Ethics and Digital Transformation: The Role of Democratic Institutions

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Abstract: Due to the digital transformation organizational structures in society change. One of the challenges of today is to understand the fundamentals of law related to the impact of the digital transformation on society. In this paper, a research agenda is proposed with regard to the reinvention of the rule of law in the context of the digital transformation. At the heart of organizations we find the humans as values. Therefore, rethinking moral values becomes more important in the decision-making processes in the context of digitalization and implementing ethics in the architecture of democratic organisations is necessary. This paper discusses the interplay between law and ethics in the context of decision-making and digitalization. The moral value of trust which is part of the legitimation process of democratic institutions and politics is a condition of our democratic society. The social impact and interpretation shows to what extent people are controlled by systems ruled by the government and/or companies which own the online infrastructure. Therefore, there is a need for a research agenda regarding to the fundamentals of law in the 21st democratic society.

Keywords: democratic, institutions, ethics, law, society, digital transformation.

1. Introduction: we used to wait

Government control systems are built as a consequence of the human desire or demand for control which comes from the society itself. Over time risk arises: the systems will lead to a focus on controlling the society as a system itself (Wieringa in: Van Driel, 2015). The government and therefore politics have become entangled in the focus on coalition agendas, divergent beliefs, the urge to control and the influence of the media - which emphatically exaggerates the problems. Procedures, positions and achievements have become the most important elements, while dealing with the complex and varied problems in society is needed for a lasting right of existence of the government and politics. From this perspective a context-oriented approach is requested with room for experimentation instead of tight planning and organization of the board. This paper will explain the dichotomy of horizontal and vertical traditions in politics which has consequences for officials, administrators and politicians. The expectations of these groups are not always in line with reality when it comes to the tasks assigned to process control in a politically sensitive environment (Scientific Council for Government Policy - WRR, 2006). As the Yellow Vests Movements illustrates, society now asks for a clarification of political accountability (compare with: Bovens, 2011). Nowadays, this becomes a challenge, because of the major influence of the media on society and the developments of internationalization and individualization (WRR, 2002). The great impact of the companies which are by definition non-democratically organized such as Google, Apple, Facebook, Amazon and Microsoft leads to fundamental changes in our viewpoints with regard to our 21st century world (Van Dijck, 2019). In the first place, the context of the democratic organisations influences the human behaviour in it. Secondly, the ICT itself influences the institutions (Van Outvorst et. al., 2017). It is the government's task to guarantee the values of an open, democratic constitutional state and to provide support for the existence of public morality. During this process values are created by the society itself and the society also ensures that they are supported (WRR, 2003).

2. Problem definition: everything now

Since digitalization, technology is always ahead of the traditional systems of law making. As a consequence, the power balance has changed in our democratic society. Not only are the five big companies who own most of the societal infrastructure not based on democratic values, but most of the news finds it source in internet platforms. So, today's news is often characterized by a lack of context. As a consequence it is hard to see whether news is objective and trustworthy. It is also difficult to judge what to believe (Van Dijck, 2019). What is the information we do not see?

"*Modern communication technology has several implications for digital leadership: guiding the people in the organization or society to make proper use of communication, administer the quality of information and the quality of communication and see to it that the new requirements of communication are met. Also leadership needs to be aware of their role in the internal and external communication. They need to realize the importance of openness and transparency in communication; the necessary reaction requirements in dealing with new, rapidly becoming available information, not only in speed but also in the ability to assess the quality and reliability of the information*" (Van Outvorst et. al., 2017:6).

Ethical dilemmas arise on a daily basis in constantly and fast changing environments. In this paper a research agenda will be proposed, that as a starting point addresses the fundamental questions with regard to the definitions of a democratic society: 'What is the definition of the rule of law?' , 'What is the definition of ethics?' and 'What does digitalization do with the fundamentals of the rule of law and ethics'? These questions are the foundation for a study in how digital governance can be organized to deal with ethical dilemmas on various levels of decision-making.

"*Users are empowered in many ways by technology. Many benefits are offered by the new digital society: democratization, personalization, activation, building relations and getting connected. Yet these benefits are accompanied by attention points in relation to aspects like privacy, health, influence of social media and (again) the reliability of information*" (Van Outvorst et. al., 2017:6).

In the research the focus is on practical solutions which will help during decision-making. This applies to all levels of organizational structures in democratic society, but the focus is on the legitimacy of the decision-making process in institutions. For this paper the distinction between a horizontal and a vertical perspective on the conceptualization of the rule of law is leading, as envisioned by the Scientific Council for Government Policy (WRR). How is it possible to live together in diversity and to act in a coordinated manner? That's the question in the horizontal perspective. In the vertical tradition the question is: what are the conditions under which individuals have rights and duties under the rule of law? These two views are crucial for the further interpretation of the concept of politics and the people working in institutions (WRR 2006). Therefore, the main question of this paper is:

How do we find a dynamic balance between the horizontal and the vertical perspective, in modern digitalized societies?

3. The decision-making process: interplay between law and ethics

The main difference between the horizontal and vertical perspectives on politics is the element of creativity in the preparation of the decision-making processes of the government and parliament. In the horizontal variant this is paramount in the form of critical consultation in the initial phase, while in the vertical variant a politician is a decision maker. Based on the vertical view of politics, control of the

exercise of power takes place, while the horizontal image focuses on the person, as the decision-maker. Certain characteristics, attitudes and behavior are appropriate in the public interest and actions are limited by the constitution. In order to judge politics as a whole, it is therefore necessary to distinguish between these two perspectives and to take into account that the vertical vision in particular is visible from the outside world (WRR, 2006). This implies there's is a difference between the implementation of decisions itself and the reflection on the implementation at the same time. With regard to the responsibilities in democratic institutions we can rely on ethical, legal and social norms and values. The character of the organization itself and of the natural persons who are employed forms the identity of the organization: the structure and the culture. Hereby, social control plays a large role. There also is a distinction between the passive and active form of responsibility. In complex organizations different (sub-)models can apply at the same time. Because of their complexity and size, it is easy to lose the sensitivity for reflection with regard to moral values in authoritarian and hierarchical environments (Bovens, 1990). There is a clear need for explicit moments of moral reflection on why we are doing what we are doing. These moments must be built-in in peoples' daily routines (Van de Luijtgaarden, 2017; Van Steenbergen & Van Driel, 2019; De Vries, 2019).

4. Three approaches

Common expectation is that everything is clear and visible for accountability to the citizen (vertical perspective). However, all kinds of underlying processes are also needed to acquire the information, knowledge and experience that are necessary to make the right decisions (horizontal perspective). Many of these processes ignore the viewpoint of the citizen. In the Council's opinion, the government has the task of learning how to solve complex problems without compromising legitimacy (WRR, 2006). We will apply three approaches that together create understanding of our 21st century democratic society: the rule of law, digitalization and ethical dilemmas.

"*Returning elements throughout all implications are the tremendous importance of reliability, integrity and quality of data and focus on the way human actors make use of new technology*" (Van Outvorst et. al., 2017:7).

5. Conclusion

This paper is the first step in exploring the question how to apply ethics in a practical manner with regard to digitalization in perspective of the rule of law. The intention is to learn and teach in an interdisciplinary way via normative professionalism (Van de Luijtgaarden, 2018). Thus, we explore, in co-creation, ways to respect and incorporate human values in governmental decision-making.

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