Open Government - Retooling Democracy for the 21st Century

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1. Introduction

This paper aims to identify the most promising theoretical concept on how to integrate the notion of Open Government and Information and Communication Technologies (ICT) into traditional democratic structures. For this purpose, understanding the concept’s key elements and how they correlate is a vantage point from which to engage in further critical analysis. Even more important, however, is to dissect the transformative qualities as well as hindrances of an ICT-driven approach to Open Government within existing democratic structures. In this regard, conventional scientific analysis sometimes suffers from a profound lack of imagination. It either aims to reinvent democracy by embarking upon a journey towards ideal deliberative inclusion of all citizens. Or it almost entirely neglects any transformative potential. This paper will argue that an ICT-driven approach to Open Government can strike a balance between representative and deliberative democracy and thereby unleash its transformative potential in a more organic manner and ultimately “retool” democracy to evolving needs and desires of 21st century citizens.

2. Conceptual Analysis of Open Government

2.1. Today’s Model of Open Government

In a narrow sense, Open Government is about improving transparency and thereby accountability in all public affairs. In terms of its objectives as opposed to the means used to accomplish them, Open Government is therefore not a particularly new concept. Transparency is a constitutive precondition for a functioning democracy because the institutional mechanisms and its legal underpinnings underlying the democratic model are based on this axiom. Basic rights such as the right to vote or the right to free speech, as well as certain institutionalized democratic procedures would be fundamentally undermined or even useless without at least some level of transparency. As early as 1943 the U.S. Supreme Court found that the right to receive information is a corollary of freedom of speech and freedom of expression and is therefore an inalienable human right and the foundation for self-government. Europeans equally regard transparency as indispensable for the very fabric of democracy. Germany’s Federal Constitutional Court established a direct link between the people’s trust in democracy and the existence of transparency and transparent institutionalized procedures. Receiving information is an existential necessity for decisions by an informed citizenry, be it with regard to the more fundamental and constituent act of voting or the evaluation of particular decisions by elected representatives. The notion of trust, however, introduces an almost metaphysical element into the discussion that reaches beyond the measurable effects of positive law and touches the very sustainability of the organizing principles a society has agreed upon at a particular time. Luhmann [1] argues that trust is a means for reducing complexity in society. Gehlen [2] provides an understanding for how trust and the process of “institutionalization” correlate. Every human society allows some choices for its members that can be made on an individual basis, while other choices are preempted by so called “taken-for-granted programs for action”. In Gehlen’s lexicon these taken-for-granted programs are called “institutions” in the sense that individuals follow the institutional programs automatically. The stronger these “institutions” are the more instinctive they become for individuals in a particular society. Since any such “institutionalization” limits the options of individual choice it cannot be upheld by positive law alone. On this note, the basic essentials of democracy rely on more than the power of legal order or their manifestation in particular procedures. They must be furnished with an inherent legitimacy so that citizens
will not “renegotiate” the trade-offs between individual choice and the stabilizing process of institutionalization. Legitimacy in a Weberian sense [3], based on the perception that a government’s power is derived from set procedures, principles and laws, does not suffice to convey the people’s trust in the trade-offs. Lipset [4] provides us with a more extensive description of legitimacy as the capacity of a political system to engender and maintain the belief that existing political institutions are the most appropriate ones for society. For democracy not to fall into a process of “deinstitutionalization” such a belief in the “appropriateness” of an existing social fabric depends on a leap of faith by the public for it cannot be based solely on a citizen’s mastery of any single aspect upon which a complex society operates. For citizens to employ trust as a means to reduce complexity, it must be grounded in a knowledge of or access to the facts that dictate the decisions and procedures in a democratic system. The principle of accountability as an important by-product of transparency compensates for the fact that representative democracy depends on the transfer of responsibility and authority to decide in lieu of all citizens. In a narrow sense, Open Government – understood as a transparency-driven approach to governance irrespective of the particular means employed to fulfill this purpose – has always been a stabilizing factor for modern democracies. Public availability of as much information as possible reduces the risk that citizens no longer trust in the agreed upon societal fabric which would result in either coercing the populace into adherence or risking “deinstitutionalization” and dissolution of existing structures. Information and Communication Technologies (ICT) greatly enhance the potential to provide such transparency regarding access and the amount of information readily available to citizens. On the other hand, the employment of ICT to improve transparency can challenge core foundations of existing democratic structures and procedures.

2.2. ICT as a “Game - Changer”

ICT possess an inherently “deliberative element” alien to modern democracy which operates on a principle of representation and responsiveness rather than direct popular decision-making. That’s not to say that deliberation is non-existent in modern democracy. However, it works more as a multiplier for a variety of structural and procedural elements, such as voting and the existence of political parties, rather than being its main feature. One of the major challenges for Open Government will be to integrate this “deliberative element” into existing structures while at the same time addressing the numerous flaws that already exist in the system. As we will see, Open Government can be a “transformative” tool in that it offers the potential to reformulate transparency as more than a “stabilizing factor”. Web 2.0 technologies level the playing field of public dialogue in unprecedented ways as they allocate communicative tools in a more egalitarian manner. The public therefore gains significantly more leverage not only concerning access to information but also interpreting and disseminating such information without recourse to conventional democratic and societal structures. In that, an ICT-driven approach to Open Government can differ significantly from what a purely transparency-driven approach effectuates in a democratic society. The latter is a rather narrowly constructed means to keep the public informed, with citizens as mostly passive recipients of information. The former approach, on the contrary, may elevate citizens to a much more active level of participatory and deliberative inclusion. Present theoretical and empirical research about the effects of ICT on politics and deliberative procedures provides a vantage point from which to assess the impact an ICT-driven approach to Open Government may have on existing democratic structures. This paper, however, aims to push the envelope a bit further. It will argue that existing research thus far suggests the possible advent of a new “class” of “deliberative stakeholders”. While these new stakeholders would comprise a larger portion of citizens with direct influence on public deliberation than previously known, thereby discrediting bleaker assessments of democracy-enhancing effects of ICT, this hypothesis also challenges more ideal deliberative theories employed with regard to ICT.

3. Open Government and Transparency in Light of ICT

3.1. Structural Implementation of Modern Democracy

As discussed above, democracy in its current structural implementation rests on the notion of representation and responsiveness embedded in an
institutionalized model of decision-making. For democracy to operate effectively within this given framework, deliberation is an indispensable multiplying factor. Multiparty democracy and the constituent act of voting on a recurrent basis inherently require public deliberation to form public opinion on which the allocation of representatives to various decision-making institutions ultimately depends. Yet such deliberation at a “macro-level” does not involve every nut, bolt and screw of the multiple issues society has to deal with. Modern democracies have resolved the challenge of complexity by relegating much of the required deliberation from the societal “macro-level” to the “micro-level” where institutions and procedures mitigate the deficiencies of the former. Selected stakeholders eventually decide on the merits, chosen by the people, yet they are autonomous in their final judgment on a particular topic. Representation is therefore the fundamental trade-off democratic societies have agreed upon so far. Pitkin [5] considers that formal representation rests on the two main pillars of authorization and accountability. The latter presupposes transparency and access to relevant information for the citizenry to hold public officials accountable or to “keep them honest”. Modern democratic deliberation therefore is predicated on the notion of a “monitorial citizen” that remains “watchful” and is thus prepared to deal with particular political issues as they arise. Such a “mediated democracy” depends on political intermediaries to reduce the direct agency costs that would ensue if citizens had to undertake this monitoring task themselves. In that regard, the focus usually lies on corporations, unions and political parties. For the purposes of this writing, however, it is of particular interest to focus on the traditional media as they play a pivotal role in inducing public debate and raising awareness on issues they deem to be relevant. Habermas [6], among others, emphasizes the prominent role the media occupies at the level of macro-deliberation in modern democratic societies. Their principal task is to gather, evaluate, process and communicate a plurality of information that is available to the public. As will become clear in the following chapter, the advent of ICT and Web 2.0 technologies, however, raises the stakes when trying to reconcile Open Government and the tools these new technologies provide with the traditional equation of “mediated democracy”.

3.2. ICT and “Mediated Democracy”

The notion of a “monitorial citizen” as a somewhat passive recipient of information processed and evaluated by “intermediaries” such as the media gives way to a more active and engagement-driven model of citizenship. “Average citizens” are nowadays capable of influencing public discourse in unprecedented ways, due to an increasingly level playing field both regarding access to information and the means at their disposal to “make their voices heard” outside the mainstream of institutionalized deliberation. By means of blogs, twitter or youtube, citizens can increasingly pressure traditional media to take up their issues or else be pushed to the margins of deliberation at the “macro-level”. At the same time, the changing circumstances of “macro-deliberation” also exercise a growing influence at the level of “micro-deliberation” as responsible stakeholders are challenged to more directly respond to the demands of citizens outside the traditional framework of a “mediated democracy”. Empirical research has thus far been focused on “elite political bloggers” – bloggers with preexisting ties to news outlets or political circles – and their influence on public debate. Farrell and Drezner [7] point to bloggers’ agenda setting and framing effects as they possess – among other things - a first-mover advantage in formulating opinions. A survey among television and media journalists by Dautrich and Barnes underscores elite bloggers’ relevance for the traditional media as 83 % of those surveyed reported having consumed blogs while 41 % used them at least once a week. Yet such research ignores what Robertson and McLaughlin [8] call a very important and neglected group in the world of blogging – ordinary people, citizens. For measuring the potential future impact of ICT on conventional democratic structures those average citizens are of particular interest, as blogs and other ICT-applications provide “non-elites” with an easy and relatively inexpensive way to set out their opinions. The consequential

possibility of a reinforcement of more deliberative elements by ICT hence warrants extensive scrutiny, both regarding its potential as well as its possible impact on traditional democratic structures. Since “mediated democracy” and the convergence of deliberation at a “micro-level” effectively exclude most of society from much of the deliberative activity, it can be considered an inherently flawed model in that any form of exclusion by means of set preconditions for participation is inevitably “elitist” and therefore “undemocratic” in nature. Having said that, it is also a core element of the “trade-off” that questions the extent to which societal coherence in an increasingly complex and thus abstruse world. Intermediaries and the model of “mediated democracy” are not so much the desired preconditions for participation but a better model. The more complex an issue the better “equipped” participants in decision-making venues have to be by means of education and a grasp of the myriad questions involved in reaching informed decisions. The media plays an important role in reducing complexity for citizens to remain “watchful” on any given topic and how it is handled by the stakeholders in charge. That is not to say that “mediated democracy” generally ensures the quality of evaluating relevant information by respective intermediaries nor does it guarantee the quality of any eventual decision-making process. The so called “agency-principal dilemma” puts forth a theory that questions the extent to which intermediaries such as the media can be trusted in representing the interests of society as a whole in light of various external and internal influences respective professionals are exposed to. The recent financial crisis is but one example of the limits “mediated democracy” experiences with regard to evaluation of existing information and informed decision-making. Brooks [9] correctly observed in reference to the global financial crisis that “over the past years there have been very smart people making mistakes because they did not understand the context in which they were operating.” It would be mistaken, however, to confuse those understandable and well-known deficiencies of conventional intermediaries with proof of their general inability to inform the public based on an unbiased evaluation of the facts at hand. Such thinking, largely known in the United States in a sometimes derisive characterization of major news outlets as “main stream media,” does not frequently resort to political blogs for gathering information, even in countries with strong “opinion programming” like the United States. That’s why the possibility for citizens to bypass conventional frameworks of “mediated democracy” by means of ICT, thereby more directly engaging in public discourse than ever before should not be considered as a universal remedy for the inherent flaws of the current democratic system. For there are several difficulties presented with this model as well.

3.3. The Rise of “Ersatz-intermediaries”

While ICT may empower “average citizens” to both play a more active role in a democratic society and access public information without recourse to conventional “intermediaries” this fact would not necessarily advance democracy since such a model of citizen engagement cannot be analyzed on the premise that it is utilized by the democratic citizenry as a whole. Rather, these new tools are already largely employed by what scholars call the “attentive public” which describes citizens with above-average interest in politics, a category that is said to comprise no more than 10 percent of the citizenry. [10] It is mainly this relatively small group of “attentive citizens” that harness the possibilities of ICT to influence public debate and public policy. A 2006 Cooperative Congressional Election Survey (CCES) found that only 14 % of those surveyed read explicitly political blogs while nearly 100 % of those naming political blogs as a source of information described themselves as very much interested in politics. At the same time, other empirical research

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shows political blog readers to participate most often in politics compared to “non-attentive” citizens. Those results are at least indicative of a casual relationship between resorting to ICT-applications for political information and participation in the deliberative process. Though the widespread engagement of “attentive citizens” in politics is not a new phenomenon, their potential power to “control” the political agenda has been vastly increased by tools like twitter, blogs or other ICT-applications. To fully appreciate their current and potential future influence on public discourse these “attentive citizens” empowered by ICT-applications may be called, for lack of a better word, “ersatz-intermediaries”. As the easiest and most inexpensive way for attentive citizens to set out their opinions is provided by ICT, the hypothesis that they will increasingly rely on those tools the same way “elite bloggers” currently do receives at least tentative support. One may also likewise assume them to exercise the same agenda setting and framing effect “elite bloggers” have on public discourse as “ersatz-intermediaries” would experience the same advantages, for example the first-mover advantage. Moreover, many “average citizens” may increasingly rely on both “conventional intermediaries” and “ersatz-intermediaries” to stay informed, as the Internet overtakes traditional news outlets as a main news source for most average citizens. A 2008 Pew Research Poll for the first time found more people relying on the Internet for news than newspapers. And while television continues to be cited as most people’s main source for national and international news, 59 % of younger Americans cited the Internet as a main source for news, rivaling even television. Farrell and Drezner rightly observe that the number of links or some other characteristics that make, for example blogs, especially salient determines their potential to become a “focal point” and thereby influence or frame public debate. However, their conclusion that only a few blogs are likely to become such “focal points” for public debate proves to have only limited merit since it assumes an empirically-based outcome founded solely on an as-is analysis without a theoretical appreciation of future developments. That’s why it does not invalidate the argument that the ease with which “attentive citizens” can inject their opinions by means of ICT combined with an ever larger reliance by “average citizens” on the Internet as a main news source may prove to be a catalyst for a new “class” of stakeholders in public deliberation. In that regard, an increased access to public information by means of Open Government and the means to use this information in public discourse do not abolish the “two-step transmission process” of information from intermediaries to the general public. Rather it runs the risk of disproportionately empowering a “minority” of citizens to substitute for “conventional intermediaries” or at least pressure them into adopting their agenda. It is, of course, a bedrock of liberal democracies to guarantee and even protect the minority’s right to become a majority by using all democratic means at their disposal. ICT is but one of these means though it employs a formidable “firepower” that cannot be equated with more traditional forms of democratic activism at a “grass-roots-level” like participation in political parties, unions or NGOs. ICT allow citizens to become actively engaged and collaborate with others without the need for any large organizational structure to inject their agenda into the public “mainstream”. As these “attentive citizens” may seize an ever greater portion of functions traditionally performed by “conventional intermediaries” such as the media they do not abide by the same rules and standards as the latter. As we have already discussed, it is by no means guaranteed that “conventional intermediaries” always perform their task of processing and evaluating information to the best of their abilities or that they are not at all exposed to external and internal influences that affect their judgment. Yet “conventional intermediaries” are imbedded in a detailed framework that mitigates the potential for failure in pursuit of their primary task to promote and encourage public discourse by means of providing objective information. “Ersatz-intermediaries” on the other hand are exposed to the very same pitfalls complex information gathering and evaluation processes necessarily involve. Most prominent among them are the theories of “information bias” and “information overload” that are relevant for both the collection and evaluation of available information. The theory of “information bias” considers an individual’s tendency to collect only


Lawrence (n 2).

those types of information that fit into a subjective prefabricated worldview and to then interpret collected information the exact same way. “Information overload” describes the cognitive limits of individuals to sort through a variety of complex information. In the case of “conventional intermediaries” such effects are at least mitigated through specific professional education as well as ethical and legal guidelines. However, “ersatz-intermediaries” cannot resort to any such framework nor are they particularly incentivized to do so, since they more often than not become active due to a specific agenda rather than a professional assignment. Empirical research suggests that about 94 % of political blog readers – those most likely to participate by means of ICT in public discourse – consume only blogs from one side of the political spectrum and are therefore particularly more polarized while more moderate “average citizens” largely avoid political blogging. As we have briefly noticed before, the media is but one of many conventional intermediaries that influence and promote public discourse in a “mediated democracy”. Political parties or unions usually pursue a particular political agenda as well, which approximates their activities to those of “ersatz-intermediaries”. One significant difference though exists between the two. As above cited research suggests, “average citizens” may increasingly utilize the Internet as a main news source which may in the long run support a tendency to rely on information of “ersatz-intermediaries” the same way citizens utilize “conventional media” to form their views on a particular topic. Moreover, the traditional media may encourage such developments by relying on citizen blogs as an additional source of interpretive framework for political developments. Though such an assumption thus far lacks empirical verification, one can at least observe developments that tend to support such a conclusion. A citizen blogger in the United States broke a story over alleged misconduct by employees of “Acorn”, a community organizer union, by uploading compromising videos on “youtube”. Even in countries with a less advanced “blogosphere”, like Germany, citizen bloggers as opposed to “elite bloggers” have demonstrated their potentially dramatic influence on public discourse. Citizen bloggers’ discussion of allegedly controversial comments by then President Horst Köhler on Germany’s military involvement in Afghanistan led traditional media outlets, that had so far ignored the comments, to take up the issue. President Köhler eventually resigned in light of the controversy. Such incidents underscore the possibility that even traditional intermediaries consider those “attentive citizens” to be “the people’s voice” thus being less sensitive to the fact that “ersatz-intermediaries” often pursue their very own political agenda rather than processing and evaluating information objectively to promote public discourse. As “ersatz-intermediaries” gain more influence in the public discourse, without any structural framework, this new phenomenon is subject to the risk of polarizing public debate due to factual distortions and the inability of political institutions to deal with these new stakeholders while at the same time remaining effective. It is therefore of utmost importance to devise a model framework that can absorb the potential of increasing access to public information and the ICT-applications that empower citizens to utilize this information effectively while at the same time perpetuating proven democratic structures. We will now turn to the question of what such an integrative model may look like.

4. Analysis of Potential Integrative Models for Open Government and ICT

Several possibilities exist on how Open Government and ICT may be integrated into a democratic framework. Next we will put forth three potential concepts of which the last one may be most appropriate to capitalize on the enormous potential Open Government and ICT provide for a democratic society as a whole.

4.1. The “Minimalist” Approach

One possibility to capitalize on the potential of Open Government and ICT is to follow a minimalist path. Transparency and a citizen’s right to access public information is an entrenched principle in liberal democracies. In most European countries as well as the United States such access is a mandatory principle pursuant to applicable freedom of information laws which typically also include statutory or common law exceptions for certain types of confidential information. In reality though, public
officials oftentimes execute respective laws halfheartedly, either simply delaying legitimate requests or invoking exceptions that block access to particular information under narrowly defined circumstances. ICT provide the chance to raise public officials’ awareness of the imperative for transparency in liberal democracies. As these technologies greatly assist the collection and dissemination of relevant information, they better equip public authorities to respond to citizens’ informational demands. A first step then would be to ensure application of already existing freedom of information laws to their full extent while utilizing ICT to collect, process, store and make data available to the public. Such a “minimalist” approach therefore would make use of all available legal frameworks that regulate access to public information and advance such access by means of ICT. Existing laws in the United States and Europe already provide a suitable framework to assure transparency. In that regard, Open Government can be considered more a problem of current public policy and enforcement or application of existing laws than as a new concept with a framework yet to be devised. The main pillars on which greater access of citizens to public information has to rest upon are already in place. A “minimalist” approach would thus largely be comprised of three main components. First, it would be necessary to ensure compliance of public authorities with existing freedom of information laws while trying to balance warranted confidentiality concerns with the prominent role transparency holds in a democratic society. One major problem with the current freedom of information laws lies in the fact that narrowly defined statutory or common law exceptions are applied by public authorities to their fullest extent possible, with courts oftentimes paying deference to an executive’s claim instead of applying the letter of the law. The extensive invocation of the so called “state secrets-doctrine” in the United States as well as recourse to the notion of “executive privilege”, which is common in many European countries as well, are two prominent areas in which compliance could be improved. A second step would be incremental reform of existing laws and procedures governing access to information for the citizenry. Reform of statutory or common law exceptions is probably the most pressing issue that must be addressed. A paramount concern is to reduce the discretionary authority public officials and courts can resort to when considering freedom of information requests. To define existing or future exceptions more narrowly while allowing for due observance of national security interests or privacy interests of third parties should therefore be high on the legislative agenda in the years to come. Third, Open Government ought not be understood as simply executing existing laws but rather as a tool for the government to provide and explain information to the public at large. How such information is prepared for the citizens must therefore be a main concern of any Open Government initiative. For example, it will not suffice to provide all existing information on the budget, be it on the federal, state or local level. The more complex an issue is the less useful is available information without proper context or further explanation. In that regard, a commitment by public authorities towards “contextual information sharing” is urgently needed. The main focus would need to shift from providing access to providing “beneficial access” to public information. ICT supply the technological innovations to engage in such “contextual information sharing” since they are more prone to simplifying large amounts of information. Visualization of information is one of the many possibilities to provide more manageable data to the citizenry. Such “contextual information sharing” ought to be more than a voluntary commitment by public authorities. Rather, it should become a legal principle codified in respective freedom of information laws, not in the sense that it stipulates specific means of “contextual information sharing” but public authorities’ obligation to harness all means at their disposal to provide context instead of raw information. These three steps outlined above provide a perspective for present and future Open Government initiatives. However, they do not adequately account for the participatory and deliberative potential of ICT. Two other possible concepts may incorporate these transformative elements of Open Government and ICT.

4.2. The “Revolutionary” Approach

One potential approach to Open Government and ICT would be to employ participatory and deliberative elements to try to approximate current institutional design towards a more “ideal” type of deliberative democracy. For that to happen, the primary purpose of Open Government and ICT
would be to strengthen and broaden deliberation at the societal “macro-level” instead of “micro-level” deliberation and decision-making. Fraser [11] considers the public sphere an institutionalized arena of discursive interaction capable of creating public opinion and setting agendas. Deliberative democracy in a Habermasian sense envisages a single public sphere with participants deliberating as “peers”. For Habermas such deliberation is based on a normative approach to deliberation or rather an “ideal deliberative procedure” based on reason and an ideal speech situation. One of the major pitfalls of equal deliberative engagement in liberal democracies lies in existing socioeconomic inequalities that exist at the level of macro and micro deliberation and thus distribute “deliberative power” in a “non-democratic” manner. Verba [12], among others, illustrates how distribution of income and education significantly affects levels of participation. In Habermasian theory such inequalities can be “bracketed” to provide for a peer to peer deliberative process. In reality though, liberal democracies have not been able to level the playing field either by means of “ideal deliberative procedures” or a change of socioeconomic realities. ICT may provide the necessary tools to disseminate “deliberative leverage” more equally as socioeconomic preconditions are becoming a less influential constraint on access to information and participation in public deliberation. Parkinson [13] suggests, as one example, establishment of “electronic town halls” where thousands of citizens would assemble to debate and vote on the agenda before it is formalized. Many other suggestions have been put forward for how ICT could approximate the ideal of deliberative democracy and empirical evidence, ranging from non-partisan deliberative forums, such as citizens’ juries and deliberative opinion polls. Such inclusive deliberation could in fact lead to promising compromise on contentious issues. However, any such approach to deliberative democracy must take into account the inherent flaws of current liberal democracies. To base Open Government and ICT-applications upon a model of deliberative democracy risks relocating existing problems rather than tackling these problems first. ICT may resolve, at least to some degree, the adverse effects of socioeconomic inequality on access and participation yet it does not consider average citizens’ potential lack of interest in democratic deliberation and decision-making due to an already substantial disenchanted with politics in general, be it in the United States or in European countries. Positive results from smaller deliberative forums like citizens’ juries or deliberative opinion polls cannot be equated with the difficult task of copying deliberative democracy at the societal level. As outlined above, current empirical research is more supportive of the hypothesis that Open Government and ICT may disproportionately empower “attentive citizens” to influence public discourse rather than constructively integrating the larger public into a deliberative process. That is mainly because deliberative democracy envisions an inclusive form of deliberation that presupposes a formation of public opinion based on unbiased facts and what Sanders [14] calls “evidence-driven deliberation”. In smaller venues such as deliberative opinion polls, these preconditions are usually met due to a set of prearranged procedures and rules that guarantee or at least approximate an “ideal speech situation”. At a societal level the chance for approximating such an “ideal speech” situation is considerably lower, as coherence and compliance with prearranged rules inevitably vanishes due to the complexity of the “deliberative body”. The more inclusive and broad-based such deliberative bodies are the less coherent and rule-abiding any deliberation and decision-making may eventually become. Dahl [15] argues that debate and discussion are not sufficient in a democracy if they remain inconclusive and ineffective in determining actual policies. However, linking citizenship, deliberation and decision-making usually leads to a Weberian [16] dilemma in that decision-making institutions either gain effectiveness at the cost of deliberation or they retain democratic deliberation at the cost of effective decision-making. Such a dilemma visibly exists even for deliberation and decision-making at the “micro-level” with set procedures and a limited number of participants. It is only aggravated at the “societal macro-level” where the diversity and size of the deliberative body lessens the probability of constructive decision-making, not so much because of the fact that an ideal deliberative procedure based on reason would be impossible to achieve but for the simple yet important factor that sheer diversity of opinion would render reconciling different views and agendas unfeasible. Besides, Open Government and ICT need not be based upon an ideal deliberative model of democracy but on the “transformative” notion of enhancing responsiveness
in representative democracy by harnessing the potential for improved deliberation ICT provide.

4.3. The “Transformative” Approach

A “transformative” approach would appreciate the limits Open Government and ICT necessarily experience in societies that rely on democratic structures which emphasize representation and responsiveness of elected stakeholders over popular deliberative procedures. Increasing responsiveness of public officials instead of trying to relocate decision-making to newly devised deliberative venues would thus be its main feature. Alongside the “minimalist” tasks of improving existing freedom of information laws and engaging in “contextual information sharing”, the main concern would be to integrate “ersatz-intermediaries” into a structural democratic framework that improves participation and deliberation at a societal “macro-level” and thus enhances “responsiveness” of conventional democratic decision-making venues. At a societal level, conventional intermediaries such as the media have thus far played the most important role in providing context to existing information. Those “conventional intermediaries” have diminished the risk of factual distortion and polarization to a degree that can safeguard and sustain modern democracy and the people’s perceived legitimacy of existing societal structures. Habermas highlights “transformation of the media” as one of the most essential requirements for the meaningful approximation of deliberative democracy. As we have seen, such transformation is most likely to take place through a growing number of “ersatz-intermediaries” who may help to provide for a more democratic and pluralist media that does not tacitly reflect existing societal inequalities. Such utilization of “ersatz-intermediaries” requires a theoretical assessment of attributes that distinguish those “ersatz-intermediaries” from the larger public and what this distinction means for their role in a representative democracy. Wallsten [17], among others, correctly points out that political blogs function much as “reporters” as they select, aggregate, interpret and sometimes independently produce information. The same measure applies to other tools like “twitter” or “youtube” since they equip ordinary yet attentive citizens with the comparable leverage to which traditional media resorts. However, the growing leverage of citizens by means of ICT has thus far either been overestimated as a harbinger for sweeping changes in the core institutional design of democratic societies or it has been misprized in the sense that it would merely reinforce existing political and societal structures. Both viewpoints share a common mischaracterization of what democratic participation means beyond the main pillars of representation and responsiveness but below the threshold of an ideal – or rather idealized - form of deliberative procedure. Balkin [18] advises that what makes a culture democratic is not just democratic governance but democratic participation. Yet such participation must not be conceptualized upon the notion of equal participatory engagement of all citizens in the democratic process but systematic integration of “ersatz-intermediaries”. We have already discussed that these new intermediaries are exposed to the very same pitfalls to which conventional intermediaries have been so far. “Ersatz-intermediaries” can still be considered a relatively insular phenomenon in the political blogosphere as opposed to elite political bloggers with previous ties to politics or journalism. Therefore, they also lack an institutionalized professional structure through which their exposure to biased information gathering and other deficiencies could be successfully mitigated. That’s one of the main reasons why some scholars, notably Sunstein [19], argue that blogs reinforce readers’ and authors’ ideological perspectives instead of challenging them which increases polarization instead of engendering conversations between people with differing political views. Yet those insufficiencies could be overcome if one conceives “ersatz-intermediaries” as deliberative stakeholders in their own right and consequentially tries to integrate them into the existing framework of public deliberation. Habermas [20] considers bloggers valuable to public debate only insofar as they serve a “parasitical” function of criticizing and correcting the mainstream press. Yet his consequential conclusion that the Internet as a means of “horizontal and informal networking” generally undermines the achievements of traditional publics in democratic regimes is only convincing to the point that measures their contribution based on an ideal deliberative procedure. What Habermas calls a “parasitical function” is indeed one of the main features of “ersatz-intermediaries”. More important, however, is the realization that this feature derives from a key advantage these new intermediaries
possess in contrast to the news media, elite political bloggers or other conventional intermediaries. “Ersatz-intermediaries” do not operate in the enclosed environment and entangled networks of “micro-deliberation” that inadvertently constrains conventional intermediaries – most notably in form of the earlier mentioned “agency-principal-dilemma” - in processing and evaluating information for the public at large. Some measure of “exclusiveness” in terms of expertise and an advanced knowledge of the merits of particular issues is certainly necessary for reasons of quality control. Yet it nonetheless turns this tight web of conventional intermediaries and political professionals into a somewhat “clubby” enterprise that breeds “out of touch elitism” or at least a popular perception thereof. That’s where “ersatz-intermediaries” could step in, acting as a copula between the insular and specialized world of experts and the free-wheeling and oftentimes “chaotic” exchange of information on the Internet. They could help avoiding what Habermas calls the rise of a “huge number of isolated issue publics” due to the Internet’s alleged tendency to fragment debate. Thus “ersatz-intermediaries” would be more than simple “fire detectors”, or “parasites” in a Habermasian sense, that raise awareness of issues ignored or undetected by conventional intermediaries. Their active engagement would encourage a more democratic culture in a participatory sense since it would at least approximate the ideal of popular inclusion in micro-deliberative procedures. Potential agenda setting and framing effects by “ersatz – intermediaries” could be more closely associated with the populace as such effects would happen outside the constraints of micro-deliberation. Yet this approach would also appreciate the limits of popular inclusion, not least because empirical research on “attentive citizens” suggests the democratic populace experiences a very diverse level of interest in politics. Public authorities and conventional intermediaries would have to engage these new deliberative stakeholders more actively and help form a “professional ethos” or responsibility by which they feel obliged to abide. Such a pioneering task of deliberative participation by “ersatz-intermediaries” may in the long run induce the larger and less attentive populace to follow their lead and embark upon what could proof to be a truly deliberative approach to 21st century citizenship.

5. Discussion and Conclusion

The purpose of this paper was to identify the opportunities and potential pitfalls any effort of integrating Open Government initiatives with ICT will likely face in the years to come. It is thus worth highlighting the three main findings of this paper for which further research is warranted. First, to prepare the ground for better informational access of citizens, compliance with existing freedom of information laws must be improved. To reform such laws, where necessary, should be a legislative priority. Second, Open Government must harness the present and future potential of ICT by emphasizing “contextual information sharing” in the sense that public authorities need to utilize new technologies to better prepare this information for the citizenry. Third, “ersatz-intermediaries” must be integrated with conventional mediating structures in modern democracies in order to try to enhance the “average” citizens’ perception of the legitimacy of eventual decision-making as well as the agreed upon societal fabric. Such a “transformative” approach may be best suited to ultimately move democracy to a more ideal deliberative structure without abandoning proven structures altogether.

6. References


