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Linking databases and linking cultures

The complexity of concepts in international E-Government

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Abstract: International e-government implies cross-national coupling of administrative systems. As administrative concepts and classifications reflect social and cultural differences, international e-government applications are even more complex than those within the national boundaries. We will illustrate this by describing the cross-national differences in the concept of *marriage*, and discuss some of the implications for developing e-government applications.

1. INTRODUCTION

Since the integration of Europe into a single market, the citizens of the European Union member states should be able to migrate from one European country to another with as few problems as possible. Yet, mobile Europeans have to deal with time-consuming administrative procedures, which differ between the various European countries. The FASME project aims at developing a prototype of a system that supports mobile Europeans in solving these administrative problems. The main goal of the interdisciplinary project is to show a concept of user-friendly administrative procedures between European member states, in order to make mobility within Europe easier.

Traditionally, Europe has been a source rather than a destination of immigrants. This situation reversed from the 1960s onwards. Millions migrated to northern and western European countries, and international migration is now at an all-time high. (Salt, 2000) In the mid 1990s, about 125 million people lived outside their mother country. This number is expanding every year (Population Reference Bureau, 1996). Yet, Manuel Castells (1996) argues that there is no global labor force despite the

emergence of a network society. He claims that a global market only exists for a tiny minority of high-skilled professionals in innovative R&D, cutting-edge engineering, financial management, advanced business services, and entertainment. They commute between nodes of the global networks that control the planet. (ibid. 233) Nonetheless, at this moment almost 5.5 million EU citizens live in other member states. (Salt, 2000). Hence, facilitating mobility within the EU is important for individual citizens. At the same time it may improve the operation of the European labor market.

The FASME system is based on smartcards and the Internet. (for details c.f., Riedl 2000, 2001a, 2001b) The FASME smartcard is in fact a digital ID card, using biometrical (fingerprint) identification technology, and containing digital signatures, and personal information about the cardholder. The card should enable the user to access through the Internet available electronic documents in (governmental) databases, and to download these documents on the card or to send these directly to other (governmental) agencies. The authenticity and the age of the documents will be secured, as receiving institutions need to assess the status of the information received. The personal information on the card is meant for the personalization of service provision. Only a few functions have been implemented on the FASME prototype.

Smartcard technology is often seen as the core technology for governmental services in the information age. (Lips 1998)

2. LARGE TECHNICAL SYSTEMS

Only recently "... it has been recognized that an important characteristic of modern technology is the existence of complex and large technical systems – spatially extended and functionally integrated socio-technical networks such as electrical power, railroad, and telephone systems" (Mayntz & Hughes, 1988). Hughes' (1983) analysis of the electrification of the world shows how large technical systems (LTS) operate as networks of many interacting technical and social components. LTS have the following properties:

- LTS are large scale, affecting many people and institutions.
- LTS are complex: political, legal, administrative, organizational and technical issues are relevant in the design, development, implementation, maintenance, and use of these systems.
- LTS are infrastructures, and face difficult issues of standardization.
- LTS generally embody political ideas and ideologies. (Gökalp (1992)

A full scale FASME system is typically a LTS, embodying the political ideology of the unified Europe. It aims at designing a complex cross-national infrastructure for e-government, involving many people and institutions.

The FASME card is meant for enabling access to many (public) services, and quite a few of those are only used on an incidental basis. Consequently, the card has to be multifunctional to attract enough potential users. This implies that many actors with potentially diverging worldviews and interests are involved in developing and implementing the card. Institutions that adopt smartcard technologies will also have to adapt their organization considerably. Many actors, and many functions generally result in many difficulties. That is why high complexity is a main factor in the failure of smartcard projects. In the FASME project, only two services had to be implemented. Nevertheless, even the development of the prototype proved to be complex, with many problems difficult to solve.

3. USER INVOLVEMENT

In a LTS a large number of people and institutions is involved, as potential 'users' of the system. Involving user groups is a prerequisite for successful innovation. However, user involvement in the design of this type of complex systems is a relatively new issue. (Clement & Van den Besselaar 1993; Rowe and Frewer, 2000)

It is important to recognize that there is not a 'universal user'. Several types of potential users of a FASME system can be distinguished, with various interests: 1) Various categories of mobile European citizens, who travel for business or for private reasons, and have different levels of support. They differ in gender, age, level of education, marital status, parentage, mastering of languages, disabilities. Their expectation of e-government services varies accordingly. 2) Civil servants, whose work will dramatically change in the age of e-government. 3) City councils who have an interest in more efficient, effective, less costly, and more transparent services. However, this has to fit in different legal frameworks, political processes and ideologies. The citizen expects improvement of quality of services using ICT, where possible. By improving their relationship with citizens, governments can make their country, region or city more attractive as a place to live and to work. 4) Representatives of employers hiring mobile Europeans. 5) Private sector service providers, among others providers of services that support mobile people.

User requirements in FASME were explored through interviews, a survey, workshops and tests. This resulted in constructive input, but even in a small-scale project aiming at prototypes, communication of user needs to

technical developers proved to be difficult. As FASME has an international dimension, the variety of users, and of their beliefs, norms, and cultures, is even larger. Some implications will be discussed in the next section.

4. CONCEPTS, CLASSIFICATIONS, SYSTEMS

One service, which is being prototyped within FASME, is the registration of mobile Europeans in the city they move to. In most countries this is an obligation for foreigners. As one respondent remarked, this registration is the modern version of the mediaeval city wall: as soon as you are accepted inside, you belong to the social system, with all its rights and obligations. Being registered is the prerequisite for many services, public as well as private. Therefore, citizens' registration is a process secured with many provisions, such as the obligation to be physically present at the registration office. Different countries require different information, but generally one needs to have authenticated information about one's own birth, marriage, and about the children. For example, in the Netherlands the citizens' registration contains a vast amount of information, and many public and private institutions use it. This is an important issue, as these kinds of registrations have many legal, administrative, and other consequences.

A crucial point in international information exchange is that the concepts used for classifying a person differ between countries. In an increasing number of cases this may become problematic. For example, the concept of 'father' differs between countries. In the Netherlands, a man is only the father of an extramarital child after he formally 'recognizes' his child. In the UK, this concept of 'recognition' does not exist. Thus, after moving to the Netherlands, an unmarried English father may not be acknowledged as the father in formal situations.

Another example is the concept of marriage, which always appeared to be very straightforward. The definition of marriage has recently changed in the Netherlands by an enactment of the law to open up marriage for persons of the same sex. These changes have implications for international e-government. We will show this in more detail in the next section.

4.1 Same-sex marriage

In 1998, the Netherlands enacted a law allowing same-sex couples to register as partners and to claim pensions, social security and inheritance.¹

¹ Bill 26672 (On the Opening Up of Marriage) allows same-sex couples to marry and treats these relationships the same as opposite-sex marriage. One of the partners must be a Dutch citizen or permanent resident to contract a same-sex marriage in the Netherlands. Traditional laws of descent do

The House of Representatives voted in a large majority (107 against 33) for the bill, and the law has come into effect on April 1, 2001. Another change to the Dutch law makes it possible for two persons of the same sex to adopt a child. The child is being placed in a legal family relationship with the two 'parents'.²

The opening up of marriage to same sex couples by the Dutch Parliament caused quite a bit of uproar in European and other countries. To express their objections against the same-sex marriage, the Marriage Law Project of the Columbus School of Law in Washington DC made the following statement: "Legalizing same-sex 'marriage' is not just an internal Dutch affair. Marriage is among the most portable of institutions. In most cases, a marriage entered in one country will be recognized by another country. Although, for the time being, one of the two same-sex 'spouses' must be a Dutch resident, inevitably same-sex couples will marry, move to another country, and then demand that their 'marriage' be recognized in their second country. These challenges will trigger legal conflicts worldwide, forcing countries to debate their policies and pressuring them, in the name of 'human rights', to fall in line." (Coolidge & Duncan, 2000)

One day before the Dutch First Chamber had to vote on the issue of the same-sex marriage, eighty professors of law and jurisprudence at universities across the world sent a statement on the definition of marriage to the Parliament of the Netherlands saying that "marriage is the unique union of a man and a woman" and "cannot be arbitrarily redefined by lawmakers". In the letter the professors claim that by seeing marriage as the union of a man and a woman they represent the beliefs and practices of the overwhelming majority of humanity. They continue by stating that "our domestic and international laws should preserve, protect and promote the institution of marriage". According to these professors of law, redefining marriage to include same-sex unions will introduce unprecedented moral, social and legal confusion into our communities. They stress that no country is an island and that the actions of the Dutch Parliament will have fateful consequences not only for Europe, but for every country in the world. (Agar 2000)

What the opponents of the same-sex marriage believe is that marriage is by its very nature the union of a man and a woman and that this cannot be changed. In their opinion, altering the meaning of marriage will lead to

not apply in same-sex marriages, unless the couple adopts a child. Available online:

http://marriagelaw.cua.edu/nl_marriage.htm

² Bill 26673 allows same-sex couples to adopt jointly. The couple must have cohabitated for three years and have jointly raised the child for one year. For the time being, the child being adopted must also be from the Netherlands (this was added to respond to criticisms from other countries). Available online: <http://marriagelaw.cua.edu/adoption.htm>

nothing but confusion among people. However, we can ask ourselves the following question: what is 'marriage'?

All societies recognize marriage. And like all cultural phenomena, marriage is governed by rules, and these rules vary from one society to another. Some societies practice monogamy, where only one spouse at the time is permitted. However in biblical times husbands (in societies like our own) could have more than one wife. This is known as polygamy and is permitted in a lot of societies in the world today. An alternative form of marriage - one that does occur but is rather rare - is known as polyandry, in which one woman may have several husbands, often brothers (Rosman & Rubel, 1989).

All the above-mentioned marriages involve a commitment between men and women. But there is also proof that marriages between two persons of the same sex have been conceivable in a wide range of periods and cultures. Halsall (1996) argues that same-sex marriages did occur in sufficiently diverse historical and cultural contexts as to refute the assertion that marriage is 'naturally' heterosexual.

4.2 Complications in an International Context

Changes of legal concepts mirror the changes in our society. If existing definitions could not 'be arbitrarily redefined by lawmakers' as the professors claim in their statement to the parliament, we would still be in the situation where interracial marriages in the United States would be prosecuted. It was not until 1967 that the U.S. Supreme Court declared that "any marriage between any white person and a Negro or descendant of a Negro" was no longer illegal. It is hard to imagine that in the 1960's people opposed to this change in law, often using religious arguments. But on the other hand, even if one has a pure legal view on marriage, it is clear that a change of the legal meaning of marriage can have an effect on the societal, cultural and religious meaning of marriage.

Marriage is a legal concept that has numerous legal consequences, related to health benefits, tax payment, rights to raise children, hospital visitation rights, sick leave, and funeral leave. More and more homosexual partners enter into a life partnership, and they are becoming aware that these rights are important for them as well. In the Netherlands these rights are now recognized. But even though the same-sex marriage will have a formal status in the Netherlands, the same-sex couples need to realize that they may encounter a lot of practical and legal problems when moving abroad. The recognition of gay marriage abroad will differ per country, and some countries already have a 'registered partnership' between two persons of the same gender (Iceland, Denmark, Sweden and Norway).

However, same-sex marriages are not recognized in many countries, and that will probably cause legal confusion. The change in Dutch law may create a lot of complications in an international context. For instance, if somebody is married in the Netherlands with a partner of the same sex, then moves abroad and marries with a person of the different sex, does the party involved have two spouses? Is, according to Dutch law, the first marriage valid and the second not? And, at the same time, might it be probable that in accordance with the law of the country where the party stays, the second marriage is recognized and not the one under Dutch law? What is the position of children in the Netherlands and abroad that are born out of one of these marriages? Other questions were asked: will Dutch government offer legal support to married homosexual couples abroad when they seek to gain recognition for their marriage? If so, in what way? Will the Dutch government, on request, recognize a gay couple from a country that does not have registered partnerships as a married couple? Presuming that a marriage of a Dutch citizen and one non-Dutch citizen of the same sex is dissolved, and one of the children is not in the Netherlands, what is in such a scenario, the jurisdiction of the Dutch judge to determine guardianship, visitation, or child support? What will the legal position be of a child adopted by a gay couple in case of emigration to a country that does not know marriage between people of the same sex? And finally, if one of the partners of a same-sex marriage dies abroad, how will the survivor pension be arranged?

4.3 Implications for design

One may argue that the problems discussed in the previous section are exceptions, and that most mobile Europeans fit in more 'normal' categories. However, in postmodern societies, variation in situation and behavior of people is expected to increase, and what is now still exceptional, may become quite normal in the future. From that perspective differences between the normative systems in the various countries may increase, as will the problems for designing e-government systems for administrative support.

What are the consequences for international e-government of these differences in concepts used to classify people? The problem is to translate an available document set about a person in country A into a different but 'equivalent' document set valid in country B. As far as this translation is problematic, mobile Europeans may have difficulties to provide the required information in the country they are moving to. This is true in the current paper based situation, and in that sense the problems are not specific for e-government. Let us therefore look how document exchange support is organized nowadays.

To make document exchange easier, several countries have signed an agreement on standard templates for several documents: Certificates of Marriage, of Births, and of Deaths. Figure 1 shows an example. An instructive example of the use of this is Turkey. Turkish government does not issue a birth certificate to its citizens, but if a Turkish citizen moves abroad, an international birth certificate is issued. Other governments will accept the data on this certificate as long as it meets the rules of the agreement. National governments handle the provided information from the international templates according to their own legislation. The question that comes up now is how the new Dutch concepts (partner instead of husband/wife; parent instead of father/mother) can be mapped upon the template.

FORMULAIRE

1	ÉTAT:	2	SERVICE DE L'ÉTAT CIVIL DE
3	EXTRAIT DE L'ACTE DE MARIAGE N°		
4	DATE ET LIEU DU MARIAGE Jr Mo An		
		5 MARI	6 FEMME
7	NOM AVANT LE MARIAGE		
8	PRÉNOMS:		
9	DATE ET LIEU DE NAISSANCE Jr Mo An		
10	NOM APRÈS LE MARIAGE		
11	AUTRES ÉNONCIATIONS DE L'ACTE		
12	DATE DE DÉLIVRANCE. SIGNATURE, SCEAU Jr Mo An		

Figure 1. Example of a 'Certificate of Marriage' template.

The architecture of the FASME prototype follows the same 'template principle' as this paper-based system. National electronic forms will be translated into an electronic template, and the other way around. An 'ontology' is needed to automate these translations (Riedl 2000, 2001a), but it will face similar problems as the paper-based versions.

The agreement on the described templates was decided on in Vienna on September 8, 1976. Between 1982 and 1994, twelve countries have signed it,

which is a remarkable slow process.³ Why does it take so long? Germany, for example, is not yet using it, although it was decided there to enter the agreement. However, it requires legal changes and this is generally a difficult process, as laws are interrelated, and changes in one law affects others. Therefore it was decided to include the agreement on the use of the template in a larger and more general revision of German laws, and this process is foreseen to start somewhere in 2004. Consequently, the agreement will not come into effect in Germany before the end of the decade.

5. CONCLUSIONS AND DISCUSSION

This paper discussed some contextual issues in complex cross-national administrative e-government, using the example of marriage. Firstly, the meaning of the concept marriage (and other concepts) differs considerably between countries, and the difference between married and not married has a wide number of legal (and social) consequences. As the concept is highly relevant in many public regulations and services, the variation in the meaning of 'marriage' creates serious problems for interstate e-government. Of course, one could plea for complete legal harmonization within the EU, but that is too far away. It may also be less desirable, as legal differences reflect cultural diversity.

Within e-government, one may search for similar standardized templates for documents exchange as already exist in paper-based solutions. However, where concepts differ fundamentally, this does not solve the problems discussed.

Secondly, even where the 'template solution' does work, it may take years to develop it, and to get it adopted by even a small number of European countries. Consequently, the transition to e-government solutions, especially on the European level, is expected to go very slow. This can be conceived as an advantage, as it gives us time to learn carefully about the *good* solutions.

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