

Ethics beyond Access: A Plea for the Plasticity of Human Rights

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I will be looking at ethics from an environmental cognition perspective, with two key issues, beyond simple technological access: lack of awareness and lack of trust and how to mitigate for them.* Not mitigating for them will only increase the existing cultural gap between user behaviour and media competence, between regulation and appropriation. I will try to place these issues in the wider perspective of human rights, as the basic common global norms for democracy and citizenship. This leads to consider alternative solutions to direct regulation in internet governance and to examine new criteria for the empowerment of children and citizens in the information society.

I will deal first with what research tells us about the good scale of wellbeing in the information society, from a socio-cognitivist perspective. I will then consider the cosmopolitical perspective of ethics, evaluating the means of constructing a culture of trust and reciprocity, especially via co-regulation. I will finally analyze how ethics can be reflected in media education at large (involving digital literacy), drawing from my own research on search engines and Open Educational Resources (OER) on line, which should lead to drawing a few implications for ethics in the digital age.

I. What research perspective on ethics?

There are two research needs to think ethics, at this stage of our human development:

-to place “values” in the perspective of knowledge management and how the brain interacts with the environment via media and ICTs;

-to find the right “scale” of interaction for analysis of such a phenomenon at the international level.

Environmental cognition

Environmental cognition is a rather new field that provides tools for human understanding and that posits the co-evolution of our brains and mental framework with the natural and cultural environment. Computer sciences, in connection with advances in neuro sciences, offer the means, through the Internet and other media, of extending human brain-power and communications and to remove constraining limits on the expansion of this continuous exchange. This framework offers a new view of human nature; it is a departure from the pessimistic XVIIth and XVIIIth century view. Then, self-interest placed humankind in a war of all against all in a zero sum world. Only a coercive state, or the limits of a competitive market, would keep an individual’s ambitions in check. The innovators of XVIIIth century representative governments linked the narrow self-interest of the powerful to the collective interest of the nation defined narrowly as “survival”. The limited human productions—of mind, mass media (the press) and mass education— required state protected freedom of expression and free access to information.

Certain basic human rights were thus guaranteed and by the XIXth century a skilled and literate industrial labour force was created. Now, some centuries later, our knowledge of human nature and our global environment has changed this picture. Collaborative humans, working for mutual benefits, strive for an open-ended process of expanding exchanges of intelligence. Plasticity, responsiveness, connectedness, communication, participation, co-regulation, such are the new keywords attached to this new “open cognition” paradigm. These universal processes require an extension of rights and a rethinking of the ethics of togetherness.

The open cognition paradigm extends beyond the reach of information, education and freedom of expression into the realm of social capital and situated knowledge societies. It offers an alternative to the view that humans are determinedly individualistic and driven by selfish instincts requiring legal restraints. It recognizes networks of actors, consumption junctions and communities of place as the basis for a complex civil society. It encourages their participation in the co-regulation of media and education, as synergistic means for a renewed common purpose. Solutions imposed through either government or corporate ownership often exacerbate problems rather than solve them. The heavy hand of the state or the invisible hand of the market may produce more constraints than they solve if not focused on the proper local human scale for civic involvement, with the helping hand of civil society.

The current situation, transitory as it is, reflects the change in paradigms via two competing economic models. On the one hand, an *information-provider* model relates ICTs to the old commercial common carrier model, likening them to a raw resource, to be exploited for economic development. Thus the self-interest of corporate capitalism continues to direct the Information Society master narrative. In this story, that interprets cognition in the narrow perspective of cognitive capitalism and neuro-marketing, economies of scale still principally guide the design of social arrangements. On the other hand, the *open source* model relates ICTs to an emerging public forum model, with self-supporting systems, in-built maintenance programs and upgrading capacities. Here, the mutual benefit of situated cultures, open commons and global public goods directs the Knowledge Societies master narratives. This approach is based on public domain preservation and enhancement, to be achieved by convincing content producers to be active participants in the open cognition paradigm, along the lines delineated in a variety of documents and initiatives (Budapest Open Access Initiative, Berlin Declaration, Creative Commons, Open Courseware Initiative, etc.). Trying to promote participation and transmission, it is an approach predicated on a cognitive view of human nature as collaborative, responsive and involved in a distributed, sustainable exchange of intelligence. It does so while keeping the advances from the previous era, especially in matters of freedom of expression, mass education and universal human rights.

A cosmopolitical framework

These two models in co-presence suggest the possibility of a bifurcation of cultures within the Internet environment, to accommodate their diverging trends: on the one hand, a protraction of the commercial proprietary market culture, on the other hand a protraction of the open commons culture. They are not mutually exclusive and they need to be preserved, so as to contribute to the differentiation of Knowledge Societies instead of one single Information Society. Some hybridization process is already at work, between traditional, industrial and national forms of knowledge production, not yet obsolete and still quite efficient, and new forms that appear as viable international alternatives for the exchange of knowledge. Governments may find themselves as arbitrators between the two, trying to keep a balance between the need for public connectedness and the drive for private business, to avoid some of the XXth century's dehumanizing consequences of ICTs.

But governments are not the only actors any more. Other actors like IGOs, NGOs and dynamic partnerships, coalitions and alliances mobilize both on-line and off-line. These new actors offer a variety of perspectives on the conduct of foreign policy focused on the control of access and production of cultural industries as well as the various publics implicated (national, subnational, transnational, indigenous, diasporic, ...). They help understand the implications of

international economic integration for global governance in the audiovisual and ICT sectors, beyond the frontiers of traditional states and nations. The old system of legal control by national governments has subsided under the shock of ICT-driven globalization. A new system of transnational governance is emerging, trying to solve problems by convening a variety of actors around a specific issue. The most recent of the media crises, with its two strands—the Cultural Diversity Convention and WSIS—, shows clearly the ascendancy of this new system over world order. But this new order of governance is hardly understood and needs to be clarified in terms of ethics, especially as the soft law mechanisms that favour resolution of disputes over sanctions are somehow related to the cognitive paradigms of solidarity and transparency.

The temptation of researchers is to apply a political linear perspective on the issue, reinforcing a nationalist reading and undervaluing the transnational changes. Such is the fate of “globalisation” of media as seen by some researchers who consider it as an economic means for corporations to continue doing business as usual and maintain their power, calling upon voluntary state protections. Insisting on space and delocalization from a national perspective, they focus on a sense of loss and insecurity, on “liquid fear” to use Zygmunt Bauman’s phrase. This perspective only partly encompasses the breadth of the issue and misses the current tendency for re-territorialization in local spaces. There seems to be the need for a “cosmopolitical” perspective as Ulrich Bech would say in his attempt to distinguish “globalisation” from “globalism.” New notions have entered the field, like the idea of the network society (Manuel Castells), the idea of flows (Arjun Appadurai), the critique of information (Scott Lash). Notions proposed by other fields of research also offer renewed perspectives, like political sciences (with its special focus on postcolonial and postcommunist transformations), anthropology (with its focus on values, population movements and diasporas), or even urban studies (with its focus on networks and infrastructures).... All these propose an analysis that moves us away from traditional linear cause-effect analysis and more reticular, process-oriented multipolar approaches.

Such a perspective makes it possible to consider the new actors, the new networks and the new political strategies beyond the frontiers of traditional states and nations. In this phase of cosmopolitical transition, internationally binding instruments like treaties, arguably obsolete, evolve together with multipartnership platforms and dynamic coalitions. In fact, it seems the most fruitful collaborations are between IOGs and NGOs, in the “symbiotic competition” they have established among themselves during processes such as WSIS. They have made it possible to speak of a viable tripartite involvement of actors, with public-private-civic dimensions.

II. Access as search and retrieval of information

Currently, this tripartite involvement runs on parallel tracks. Public, private and civic options for access and search run on their own separate paths. In the case of search engines for example, it means there are some engines developed by governments, other by corporations and others by civil society, with open source tools. This confirms the need of recognizing complementarity in the information search, which is to say the notion that market and non-market competitors may thrive off one another’s efforts to foster trust in the Internet. It also implies that civic and public service entities have a role to play in gatekeeping the gatekeepers as obligations and reciprocity of citizens to one another are also needed to alleviate the stress put on individual responsibility, be it of children or adults. The weight of autonomy, understood as self-reliance and self-protection, is too heavy to carry in today’s conditions of uncertainty and lack of control on infrastructures. It is not socially and morally acceptable without having all actors implicated. Empowerment and wellbeing on Internet have to be mediated beyond

commercial actors, as they fail to take the burden of the secondary side effects and full costs of their strategies for access and retrieval of information. If handled carefully and if drawn out sufficiently over time, such pressures on industry could be expected to set in motion forces of change and not only cosmetic countermeasures—temporary or otherwise token program content adjustments, filtering gimmicks and strong lobbying for freedom of expression protections.

Cognitive tools and strategies can be operational in understanding how to orient ethics, in a world that encompasses the market but also considers other goods, specifically those that produce wellbeing on the networks and foster connectedness. They are visible at work in ICT uses, in search engine queries, in practices of open educational resources on line, in expressive communities like YouTube, FaceBook or Second Life. Such uses reveal the thrust of collaborative exchanges to be taken into account when devising new policies and rights in the digital age.

Complementarity and Network Effects

Complementarity occurs whenever « one good enhances demand for another good » according to Pasquale. This synergy appears with search engines sites and their connections to video and on-line games, that have become a complementary product for these sites as well. With Open educational resources on line, open platforms of exchange have emerged, with off line services like tutoring and course material developments. Complementarity could be enhanced by « network effects » as a result of the representation of the dynamics among actors. According to Wagner, network effects occur when « the utility that a user derives from a product increases with the number of other individuals who also use the product. (...) The number of users affects the quality of the product itself ». The evolution of sites like Second Life shows such a tendency as more and more tools are authorized for the users themselves to develop content; the dynamics at work in Wikipedia are another fruitful example, as the users have been pushing for more accuracy and guidelines. The emergence of prizes and awards, the call for proven reference, labelling systems, reputation markers, the feedback from users for improving safety or for suggesting creative sites, all point in this direction.

Tools for valuing « experience » and « relational » goods

Civil society's insistence on preparation, empowerment and wellbeing indicates that between state and market there is the need for valuing public goods otherwise, beyond the prevailing idea of enhancing trust in the market. The dynamic interaction among heterogeneous actors calls for an analysis of « relational » and « experience » goods, in which public, private and civil partnerships could develop. Issues of access, freedom of expression and harmful content are not enough looked at from the perspective of « relational » and « experience » goods. And yet information and its attendant search and retrieval tools could be considered as a combination of such goods.

Relational goods, favored by civil society, are defined by Uhlener as « intangible capital assets that rest on enduring interpersonal relationships and provide both intrinsic and instrumental benefits. They are local public goods that are formed or maintained through non-contractible, co-ordinated actions ». They are « distinct and final, » that is to say not necessarily related to the production and exchange of market goods. They take into account time spent on the networks and personal relationships, which includes emotions, involvement and responsiveness. Their value is predicated upon the interaction among people, especially the reciprocity in the pursuit of intimacy and mutual perceptions of understanding and caring. In that sense, they affect empowerment and wellbeing as they depend less on material concerns, like income, than on subjective ones, like family and peer-to-peer relations.

The whole debate on “safe zoning” for children can be set in such a framework. It has had

the network effect of mobilizing conversation within the family and the enlarged circle of care-givers. As such it is a relational good, connected to social learning. It places the stakes of search engines in the developmental perspective of the child and its feelings for others. The debate on Open educational resources is not far from such an analysis, as the value of the intangible benefits of education has to be factored in motivation for use. Both these examples of information ecologies, “safe zones” and OER platforms, build on individuals’ estimates based on use rather than ownership; they incorporate indirect dimensions like quality of life and family enhancement, intangible assets.

However social learning also creates habits of use and consumption related to « experience » goods, that must be tested before an informed purchase can be made, according to Caves. In this respect search engines and filters do not make sense to people unless they have had a say in the matter and have experimented with them. This can explain why parents and kids alike tend to use Google as the default search engines for all needs: it feels to them like an experience good, while being also a relational good.

Cognitive strategies for search

Relational goods and experience goods use a number of cognitive strategies for testing ICTs and verifying that they comply with expectations of protection, provision and participation (all 3 notions defended in the children’s rights declaration). Among such strategies, network effects are key as they foster browsing, sampling, reviewing, comparing and intense peer-to-peer on-line chatting. These strategies are congruent with cognitive processes of memory, mental mapping, surveillance of the environment and information-processing; they are also in resonance with self-organization processes, such as plasticity, responsiveness and evolvability. Previewing and browsing are essential to informed use for digital “natives” and “migrants” alike, as they navigate by trial and error. They also should be part and parcel of the labelling and sorting out process. This might lead to more creative forms of protection if it is perceived as self-protection and to more innovative modes for search, especially with the semantic web and natural language queries. Such strategies could be accompanied by the possibility of sampling the sites available, testing them for a given period of time, with the possibility of providing feedback.

Building a « reputation » for quality is another experience good that comes from comparison and the widely used practice of « favourites » reveals it. They could be a way of facilitating access to family filters or OER platforms, by building them in the directories and by providing different rankings of sites. Sites could be ranked less on the number of clicks than on their innovativeness or their edutainment. Logos, labels and flags could be used to good effect and substitute for black lists and white lists, especially if accompanied by the good practice of constant reviewing. Peer-to-peer chatting is also essential to experience and relational goods. It is often forgotten that for children, other peer-users act as filters. Some children become leaders among their peers and they can catalyze uses and tastes. These peers’ capacity for mediation and screening have been unexplored in the production of search engines and under-used in their promotion (and yet it is a network effect). Such informal modes of sharing can lead to effectiveness if harnessed properly by adults. Adults also need network support of their peers to take into account their feelings of uncertainty, complexity and information disparity...

III. Education as the best filter and search engine

The role of education in providing a shared mediating culture in economic and political designs needs to be fully elaborated, as it may have network effects and complementarity on the transmission of a culture of human rights.

The open cognition paradigm posits that education can build life-long autonomy and collaborative exchanges. It promotes the open access to a variety of models of education, research and publication by the production of open code, non-proprietary software and the maintenance of public archives, libraries and repositories of content. It consistently connects education to capacity-building, long-distance training, community-based solutions, public domain commons, linguistic diversity and pluralistic approaches to information and knowledge as an alternative to government or corporate control. Such education can foster a new citizenship where individuals learn how to devise properly adapted rules of cooperation as they participate in the design of the institutions that affect their environment. The open cognition agenda thus calls for financing mechanisms based on public funding or public-private-civic partnerships, when non-proprietary conditions are met and modifiable designs are guaranteed. This agenda also calls for an Internet governance that preserves the inter-operability and open-endedness of the cognitive networks.

Education actors like teachers and researchers can benefit from other civil society supports, completely ignored by the decision-makers and the general public, if not the industry. Some computer professionals have long developed a sense of social responsibility and accountability, as in the case of Computer Professionals for Responsibility (CPR). They want to see increased and ongoing awareness and use of technically sound and ethical engineering and design methods for the development of socially-appropriate ICTs. They support the budding discipline of community informatics, which seeks to develop ethical engineering specifically for the involvement of communities in the creation and management of ICTs. This has implications both for labor and for development, in the many “Souths”, including those that exist in the “North”.

For them as for the promoters of OER, open source helps the future generations to understand the real basis of the technical culture of the Digital Age. Access to the source code of any software is a precondition of digital inclusion and of information literacy. It provides the users with the freedom to run, copy, distribute, study, change and improve the software, for their own uses or the ones of their community. If not, they will become only users and consumers of information technologies, instead of active participants and well informed citizens in the information society. Free software is one of the most emancipatory choices for all education-based activities as it encourages schooling of the mind over product schooling, while upholding the scientific principles.

Computer professionals for responsibility have thus developed 6 strategic principles to keep in mind, for access and inclusion (as spelled out in the contribution of the “education, academia and research taskforce” to WSIS) :

- Support a full open source backbone, from open source programming to desktop facilities and expand the philosophy of share alike activities;
- give prevalence to collective use above private and individual use, by launching real-life experiments, with collective applications, that can be multiplied and transferred as often as possible;
- ensure whenever possible that the most advanced technologies (multimedia, internet, broadband,...) that are not always available, can be aptly relayed by other media and technologies (radio for instance);

- make sure of good returns of investment, give as open an access as possible to places that are well equipped (especially with Internet technology), and can complement each other : schools, tele-centres, libraries;
- give priority to the training of teachers and trainers, providing them with an education in methodology and discipline as much as in technology, inducing them to share and exchange experiences rather than depend on a master-student stale relation;
- encourage and induce the implementation of innovative pedagogical tools and materials, which should always be richer than the technology employed, however costly it may be.

IV. Implications for ethics and human rights in the digital age

This comprehensive approach to ethics in the digital age calls for the plasticity of human rights. The key words of the open cognition paradigm, responsiveness, connectedness, communication, participation, co-regulation, can be attached to this vision. They can be applied to the construction of additional rights, so that the doctrine of the human rights doesn't become rigidified into a dead ideology, rejected by nations that don't recognize its cultural "fit". For human rights to become the "global norm" for democratization, the responsibility of all actors has to be called upon, to maintain a balance between private rights and public rights, individual rights and collective rights.

An open source backbone

Open source code and free software are a valuable resource and alternative to proprietary software in the schools. There should be a continuous open source backbone, from the operating system to the software, up to user-friendly desktop facilities. A lot of this material already exists, developed by UNESCO for instance, but it needs to be applied to develop curricula where learners can acquire real computing skills. Databases where free software applications and materials are available exist but need to be disseminated widely in the schools, libraries and archives. Governments need to create awareness on these existing possibilities for capacity-building that are being experimented upon, piecemeal, in various parts of the world.

An education exemption to Intellectual Property rights for access to repositories of content

The importance of copyright in the interest of development of innovation and of fair remuneration of creative work is not in question, but there should be an "exemption" to Intellectual Property Rights for archiving and educating, in the non-profit contexts of education and research, like schools, museums, libraries, archives, etc. The right of fair use could be adapted to on-line productions. The Creative Commons initiative may offer a viable alternative, as it can be tailored to fit existing national laws on intellectual property.

A Mandatory Universal Service Fund (or e-rate) as main financial mechanism

The centrality of public funding of education and the role of community-driven initiatives, with local control of financial mechanisms and content, is essential to fairness, equity and access to structures and contents. ICTs emanate from public finance and research and as such should remain a public utility and resource, to which all must contribute fully. Creating a mandatory universal service fund for education, using a small percentage of tax benefits from the private

sector, is a public priority and should be seen as a long term investment for all partners, private, public and civic. The example of the “e-rate” (the other name of the Universal Service Fund) in the United States is a demonstration of a public-private-civic partnership that is viable: since 1998, the telecommunications service providers contribute about .5% of their benefits to the \$5 billion Universal Service Fund, about half of which is distributed by the education ministry according to bottom-up initiatives and requests coming from local schools and libraries.

Interoperability and open-endedness for Internet Governance

Whatever the developments of Internet and future ICTs, it is essential to promote actively the openness of the system at both ends and to maintain interoperability. For a viable, plural and diverse Internet, interoperability is essential, between competing private systems *and* the open source backbone, which government regulations should make mandatory. Governments should monitor the non-proprietary nature of the patents that allow for this inter-operability and open-endedness, so as to allow many forms of access and transmission.

New indicators for Human rights

In the post-WSIS context of action line C10, there is the need to retool and resculpt the ethical codes that can regulate Knowledge societies. In that perspective, the need for an instrument to measure those rights is called for, with the potential to move towards a framework for human rights statistics. The rationale for the development of such an instrument would be the current absence of a standardized international methodology that could equitably counterbalance other indicators, especially those of an economic nature. Such an instrument would allow for a better knowledge of the situation in various regions in the world ; it could be used for coordinated regional policies on human rights in media and in media and ICT education.

Such an instrument could integrate indicators related to cognitive tools and strategies such as “relational goods” indicators and “experience good” indicators as they facilitate human rights knowledge and appropriation. Such an instrument should also create cross-cutting matrices for human rights functions like protection, promotion, participation, transmission, diffusion and creation. Such an instrument could find a very rapid extension among the general public if it was applied to the already existing *Handbook on Internet literacy*, developed by the Council of Europe. It would imply to embed human rights education into media literacy.

To conclude, it seems interesting to take all these implications into consideration to elaborate a framework for a “bill of rights” for the internet, as has been suggested by participants in the Internet governance forum, especially the Italian government. But such a framework needs to come with the accessories the United States developed historically to buttress it against strong principles of solidarity and equity. Such rights alone would not be sufficient to create a coherent cognitive fabric around human core needs. So together with a bill of rights for the electronic age, I would plea for “electronic checks and balances” like Tracy Westen, that need to be tripartite in nature, with an early involvement of civil society in the design and monitoring of the new forms of togetherness that are being elaborated for the better good of all.

*My presentation tries to develop the perspective of educators and researchers within civil society, as it was elaborated during WSIS, where I coordinated the taskforce on “education, academia and research”. It draws partly on a chapter contribution to the book *The power of search engines*, Marcel Machill and Markus Beiler (eds). Cologne: Herbert von Halem Verlag, 2007. It also draws on the taskforce “Recommendations for the Open

Cognition Platform” published in « Education Beyond Utopia » O. Drossou (ed). *Visions in Process II: The World Summit on the Information Society and the Road Towards a Sustainable Knowledge Society*, Berlin, Boell Foundation, 2005. They are also discussed in “Education and Research to Build Knowledge Societies: Promoting the Open Cognition Paradigm and Agenda”, D. Stauffacher and W. Kleinwachter (eds), *The World Summit on the Information Society : Moving From the Past into the Future*, UN-ICT taskforce, 2005.

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