

Commentary

What if? A short commentary on the philosophical bedrock of open government discourse

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For Jeremy Bentham – the eighteenth-century philosopher, jurist, and reformer – there are three types of citizens.¹ First, there is the class of what can be called smart or expert citizens. Expert citizens have the capacity, willingness, and time to reflect on their being-in-the-world. They know, or are at least very busy in acquiring knowledge of, their relationship with the authorities that rule the environment in which they were thrown and reflect critically on whether these relationships are legitimate and just. The number of experts, however, is limited, and the public is composed of two other classes: those who primarily rely on the judgements of the experts (the ‘middle’), and those who do not have the time to engage in public affairs at all (the ‘many’). Though the experts have the capacity to formulate considerate judgements about, for instance, the most recent governmental policy, they do not necessarily have the information and facts on which their judgements can be build. And this is a problem, according to Bentham. Information, proper information, is needed so that the experts can do their work, which indirectly also benefits those believing in their authority: the class of citizens that like to believe the experts, and the many who are too busy keeping themselves afloat.

Two centuries later, political theorist Jodi Dean uses Bentham to make an argument on the value and functioning of publicity and openness which is of value for researchers working on open government and open data. According to Dean, public information is important because it allows those with the capacity to *know*, to transform the information into something valuable for those that *believe* in their expertise. Interesting here is less the fact that those who are able to know, know *something*, or that those who can believe, believe *someone*, but that publicity’s value is grounded in the promise that there is information to be found, later to be transformed into something valuable for society. This promise transforms the public into a part that is ‘supposed-to-know’, and a part that is ‘supposed-to-believe’ (Dean, 2005, p. 18). Key here is to realize that publicity’s value and functioning is dependent on this inherently divided public. In the words of Dean:

¹I draw here from Dean’s reading of Bentham (Dean, 2005, p. 19).

“What publicity as a system provides is the possibility of informed judgement, the guarantee that someone will know, even though no one can say precisely who. Publicity holds out the possibility of good judgement to the public-supposed-to-believe. From this angle, the public-supposed-to-know seems only that presupposition necessary for the public-supposed to believe. It [in other words] provides the guarantee of knowledge that stabilizes belief.” (Dean, 2005, p. 20)

But what makes us then believe in the experts? The secret is the answer (Dean, 2005, p. 21). Secrecy, or the belief that information is missing and that it in principle can be found somewhere, is the ingredient needed to make sense of publicity and openness. One’s belief in the value of openness is dependent on the existence of the soon-to-be-published fact. Publicity and secrecy, as Dean argues, are mutually dependent, and together postulate and justify the existence and functioning of those who are supposed-to-gather-process-and-know, and those who-are-supposed-to-believe-in-those-who-know.

Publicity thus hinges on (a) the belief that there is information missing, that (b) it can be found, and (c) that it can be processed in such a way that the experts know, and (d) that the expert’s knowledge will ‘trickle-down’ in the form of knowledge, goods, and services to be consumed by the other two classes.

The idea that there is a public composed of a class of potential knowers, and a class of potential believers (let us ignore the many for a moment) thus depends on the presumption that there is more to know, and that this knowledge is of use for how we govern our mutual expectations – or do democracy. Publicity (including secrecy) is thus directly related to a particular conception of how democracies function, and ought to function. What is sometimes forgotten, and what was an explicit part of Bentham’s theory, was that the promise of publicity’s potential to uncover secrets as a means to improve and legitimize democracy, is indeed not much more than a promise. It is a *good* promise, though, and it is still one of the most popular though hardly explicated ideals motivating our (Western) beliefs in democracy. And unsurprisingly, this ‘fantasy of the public’ (Dean, 2005) or ‘promise of access’ (Greene, 2021) is one of the key promises made in much of the open government and open data literature (Baetens et al., 2017; Van Eechoud, 2014), of which I will discuss three implications for our thinking about open government, democracy, and citizenship.

To start, it is present in the attempts made to identify and get rid of a lot of the barriers that prevent open data to do the things we expect it to be doing (Janssen et al., 2012). The promise of access also informs our thinking about the roles particular intermediaries ought to play when governments communicate information. While in the past the cafes and salons were the places the latest news and gossip were shared (and later traded), professional journalists, newspapers, and later online media took over this role (Habermas, 1989; Wu, 2016). Nowadays, when thinking about these intermediaries, Bentham’s class of experts transformed into one consisting of those capable of processing large datasets, producing compelling visualizations, and providing us with the services they think we need. Thinking in terms of barriers, unfortunately, presupposes that the act of data communication is unproblematic or good, and nurtures our uncritical acceptance of publicity’s promise. This is reinforced by publicity’s undefined aim, nicely illustrated by the growing literature on algorithmic transparency and explanation (Burrell, 2016; Edwards & Veale, 2017). At what point, it is worth asking, do we uncover *all* the secrets? *When* do we know enough? What amount of data do we need before we are satisfied? And how does this unquenchable thirst for information differ from the extractive practices of the tech companies we like to criticize so much (Lund & Zukerfeld, 2020)? It might not be a coincidence that openness and transparency are the preferred values of those who are best capable of making use of them, and who might not always be that interested in presenting more *positive* duties regarding their substantive aims (Tkacz, 2012). Openness is good because it is *not* closed or secret, and the new experts do their best to prevent openness from attaining too positive and more stringent connotations.

Second, the felt need to climb these barriers combined with the responsibilities attributed to intermediaries that are supposed-to-know-gather-process-publish-and-distribute, enacts a particular idea of democracy, which is composed of a strange and ill-defined mixture of the classic marketplace of ideas, the public sphere, platform governance, and ecosystems thinking (Maanen & Balvert, 2019). Mixing these together has three important implications. First, potential differences between public and private spheres are diffused because the new experts – our intermediaries – are often commercial actors capable of processing large amounts of data and information.² Are these the best actors to put our trust in? Second, the platform-like type of government constituted by calls for open governmental data aspires to make as much data available to help others transform these into valuable products (O’Reilly, 2011). Other-than-public parties are thus effectively given more influence onto the kind of services available and provided for, and hence also indirectly downgrade the expectations we have about our governments. Third, what if the problem we must deal with is not the *height* of the barriers that prevent our governments from throwing data over the wall, but our belief in the existence and relevance of these barriers itself? What if, in the end, this rendering of democracy manages to transform the political-material question of who should receive what amount of goods, into the information-based capitalist one about how to make nice products on the basis of free information and data.³ Put differently: to what extent does the problem of openness and transparency enact an *epistemic* conception of democracy that prioritizes the processing of information over the maximalization of welfare?⁴ What if the problem is less one of communication (of data, information), and more one of distribution (of resources, welfare, justice)?

Third, the promise of access, or the fantasy of the public, also presents us with the comfortable soothing feeling that everything is going to be ok – *if we had only known*.⁵ ‘Everything’ here refers to the coercive nature of the governmental systems we are subjected to. What if, indeed, we can band together in public *as* a public, uncover the hidden sources of the problems we are experiencing, and try with our newly acquired knowledge of them, also take back some control by holding government officials accountable?⁶ Two different questions are conflated here. First, the idea that transparency or openness is like a *window* that allows one to see what is inside, to next, also control it (Ananny & Crawford, 2016; Flyverbom, 2019). Such a conception of transparency is grounded in seventeenth century ideas about how vision, control, truth, and autonomy interrelate and interdepend. These ideas are dated (for quite some time now), and it is much more appropriate to consider openness and transparency as activities, work, or political strategies, replace the metaphor of the ‘window’ with that of the ‘prism’, and highlight the diffusing, steering and managerial characteristics of transparency (Flyverbom, 2019; Goëta & Davies, 2016; Meijer, 2013; Ruijter et al., 2018). Transparency *is* governance, and not a value-free tool to help neutralize governments’ coercive nature. Second, more controversial, is the almost natural cumulation of what I have discussed so far: the idea that the public through the increase of publicity, is able to deal with, contest, but more often, *legitimize* governments’ functioning. What if we take seriously the idea that like publicity, the public as some sort of stable, unified entity on which we can rely, is *also* more of a promise than reality?

²Though research on open data reusers is notoriously complex to conduct, a recent attempt to analyze reusers identified the private sector as one of the main users of open data-sets (Welle Donker et al., 2019).

³Compare, in a different though related context, “[...] the products being produced by a knowledge-based, financialized economy are not products at all but processes – processes intended to produce the involvement of everyone, so we can all have a hand in creating a commons of civic good and social change” (Lee, 2015, p. 229).

⁴On (the limits of) epistemic conceptions of democracy, see Tinnevelt & Geenens (2009).

⁵See also Dunn, 2005, p. 137.

⁶Morozov argues that accountability is often reduced to transparency (Morozov, 2014). See also Schumpeter, 1974, Chapter XXI.

Many – in fields and disciplines further removed from the administration – have explored notions of politics and democracy that do not rely on promises about publicity that fall prey to the empirical and conceptual worries I just hinted at. Jodi Dean sought inspiration in the work of pragmatist philosophers who argued to replace the ‘public sphere’ with the ‘issue-network’, in which not citizens but issues or problems are granted analytic priority (Dean, 2005, pp. 169–175).⁷ Knowledge about a decision-making procedure is in an issue-oriented approach less relevant than the effects or problems such decisions bring about, the actors thereby brought into being, and the political debates fought over the issue’s meaning and future. Politics is not to be neutralized procedurally but appreciated analytically. Others put forward other, also less knowledge- and communication-oriented conceptions of democracy. Think here, for instance, about the work of Pierre Rosanvallon, Huub Dijstelbloem, and Jeffrey Edward Green (Dijstelbloem, 2016; Green, 2011, 2016; Rosanvallon, 2008). For Green, ordinary citizens are too removed from politics, and too numerous to be able to be in a position to have some sort of impact on decision-making (Green, 2016). Rather than conceptualizing the problem of governmental data communication in terms of a public *sphere* which is in principle open and accessible to all, Green argues that the role citizens have in contemporary democracy is closer to the audience watching a play performed at a *stage*, thereby reducing their action repertoire to boos and walk-outs (Green, 2016, p. 115).⁸ Similarly, Rosanvallon and Dijstelbloem argue that citizens are better understood as vigilant smoke-alarms that go off when problems become public, than as actors proactively involved in decision-making procedures (Dijstelbloem, 2016, p. 83; Rosanvallon, 2008, Chapter 1). Rather than understanding a lack of citizenry interest in governmental information as a problem to be solved (or as a barrier to overcome), it is worth readjusting our expectations with respect to what we can expect from citizen involvement. Citizens do keep an eye on government’s functioning and interfere and raise the alarm if harm is done but are rarely in the publicity-business of information-processing, discussing, analyzing, rationalizing, and evaluating of governmental policy. When problems occur, citizens will respond, but only on a case-by-case basis and as involved actors in the issues themselves (Dijstelbloem, 2016, p. 171). Communicating information proactively is a nice gesture, but does not necessarily have to do with the types of democracy and citizenship we are situated in.

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References

- Ananny, M., & Crawford, K. (2016). Seeing without knowing: Limitations of the transparency ideal and its application to algorithmic accountability. *New Media & Society*, 1461444816676645. doi: 10.1177/1461444816676645.
- Baetens, T., Jacobs, M., & Ponsioen, A. (2017). *De droom, het land en het tekort. Een essay over openbaarheid, transparantie, open data en de ambtenaar*. <https://bhp-omgevingsweb.nl/cms/files/2017-12/de-droom-het-land-en-het-tekort.pdf>.
- Burrell, J. (2016). How the machine ‘thinks’: Understanding opacity in machine learning algorithms. *Big Data & Society*, 3(1), 2053951715622512. doi: 10.1177/2053951715622512.

⁷See, e.g., Marres (2007).

⁸See also Velde, 2003.

- Dean, J. (2005). *Publicity's Secret: How Technoculture Capitalizes on Democracy*. Cornell University Press.
- Dijstelbloem, H. (2016). *Het huis van Argus: De wakende blik in de democratie*. Boom.
- Dunn, J. (2005). *Setting the people free: The story of democracy*. Atlantic Books.
- Edwards, L., & Veale, M. (2017). *Slave to the Algorithm? Why a "Right to an Explanation" Is Probably Not the Remedy You Are Looking For* (SSRN Scholarly Paper ID 2972855). Social Science Research Network. <https://papers.ssrn.com/abstract=2972855>.
- Flyverbom, M. (2019). *The Digital Prism*. Cambridge University Press.
- Goëta, S., & Davies, T. (2016). The daily shaping of state transparency. *Science & Technology Studies*, 29(4), 10-30.
- Green, J.E. (2011). *The eyes of the people: Democracy in an age of spectatorship*. Oxford University Press.
- Green, J.E. (2016). *The Shadow of Unfairness: A Plebian Theory of Liberal Democracy*. Oxford University Press.
- Greene, D. (2021). *The Promise of Access: Technology, Inequality, and the Political Economy of Hope*. The MIT Press.
- Habermas, J. (1989). *The Structural Transformation of the Public Sphere* (T. Burger, Trans.). Polity Press.
- Janssen, M., Charalabidis, Y., & Zuiderwijk, A. (2012). Benefits, adoption barriers and myths of open data and open government. *Information Systems Management*, 29(4), 258-268. doi: 10.1080/10580530.2012.716740.
- Lee, C.W. (2015). *Do-It-Yourself Democracy: The Rise of the Public Engagement Industry*. Oxford University Press.
- Lund, A., & Zukerfeld, M. (2020). *Corporate Capitalism's Use of Openness: Profit fir Free?* Palgrave Macmillan.
- van Maanen, G., & Balvert, A. (2019). Open for whom: The role of intermediaries in data publication. *Publicum*, 5(2), 129-159. doi: 10.12957/publicum.2019.47205.
- Marres, N. (2007). The issues deserve more credit: Pragmatist contributions to the study of public involvement in controversy. *Social Studies of Science*, 37(5), 759-780. doi: 10.1177/0306312706077367.
- Meijer, A. (2013). Understanding the complex dynamics of transparency. *Public Administration Review*, 73(3), 429-439.
- Morozov, E. (2014, April 8). The meme hustler. *The Baffler*, 22. <https://thebaffler.com/salvos/the-meme-hustler>.
- O'Reilly, T. (2011). Government as a platform. *Innovations: Technology, Governance, Globalization*, 6(1), 13-40. doi: 10.1162/INOV_a_00056.
- Rosanvallon, P. (2008). *Counter-Democracy: Politics in an Age of Distrust* (A. Goldhammer, Trans.). Cambridge University Press.
- Ruijter, E., Grimmelikhuijsen, S., van den Berg, J., & Meijer, A. (2018). Open data work: Understanding open data usage from a practice lens. *International Review of Administrative Sciences*.
- Schumpeter, J.A. (1974). *Capitalism, socialism and democracy* (2nd ed.). Unwin University Books.
- Tinnevelt, R., & Geenens, R. (2009). *Does truth matter: Democracy and public space*. Springer.
- Tkacz, N. (2012). From open source to open government: A critique of open politics. *Ephemera: Theory and Politics in Organization*, 12(No.4), Article No.4.
- Van Eechoud, M. (2014). *De lokroep van open data*. Universiteit van Amsterdam.
- te Velde, H. (2003). *Het theater van de politiek*. Wereldbibliotheek.
- Welle Donker, F., Braggaa, R.C., & van Loenen, B. (2019). *Hergebruikers van open data in beeld*. Kenniscentrum Open Data TU Delft.
- Wu, T. (2016). *The Attention Merchants: The epic scramble to get inside our heads*. Alfred A. Knopf.