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Of, By, For and Open to the People

Essay by Ellen Miller, May 15, 2008

I have always had a particular affinity for Supreme Court Justice Louis Brandeis, who entered Harvard Law School at the tender age of 18, and then graduated in 1877 at the top of his class and with the highest marks of any student in the law school's history . His nearly century old adage: "Sunlight is said to be the best of disinfectants; electric light the most efficient policeman" has guided my work for a more than two decades and has become the watch word for a large number of nonprofits in Washington that devote themselves to making government open and accessible.

Brandeis as a Supreme Court justice was a reformer – a man "who was interested in freeing government from corruption, making democratic government a reality, and using the law to protect the powerless from the powerful," according to constitutional law professor Michael Ariens.

What better way to continue his legacy than to focus on ensuring a government that is transparent in all its actions – one that embraces the Internet as a vehicle for sharing and distribution of information and as a way to engage citizens in the process of governance?

Information is the currency of democracy. Transparency in the work of government is an invaluable step towards establishing public trust. Unfortunately, today we have the opposite. All too often, special interests influence the legislative and regulatory process, breeding public mistrust and cynicism. Much of the lobbying and influence peddling – whether in Congress or the Executive Branch — is carried out in secret, and the laws requiring disclosure are woefully inadequate.

But there is a remedy. Today, we stand on the verge of a revolution in government transparency. Thanks to the rapidly declining costs of information storage and retrieval, and the expanding powers of citizens to record, share and analyze raw information about the workings of their government, it is no longer a fantasy to imagine a government that is truly of, by, for and open to the people. Where once it might have been difficult for our elected representatives, government officials and the professional lobbyists who seek to influence them to record and share their myriad interactions, today there are no technical obstacles to us actually knowing who is giving what to whom and why. The question now is whether government will open itself up, or if we the people will open it from below.

Of course, we cannot take for granted our new and expanding powers to act as watchdogs of our own interests. The Internet must stay as democratic and –with as few governmental and corporate controls as possible— if the potentials of the technology revolution in regard to citizen engagement, democratic renewal, and government transparency are to be realized.

As a result of information technology, for the first time in history government has the ability to conduct its business with extensive openness and transparency. In this networked age, we are increasingly communicating, sharing and collaborating with each other in radically new and powerful ways.

The information technology revolution will impact and transform our society as profoundly as the

printing press did 500-years ago, and radio and TV did in the last century. The authors of The Cluetrain Manifesto in 1999 saw how the Web would radically change the ground rules of business by giving powerful tools to consumers. The Web is having the same impact on government by empowering citizens, allowing the public to not only better understand what their government is doing, but to participate directly in governance as well.

The changes coming will be fundamental, radical, and profound. The constantly-evolving Internet is enabling a highly-networked world of Web sites, wikis, and blogs making thorough and accurate information dissemination and collection happen at lightning speed.

Government can engage citizens as never before. Citizens can have unprecedented access to new tools to gain information and connect. And so, it is now possible for government and its citizens to be co-creators of the public good. One example of this is Sunlight's experiment PublicMarkup.org in which an omnibus bill for government transparency is being developed with the assistance of citizens throughout the country.

Unfortunately, we are not pushing on an open door. Government's foot dragging in embracing online data and tools to date can be illustrated by Congress' lackluster interest in greater openness. Only nine members of Congress currently publish their official calendars on line. Only 50 members currently publish their earmark requests. And while even these can be considered advances in transparency, a culture of secrecy and impunity remains. For example, senators have consistently resisted publishing their campaign contributions on line and have consistently refused to do the same with information about their personal financial holdings.

To move forward, we must be clear about our goals. Disclosure today must mean revealing the work of government in "real time" and online. This means any public reports currently expected of lawmakers should be filed electronically and shared online in a downloadable, searchable, sortable format within 24 hours of their filing. Reporting requirements should be updated so the public can access online information about all lawmakers' personal finances and campaign contributions within 24 hours after those reports are filed. Lobbyists should disclose all legislative contacts, all legislation and regulation discussed, and any relationship to a current member of Congress, staff member, or executive branch employee within 24 hours.

There also should be greater transparency of legislative activity, by requiring all non-emergency legislation and information related to earmarks in funding legislation (including the purpose of the earmarks as well as identification of the beneficiaries) be posted online, in its final form, at least 72 hours before a vote. Congress should open up all congressional research, databases and other information to the public in easy-to-use online formats free of charge. And that is just Congress. A similar list of reforms can be developed for the Executive Branch and the federal agencies as well.

Back in 2000, Lawrence Lessig wrote, "The next great hope for the information revolution (is) that we might be able to learn as much about governments and business as they have learned about us. That this might be the end of their effective privacy, just as it has effectively been the end of ours." Government transparency and openness, made possible by information technology, is a promise we must see fulfilled.

Ellen S. Miller is the co-founder and Executive Director of the Sunlight Foundation, a Washington-based, non-profit catalyst that is using new technology to open up Congress. She is the founder of two prominent Washington-based organizations in the field of money and politics – the Center for Responsive Politics *and* Public Campaign *— and a nationally recognized expert on campaign finance and ethics issues. She blogs regularly at the Sunlight Foundation site.*

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