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Sharing, Labour and Governance on Social Media: A Rights Lacuna

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Abstract

This paper discusses the dimensions and dynamics that configure the ways in which 'sharing' takes place in social media environments. It pays attention to the policy and political economic environments in constituting sharing as a certain act and 'moment' within the continuum of production-consumption and addresses sharing as a form of labour. The discussion argues that the conditions shaping the act and ideology of sharing, allow certain 'sharing practices while demonising others'. This is facilitated by both organisational and state policies, as well as a gap of comprehensive user-centred regulation.

1. Media Governance and sharing

The ways in which social media affect everyday life and politics is a well studied subject. The role of sharing information and resources to access technologies and informational spaces for political purposes is an important part of such studies as well. Not entirely in the sense of 'sharing' but certainly as an expression of distribution of goods and services that are controlled by market rules, is a topic vivid in the politics of resistance and global social movements as well as in the literature on alternative media and uses.

What is rather understudied, however, is the place of sharing as a political economic act within the context of the global social media industries. An important question for the purpose of this paper is in which ways is the act of sharing translated into value producing labour without it being intended as such? Furthermore, what role does policy play in supporting the specific political economic configuration of the relation between users and social media, what are the gaps, what are the benefits and for whom?

The departing point for the following discussion is located in the study of the ways in which contemporary communications are shaped through transformed systems of law and policy. The paper aims to situate the practice and idea of sharing in online environments within the broader context of policy, not only policy which is 'produced' by governments, but also policy applied by social media as private institutions. The central theme of this approach is to discuss sharing in the political economic and regulatory environment as predominantly an act of labour, which supplies the production/consumption cycle with the necessary 'raw material'. This approach helps reveal connections among policy domains, which are often considered separate and which have yet to attract the attention of scholars in media and communication as a field interlinked and interdependent. It is the argument of this discussion that there is a regulatory lacuna in relation to the conditions determining

social media users' rights on the internet, and within this context, 'freedom' to association and expression in social media is appropriated by private companies with the aim to re/configure the user. In this process, the policies of privacy, copyright and ownership are being transformed to accommodate new dimensions of business models with the potential for enormous transformative powers at the cost of these same liberties.

The study of governance of communications has gained ground in the field of media and culture as the international context of regulating the media has undergone considerable structural and discursive change (Chakravartty and Sarikakis, 2006). Media governance can be defined as the sum of institutions involved in a, actors, ideas and practices decision-making process that results into a system of regulation. The turn from 'regulation' to governance to describe the ways in which policy is made aims to reflect the complexity and multilevel involvement of various sets of actors that come from far beyond the traditional actors of state. Moreover, the governance of communication is a terrain where ideas and discourses play an important, yet often overseen, role. The very practice, internal policies and ideological framings of actions and positions within and by social media corporations, for example, as they operate within a specific regulatory context can also be considered part of the governance of communication. It is specifically the de facto set of practices that challenge established ways of 'doing things' and regulatory understandings of important cultural and political meanings, such as sharing, privacy, and public space. In this sense, this paper's departing point is that the ways in which social media as organisations operate and interact with their users are underpinned predominantly by policies designed for the benefit of the organisation and whose relation to state law and international standards, whether antagonistic or compliant, shape in common a governing approach and a regulatory regime. At this point it is also important to note that lack of policy, hence the continuation of the status quo, also constitutes a form of policy (the decision to not make a decision) and is often expressed as policy vacuum, when new demands for provisions on new developments are yet to be met in law.

In the case of social media, one of the issues that have dominated academic and public debate is that of privacy and the ways in which media organisations with the exemplary case of Facebook has pushed the boundaries of notions and practices of individuals' right to privacy. This has been achieved by impacting upon two policy levels: on the one hand, Facebook, through its own policies, challenges existing norms of privacy law to monitor and profile users; on the other hand, it claims ownership of the 'products' provided by the users, such as documents, photographs, texts and information on personal taste. The combination of this new appropriation of data as objects of copyright and the challenging – or for some, abuse – of existing privacy standards constitute two sides of the same coin in the current political economy of social media (Sarikakis and Tsapogas, forthcoming 2012). Therefore, in this context the centrality of 'sharing' is the act (and ideological construct) that supports the monetisation and materialisation of what is largely immaterial and non-

factual exchange of information. Before we discuss this idea some more, it is useful to contextualise the act and ideology of sharing on social media.

2. Governing sharing: abundance and effacement

'Sharing' in the media world can be understood not only as a communicative praxis and process, but also as an act of speech and interlocution among peers. That which is 'shared' comes from the position of opening up to a dialogue and exchange, inviting contribution and assuming the position of participation in others' processes of sharing. It takes place in an environment free from control or reprisal. In that sense, sharing is an act that takes place among equals – power relations cancel the spirit of sharing, which is based on free will and generosity. To impose 'sharing' without free will – autonomous choice – is to deprive of that which is given away, even if the act does not materially result in the reduction of that which is shared. Voluntary 'offerings' and self-disclosures are the basis of 'social networking', promoted by the fact that social media are free at the point of reception and access. Third party features and tailored advertising then tap into the pool of profiled users.

While the Internet and its technologies, including computers and mobile devices, have allowed for multifaceted and multilevel articulation of interests and claims, a great deal of the processes involved in the conditions under which these articulations take place are invisible. For one, the very generation of symbolic meanings is an invisible act, which belongs to the realm of immateriality, but which materialises through the words, images, sounds and numbers on computer screens. The technological object, from slim line laptops to iPads and mobile phones, becomes invisible: not only do we take these materialities for granted, they also become physically smaller. The effacement of materiality in the online business is a crucial element of the ways in which business is done. The conjunction of spaces of consumption and processes of production, and their convergence, obscures the processes of labour involved in sharing, not only as a matter of effort, but also as a matter of resource. Certainly the time and capability to access and use technologies are goods whose usage remains unpaid by the receivers of the 'services' of sharing. Every activity involved in the generation of meaning and the production of content is also provided for free by the user. To comment on a film or a political campaign, to quote the lyrics of a song or recommend a restaurant requires a form of prior knowledge, one that derives from the experience of these cultural objects. Culture is not free. It requires its own capital, it demands knowledge and other valuable resources. The production, therefore, of banal content for a social networking site by 'idle' users who connect with friends or 'pass their time' reading others' comments or writing on others' walls is based on the educational, cultural, social and financial capitals to which one has access and commands. The development of those is not invested in by Facebook for example, instead the output is taken and categorised in seven separate categories and revisited to create individual-mass pro-

files. For the content of this categorisation to remain property of Facebook, as copyright of uploaded photographs, documents or accounts, another right must be eroded: this is the right to privacy of the user.

The process of effacement is part of an ideological construct of a disconnection between virtuality and physicality – the impression of lack of consequences of anything taking place in the abstract immaterial spaces of the internet. The loss of privacy is a process that takes place gradually and becomes effaced, as it remains largely unseen by the average user – unless it materialises in thousands of pages about one's own person. There is a conflict within this process of effacement (Schaefer & Durham, 2007), whereby all sharing is taking place at the users' cost and in public (even if the user considers this a private or semi-private space), but it is taking place on platforms that are (clearly, though 'invisibly') privately owned. The deprivation of privacy of individuals strengthens the public monetary position of the industry. Again, this contradictory element of invisibility of private/public through the publicness of the user, is accompanied by the invisibility of labour/leisure in four aspects that articulate vast amounts of un-remunerated labour hours.

Indeed, it would be interesting to calculate the productivity indices of such a multilevel machine. These would include all voluntary work and assistantship coming from users, such as the translation of the sites into various languages, as well as contributions and level and intensity of input; value generated through connecting to friends and attracting new users to the platform, alongside the – almost – exponential reach to connections of existing and invited users. As an anecdotal reference, the following may indicate the extent of this reach: when discussing their activities on Facebook, to the question whether they invite friends to join, students at a policy class at the University of Vienna answered with a surprising 'No'. Prompted again by their professor they explained 'we do not need to; everyone is on Facebook'. To fulfil this total reach, social media extend their search and monitoring of individual behaviours throughout datasets on online platforms, trails on the internet and anything even not intended for Facebook or any such similar use. Since the data collected are in the 'public domain' of the internet, there is little by way of defence for the unsuspected users to prohibit their storage by Facebook. This process takes place at the background of and in addition to multiple processes operating at the level of Facebook usage i.e. when signed on and active (Sarikakis and Tsapogas, 2012).

These internal corporate policies feed into the complex set of economic and cultural conditions that determine the nature of online participation of millions of internet users. Furthermore, there are more conflictual relations to be pointed at. On the one hand, there is a conflict between the abundance of an incessant generation of content versus the destabilisation and precarity of the labour and labourers involved in the survival and development of this medium. If everyone can produce 'his/her' content by simply 'connecting' with others, then authorship loses its special place on the map of moral rights, in terms of content and any 'mechanisms' (software, ads, etc.) that shape its monetisation. Private information, whether understood as private data or not, is not considered intellectual or private

or other property of the user; nor are the thoughts expressed in the context of socialisation, connection, indeed, sharing. Ideas are not copyrighted, only their materialisation and it is at the point of materialisation on online platforms, that their ownership is claimed. As soon as this information becomes visible on the digital ether of social media for example, it is materialised. We talk about our mood in a specific moment, share news about our taste, report on our physical location at a particular moment, thus becoming traceable and accountable as this information is coupled with our political and ideological inclinations. On top of information shared, 'actions' provide also information and are treated as such. Facebook says:

> " (we) keep track of actions taken such as adding a friend, becoming a fan of a Facebook Page, joining a group or an event, creating a photo album, sending a gift, poking another user, indicating you 'like' a post, attending an event, or authorizing an application. In some cases you are also taking an action when you provide information or content to us. For example, if you share a video, in addition to storing the actual content you uploaded, we might log the fact you shared it." (Facebook, 2012)

The right to anonymity, a cornerstone of democratic process and in particular in the process of voting and elections, becomes irrelevant as our 'favourite books' application, combined with the 'like' buttons, says more about who we are than any marketing questions. Our 'friends' make announcements about our world and themselves on our account 'wall'. The process of self disclosure intersects harmoniously with the world of leisure-turned-labour as production and consumption are continuous activities. The question of authorship of our private information given to Social Networking sites (SNS) corporations is one that causes trouble to policymakers and civil society but leaves untouched social media that behave in a de facto absolution of any understanding of authorship or ownership of information related to online interlocution and behaviour (act).

The dominant paradigm of policy on behalf of the state to regulate the questions of privacy and its co-dependent copyright is that of self-regulation of SNS, who have 'promised' to behave and not overstep their powers in abusing and manipulating data and privacy policies. Also soft touch regulation has aimed to resolve conflicts between SNS and users through independent bodies that are mediation geared. The relation of 'collaboration' and interdependence of states and corporations is counteracted by the claims of multi-stakeholder representation of interests that ideally includes users' interests. However, international policy regimes normalise and regularise structural changes, in that, it is left in the hands of civil society and users in general to react and resist corporate policies of operation that push the boundaries of accepted norms and legal frameworks. Certainly new attempts to counterbalance this almost uncontrollable, continuous pressure to accept conditions of usage determined by SNS are important. The EU (2012) and Council of Europe (2010) in their most recent policy initiatives, as well as several court cases in the USA indicate that state and international state representations see the need to intervene. Wel-

come as these may be, they do come with some considerable delay, given the track record of SNS and their continuing approach to privacy, at regular intervals. Moreover, these initiatives are the outcome of compromises between pressures for the updating of legal frameworks (with regards to human rights and right to privacy) and those for abandoning interventions in the processes of the SNS market.

Social media push the boundaries of privacy, not in favour of something new replacing older or outdated provisions or on the basis of 'public demand', but in favour of a system that poses no restrictions on social media companies themselves. The ability to collect, monitor, manipulate and then pass on data to third commercial and state parties through 'leisure' is probably a grand act of manipulation. Copyright and ownership are two separate areas of policy that come together in social media sharing. Human connection in this form (holiday pictures, 'mood statements', files, information on others, maps etc) is not named labour, because it occupies the spaces between production and consumption. Moreover, it takes place on the basis of 'free will' and consensus, and under such conditions whereby private communication traffic channels assign copyrighted properties to until now non-copyrighted materials. Users have no knowledge of or control over when, how often, to what extent and purposes their personal information is 'shared' with third parties. Applications run by 'developers' on Facebook have access to personal information, violating this way the 'least authority' design principle. These are all specific, technologically enabled and purpose tailored tactics within which the law is challenged to engage. Given the timeframes within which policy processes take place and the speedy changes companies such as this operate with, it is doubtful whether laws will have any long lasting effect on Facebook. It is at this point where the gaps in policy leave users and citizens navigating through the enticing promises of borderlessness at a price: not only does information constitute the monetised exchange unit, but it becomes also the foundation of a future, where, forming the basis of privacy, it erodes the right to privacy as outdated and anachronistic. In such a future, past lives will haunt and colour new beginnings contributing decisively to social sorting and profiling. The need to be able and 'introduce' one's self afresh, the right to anonymity, as well as the 'right' to be forgotten, to change one's mind, to start again will turn impossible to maintain and pursue.

3. Reflections on sharing on social media as labour and control

The context of the internet is conducive to acts of sharing- as both internet and sharing are based on the understanding of 'freedom' to association and the enhanced active presence of the parties involved. Whether seen predominantly in the form of participatory culture (Jenkins, 2006) or generative technology (Zittrain, 2008), and certainly in most cases as a hybrid of both, the internet has facilitated and allowed for the broadest possible involvement of people in constructing, creating, configuring and controlling (its) content. This form of cultural and market value, the polymorphic production and distribution of new

material, has demanded the operation of an economy whose basis is shifting away from any clear-cut distinctions of productive and consuming classes. For sure, new social classes emerge on the basis of technological and cultural access, skill and literacy demanded by these new conditions of online environments of socialisation. New rifts emerge among previously homogenous professional classes, due to the changing conditions of labour surrounding the virtual world. However, in terms of configuring the users into a source and destination of continuous production and consumption, the ideological construct of 'sharing' is applied on any activity that directly or indirectly performs marketing tactics (endorsement, word of mouth, open–user initiated-advertising, promotion). As a 'class', users are 'encouraged' and directed through technological channelling to provide a piece of their mind – almost literally. No other marketing strategy could ever obtain the information offered openly and honestly during the consumption of media (see also Andrejevic, 2007). Due to the infinite possibility of nodes of connection among them, the now fragmented public and dispersed content can only be turned into a monetised whole entity, if both content and users are concentrated through the power of self-made and media exhibited material, in other words, when the common points of consumption are produced by the consumer at an earlier or parallel time of their consumption. This convergence is channelled through human connections – the interlocutors, as it were, within the social media spaces.

At the same time, however, the promotion of certain forms of 'sharing' that are vital for this business model of social media is incompatible with other social forms of sharing of goods that are or made scarce or where funding sources (such as employment) to purchase those are scarce or where simply sharing, as practice, is considered more 'true' to the diffusing 'nature' of the internet. Sharing is directly linked to the morals of kindness, empathy, solidarity that can be expressed in ways that are not identical to charity. The practice of sharing is furthermore an act of connection and social cohesion: children are taught that 'sharing is caring', without which, in difficult times, there is no survival. In times of crisis, such as of financial crisis or political crisis in many countries around the world, in political protest and civil disobedience, the sharing of resources takes central stage. This is the dimension of sharing as an act with the effect of subversion and destabilisation when it escapes the channels prescribed by institutions: in social and other media, sharing outside the technological matrix given in Facebook (as an example) can be met with hostility as an act that infringes regulation, and in particular that related to copyright.

There are further peer to peer exchanges and practices that challenge the market order. Sharing under these conditions is not a profitable act for the communication and culture industries, yet it can function as an alternative to monetary exchange for its users. In this case, sharing can be on a rather 'quid pro quo' basis, whereby a form of individualistic, utilitarian approach to the act of exchanging in peer to peer systems challenges the opportunistic and equally selfish business strategies of copyright holders, as is the case of the music industry and the exchange of music files among users. Across these axes, two ex-

pressions of selfishness are standing antagonistically against each other: on the one hand, the exchange of files for the purpose of not paying as a simply individualistic act and motivation clashes with the selfish profit-making drive of 'big business'. On the other hand, the 'sharing' of which each party talks about is much distanced from the notion of passing on, selflessness and generosity. These moral considerations may provide an additional layer to the debate on sharing, a concept that often seems to be capitulated rhetorically for purposes that may seem oppositional to each other, but actually represent the same motivational ground, albeit at a totally different scale. The image of the selfish opportunist user (who harms the livelihood of the creator) is nevertheless the one dominating image in public anti-piracy campaigns and the core framing utilised by the music and film industries in particular. In their own campaigns, industries are presenting sharing as an act of deprivation, decrease and reduction, despite the fact that physically, digital cultural products are neither reduced nor decreased, indeed, as Lessig suggests, their copying does not constitute an act of copying anymore (2006). The conflictual relation of abundance of digital goods – at the point of consumption – and effacement of physical conditions – at the point of their production – is an interesting and telling dimension in the copyright and privacy wars that constitute the basis of the governance of sharing.

I discussed or pointed to three worrying developments that are taking place in the field of sharing and the domain of communicative action of users on social media: the appropriation of private data; privatisation of online public and common spaces; criminalisation of individuals' behaviours. As new conditions of usage 'evolve' through technological 'push and pull' of the user, it becomes vital for private companies that new ways of thinking about privacy do not confront the problem of access to personal data and habits. Compound to that is the establishment of new definitions and management directions of copyright that expand the range of ownership of social media industries, while shrinking the terrain of privacy of their users.

The user is thus confronted with a complex system of regulatory prescriptions and technologies that restrict her claim to ownership (of his information or over the degree of publicness of the forum one is engaged in). They expand the range of unlawful activities whereby only certain items can be shared, under specific conditions. Finally, the shapers of these conditions act fast, at unsuspected moments and at a gradual pace or in various strategies of shock (such as the case of anti-piracy campaigns) that leave users at a position of reaction or resignation towards them. It is important that the concepts and practices of sharing and connecting on social media are reclaimed for their original or authentic intentions of their users. At the same time, it is important that the power to determine the fate of value-producing personal information returns to its rightful 'owners': us, all. Not only to have the moral right of authorship over feelings and habits shared, but also to have lost control over the fate of this information is important for giving back the users a little of their power as they 'sit' at the negotiating table of eternal digital life and their big brother.

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