Crowdsourcing the constitution to unify Iceland

The last year's large parts of the western world have suffered from economic downturn in some cases leading to an economic crash. As is the case of Iceland, where the crash in 2008 was of such magnitude that it "(…) is perhaps better described as systemic rather than merely financial" (Thorvaldur Gylfason, 2012, p.2).

The crash led to a public demand that the government should step down and the Icelandic constitution should thereafter be revised. A demand that amongst others, focused on a wish for greater transparency, protection of the environment, securing natural resources for the future, and to stamp out corruption.

In an attempt to meet the public's demands and restore the trust in government it was decided to crowdsource the constitution, inviting every citizen to participate using digital platforms (Thorvaldur Gylfason, 2012, p.9).

With basis in essay question three *"In what ways do media technologies reconfigure the meaning and practice of community? Use at least one specific case study in your answer"*, I will discuss if the use of media technologies helped strengthen the feeling of community of the Icelandic People in the process of crowdsourcing their constitution.

To discuss these matters I will:
- Give a brief introduction to the background of open government including crowdsourcing.
- Define community drawing on the thoughts of French philosopher Jean-Luc Nancy.
- Describe the reasons for revising the constitution and how Iceland used media technologies to do so[1].

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[1] For the description of process I have drawn on reports written by Thorvaldur Gylfason, professor of Economics at University of Iceland, but also member of the Constitutional Council, which formed the proposal for the new constitution. To make sure his report was not biased I have juxtaposed it with statistics from governmental websites and articles in the international press.

- Following I will compare in which ways the demands for the new constitution corresponds with the definition of community and how media technologies helped reveal and support this.

Drawing on this comparison I will conclude by discussing if crowdsourcing led to strengthening the feeling of community and in which ways media technologies thereby reconfigures the meaning and practice of community.

Open Government – how and why?

Digitization has given new possibilities for involving the public in the democratic process. The result of which is a great degree of public information has gone from – or at least is in the process of going from – monologue-like statements to dialogues using platforms like Facebook and Twitter.

Phrased by Beth Noveck, former deputy chief technology officer for open government in the Obama administration:

> "The emergency of information-sharing technologies makes it possible, as a first step, to improve transparent publication of government data and faster commenting on that data" (Noveck, 2009, loc. 142).

The reasoning of making government open and transparent is not just, that it is now possible because of the digitization, but primarily because it enables people to hold the powers that are accountable for the decision-making (Noveck, 2009, loc. 147).
Secondly, because of Joy's Law: "No matter who you are, most of the smartest people work for someone else," (Noveck, 2009, loc. 595/p. 17) or the slightly different approach to the same reflection "(…) with a big enough population engaged, sufficient width can be its own type of depth" (Weinberger, 2012, p.13).

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[*] From time to time Nancy even expands the definition beyond humans, but as he is not consistent in this ((Willson, 2006, p. 158) I will disregard it for the purpose of this essay.

Both concluding that by involving a crowd, you will reach the people most knowledgeable about a subject and thereby get the smartest and broadest answer to the question asked.

Hereby digitalization has made it much easier to involve the public - drawing on their knowledge, making their voices heard, limiting the differences between the ruling power and the people that elected them.
Prior to digitalization it would have taken town meetings, referendums, elections etc. to share knowledge and collect opinions just to a small degree of what technology have made possible, but still it would not be realistic to grant access to the same amount of documentation or having the same widespread dialogue, not only between citizens and the government, but also citizen to citizen.

Examining the notion of community

This change, enabling the individual to act as means in a joint conversation, is what Professor of Law at Harvard University, Yochai Benkler, in his theory of 'social production' calls the networked public sphere. According to Benkler this empowers the individual, freeing him/her from the limitations of the accreditation done by mass media in liberal democratic societies all through the 20th century, and thereby put media in the role of shaping the public sphere and the public opinion. Today "Individuals are using their newly expanded practical freedom to act and cooperate with others in ways that improve the practiced experience of democracy, justice and development, a critical culture, and community" (Benkler, 2007, p.9).

In other words a definition that corresponds with and elaborates on holding "the powers that be accountable" as mentioned earlier in this essay.

Exploring the term community a bit further by looking it up in the dictionary, one will find a very basic and narrow definition:

        "Community:

1 a group of people living in the same place or having a particular characteristic in common (…)

2 a feeling of fellowship with others, as a result of sharing common attitudes, interests, and goals (…)" (Thesaurus, 2005).

In other words community is here defined either by geography, similarities or sharing interests.

Philosopher Marshall McLuhan expands this definition, in correspondence with the thoughts of Benkler: because of technology "one's "village" could span the globe. This conceptual revolution moved from defining community in terms of space neighbourhoods – to defining it in terms of social networks (Wellman 1988)" (Kollock and Smith, 1999, p.169).

Benkler's and McLuhans definitions of community, though they to some degree are centred on sharing interests, can be seen in relation to a philosophical ontological approach amongst others undertaken by the French Philosopher Jean-Luc Nancy.

The fundamental basis for his definition is to explore the Western understanding of community to dissociate his own definition from its restraints.

The feeling of Western community:

"Is not only intimate communication between its members, but also its organic communion with its own essence. It is constituted not only by a fair distribution of tasks and goods, or by a happy equilibrium of forces and authorities: it is made up principally of the sharing, diffusion, or impregnation of an identity by a plurality wherein each member identifies himself only through the supplementary mediation of his identification with the living boy of the community" (Nancy, 1991, p.9).

Nancy regards community as a communion restraining to the individual, though it is his theory that the relations between individuals define community: Being with each other, a

feeling beyond ethos, values and/or agreement. Therefor community should not require consensus or harmony and does not require shared interests (Willson, 2006, pp. 148 – 149).[*] To Nancy the sense of being with each other proceeds being born – and extends beyond dying. It is a sense that is defined through communication and literature, creating the feeling of community as we communicate – community is therefor in a state of flux. And community emerges in its true form through "spontaneous/playful/unworked" communication, with emphasis at unworked (Willson, 2006, p. 155 – 156).

In relation, media technologies increasing communication is thereby positive for creating a sense of community, which is important bearing the subject of this essay in mind, where as intentionally seeking to create community in Nancy's view undermines community by automatically oppressing opinions, and therefor having a risk of leading resistance - undermining the intent (Willson, 2006, p.168).

Division in the Icelandic society

If the first step of open government is, as above mentioned, to "improve transparent publication of government data and faster commenting on that data" (Noveck, 2009, loc 142) then the Icelandic Government made a leap as they decided to crowdsource the country's constitution.

As noted in the introduction the decision came after the economic crash of 2008, which lead to a public uproar, the pots and pans revolution or the kitchen revolution, that got its name from the Icelandic people banging on pots and pans in front of the parliament, demanding both the government to step down as well as a new constitution (Reuters.com, 2009). The government resigned 26th of January 2009 (BBC.co.uk, 2009)

It is not within the scope of this essay to go into greater detail about the Icelandic crash, but only to point out a few key points, that caused the public mistrust and stressed the need for restoring the feeling of unity:

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[*] From time to time Nancy even expands the definition beyond humans, but as he is not consistent in this ((Willson, 2006, p. 158) I will disregard it for the purpose of this essay.

Unfair distribution of goods

In 1998 the Supreme Court of Iceland ruled, "that the Icelandic system of fisheries management is discriminatory and thereby unconstitutional" (T. Gylfason, 2012, p.8); in 2000 the court withdrew the decision under pressure from two cabinet ministers. Later in 2007 the United Nations Committee on Human Rights overturned the withdrawal.

This ruling deals with the allocation of common-property catch quotas and led to one of the main points of the draft for a new constitution: a public – as opposed to state or private - ownership of natural resources.

Combat corruption

Between 1998 – 2003 the state banks were privatized in ways helping to causing the economic crash and revealing widespread nepotism and corruption: "In return, the banks treated the political parties and individual politicians generously (…)"(T. Gylfason, 2012, p.9) as well as granting them private loans, with the result that: "When the banks crashed, one in six members of parliament owed the banks more than 1.3 million dollars each at the pre-crash exchange rate of the Icelandic króna, their average debt being $12 million"(Thorvaldur Gylfason, 2012, p.4). Causing the draft for a new bill to stress "stronger checks and balances between the three branches of government as well as between power and accountability" (T. Gylfason, 2012, p.17).

Unequal voting rights

Another important reason for the demand of a new constitution is, that for historical reasons voting rights were "granting voters outside the Reykjavík area significantly disproportionate representation in parliament." (Thorvaldur Gylfason, 2012, p.6); today seen as unfair by large parts of the public as migration has changed the population density, making it less important to secure rural representation.

This, though causing one of the biggest obstacles for changing the constitution as those losing the votes objected (T. Gylfason, 2012, p.6), was another change recommended in the draft for the new constitution.

Independence and identity

Another core reason for wanting a new constitution was that the current constitution was derived from the Danish constitution when Iceland chose in 1944 to separate from the

German-occupied Denmark. The Icelandic Government then promised the Icelanders a revised constitution within two years. More than sixty years later this was still to happen, causing a wish for an own identity, without reminisces of the Danish supremacy (T. Gylfason, 2012, p.10).

Preparing the proposal for a new constitution

Subsequent to the government's resignation in January 2009, a new government was elected in April 2009 and the process of preparing a new constitution began. It was decided to start with a clean slate instead of trying to revise the former constitution.
"The notion that the people should be involved in drafting their constitutions is gaining ground as the new 'gold standard' in constitutional design (…). The aim was, in part, to help build a sense of nationhood" (T. Gylfason, 2012, p.12).

Which was also the reason for choosing digital media to help support this goal.

A bit of statistics

From 2009 to 2012 the access to computers and Internet in households went from 90% - 95% ('Statistics Iceland', 2012). This raised the question of unequal access, as the unconnected five percent was primarily elderly. The assembly, though, tried to solve this by also granting access to all of their names, address and phone numbers, to make sure that none of the 320,000 people living in Iceland, was kept from participating in the discussions.

"Even so, the democratic gains from granting easy access to a vast majority of the electorate seem likely to outweigh the losses from slightly unequal access, an apparently trivial disparity compared with the standard parliamentary practice of granting special interest organizations (farmers, vessel owners, bankers, etc.) privileged access to the legislative process" (T. Gylfason, 2012, p.41)
The process consisted of three steps:

First a National Assembly consisting of 1,000 individuals was selected through a "stratified sampling from the national registry subject to certain constraints intended to secure equal

representation" – in one day, they produced a document highlighting their recommendations for a new constitution (T. Gylfason, 2012, p.12).

Then a 700 page report was made by seven members of a Constitutional Committee "comprising professionals from different directions, including law, literature and science" (T. Gylfason, 2012, p.12) Their research was made accessible through their website.

Next a Constitutional Assembly was elected through a national election. 522 candidates competed for 25 seats. Their obligation was to make a final proposal for the new constitution. They were expected to consider, both the writings from National Assembly and Constitutional Committee (T. Gylfason, 2012, p.13).

It was in this stage the serious use of media technologies was brought into the process.

Each week the Constitutional Assembly posted new discussion papers on their website revising them two times, receiving comments and questions from the public, before voting them, each time with a large majority of votes, to be part of the proposal for final bill (T. Gylfason, 2012, p.37).

The Constitutional Assembly used multiple platforms for the dialogue with public:

Their website:
http://stjornlagarad.is/english/

And different social media platforms:
https://www.facebook.com/Stjornlagarad
https://twitter.com/Stjornlagarad
http://www.youtube.com/stjornlagarad
http://www.flickr.com/photos/stjornlagarad

On the website itself the assembly received 323 formal proposals, more than 3,600 comments – most of them answered by the committee members (T. Gylfason, 2012, p.36).
The Council meetings were open to the public and streamed live both to their website and

Facebook, during the process each meeting had 150 – 450 viewers. The Facebook site had approximately 1,300 likes (Siddique, 2011) (by today 12th of January the page have reach 5,900 likes).

More than 50 interviews with Council members and other involved in the process were posted on Youtube – by the end of 2011, they had been viewed 5,000 times (T. Gylfason, 2012, p.37).

After four months a final proposal for the final bill was put together, compiling the parts discussed through meetings and digital media. The bill was approved- 25 votes against zero by the Constitutional Assembly, despite of radical changes to both access and ownership of natural resources and severe changes to the voting system (T. Gylfason, 2012, p.17).

Next came a non-binding referendum asking the Icelandic people to vote for six core questions concerning the constitution. All questions where agreed on with more than 50% of the votes (see details in appendix 1).

Most importantly voters backed: the proposal for a new constitution, that natural resources, which are not privately owned, but e.g. state owned, should be national property. As well as to give equal weight to votes cast in all parts of the country and last, but not least, that it should be possible for a proportion of the electorate to demand a referendum.
All propositions supporting the demands made during the pots and pans revolution.

Next the Icelandic Parliament will have to finalize the bill, showing their will to back the process before an election this spring.

Using media technologies creating a sense of community

To sum up, some of the advantages in using media technologies for Open Government, both accentuated by Beth Noveck and Yochai Benkler was: improving transparency, holding the powers accountable, making sure the best input is heard, improve the experience of democracy, justice and community.

Bearing this in mind, it was an obvious step to crowdsource the Icelandic constitution. The country had suffered from an economic crash, resulting in mistrust in the system, because of corruption, nepotism and hunger for power. Therefore one of the main points of the process was, as mentioned, to "build a sense of nationhood".

In relation to this, I think it is important to notice Benkler's phrase, that using digital technology can "improve the practiced experience of democracy". Emphasis on the word experience, because this was what the project was about, as well as forming a new constitution.

Iceland needed to improve how people felt about their nationhood and their democracy. The government could have chosen the traditional approach to law making, where the parliament writes a proposal, and it is agreed upon or rejected in a referendum. But even, if they had ended up with the same substance, it would probably not have restored the public trust.

Opening the process, posting every document, every part of the bill, over the four month period, letting people comment and not least answering those comments, supports the traditional basic feeling of being together in this, maybe not sharing interests, but at least sharing the goal: trying to phrase a new constitution for "us".

The preamble of the proposal for constitution reflects this:

> "We, the people who inhabit Iceland, wish to create a just society where every person has equal opportunity. Our diverse origin enriches our society and together we are responsible for the heritage of generations, our country and its history, nature, language and culture" (Stjórnlagaráð, 2012).

As does the main themes of the bill "distribution of power, transparency and responsibility" (Stjórnlagaráð, 2012).

Looking at the definition of community accounted for prior in this essay, the process reflects a traditional western approach to community, where the goal is to agree, to secure a fair

distribution of goods and trying to avoid special interest groups of affecting the process in secrecy. All in all to state a proposal, that the majority can agree on.

Which is exactly the opposite of how Nancy defines the feeling of community, as agreement automatically suppresses opinions.

Nancy would probably back how technology was used for supporting the conversation, helping the feeling of unity. But as soon as the process was seen as a mean to build community, and not an end, Nancy would disapprove, because of the risk of totalitarianism; according to Nancy a community should be heterogeneous. As quoted earlier "(…) community emerges in its true form through "spontaneous/playful/unworked" communication, with emphasis at unworked (Willson, 2006, p. 155 – 156)."

Question remains if this is actually possible in a modern democracy. You could argue that the closest we get is Open Government, supporting a conversation, but as it usually has a goal, is "worked", Nancy would always see it as suppressing parts of the community.

On the other hand, if the goal of democracy is to reach agreement, there will always be a risk of totalitarianism.

The alternative is never to see a country as a community, but accept that community is global, is "being in" the world and never finite defined, always in flux.

Nancy's approach to community shows in greater degree consideration for the individual than the traditional, western sense of community does – as it tends to equal a democracy based on agreement. Though they both aim for an overall feeling of fairness, Nancy is keen on avoiding suppression of the individual.

Open government as a driver for community in other nations

Iceland is not the only country experimenting with digital governing to support unity and bring power and democracy to the public. Both Finland and USA have tried different approaches. Here are some examples to put the choices made by Iceland into perspective:

Finland has chosen to crowdsource some of its legislation. If a citizen, within six month, can get 50.000 fellow citizens to back a proposal for a law the Finnish parliament is obliged to vote on the proposal (Meyer, 2012).

Comparing this to the Icelandic crowdsourcing project I think there is much more risk of suppression and totalitarianism. As seen through history a crowd can get agitated and carried away. As it is easy to scroll through text without actually reading it; this could result in 50.000 people backing a proposal, they do not fully understand or agree with. Then the only safety is a sensible parliament, voting for integrity not for popularity or power hunger. In this case, I would agree with Nancy's hesitations.

In the US the Obama administration have launched several different initiatives of Open Government. As a part of this the website 'We the People – your voice in our government', an initiative dealing with serious issues like 'Reducing gun violence' (We the people, 2013a) and 'Online piracy' (We the people, 2013b). This initiative works on some of the same premises as the Finnish initiative, if you can get 25.000 signatures from fellow citizens within a month; the Obama administration is obliged to give you an answer to your proposal. This does not bind in the same way as the Finnish initiative; it is more focused on the conversation, than on the legislation.

Lately the most noticed proposal, and not least answered, was backed with 34,435 signatures. Its headline was "Secure resources and funding, and begin construction of a Death Star by 2016" (Shawcross, 2013). The Obama administration gave a detailed answer, explaining with clever puns and references to their politics why this should not be a priority (Shawcross, 2013). Funny? Sure. Good advertisement for the administration? Definitely – as the answer was quoted in mass media all over the world (Ritzau, 2013) (BBC.co.uk, 2013). An important issue to spend government time and resources on? Maybe…

With Nancy's theory in mind, where the most important part of creating a feeling of community is the communication, the American approach might be a good solution, if the aim is to create a feeling of unity and community. This also corresponds with Benkler's theory that digital technology "improves the practiced experience of democracy" (Benkler, 2007, p.9).

Creating community in Iceland

In reality the Icelandic approach is probably the best, if trying to create a sense of community in a democracy. Though possibly suppressing individuals and views in the final constitution. But that is part of democracy finding a solution the majority can agree to. And in the famous words of Winston Churchill: "Democracy is the worst form of government, except for all those other forms that have been tried from time to time" (Hilton, 2013).

The variety of technology, the referendum and finally the parliament reading of the bill works as a safety valve to avoid small interest groups getting carried away online or in the assemblies. As the referendum showed people did in overall agree on the proposal and thereby in a traditional western sense of community-as-communion the process has led to agreement on values. And thereby community. I think it is fair to say, that this could not have happened in the same way without media technologies, not because it played such a big role in formulating the proposal – in a country with a population of 320,000 people – 1300 Facebook likes does not seem like much. Neither does 3,600 comments; they could be made from very few people. But what media technologies have changed is the access, the possibility of looking through the proposals, both binding the presenters, but also the public to the decisions made. If they did not object during the process, they should have weighty arguments to oppose later on.

At the time of writing this, it is up to the parliament to endorse the new constitution, expected during this spring. If – or when – they do, Iceland will be the first country in the world to have a constitution not only approved by the citizens, but formulated by the citizens.

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