult, if not impossible, to implement in the real world. The only way to draw such a distinction would imply the regulation of the Internet ballot by a set of conditions for its usage (for example that voters would have to prove that they are sick or abroad
for work). If one does not want to choose such a strict regulation policy, the introduction of Internet voting becomes identical with the universality of the basic framework of the postal ballot to all voters.

What is wrong with this kind of universality? In the two models which use private computers - called 'at home' and 'on-the-run' in the first section - the procedure of Internet voting has the same Achilles heel as the postal ballot. It does not provide a full guarantee that the vote really has been made in secrecy. Votes could have been cast with the help or under the influence of family members, friends, or even groups representing special interests. Just take the (empirically significant) case of the female voter who needs her husband's technical assistance. With respect to the fulfillment of the secrecy principle, one has no option but to trust the voter. Or, to put it less euphemistically: now it is up to the single voter to shield his or her vote from family members, friends, enemies or brokers.

So however it is twisted or turned, the universal introduction of voting from home PCs or cellphones puts modern democracy at a crossroad. The mandatory secret vote is slowly turning into an optional secret vote, and such a reversal of the mandatory secret ballot would be unconstitutional in most European countries.

I say 'most', because at this point the Estonian constitutional debate comes in as a possible starting point for a paradigmatic change. Wolfgang Drechsler and Uelle Madise have delivered a report on the fascinating turn in Estonian constitutional reflections about the status of 'secrecy' in the principle of secret voting. Paragraph 60 of the Estonian Constitution explicitly states that elections shall be free and that voting shall be secret. The supporters of the Estonian law which introduced online voting on a national scale for the 2005 election used a teleological approach in their argument in order to get rid of the mandatory secrecy of the vote. They argued that constitutional rules should be understood through the problems they are supposed to solve. The principle of secrecy was said to protect the individual voter from any pressure against his or her will. In this teleological reformulation, secret voting has become a means and is no longer an end in itself. So, while all voters still have the right to go to a polling station in which their privacy is guaranteed, the end of secret voting is already in sight. In this view, online voting must be seen as constitutional, since voters who choose this technique have obviously decided that they do not need this kind of shield for their privacy.

It is not yet clear whether this innovative interpretation of the principle of secrecy in Estonia will survive the integration of the country
into the European Community. Recent decisions of the European High Court give no hint that they will follow the teleological line of argument given by the defenders of online voting. It is necessary, however, to come to grips with the meaning of 'secret voting' in more general terms. The mandatory secret ballot is a scheme designed to deprive the voter of any means of proving the way he voted. The perspective of the voter has been accurately described by Thomas Schelling in his classic The Strategy of Conflict (1960): 'Being stripped of his power to prove how he voted, he is stripped of his power to be intimidated. Powerless to prove whether or not he complied with a threat, he knows – and so do those who would threaten him – that any punishment would be unrelated to the way he actually voted' (Schelling 1960: 19). Following this logic, the conclusion is that secret voting has to be mandatory: 'It is not alone the secrecy, but the mandatory secrecy, that robs him of his power to sell his vote. He is made impotent to meet the demands of blackmailing' (ibid.: 148).

Mandatory secrecy is a principle which goes beyond constitutional law, its fundaments are based on the idea of auto-paternalism and it is understood as a mechanism of self-binding of autonomous citizens in order to avoid situations of external pressure or corruption. In this concept, it is not the individual him- or herself, but a warranted outside agent or authority – normally the state – that is responsible for providing the necessary means to allow for the secret ballot. I do not intend to discuss all the pros and cons of secret voting in this chapter, the circumstances for a renaissance of public voting in modern democracies are described in Buchstein (2000b: 680–721), and all I want to do at this point is call attention to the fundamental relevance of the auto-paternalistic interpretation of the principle of mandatory secrecy, which goes well-beyond all strategies designed to interpret constitutional law.

**Real virtuality: junk-vote.com**

My last concern deals with some of the alleged advantages of electronic elections mentioned in the second section of this chapter. To what extent does Internet voting really improve our democracy? Some observers are convinced that the new technique will lead to changes as fundamental as the introduction of female suffrage or the equal weight of the vote. But should the current technical modernization of democracy be evaluated in the same positive way? There are good reasons for less optimistic expectations, and such concerns are mainly based on
a realistic self-assessment of democracy which underlies most of today's liberal concepts of democracy. Three concerns particularly deserve to be addressed:

1. First, the issue of a 'direct push-button democracy'. Supporters of direct democracy praise the innovation for the opportunity it provides to implement additional forms of direct democracy. In the eternal dispute between representative and plebiscite democracy, supporters of direct democracy now find themselves in a much improved position. Over the last 200 years, they have had little success with their criticism of representative democracy, simply because the purely technical prerequisites for a permanent and robust plebiscitary democracy did not exist in large modern countries. The establishment of an 'electronic agora', however, may change the direction of this discourse. One may argue about the need and use of installing more direct democratic elements into a parliamentary democratic system. The new technology, however, has the potential to create a dynamic process of its own. Technologically speaking, a direct 'push-button' democracy is on the horizon. After the introduction of Internet elections it will be only a small step to introduce plebiscitary decisions on basically every issue, and at low cost. The defenders of representative democracy will have a much more difficult stand than today; they will be accused of defending an elitist model of democracy or even an aristocracy. But the alternative does not necessary lead to more democracy. In contrast, the combination of online plebiscites with structural changes in the media system (which can currently be observed in the USA and in some European countries such as Italy and the UK) has a strong potential for giving populist politics a technological push.

2. Second, the privatization of the voting process. The places where we vote are not without symbolic meaning. Until now, the casting of votes has always occurred in a public place, the polling station. Even without harboring any illusions about the discreet charm of today's polling stations, the ritualized casting of votes in a public place symbolizes a relationship between the voter and his community. The Internet takes voting farther away from its former public habitation; e-voting hijacks the voting process and brings it into the private domain of the living room. The little cable in the living room becomes a paradigm for the place politics
may hold in computer democracy. Preferences on public issues are expressed literally from the centre of individuals' private existence; democracy is divorced from the symbolic spaces of concern for the common good.

The private context of voting will probably have consequences for the way voters experience themselves. It does not take much to imagine the extent to which the casting of votes from private homes via the net will speed up the erosion of the publicly minded spirit, change the political culture, and support the tendency of privatization in politics – with even lower voter turnouts than today.

3. Third, time and decision. There are serious doubts that the promised speed and permanent possibilities of spontaneous participation in voting procedures are really an advantage for democratic decision-making. Until now, individual citizens had to decide whether or not they could be bothered to walk to the polling station (in the US the hurdle is even higher – much too high, I believe – because voters have to do some paperwork first). Voters will only take the walk to the polling station if they take the election seriously, at least to some extent.

Until today, election procedures have almost always served as a 'census of those interested'. Only the votes of those citizens who take the trouble to go to a polling station or apply for postal votes show that they care in a minimal way for political decisions. Until now, there has also been time for citizens to consider their votes, even if it was only on the way to the polling station. These beneficial barriers disappear with computer voting. The voter can collect the most up-to-date information and be on the cutting edge, but for well-considered thought-out votes this type of information is of no importance. At the same time, Internet voting encourages non-reflective spontaneity and reduces the meaning of the act of voting to such a degree that it might actually be better for democracy if some of these 'junk votes' were not cast at all.

If the walk to the polling station is like a walk on the wild side and such a serious hurdle for uninterested voters, the cure should not consist of getting them to participate via electronic games. Real democrats would lie to themselves about the state of the political culture if voter participation increased only because of technology. If, however, one wishes to follow that road, a much cheaper and probably more successful path to pursue would be to offer a lottery-prize incentive for election participation.
The future of the debate

The intention of my arguments is to challenge the group of over-optimistic reformers who want to introduce Internet voting. The concerns and objections which I have raised are situated on different levels, and the defenders of online voting will consequently have to employ different strategies in order to counter them.

The first concern about possible future crises of legitimacy in situations of voters’ distrust in the voting procedures is, admittedly, rather speculative. But I do not think that we should decide to simply wait and see whether our worries will come true or not. To begin with, these concerns are based on sound arguments, but, more importantly, what is at stake is democracy itself. Still, defenders of online voting may argue that a prognosis about the future which the author does not want to be transformed into an observable factual statement is an unfair way of immunizing the argument (in particular when the argument comes from someone who can be suspected of being influenced by a technophobe German culture). I would agree to this objection, while insisting at the same time that quite obviously we need some kind of democratic risk-assessment, and a number of joint convictions about the degree of risks we want to take for Western democracies.

The second objection – somehow hidden behind the veil of an argument in constitutional law – may be viewed by some readers as equally unfair. Why should a political community not have the right to get rid of secret voting, or at least to weaken the mandatory status of secret voting? Well, there is nothing wrong with constitutional changes. Such a counter-argument would miss the point. My argument only attempts to remind us of the fact that any additional weakening of the mandatory secret ballot will have a tremendous consequence in introducing the optional status of public voting. I would easily acknowledge that there can be good reasons to give up the mandatory secret ballot; a tradition of strong criticism of the secret vote has been transmitted from classical Athenian democracy up to the beginning of the twentieth century. My point is that the potential small-scale reintroduction of the open vote by online voting should not be admitted through a technological backdoor. As long as there is no consensus among modern democrats that modern politics are civilized enough to give up the shield the mandatory secret vote provides, the status quo has to be preferred.

The final set of arguments may be judged by some readers as the most unfair attack. Opponents may argue that the form of democracy we have
today also fails in the light of normative standards. So it is worth adding
that, despite all the flaws of today's democratic procedures, I have not
yet heard of any plausible and convincing argument why Internet voting
should necessarily lead to an improvement of the deliberative qualities
in political communication. At any rate, empirical research on political
communication via the net gives to evidence for such an optimistic
claim (see Streck 1998; Bimber 1998; Wilhelm 1999).

To sum up the argument in conclusion: at least in the context of the
public domain (picking up the analytical distinctions from the first
part of this chapter), even weak normative concepts of democracy lead
to the conclusion that the ongoing transfer of voting procedures into
the Internet should be stopped. And by the way – what is wrong with
the idea that a modern democracy may rely on very traditional ways to
cast the vote?

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