

The Politics of Personal Information Privacy for the Facebook Age – Towards an  
Articulation and Assemblage Theory of PIP

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## Acknowledgement

“Culture is ordinary. [...] We use the word culture in these two senses: to mean a whole way of life – the common meanings; to mean the arts and learning – the special processes of discovery and creative effort.”

Raymond Williams, 1958

A dissertation is ordinary, too. Writing a dissertation is possible only because of the great number of people, who make up our lives.

That is why I first thank my partner Hannah. Her willingness to live with me in a foreign country, to never doubt the reasoning behind my plans, her strength and her courage to engage even the most challenging situations, has been a daily inspiration.

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## Abstract

Located at the intersection of privacy studies, media studies, and cultural studies, this dissertation challenges the notion of *post*-privacy and radical transparency. It argues for the reinvigoration of the political dimension of personal information privacy and challenges readers to scrutinize the ways in which journalists, politicians, Facebook officials, and scholars alike make it more difficult for ordinary people to define and negotiate for themselves the meaning and relevance of their personal information privacy. The first chapter looks at seven years of journalistic reporting, Facebook's data use policy as well as *The White House Guidelines for Consumer Privacy*. I argue that journalists, Facebook officials, and politicians alike overemphasize individual user control and technical options as solution to the complicated relationship between PIP and Facebook. I criticize that journalists make no or only superficial attempts to connect Facebook's privacy policy to larger contextual factors – either political, cultural, or economical. The second chapter investigates the economic dimension of the PIP discourse and examines more closely Facebook's SEC statements, Facebook's quarterly business reports as well as other internal documents, and newspaper articles from the *The Wall Street Journal* and *Fortune Magazine*. I argue that journalists provide a one-dimensional and trivializing account of the economy. The chapter demonstrates how journalists and prominent scholars help to perpetuate the myth of the technological sublime and, in so doing, render themselves involuntary allies to Facebook's misleading rhetoric of individual user empowerment.

The third chapter attempts to correct the mistakes above and suggests first steps towards an articulation and assemblage theory of PIP. The chapter outlines how such a theory relies on the ordinary and pragmatic tradition of cultural studies while simultaneously introducing the notion of accountability for information. The final chapter applies the articulation and assemblage theory of PIP to the college class room. It discusses the foundations of a new PIP pedagogy, introduces a number of guidelines and exercises for the classroom, and discusses a variety of readings that address the issue of PIP in a network culture. The chapter culminates in a syllabus that is designed with a college class room in mind.

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## Introduction

In 1890, Samuel D. Warren and Louis D. Brandeis published an article for the *Harvard Law Review* titled “The Right to Privacy” in which both authors contemplate the relationship between communication technology and the basic civil right to privacy. Warren and Brandeis were not the first to contemplate the conditions that shape our expectations and tastes for privacy. However, their essay describes the beginning to what would become a substantial body of literature about the legal dimensions of privacy. To this day, their essay “The Right to Privacy” remains the second most-cited law review article of all time<sup>1</sup>.

Roughly 125 years ago, Warren and Brandeis lamented how their right to be alone and thus, their ability to execute the right to “exercise extensive civil privileges”, was under the attack from a new technology – instantaneous photography – and a burgeoning newspaper enterprise. The disruptive potential of new communication technologies marked, Warren and Brandeis complained, “an invasion upon his (sic) privacy, subjected him (sic) to mental pain and distress, far greater than could be inflicted by mere bodily injury”<sup>2</sup>.

At the current juncture, some challenge Warren's and Brandeis's urgent plea for the relevance of privacy. Sun Microsystems's CEO Scott McNealy's stated: “You have

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1 Fred R. Shapiro and Michelle Pearse “The Most-cited Law Review Articles of all time” *Michigan Law Review* 110. p.1489.

2 Samuel D. Warren and Louis D.Brandeis “The Right to Privacy” *Harvard Law Review* IV.5 1890.  
<[http://groups.csail.mit.edu/mac/classes/6.805/articles/privacy/Privacy\\_brand\\_warr2.html](http://groups.csail.mit.edu/mac/classes/6.805/articles/privacy/Privacy_brand_warr2.html)>

zero privacy anyway. Get over it”<sup>3</sup>. Others conclude that “privacy is dead”<sup>4</sup>. Finally, Facebook's CEO and founder Mark Zuckerberg proposes “radical transparency”<sup>5</sup> as a new paradigm eventually leading to a more “open and transparent world', [where] people will be held to the consequences of their actions and be more likely to behave responsibly”<sup>6</sup>.

Yet another group of privacy skeptics suggest that the term post-privacy best captures our contemporary relationship to personal information. The concept of post-privacy has received much attention as it tries to capture, to struggle with, and to deal with our alleged new information reality – assuming that we, indeed, live in such a new context. The German post-privacy advocate Michael Seemann outlines the basic principles of such an approach:

The concept of post-privacy understood is the realization that certain assumptions, ideas, and expectations about privacy from the analogue world no longer fit the new networked and digital world. Therefore, post-privacy is an invitation to discuss these ideas and to formulate alternatives<sup>7</sup>.

This dissertation challenges the notion that post-privacy provides a meaningful alternative and argues that it is too early to close the books on the concept of personal information privacy. I acknowledge and discuss at length that the concept of privacy is in and of itself “in disarray”<sup>8</sup>, highly “fractured, ambiguous, perhaps even incoherent”<sup>9</sup>.

However, I argue that the case study of Facebook makes clear how personal information

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3 Quoted in Julie E. Cohen *Configuring the Networked Self* p.11.

4 Daniel J. Solove in his book *Understanding Privacy* provides a comprehensive overview of the many claims about the alleged death of personal privacy. See pages 3 to 5 and for citation information notes 23 through 29.

5 Mark Zuckerberg quoted in David Kirkpatrick's *The Facebook Effect* p.200.

6 Ibid.

7 Michael Seemann *ctrl+verlust* my translation March 23, 2011. <<http://www.ctrl-verlust.net/was-ist-postprivacy-fur-mich/>>

8 Daniel J. Solove *Understanding Privacy* p.1.

9 Helen Nissenbaum *Privacy in Context* p.2.

privacy has become one of the principle battlegrounds on which ordinary people exercise (or refrain from) their right to negotiate their relationship to powerful institutions, organizations, and individuals. I argue that simply moving on to post-privacy brackets and, more dangerously, masks and trivializes the many political, cultural, and economic issues at stake with regard to personal information privacy.

In other words, I agree with Warren and Brandeis, and understand personal information privacy to be constitutive of who we are. Moreover, I consider PIP as foundational to political and economic circumstances that are characterized by a more equal distribution of power. However, in contrast to Warren and Brandeis, and many other legal scholars, I am not so much interested in PIP as an individual right. Instead, this dissertation is my attempt to develop an articulation and assemblage approach to PIP, which looks at the connections between our tastes and expectations for personal information privacy and broader issues of power distribution.

For example, the German information rights and IT lawyer Thomas Stadler argues that leaving behind the concept of privacy does nothing for those who lack power. Quite to the contrary, the powerful will continue to be in power and will actually use and abuse their powers more excessively and unburdened than before. He furthermore states:

The corrective power of the personal right of every citizen, which is known in Germany as the right of informational self-determination, will no longer exist. Therefore, we have to disagree vehemently with the argument according to which the concept of privacy is no longer good for the defense against surveillance. Rather, the right to privacy is the only effective argument against governmental surveillance.<sup>10</sup>

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10 Thomas Stadler is a German information rights and IT lawyer warning against the “post privacy trap”. His thoughtful observations can be accessed on his blog *Internet Law*. May 15, 2013. <http://www.internet-law.de/2013/10/die-post-privacy-falle.html>



Along these lines, my articulation and assemblage theory of PIP is inspired by some of the central principles of the cultural studies project, probably best summarized by Lawrence Grossberg. He writes: cultural studies

is concerned with describing and intervening in the ways cultural practices are produced within, inserted into, and operate in the everyday life of human beings and social formations, so as to reproduce, struggle against, and perhaps transition the existing structures of power.<sup>11</sup>

Jennifer Daryl Slack and J. Macgregor Wise second Grossberg and emphasize that cultural studies is about “how inequalities of power are produced, maintained, and transformed through culture” - always keeping in mind that culture is understood as “a site of struggle [that] has a role in both reproducing inequality and challenging it”<sup>12</sup>.

The understanding of PIP, as an isolated phenomenon that exists independent from contexts, cannot make these articulations visible. Such an *apolitical* understanding of PIP leaves unanswered the important question about the relationship between personal information privacy and power at the current conjuncture. Moreover, the notion of post-privacy circumvents and leaves out critical debates that view PIP as the terrain, maybe even battle ground, on which asymmetrical power relationships unfold and manifest.

Borrowing again from Lawrence Grossberg, what we need to do instead is to

investigate how people are empowered and disempowered by the particular structures and forces that organize their everyday lives in contradictory ways, and how their (everyday) lives are themselves articulated to and by the trajectories of economic, social, cultural, and political power.<sup>13</sup>

I turn to cultural studies because we need a new way of thinking about personal information privacy in a digital network culture; a way that takes into account that

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11 Lawrence Grossberg *Cultural Studies in the Future Tense* p.8.

12 Jennifer Daryl Slack and J. Macgregor Wise *Culture+Technology.A Primer.* p.2.

13 Lawrence Grossberg *Cultural Studies in the Future Tense* p.8.

personal information privacy is a “daily, managerial task”<sup>14</sup>, as anthropologist Catherine Nippert-Eng points out. In other words, what we need is an approach that views PIP as an ordinary cultural practice that is part and parcel of everyday life. Therefore, personal information privacy is not isolated but embedded in culture.

As Julie E. Cohen makes clear, individuals do not act “autonomously outside of culture” but “are constituted by social and political [and economic] cultures that surround them”<sup>15</sup>. I propose that privacy and culture are inseparably linked, which leads to the conclusion that personal information privacy is best understood as a site of struggle over meaning, too. In other words, the challenge is not to understand personal information privacy as justification for theories that take into account only individual actions. An articulation and assemblage theory of PIP centers around the idea that individual agency is always already restricted by structural conditions that shape our everyday lives. It is the ongoing interaction between individual agency and structure that we need to look at if we want to understand the new realities of personal information privacy in a networked culture.

I argue, in addition to understanding personal information privacy as plural<sup>16</sup>, contextual and relational<sup>17</sup>, and as “an interest in breathing room to engage in socially situated processes of boundary management”<sup>18</sup>, we need a way to think about privacy that focuses on the political, cultural, and economic, connections that become visible when

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14 Katherine Nippert-Eng *Islands of Privacy* p.8.

15 Julie E Cohen *Configuring the Networked Self*. p.25.

16 In *Understanding Privacy* Daniel J. Solove establishes himself as the principle advocate of the idea that privacy is an umbrella term that always already captures a plurality of issues.

17 In *Privacy in Context* Helen Nissenbaum insists that people are primarily concerned with the integrity of information contexts.

18 Julie E.Cohen *Configuring the Networked Self* p.149.

we start interrogating the meaning of personal information privacy at the current conjuncture. An articulation and assemblage theory of PIP adds to Solove's, Nissenbaum's and Cohen's already sophisticated ideas, an understanding of personal information privacy as ordinary and as pragmatic; a concept in dialectical relationship with, what Anita L. Allen has called, an accountability net.

Conceptualizing PIP as ordinary “grounds” the concept and, to say it with Lawrence Grossberg, “begins where the people are”<sup>19</sup>. A pragmatic attitude towards PIP helps us to debunk totalizing and revolutionary claims, such as “privacy is dead”, about the relationship between communication technology and PIP at the current conjuncture. Finally, the question of accountability forces us to see our own informational activities in relation to other people. In other words, it forces us to engage with ethical questions and requires us to leave behind the isolationist perspective inherent to Warren's and Brandeis's right to privacy claim. Taken together, a pragmatic understanding of PIP as ordinary and as a concept in dialectical relationship with accountability requires us to contemplate the relationship between our own agency and certain structural constraints.

There is (at least) one other reason that makes Seemann's post-privacy claim problematic. Seemann seems to naively distinguish between an analogue world and a digital world, arguing that different rules must apply to our digital selves. It is precisely the ways in which our activities online and offline interact and thus cannot be viewed as separate that makes personal information privacy online such an important political issue.

The story of Tyler Clementi's suicide is a particularly alarming example.

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<sup>19</sup> Lawrence Grossberg. “Cultural Studies: What's in a Name (One more time)” *Taboo* 1 Spring, 1995. p.22.

Clementi, a student at Rutgers University, was outed as gay by his roommate, who sent a twitter message informing his personal network that Clementi had a date with a young man. Hearing about this massive violation of personal information privacy, Clementi committed suicide. Clementi's room mate Dharun Ravi and another classmate, Molly Wei, were “charged with two counts of invasion of privacy for using 'the camera to view and transmit a live image' of Mr. Clementi”<sup>20</sup> and his date. Less dramatic is the case of Ashley Payne. She had to resign from her teaching job in Barrow County, Georgia because Payne's Facebook account showed pictures of her drinking. Through Facebook friendships with teacher colleagues, her school principle found out about the pictures and told her to either resign from the job or to face suspension.<sup>21</sup>

Julie E. Cohen best summarizes the cultural studies approach to the complex relationship between our activities online and offline:

Cyberspace is not, and never could be, the kingdom of mind; minds are attached to bodies, and bodies exist in the space of the world. And cyberspace as such does not preexist its users. Rather, it is produced by users, and not (in the most cases) as a deliberate political project, but in the course of going on about their lives.<sup>22</sup>

Discussing the nature of race online, Beth Kolko, Lisa Nakamura, and Gilbert Rodman, add that “all of us who spend time online are already shaped by the way in which race [and gender] matters offline, and we can't help but bring our own knowledge,

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20 Lisa W. Foderaro “Private Moment Made Public, Then A Fatal Jump” *The New York Times* September 29, 2010. <<http://www.nytimes.com/2010/09/30/nyregion/30suicide.html?pagewanted=all>>

21 Christina Warren “10 People Who Lost Jobs Over Social Media Mistakes” *mashable* June 16, 2011. <<http://mashable.com/2011/06/16/weinergate-social-media-job-loss/>>. To be fair, what counts as inappropriate social media etiquette varies hugely from case to case as this collection of social media faux-pas indicates. In this particular case, it is crucially important not to confuse the teacher who got fired over posting a picture that shows her drinking beer while being on vacation with the scandal that unfolded over congressman Weiner's stupid and ridiculous pictures to a social network site.

22 Julie E Cohen “Cyberspace As/And Space” *Columbia Law Review* 107, 2007. p.218.

experiences, and values with us when we log on”<sup>23</sup>.

I first became interested in these questions concerning personal information privacy and Facebook in the context of two deeply personal and private events, my marriage in 2010 and the birth of my daughter in 2013. These two events made my partner and me contemplate a number of issues that Hollis Griffin has summarized in the question: “When is it Okay to reveal personal events on public social networks?”<sup>24</sup>.

We decided that neither did we want comments and photos of our wedding to be posted to our Facebook profiles nor did we want to distribute any information about our daughter on the social network service. My partner and I simply felt uncomfortable with the loss of control over this deeply personal information that the posting to our respective profiles would have entailed. We actually went a step further and, from that moment on, disabled our Facebook walls for outside comments entirely. These individual activities seemed, at the time, the only meaningful way to regulate the flow of information from and to our Facebook profiles. Especially with regard to our daughter, it quickly occurred to us that it was not just our Facebook activities and the work we were willing to invest in order to maintain the privacy of our information. We also depended on our friend's respect for our commitment to privacy. In the course of explaining our resolute approach to PIP to friends, we thought about how to act online and how to tell people what to do with information (e.g. photos) about us or our daughter.

But even back then, these measures appeared superficial and a drop of resistance in the bucket of information sharing that defines Facebook as a social network service.

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23 Beth Kolko, Lisa Nakamura and Gilbert Rodman quoted in Slack and Wise *Culture+Technology.A Primer*: p.168.

24 Hollis Griffin “Debbie Downer has a Facebook Problem: Regulating Affect on Social Media Networks” *flowTV* June 8, 2011. <<http://flowtv.org/2011/06/debbie-has-a-facebook-problem/>>

Furthermore, it bothered us that we were responsible for monitoring Facebook for photos and comments that someone else could have posted about us to their profiles without our permission or consent. Gladly, all of our friends respected our requests (at least as far as we were able to tell) but that does not mean that we did not invest a great deal of time and effort into the protection of our personal information privacy. While the measures we took might appear as overly protective to some, we were clearly not alone with our concerns<sup>25</sup>.

What ultimately motivated me to start the research for this dissertation was not so much the concern about the regulation of affect that Griffin writes about in her article, but the question of regulation on Facebook in general. In retrospect, it simply seems unfair to outsource all the responsibility for the protection of their personal information to Facebook users while still leaving them dissatisfied about the measures available to them. It occurred to me that what was at stake in these highly personal questions was whether the peculiar division of labor necessary to protect PIP between user and Facebook was fair. Why were my partner and I exclusively in charge of this incredibly cumbersome work? While I had a sense that Facebook's official rhetoric would not offer any satisfactory explanations, I was curious to learn what journalists, politicians, and scholars had to say with regard to the right to privacy in the context of Facebook and the current conjuncture.

Arguably, the question of what information to share, and where, and with whom,

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25 Claire McCarthy and Rey Junco “The Internet Never Forgets: Parenting the Facebook Generation” *The Huffington Post* November 20, 2013. <[http://www.huffingtonpost.com/claire-mccarthy-md/parenting-the-facebook-generation\\_b\\_4303997.html](http://www.huffingtonpost.com/claire-mccarthy-md/parenting-the-facebook-generation_b_4303997.html)> and Jeffrey Rosen “The Web Means the End of Forgetting” *New York Times Magazine* July 21, 2010. <<http://www.nytimes.com/2010/07/25/magazine/25privacy-t2.html?pagewanted=all&r=0>>

and under what circumstances (and with what possible consequences) is not new. However, Facebook's empirical dimension makes these questions appear in a new light and with a particular urgency. Facebook now connects a breathtaking 1.2 billion monthly active users<sup>26</sup> and has evolved into a globally operating corporation. Since its IPO in May 2012, countless online activities are now connected to Wall Street, albeit in ways more complicated than publicly acknowledged. The relationship between the social network company and the politically powerful in Washington D.C. resembles a revolving door. In the course of my study, the question to me became how all of these factors influenced my notion of what kind of PIP was possible on Facebook. To be more precise, to what extent were these contextual factors taken into account in the relationship between PIP and Facebook in the first place?

Critical media scholarship on communication technology offers a few historical examples for the ways in which expectations and tastes for PIP always experienced disruptions in the larger context of the introduction of new technologies. As James Carey has pointed out over ten years ago, communication technologies simultaneously tear down boundaries around socially negotiated concepts such as personal information privacy, while establishing new ones<sup>27</sup>.

Carolyn Marvin's work on the telephone for instance shows how the telephone was “the first electric medium to enter the home and to unsettle the customary ways of dividing the private person and family from the more public setting of community”<sup>28</sup>. The telephone, Marvin demonstrates, was to many a fundamental threat to “a delicately

26 Number refers to the official Facebook statement as of September 30, 2013.

<<http://newsroom.fb.com/Key-Facts>>

27 James Carey “Historical Pragmatism and the Internet” *New media & Society* 7.4. pp.443-455.

28 Carolyn Marvin *When old Technologies were new* New York: Oxford UP, 1988. p.6.

balanced order of private secrets and public knowledge”<sup>29</sup>. Marvin writes about the debate whether or not the telephone should broadcast an opera performance or more popular programs:

What was exclusive and luxurious was domestically desirable. What was popular and Irish was not, and what was at stake was domestic peace at mealtime, one of the most stridently defended battlefields in the struggle of the middle-class family not to fragment into the rootless chaos of the boarding house.<sup>30</sup>

From her work we learn that our current experience and struggle over the meaning and relevance of PIP might be unique in detail, yet it is part of a legacy of struggles over social and cultural norms. Moreover, Marvin teaches us that the imagined shifts in the “dimension of the world and the human relationships”<sup>31</sup> were not just a result of the new communication technology but also a result of the discursive work carried out by professionals and journalists.

Lynn Spigel investigates the ways in which the introduction of television to US American households during the 1950s also deterritorialized the boundaries around what counted as private. Spigel shows how TV as cultural form “was caught in a contradictory movement between public and private worlds”<sup>32</sup>. The TV became the catalyst for the “renegotiation of [social roles and norms as well as] the relationship between public/spectacle and private/spectator”<sup>33</sup>. Television offered the ground to simultaneously “recreate the sense of social proximity” of public entertainment while “retaining the necessary distance between the public sphere and private individual upon which the

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29 Ibid. p.61.

30 Ibid. p.81.

31 Ibid. p.3.

32 Lynn Spigel *Make Room for TV* Chicago: The Chicago UP, 1992. p.109.

33 Ibid. p.116.



middle class ideals of reception where based”<sup>34</sup>.

For my project, Spigel's methodology is more important than her actual findings. In ways similar to Marvin, Spigel was mainly concerned with the remaking of “the intertextual context through which people [made] sense” of television and its impact on contemporary tastes and expectations for privacy. She looked at journalists, social scientists, advertisers and other professional writers as “machines for the production of discourse”<sup>35</sup>. In other words, she was interested in the ways in which discourses were symptomatic of larger cultural debates and how professional writers followed “discursive rules found in the culture at large”<sup>36</sup>.

Therefore, this dissertation is only partly about the question whether or not Facebook violates their users's right to personal information privacy. Instead, I examine the discursive work through which journalists, Facebook professionals, politicians, and prominent scholars of network culture shape what we think about privacy at the current conjuncture.

In the context of Facebook and the 21<sup>st</sup> century, journalists and communication professionals continue to function as engines of discourse. Their writing presents ordinary people with narratives about possible meanings for and values of PIP. We are being told about the many different actors, ranging from corporations such as Facebook, who sells our personal information, to governmental institutions such as the NSA, who constantly spies on us, to individuals or groups of individuals, who hack into our data and steal our identities for criminal reasons<sup>37</sup>.

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34 Ibid. p.117.

35 Ibid. p.6.

36 Ibid. p.7.

37 “Bundesamt soll von Datenklau gewusst haben” [Federal agency supposedly knew about the data theft]

In short, we are being told that there is an historically unprecedented number of outside actors willing to exploit the wealth of information we create in the context of our networked culture; a number of actors who are willingly ignore what many consider to be the right to personal information privacy. When I refer to networked culture rather than “the Internet” or “being online”, I want to emphasize that we produce digital data all the time. That is to say, we produce digital data through technologies such as email, instant messaging, Skype, social network sites, or online shopping sites. Simultaneously, we also produce data by using credit or customer cards, when we use GPS devices, when we use our cell phone, or when we read a novel on our e-reading device<sup>38</sup>. Various infomercials promise us many more ways to advance our communication activities if only we give up a little more data/information about ourselves<sup>39</sup>.

I am of course not so naïve to believe that we could simply stop using credit cards altogether. Many of our everyday activities are embedded in and rely on an infrastructure that makes it impossible or very difficult not to share personal data. For instance, purchasing an airline ticket and traveling throughout the United States is practically impossible without leaving a detailed data trail behind.

Facebook's official rhetoric claims that the social network service itself has become integral to many aspects of our lives. Facebook's CEO Mark Zuckerberg has stated repeatedly that the goal for Facebook is to become a “ubiquitous tool” and a place

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*Frankfurter Allgemeine Zeitung* January 22, 2014 <<http://www.faz.net/aktuell/politik/hackerangriff-bundesamt-soll-von-datenklau-gewusst-haben-12763419.html>>

38 This list is by no means excessive. It makes clear, however, that the boundaries around activities associated either with cyberspace or that seem to take place outside of it are increasingly blurry.

39 Here is an impressive commercial by the corporation *Corning* that illustrates future possibilities. *Corning* manufactures interactive household glass surfaces such as kitchen counters and is one companies among many to promote the full digitization of our lives.

Video can be accessed here: <[http://www.youtube.com/watch?v=6Cf7IL\\_eZ38](http://www.youtube.com/watch?v=6Cf7IL_eZ38)>

where the Facebook profile is “the first place where they feel safe expressing their real self”<sup>40</sup>.

Many argue convincingly, that living without the social network site has become increasingly difficult not just for personal reasons but for professional and economic reasons as well. For most students, participating in any social activities on campus during their freshman year is basically impossible without Facebook. Many of the graduate students I know report a similar dependence on the social network service, albeit for different reasons. Some grad students, who contemplated quitting the service or who actually did so, returned from academic conferences only to re-activate their accounts because it seemed necessary to further develop their careers.

To a certain extent, this dependence on Facebook is of course speculative. In any case, Facebook is a great case study because it illustrates a privacy paradox. Although users are aware of Facebook's repeated efforts to curtail their users's privacy and although many of us know that Facebook sells our information to third parties, without our explicit consent, most of us continue to use the web service.

Finally, an articulation and assemblage theory of PIP has several methodological advantages in that it “attempts to deploy theory strategically”<sup>41</sup> rather than practicing theory for its own sake. In other words, the empirical context, the “real” must serve as starting point and theory merely serves as a tool to “arrive at a different and better understanding of [said] context than that with which it began”<sup>42</sup>. Consequently, a careful

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40 Excerpts from a speech that Mark Zuckerberg gave at the launch event for the new timeline in 2011. The video can be accessed at <<http://www.youtube.com/watch?v=9r46UeXCzoU>>. Ubiquitous tool comment at min 8:25; second comment at min 10:50.

41 Lawrence Grossberg *Cultural Studies in the Future Tense* p.25.

42 Ibid.

description of the discourse of personal information privacy and Facebook must precede the in-depth discussion of the central elements of an articulation and assemblage theory of PIP. To be more precise, it is from the empirical reality of this discourse that the need for a new approach to personal information privacy in the context of Facebook must emanate.

The first chapter of the dissertation looks at seven years of journalistic reporting, Facebook's data use policy as well as *The White House Guidelines for Consumer Privacy* and argues that journalists, Facebook officials, and politicians alike overemphasize individual user control and technical options as solution to the complicated relationship between PIP and Facebook. It criticizes that journalists make no or only superficial attempts to connect Facebook's privacy policy to larger contextual factors – either political, cultural, or economical.

The second chapter investigates the economic dimension of the PIP discourse and examines more closely Facebook's SEC statements, Facebook's quarterly business reports, other internal documents, and newspaper articles from the *The Wall Street Journal* and *Fortune Magazine*. It argues that journalists provide a one-dimensional and equally trivializing account of the economy. This chapter demonstrates how journalists and prominent scholars help to perpetuate the myth of the technological sublime and render themselves involuntary allies to Facebook's misleading rhetoric.

The third chapter attempts to correct the mistakes above and suggests first steps towards an articulation and assemblage theory of PIP. The chapter outlines how such a theory relies on the ordinary and pragmatic tradition of cultural studies while

simultaneously introducing the notion of accountability for information. I introduce a number of scholars who take a critical stand towards the ideas of post-feminism and post-racism and argue that post-privacy describes a sensibility that renders previous struggles over PIP meaningless. I take a brief detour through privacy theory in order to show how previous attempts to theorize PIP have failed to acknowledge that privacy is always context bound and intimately intertwined in questions of power distribution. Finally, I show how the parallels between Daniel J Solove's pluralistic notion of privacy, together with Julie E. Cohen's call for an approach to PIP that is “temperamentally postliberal and methodologically eclectic”<sup>43</sup> provide the perfect ground for an interdisciplinary conversation between critical media scholars, cultural studies scholars, and legal scholars over the meaning of PIP at the current conjuncture.

The final chapter applies the articulation and assemblage theory to PIP to the college class room. I argue that communication studies and media studies class rooms possible space to alert students to the increasingly vital role PIP plays in their lives. Inspired by Nick Couldry's socially oriented media theory, I argue that the the context of critical digital media studies is probably best suited for interrogating the meaning and relevance of PIP from a perspective that acknowledges that our notion of PIP is “directly oriented to media, involve media, [or are] conditioned by media”<sup>44</sup>. Since both media *and* PIP play such a fundamentally important role in our lives as citizens, it seems only plausible to develop a curriculum that helps students to investigate this particular relationship.

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43 Julie E. Cohen *Configuring the Networked Self* p.126.

44 Nick Couldry *Media, Society, World* p.180.

My curriculum borrows Nick Couldry's wonderful question “what role should media play in our lives”<sup>45</sup> and sends students on an exploration tour of their own embedded media habits as far as their personal information privacy is concerned. However, the goal of such an endeavor must go even further, as Couldry emphasizes, and should ask what it would mean to live a *good* life with media or “what is it to live ethically with, and through, media?”<sup>46</sup> PIP is, as this dissertation demonstrates, an increasingly important dimension of this question, albeit one that remains overlooked and under-explored. A shortcoming that the proposed syllabus at the end of the chapter seeks to mitigate.

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45 Ibid.

46 Ibid. p.28.

## **Don't Blame the User – it's Context, stupid!**

Just weeks after the Supreme Court took a landmark case featuring a demand for greater communication privacy, many took to Facebook to reveal the color of the bra they were wearing. In a breast cancer awareness effort, women (mostly women, I assume) updated their profiles with words such as "black," "leopard" or (interestingly) "camouflage." It is the paradox of the cyber era: A nation of exhibitionists demanding privacy.

[...] The most interesting aspect of cyber culture, however, is not the quest for privacy but its disregard -- not the desire to protect private communication but the compulsion to make bra colors public.

The Internet is known for its milestones of exhibitionism. [...] But the real revolution of the Internet has been to make personal disclosure routine.

[...] While America worries about the legal protection of privacy and abandons its practice, the reticent, necessarily denied attention, still deserve praise.<sup>1</sup>

Mark Zuckerberg, Facebook's chief, has managed to amass more information about more people than anyone else in history. Now what?<sup>2</sup>

In an effort to make a broader yet empirically grounded argument about how personal information privacy in the context of Facebook is discussed publicly, I look at seven years of journalistic reporting in the New York Times (including its affiliated blogs), the Washington Post, and USA Today<sup>3</sup>. My analysis includes 659 articles<sup>4</sup>, all of which address the relationship between Facebook and personal information privacy more or less directly<sup>5</sup>.

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1 Michael Gerson: "Status Update: Chatty; Is there any reticence left in Facebook Nation?" *The Washington Post* January 15, 2010. p.A25.

2 Somini Sengupta. "Facebook Test: How to Please the New Faces" *The New York Times* May 15, 2012 Business Section p.1.

3 These three newspapers are not only among the Top 10 of daily read newspapers by circulation, they also continue to be the some of the most popular brands in the newspaper market

4 New York Times and affiliated NYTimes Blogs published 288 articles between January 8 2006 and February 23 2013; the Washington Post published 192 articles between January 2006 and February 20 2013; USA Today published 179 articles between March 9 2006 and February 19 2013.

5 In order to make the sample comprehensive I used Lexis-Nexis. I limited my search to articles that mentioned both Facebook and privacy explicitly. Furthermore, I only read through articles longer than

In tandem with a close reading and critical analysis of Facebook's data use policy<sup>6</sup> as well as *The White House Guidelines for Consumer Privacy* I argue that journalists, Facebook officials, and politicians alike overemphasize individual user control and technical options as solution to complicated relationship between PIP and Facebook. Second, I criticize that journalists make no or only superficial attempts to connect Facebook's privacy policy to larger contextual factors – either political, cultural, or economical.

In her fantastic book *Make Room for TV*, Lynn Spigel explains that these various engines of discourse help shaping the ways in which we imagine PIP; their views are “symptomatic of wider cultural conventions”<sup>7</sup>. That is why I argue that journalists, Facebook officials, and the White House, establish “discursive rules”<sup>8</sup> that make it more difficult for ordinary people to re-imagine and even reclaim the political dimension of personal information privacy. Therefore, in this chapter, I criticize that these prominent public voices fail, albeit for different reasons, to provide us with the language to imagine or maybe re-imagine alternative visions for when and how to expect PIP at the current conjuncture.

My analysis demonstrates, that the problem is not so much that Zuckerberg, post-privacy advocates, most journalists, and the White House seem to say the same thing – they don't. The problem lies in the fact that they all trust technology to fix the problem.

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500 words or shorter articles that introduced an issue regarding FB and privacy that was not otherwise mentioned in the sample. I started the inquiry in January 2006 because FB became a mainstream phenomenon during that year - accessible for anyone with a working email address and anyone outside the university system.

6 In my analysis I refer to Facebook's Data Use Policy from December 11, 2012.

<[https://www.facebook.com/full\\_data\\_use\\_policy](https://www.facebook.com/full_data_use_policy)>

7 Lynn Spigel *Make Rome for TV* p.7.

8 Ibid.



Whereas the motivation for Zuckerberg to declare the end of personal privacy seems logical, I challenge journalists, post-privacy advocates, and the White House alike to reinvigorate the political dimension of personal information privacy. In the process, we must refrain from viewing personal information privacy issues as isolated phenomena and must, instead, treat them as part of a systemic examination of unequal power structures.

As part of this discussion we need to take into account a number of different “flows, connections, and interpretations among the living, the nonliving, producers, users, processes, possibilities, and energies”<sup>9</sup>. Why? Because beyond all fantasies of control, a theory of PIP must allow us to use the concept to analyze and criticize all the connections that become apparent when we begin to interrogate the conditions that shape our very tastes and expectations for PIP.

Let me start my inquiry with two representative examples. *The Washington Post's* Michael Gerson gets it right: our relationship to privacy – to personal information privacy to be more precise – is complicated. There are, however, many things that Gerson does not get right. In the opening quote above, he claims to find support for the nations' schizophrenic relationship to PIP in two separate case studies. As a first piece of evidence, Gerson cites a Supreme Court decision, in which the judges ruled in favor of a police officer, who asserted his fourth amendment protection against unreasonable search. The officer had used this constitutional amendment to justify his use of a communication device owned by his department to send sexually explicit messages to his mistress. The Court ruled in favor of this officer and confirmed, that he had the “reasonable expectation

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<sup>9</sup> Ibid. p.97.

of privacy” of his text messages. As a the second case study, Gerson complains about a number of women, who had used “private” information from their Facebook profiles to make a contribution in the fight against breast cancer.

Arguably, there is much to discuss about both stated cases. What concerns me, however, is how Gerson connects both cases and reduces their complexity to a generalized argument about our ambivalent or negligent attitudes towards personal information privacy in the cyber era. To Gerson, privacy appears to be a uniform and one-dimensional concept.

Moreover, by ignoring the radically different contexts within which both instances of personal disclosure had occurred, Gerson's careless analysis strips PIP of its political character entirely. In so doing, Gerson's reductionist approach conflates a heterogeneous mosaic of individuals and groups of individuals into one monolithic “nation of exhibitionist”.

I take issue with Gerson's polemic because of the ways in which his argument coincides with and at the same time perpetuates the post-privacy claim that there is an inevitable connection between the multiple technologies that make up the internet and the assumed disregard for personal information privacy. Like post-privacy advocates, Gerson proclaims that this time the revolution is *real* and that it manifests itself in expectations and tastes for personal information privacy that are altogether different and new. Rather than looking at the ordinary strategies that people employ in order to manage their PIP, Gerson pursues extreme positions and ignores more moderate and pragmatic approaches to the possible shifts in our expectations for and practices of personal information

practices.

The second short quote in the grey box above is extracted from an article by *The New York Times's* Somini Sengupta. Her otherwise insightful contribution presents Mark Zuckerberg as the revolutionary CEO of Facebook; as a person with a powerful vision that could single-handedly change our understanding of PIP via his zealous commitment to radical transparency. This vision, Sengupta seems to suggest, could determine whether or not personal information privacy will soon be considered a concept of the past.

While it is hard to (f)actually prove her statement wrong, Sengupta's personalization strategy trivializes the important issue of personal information privacy and deflects from broader structural questions. Certainly, the omnipresent Facebook CEO is a central actor in the debate over PIP. That does not mean, though, that we should reduce this debate to one person or even one institution such as Facebook. Doing so, ignores the heterogenous and oftentimes contradictory communication environment of today's network culture entirely.

Moreover, we need to take into consideration the various histories of governmental agencies such as the NSA , the FBI, or the STASI in the former GDR<sup>10</sup> in order to historicize these types of claims. Sengupta correctly implies that BIG DATA now offers institutions such as Facebook or the NSA unprecedented opportunities to record even the most mundane details of our lives. Particularly the history of the STASI teaches

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10 The German Prime Minister has repeatedly and publicly made comparisons between the NSA scandal and the former Stasi regime in which he has warned the public about the consequences of known and unknown systematic surveillance. Most remarkably, he said: “Even if we cannot equate the NSA with the secret service in the GDR, it is still unacceptable that millions of citizens – which include friends and family members – begin to act of the phone like they did during the GDR” (my translation). Entire interview can be accessed at: <<http://www.bundespraesident.de/SharedDocs/Reden/DE/Joachim-Gauck/Interviews/2014/140124-faz-Interview.html>>

us, though, that governmental agencies have always been going to great lengths to record the activities of ordinary people, oftentimes with severe and painful consequences for those involved. The German movie *The Lives of the Others*<sup>11</sup> provides a powerful impression of the extent of these non-digital surveillance apparatuses. Arguably, the STASI techniques were no match for today's digital data gathering technologies but that does not mean that we should ignore them.

In addition, Sengupta overlooks that Facebook is neither the only data gathering actor nor is it necessarily the most powerful one. The social network service itself has been subjected to intrusive government surveillance practices. In other words, part of problem with Sengupta's argument is that she ignores the many *different* actors besides Facebook that also challenge our expectations for personal information privacy at the current conjuncture. The fact that Facebook itself has launched an initiative called “Restore the Fourth” in order to protest the invasion of privacy by the NSA indicates the contradictory nature of the battle over the meaning of privacy<sup>12</sup>.

Not only does Sengupta overlook this multi-faceted reality, she singles out Facebook's founder and thus deflects attention from a complex net of other commercial websites, all designed to gather personal information data. Even if we account for Sengupta's insistence that the comprehensiveness of digital surveillance apparatus is historically unprecedented, her diagnosis that Facebook plays *the* central role cannot withstand scrutiny. Instead, Facebook is better understood as merely the most obvious actor among an expansive structure, which Oscar Gandy has described as “the panoptic

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11 For a brief introduction to the movie, see the Internet movie data base (Imdb) “The Lives of the Others” <<http://www.imdb.com/title/tt0405094/>>

12 See Facebook's own page <<https://www.facebook.com/RestoreTheFourthAP>>

sort”. Gandy defines this infrastructure as a

Complex technology that involves the collection, processing, and sharing of information about individuals and groups that is generated through their daily lives as citizens, employees, and consumers and is used to coordinate and control their access to the goods and services that define life in the modern capitalist economy<sup>13</sup>.

Therefore, the problem lies in the fact that Sengupta's reductionist point of view naturalizes and takes for granted the very same hierarchies that Facebook's official rhetoric is trying to install – namely that Facebook holds within its vast data universe the capacity to change society.

Somewhere else in her article, Sengupta chooses a similarly generalizing tone and observes that “your information is at risk” through, for instance, third party applications such as games and other apps. It is true that the social network site records massive amounts of data about our daily activities. Yet, nobody outside of Facebook – and probably nobody inside of Facebook either – knows exactly what these digital dossiers<sup>14</sup> include, since it is algorithms rather than human eyes that track every move on the website.

Therefore, I fear that Sengupta's alarmist warning underestimates the ambivalent potential of surveillance technologies. As Lawrence Lessig argues, under certain conditions, “surveillance technology might actually increase effective privacy if it decreases the instances in which humans intrude on other humans”<sup>15</sup>. It is therefore

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13 Oscar Gandy *The Panoptic Sort* p.15.

14 I borrow the term “digital dossier” from Daniel J. Solove's book *The Digital Person* to account for the ways in which corporate and governmental digital surveillance has reach a point in which all the electronic data points we produce via our daily activities (via credit cards, online shopping, using the Internet etc) produce a holistic account of who we are online which can be used to evaluate our very actions in advance. Solove defines “digital dossier” as: “a collection of detailed data about an individual” p.1.

15 Lawrence Lessig *Code 2.0* p.225.

difficult, at best, to estimate the alleged damage caused by the “leaking” of “your” information since no user knows what that means exactly.

If we broaden the scope of the analysis and move from these two introductory examples to the big picture, my sample shows that journalists across all publications describe privacy almost exclusively as a matter of user control<sup>16</sup>. Carolyn Hax, for instance, instructs and advises readers about how to manage online privacy between spouses. Asked by one of her readers whether or not she would share private passwords to computers, e-mail, phone, Facebook etc. with her spouse, Hax responds: “I think the details of passwords, etc., matter less than what you do with them and how trustworthy each of you thinks the other is”<sup>17</sup>. Frustrating about this kind of advice is not so much the precocious assumption that Hax could somehow help to figure out how to manage personal information privacy among partners, it is that the instructional tone as well as the narrow scope of the argument misses the opportunity to talk about how complicated the concept of personal information privacy is.

Amy Dickinson from the *Washington Post* is asked for advice because the children of one of her readers have become annoyed by an older aunt, who constantly posts embarrassing comments to their Facebook profiles. The mother wants to know:

How should these children respectfully get their aunt to stop checking on them via Facebook, short of blocking her? Talking with her is futile; she already knows her nieces and nephews are offended by her comments and postings, and this has not stopped her. I think the kids should be able to go on Facebook

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16 See for example the *NYT*: Helft & Wortham, May 27, 2010; Stross, March 8, 2009; Sengupta, August 24; Sengupta, February 7, 2013, and John, September 10, 2006.

See for example *The Washington Post*: Hart, May 2, 2008; Kinzie and Noguchi, September 7, 2006; Balkam, June 9, 2012.

See for example *USA Today*: Swartz, June 16, 2010; Yu, December 13, 2012; Kornblum, October 23, 2007; Swartz, July 2, 2009.

17 See *Washington Post* June 14, 2012.

without having to worry about their aunt intervening in their "conversations."  
What do you think?

Dickinson responds:

There are plenty of middle-age people capable of navigating on Facebook, but the experience is easier for everyone if the older generation accepts that Facebook "rules" are dictated by people who want to be able to reveal all -- but don't want for anyone else to violate their "privacy." It's tricky.<sup>18</sup>

In another article, Dickinson responds to a mother, who is worried about her teenage daughters. The girls had recently opened a Facebook account and are now monitored by relatives. Dickinson writes:

The unspoken rule of Facebook for relatives is: Don't be too personal, too mushy or too lame with your younger "friends." If your relatives are skulking, or inappropriate -- or if the girls simply don't want to connect with them in this way -- then they should "unfriend" them. Work with your daughters to help them develop boundaries. Have them teach you how Facebook works -- and definitely ask them to show you their pages.<sup>19</sup>

From the NYTimes's "Q&A" section we gather yet another type of behavioral instructions on how to best shield our personal information from other Facebook users. This time, the protection of personal information privacy has less to do with monitoring or controlling somebody's behavior and more to do with straight-forward technical instructions.

Aside from your search privacy settings, the Privacy Overview page has plenty of other options to adjust if you want to limit what people, Facebook applications or even external Web sites can display on your profile page. You can also choose to block or limit your profile to specific users.<sup>20</sup>

In yet another article, Somini Sengupta informs us that four little questions are key in order to "fine-tune who can see your "likes" and pictures, and, to a lesser extent, how

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18 See Washington Post October 28, 2009.

19 See Washington Post April, 3, 2010.

20 See NYTimes January 17, 2008.

much of yourself to expose to marketers”. All Facebook users have to do, is to find sufficient answers to the questions: “How do you want to be found on Facebook search? What do you want the world to know about you? Do you mind being tracked by advertisers? And finally, whom do you want to befriend?”<sup>21</sup>

In response to the questions, Sengupta offers generous advice and walks Facebook users through all the possible privacy settings the website has to offer as well as a number of external providers for privacy enhancing technologies such as software against trackers or software that helps you monitor your profile content you allegedly decided to share with your friends. Mark W. Smith describes Facebook as the “window to the web” and explains 8 steps to “fortify Facebook security”<sup>22</sup> in which he essentially walks readers through the myriad Facebook privacy settings. Finally, Paul Boutin provides us “3 essential steps to Facebook privacy”<sup>23</sup> with a similar intent.

This brief selection of articles represents a straight-forward instructional approach to personal information privacy and stands out for the “how-to” nature of the arguments included. More importantly, all authors above hold the individual user accountable for managing their personal information privacy. By emphasizing various technical solutions, almost all of these contributions fall within what James Carey has called the technological sublime<sup>24</sup>. That is to say most of these journalists subscribe to an almost blind faith in technology's ability to fix all kinds of problems for us. In a classic case of circular reasoning, technology affords its users the ability to control technology.

Most importantly, the journalists in my sample ignore what the philosopher

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21 See NYTimes February 7, 2013.

22 See USA Today May 17, 2011.

23 See NYTimes *Gadgetwise* Blog June 21, 2011.

24 James Carey “Historical Pragmatism and the Internet” *new media & society* 7.4 443-455.



Andrew Feenberg has called the “ambivalence of technology”<sup>25</sup>. The claim that technical features help users to maintain their personal information privacy, ignores that technology has the potential to both conserve and to break down power hierarchies. As Feenberg makes clear, new technology has the potential to undermine social hierarchies but it can, of course, simultaneously reproduce these structures. Technology is one piece in the puzzle to explain the “extraordinary continuity of power”<sup>26</sup>

In her enlightening article *The Turn Within*, communication historian Susan Douglas provides a slightly more pessimistic version of the same story. She argues that the “the economic, the political, and the ideological system trump [...] the revolutionary potential of technologies”<sup>27</sup>. This “irony of technology” seems to capture the current moment most adequately but seems to escape almost all journalists entirely.

Consent at Facebook is only another way to cement the asymmetrical relationship between users and the social network service

The discussion of opt-in versus opt-out approaches to personal information privacy<sup>28</sup> and articles that discuss consent as a meaningful strategy to increase user power describe a particularly complicated subset of the privacy as control issue. Particularly the latter refers to Facebook's now no longer active policy to let users vote on privacy changes. From its beginning in 2009, the caveat for Facebook's democratic policy has been that user votes only counted if more than 30 percent of *all* active users participated in the voting process. At the current moment, that would have required roughly 400

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25 Andrew Feenberg *Questioning Technology* p.76.

26 Ibid.

27 Susan Douglas “The Turn Within” in Laurie Ouellette *The Media Studies Reader* p.97.

28 See for example Bloomberg News “Facebook 'Face Recognition' Feature Draws Privacy Scrutiny” in *The New York Times* June 9, 2011.

million users to vote on any particular privacy issue<sup>29</sup>. This massive threshold prompts journalist David Streitfeld to observe that “Facebook's brief experiment with direct user democracy [...] was a policy that never amounted to much in the first place.”<sup>30</sup> Moreover, his comments further contextualize Facebook's allegedly pro-user policy:

Facebook says the changes to the policy are minor and beneficial for users. One concerns the integration of Instagram data with Facebook; another changes the filters for managing incoming messages. Privacy watchdogs disagree. So do those who bothered to vote: Shortly before noon Pacific time on Friday, 476,718 were against the proposed changes. A mere 68,884 were in favor.

But the really interesting change is that Facebook is proposing to end this system of direct voting, which was implemented in early 2009 after a major privacy flap. "If we are trying to move the world to being more open and transparent and to get people to share more information, having an open process around this is ultimately the only way to do that," Mark Zuckerberg, Facebook's founder, said at the time in a conference call.

The problem was that more than 30 percent of all Facebook users had to vote against a proposal for it to be binding. In the last vote, in June, the no's outweighed the yeses by a ratio of six to one, but the total votes were less than one half of 1 percent of the users.

That made the vote simply advisory. And so Facebook went ahead and implemented the changes anyway. Barbara Ortutay states:

Facebook is proposing to end its practice of letting users vote on changes to its privacy policies, though it will continue to let users comment on proposed updates. The world's biggest social-media company said in a blog post this week that its voting mechanism, which is triggered only if enough people comment on proposed changes, has become a system that emphasizes quantity of responses over quality of discussion. Users tend to leave one- or two-word comments objecting to changes instead of more in-depth responses.<sup>31</sup>

Notable about this comment is the fact that Facebook makes its users responsible for the

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29 Tim Peterson “Facebook Users Vote on Policy Changes-Just not that many. *AdWeek* January 29, 2014. <<http://www.adweek.com/news/technology/facebook-users-vote-policy-changes-just-not-many-145717>>

30 David Streitfeld, New York Times Blog *Bits*, December 7, 2012.

31 USA Today November 23, 2012.

“failed” bottom-up approach to personal information privacy. It is their lack of engagement with already existing communication mechanisms, and not Facebook's failure to take a pro-user stand with regard to PIP, that ended a more transparent privacy policy approach.

What becomes immediately clear is that Zuckerberg's claim to make internal and foundational processes and decisions more open and transparent is merely a hoax or rhetorical trick. Furthermore, the fact that Facebook implemented changes to the privacy policy regardless of the obvious skepticism among users, only underscores that in Facebookistan, elections only matter if they confirm already existing decisions.

Despite its critical stand towards Facebook, both Ortutay and Streitfeld maintain some trust into the idea that Facebook could provide meaningful voting mechanisms for its users to make important changes to the PIP policy. In so doing, they continue to believe that pro-user conditions can be created from within Facebook's technocratic organization and via technical choices – for instance a voting button.

But this faith in the consent debate is misleading for a number of reasons. First, the power to decide which issues are being put up for vote remains exclusively in Facebook's hands. Secondly, it is entirely unclear, what options are available to Facebook users who disagree with its data policy but want to or need to continue using the service. Arguably, merely 5 percent of all Facebook users trust the website's policy anyways, irrespective of whether they have read Facebook's privacy policy or not<sup>32</sup>. Yet, that does not stop the majority of Facebook users from posting comments, pictures, and other

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32 Emily Ekins “Americans Say 75 Percent of Politicians are corrupt”  
<<http://reason.com/poll/2014/04/03/americans-say-75-percent-of-politicians>>

personal information to their profiles.

A third and final way to talk about personal information privacy as a matter of control includes formulations such as “Facebook and Privacy Clash Again”<sup>33</sup> or “Facebook reaches settlement with FTC on privacy concerns”<sup>34</sup>. This approach presents Facebook as an actor or as a thing with a life on its own. Facebook seems to operate independent from the human activities that code and program its very infrastructure, manage the data it generates, or that develop its software, games and apps.

Communication Studies scholars Jennifer Daryl Slack and J. Macgregor Wise explain that treating a technology such as Facebook merely in terms of its “thingness”<sup>35</sup>, assumes that Facebook can be understood as an object with discrete boundaries. Treating Facebook as a thing, however, divorces it from the labor as well as other the human activities that constitute it.

Thus, Slack and Wise remind us that we should not treat Facebook as a thing to begin with. Instead, in similar yet different ways than the internet, it resembles an “arrangement” that “does not occupy space” in the same way as more tangible objects. The fact that it still is widely conceptualized as something with a “discrete and isolatable”<sup>36</sup> nature point at our flawed ways to imagine the social network service.

A variation of the argument describes Facebook as a thing that single-handedly changes how we conceive personal information privacy. Jenna Wortham quotes Elliot Schrage, Facebook's vice president for public policy:

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33 Jenna Wortham *New York Times* May 6, 2010.

34 Cecilia Kang “Facebook reaches settlement with FTC on privacy concerns” *The Washington Post* November 30, 2011.

35 Jennifer Daryl Slack and J. Macgregor Wise. *Culture and Technology. A Primer*. New York: Peter Lang, 2006. p.95.

36 *Ibid.* p.96.

Facebook has been made the center of attention around a really important issue of how technology is changing the conception of privacy, control and sharing, [...]. People are uneasy about it, but as they start to see the benefits and advantages of it, they start to see the value of the experiences.<sup>37</sup>

Along similar lines, the *New York Times* journalist Randal Stross singles-out Facebook as a key actor in the dissolution of PIP in favor of some post-privacy condition. He states:

[It is] not because Facebook is hell-bent on stripping away privacy protections, but because the popularity of Facebook and other social networking sites has promoted the sharing of all things personal, dissolving the line that separates the private from the public.<sup>38</sup>

Dan Fletcher's article for *Time Magazine* titled “How Facebook is Redefining Privacy” takes a similarly flawed, because deterministic, point of view. Fletcher ascertains that “Facebook has changed our social DNA, making us more accustomed to openness”<sup>39</sup>.

Rather than understanding Facebook as part of an assemblage and as an arrangement of a variety of technologies, these statements render Facebook a single force changing and manipulating our tastes and expectations for PIP. This way of thinking ignores that certain concepts such as technology or privacy are, what Slack and Wise call, “polysemic”. “Polysemy, [they explain], refers to the fact that words can have many different meanings”<sup>40</sup>.

Not only is the struggle over these meanings is always historically and situationally specific, what a concept such as PIP entails, always depends on a *number of different* factors and is never determined by any one organization or actor – even if that organization is as powerful as Facebook is. That, in turn, explains why the meaning of

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37 Quoted in Jenna Wortham, *New York Times* May 6, 2010.

38 Randal Stross. “When Everyone's a Friend, Is Anything Private?” *The New York Times* March 8, 2009. p. BU3.

39 Dan Fletcher “How Facebook is Redefining Privacy” *Time Magazine* May 20, 2010. <<http://content.time.com/time/magazine/article/0,9171,1990798,00.html>>

40 Slack and Wise *Culture+Technology* p.98.

privacy shifts and changes, is made and un-made as part of people's everyday activities. That is why in contrast to Wortham and Stross, I advocate an approach to PIP in which Facebook is *one of many* factors that shapes what privacy means to us.

A similarly relational approach should be taken to the personal information that is published on Facebook. In the same article I quoted above, Randal Stross concludes his eulogy for privacy and states:

Facebook does let members create customized subsets of friends. Members can selectively restrict access to some items, such as photo albums and videos. But customizing permissions for this or that, via multiple clicks, is no one's idea of a good time.

For many members, "friends" now means a mish-mash of real friends, former friends, friends of friends, and non-friends; younger and older relatives; colleagues and, if cursed, a nosy boss or two. Everyone accepted as a "friend" gets the same access.

When the distinction blurs between one's few close friends and the many who are not, it seems pointless to distinguish between private and public.<sup>41</sup>

In Stross's defense, somewhere else in the article, he laments that Facebook does not set its defaults on the side of privacy. However, he simply overstates Facebook's power in determining the value of friendships and privacy. Only because the service uses a generic label for contacts does not mean that users treat all of their contacts in the same way.

While his criticism of Facebook's structural shortcomings is well-taken, Stross seems to confuse lateral information sharing among "friends" with the sharing of information with Facebook. While lateral sharing allows users to decide what to share with whom – something that Stross acknowledges himself – the real problem is that users

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<sup>41</sup> Randal Stross. "When Everyone's a Friend, Is Anything Private?" *The New York Times* March 8, 2009. p. BU3.

cannot be selective when it comes to sharing information with Facebook. The web service reads, records, and knows all digital activities that take place within its proprietary premisses (and sometime beyond).

Stross's argument serves as an example for the problematic flattening-out of information complexity that ignores the work that Facebook users invest already when sharing information. As Stross correctly points out and as I have observed above, the technical features that allow users to regulate access to bits of information are not enough and oftentimes cumbersome to maintain. But it would be an overstatement to say that this inevitably means the end to all dimensions of PIP.

Facebook itself is an assemblage of various technologies all of which do different and require different information privacy work. Facebook users distinguish between how certain technologies share information more readily than others. For instance, whereas the first adaptation of Beacon<sup>42</sup> caused a huge outcry for its felt violation of user privacy rights, users seem less concerned about the fact their information automatically finds its way to their friends' newsfeed. In the former case, the outrage was not about the fact that information was readily broadcasted to all friends, but about the fact that it was instantly combined with commercial content.

In addition, Stross makes a factual mistake when he believes that all information is shared instantly and equally with all friends. Taina Bucher's research about the ways in which algorithms determine visibility proves that content visibility depends on three components: affinity (the relationship between viewing user and item creator), weight (how popular Facebook considers an item), and time decay (the relationship between the

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<sup>42</sup> The services that was launched in 2006 due to the users protest quickly cancelled shortly thereafter.

recency or freshness of an information item)<sup>43</sup>.

In a peculiar sense, while challenging the idea of private information, Facebook's algorithms accidentally render some information more private than others. Moreover, my opening anecdote in the introduction shows that some Facebook users realize that certain types of information are more valuable to them than others and therefore need more protection. In terms of lateral visibility, Facebook users understand pretty well the difference between a status update and a personal message. While I acknowledge the fact that some users might underestimate some features of Facebook – such as the fact that photos remain accessible on the website long after they were taken – but that is different from saying Facebook blurs any and all distinction between public and private.

The pervasiveness of the Facebook thingness fallacy as well as the ideology of the technological sublime become especially clear when we look at the ways in which the Facebook's CEO Mark Zuckerberg draws from a similar set of ideas. In a letter published in the *Washington Post*, Mark Zuckerberg writes:

We give people control. [...] We have heard the feedback. There needs to be a simpler way to control your information. In the coming weeks, we will add privacy controls that are much simpler to use.<sup>44</sup>

In another article for the New York Times, Zuckerberg explains:

In general, the more control you can give people the better[...]. If you give people control over everything they do, you'll never put them in a situation that's uncomfortable.<sup>45</sup>

In *The Facebook Effect*, the book that is considered one of the few comprehensive written

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43 Taina Bucher “Want to be on Top?” p.1168.

44 Mark Zuckerberg. “A New Page in Facebook Privacy” *The Washington Post* May 24, 2010. A19.

45 Warren St. John. “When Information becomes T.M.I. *The New York Times* September 10, 2010. p.8.



accounts that enjoyed Zuckerberg's participation<sup>46</sup>, David Kirkpatrick summarizes this official Facebook rhetoric concerning personal information privacy under the principle of radical transparency<sup>47</sup>. Along these lines, Zuckerberg ascertains:

If we give people control over what they share, they will want to share more. If people share more, the world will become more open and connected. And a world that's more open and connected is a better world.<sup>48</sup>

Of course, many journalists have criticized Facebook for its approach to personal information privacy and have recognized the contradictory nature of the personal information privacy debate. Janet Kornblum for instance cites the PEW research institute to argue that the sense of privacy as control is largely illusory as information flows and travels from platform to platform, from user interface to user interface<sup>49</sup>. Legal scholar Julie E. Cohen highlights as well that “the idea of fixed local boundaries must be abandoned along with illusion of the ability to control self-exposure”<sup>50</sup>.

Nevertheless, Zuckerberg advocates technical affordances as solution to the personal information privacy challenge. Like the journalists above, he delegates the responsibility for the security of personal information to the individual user and holds him or her accountable to use Facebook's technical privacy management. Zuckerberg's rhetoric effectively cements a top-down relationship between software provider and user.

Rather than encouraging a democratic approach<sup>51</sup> to software and technology, in which

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46 David Pogue “Humanity's Database” *New York Times* July 2, 2010.

[http://www.nytimes.com/2010/07/04/books/review/Pogue-t.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2010/07/04/books/review/Pogue-t.html?pagewanted=all&_r=0)

47 David Kirkpatrick *The Facebook Effect*. New York: Simon & Schuster, 2010:

48 Mark Zuckerberg. “A New Page in Facebook Privacy” *The Washington Post* May 24, 2010. A19.

49 Janet Kornblum. “Privacy? That's old-school; Internet generation view openness in a different way” *USA Today* October 23, 2007. p.1D.

50 Julie E. Cohen. *Configuring the Networked Self* pp. 142-145.

51 A number of books have been published about the process of democratizing technology, of thinking about technology from the bottom-up. Langdon Winner's *The Whale and the Reactor* is a classic contribution to how a rethinking of the relationship between power and technology can lead to a better society. Richard E. Sclove's *Democracy and Technology* is probably the most widely know attempt to

users help to shape Facebook's entire architecture, Zuckerberg makes clear that user agency is purely reactionary and entirely limited to activities within the narrowly defined Facebook framework.

Yet, if we limit the protection of personal information privacy to Facebook's technical choices provided, we ignore that these choices “establish roles that are imposed on everyone who chooses to belong” to Facebook. As philosopher Andrew Feenberg reminds us, technocratic organizations are built on the premise that “technical devices prescribe norms to which the individual is tacitly committed”. In other words, technical privacy controls “conserve and legitimate [Facebook's] expanding system of hierarchical control”<sup>52</sup>. That is why the idea of user empowerment via technical controls is a dangerous fantasy that Zuckerberg perpetuates and that some journalists all too willingly advocate for as well.

While Zuckerberg presents himself as someone, who acts only with the best interests of his users in mind, he is better described as a benevolent dictator the technocratic kingdom Facebukistan<sup>53</sup>. His rhetoric fails to mention, that he can, practically overnight, change the rules that regulate all activities within Facebukistan without explanation or prior announcement. That is why Facebook illustrates that in many cases, “unfortunately, the obstacles to technical democracy are considerable and growing”<sup>54</sup>. Facebook's data policy makes this skewed perception of PIP obvious:

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develop a more democratic approach to technology. However, Slack and Wise have a similar mission in mind when they develop their cultural studies approach to technology.

52 Andrew Feenberg *Questioning Technology* p.103.

53 The term is borrowed from Rebecca McKinnon's book *Consent of the Networked*. Mackinnon uses her book as a plea for a more democratic internet in which users re-claim cyberspace and begin to challenge the increasingly asymmetrical power structures that seem to dominate it.

54 Andrew Feenberg *Questioning Technology* p.132.

While you are allowing us to use the information we receive about you, you always own all of your information. Your trust is important to us, which is why we don't share information we receive about you with others unless we have: received your permission; given you notice, such as by telling you about it in this policy; or removed your name and any other personally identifying information from it.<sup>55</sup>

Keeping in mind, we are asked only *once* to grant Facebook the permission to use our information, that is when we create our profile. After that, we are actually never asked again. Furthermore, notifications in the context of Facebook usually come in the form of announcing of yet another technology roll-out or new profile new layout. Our consent is therefore usually silent, hardly ever explicit, and can certainly never specifically address all the possible dimensions of Facebook. The following excerpt from Facebook's data use policy underscores this problematic:

We use the information we receive about you in connection with the services and features we provide to you and other users like your friends, our partners, the advertisers that purchase ads on the site, and the developers that build the games, applications, and websites you use. For example, in addition to helping people see and find things that you do and share, we may use the information we receive about you:

- as part of our efforts to keep Facebook products, services and integrations safe and secure;
- to protect Facebook's or others' rights or property;
- to provide you with location features and services, like telling you and your friends when something is going on nearby;
- to measure or understand the effectiveness of ads you and others see, including to deliver relevant ads to you;
- to make suggestions to you and other users on Facebook, such as: suggesting that your friend use our contact importer because you found friends using it, suggesting that another user add you as a friend because the user imported the same email address as you did, or suggesting that your friend tag you in a picture they have uploaded with you in it; and
- for internal operations, including troubleshooting, data analysis, testing, research and service improvement.<sup>56</sup>

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<sup>55</sup> Facebook *Data Policy Use Agreement* date p.3.

<sup>56</sup> Ibid.

One of the more obvious problems has to do with the vague language Facebook employs in this statement. Who are Facebook's partners and advertisers? Would it not be fair to provide us with a better sense of whom we are agreeing to share our information with? Moreover, how is it fair to use our personal data in order to maximize Facebook's business model? While it might very well be that some Facebook users enjoy the customized ads on their profile, should they not at least be asked for permission for every single one of them?

In other words, merely removing our names and other identifying information from our data is not enough to protect user PIP. It is certainly not a valid excuse for simply claiming *universal* rights over our information while leaving users in the dark about the *specific* ways in which their data is being used. Helen Nissenbaum, whose concept of contextual integrity I will discuss at greater detail in a later chapter, has argued convincingly that people get upset if they have the feeling that their personal information is used in contexts and for purposes that have little to do with the contexts within which the data was initially produced. Arguably, Facebook's data use policy is a case in point for such a PIP violation.

This problem is sometimes referred to as abuse of personal data for secondary purposes. The secondary use issue can be explained best by comparison to the secondary use of credit card purchasing histories. Part of the way in which credit card companies make money is by matching a purchasing history with a customer's demographic information in order to sell those consumer profiles to advertisers. Similarly, Facebook creates demographic profiles from all of its users' online activities on the website and

those websites that are connected to Facebook, for instance via the “like” button.

Throughout its data use policy, Facebook states clearly that users are responsible for the management of their personal information. Users have to decide what counts as private to them and what does not. Facebook mentions rather casually that it receives various data about users that they “choose to share”. It follows that, since it is your decision to share information, you and only you can be held accountable to manage it. Mark Zuckerberg has repeatedly called this approach granular control<sup>57</sup> to indicate that every little tiny step on the website is subject to the user's supervision.

Mark Zuckerberg has stressed over and over again that giving people control over what they share, will motivate them want to share more. Furthermore, Facebook's data policy highlights that user trust in the company is important. Josh Constantine explains why:

If you don't trust Facebook, you might keep an account, but you won't share as much. So Facebook is aiming to educate users about privacy in the hopes that they'll keep doubling the amount they share each year and uphold Zuckerberg's Law. Facebook privacy can't just be “good enough.” It needs us confident in our control, because as it runs low on people to sign up, attracting more data is the main way it will grow.<sup>58</sup>

In other words, maintaining the illusion of information control is critical to Facebook's business model. As I have argued before, hardly anybody trusts Facebook. Yet, because the website has found ways to capitalize the principle that “accessibility to others is a critical enabler of interpersonal association and social participation”<sup>59</sup>, its users find themselves in an unfortunate double-bind. In order to benefit from the websites extensive networks, users have to yield a number of substantial rights to Facebook without any

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57 Kirkpatrick *Facebook Effect* 2010 p.208.

58 Josh Constantine “More than privacy Controls, Facebook needs our Trust to keep growing” *TechCrunch* December 12, 2012 <<http://techcrunch.com/2012/12/12/facebook-privacy-powers-zuckerbergs-law/>>

59 Ibid. p.145.

meaningful opportunity to challenge this status quo.

That is also why Facebook's data use policy can candidly state that users “should make sure to read [the] terms of services and privacy policies [from third party applications] to understand how they treat your data”<sup>60</sup>. Facebook makes clear, when you use apps, you pay with your personal data. For instance, withholding your User ID means that you will no longer be able to use some applications at all. It would, of course, be unrealistic to hold Facebook responsible for monitoring the privacy policies of the vast amount of websites and apps<sup>61</sup> that run via the website.

However, rather than outsourcing its responsibility for PIP entirely, Facebook could hold app developers accountable to a PIP code of ethics that is transparent and easily accessible. Moreover, Facebook could offer tutorials which help to understand possible loop wholes in the various privacy policies. In any case, since Facebook directly profits from the traffic that apps generate, it must take some responsibility for how these third parties value PIP.

A final observation concerning the idea of user control. The policy states: “if the ownership of our business changes, we may transfer your information to the new owner so that they can continue to operate the service”. Couched into these two short lines is the hard truth that most of our current digital information infrastructure is proprietary. Whereas Mark Zuckerberg might be a somewhat benevolent dictator now, a change in the ownership structure of Facebook could render the current data use policy invalid at any time. This fact radically challenges the notion of user control. More broadly, it suggests

<sup>60</sup> Facebook *Data Use Policy Agreement* p.6.

<sup>61</sup> According to the business blog *insidefacebook*, Facebook currently supports roughly 9 million apps. Brittany Darwell April 27, 2012 <<http://www.insidefacebook.com/2012/04/27/facebook-platform-supports-more-than-42-million-pages-and-9-million-apps/>>

that the increasingly proprietary structure of the mainstream internet has placed a lot of control in the hands of the owners of this space. As Anthony De Rosa, product manager at Reuters, lucidly declares:

We live in a world of Digital Feudalism. The land many live on is owned by someone else, be it Facebook or Twitter or Tumblr, or some other service that offers up free land and the content provided by the renter of the land essentially becomes owned by the platform that owns the land.<sup>62</sup>

Therefore, web services such as Facebook mark an important rupture in the history of the internet, which was initially “deliberately constructed as a decentralized network to make it difficult to control the network from any single point”<sup>63</sup>.

The inherent contradiction between Mark Zuckerberg's plea for radical openness and Facebook's closed-up infrastructure describes the central conundrum to a more democratic understanding of personal information privacy. The exclusive promotion of technical solutions, makes it more difficult for ordinary people to define and negotiate for themselves the meaning and relevance they attribute to personal information privacy. These arguments foreclose a constructive debate over what personal information privacy might mean and why it might matter at the current conjuncture.

Overall, it is important to remember that an arrangement of technologies such as Facebook can neither dissolve the line between private and public nor the idea of controlling information by itself; it is the people's activities which, in turn, are shaped by political, economic, and cultural factors, that reshape these boundaries. It is these contextual factors that I turn to next.

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62 Quoted in David Carr “At Media Companies, a Nation of Serfs” *New York Times* February 13, 2011.

<[http://www.nytimes.com/2011/02/14/business/media/14carr.html?](http://www.nytimes.com/2011/02/14/business/media/14carr.html?_r=3&adxnml=1&ref=technology&adxnmlx=1396706437-cB+HcTww3/HwOBmffBMMqw)

[\\_r=3&adxnml=1&ref=technology&adxnmlx=1396706437-cB+HcTww3/HwOBmffBMMqw](http://www.nytimes.com/2011/02/14/business/media/14carr.html?_r=3&adxnml=1&ref=technology&adxnmlx=1396706437-cB+HcTww3/HwOBmffBMMqw)> but

originally published at tumblr <<http://soupsoop.tumblr.com/post/2800255638/the-death-of-platforms>>

63 Gilbert Rodman *The Net Effect* p.28.

Part of the problem with the ways in which journalists conceptualize the relationship between Facebook, PIP, and context is tied to a generally simplistic understanding of cultural contexts in the first place. Rather than acknowledging the plurality of culture, most journalists refer to culture as *one*. As a consequence, conclusions about the current state of culture and PIP tend to be rather polemical and portray our current culture in a dismal condition. Many times we are being told that we are drifting towards a catastrophe, and that all of this manifests itself within the boundaries of Facebukistan. Most journalists investigate culture as an “enclosed and isolated place” and fail to analyze “the connections and disconnections, the circulations and movements, the ups and downs that make a culture a living culture above and beyond its singular location”<sup>64</sup>.

Kathleen Parker for instance speaks of *a* culture “that’s all about me and mine” and connects this culture with the diminishing care for the self and others as well as the “death of privacy”. According to her analysis, “we’re all paparazzi” that use Facebook and the likes for self-exposure in a “pathologically narcissistic culture”. Today, she claims, “shame, modesty and privacy have become old-fashioned notions” and the decreasing value of privacy is the consequence of our own actions. Parker shouts out: We are all “comfortable spectators of others’ intimacy”<sup>65</sup>. We might want to shout back – are we?

If we believe Parker’s assessment, we would indeed have reason to be concerned. Yet, are we all using Facebook this way? Can we reduce everything that takes place on

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64 David Oswell. *Culture and Society* Thousand Oaks, CA: Sage, 2006. p.9.

65 Kathleen Parker “If a Diary’s not safe, what is?” *USA Today* October 13, 2009. p.11A.



Facebook to this narrow set of activities? Are we all similarly dis-concerned with our personal information privacy? As David Oswell writes, “to study culture [...] means to analyse the habits, customs, beliefs, ideas and arts”<sup>66</sup> – all of which change and are struggled over, negotiated, among users constantly. Similarly, Slack and Wise remind us that culture is not reducible to one essential characteristic – culture is never just narcissistic – but, instead, consists of “practices, representations, experiences, and affects”<sup>67</sup> that go hand in hand or, sometimes, work against each other.

The debate over emotional boundary management on Facebook<sup>68</sup> is just one indicator of the ways in which users negotiate constantly what might be considered “comfortable” behavior on the platform. Therefore, single-handedly connecting the end of privacy to a handful of seemingly general trends in our culture grossly underestimates the complexity according to which culture operates.

Janet Kornblum invokes a similar notion by referring to a “culture of constant feedback”. Moreover, Jon Swartz cites a Facebook spokesman who declares that “we have an open culture”<sup>69</sup>. Finally, Sharon Jayson ascertains that “today's mix of easy information sharing and celebrity-driven media culture is making us more narcissistic”<sup>70</sup>. Efforts to define culture as one, in turn, lead to similarly trivializing conclusions that “Facebook is flat”<sup>71</sup>, that all identities become one (Facebook) identity, and that all

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66 David Oswell. *Culture and Society* Thousand Oaks, CA: Sage, 2006. p.6.

67 Jennifer Daryl Slack and J. Macgregor Wise *Culture + Technology. A Primer* New York: Peter Land, 2007. p.127.

68 Hollis Griffin investigates ways in which we deal with affect on social network sites. Her piece “Debbie Downer has a Facebook Problem: Regulating Affect on Social Media Networks” is an insightful analysis of some of the work we need to do in order to manage our emotions online.

69 Jon Swartz “Facebook draws protests on privacy issue” *USA Today* May 14, 2010. p.3B.

70 Sharon Jayson “Thanks for oversharing?” *USA Today* September 14, 2010. p.1D.

71 Jon Swartz “750 Million users befriend facebook” *USA Today* July 7, 2011. p.1B.

culture is enveloped in the term “cyber culture”<sup>72</sup>.

This reductionism undermines even otherwise nuanced contributions. For example, Michael Gerson rightly cautions his readers not to overstate the power of social networking (sites) which, “taken in small doses, (are) hardly toxic, and sometimes useful”<sup>73</sup>. However, in his next sentence, Gerson argues that *Internet culture* attacks modesty, complicates true intimacy, and rewards shallowness (without explaining how, where, when, and why). This reductionist approach to cyber culture is by no means limited to the United States but can be found in Germany<sup>74</sup>, too. Overall, it becomes evident that the discourse about privacy and Facebook, similar to that about the Internet at large, is dominated by “assumptions that flatten out the multifaceted complexities”<sup>75</sup> of culture.

Another problem with these accounts is that they build the foundation for Facebook's own rhetoric, which wants us to believe that Facebook can single-handedly change the world. It is articles such as the one by Lisa Guernsey for *The New York Times* that underscore the pervasiveness of this “Facebook culture”<sup>76</sup> claim. Equating culture with Facebook is effectively fulfilling Facebook's dreams of becoming one with culture or determining and framing what culture is. The reality is not only more complex but also locates cultural change in the practices and experiences of those who live culture: namely

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72 Michael Gerson “Status Update: Chatty” *The Washington Post* January 15, 2010. p.A25.

73 Michael Gerson “With Friends like these” *The Washington Post* October 5, 2007. p.A21.

74 For instance the debate in the German weekly newspaper *Die Zeit* between Nina Pauer, who is largely skeptical of facebook's cultural and symbolic power, and Ijoma Mangold, who pursuits a more supportive position towards Facebook. Both articles can be accessed here:

<http://www.zeit.de/2011/40/Facebook-Timeline> versus <http://www.zeit.de/2011/41/Facebook-Debatte-Kritiker>

75 In *Virtual Publics: Policy and Community in an Electronic Age* (Beth E. Kolko, ed.). New York: Columbia University Press, 2003, p.12.

76 Lisa Guernsey “Picture your name here” *The New York Times* July 27, 2008. p.6.

the people who use technology (or negotiate the meaning of privacy on Facebook). This bottom-up approach to culture is absent from the discourse. By contrast, mainstream journalism is shaped by a top-down view of culture that ignores the contradictory and diverse user practices that constitute culture.

Another way in which journalists overlook the contextual dimension of PIP has to do with the overemphasis on details within Facebook's data policy. Journalists across all examined newspapers discuss over and over again how a newly drafted data use policy either advances or curtails the users's personal information privacy rights. Nick Bilton from *The New York Times* summarizes Facebook's new privacy policy saying: “when Facebook giveth, Facebook taketh away”<sup>77</sup>. *USA Today* writer Roger Yu observes:

Facebook introduced changes to its privacy settings Wednesday, a move that will stir anxiety among change-averse users but one that the company says will make accessing the options easier.” He furthermore quotes Marc Rotenberg, executive director of the Electronic Privacy Information Center, who argues that “[t]here's a better safeguard for apps but less control of your data. We think users should have more control of (their) data.”<sup>78</sup>

Edward C. Baig, another writer from *USA Today*, quotes the same expert and applauds most of the recent privacy changes:

I've been digging into the new privacy settings Facebook is rolling out to address the issues. The basic promise is that you can control a swath of privacy settings with a single click, though you can fine-tune. [...] Facebook provides a "Recommended" middle-ground default set of settings, but make sure they jibe with your preferences. [...] It takes longer to pore through the custom settings, but it's a good idea to explore your options. [...] The new settings hardly remove all the confusion, complexity and controversy. But they do represent a major step in the right direction.<sup>79</sup>

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77 Nick Bilton, December 17, 2012.

78 Roger Yu, *USA Today* December 13, 2012.

79 Edward C Baig, *USA Today* June 3, 2010.

Jenna Wortham, also *New York Times*, quotes Chris Kelly, chief privacy officer for Facebook, regarding a privacy policy update from three years ago: “Our overall philosophy is that people should be as open or as closed as they want to be.” She later concludes that

For now the new features are available only to a limited number of users, but the company said it planned to provide them eventually to everyone on the site. The changes are part of Facebook's effort to simplify its privacy settings, which had ballooned to more than six pages and 40 different options. The company said that fewer than a quarter of its users regularly adjusted privacy settings, so it planned to condense them into a single, easy-to-navigate page.<sup>80</sup>

It becomes clear pretty quickly, that all of these commentators express a similarly blind faith in the technical fixes that I have criticized extensively above. However, not a *single* journalist in my sample of 7 years of mainstream journalism, went to the trouble look for other texts that help to explain some of the ideas that have shaped Facebook's data use policy. That is why the following pages go beyond Baig's “digging in” and, instead, show how Facebook's architecture exists within a broader political context in which corporate interests trump individual or collective user interests.

#### Interrogating the White House policies on privacy

My analysis of the *White House Guidelines for Consumer Data Privacy in a Networked World*<sup>81</sup> provides evidence for this shift away from emphasizing a pro-citizen position on personal information privacy to a pro-business and consumer-centric approach to personal information privacy. I explain why Facebook's relationship to Washington is

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80 Jenna Wortham, July 2, 2009. other examples that illustrate this point include from the  
- The New York Times: Paul Boutin, August 30, 2011 (gadgetwise); Nick Bilton, June 25, 2012 or Nick Bilton “Semantics of Visibility vs. Privacy” *NYTimes Bits* June 26, 2012  
- The Washington Post: Cecilia Kang, May 27, 2010; Kang, December 10, 2009.  
- USA Today Jon Swartz, December 10, 2009; USA Today Jon Swartz, May 27, 2010.

81 The White House *Consumer Data Privacy In a Networked World* report can be accessed here: <http://www.whitehouse.gov/sites/default/files/privacy-final.pdf>

best described as a revolving door and how that might affect the users's PIP.

The metaphor of the revolving door summarizes the intense exchange of ideas and staff between politicians in Washington and the Facebook headquarters in Menlo Park. It is simply alarming to watch a person such as Cheryl Sandberg effortlessly transition from the high gardens of an MBA education in Harvard, to the World Bank, where she worked as assistant to Lawrence Summers, to Washington, where she was chief of staff for the treasury secretary, and finally to Silicon Valley where she worked now for two giants of the industry Google and Facebook<sup>82</sup>. The attention her book *Lean In* received, hints at some of the cultural capital and clout that emanates from these institutions. Moreover, the revolving door describes a condition and political zeitgeist in which one of the main functions of political leaders, namely defending the interests of the ordinary people whom they represent by way of serving as check and balance to various corporate interests, no longer captures the political reality.

In fact, while I acknowledge that the document I investigate is merely a *guideline* without any legally binding effect, it still communicates a general disinterest among policy makers for the PIP rights of ordinary people. Counter to its own claims, the guidelines fail to commit to a more equal distribution of power, foundational to any functioning democracy. In so doing, the White House misses an important opportunity to support and boost the rights ordinary people in the battle of the meaning of PIP.

Despite these critical initial comments, I applaud President Obama's remarks in the opening letter to the guidelines. He states: “we must reject the conclusion that privacy

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<sup>82</sup> For a prolific introduction to Sheryl Sandberg see Ken Auletta's “A Woman's Place” in *The New Yorker*. Many actually suspect Sandberg to return to Washington eventually to run for a much higher office.

is an outmoded value. It has been at the heart of our democracy from its inception, and we need it now more than ever.”<sup>83</sup> Unfortunately, the guidelines that follow this promise leave little hope for more equality in the battle between corporations such as Facebook and ordinary people over PIP.

In the following passage, President Obama outlines why privacy is far from dead.

Never has privacy been more important than today, in the age of the Internet, the World Wide Web and smart phones. In just the last decade, the Internet has enabled a renewal of direct political engagement by citizens around the globe and an explosion of commerce and innovation creating jobs of the future. Much of this innovation is enabled by novel uses of personal information. So, it is incumbent on us to do what we have done throughout history: apply our timeless privacy values to the new technologies and circumstances of our times.

The trias of more democracy, more business, more jobs is a familiar trope within the White House rhetoric. Given Obama's own history of successful grassroots web-campaigning and fund-raising, his enthusiasm for the ways in which digital technologies have made their way into politics is understandable. Yet, to what extent this trends has had any positive effects for users's PIP remains unclear. Whereas for the president, privacy seems to be a basic requirements for active citizenry, the title of the document “*Consumer Privacy Bill of Rights*” suggests that the term consumer and citizen can be used interchangeably and seem to mean the same thing. In fact, the short opening letter communicates clearly that the White House has accepted the hegemony of digital corporations.

Furthermore, Obama contradicts himself when he argues that on the one hand privacy has never been more important than today only to then praise our timeless privacy values. The president seems rather confused about whether privacy is timeless

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<sup>83</sup> Dated February 23, 2012.

and therefore bears an essential characteristic that does not change, or whether today presents a new context within which privacy plays a particularly vital role.

Equally unclear is how privacy has contributed to the explosion of commerce and the creation of jobs. If anything, the current NSA scandal only proves that the government has a rather instrumental attitude towards the informational privacy of its citizens. It seems to value PIP in theory but only as long as it does not interfere with governmental interests. Overall, celebrating “novel uses of personal information” seems to say, look what a great job Facebook is doing.

In the concluding section of his letter, the president calls on companies such as Facebook to immediately begin “working with privacy advocates, consumer protection enforcement agencies, and others to implement these principles in enforceable codes of conduct.” Hence, the political vision of the White House for the protection of personal information privacy seems to rely entirely on the industry's willingness to self-regulate. It seems to make no attempt to develop any bottom-up strategies to strengthen the rights of individual citizens.

It is therefore not surprising to read that the actual guidelines suggest a public policy model that relies on enforceable codes of conduct, the FTC enforcement of consumer's data privacy right, and an increasingly global interoperability between the U.S. Consumer data privacy framework and other countries' frameworks<sup>84</sup>. The Consumer Bill of Rights then focusses on individual control and “recognizes that consumers have certain responsibilities to protect their privacy as they engage with an

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84 White House report on *Consumer Data Privacy in a Networked World* p.7.

increasingly networked society”<sup>85</sup>.

The problem with the way in which the White House outsources responsibility to individuals is that these guidelines assume a level playing field. However, throughout my dissertation I make clear that the reality is terribly skewed toward corporate interests. Leveling the playing field would therefore require a much more active governmental intervention that directly demands tougher privacy regulation rather than leaving the development and implementation of those to the corporations.

However, the guidelines express a surprising confidence in the already existing consumer privacy framework in the United States and praise the mix of industry's best practices, FTC enforcement<sup>86</sup>, and the creation of a “growing culture of privacy awareness within companies”<sup>87</sup>. The government argues that merely filling the small gaps in this framework will update and fulfill the governmental responsibility towards consumers (!). To be more explicit: the White House does not believe in providing more comprehensive Federal data privacy statutes and is reluctant to modify the existing ones<sup>88</sup>. Many legal scholars have described this approach as “mosaic-like”, “reactionary”,

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85 Ibid. p.9.

86 Can be accessed here on the FTC website under the heading *Fair Information Practice Principles*:  
<<http://www.ftc.gov/reports/privacy3/fairinfo.shtm>>

87 The White House *Consumer Data Privacy In a Networked World* report p 6.

88 These federal status include FCRA The Fair Credit Reporting Act; Privacy Act of 1974 (no applicability to businesses); FERPA; The Cable Communications Policy Act (subscribers need to be informed about the whereabouts of their personal data); ECPA; Video Privacy Protection Act; Telephone Consumer Protection Act; Health Insurance Portability and Accountability Act; Gramm-Leach-Bliley Act 1999 (any financial institution can share 'nonpublic personal information' with affiliated companies” - opt out possible) Solove, 2004:70. Particularly the Privacy Act illustrates how the government has always shied away from a comprehensive solution to privacy issues. As Solove explains: “viewed in terms of architecture, the government has created an identification number without affording adequate precautions against its misuse. In so doing, the government has exposed every citizen to significant vulnerability to identity theft and other crimes such as fraud and stalking”(Solove, 2004:116). In one of my classes, a student asked me how it was possible that companies knew her SNS without her ever providing it. The answer is the current legal framework according to which “[it] is currently legal for private firms to sell and disclose SSNs” and must be disclosed in various contexts (e.g. in case of bankruptcy) (Solove *The Digital Person* p.117.)



and “sectoral”. Legal scholar Daniel J. Solove explains that

[t]his mosaic approach derives from the traditional American fear of government intervention in private activities and the reluctance to broadly regulate industry. The result of the mosaic is a rather haphazard and unsatisfactory response to each of the privacy concerns.<sup>89</sup>

Colin Bennett adds:

The approach to making privacy policy in the United States is reactive rather than anticipatory, incremental rather than comprehensive, and fragmented rather than coherent. There may be a lot of laws, but there is not much protection.<sup>90</sup>

In his fascinating comparison of US American and European attitudes towards privacy, James Whitman goes even further and diagnoses: “The relaxed attitude of law-and-economics scholars toward the market is clearly widely shared among American policymakers”. It is in this context, Whitman explains, that the tool of self-regulation must be viewed as a pro-market measure that makes governmental intervention a unlikely, even undesirable intervention. Again Whitman:

Most of all, when they [Americans] do propose regulation, they tend, in a characteristically American way, to favor market-based solutions to personal data protection over the strict comprehensive regulatory regime adopted in Europe.<sup>91</sup>

This attitude towards regulation is mirrored in FB's intrinsic behavioral norms and assumptions that are driven by liberal American mindset<sup>92</sup>.

In a similar vein, critical legal commentators render the FTC as regulatory agency practically meaningless. Solove argues that “the FTC has been rather weak and reactive in its enforcement of privacy policies. [...] In the end, however, the FTC is limited in its

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89 Daniel J. Solove. *The Digital Person* p.71.

90 Colin Bennett quoted in Solove *The Digital Person* p.71.

91 James Whitman. “The Two Western Cultures of Privacy; Dignity versus Liberty” *The Yale Law Journal* 113.6 2004. pp.1192-1193.

92 David Kirkpatrick *The Facebook Effect* p.279.

reach. It only ensures that companies keep their promises”<sup>93</sup>. While that remains true today, the FTC recently gained attention for holding Facebook accountable. The SNS was charged that it deceived consumers by failing to keep privacy promises<sup>94</sup> and, ultimately, agreed to third-party privacy auditors for the next 20 years.

Nevertheless, Rubinstein and Good remind us that any actions carried-out via the FTC come with substantial procedural requirements and are based on a “notice-by-choice” model<sup>95</sup>. In other words, it is up to private individuals to file complains and to react to perceived threats to their PIP. It is quite telling that the White House guidelines fail to mention efforts that debate the expansion of the FTC's authority to regulate privacy on social networking sites<sup>96</sup>.

To what extent the FTC settlement has had any meaningful impact on PIP on Facebook remains completely unclear. Among many others, MSNBC's Helen Popkin is hugely skeptical:

Everything about Facebook is designed to make it easy for people to reveal things about themselves. Nothing about Facebook's (Federal Trade Commission) settlement -- and a spin-heavy mea culpa from the CEO and/or media consultant -- changes that. ... The settlement does not require that Facebook restore the privacy settings it rolled back in 2009, which led to the FTC investigation. Much of your information is still widely available to the public -- as well as to Facebook's business partners -- by default. If you want more privacy, you need to 'opt-out,' otherwise your info is out there for anyone to see. ... But hiding information involves granular settings, and many steps, while leaving your info for almost anyone to find is as easy as logging on to the site.<sup>97</sup>

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93 Daniel J. Solove *The Digital Person* p.73.

94 FTC website “Facebook settles FTC charges” January 29, 2011  
<<http://www.ftc.gov/opa/2011/11/privacysettlement.shtm>>

95 Ira Rubinstein and Nathan Good. “Privacy by design: A Counterfactual Analysis of Google and Facebook Privacy Incidents” *Report by the Social Science Research Network* Rochester, NY: 2012 p.13.

96 See Alix McKenna. “Should the FTC regulate privacy on Social Networking Sites” January 5, 2012.  
<http://www.regblog.org/2012/01/should-the-ftc-regulate-privacy-on-social-networking-sites.html>  
Accessed February 22, 2013.

97 See *USA Today* December 2, 2011 p.11A.

All the while, the guidelines present the White House as part of a history that puts the information privacy of its citizens as their central priority. The guidelines rank the White House's efforts to protect PIP as the most recent chapter in the long legacy of the globally recognized Fair Information Practice Principles (FIPPs). This legacy includes the HEW (Health, Education, Welfare) Advisory Committee on Automated Data Systems authored a comprehensive report that set out five principles that are now commonly referred to as “Code of Fair Information Practices”. These principles are widely recognized for their pro-citizen stand and require:

- (1) There must be no personal data record-keeping systems whose very existence is secret.
- (2) There must be a way for a person to find out what information about a person is in a record and how it is used.
- (3) There must be a way for a person to prevent information about a person that was obtained for one purpose from being used or made available for other purposes without the person's consent.
- (4) There must be a way for a person to correct or amend a record of identifiable information about the person.
- (5) Any organization creating, maintaining, using, or disseminating records of identifiable personal data must assure the reliability of the data for their intended use and must take precautions to prevent misuses of the data.<sup>98</sup>

These five principles were designed in order to protect sensitive health care information in the 1970s and are therefore not legally binding for Facebook. They are helpful, though, to understand the failure of the government's to protect user rights over the last 40 plus years. This failure is particularly apparent and alarming since these principles seemed to have little impact on Facebook's actual approach to PIP.

Whereas the existence of Facebook's huge record-keeping system is no longer a

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<sup>98</sup> These principles describe a set of guidelines and recommendation released in 1973 by the U.S. Department of Housing, Education, and Welfare. These principles can be accessed here: [http://epic.org/privacy/consumer/code\\_fair\\_info.html](http://epic.org/privacy/consumer/code_fair_info.html)

secret, the extent to which the social media corporation saves our data is unclear. Thanks to the Austrian law student Max Schreem, Facebook now complies with the second principle and supplies users upon request with their personal Facebook records. Schramm had filed a law suit against the social network giant that forced Facebook to provide users the opportunity to access *all* their personal data that exists on its servers. However, while the data use policy outlines some of the ways in which Facebook uses the recorded data, its vagueness leaves much room for improvement.

I already demonstrated that Facebook violates the third principle on a regular basis. One could even argue that Facebook's business model is based on the concept of secondary use – that is the use of user data for other purposes that intended. Same can be said about the fifth principle. In fact, the Facebook's data use policy holds accountable its users and thus neglects the responsibility that the principle asks for.

That is why legal scholar Daniel J Solove correctly points at the double standard of the White House guidelines. On the one hand, he explains, the HEW principles

established an architecture that alters the power dynamic between individuals and the various bureaucracies that process their personal information. [...] Unfortunately, in the United States the Fair Information Practices have only been selectively incorporated into various statutes in a limited number of contexts.<sup>99</sup>

Consequently, it is not necessarily new guidelines and ideas for the protection of our private information that we need. No! What we need is a government that does not turn a blind eye towards already existing guidelines, such as the five HEW principles, but, instead, enforces these much more thoroughly. What we need in order to level the playing field is a government that returns to its pro-citizen commitment and remembers how it

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<sup>99</sup> Daniel J. Solove. *The Digital Person* p.105.

once took a much more active approach to regulate corporate power.

However, through its recently published guidelines, the White House chooses a different route entirely. Rather than boosting user rights, it proposes that companies ...

... provide consumers *appropriate* control over personal data that consumers share with others and how companies collect, use, or disclose personal data.  
... choices about data sharing, collection, and disclosure that are *appropriate* for the scale, scope, and sensitivity of personal data in question.  
... with regard to apps and other third parties, should also offer choices about personal data collection that are *appropriate* for the scale, scope, and sensitivity of data they collect.<sup>100</sup>

Moreover, throughout the guidelines, companies are held accountable to “procedures that best fit scale and scope of the data” - whatever that means exactly and whatever measure that may entail. Users, on the other hand, have a right to “access and correct personal data”<sup>101</sup> in an *appropriate* manner. They also have a right to *reasonable* limits on personal data that companies collect and retain, and they have a right to “have personal data handled by companies with *appropriate* measures in place to assure they adhere to the Consumer Privacy Bill of Rights”<sup>102</sup>.

The key words are obviously “appropriate” and “reasonable”, which water down the guidelines to such a degree that corporations are left to decide which measures protect their users' PIP best. Particularly the point that data collection needs to be focused and that consumers have the right to a reasonable limit for collected information is absurd in light of Facebook's data recording machine.

The difference in tone and focus, compared with the HEW principles, is striking.

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100White House report on Consumer Data Privacy in a Networked World p.11. Emphasis added.

101Ibid. p.19.

102Ibid. p.21.

Whereas the latter emphasized people's rights, the former focuses on corporate initiatives. Facebook's granular approach to PIP shows the limited extent to which corporations implement pro-user privacy policies. My discussion of the flaws inherent to Facebook's privacy policy makes clear, any attempt that relies on corporate self regulation is effectively an irrelevant tool for user protection.

Finally, the guidelines communicate the pro-business attitude of the White House when they propose that “personal data collected only for [...] statistical purposes [...] may not require extensive options for control”. It becomes very obvious that the White House's general frame of mind with regard to PIP takes a favorable stand towards the information economy, for instance the BIG DATA business sector. Critical scholarship about the business models undergirding information trading make clear that it is especially the uncontrolled collection of statistical data that causes many of the PIP issues. Joseph Turow's book *The Daily You* impressively outlines the many ways in which user data, collected by private companies, has become the centerpiece of a powerful information economy, which only seeks to maximize its revenue and which shows no appreciation for users's personal information privacy.

The guidelines suggest, that the White House is blind to the fact that the market will never be the power behind a more democratic personal privacy architecture, as Lawrence Lessig pointedly remarks. As he puts it: “The power of commerce is not behind any such change. Here, the invisible hand would really be invisible”<sup>103</sup>. In other words, leaving the recording of connective data unregulated but holding corporations accountable for appropriate ways of dealing with user data means treating the symptoms

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<sup>103</sup>Lawrence Lessig *Code 2.0* p.232.

rather than the source for PIP violations.

The White House's approach to “transparency” is shaped by a similarly problematic notion of what it would take to protect PIP. The guidelines state that in order to execute individual user control,

companies should provide clear descriptions of what personal data they collect, why they need the data, how they will use it, when they will delete the data or de-identify it from consumers, and whether and for what purposes they may share personal data with third parties.<sup>104</sup>

Looking at Facebook's *Data Use Policy* again, makes clear how corporations interpret the vagueness of the “clear descriptions” guideline. The policy outlines that Facebook receives and records all information you choose to share, others share about you, and a long list of other types of information. This list includes

- data about you whenever you use or are running Facebook, such as when you look at another person's timeline, send or receive a message, search for a friend or a Page, click on, view or otherwise interact with things, use a Facebook mobile app, or make purchases through Facebook.
- When you post things like photos or videos on Facebook, we may receive additional related data (or metadata), such as the time, date, and place you took the photo or video.
- data from or about the computer, mobile phone, or other devices you use to install Facebook apps or to access Facebook, including when multiple users log in from the same device. This may include network and communication information, such as your IP address or mobile phone number, and other information about things like your internet service, operating system, location, the type (including identifiers) of the device or browser you use, or the pages you visit.
- data whenever you visit a game, application, or website that uses Facebook Platform or visit a site with a Facebook feature (such as a social plugin), sometimes through cookies.
- data from our affiliates or our advertising partners, customers and other third parties [...].

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<sup>104</sup>White House report on *Consumer Data Privacy in a Networked World* p.14.

This impressively comprehensive and scary list of types of information raises the question if Facebook has the right to record any of this information in the first place. In light of the comprehensiveness of the data recorded about users, how could Facebook users make informed choices about about the consequences of Facebook's ever expanding data tentacles? Holding users accountable to “evaluate their choices and take responsibility for the ones that they make”<sup>105</sup> with regard to the social network sites and services is therefore a ridiculous proposal.

The Dutch digital media scholar Jose van Dijck helps us to look at some of the broader consequences of Facebook's unmonitored and unregulated recording of all user data for statistical purposes. Her criticism is particularly on point because she emphasizes the crucial connection between statistical data and PIP. Van Dijck argues:

If regulators take their concern over privacy and data protection seriously, they also need to pay attention to *collective* privacy: connective data are used to engineer individual as well as collective profiles of users, which in turn shape the productivity of sociality, creativity, and knowledge, even if subtly and unintentionally.<sup>106</sup>

Leaving van Dijck's oxymoronic notion of “collective privacy” aside, she still explains why the dismissal of more governmental control translates into a laissez-faire attitude that allows information companies to continue business as usual. Thus, it further curtails the possibilities for users to operate under conditions where their personal information and online habits are not exploited.

Despite all of this, the Consumer Privacy Bill of Rights highlights the users's right to “expect that companies will collect, use, and disclose personal data in ways that are

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105Ibid. p.13.

106Jose van Dijck *The Culture of Connectivity* p.169.



consistent with the context in which consumers provide data”<sup>107</sup>. The problem with this argument here is of course that the White House does not seem to understand how Facebook collapses multiple contexts into one. The definition above operates with a static notion of context and ignores that people use Facebook in different functions – as a private person, as a professional, as a friend, as a relative, as an acquaintance. Similarly, the perception of context might differ from user to user. Its fundamental flaw is to completely underestimate the complexity and dynamic nature of both the context and the subject itself<sup>108</sup>.

I think it is particularly telling that the guidelines explicitly state that “the respect for context principle does not foreclose any particular ad-based business model”<sup>109</sup>. That means that no explicit permission is needed when “the company leases individual profile information to third parties” as long as the company's data use policy prominently states such information practices<sup>110</sup>.

Finally, Facebook's own history is a case in point for why it is naïve to call on information companies to install themselves privacy awareness and a privacy culture. Arguably, what such a culture would entail is already hard to define. The mere existence of privacy officers and a formal commitment to the protection of user privacy are surely not enough, since Facebook established all of these things and yet continues to either breach their users' trust or to favor the expansion of their business interests over their users' personal information privacy interests.

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107Ibid. p.15.

108Julie E. Cohen in *Configuring the Networked Self* makes this observation too and even criticizes legal scholars such as Helen Nissenbaum for assuming a static subject p.22.

109White House report on *Consumer Data Privacy in a Networked World* p.18.

110Ibid. pp.18-19.

It is in this context that Facebook's ever more prominent lobbying efforts in Washington as well as President Obama's close relationship with the company appear in a particular problematic light<sup>111</sup> - a dangerous development that most journalists actually criticize, too.

Somini Sengupta writes that Facebook has “quietly and deftly befriended the nation's top lawmakers” to have an influence on “governmental policy as a risk factor to prospective shareholders”. While Washington characterizes this growing relationship as a “familiarity [that] breeds a deeper understanding of consumer privacy issues”<sup>112</sup>, there can be very little doubt over Washington becoming a revolving door for Facebook's representatives.

The *New York Times* journalists Michael D. Shear and Jennifer Preston comment with regard to the last presidential election:

Facebook wants more friends. And it is willing to pay for them. The Silicon Valley social media company has for the first time formed an old-fashioned political action committee and will use it to distribute cash to candidates in the coming elections. It is just one indication of how social media companies are integrating with the political landscape in a season in which these businesses are growing presences in the campaign conversation.<sup>113</sup>

Jon Swartz reminds us that it is not just the policy makers themselves that are being approached by Facebook but that a growing number Facebook lobbying staff is taking aim at Washington's lawmakers as well<sup>114</sup>, with an impact that can be felt

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111 See *Washington Post*: Cecilia Kang, February 3, 2012; Ian Shapira, December 30, 2009.

112 Somini Sengupta. “Facebook builds network of friends in Washington” *The New York Times* May 19, 2012. p.B1.

113 *New York Times* September 26, 2011. <[http://www.nytimes.com/2011/09/27/us/politics/in-turn-to-politics-facebook-starts-a-pac.html?\\_r=0](http://www.nytimes.com/2011/09/27/us/politics/in-turn-to-politics-facebook-starts-a-pac.html?_r=0)>

114 Jon Swartz. “Facebook changes its status in Washington; Social-media company spends more to protect its interests” *USA Today* January 13, 2011 p.1B.

nationally. The evidence for this trend Swartz delivers himself<sup>115</sup> in his report on Facebook's successful lobbying effort to stop a proposed Social Networking Privacy Act<sup>116</sup> in California.

Cecilia Kang highlights the dangerously close relationship between the Obama administration and Facebook in her article and concludes: “the Obama administration brought Facebook and Twitter to politics. And now it's giving back”<sup>117</sup>. She rightfully criticizes the very problematic exchange of brain power and key actors within the field of SNS politics. What begins to unfold, is an image of the government as an actor that values user rights and civic rights when popular and convenient but serves Facebook whenever necessary.

Not all politicians are comfortable with Facebook's growing lobbyism and its tightening relationship with Capitol Hill. Among a handful of politicians, suspicion and oftentimes outright skepticism about Facebook's impact on personal information privacy has grown<sup>118</sup>. Senator John Kerry, D-Mass. has called for legislation to respect fair information practices and Charles Schumer, D-N.Y.; Michael Bennet, D-Colo.; Mark Begich, D-Alaska; and Al Franken, D-Minn have told Facebook to improve their privacy

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115Jon Swartz. “Facebook lobbied to kill bill aimed at social media” *USA Today* January 13, 2011 p. 2B.

116This act (SB 242), introduced by Senator Ellen Corbett, not only points to the ridiculously low barriers of the existing law, which, according to the bill, requires operators of websites such as Facebook to “conspicuously post its privacy policy”, but tried to establish concrete personal privacy expectations for SNSs. According to the bill, all user information but city and name would be protected by a default privacy setting. Furthermore, the bill called for a registration process that states privacy right, expectations, and obligations in plain language. Finally, it would have required social network websites to remove user information within 48 hours upon request or the parents' request if the user is under 18. Lastly, the bill suggested that any willful violation of said guidelines would subject the SNS to a civil penalty of up to \$10,000.

117Cecilia Kang. “Internet companies eager to hire members of Obama's team” *The Washington Post* March 29, 2011 p.A17.

118Brett Molina, Byron Acohido, and Scott Martin. “Facebook invited to Capitol Hill; Tracking issues, porn and violence spam raise questions from lawmakers” *USA Today* November 18, 2011. p.7B.

settings<sup>119</sup>. Yet, in light of the extremely pro-business attitude evident in the White House consumer privacy guidelines, it seems only fair to judge these efforts as marginal and as drops in the bucket at best.

Overall, my analysis of the White House guidelines illustrates that in the current political context in the United States, little to no protection for users/citizens is offered. To some, this might not be a surprising insight. Yet, looking at the parallels and the overlap between the ideas shaping the official White House document and Facebook's data privacy use policy remains shocking.

At the current moment, we seem to unfortunately be part of a discussion that ties individual agency to technical choices and that disarticulates individual agency from the political context and the larger economic context within which Facebook exists. Making connections to the former would require an investigation of politicians's overall willingness to defend ordinary people's right to protect their PIP against corporate and governmental interest. The latter context would require an inquiry into the economic motivations behind Facebook and would have to take a critical approach towards the increasing commercialization of digital spaces.

Arguably, journalists disagree over their societal function. Nevertheless, the lack of trying to push back against the simplicity and trivial nature of the pro-business Facebook narrative is disappointing. At least in my sample, journalists miss the opportunity to establish the political dimension of PIP. While it is unrealistic to demand from mainstream journalism a coverage that takes into account the complexity and

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<sup>119</sup>Jon Swartz. "Senators request Facebook change; New Feature raises issues with privacy" *USA Today* April 28, 2010 p.3B.

problematic notion of PIP, mainstream journalism should still raise awareness and provide narratives that are more distinguishable from Facebook's PIP narrative.

## Politics of Privacy meet Shareholding Culture

[...] As Facebook turns to Wall Street in the biggest public offering ever by an Internet company, it faces a new, unenviable test: how to keep growing and enriching its hungry new shareholders. The answer lies in what Facebook will be able to do -- and how quickly -- with its crown jewel: its status as an online directory for a good chunk of the human race, with the names, photos, tastes and desires of nearly a billion people. [...] Whether it can spin that data into enough gold to justify a valuation of as much as \$104 billion remains unclear. [...] They need to make the data work more, [...] They need to provide deeper data.<sup>1</sup>

The media buzz about Facebook's IPO in April 2012 was overwhelming. US American Journalists eagerly speculated about the ways in which Wall Street's shareholder culture would change Facebook. Somini Sengupta's article from above summarizes best the assumed consequences of this pivotal moment for both Facebook and its users. In a similar way, Jon Swartz describes PIP as a commodity. According to him, Facebook needs to prove that it can generate revenue without “sharing too much of its members' data with eager marketers and advertisers”<sup>2</sup>. Jeff Chester, executive director of the Center for Digital Democracy, also holds this constellation as “part of the balancing act Facebook has to do”<sup>3</sup>.

Sengupta and O'Brien highlight the pressure Facebook will experience from Wall Street “to profit from its vast trove of data, and also from regulators worldwide over the use of personal information”<sup>4</sup>. Somewhere else Sengupta writes that Facebook confronts an “unenviable test: how to keep growing and enriching its hungry new shareholders”<sup>5</sup>.

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1 Somini Sengupta. “Facebook Test: How to Please the New Faces” *The New York Times* May 15, 2012 Business Section p.1.

2 USA Today May 18, 2012.

3 Quoted in Claire Cain Miller “F.T.C. Said to be near Facebook Privacy Deal” *The New York Times* November, 11 2011.

4 Somini Sengupta and Kevin J. O'brien. “Yes, Facebook Can ID Faces, But Using Them Grows Tricky” *The New York Times* September 22, 2012.

5 Somini Sengupta “Facebook Test: How to Please The New Faces” *The New York Times* May 15, 2012.

Moreover, Sengupta states, “as [Facebook] works to better match ads to people, it has to avoid violating its users' perceived sense of privacy or inviting regulatory scrutiny.” Official Facebook documents, Sengupta quotes in her article, warn about how “legislative and regulatory scrutiny over user privacy may adversely affect [Facebook's] reputation and brand”<sup>6</sup>.

Two years prior to the IPO, Cecilia Kang already pointed at an obvious contradiction. While Facebook promises to “be closed, or restricted” via password protection, it submits to a business model according to which “the more information [Facebook] make[s] available to outside networks, the more monetization [Facebook] ha[s]”<sup>7</sup>. Jesse Kornbluth acknowledges that the intense pressure to exploit hundreds of millions of users has led already to irritation<sup>8</sup>. Finally, the prominent technology writer David Kirkpatrick ascertains:

So far there has been very little resistance among Facebook's users to using their data to target ads to them. But it could be where the privacy challenge becomes the greatest. It's easy to imagine how some error of targeting or other clumsiness could lead to a major ad backlash that sullies the company's reputation<sup>9</sup>.

Through Kirkpatrick's discussion it becomes perfectly clear that Facebook's future does not hinge on the protection of personal information privacy. Instead, Kirkpatrick and Sengupta agree: satisfying the shareholders now is Facebook's central concern for the foreseeable future. PIP, it seems, is fundamentally at odds with the inevitable pressure to monetize Facebook's gigantic amounts of data.

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6 Somini Sengupta. “Facebook Test: How to please the new Faces” *The New York Times* May 15, 2012.

7 Cecilia Kang. “Facebook's test: Translating users to dollars; Trade in information could run up against privacy constraints” *The Washington Post* July 25, 2010.

8 Jesse Kornbluth “How AOL--Aka Facebook 1.0--Blew Its Lead; The MBAs who took over didn't use the service the way members did” *Wall Street Journal* February 8, 2012.

9 Kirkpatrick *The Facebook Effect*. p.268.

Bloggers, oftentimes pitched as counterweight to mainstream journalists, argue similarly. The *Daily Beast's* Dan Lyons writes from a hypothetical Facebook perspective:

The truth is, we have no interest in protecting your privacy, and if you still believe that we do, then you are stupider than we thought, and believe me, we already thought you were pretty stupid. Think about it. The only way our business works is if we can track what you do and sell that information to advertisers. Did you honestly not realize that?

You are not our customer. You are the product that we sell. For us to say we're going to protect you is like the poultry industry promising to create more humane living conditions for chickens. Sure, they say that. But you know they don't mean it.

Same with us. We will never, ever stop trying to pry data out of you. How could we? We're a business. We're doing this to make money. And our investors would like it very much if we can make absolutely as much money as possible. It's simply not in our nature to stop. You know the fable about the scorpion and the frog? Yeah. It's like that.<sup>10</sup>

This brief selection illustrates how the public discourse conceives personal information privacy as an obstacle to Facebook's economic success rather than something that needs particular protection or at least attention, as user interests meet shareholder interests.

At the same time, David Kirkpatrick announces that “Facebook now sits squarely at the center of a fundamental realignment of capitalism [where] increasingly the people are in control”<sup>11</sup>. For a long time now, scholars of communication technology have pointed out how new technologies are typically accompanied by all kinds of revolutionary claims. Raymond Williams for instance states how television was supposed to “bring about” a new world order. Useful for my analysis is the way in which he

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10 Dan Lyons “The Truth about Facebook Privacy” *The Daily Beast* November 30, 2011. Blog can be accessed here: <<http://www.thedailybeast.com/articles/2011/11/30/the-truth-about-facebook-privacy-if-zuckerberg-got-real.html>>

11 David Kirkpatrick *The Facebook Effect* p.263. Throughout this chapter, I will repeatedly focus on Kirkpatrick's book because it is one of the few journalistic accounts that enjoyed Mark Zuckerberg's collaboration.



contextualizes such claims:

For behind all such statements lie some of the most difficult and most unresolved historical and philosophical questions. Yet the questions are not posed by the statements; indeed they are ordinarily masked by them.<sup>12</sup>

Whereas, in the previous chapter, I argued that journalists overlook or ignore the complexity of culture, this chapter shows how they provide a one-dimensional and equally trivializing account of the economy; an understanding, to use Lawrence Grossberg's words, which ignores "the fractured and contradictory truth of contemporary capitalism"<sup>13</sup>. Unlike in the previous chapter, though, I focus on the economic dimension of the PIP discourse and examine more closely Facebook's SEC statements, Facebook's quarterly business reports, and other internal Facebook documents. Moreover, I include in my newspaper sample the *The Wall Street Journal* and *Fortune Magazine* because of their explicit and extensive coverage of Facebook's IPO<sup>14</sup>.

By placing Facebook at the center of an alleged revolution to capitalism, journalists prove unable to disarticulate the ideological connections between technology and societal or economic change. I demonstrate how Kirkpatrick and other journalists perpetuate instead the myth of the technological sublime and render themselves involuntary allies to Facebook's misleading rhetoric. In addition, I discuss Yochai Benkler's *The Wealth of Networks* to argue that some of the prominent scholarly literature on network culture similarly suffers from a trivializing notion of culture and user control.

Overall, this chapter investigates the discursive work necessary to maintain and

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12 Raymond Williams: *Television – Technology and Cultural Form* p.9.

13 Lawrence Grossberg *Cultural Studies in the Future Tense* p.124.

14 Between January 2012 and May 2013 I looked at 14 articles published by *The Wall Street Journal* that addressed referenced privacy, Facebook, and the IPO directly. *Fortune Magazine* published six articles that directly commented on all of these three items.

nourish the idea that Facebook is the “nexus of an ecosystem”<sup>15</sup>. I claim that for journalists, Facebook officials, and some prominent scholars, to argue with Frederic Jameson, the distinction between what counts as cultural and what as economic becomes increasingly blurry and ceases to exist<sup>16</sup>. Altogether lost are the dynamic, yet ordinary, notions of culture that Raymond Williams summarized so lucidly:

A culture is common meanings, the product of a whole people, and offered individual meanings, the product of a man's whole committed personal and social experience. [And these common meanings] are made by living, made and remade, in ways we cannot know in advance<sup>17</sup>.

The discourse on Facebook's self-proclaimed “Hacker Culture” stands out for its failure to contextualize corporate claims and for its ignorance of the ways in which Facebook's business model and actual corporate culture contradicts most of the claims inherent to the Hacker culture myth. Jack Welch and Suzy Welch write shortly before the IPO announcement:

Any day now there's going to be one helluva party at Facebook. And why not? Companies don't go public for a gazillion dollars very often. So party on, Facebook. Just beware the day after. Actually, beware the year after and the year after that. Because once Facebook has its massive liquidity infusion, the company stands to get nailed by something that can hurt a lot more and last a lot longer than a hangover – a change in culture. [...] Oh, come on, you're thinking now, Facebook's managers aren't stupid. They're not going to let the IPO wreak havoc with their winning culture. [...] But a new world order is about to dawn in Palo Alto, one where Wall Street will soon start demanding to know how Facebook plans to spend the company's newly created equity.<sup>18</sup>

Welch and Welch effectively romanticize Facebook's hacker culture prior to the IPO and actually seem eager to protect it from Wall Street's greedy reach. To be fair, there is little

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15 David Kirkpatrick *The Facebook Effect* p.218.

16 For a more thorough discussion of Jameson see Max Haiven “Finance is Capital's Imagination” *Social Text* 29.3 2011. p.95.

17 Raymond Williams “Culture is Ordinary” *Resources of Hope* p.4.

18 Jack and July Welch “Dealing with the morning-after syndrome at Facebook” *Fortune Magazine* 165.4 p.92.

doubt that the Facebook corporate culture of the early days had little to do with what is going on inside Facebook's headquarter today.

Arguably, insane growth and market demands are predictable side effects of an IPO. Karen Ho explains plausibly that with an IPO “the primary mission of corporations is understood to be the increase of their stock prices for the benefit of their 'true owners', the shareholders (that is, to create shareholder value)<sup>19</sup>. Greta Krippner explains that “the notion of 'shareholder value' refers to the idea that the sole purpose of the firm is to return value – in the form of an appreciating share price – to the owners of the company”<sup>20</sup>.

However, drawing an all too sharp line between the social network service prior IPO and Facebook post IPO ignores the evolution of Facebook's corporate culture between 2004 and 2012. The flattening out of Facebook's corporate history in order to pitch the assumed advantages of Facebook's Hacker culture against the grim realities of a publicly traded company perpetuates Zuckerberg's myth that Facebook was built merely “to accomplish a social mission – to make the world more open and connected”<sup>21</sup>.

Dan Primack offers another post IPO example, for this problematic juxtapositioning of Hacker Culture and Wall Street culture. He writes:

Do you remember Facebook before the IPO? It was the Fonz, somehow straddling the invisible line between accessible and unobtainable. Then came May 18, and Facebook suddenly morphed into Potsie – more style than substance, and just a bit creepy. In short, uncool.<sup>22</sup>

To Primack, the Hacker Way stands for coolness, authenticity, and some enigmatic attraction that suddenly disappeared the moment Facebook went public. Primack's

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19 Karen Ho *Liquidated* p.3.

20 Greta Krippner *Capitalizing on Crisis* p.7.

21 Ibid.

22 Dan Primack “How Facebook killed the big IPO” *Fortune Magazine* 166.6 p.72.

admiration culminates in his observation that Facebook was not creepy prior to the IPO, an assertion that practically ignores everything I criticized in the first chapter of this dissertation.

Shayndi Raice from *The Wall Street Journal* pursues a similarly trivializing approach in which she wonders whether the recent IPO has hurt Facebook's culture. While Raice honors Facebook's achievements, she ignores Facebook's controversial history:

In just eight years, Facebook has become the world's social bazaar, where friends gossip, play games and swap 250 million photos per day. It has also emerged as a potent political tool, helping to topple regimes across the Middle East last year. But for all its success, the question remains just how Facebook will manage its growth into a mature, global business, keeping both advertisers and subscribers happy while balancing demands of privacy and profits. The filing left a few clues that Facebook's founder, 27-year-old Mark Zuckerberg, is worried about how wealth and public scrutiny may change the company's culture.<sup>23</sup>

From Raice's article we get the impression that Facebook was once a perfect company, whose CEO “has long been fearful of the damage an IPO could do to the company's culture [and who] wants employees focused on making great products, not the stock price.”<sup>24</sup> While it might factually be true that Zuckerberg feared the pressures to accompany the IPO, Raice seems to say that before 2012, Facebook somehow pursued a more user-friendly approach to PIP.

Nowhere is the celebration of the Hacker Way more obvious than in Heft et al. from *Fortune Magazine*.

Ever since he hatched the social network in his Harvard dorm room in 2004, Zuckerberg has fought to preserve the so-called hacker ethos that is at the root of

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23 Shayndi Raice “Facebook Sets Historic IPO” *The Wall Street Journal* February 2, 2012

24 Ibid.

how Facebook really operates. He's largely succeeded: Facebook remains a place where engineers stay up all night to mock up new features. It's a place where managers will scrap the site's most sacred elements, like the traditional profile page, if there's a potential for something better. It's a place where the best ideas become products whether they were dreamed up by a low intern or Zuck himself. It's a place where everyone takes to heart the dictates written on posters plastered all over campus: DONE IS BETTER THAN PERFECT and MOVE FAST. BREAK THINGS. [...] But becoming a publicly traded company may be the biggest threat to the culture of reinvention that has made Facebook a success so far. Countless other startups were so transformed by their IPOs, through the pressures of quarterly earnings, the sudden employee wealth, and the sheer size, that they lost their edge.<sup>25</sup>

The authors echo Raice and ask whether this clash will “at once chip away at [Facebook's] essence and spirit?”<sup>26</sup>

The harsh reality is that we have little reason to share Helft's et al. celebratory diagnosis, that “at Facebook, the Hacker Way is capitalized”<sup>27</sup>. The next passages contextualize Facebook's Hacker Way and show that even before the IPO, Facebook's internal culture was far from being a meritocracy. If anything, the IPO has only further cemented already existing corporate hierarchies. That is why, treating the Hacker ethos as something that exists outside of capitalistic motivations or even as counterweight to them gets some of Facebook's story backwards. It ignores the ways in which Facebook had integrated elements of hacking subculture into the logic of capital generation long before it went public.

Former Facebook employee Katherine Losse explains in her memoir how the Hacker way has never described an alternative meritocratic system outside of capitalist interests. Instead, she ascertains:

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25 Helft et al. “Inside Facebook” *Fortune Magazine* 165.4 2012

26 Helft et al.

27 Ibid.

In the ideology of the new Silicon Valley, work was for the owned. Play was for the owners. There was a fundamental capitalism at work: While they abhorred the idea of being a wage slave, the young men of Silicon Valley were not trying to tear down the capitalist system. They were trying to become its new masters.<sup>28</sup>

Furthermore, while the early stages of Facebook seem to believably result from the hard work of a few people including Zuckerberg, to whom the Hacker ethos did seem to apply, Helft and his co-authors leave out the majority of the other 6,337<sup>29</sup> Facebook employees. Helft et al. exclusively justify their admiration for the Hacker ethos with respect to the engineering side of Facebook's corporate structure and, thus, ignore all the other employees, for instance in customer relations, who make a social network service of Facebook's scale possible.

However, a rich body of critical ethnographic work on tech laborers in Silicon Valley has long argued how local labor conditions favor the few and exploit the many<sup>30</sup>. As Facebook's 51<sup>st</sup> employee, Katherine Losse's memoir provides a more realistic picture of what the working conditions for the many non-technical employees at Facebook were like. She writes:

Customer-support employees were hourly rather than salaried workers and thus could not be called on twenty-four hours a day, but we were nonetheless expected to remain alert to any critical emails and available to drop other plans and help with any last-minute testing or crisis response. We did not have a non-work life: Life was work and work was life.<sup>31</sup>

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28 Katherine Losse *The Boy Kings* p.54.

29 <http://newsroom.fb.com/Key-Facts> as of February 6, 2014.

30 Douglas' *Microserfs* presents a similar story of exploitation focussing on Microsoft workers. Tiziana Terranova in her article *Free Labor: Producing Culture for the Digital Economy* develops an equally compelling, albeit more general and theoretical, argument about the state of labor in our digital age. Katherine Losse's memoir *The Boy Kings* provides probably the most compelling insight into the workings of Facebook. Naturally and because of the particular limitations that come with the genre of the memoir, Losse's observations need to be treated with care. However, in her book she manages to convey the tonality of Facebook and oftentimes provides the critical eye that was missing from David Kirkpatrick's *The Facebook Effect*.

31 Katherine Losse *The Boy Kings* p.74.

Living within the mile meant you were all-in, willing to compromise all other aspects of your life in order to remain fully available to Facebook. Some employees still chose to live in San Francisco, which gave them the option of spending time with non-Facebook employees, but that seemed like a suspect choice to those of us within the mile, whose lives revolved around the company.<sup>32</sup>

Somewhere else in her book, Losse recalls her own shocked surprise when she learned that customer-support employees were not only paid a third of the engineers' salary, but that they were also not eligible for the \$600 rent subsidy that Facebook offered to anyone living within a mile of the company's campus. Pretty quickly, Losse gives us a sense that Facebook has never been the meritocratic organization many journalists seem to believe it was.

Losse makes transparent the contradictions inherent to Zuckerberg's description of "Hacker culture" as being "extremely open and meritocratic"<sup>33</sup>. He ascertains:

History tells us that systems are most fairly governed when there is an open and transparent dialogue between the people who make decisions and this who are affected by them. We believe history will one day show that this principle holds true for companies as well, and we're looking [forward] to moving in this direction with you.<sup>34</sup>

Zuckerberg keenly wants us to believe that the Hacker way describes a corporate culture that commits to the concepts of transparency and openness. What he implies is that Facebook is a company governed fairly, too.

A group that also escapes the journalists's attention entirely and that certainly has

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32 Ibid. p.79.

33 The letter by Mark Zuckerberg must be viewed as Facebook's mission statement. In an unusual effort, Zuckerberg uses the letter to speak to multiple stakeholders – Facebook user, journalists, future shareholders. The letter was part of the S1 statement that every company that goes public has to file with the SEC (pp.67-69). In the letter Zuckerberg outlines Facebook's social, cultural, political, and economic vision. This quote is from page 69. The document can be accessed here: <<http://investor.fb.com/secfiling.cfm?filingID=1193125-12-34517&CIK=1326801>>

34 Quoted in David Kirkpatrick: *The Facebook Effect* p. 309. Zuckerberg issued this statement in response to a user initiative that lamented unannounced changes to Facebook's terms of services in 2009.

never benefited from the Hacker ethos, while arguably making the social network service possible in the first place, are the ordinary Facebook users. It is important to remember that many of Facebook's operations fundamentally depend on the free labor of its users.

Communication scholar Nicole S. Cohen highlights that

[u]nderstanding Facebook's reliance on free or immaterial labor theoretically situates the site within the broader development of capitalism's ongoing attempts to harness general intellect to bring it under the logic of accumulation.<sup>35</sup>

Facebook is just one example that illustrates that “low-cost and no-cost content is becoming the norm”<sup>36</sup>. Cohen offers yet another reason to completely debunk

Zuckerberg's notion of Facebook being separate and outside of an economic rational.

With regard to the relevance of free labor for Facebook's business model, critical media scholar Tiziana Terranova provides the most compelling theoretical analysis. She states:

The provision of 'free labor' [...] is a fundamental moment in the creation of value in the digital economies. [...]. Free labor is the moment where this knowledgeable [voluntary] consumption of culture is translated into productive activities that are pleurably embraced and at the same time shamelessly exploited.<sup>37</sup>

Burston et al. offer yet another analysis of the ways in which digital technologies such as Facebook “repurpose” labor to create the “prosumer”<sup>38</sup> - individuals that are

simultaneously involved in the production and consumption of culture. The Italian

Marxists Cristina Morini and Andrea Fumugalli explain how the production of value

today “directly results from the use of the relational, emotional and cognitive faculties of

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35 Nicole S. Cohen “The Valorization of Surveillance” *Democratic Communiqué* 22.1 2008 p.10.

36 David Carr “Media Companies Cash In” *The New York Times* February 13, 2012.

37 Tiziana Terranova “Free Labor: Producing Culture for the Digital Economy” in Laurie Ouellette *The Media Studies Reader* p.333.

38 Jonathan Burston, Nick Dyer-Witford, and Alison Hearn “Digital labour: workers, authors, citizens” *ephemera* 10.3/4 (2010). p.215.



human beings”<sup>39</sup>.

Hesmondhalgh usefully cautions us not to ignore the fact that “most cultural production in history has been unpaid, and that scholars of digital labour are well advised to refrain from an overuse of the concept of exploitation, which in the Marxian sense is a historical, explanatory, and ethical concept that revolves around certain notions of class, labour and compulsion”<sup>40</sup>. For him, the creative labour on Facebook – the uploading of pictures, video, music, and be-friending – marks some form of exploitation but can “hardly be a priority” in the struggle against unfair labor conditions. Instead, to Hesmondhalgh, the struggle for paid internships, for instance, should be prioritized as it prevents working class young people from upward social mobility and cements class hierarchies.

Hesmondhalgh is right, Facebook is for the most of its users entertaining, for some incredibly informative, and for others it helps to maintain the contact to friends across vast distances. What justifies the use of the exploitation metaphor, is the fact that in its current version, Facebook, uses the appeal of all the aforementioned benefits of digital networking to generate profits.

Burston et al. furthermore highlight that “labour [under conditions of digital capitalism] can no longer only be seen as a factor in industrial relations, or as a subject of interest exclusive to political economists; it must also be understood as a larger category with which to analyse many different facets of daily life”<sup>41</sup>. Facebook then, emerges as

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39 Cristina Morini and Andrea Fumagalli “Life put to work” *ephemera* 10.3/4 (2010) p.235.

40 David Hesmondhalgh “User-generated content, free labor, and the cultural industries” *ephemera* 10.3/4 (2010) p.274.

41 Jonathan Burston, Nick Dyer-Witheford, and Alison Hearn “Digital labour: workers, authors, citizens” *ephemera* 10.3/4 (2010). p.215.

one venue through which the principles of labour exploitation under conditions of digital capitalism become visible and through which digital capitalism itself can be imagined.

Losse's Facebook experience is captured by the idea that our lives are put to work. For those, who literally live and work within the confines of Facebook, the Fordist distinction between work and leisure, professional commitment and private fun seems to have ceased to exist. On a more general level, too, Facebook's enormous value seems to be based to a large extent on the 1.2 billion users, who contribute for free their own subjectivity to the production of value.

Moreover, the unquestioned admiration for the Hacker ethos ignores more traditional forms of labor exploitation as well. For instance, the outsourced workers that mine Facebook's data to implement its decency standards and fulfill other data management chores remain equally invisible. For example, Adrian Chen reports on the California-based outsourcing firm *oDesk*, which hires people from all over the third world to moderate content for Facebook<sup>42</sup>. These shadow workers earn a meager maximum of \$4 per day. To them the idea of earning Facebook stock will always remain a fantasy.

Allan Sloan comments about the ways in which Facebook's future stock structure, is reason enough to seriously doubt the validity of the Hacker ethos's meritocracy claim.

Hypocrisy: A key selling point of social media is that it's a democratizing force - everyone's on an equal footing, yadda, yadda, yadda. But Facebook's stock structure, like Google's, is far from democratic. There's one class of voting stock for the public peasants, and a higher voting class that ensures control for the elite insiders. Everyone's equal in theory. Just not in practice.<sup>43</sup>

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42 Adrian Chen "Inside Facebook's Outsourced Anti-Porn and Gore Brigade"  
<<http://gawker.com/5885714/inside-facebooks-outsourced-anti-porn-and-gore-brigade-where-camel-toes-are-more-offensive-than-crushed-heads>>

43 Sloan Allen: "Facebook's IPO: A Study in Arrogance" *Washington Post* February 14, 2012

Jack and Suzy Welch highlight yet another irony of the hacker ethos:

After its IPO, Facebook is going to have two classes of citizens [...]. Some of its 3,000 or employees will have significant riches in the hand. Newer hires, though, will mostly have options in the bush.<sup>44</sup>

I include these critical comments here not so much to participate in the rather polemical debate over whether all Facebook users or employees should have received a fair financial compensation in the context of the IPO<sup>45</sup>. Instead, I show how the “capitalizing of the Hacker Way” is not a success story but a rhetorical feature to mask the ways in which new tech companies produce value. I argue that pitching Facebook's corporate culture against Wall Street is misleading – at least as far as questions of labor are concerned – as it helps to construct a false villain versus victim binary.

In light of Facebook's revolutionary claims about being a meritocratic, an open and transparent, and a more democratic corporation, the actual corporate reality pokes huge wholes into this rhetoric. For example, Zuckerberg has managed to tie the “Hacker culture” to a quasi “cult of Zuck”, which Fortune Magazine describes as “downright Jobsian in its intensity”<sup>46</sup>. As Jeffrey Sonnenfeld states:

Zuckerberg's power is almost total. Despite selling more than \$1 billion of stock and having 28 percent of the equity, he has maneuvered classified shares to maintain 57 percent control of Facebook voting stock - expected to be worth \$28 billion.<sup>47</sup>

As most critical technology scholars know full well, Steve Jobs – the long-time CEO of Apple – much like Microsoft's former CEO Bill Gates – had a reputation for being a

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44 Jack Welch and Suzy Welch: “Dealing with the morning-after syndrome at Facebook” *Fortune* 3/19/2012 Vol. 165 Issue 4 p.92.

45 See for example Adam Ostrow “Are Facebook Application Users Worth \$1.40 a Piece?” <http://mashable.com/2008/01/16/snap-interactive/> *Mashable.com* January 16, 2008.

46 Helft et al. “Inside Facebook” *Fortune*.

47 Jeffrey Sonnenfeld “Facebook's Year of the Dragon” *The Washington Post* May 20, 2012.

ruthless business man, brilliant at forming a brand rather than the technology genius that he is celebrated for publicly. Tellingly, Apple experiences increasing scrutiny for the merciless exploitation of its employees<sup>48</sup>. Facebook seems to duplicate this story as the celebration of its “Hacker Culture” is yet another example in the long list of rhetorical tricks to mask the exploitative structure of labor conditions in Silicon Valley.

Journalists contribute to this masking work, too, albeit not always intentional. It would be unfair to say that business journalists actively perpetuate Facebook's rhetoric against their own knowledge of the troubled labor conditions in Silicon Valley. However, Jeffrey Sonnenfeld's article provides evidence for how this masking work is an inevitable side effect of the peculiar *überemphasis* on the Facebook CEO in the context of the IPO. Part of the work that Sonnenfeld does, is that he pitches the interests of the super-hero CEO Zuckerberg against the greedy interests of Wall Street, as if these are entirely different. Sonnenfeld writes:

Investing in the company, after all, means investing in founder Mark Zuckerberg - the 28-year-old, hoodie-draped "face" of Facebook - while standard good-governance practices are shelved.

Ominously, 2012 is the Chinese year of the dragon. Studies of business folk heroes remind us that, like authentic national and spiritual heroes, those who are self-styled redeemers or dragon-slayers in their early careers can grow to resemble dragons themselves by late career.<sup>49</sup>

While later in the article, Sonnenfeld gestures towards the many privacy issues Zuckerberg is involved in, Sonnenfeld is mainly concerned with how to reconcile the image of the Facebook hero with the pressures unfolding from the IPO. In fact, his article

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48 Forms of labor exploitation vary of course widely. In the design and marketing as well as the developing and engineering departments, employees suffer from the enormous pressure to increase sales and to release products ever more quickly and with a larger profit margin. Meanwhile, people employed in the production facilities abroad suffer from quotas and other inhumane labor conditions.

49 Jeffrey Sonnenfeld: “Facebook's year of the dragon” *The Washington Post* May 20, 2012

provides instructions on how to best manage the CEO genius while making sure that the company meets Wall Street's expectations. Sonnenfeld concludes:

The right answer is for a board to develop governance practices that show they know how to partner with the genius they are privileged to have among them. The boards of Microsoft, Amazon, Dell, Starbucks and, ultimately, Apple figured out how to work with Bill Gates, Jeff Bezos, Michael Dell, Howard Schultz and Steve Jobs. In fact, some firms, such as Intel, have shown that they can collaborate with maverick leaders and even groom generations of innovative leaders. These boards, having forged alignment between the needs of their founder CEOs and their shareholders, offer lessons for Facebook's board and investors.<sup>50</sup>

Another way in which journalists contribute to the myth that Wall Street somehow caused Facebook to abandon its noble mission, is related to the false impression that Facebook merely chose to go to Wall Street. Jon Swartz quotes an analyst who argues: "Going public is one of the worst things that a tech company can do," [...]. An IPO 'exposes' (Facebook) to scrutiny that they did not have"<sup>51</sup>. This misleading statement fails to mention that the government legally requires companies to go public once they have reached more than 500 investors and assets of more than \$10 million<sup>52</sup>. Blogger Michael Neubarth explains the disadvantages of going public:

Why do companies try so hard to keep their business process automation improvements a secret? Automating business processes gives these firms a substantial competitive edge—enabling them to process transactions faster and more reliably, increase productivity, lower costs, get to market faster, serve customers better, and more. These companies don't want their competitors to know how they have gained these advantages. The competitors, meanwhile, can be surprised and shocked when they discover that a key competitor has gained significant advantages by automating its business processes.<sup>53</sup>

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50 Ibid.

51 Quoted in Swartz, Jon *USA Today* May 18, 2012

52 In all fairness, other journalists do include this information. Kang and Tsukayama: "Facebook files for stock sale" in the *Washington Post*. Even Jon Swartz himself, together with Scott Martin includes this important detail in his piece: "Facebook files for massive IPO" in *USA Today*

53 Michael Barth "Secret to Success: A competitive Edge with Enterprise Content Management" *business2community* October 3, 2013. <<http://www.business2community.com/content-marketing/secret->

In theory, at least, going public can help to level the playing field in that it supposedly makes more transparent the business activities of companies. In theory, going public provides journalists, shareholders, but also ordinary people with business sensitive information about companies that allow intervention. Therefore, one could reasonably argue that, in an ironic twist, Facebook's IPO has generated more transparency and now holds the corporation more accountable to its own ideals of openness and radical transparency. The reality of going public has, of course, produced mainly business numbers for the SEC and Facebook's shareholders and has contributed very little to truly level the playing field for Facebook's ordinary users.

Evidently, policy makers understand the theoretical business disadvantage for companies that results from going public. That is why, as another piece of evidence for Washington's overly business friendly attitudes, congress passed a law that increased this outside-shareholder limit fourfold and, thus, provided companies more space and time to pursue their businesses in the shadows of secrecy<sup>54</sup>. For Facebook, however, this legislation was passed few months too late.

The celebration of Facebook's Hacker ethos as the antithesis to Wall Street's shareholder culture is part of a more fundamental problem about the ways in which business journalists report about the economy. In *Cultural Studies in the Future Tense*, Lawrence Grossberg remarks that we tend to see the economy as *one*, rather than a discursive formation of many, oftentimes contradictory, elements. For the journalists in my sample, there is only *one* digital economy and this economy is, in turn, threatened by

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54 Dan Primack "How Facebook killed the big IPO" October 8, 2012 *Fortune*

the greedy and equally monolithic Wall Street.

However, breaking down the actual number of parties involved in Facebook's IPO, reveals a much more complicated and diverse set actors and institutions, each with their own historical and economic pathway. The journalists in my sample ignore the complicated relationship between so called “angel investors” and Wall Street. Angel investors are wealthy individuals that invest in start-ups and receive compensation in the form of equity. Angel investors are one of the principle sources for funding in Silicon Valley and count as accredited investors for the SEC. Peter Thiel is probably the most widely known angel investor involved in the early stages of the Facebook's evolution.

In addition, there is a venture capital infrastructure located in San Francisco, which is crucially important to tech start ups, but that remains geographically separate from yet structurally interconnected with Wall Street. Zizi Papacharissi, a leading scholar of network culture, argues that “venture capital as an investment strategy to this day presents the dominant mode of embracing technologically convergent ventures within capitalist infrastructure, rendering them a subspecies of industrial capitalism”<sup>55</sup>. She explains that “the growth of venture capitalism as an investment strategy is associated with the financing of Silicon Valley start-ups in the seventies”<sup>56</sup>.

At the same time, as John Cassidy points out, Wall Street banks have played an ever smaller role in the financing of start ups – for Goldman Sachs corporate finance accounted for only 13 percent of revenue for the time July to September of 2010<sup>57</sup>. In the case of Facebook, most of the coverage on the IPO simply ignores the fact that Wall

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55 Zizi Papacharissi *A Private Sphere*. p.56.

56 Ibid.

57 John Cassidy: “What good is Wall Street” *The New Yorker* November 29, 2010.

Street actors such as JP Morgan and Goldman Sachs joined other investors fairly late in the evolution of Facebook. It is again John Cassidy, who highlights that during Facebook's early history, Zuckerberg relied on local Silicon Valley venture capitalists such as Thiel, rather than Wall Street actors, to finance the social network service<sup>58</sup>.

In other words, part of the complicated relationship between Wall Street and Silicon Valley has to do with the fact that today, Wall Street banks and technology capital investment are largely separate industries. What all of the different investors have in common though, is that each in their own way, they interpolate start-ups into the cycle of finance capitalism. Furthermore, all of these actors are part of the macro-economic changes that characterize the US American economy.

Interestingly, venture capitalism in Silicon Valley emerges and claims center-stage at the very same time that Greta R. Krippner and Karen Ho diagnose the macro-economic shift towards finance as the central pillar of the United States economy. Facing political, economic, and social legitimization crises, Krippner explains, how private capital and finance took over critical governmental functions<sup>59</sup>. Moreover, Ho exemplifies how the nature of corporations shifted from social institutions to shareholder institutions.

A few journalists attempt to struggle with a more heterogenous notion of our economy and a more complex relationship between Wall Street and the other economies. James Surowieckie, for example, has observed “a significant shift in power from shareholders to entrepreneurs and managers, one that may make the stock market less

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58 John Cassidy: “Me Media” *The New Yorker* May 15, 2006.

59 Krippner's *Capitalizing on Crisis. The Political Origins of the Rise of Finance* is a breath-taking endeavor into the political dimension of Finance capitalism which presents finance as then convenient solution to truly systemic issues. Every journalists investigating Facebook's IPO is well advised to read the book since we are currently at a similar conjuncture. Today, many among the post-privacy advocates argue that the government is equally incapable of solving the issues we face.



central to American capitalism”<sup>60</sup>. His argument is noteworthy because it acknowledges that Wall Street's role during US American economic history is itself a discursive formation, is dynamic and contradictory. Unfortunately Surowieckie presents this shift as part of a revolution and radical transformation rather than a gradual change, a process of contradictions, and set backs<sup>61</sup>.

Moreover, my analysis provides little evidence to support Surowieckie's claim that Wall Street's hegemonic function has come to an end. As I suggest above, its role might be more complicated than many observers acknowledge, yet Facebook's IPO suggests that Steve Fraser's observation about the turn of the last millennium is still valid: “Wall Street's ideological, political, and cultural influence penetrat[es] more deeply into the fiber of the nation than ever before”<sup>62</sup>. If anything, Facebook's IPO is another case study for why “finance today is more integrated into everyday life and more expansively global than ever before”<sup>63</sup>.

There is absolutely no reason to believe that any of the cultural capital amassed by the US American financial industry is lost. To the contrary, Simon Johnson is right, the prevailing ideology claims that “what was good for Wall Street was good for the country”<sup>64</sup>. Counter to all populist claims, both Congress and the Obama administration

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60 James Surowiecki: “Unequal Shares” *The New Yorker* May 28, 2012

61 Karen Ho has suggested that the peculiar distribution of shares, which provides Zuckerberg absolute power over Facebook, can be interpreted as one piece of evidence for Surowieckie's theory. Unfortunately, the current scope and emphasis of this chapter does not provide the space to begin such a project. That is why it must suffice to remind the reader of the work that needs to be done in order to investigate the ways in which Facebook's shareholder structure interacts with Wall Street's demands and interests. My criticism of Surowieckie's reliance on revolutionary language remains standing but Karen Ho usefully encourages us to take his broader claim of a shifting relationship between technology CEO's such as Zuckerberg and Wall Street more seriously.

62 Steve Fraser: *Every man a speculator: A history of Wall Street in American Life* p.615.

63 Max Haiver: *Finance as Capital's Imagination* p.94.

64 Simon Johnson: “The Quite Coup” *The Atlantic* May 2009 p.5.

continue to support Wall Street and have missed multiple opportunities to significantly curtail its power. The fact that Obama has publicly announced that “[t]here is no dividing line between Wall Street and Main Street. We will rise or we will fall together as a nation”<sup>65</sup> only further proves to the point. It seems reasonable to argue that Facebook’s IPO provides the Wall Street – Washington corridor new points of entry into our private homes, our mobile devices, and our relationships.

Again, I criticize business journalists for their failure to report and think outside of a particularly narrow context that *überemphasizes* the juxtaposition between Facebook’s Hacker Ethos and a presumably monolithic Wall Street shareholder culture. It is therefore quite telling, that Eric Lindemann, a digital signal processing engineer and not a professional journalist, added a more nuanced understanding of the economic possibilities under finance capitalism at the digital age.

He insists, in a letter to the *New York Times*, on the possibility that “it’s probably never been easier to build a nonprofit communication infrastructure”, which is not built on the need to “compromise privacy for profit”<sup>66</sup>. His statement is so remarkable because it does not simply dismiss social network sites as always already caught up in the process of user exploitation and data trading, but looks beyond the IPO hype to point out the revolutionary potential of technology (without actually ignoring the “irony of technology” as described by Susan Douglas).

By contrast, journalists continue to be preoccupied with the discussion of the various IPO effects on the social network service. Somini Sengupta for instance observes,

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65 Quoted in John Cassidy “What good is Wall Street” *The New Yorker* 2010 p2.

66 New York Times, May 27, 2012 “Sunday Dialogue: Online Profits and Privacy” Eric Lindemann

that Facebook's new search function “is plainly designed with an eye toward profits”, evidently with some success since “news of the new search tool offered a modest lift to Facebook shares”<sup>67</sup>. On the few occasions that commentators take a more critical approach to Facebook, they get lost in the details of the IPO at the expense of a larger critique of the kind that Lindemann had in mind. For example, former Wall Street analyst Barry Ritzhold observes how Facebook's reported 845 monthly active users (called MAUs) and its 483 million Daily Active Users (DAUs) are made up metrics that in the latter case include anyone who has clicked on a “like” button anywhere in the web<sup>68</sup>.

Another theme to the journalistic coverage around the IPO portrays Facebook as a monolithic force, able to single-handedly changing the economy at large. Zachary Karabell's comments present an illustrative case in point:

In a week when the world is being pulled back into another chapter of this multiyear financial crisis, the emergence of Facebook as a public company offers some light that the future holds possibility that the problems of the past cannot and will not quash. In a week when the ancient cradle of Western Civilization, Greece, seems to imperil the prosperity of the modern West, Facebook's golly-gee optimism tinged with greed, a dash of naivete, and a bountiful dose of hubris and hope that the world can be made anew and better, is something to celebrate and support.<sup>69</sup>

Karabell bestows Facebook with the power to save the imagined monolith that is our economy. Others claim that Facebook's “mega-offering signals a seminal event in the Internet's maturation as a fundamental cog in the world economy”<sup>70</sup> or propose that

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67 Somini Sengupta: “Facebook unveils a New Search Tool” *New York Times Bits* January 15, 2013.

68 Barry Ritholtz: “What's Facebook worth? Much less than advertised” *The Washington Post* February 12, 2012 p G06.

69 Zachary Karabell “Don't De-friend Facebook Yet” *The Daily Beast* May 19, 2012.  
<<http://www.thedailybeast.com/articles/2012/05/19/don-t-de-friend-facebook-yet-it-s-ipo-might-not-mean-trouble-ahead.html>>

70 Dave Morin, CEO of Path, a social network of 3 million and a former Facebook executive quoted in Jon Swartz: “Debut has investors at edge of their seats” *USA Today* May 18, 2012.

Facebook “is transforming giant sectors of the economy, such as entertainment, media, and retail”<sup>71</sup>. David Kirkpatrick goes as far as to announce that “Facebook now sits squarely at the center of a fundamental realignment of capitalism [where] increasingly the people are in control”<sup>72</sup>.

In its annual 2012 report, Facebook claims to be the harbinger for a bright economic future:

We can help connect the next five billion people. Over the next five to ten years, most people with feature phones will get smart phones. Some of them will get smart phones just so they can use Facebook to stay connected with family and friends. We feel it is a great opportunity--as well as our responsibility--to help everyone in the world get connected and join the modern knowledge economy. We can establish Facebook as one of the great economic engines of our time. Small businesses will be able to acquire new customers and build deeper relationships than ever before. Great brands will be better able to tell their stories and build meaningful connections with consumers. E-commerce services will be able to sell products inline as millions of people discuss them. Developers will have the tools to remake every product category and deliver new experiences to people everywhere.<sup>73</sup>

The report presents Facebook as crucial enabler for people to participate in the modern knowledge economy. More dramatically yet, it describes Facebook as a “great economic engine of our time”. Cheryl Sandberg, in a presentation at the DLD conference in Europe in 2012, reiterated this message. While facing serious criticism in the more pro-PIP minded European context, Sandberg countered Facebook critics by explaining that Facebook is “not just posts and pictures and the fun things with friends, but this is really serious stuff. [...] This is about growth, this is about jobs and empowering people.”<sup>74</sup>

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71 Helft et al. “Inside Facebook” 2012.

72 David Kirkpatrick *The Facebook Effect* p.263.

73 Mark Zuckerberg in Form 10K of the 2012 ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

74 Liz Gannes “Sheryl Sandberg: Social Media Helps Drive the Global Economy” *AllThingsD* January 24, 2012 <<http://allthingsd.com/20120124/sheryl-sandberg-social-media-helps-drive-the-global-economy/>>

Sandberg facilitates not only the idea that Facebook proposes a promising business idea in otherwise turbulent economic times, but she also threatened Facebook skeptics with today's all powerful argument: if you are against us you loose valuable jobs. For a company with only 6,337 employees such a threat is a bold move. It remains entirely unclear to what extent Facebook has helped to create meaningful jobs that include benefits and pay decent wages on a broad scale. Facebook officials simply assume that “the very nature of economic activity is changing, in a process of the culturization, informatization, and digitization of the economy”<sup>75</sup>. Scrutinizing some of Facebook's own claims, however, contextualizes this “self-reflexive and self-productive”<sup>76</sup> discourse apparatus.

Over the last decades, technology companies have fulfilled the role of an alleged savior of *the* economy more so than any other branch of the economy. Gilbert Rodman, who has looked at the earlier millennial debates about the power of the Internet, explains how the NASDAQ “in itself functions as a benchmark for economic health and hope especially in otherwise economically bleak time”<sup>77</sup>. Marxist geographer David Harvey places the faith in technology in an even broader ideological context:

Communication corporations thrive in an ideological environment that believes that entrepreneurial common sense relies on technological innovation driven by fierce competition and, in turn, the 'fetish belief that there is a technological fix for each and every problem'.<sup>78</sup>

Moreover, Karen Ho insists, claims to create jobs in light of a current IPO are hollow promises. According to the shareholder logic, which now shapes Facebook's

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75 Lawrence Grossberg *The Future of Cultural Studies* p.124.

76 Ibid.

77 Gilbert Rodman “Neteffect” p.14.

78 David Harvey: *A Brief History of Neoliberalism*. p.68.

business decisions, the company will go through a “complete divorce of what is perceived as best interest of the corporation from the interests of most employees”. Instead, it will become a place where “employees often no longer benefit at all (or even suffer) when the corporation makes a profit”<sup>79</sup>.

David Kirkpatrick reminds us that Facebook's platform market is a “winner-take-all market”. A platform market describes a market condition according to which one institution, in this case Facebook, provides the infrastructure for many other actors to participate in the digital economy. That is why Facebook defines itself as a critical enabler. The truth about Facebook's altruistic claim is that all business related to Facebook is Facebook's business – the profit crumbs left to third parties are little else but a distraction from Facebook's own monopoly-like status. Hence, Nicole S. Cohen correctly argues that “Facebook [...] has a tendency toward capital accumulation and penetrative commodification rather than revolutionary re-distribution of wealth and control”<sup>80</sup>.

In light of these broader observations, I concur with Julie Cohen's diagnosis that Facebook has successfully figured out how to capitalize and monetize network culture. It understands that accessibility today relies on participation and the sharing of information about one self. It is important that the motivation for participation exceeds economic reasoning and, instead, has to do with the fact that Facebook provides “a ready, convenient, and entertaining way of enriching, extending, and preserving our connections with others”<sup>81</sup>. Consequently, at stake in the discussion of the PIP of Facebook users is an

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79 Karen Ho: *Liquidated*. p.3.

80 Nicole S. Cohen “The Valorization of Surveillance” *Democratic Communiqué* 22.1 2008 p.7.

81 Mark Andrejevic “Social Network Exploitation” in Zizi Papacharissi *A Networked Self* 2012:88.

understanding of the intersectionality of the political and economic dimension of personal information privacy.

Radical transparency and post-privacy advocates, who embrace openness and frictionless sharing, ignore the ways in which these principles automatically lead to more exploitation and to the capitalization of the pleasures associated with socializing online. What is needed, instead, is a reminder that PIP at the current media conjuncture is both a political *and* an economic statement (as if these could ever be neatly separated), with which users can better understand their own role and position within the information ecosystem to which they crucially contribute.

#### How Facebook negotiates its relationship to Wall Street's shareholder culture

Mark Zuckerberg insists that the social network site was found on a distinctly non-commercial premiss. For him, it has to be seen separately from all things business. In an interview with journalist Jose Antonio Vargas, Zuckerberg recalls a conversation with friends about the idea for Facebook:

'Isn't it obvious that everyone was going to be on the internet? Isn't it, like, inevitable that there would be a huge social network of people?' It was something that we expected to happen. The thing that's been really surprising about the evolution of Facebook is – I think then and I think now – that if we didn't do this someone else would have done it.<sup>82</sup>

As part of the S1 document, required by the SEC, Zuckerberg repeated this claim and stressed that “Facebook was not originally created a company”<sup>83</sup>. He has since restated this claim in various quarterly reports, identifying a distinct Facebook culture that is not all about business<sup>84</sup>. To Zuckerberg, Facebook is a neutral technology; a tool that was an

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82 Jose Antonio Vargas “The Face of Facebook” *The New Yorker* 2010.

83 Form S-1 REGISTRATION STATEMENT Under The Securities Act of 1933 p. 67.

84 “Our culture also prioritizes user growth and engagement over short-term financial results” (from

inevitable part of the successful evolution of the internet and a tool that simply had to evolve the way it did without any economic rational behind. To him, it seems as if Facebook is indeed just a technology to make the world a better, more honest, open, and transparent place<sup>85</sup>.

The point here is not to dispute the truth behind Zuckerberg's assertion that for him, "money might have never been the top priority"<sup>86</sup>. It seems only reasonable to conclude that for a son from an upper middle class east coast background, monetary compensation never needed to be the primary motivation. Instead, the point of the argument is to show that despite Zuckerberg's lofty words, the history of communication technology provides ample examples illustrating that "technological reasoning and economic reasoning are often inseparable"<sup>87</sup>. The point is to show that as our capitalistic economy is not outside of culture or society, neither is Facebook. Instead, as Gibson-Graham argue, capitalism is a structural formation, that Facebook is part of. Therefore, both Facebook as well as capitalism are distinctly inside society, not "outside"<sup>88</sup> of it.

Questions of PIP have historically described an important dimension of this intersectional understanding of the relationship between technology and the economy. For example, Samuel D. Warren and Louis D. Brandeis highlight the close relationship between technology, economic reasoning, and perceived threats to personal information privacy for the people who have lived in 1890. Their now pivotal essay states:

The intensity and complexity of life, attendant upon advancing civilization, have

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Quarterly Report Q 3 2012)

85 Danah boyd quoted in Vargas 2010.

86 Vargas "The Face of Facebook".

87 Donald MacKenzie and Judy Wajcman. "Introductory essay: the social shaping of technology" in Mackenzie and Wajcman *The Social Shaping of Technology* p.12.

88 J.K. Gibson-Graham *A Postcapitalistic Politics* 2006. p.53.



rendered necessary some retreat from the world, and man, under the refining influence of culture, has become more sensitive to publicity, so that solitude and privacy have become more essential to the individual; but modern enterprise and invention, through invasions upon his privacy, subjected him to mental pain and distress, far greater than could be inflicted by mere bodily injury.<sup>89</sup>

Fast forward to the twenty-first century, Warren and Brandeis seem to suggest that it does not necessarily matter that Facebook was “not originally created a company”. Instead, the history of communication technology demonstrates that the emergence of *any* new technology has always constituted a disruption to the expectations and tastes for PIP. What the burgeoning mass printing press was to Warren and Brandeis, is network culture to us today – a radical deterritorialization of our established boundaries for what counts as private information.

The following statement by Mark Zuckerberg illustrates his contradictory understanding of the relationship between economics, PIP, and Facebook:

The basic idea is that ads should be content. [...] They need to be essentially organic information that people are producing on the site. A lot of information people produce is inherently commercial. And if you look at someone's profile, almost all the fields that define them are in some way commercial – music, movies, books, products, games. It's part of our identity as people that we like something, but it also has commercial value.<sup>90</sup>

For Zuckerberg, culture and the social are best described by economic principles. This statement makes clear, how the logic of quantifiable user preferences and the logic of always accessible and measurable (and thus commercially exploitable) user activities shape the very logic of Facebook's interface. Arguably, Zuckerberg's comment defines culture as a resource that produces opportunities for the commercial exploitation of user data. Clicking the “Like Button”, for Zuckerberg at least, translates into a business

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89 Samuel D. Warren and Louis D. Brandeis “The Right to Privacy” *Harvard Law Review* IV.5. 1890.

90 Quoted in Kirkpatrick *The Facebook Effect* p.260.

opportunity related to the liked object or idea.

What emerges is a worldview according to which the value of an object, of an activity, or a relationship is merely a function of its potential for a future business opportunity. Relationships and social interactions are rendered vehicles to optimize future purchasing decisions. In such a context, networks and crowds become means to evaluate the principle commercial value of culture. Consequently, for Facebook the desire to protect personal information privacy presents an obstacle to the production of ever more quantities of data.

It follows that for the social network giant, advocating radical transparency always already follows an economic rational. In other words, claiming the separateness of Facebook's culture from its business model ignores that the latter is constitutive of the former. That is why for Facebook, measures to protect PIP always slow down the information flow and might even bring it to a momentary halt, as users are encouraged to evaluate their decisions and, as a consequence, may even refrain from sharing certain pieces of information about themselves altogether.

Facebook's official SEC documents indicate Zuckerberg's attempt to separate yet reconcile Facebook's non-business founding myth with its money making motive. Despite Gibson-Graham's claim of inclusivity above, the documents describe his attempt to maintain a myth that Facebook's society is, at least partly, outside of the economy. He describes how he first simply wanted to create something. He cared, like most other great people only about the project. But, Zuckerberg continues, the great people that have worked for and have invested into Facebook and who “care primarily about building and

being part of great things, [...] also want to make money”<sup>91</sup>.

This marks the first time that Zuckerberg actively and directly acknowledges Facebook's money-making motive. Zuckerberg repositions and redefines himself as a savvy CEO, who has mastered the “process of building a team, [...] a developer community, advertising market and investor base”. Future shareholders, who read this letter, must have been delighted to learn that Zuckerberg has since “develop[ed] a deep appreciation for how building a strong company with a strong economic engine and strong growth”<sup>92</sup>.

Zuckerberg maintains the myth that Facebook is a collective effort where money “builds better services”. His comments become outrageous when he insists that “[t]hese days I think more and more people want to use services from companies that believe in something beyond simply maximizing profits”. Finally, Zuckerberg justifies the IPO by saying: “We're going public for our employees and our investors”.

Throughout all documents filed after the IPO, Zuckerberg oscillates between maintaining loyal to its own Hacker culture principles while at the same time keeping Facebook's investors and the companies longterm financial prospects in mind. All quarterly reports state:

Our culture also prioritizes user growth and engagement over short-term financial results, and we frequently make product decisions that may reduce our short-term revenue or profitability if we believe that the decisions are consistent with our mission and benefit the aggregate user experience and will thereby improve our financial performance over the long term.<sup>93</sup>

The emphasis on long-term performance over short-term financial results is

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91 Letter from Mark Zuckerberg S1 statement for SEC p.68.

92 Ibid.

93 Quarterly Report Q 3 2013 p. 42; can be accessed here <http://investor.fb.com/releasedetail.cfm?ReleaseID=802760>

interesting as it counters Wall Street's interest in short-term financial success. Therefore, Facebook's insistence on long-term performance can indeed be read as the attempt to distance the project from Wall Street. Dan Primack interprets Zuckerberg's efforts to highlight Facebook's cultural independence as his way of saying: "I'm being dragged into the public markets kicking and screaming"<sup>94</sup>.

However and more realistically, journalists who view Zuckerberg and Wall Street in a David versus Goliath relationship continue to falsely separate what could better be described as two sides of the same medal. When Dan Primack passionately empathizes with Mark Zuckerberg, he treats him almost outside of the logic of financial capitalism. Primack seems to believe that Zuckerberg is part of a tech entrepreneur generation that loathed going public and saw it as unnecessary evil. Viewing Zuckerberg as external to the economic processes that have shaped Facebook since it left its Harvard dorm, is dangerous as it ignores the many ways in which technology companies are systematically intertwined with finance capitalism<sup>95</sup>.

Just like the many journalists, who defended the Hacker ethos against greedy Wall Street interests, the distinction between these two sides is not quite as clear as many want us to believe. While their role was somewhat limited, Goldman Sachs and JP Morgan were still directly involved as capital investors even prior to the IPO. Moreover, Sheryl Sandberg's arrival at Facebook, as a COO four years prior to the IPO, suggests that Facebook's corporate culture had begun to already shift significantly towards the stability and discipline desired by Wall Street.

94 Dan Primack: "How Facebook killed the Big IPO" *Fortune* 10/8/2012 Vol. 166 Issue 6 72-73.

95 Karen Ho proposes to actually explore this connection more thoroughly, via the discussion that Surowiekie has started a few pages ago, in a project that focuses on the relationship between financialization and Facebook.

Other “cultural changes” internal to Facebook prior to the IPO were less directly related to Wall Street but made Facebook a poster child for a shareholder culture takeover of social networks in general. The dutch new media scholar Jose van Dijck emphasizes that social network sites more broadly were marked by a cultural change, which she calls the connective turn. This shift led social network sites to be more about profits than about networking and, in turn, moved them closer to Wall Street interests. It is hardly a coincidence that van Dijck locates this shift for the same year that Sandberg was hired. I don't mean to claim that hiring a single person is responsible for this shift but together with Facebook's market power, the decision to bring in a manager, accepted by both Washington and Wall Street, communicates a commitment to new corporate standards.

Network scholars danah boyd and Heszter Hargittai relate this connective turn to PIP and argue that “Facebook's approach to privacy for instance was initially network-centric”<sup>96</sup>. In its early phase at Harvard, Facebook eagerly protected the boundaries of its network because its livelihood depended on the exclusive character of its user community. This was even true for its second expansive stage, during which access to the social network site was still limited to individuals with an official .edu email address. Arguably, boyd and Hargittai ignore that Facebook's very first infrastructure (and arguably its entire idea) was based on a PIP violation because Zuckerberg downloaded names and photos from local servers without the consent of their owners. Nevertheless, both authors rightly insist that Facebook's initial attitude towards PIP was geared towards protecting those inside the network from outside intrusion.

Van Dijck shows, however, that “after 2008, most corporate site owners shifted

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96 danah boyd and Eszter Hargittai “Facebook privacy settings: Who cares? *First Monday* 15.8.

their focus from running community-oriented platforms to monetizing connectivity by maximizing lucrative data traffic between people, things and ideas”<sup>97</sup>. In her article, she convincingly outlines how the various products and interface updates introduced by Facebook mainly teased out ever more information from users via a process of self-staging rather than self-expression. Karen Ho shows how this sense of individualism and self management is not only typical for new economy corporations but is also central to the neoclassical tradition<sup>98</sup>.

Accordingly, the connective turn takes place exactly at the moment when the tools of career management are widely understood as a way of life. In other words, not just professionals but everyone is constantly pre-occupied with staging him or herself and is busy managing the self in ways similar to the management of a company<sup>99</sup> - what Carrie M. Lane has called the idea of the “company of one”<sup>100</sup>.

In addition to journalists and Facebook's official rhetoric, Yockai Benkler's *The Wealth of Networks* represents an important body of scholarly literature that is characterized by similar generalizations that I have criticized all along. While I have many qualms about Benkler's argument, I look at his research “as [another] kind of machine for the production of discourse”<sup>101</sup> on the central criteria of network culture.

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97 Jose van Dijck: “Facebook as a tool for producing sociability and connectivity” *Television & New Media* 13.2 p.200.

98 Karen Ho: *Liquidated* page 169.

99 Arguably, ever since Ervin Goffman do we understand that identities are performed and that we are all constantly busy gathering feedback from others that helps to assess the performance of our identity. The performance of the self is therefore hardly a new phenomenon. However, the extent to which we are constantly busying ourselves to conduct a perfect performance of our selves is not only historically unmatched – because we have never been monitored so comprehensively – but is also facilitated by Facebook in its effort to gather ever more data about its users.

100 Carrie M. Lane: *A Company of One: Insecurity, Independence, and the New World of White-Collar Unemployment* Cornell, NY: Cornell UP, 2011.

101 Lynn Spigel *Make Room for TV* p.6.

That is why I use the final pages of this chapter to show, how widely acclaimed scholarship on the structural conditions that frame Facebook, relies on assumptions about culture and the notion of user control, that show similar shortcomings like those promoted by Facebook's official rhetoric.

Benkler argues that “the important new fact about the networked environment, however, is the efficacy and centrality of individual and collective social action”<sup>102</sup>. “Information, knowledge, and culture”, according to Benkler “are now produced by sources that respond to a myriad of motivations, rather than the primary motivation to sell to the market”<sup>103</sup>. Culture, to Benkler, is a resource and something to be produced rather than something that is lived. Limiting culture to things that are “intentionally produced”, ignores a vast array of activities “within which people make sense of their lives: from everyday expressions and practices such as a conversations over dinner or checking email, to institutional structures and activities such as education and the practices of defining a technology for public consumption”<sup>104</sup>.

PIP is part of the latter understanding of culture. If we want to acknowledge its political character we need to conceptualize it as an everyday activity that helps people to make sense of their lives. Just to be clear, PIP is not the only and maybe not even the most crucial activity of that kind, but it is one that becomes increasingly important. As Facebook, and with it Wall Street, is trying to capitalize more and more of these daily activities, PIP becomes a political strategy to curb some of their power.

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102Yochai Benkler: *Wealth of Networks* 2006. p.22

103Ibid. p.162.

104Slack and Wise base their concept of *technological culture* in many ways on Raymond Williams's idea of culture is ordinary and discuss it accordingly on page four of their book *Culture and Technology: A Primer* New York: Peter Lang 2006.

Benkler's language draws heavily from economic analyses and understands individuals as producers or sources and activities as some form of resource utilization. It is because Benkler does not understand culture as lived experience, that he concludes that “[t]he networked information economy makes it possible to reshape both the 'who' and the 'how' of cultural production relative to cultural production in the twentieth century”<sup>105</sup>.

As said above, Facebook's official rhetoric is rich of exactly these kinds of claims. Mark Zuckerberg leaves little doubt that the entire Facebook philosophy is shaped by an economical understanding of the world that is about maximizing the resources:

[Facebook is] a utility - we are trying to increase the efficiency through which people can understand their world. We're not trying to maximize the time spent on our site. We're trying to help people have a good experience and get the maximum amount out of that time.<sup>106</sup>

Jose van Dijck brilliantly remarks how the word utility is misleading. She argues that in the context of Facebook, utility “no longer means 'public' and 'neutral', but 'ubiquitous' and 'inescapable’”<sup>107</sup>. Therefore, the economics of making Facebook a tool for everyone have little to do with individual empowerment that Benkler advocates. Instead, utility refers to Facebook's platform status and its intention of becoming the irreplaceable gateway for our daily activities.

That is why the idea that cultural production was once limited to certain actors and is now “liberated” and “made accessible” via communication technologies such as Facebook, ignores the ways in which culture was always already what people did. Facebook therefore cannot claim to be the liberator of culture or to be a new hub/platform

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105Yochai Benkler: *Wealth of Networks* 2006. p.275.

106Quoted in David Kirkpatrick *The Facebook Effect* New York: Simon&Schuster, 2010. p.10.

107Jose van Dijck *The Culture of Connectivity* 2013. p.166.



that finally allows people to produce culture. That is why Benkler's assumption that the networked information economy “makes culture more transparent to its inhabitants”<sup>108</sup> establishes a very problematic understanding of the relationship between culture and the people. Counter to Benkler, culture can neither be “occupied”<sup>109</sup> nor can culture be inhabited.

My argument from above, that power in the case of Facebook manifests in the determining potential of its architecture, challenges Benkler's claims that the networked information society “make[s] the process of cultural production more participatory, in the sense that more of those live within [it] can actively participate in its creation”<sup>110</sup>. Again, Katherine Losse's memoir about her life as Facebook employee helps to contextualize this revolutionary claim. To Losse

social media is about bringing us online and asking us to play with another in digital space. Social media then is the ultimate internet game played according to the rules and metrics created by the boys who make the games and write the algorithms.<sup>111</sup>

It simply does not suffice to claim that because “participation in and contribution to” culture has become cheaper, individuals enjoy more power relative to the institutions they are facing. Where and how, as Benkler argues, people are using their newly expanded practical freedom to act and cooperate with others in ways that substantially improve the practiced experience of democracy, justice and development and that lead to

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108Yochai Benkler: *Wealth of Networks* p.276.

109Benkler: *Wealth of Networks* p.276.

110Ibid.

111Katherine Losse: *The Boy Kings* p.205.

a critical culture<sup>112</sup>, and community”<sup>113</sup>, I have yet to discover.

Tellingly, Zuckerberg's claim that “[a]t Facebook, we built tools to help people connect with the people they want and share what they want, and by doing this we are extending people's capacity to build and maintain relationships”<sup>114</sup> could be written by Benkler also. Facebook, too, draws on the idea that it needs a critical enabler to allow people to participate in culture (or even more dramatical, to build and maintain relationships). It becomes very clear that the claim of individual empowerment and, in turn, bottom-up democratization in the case of Facebook resembles a top-down understanding of culture. Benkler and Zuckerberg get one thing right: Facebook does indeed provide access to an enormous variety of resources – mostly created by the labor of its own users.

However and as Andrejevic points out, “access to these resources entails surrendering control over the product of collective activity to those who own the resources”<sup>115</sup>. Katherine Losse adds: “social graces – and privacy and psychological well-being, for that matter – are just obstacles in the way of having more information”<sup>116</sup>. Does that sound like individual empowerment? Hardly so. The political economy of social network services, such as Facebook, contextualizes the individual empowerment myth. Even if we are sympathetic to Benkler's optimism, we must acknowledge that

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112Somewhere else in his book, Benkler defines “critical culture” as a “more attractive cultural production system – more transparent; more malleable. Emergence of new folk culture; “culture is becoming more democratic: self-reflective and participatory”(p.15) – a definition that illustrates all the aforementioned problematic assumption about culture.

113Benkler: *Wealth of Networks* p.8.

114Letter from Mark Zuckerberg as part of the S1 statement 2012 p. 67.

115Mark Andrejevic “Social Network Exploitation” in Zizi Papacharissi *A Networked Self* New York: Routledge, 2011. p.89.

116Katherine Losse: *The Boy Kings* p.43.

social networking takes place against the background of forms of estrangement associated with industrial capitalism – the very alienation for which the new media promise an antidote, according to the marketing hype. [...] the promise to resuscitate extended forms of community and to challenge centralized control over collective representations all gain their appeal against the background of the depredations of industrial capitalism.<sup>117</sup>

In other words and contrary to Facebook's own claim of building tools that help “giving people control over what they share [to create] a network built from the bottom up or peer-to-peer, rather than the monolithic, top-down structure”<sup>118</sup>, the social networking giant “privatizes” community<sup>119</sup>.

Consequently, the personal relationships that Facebook prides itself to help build and maintain are not about about depth but about maximizing networked resources. Moreover, networked resources are not the basis for a collective attempt to rethinking (and experimenting with) the potential of network technology and, by extension, network culture. Instead, Facebook is the product of and has helped to produce a context in which, to argue with Nick Couldry, the “intense mobility of a networked life reduces the social resources from which alternative values can be built and sustained collectively”<sup>120</sup>. Personal Information Privacy has the potential to slow down this intense mobility and could help to produce spaces to imagine such an alternative to individualized efforts to maximize human existence. In my next chapter, I make some suggestions towards this goal.

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117Ibid. 94

118Letter from Mark Zuckerberg S1 Statement p 67

119Mark Andrejevic “Social Network Exploitation” in Zizi Papacharissi *A Networked Self* p. 97.

120Nick Couldry *Media Society World* New York: Polity, 2012. p.128

## **Towards an Articulation and Assemblage Theory of PIP**

I understand that secrecy is part of, well, an aberrant behavior system. It comes from a bad place, not a place of light and generosity. And when you deprive your friends, [...] you are basically stealing from them. You're depriving them of something they have a right to. Knowledge is a basic human right. Equal access to all possible human experiences is a basic human right. [...] Sharing is caring. [...]. I think it's simple. If you care about your fellow human beings, you share what you know with them. You share what you see. You give them anything you can. If you care about their plight, their suffering, their curiosity, their right to learn and know anything the world contains, you share with them. You share what you have and what you see and what you know. To me, the logic here is undeniable.<sup>1</sup>

The secret produces an immense enlargement of life: numerous contents of life cannot even emerge in the presence of full publicity. The secret offers. So to speak, the possibility of a second world alongside the manifest world; and the latter is decisively influenced by the former.<sup>2</sup>

In his newest novel, Dave Eggers' describes a technology company called “The Circle”, which has gathered unprecedented amounts of data about people around the world and has replaced formerly popular social network sites such as Facebook. “The Circle” is nearing what the company calls “completion”, a process according to which everything about everyone gets recorded on to the company's servers.

Over the past ten years “The Circle” established a mega vertical and lateral surveillance apparatus through which any imaginable information has become publicly accessible via the cloud. Thanks to “The Circle”, children carry underneath their skin a microscopic transmitter that reports their location to parents during all hours of the day – a revolution that has caused child abduction rates in the United States to plummet. As part of “The Circle's” *SeeChange* campaign, members of the network carry with them or

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1 Dave Eggers *The Circle* p.302.

2 Georg Simmel quoted in Jodi Dean *Publicity's Secret. How Technoculture capitalizes on Democracy* p.10.

install everywhere cheap digital cameras that record constantly anything these members encounter. The *SeeChange* cameras then automatically transmit their data to the cloud.

The *SeeChange* initiative caused crime rates to decrease significantly and prompts one of “The Circle's” CEO to describe the new Circle zeitgeist:

What if we all behaved as if we were being watched? It would lead to a more moral way of life. Who would do something unethical or immoral or illegal if they were being watched? [...] we would finally be compelled to be our best selves. [...]. Finally, finally, we can be good. In a world where bad choices are no longer an option, we have no choice but to be good. Can you imagine?<sup>3</sup>

Eggers' book revolves mostly around his female protagonist Mae. We witness her ascendance from being a unlikely hire to the customer experience (CE) department, unlikely because she has no technical or programming expertise but a humanities degree, to being one of the three most popular employees. During the third part of the book, it is Mae's job to become “the Circle”. Every step of her professional as well as private life is recorded. Mae carries with her a wristband, which constantly relays information to her about how many users follow her show and it allows Circle users to interact through her with othe company employees. For instance, during one of her publicly viewable doctor's appointments, Mae finds out that she has a genetic predisposition for stomach cancer - a diagnosis made available by a doctor from Scotland, who had analyzed her DNA markers. In short, Mae is the Web 2.0 version of Truman Burbank. Like him, her life is perfectly transparent. In contrast to Truman, however, she knows about it and actively contributes to it.

As we accompany Mae on her journey from the periphery to the center of “The Circle”, we learn about the many ways in which her life effectively becomes consumed

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3 Dave Eggers *The Circle* p.290.

by the company's insatiable desire for ever more personal information. The first quote above is part of a conversation between Mae and Bailey – one of three CEO's of “The Circle”, all of whom are referred to reverently as the wise guys. This conversation is a staged event in front of all Circle employees and public per default.

Mae was invited on stage after a four eye conversation with Bailey the day before in which she had to apologize for a peculiar event. The night before, Mae had taken a rental kayak to the bay to work out. Rather than renting it from the kayak shop, she “borrowed” one that was leaning against the fence outside the club after closing hours. After returning from her trip, the police arrested her for the alleged kayak theft that one of the *SeeChange* cameras had recorded. Only the intervention of the rental club owner, who knew Mae well, saved her from jail.

However, as “The Circle” had made police records publicly available for anyone to read, other Circle members and co-workers became aware of Mae's “deviant” behavior via the cloud. Interestingly, Mae's co-workers were not upset about the fact that Mae took the kayak without paying, they were distressed and alarmed by her unwillingness to post information about her whereabouts and her plans to her Circle profile. The statement above describes both Mae's publicly broadcasted epiphany about her wrong behavior and also captures a post-privacy sensibility. Later in the book, her revelations about the outdatedness of PIP will become front and center of “The Circle's” mission statement: “secrets are lies – sharing is caring – privacy is theft”<sup>4</sup>.

Arguably, Dave Eggers' *The Circle* is a fictional account of a fictional company. Yet, juxtaposed with Georg Simmel's plea for the importance of secrecy, Eggers' book

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4 Dave Eggers *The Circle* p.303.

captures many of the arguments so pervasive to Facebook's official rhetoric that I investigated in the first two chapters of this essay. Moreover, I introduce Eggers' book because it highlights many of the post-privacy and radical transparency arguments with which I started this essay. Therefore, the passages from Eggers' book marks the transition from the empirical examination of the role and function of PIP in relation to Facebook to a more theoretical interpretation of PIP at the current conjuncture.

As I begin to outline the theoretical foundations of my articulation and assemblage theory of PIP, I take great inspiration from cultural studies' strategic approach to theory writ large. While taking a detour through privacy theory, I “take [theory] up as a contingent strategic resource”<sup>5</sup>. “Desacrilizing”<sup>6</sup> theories of privacy means to me, using theory in order to solve a concrete and politically relevant problem. More precisely, I understand theory as a tool to help me explain and understand the value of PIP for ordinary people today. A detour through theory thus serves my approach to PIP best as it illustrates the political dimension immanent to the question: how do I think about and treat my personal information online.

I argue that the articulation and assemblage approach underscores why personal information privacy continues to be a valuable concept not to be replaced by the nebulous idea of post-privacy. Moreover, I argue that the premature dismissal of the value of PIP makes nearly impossible the important interrogation of power structures so central to the ordinary people's personal information practices.

The previous two empirical chapters demonstrate that both the structures and the

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5 Lawrence Grossberg *Cultural Studies in the Future Tense* p.27.

6 Ibid.

processes which undergird Facebook deserve increased scrutiny. The Post (privacy) idea makes this impossible as it suggests that debates about the nature of PIP are something of the past. It silently proposes that the battle over who gets to determine which information is rendered private and which public is resolved. That is why I take inspiration not only from cultural studies but also from those scholars, who challenge the “post” claim with regard to gender and race. They criticize that both postfeminist and post-race discourses take place despite the reality that “sexism and racisms continue to structure cultural artifacts and communal experiences”<sup>7</sup>.

Accordingly, I argue that PIP practices continue to be an important – maybe even increasingly more important – element of the ways in which ordinary people experience their lives. The fact that Facebook and network culture in general have turned PIP issues into a dinner table conversation topic, only underscores the need to discuss the politics of PIP rather than closing the books on this increasingly controversial status.

Mary Vavrus for instance, emphasizes the troubled nature of the post-feminist claim when she writes: “the impulse to 'post' a politics is, I believe, one rooted in a generally decent, if misguided, belief that our society has reached a moment in which we are living out our lives on a level playing field”<sup>8</sup>. Angela McRobbie criticizes that the “post” proposes a “sensibility”<sup>9</sup>, to argue with Rosalind Gill, according to which feminism “is made redundant” and its battles are “cast into the shadows”<sup>10</sup>.

Gill's notion of postfeminism as sensibility is such a convenient metaphor because

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7 Catherine Squires p.213.

8 Mary Vavrus “Unhitching from the 'Post' (of Postfeminism)” in Catherine Squires et al. “What is this 'Post' in Postracial, Postfeminist ... (Fill in the Blank)?” *Journal of Communication Inquiry* p.222.

9 Rosalind Gill “Postfeminist media Culture. Elements of a sensibility” in *European Journal of Cultural Studies* 10.2. p.3.

10 Angela McRobbie “Post-feminism and popular culture” in *Feminist Media Studies* 4.3. p.2.



post-privacy can be understood as a sensibility as well – a sense that the value and importance of PIP inevitably deteriorates. Along these lines, a post-privacy sensibility renders battles over PIP a relict of the past, precisely at a historical moment when PIP might actually be of growing political importance for everyone of us. The German post-privacy advocate Christian Heller speaks of a “trend towards post-privacy”<sup>11</sup> to describe this elusive feeling that something about the value of our personal information is inevitably changing. Micheal Seemann, another leading German voice in favor of post-privacy, simply declares that “post-privacy [is] the condition into which our society is headed”<sup>12</sup>.

McRobbie adds another layer to her critique of post-feminism and argues:

“postfeminism positively draws on and involves feminism as that which can be taken into account, to suggest that equality is achieved, in order to install a whole new repertoire of meanings which emphasize that [feminism] is no longer needed, it is a spent force”<sup>13</sup>. If we apply Vavrus's and McRobbie's observations to PIP, then the “post” in post-privacy suggests that individual users, corporations such as Facebook (or “The Circle”), governments, and agencies such as the NSA all have equal power. Accordingly, announcing post-privacy not only erases all the unsolved issues foundational to the debates over PIP, but also forecloses the space necessary to reiterate and debate its political nature. Just as postfeminism ignores the reality of persistent gender inequality, post-privacy and radical transparency claims ignore the asymmetrical power relationship

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11 Christian Heller *Post-Privacy* p.155.

12 Michael Seemann “Was ist Post-Privacy für mich?” [What is post-privacy for me?] March 23, 2011. <<http://www.ctrl-verlust.net/was-ist-postprivacy-fur-mich/>> All of Seemann's comments are my translations.

13 Ibid.

between ordinary people, corporations, governments, and other institutions of power.

When I criticize the premature shift to a post-privacy society, though, I do not mean to ignore the many ways in which the history of privacy presents a legacy of discrimination against the interests of virtually any group other than white bourgeois men. Thus, I do not mean to ignore the long legacy of legal struggles and for civil rights on behalf of virtually all the marginalized populations, who sought to break down the barrier between private and public, which served white men throughout history to cement their monopoly power.

For example, at a later point in my discussion of the legal history of privacy, I show how Warren's and Brandeis' understanding of privacy is profoundly situated within the Lockean roots of Anglo-American legal theory as they are “referring to rights of privacy really as property rights or liberty interests in disguise”<sup>14</sup>. Cultural theorist Raymond Williams highlights how this notion of privacy was used in the primary sense to signal privilege, the advantage of limited access<sup>15</sup>.

Williams furthermore ascertained that the complexity of the term private life lies in the fact that it has been adopted widely outside of its positive, narrowly defined bourgeois view: “the ultimate generalized privilege, however abstract in practice, of seclusion and protection from others; the lack of accountability to them; and of related gains in closeness and comfort to these general kinds”<sup>16</sup>. For many marginalized groups this privilege became manifest in a legal and social structure which protected those few in power, typically white men, from public scrutiny.

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14 Julie E. Cohen *Configuring the Networked Self* p.18.

15 Raymond Williams *Keywords: A Vocabulary of Culture and Society* Crook Helm: Fontana, 1976. p.203.

16 *Ibid.* p.204.

Therefore, I do not mean to flatten out the complexities formative and inherent to these struggles. As my later discussion of Anita Allen's work shows, privacy in and of itself is not always virtuous and has, historically, described a protective mechanism only for those powerful enough to define the boundaries around what counts as private. Consequently, my attempt to reinvigorate the political dimension of PIP also requires a radical departure from the discriminatory history of the concept of privacy<sup>17</sup>.

With regard to race, Kent Ono defines “post” theories as a political strategy. For him “post-racism is the perfect elixir to help society forget about the icky historical abomination known as racism. It is one part cultural condition and one part political strategy, a creative solution to help free the mind of racism once and for all.”<sup>18</sup> Like McRobbie above, Ono emphasizes that “post” connotes a feeling of forgetting; it presents a state of mind. Therefore, moving beyond PIP all too readily can lead us to forget why certain information is valued as private and why it might deserve protection.

Post-privacy and radical transparency are political strategies to naturalize a state of mind according to which ordinary people make available any information about them at all times. Metaphorically speaking, it “frees” us from engaging the difficult questions that accompany the political nature of PIP. Post-privacy makes life much easier – frictionless, to use Facebook's terminology. At the same time, this convenience carries with it an enormous price tag as we voluntarily hand over the minimal control we have

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17 Laurie Ouellette's comments about the contradictory and hugely problematic history of privacy for women and other disenfranchised groups were of critical importance to this insight. Ouellette's insistence on the double-entendre of my refusal to see the benefits of a post-privacy society for women and other marginalized groups in the context of the fight against racism, classism, and sexism certainly deserve more attention beyond the scope of this chapter.

18 Kent Ono “Postracism: A Theory of a Post – as Political Strategy” in Catherine Squires et al. “What is this 'Post' in Postracial, Postfeminist ... (Fill in the Blank)?” *Journal of Communication Inquiry* p.227.

over our personal data to corporations and governments.

Rosalind Gill insists that there is “little agreement over what post-feminism” is, since the term is “used variously and contradictorily”<sup>19</sup>. That is interesting because feminism, the concept which ought to be replaced by post-feminism, itself means different things to different people. In other words, as post-feminism lacks conceptual clarity, it seeks to replace a set of political ideas, which are equally diverse and often times contradictory. As I argued in the introduction, privacy, too, is a messy concept in disarray. Therefore, why should we replace concepts such as feminism, or race, or privacy that are in and of themselves overly complex and politically charged with equally contradictory terms? If we are still fighting the old battles, is it really time to move on to new and unmapped territory?

Facebook sits at the heart of this debate and reminds us on a daily basis that we need to actively negotiated what PIP means to us. In the course of the recent acquisition of the technology start-up *WhatsApp* for a mind blowing nineteen billion dollars, some claim that Facebook never was about personal information privacy, since users used the web service mainly as a public stage on which to seek attention<sup>20</sup>. These voices underestimate how Facebook's increasingly hidden but omnipresent role as portal and backbone to an ever growing number of online interactions and social activities already penetrates and records the very ordinary aspects of our lives. As a matter of fact and counter to these claims, Facebook users do not hide their ugly sides on their profiles as comment sections are full of sexist and racist comments. While it might be true that the

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19 Gill p.3.

20 Pascal Paukner *Zuckerberg hat verstanden* [Zuckerberg understands] *Sueddeutsche.de* February 20, 2014. <<http://www.sueddeutsche.de/digital/whatsapp-uebernahme-durch-facebook-zuckerberg-hat-verstanden-1.1893836>>

acquisition of *WhatsAPP* provides the social media giant with renewed access to different types of private information, it only confirms that rather than descending to a vague post-privacy world devoid of the political efficacy that emanates from PIP, we need to discuss its political value.

We should, however, not commit the mistake of dismissing the ideas behind post-privacy entirely. Michael Seemann cautions us not to think of post-privacy as a fixed set of principles according to which our society is organized. Instead, he proclaims that post-privacy is “a loose collection of theses about the relationship between tolerance and transparency”<sup>21</sup>. This flexibility is of great theoretical value. Moreover, Seemann's invitation to view post-privacy as a starting point for a discussion of the ways in which concepts such as tolerance and transparency might mean different things at the current media conjuncture is smart and laudable as well. Unfortunately, Seemann's broader societal observations lack this invitational tone:

The loss of control inevitably leads to a condition, that the boundary between public and not-public is no longer be self-determined. [...] Not everything is public, but I am no longer the one to decide what is public and what not. There is a big difference between total transparency and loss of control. Both can be described as post-privacy, but I only believe in the latter.<sup>22</sup>

I fundamentally disagree with Seemann when he argues that we are *inevitably* bound for a society in which we lack control over our personal information. The pragmatists teach us that nothing is inevitable. They caution us to “foreswear the promise of total solutions and wholesale salvation” and insist that there simply are “no guarantees”<sup>23</sup> that things

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21 Michael Seemann “Was ist Post-Privacy für mich?” [What is post-privacy for me?] March 23, 2011. <<http://www.ctrl-verlust.net/was-ist-postprivacy-fur-mich/>>

22 Michael Seemann “Was ist Post-Privacy für mich?” [What is post-privacy for me?] March 23, 2011. <<http://www.ctrl-verlust.net/was-ist-postprivacy-fur-mich/>> All of Seemann's comments are my translations.

23 James Carey “Historical Pragmatism and the Internet” *New Media & Society* 7.4. p.447.

would turn out as predicted. That is why neither Facebook's current shape and corporate mission nor the ways in which we might conceive of PIP in the future are inevitable. Arguably and beyond any doubt, the ways in which we make sense of information control today and in the future will be subject to intense debates.

However, simply announcing a post-privacy regime according to which the lack of control is *inevitable*, shuts down any productive discourse. Assuming the total loss of control simply ignores the complicated relationship between individual agency and structural factors and makes any negotiation between culture and power impossible. Therefore, as Seemann builds his notion of a post-private society on a rather fixed understanding of culture and of social processes, he makes push back against the top-down prescription of information regimes by corporate actors such as Facebook nearly impossible. Seen in this light, both Seemann's claims as well as the already existing legal canon about privacy need to be rejected for their “fixed distinctions between culture and nature, between culture and self, and between culture and deeper social structure”<sup>24</sup> - as Julie E. Cohen illustrates.

Moreover, Seemann mistakingly assumes that there has been a time in the past where it was up to the people to draw the boundaries between private and public. He ignores what anthropologist Christena E. Nippert-Eng has called the “managerial conception of privacy”. This notion suggests that there is nothing “inherently or intrinsically private”<sup>25</sup>. In other words, not only was the boundary between private and public information never exclusively determined by the self, it has also always been a

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24 Julie E. Cohen *Configuring the Networked Self* p.25.

25 Christena E. Nippert-Eng *Islands of Privacy* p.8.

boundary constantly made and unmade. What the boundary meant and how it was relevant has always been an interactive process between individuals and a variety of contextual factors.

Along a similarly flawed rational, Christian Heller suggests that “post-privacy makes clear, our actions are not independent and isolated. [...] Post-privacy tears down those walls, that separate us from each other. That, in turn, increases the possible information flow between us”<sup>26</sup>. In other words, the total transparency of information helps to break down the allegedly harmful barriers between us. Like Seemann, Heller demonstrates an incredibly naïve and skewed understanding of the ways in which we carry out and make sense of our actions.

As Slack and Wise remind us, these ordinary activities consist of “practices, representations, experiences, and affects”<sup>27</sup> that go hand in hand or, sometimes, work against each other. That means, in turn, that the boundaries between private information and not-private information are always already in flux as we constantly busy ourselves with renegotiating their meanings respectively. As I tried to make clear in previous passages, it is true that new technologies collapse former understandings of time and space at an historically unprecedented rate. But that does not mean that we can ignore the fact that information flows have always existed between us. Post-privacy does not describe the revolution of these practices fundamental to human existence. Tellingly, post-privacy does not discuss the one important difference between conversations of the past and digital conversations today: “free” and ephemeral information flows of the past

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26 Christian Heller *Post-Privacy* p.151.

27 Jennifer Daryl Slack and J. Macgregor Wise *Culture + Technology. A Primer* New York: Peter Land, 2007. p.127.

are now recorded and stored for all eternity and owned by corporations such as Facebook.

That is why PIP is contextual and relational, always already political. Our struggle over the meaning of PIP now is a political act and expression of our agency – our ability to push-back, at least a little bit, against the powerful forces that penetrate our daily lives. Therefore, Julie E. Cohen is correct when she demands that “a theory of privacy for the networked information society must address privacy problems in a way that corresponds to the experiences and expectations of real people”<sup>28</sup>. The fact that she suggest to think about privacy “as an interest in breathing room to engage in socially situated processes of boundary management”<sup>29</sup> shows that Seemann's post-privacy prematurely buries an entire set of critical practices as it renders meaningless the many ordinary practices that encapsulate people's battle for information control.

Consequently, when Seemann announces that post-privacy “is not a politics” he accidentally admits the crux of this concept. If at least post-privacy was *a* politics – some sort of battle cry for new challenges to the current status quo – it would still bear the potential to engage the unresolved PIP issues of the past. But just like post-feminist claims, its a-politicness renders attempts to fight existing power structures hollow. Seemann's hope that post-privacy marks the “end to a uniform moral and forced conformity” is at odds with his claim that post-privacy is “first and foremost responsibility”. I cannot help but wonder how we should address public problems if there no longer is any sense of moral responsibility beyond just our immediate self interest?

Ultimately, the problem with post-privacy claims is that, unfortunately, upholding

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28 Julie E. Cohen *Configuring the Networked Self* p.125.

29 Julie E. Cohen *Configuring the Networked Self* p.149.



the idea of an inevitable or powerful trend towards the “dissolution of privacy” requires its advocates to ignore or at least underestimate the many actors that operate against these trends. Christian Heller, for instance, admits the existence of interests antithetical to post-privacy only to quickly ascertain that they appear to be toothless<sup>30</sup>. Just a few pages after this insight, Heller shows convincingly that Facebook is one of the major actors who heavily regulates the flow of information. Apparently unaware of this contradiction, it seems to escape Heller's attention that Facebook is anything but toothless. Its existence and successful business operation undermines all the cherished principles of post-privacy. Therefore, this contradiction only adds to the altogether dissatisfying condition that a shift to post-privacy proposes.

Overall, the most important argument against any such shift remains the profound difficulties we have when we seek to understand PIP at the current media conjuncture. How can we simply move on to yet another nebulous concept if the discussion of PIP itself offers more questions than answers? Post-privacy only seems to be a continuation of the flattening-out of the complexities that already puzzle privacy scholars.

Before I finally outline my proposal to PIP, let me briefly review some of canonical privacy scholarship. This brief detour through the theoretical history of the concept first demonstrates the shortcomings of previous scholarship. In so doing, I acknowledge that post-privacy advocates are frustrated with current status quo that seems incapable of providing a framework to capture PIP within the context of the networked information society. At the end of the detour, however, I introduce Helen Nissenbaum's contextual notion of privacy, Daniel J. Solove's pluralistic notion of privacy, and Julie E.

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<sup>30</sup> Christian Heller *Post-Privacy* p.152.

Cohen's understanding of privacy as boundary management to show that privacy scholarship has indeed produces useful tools with which we can investigate PIP's role and function at the current conjuncture.

A final preliminary comment. Privacy scholarship – even at its strongest moments – lacks clarity in crucial ways. In my work I focus exclusively on personal information privacy. However, during my discussion of other scholars' work you will find me using their language, which means I will occasionally speak about privacy without any further specification. I want to emphasize that such a conceptualization of privacy is counter-productive as it reduces a whole set of issues to one messy and vague term. For example, Daniel J. Solove has argued many times that the current context requires a problem-centric and pluralistic understanding of privacy. Yet this laudable intervention is immediately ambushed by his failure to crack open the conceptual foundation of privacy itself.

Julie E. Cohen's fabulous examination of the work visual and spatial metaphors do in privacy discourse, reminds us that “the way we talk about privacy shapes our understanding of what it is”<sup>31</sup>. Yet, she also leaves the term privacy under-scrutinized. As the first and second chapter of my essay demonstrate, corporate, governmental, and individual actors or groups of individual actors propose a pending threat to privacy and, in turn, demand an analytical vocabulary that reflects the relational and contextual nature of privacy<sup>32</sup>.

Tim Berners-Lee, one of the principle designers of the Internet as we know and

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31 Julie E. Cohen *Configuring the Networked Self* p.125.

32 I thank my advisor Gil Rodman for his comments on this point in which he urged me to pay attention to the problematic use of the term privacy through out the literature.

use it today, makes the alarming political economy argument that individual internet users have become all too reliant on an infrastructure – the free internet – that faces simultaneously three powerful enemies<sup>33</sup>. First, Berners-Lee argues, there are governments, who all too eagerly monitor every activity of ordinary people, other governments, and foreign as well as domestic corporate actors. The second critical threat to the idea of a free information infrastructure are internet service providers that prioritize certain data and capitalize information streams.

Finally and central to my argument, Berners-Lee laments the ways in which social network sites such as Facebook hoard data and shield information from the rest of the web. In the latter case, Facebook's acquisition of *WhatsApp* only proves the extent to which these corporate power houses have access to our very private communication. We simply need a more nuanced vocabulary to distinguish between a situation in which the NSA requires Facebook to reveal user information for the alleged fight against terrorism or when somebody accesses a photo on my Facebook timeline via a friend's profile (that is without my explicit consent).

Moreover, the fact that Facebook is widely criticized for being a “Data Silo”<sup>34</sup>, an institution demanding gigantic amounts of information while at the same time shutting down all reciprocal information flows, further proves the demand for an approach to privacy where individual interests, such as informational self-determination, are discussed alongside more structural issues. In other words, what we need is a vocabulary

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33 Quoted in Konrad Lischka “Web-Erfinder warnt vor Facebook's Datenmonopol” [Web founder warns against Facebook's data monopoly] *Der Spiegel Online* November 20, 2010.  
<<http://www.spiegel.de/netzwelt/web/nutzungs-statistik-web-erfinder-warnt-vor-facebooks-datenmonopol-a-730259.html>>

34 Ibid.

that allows us to better understand the ways in which structural and individual privacy issues are no conceptually separate. Only an approach to PIP that takes inspiration from articulation and assemblage theory manages to highlight the connections between these various modes of privacy violations while at the same time acknowledging their profound differences.

That is why Slack's and Wise's notion of “selecting, drawing together, and enveloping a territory” that includes individual and structural privacy issues presents such a useful point of departure. It makes possible to integrate into the conversation about PIP a whole range of “other kinds of bodies, bodies of knowledge, [and other] actions, passions, practices, commitments, feelings, beliefs, affects, and so on [...]”<sup>35</sup>. Understood in such a way, theorizing privacy as an assemblage is of central importance to a new approach. Such a theory avoids the trivializing effects of essentialist approaches to privacy and, at the same time, builds a bridge between privacy studies, critical media studies, and cultural studies.

The goal cannot and should not be to construct, as Cohen claims, “a theory of privacy for the networked information society”<sup>36</sup>. Any thinking about privacy at the current conjuncture must account for a constantly shifting constellation of multiple intersecting factors. Therefore, I highlight the importance of context, conjuncture, articulation, and assemblage to reject the theoretical attempt to develop a unified framework. Most importantly, and in sharp departure from Cohen's project, I argue that any discussion of privacy at the current conjuncture is best served by an understanding of

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35 Ibid. p.130.

36 Jennifer E. Cohen *Configuring the Networked Self: Law, Code, and the Play of Everyday Practice* New Haven, CT: Yale UP, 2012. p.125.

privacy as a site of struggle over meanings and power. That is why I adapt Slack's and Wise's notion of assemblage to argue that if you don't understand what you see, don't blame the insufficient privacy definitions – as post-privacy advocates do; understand the assemblage that maps this peculiar cultural moment<sup>37</sup>.

The theoretical detour of the history of privacy in the context of the United States must begin with Samuel D. Warren and Louis D. Brandeis. Their pivotal essay “The Right to Privacy”, published in 1890, marks the beginning of the long standing legal tradition to insist on privacy as someone's right to “exercise extensive civil privileges”. As I described in the second chapter, to Warren and Brandeis contemporary communication technology and news corporations presented “an invasion upon his (sic) privacy, subjected him (sic) to mental pain and distress, far greater than could be inflicted by mere bodily injury”<sup>38</sup>. The authors make clear that privacy is an individual right according to which only an individual had the “right of determining, ordinarily, to what extent his thoughts, sentiments, and emotions shall be communicated to others”<sup>39</sup>. Alan Westin cemented this notion of privacy in his canonical book *From Privacy and Freedom*. In 1967 he wrote that privacy had to be understood as the “claim of individuals, groups, or institutions to determine for themselves when, how, and to what extent information about them is communicated to others”<sup>40</sup>.

Despite the prominence of Warren's and Brandeis's as well as Westin's account, a number of scholars have tried to define privacy as something other than an individual right. Jeffrey H. Reiman, for instance, describes privacy as a social practice and very

<sup>37</sup> Slack and Wise *Culture+Technology* p.132.

<sup>38</sup> Samuel D. Warren and Louis D.Brandeis “The Right to Privacy” *Harvard Law Review* IV.5 1890.

<sup>39</sup> Ibid.

<sup>40</sup> Alan F.Westin *Privacy and Freedom* New York: Atheneum, 1967.

complicated social ritual, as a “precondition to personhood”<sup>41</sup>. Privacy is constitutional to who we are as it “protects the individual's interest in becoming, being, and remaining a person”<sup>42</sup>. Privacy then is the social practice through which a group communicates to an individual that that individual actually exists – that it has a space for him/herself that is respected by the community. Thus, privacy is fundamentally part of the symbolic interaction that shapes who we are. Reiman therefore concludes that “the elimination of privacy leads to the destruction of the self”<sup>43</sup> – a profound departure from the Facebook claim that radical transparency leads to the expression of the true self (the Facebook self).

While I agree with the constitutional elements of Reiman's concept of privacy, I criticize the ways in which some of his assumptions flatten out the changing nature of privacy and, instead, rely on a rather static understanding of the relationship between subject and its perceived needs for PIP. Reiman's inability to account for the flexibility of subjects and their understanding of PIP thus fails to offer tools to discuss statements such as this one by Ben Parr: “Privacy has not disappeared, but become even easier to control (as we are becoming more comfortable sharing our lives and thoughts instantly to thousands of people, friends, and strangers alike”<sup>44</sup>. If, indeed, privacy is so essential to our selves and a precondition to personhood, why are some of us more comfortable giving it up than others? In other words, are those of us who share more information on their Facebook profile becoming lesser persons than other, more secretive, users?

Ruth Gavison makes an interesting counterargument in which she highlights the

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41 Jeffrey H. Reiman “Privacy, Intimacy and Personhood” *Philosophy and Public Affairs* 6.1 1976. p.39.

42 Ibid. p.44.

43 Ibid. p.40.

44 Quoted in David Kirkpatrick *The Facebook Effect* p. 214. Ben Parr was a student at Northwestern University where he initiated the Facebook group “Students against Facebook news feed”.

“need to reject that privacy is a form of control”<sup>45</sup>. Instead she calls for a neutral concept of privacy according to which privacy is not a matter of choice<sup>46</sup> but a “limitation of others' access to an individual”<sup>47</sup>. According to Gavison, perfect privacy is impossible in any society because it would require absolute seclusion from anything and anyone. For Gavison the “loss of privacy”<sup>48</sup> is a basic requirement for any social interaction to take place. She highlights how the loss of privacy is an enabling rather than destructive process. But she also insists that it is a process in which only the degree and extent of PIP is subject to negotiation not its basic existence. In so doing, Gavison's article from the 1980s foreshadows some of the more productive elements of the post-privacy argument without its tendency to discard the value of PIP altogether.

With regard to Facebook, Gavison's argument helps to understand that the process of losing privacy is interactional. The voluntary disclosure of personal information requires from users a willingness to engage in certain social norms and conventions. It goes without saying that perfect information privacy in Gavison's sense would render social network sites meaningless. But since Facebook is all about being social, users expose themselves at times to “interferences, pressures to conform, ridicule, punishment, unfavorable decisions, and other forms of hostile reaction”<sup>49</sup>. However, all of the social interactions above fall under the managerial notion of privacy and include different scenarios for different people. In other words, what distinguishes Gavison from the radical rejection of PIP of the post-privacy advocates is that she conceptualizes PIP as the

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45 Ruth Gavison “Privacy and the Limits of the Law” *The Yale Law Journal* 89.3 1980. p.426.

46 Ibid. pp.426-428.

47 Ibid.

48 Ibid.

49 Ibid. p.448.

outcome of a negotiation process in which the political stakes for every participant are quite high.

Finally, Anita L. Allen not only criticizes Warren, Brandeis, and Westin for their particularly “liberal conception of privacy”, she also challenges the assumption that all people want the same kind of privacy all the time. As one of the leading feminist scholars of privacy, Allen urges us to take seriously all those voices that *don't* want to be secluded or isolated. She insists that, maybe, we need to be careful not to force privacy onto people when they actually “enjoy disclosure, revelation, and exposure”<sup>50</sup>. In her many publications, Allen repeatedly emphasizes that marginalized groups have suffered oftentimes under the alleged benefits of privacy. She reminds us about the feminist challenges to the ideal of privacy, which for women is often associated with peril and subordination. For example, privacy, understood as secrecy and as the right to be alone and to keep secluded ones property, has served for many decades and even centuries as justification for domestic violence against women (and less frequently against men).

Echoing Williams, Anita L. Allen points to women in particular as just one possible group that has suffered from the bourgeois ideal of privacy. In other words, when she concludes her essay outlining the “importance of privacy to liberalism”<sup>51</sup>, she wants us “to begin to take into account the [possibly positive] cumulative effects of eroding privacy tastes and expectations”<sup>52</sup>. Like Gavison, to Anita L. Allen the loss of privacy can be virtuous. But she acknowledges the political dimension of privacy, too, when she observes that “the hard task before us is to deciding which forms of privacy are

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50 Ibid. p.734.

51 Ibid. p.756.

52 Ibid. p.757.



so critical that they should be matters of coercion”<sup>53</sup>.

In addition to these canonical texts about privacy, a number of scholars have investigated more specifically the relationship between PIP and Facebook. James Grimmelmann provides the most comprehensive discussion to date of this relationship. Unfortunately, rather than emphasizing the various connections between Facebook's understanding of PIP and other political, cultural, and economic factors, Grimmelmann's meticulous and well thought out research examines Facebook in isolation. His initial focus on the ways in which Facebook's notion of PIP was shaped by a particular college information culture college provides a useful entry into the debate over the web service's PIP standards and values today. Furthermore, Grimmelmann rightfully argues that the combination of young people's eagerness to socialize and to shape social identities has played a crucial role in Facebook's early rise in popularity. Grimmelmann seconds Gavison when he argues that “social urges cannot be satisfied under conditions of complete privacy”<sup>54</sup>.

In addition, among the privacy theorists I introduce here, Grimmelmann is the first to highlight that what we do on social network sites, has privacy consequences for others, as users regularly “must delegate some privacy decisions to people with whom [they] don't have close relationships”<sup>55</sup>. Hence, as information about ourselves transgresses the preliminary boundaries of our profiles, Grimmelmann effectively complicates the notion of information control.

In the meantime, however, Facebook's “population” exploded and has exceeded

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53 Ibid. p.740.

54 James Grimmelmann “Saving Facebook” *Iowa Law Review* 94 pp.1137-1206. p.1159.

55 Ibid. p.1175.

college culture many times over. As Facebook has become a platform connecting multiple actors—professional, governmental, educational and so on—its cultures overlap, intersect, and contradict each other. Along these lines, Grimmelmann also underestimates the dynamic nature of college culture itself. Many comments or pictures that seemed like a smart idea during freshman year have become rather embarrassing the moment seniors apply for their first jobs after graduation. Therefore, answers to Grimmelmann's central question, “why so many Facebook users entrust it with so much personal information?”<sup>56</sup> depend on many factors, which are, in turn, highly contingent on shifting and overlapping contexts.

Isolating Facebook from other contexts is a mistake commonly made by other prominent researchers as well. danah boyd, who is widely considered the leading sociologist of social network sites, has, together with Nicole Ellison, provided the most popular and widely circulated working definition for SNS. They define SNS (such as Facebook) as “web-based services that allow individuals to (1) construct a public or semi-public profile within a bounded system, (2) articulate a list of other users with whom they share a connection, and (3) view and traverse their list of connections and those made by others within the system”<sup>57</sup>.

boyd and Ellison crafted this definition a few years before Facebook's scope began to manifest and before Facebook would, effectively, explode the limits proposed by said definition. The notion of a “closed system” deserves rethinking since Facebook now penetrates virtually every aspect of the social. It simply is no longer true that

56 James Grimmelmann “Saving Facebook” *Iowa Law Review* 94 2009. p.1151.

57 danah boyd's and Nicole B. Ellison's article “Social Network Sites: Definition, History, and Scholarship” published in the *Journal of Computer-Mediated Communication* 13.1 2007 is widely recognized to provide the standard definition for social network sites.

information exchanged and viewed on Facebook, traverses only within the boundaries of this system. Numerous cases point to individuals, who have lost jobs or were punished by schools and colleges as a consequence of information posted to their respective Facebook profiles.

Research on privacy and Facebook invites generalizations and conclusions that ignore shifting contexts and that fail to historicize the social network site. In *Facebook's Privacy Trainwreck*, boyd argues that “privacy is a sense of control over information, the context where sharing takes place, and the audience who can gain access”. She concludes that in an era of convergence culture, this sense of “control is lost with social convergence”<sup>58</sup>.

An entire special issue of *Cultural Studies* has attempted to 1) sufficiently ground convergence culture in the historical development of technology, to 2) view convergence culture in wider contexts, and finally 3) to take into account the broader social, economic, cultural, and political circumstances within which convergence culture claims exist. In the special issue, various authors criticized that to speak of a convergence culture means to reduce the always existing plurality and fractured nature of culture to one monolith.

In their introduction to the special issue, Nick Couldry and James Hay insist that “multiple cultures that cluster around media technologies are surely too diverse for such an approach to be useful”<sup>59</sup>. Both authors criticize that convergence culture proposes an all too simple logic of before and after and that Jenkins's focus on early adopters and fans as highly untypical audiences might have provided him a skewed sense of the myriad

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58 danah boyd “Facebook's Privacy Trainwreck” *Convergence: The International Journal of Research into New Media Technologies* 14.1 2008.

59 Nick Couldry and James Hay “Rethinking Convergence/Culture - An Introduction” in *Cultural Studies* 25.4/5 2011. p.494.

ways in which culture manifests itself today. Probably the biggest problem with convergence culture is the fact that it largely ignores “socio-economic and cultural forces which stratify technological access” as well as the politics of convergence. Couldry and Hay write:

To the extent that the most well-known of these media studies venture into discussions about political activism or citizenship , [...] they tend to emphasize the virtue of interactivity and to cast the nonprofessionalism of DIY media, and the grassroots of media mobilization, in terms of a generalized, universalist understanding of democracy rather than in terms of the messy contradictions and contingencies of democratic citizenship in the historical and geographical production of convergence/cultures and, we might add, wider politics.<sup>60</sup>

Altogether, Jenkins ignores or leaves out and under-investigates international perspectives, longer histor(ies) of convergences, and insights into the demographic reality of the agents of convergence culture. The existence of new media is equated with a new culture – a trend post-privacy advocates all to readily adopt as well. That is why boyd, in relying too narrowly on Jenkin's notion of convergence culture, opens pandora's box rather than adding clarity to our understanding of PIP at the current media conjuncture.

Danah boyd is probably best known for her ethnographic work on youth and the internet and, more specifically, on teenagers' privacy practices online. Boyd's and Hargittai's research shows that young adult users understand that managerial dimension of PIP online to some extent. Those with higher online skills were more likely to customize the default privacy settings on Facebook, whereas the “vulnerability of the least skilled online is magnified by how companies choose to set or adjust”<sup>61</sup> these settings. This classic digital divide argument underlines why PIP is such a political

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60 Ibid. p.481.

61 Danah boyd and Eszter Hargittai “Facebook privacy settings: Who cares? *First Monday* 15.8. August 2, 2010. <<http://firstmonday.org/article/view/3086/2589>>

important issue. In ways not so different from Jenkins, post-privacy advocates seem to be under the assumption that the conditions according to which we participate in the new information environments are the same for everyone.

For boyd and Hargittai, the digital divide has both a class as well as a gender dimension as the loss of privacy gets articulated to a “culture of fear”. Going back to Allen's comment about the detrimental effects of coercing a liberal notion of privacy on to marginalized groups, both authors argue that discourses of fear deprive many girls of the “opportunities to explore the potential advantages of engaging in public and the right to choose which privacy preferences and corresponding privacy settings on sites like Facebook serve their needs best”<sup>62</sup>. Some of the case studies from the first chapter in which journalists provide mothers and grandmothers with instructions on how to fortify their daughter's Facebook accounts illustrate this dilemma convincingly.

danah boyd's and Alice Marwick's analysis of an impressive 163 in-depth interviews with young people about their privacy management strategies is another foray into the political dimension of PIP. Their research establishes quickly that for young people, information is public by default and that navigating privacy is a daily task. As a young woman states: “Facebook is public-by-default, private-through-effort”. Moreover, for most teenagers the meaning of privacy is context-bound as they lack a shared and uniform set of privacy values. boyd and Marwick discuss a variety of “structural and social strategies” with which teenagers are trying to protect their privacy. Yet, in the end, both authors diagnose the illusion of control and that “privacy is in a state of flux”

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62 Ibid.

because the “infrastructure through which people engage with each other has changed”<sup>63</sup>.

While boyd and Marwick carefully dissect the interviews to analyze the insightful comments of their young interviewees, they fall prey to what might best be considered soft-technological determinism. Susan Douglas's “irony of technology” states clearly that infrastructures (technologies) can indeed shape our actions. Yet, it is not because of characteristics inherent to the technology – technologies always have contradictory consequences – but because “the economic, the political, and the ideological system trump [...] the revolutionary potential of technologies”<sup>64</sup>. In other words, it is not Facebook as such that shapes the ways in which the teenagers understand and negotiate their privacy. Instead, it is the economic, political, and cultural context(s) within which Facebook exists that shape both the infrastructure that Facebook resembles, as well as the activities of its users and its makers.

#### Plurality, Context, Boundary Management – PIP

Together Helen Nissenbaum, Julie E. Cohen and Daniel J. Solove represent a camp of legal scholars, who have devoted their scholarly lives to the herculean task of updating privacy theories. I understand their work as an invitation to discuss the meaning and relevance of PIP today. I want to emphasize again, that post-privacy scholars, too, make valuable contributions as they seek ways to understand the conditions according to which we should problematize PIP. Consequently, they are part of the conversation between these three scholars, cultural studies scholars, and my approach as well.

However, in contrast to the post-privacy and radical transparency advocates, this

63 Paper presented by dana boyd and Alice Marwick “Social Privacy in Networked Publics: Teens' attitudes, practices, and strategies” at *Oxford Internet Institute's 'A decade in Internet Time: Symposium on the Dynamics of the Internet and Society* 2011.

64 Susan Douglas “The Turn Within” in Laurie Ouellette *The Media Studies Reader* p.97.

collaboration takes into account the intellectual history of privacy and, to argue with Julie E. Cohen, promotes an approach to PIP that is “temperamentally postliberal and methodologically eclectic”<sup>65</sup>.

In his first major book *The Digital Person*, Solove criticizes legal approaches to privacy issues for their inability to think about privacy in the context of information flows. Rather than engaging this new context, he argues, (tort)law views privacy issues in isolation<sup>66</sup>. Solove rightfully contends that our current information environment demands an understanding of privacy issues as a phenomenon that involves multiple different entries and flows of information. Hence, at stake in the current battle over the meaning of PIP are systemic and collective issues of power distribution and not so much individual actors. Yet the current legal practice, which follows the liberal tradition and emphasizes individual rights, only holds accountable the latter.

In a remarkable effort to systematically organize all existing privacy issues, Solove's taxonomy of privacy shifts the conversation “away from the vague term 'privacy' and toward specific activities that pose privacy problems”<sup>67</sup>. In so doing, Solove abandons the phantasy of a unified meta-narrative about privacy and turns, effectively, to a context-bound and object-centric approach – two important methodological strategies. He effectively declares privacy to be a concept too complicated “to be boiled down to a single essence”. Instead, he argues for a reinterpretation of privacy as an “umbrella term, referring to a wide and disparate group of related things”<sup>68</sup>.

Borrowing from Wittgenstein's philosophical framework, Solove ascertains that

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65 Ibid. p.126.

66 Daniel J. Solove *The Digital Person* p.61.

67 Daniel J. Solove “Taxonomy of Privacy” *University of Pennsylvania Law Review* 154.3 2006. p.482.

68 Ibid. p.485.

privacy is “a plurality of things that do not share one element in common but that nevertheless bear a resemblance to each other”<sup>69</sup>. It is this pluralistic understanding of privacy that resonates most with cultural studies scholarship, which has long understood and conceptualized the social as a territory on which the meaning of categories is something to be fought over and subject to change. The term “walking signifier” has become synonymous with cultural studies scholarship and encapsulates the struggle over the meaning of symbolic categories such as privacy. Polysemy is another related and equally important idea, often invoked by cultural studies scholars to explain that some concepts have multiple and simultaneously existing meanings. Privacy, too, is polysemic.

Almost by accident, Solove formulates an even stronger invitation for a cultural studies inspired approach to privacy when he makes clear that privacy is “itself a form of social control that emerges from a society's norms”<sup>70</sup>. In other words, our understanding of privacy is constantly negotiated and highly contingent on changing cultural norms and involves a balancing of both individual and collective/societal interests. Only such a flexible and dynamic interpretation allows for an interpretive and analytical framework that looks at the social in its entire complexity. Lastly, Solove argues “privacy must be mapped like terrain”<sup>71</sup>. He draws on pragmatic philosophy and declares that “privacy issues should be worked out contextually rather than in the abstract”<sup>72</sup>.

Helen Nissenbaum is another legal scholar, whose work overlaps greatly with the ideas of cultural studies. Nissenbaum has invested a great deal of work into the

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69 Daniel J. Solove “‘I’ve Got Nothing to Hide’ and Other Misunderstandings of Privacy” *San Diego Law Review* 44 2007. p.756.

70 Ibid. p.763.

71 Daniel J. Solove *Understanding Privacy* p.ix.

72 Ibid. p.40.



development of the contextual integrity model, according to which the privacy of an individual is violated, when that person feels that information no longer flows appropriately<sup>73</sup>. Nissenbaum claims that what enrages people about the current privacy crisis is not

that contemporary systems and practices of information gathering, aggregation, analysis, and dissemination [...] diminish our control and pierce our secrecy, but that they transgress context-relative informational norms”. [These norms, she adds,] “preserve the integrity of the social contexts in which we live our lives, and they support and promote the ends, purposes, and values around which these contexts are oriented.”<sup>74</sup>

Moreover, Nissenbaum ascertains that “the private/public dichotomy is not useful as foundation of a normative concept of privacy”<sup>75</sup> – an insight that was discussed before vis-a-vis the case study Facebook.

While I and other critical media studies scholars such as Zizi Papacharissi applaud her attempt to lay to rest the private/public dichotomy – Nissenbaum unfortunately still clings on to the idea of relatively stable social contexts. This is particularly problematic when she defines privacy as “a right to context-appropriate flows”<sup>76</sup>. In so doing, she underestimates the ways in which social network sites such as Facebook have made it increasingly difficult to speak of separate contexts to begin with. At the very least, we need to realize that contexts increasingly overlap and blur on Facebook. How then, to argue with Nissenbaum, is information published on my Facebook profile valid in one context while simultaneously violating the norms of another context?

Nissenbaum's argument is clearly useful when information flows from one

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73 Helen Nissenbaum *Privacy in Context* p.2.

74 Ibid. p.186.

75 Ibid. p.16.

76 Ibid. p.187.

institutional or corporate context to another. For instance, when third parties purchase personal information from Facebook and then use it for unrelated commercial purposes, the contextual integrity of this particular piece of personal information is clearly violated. Similarly, if the government, as part of their massive surveillance campaign, demands data from Facebook's servers, the sovereignty of the boundaries that mark contextual integrity are ignored, too. The problem lies in the fact that these are different types of privacy violations. Thus, we should not commit the mistake and reduce them to one problem of contextual integrity. Nevertheless, despite this shortcoming, Nissenbaum's proposal encourages us to think about the particularities of contexts.

Jonathan Sterne explains that cultural studies “is primarily concerned with the production of context for a text, [...] how the possibilities for meaning are themselves organized”<sup>77</sup>. Why do we think about privacy the way we do? How are our tastes and expectations for privacy shaped and why are certain aspects seemingly more important than others to us at this very moment? Answers to these questions are generally ignored by the legal scholarship on privacy but of critical importance to cultural studies.

Lawrence Grossberg has made it a tenet of his writing to stress that cultural studies relies on “radical contextualism” and described cultural studies as “the discipline of contextuality”<sup>78</sup> and as “a theory of how contexts are made, unmade, and remade”<sup>79</sup>.

In a recent interview he re-emphasized this point by saying that “cultural studies is not [about a particular object], it's about the context, in which [said object matters]”<sup>80</sup>.

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77 Jonathan Sterne “Thinking The Internet. Cultural Studies Versus the Millenium” p.262.

78 Lawrence Grossberg “Cultural Studies: What's in a Name (One More Time)” *Taboo* 1.Spring 1995. p.10.

79 Ibid. p.18.

80 Comment by Lawrence Grossberg to James Hay in an interview for *Communication and Critical/Cultural Studies* 10.1 2013. p.73.

Consequently, an approach to PIP inspired by cultural cultural produces an entirely new catalogue of research questions all of which are concerned with why PIP matters to us to such an extent at this very moment. The move away from the object to the question of why said object matters, finally puts an end to the cumbersome definitional debate rightfully lamented by Solove and Cohen alike.

This shifting emphasis brings with it, of course, a host of issues that are difficult to solve (and are certainly impossible to address in this short essay). When confronted with the question, how one would know when the “right” context for a particular object was remade, Grossberg introduces the term conjuncturalism<sup>81</sup>, which I have used throughout the dissertation, to signal that the specificity of the particular research project defines the boundaries of the context at stake. Recalling discussions with Stuart Hall over how to define a particular conjuncture relevant for their own projects, Grossberg admits that such an attempt is always already flawed and its boundaries debatable. The point is, however, that these discussions or even these disagreements are productive as they force us to reconsider the relationship between an object and its context. Most importantly, Grossberg insists on articulation as “the methodological face of a radically contextualist theory”<sup>82</sup>.

In other words, in order to remake the context within which PIP issues need to be investigated, it is important to understand that there is not one single reason or issue that explains the increasing panic over the loss of privacy. To use Slack and Wise again, “rather, there are multiple dimensions that need to be understood in order to get an

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81 Ibid. pp. 73 and 89.

82 Lawrence Grossberg “Cultural Studies: What's in a Name (One More Time)” p.18.

adequate grasp of the place [of PIP] in contemporary culture”<sup>83</sup>. The concept of articulation draws our attention to the possible yet not necessary connections between people, things, and practices that constitute the social. The theory of articulation functions, therefore, as a useful reminder to understand PIP as a daily, dynamic practice.

Thinking about PIP in terms of articulation requires scholars to go beyond merely the legal concepts which are but one component among many different dimensions of the assemblage. Further following Slack and Wise, PIP issues in the post 9/11 United States need to be understood as “being particular contingent relationships among (at least)”<sup>84</sup> notions of space (the public/private dichotomy), the emergence of new technologies (such as Facebook), physical arrangements (such as the proliferation of surveillance cameras or other surveillance technologies like body scanners), new forms of crime such as identity theft, the financial crisis and the perception of growing social and economic inequality which seems to serve a small minority, and so on.

In theory at least, all articulations can be re-articulated, that means they can be undone and remade. Slack and Wise employ Stuart Hall to remind us that some articulations, however, are harder to undo and are more firmly welded together. Hall used the term “lines of tendential force”<sup>85</sup> to indicate that disarticulation and rearticulation are always a theoretical possibility but sometimes prove difficult or nearly impossible in “real” life.

Anita Allen has unknowingly pointed to one of these firm articulations already and has suggested the benefit of re-articulating this particular connection for women –

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83 Slack and Wise *Culture+Technology. A Primer*. p.126.

84 Slack and Wise *Culture+Technology. A Primer*. p.128.

85 Quoted in Slack and Wise p.128.

namely the connection between privacy and safety. Many other feminist scholars have pointed out that women have often suffered from this seemingly steady connection between the idea of home and the idea of safety. Yet, despite evidence to the contrary, the broader public continues to hold on to this idea especially in countries such as the United States where the privacy of the home is constitutionally protected.

Above, I mentioned how Grossberg wants cultural studies to be the study not only of context but of conjunctures. Slack and Wise introduce the term “constellation” which, in turn, they borrow from the French philosophers Gilles Deleuze and Félix Guattari to initiate a conversation about yet another concept useful to a cultural studies approach to privacy: that is assemblage. They introduce it in order to understand how all the different articulations fit together.

Grossberg, in a recent interview with James Hay, uses the analogy to an epoch to explain the necessity for such an analytical step. Can we, for instance, identify a starting point or event or even a change in terms of the meaning of PIP which would indicate a new constellation? If so, how and why did this particular constellation emerge and why has there been a shift from the previous arrangement of articulations? In short, and to go back to Deleuze and Guattari, an assemblage or a conjuncture “is a particular constellation of articulations that selects, draws together, stakes out and envelops a territory that exhibits some tenacity and effectivity”<sup>86</sup>.

Again, legal scholars such as Julie E. Cohen already started the conversation about the value of “hybrid assemblages” for the interpretation of privacy already. Yet, what I argue here is that she has missed to initiate an active exchange between the robust

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<sup>86</sup> Ibid. p.129.

body of literature that cultural studies scholars of technology and media have created over the last two decades and her own group of legal scholars. To be fair, her goal is to battle the idea of the autonomous subject as central tenet of legal theory and instead, introduce the concept of the socially constructed subject to U.S. Privacy theorists<sup>87</sup>; a scholarly project, Cultural Studies scholars can only applaud.

Similarly, her arguments that a “privacy analysis for the information age must focus on something other than physical location”<sup>88</sup>, and “the ability to control the terms of self-exposure in networked space is largely illusory”<sup>89</sup> fall right within the research program of cultural studies scholars. That is why my goal is not so much a criticism of Cohen but the attempt to outline already existing similarities between her work and cultural studies, to strengthen the bridges that exist between the two bodies of scholarly work, and to push the conversation even further.

In an interesting theoretical move, Cohen seems to open and at the same time close such a theoretical space. For instance, she borrows from Haggerty and Ericson the concept of surveillant assemblage, which is defined as:

A heterogeneous set of public and private processes that are interlinked and seek to harness the raw power of information by fixing flows of information cognitively and spatially [...] as part of surveillance society [which] is not the grim social dystopia that privacy advocates have assumed – and that privacy skeptics argue has failed to materialize. In return for its benefits and pleasures, however, surveillant assemblage demands full enrollment.<sup>90</sup>

While it seems as if Facebook epitomizes the idea of a surveillant assemblage, it narrows the discussion of what it means to use Facebook. In its own way and by requiring “full

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87 See Julie E. Cohen's discussion of the evolving nature of the subject in her book *Configuring the Networked Self* p.110.

88 Ibid. p.142.

89 Ibid. p.145.

90 Quoted in Julie E. Cohen *Configuring the Networked Self* p.137.

enrollment”, surveillant assemblage forecloses a conversation that centers around the contradictory user practices and a CS approach that wants to focus on the struggle over the meaning of privacy.

Again, the conceptual parallels between cultural studies and Solove's new theoretical framework for privacy are striking. What becomes important is how certain understanding(s) of privacy are organized and how some meanings are selected over others. Moreover, research questions are concerned with the ways in which certain meanings of privacy are foregrounded by certain actors, who, in turn, play a particular role within a constellation of multiple elements. Understanding how these elements are organized and mapped onto a particular territory then becomes a fundamentally new task and challenge in the scholarly attempt to grasp the relevance of and relationship between PIP and culture.

The concept of assemblage, in other words, provides yet another way to better understand PIP. Understanding the assemblage that makes up the different meanings of PIP forces us to think about people (who are concerned about their privacy), practices (privacy understood as a daily task), all sorts of tangible things (surveillance cameras) and less tangible things (such as Facebook), but also “a range of other kinds of bodies: human bodies, governmental bodies, economic bodies, geographical bodies, bodies of knowledge, and so on”<sup>91</sup>.

Cohen's own definition of privacy as “an interest in breathing room to engage in socially situated processes of boundary management”<sup>92</sup> seems more along these lines. I

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91 Ibid. p.130.

92 Ibid. p.149.

understand her definition as an attempt to conceptualize agency for the purpose of understanding privacy. She, thus engages one of the fundamental issues cultural studies is concerned with, namely the relationship between the individual ability to bend space and to make something happen and the social and material constraints which prevent individual agency. Cultural studies scholars typically take this assumption as point of departure for their analyses and cite Marx's phrase that people make their own history but not under conditions of their own choosing. They thus signal the ultimate departure from the liberal tradition of privacy and begin a new conversation about the value, meaning, and role of PIP now.



## Teaching PIP – Introducing a New Curriculum

Posting something online is almost as bad as getting a tattoo, [...]. The act of pulling it off or making it disappear ultimately is expensive, and it's never complete. No matter what you do about it, it leaves a little scar.<sup>1</sup>

Social networks are amassing about a thousand times more data about us than they were a year ago. We don't really know what it means yet, or how it will impact us, [...]. What people don't realize is that every one of these buttons is like one of those dark video cameras. If you see them, they see you.<sup>2</sup>

I am a critical media studies scholar interested in the intersections of privacy studies, cultural studies, and media studies. This final dissertation chapter is my attempt to offer a contribution that can be readily applied to teaching. That is why this chapter culminates in a syllabus that is designed with a college class room in mind. I want to emphasize, that the basic ideas and the philosophy that shape this syllabus as well as my pedagogical approach to PIP, are applicable to *any* teaching environment. Since it is not just students, whose lives are impacted by the ways in which they use media, raising awareness for the importance of PIP is a mission that transcends university campuses. That is one of the many reasons why my teaching approach takes inspiration from cultural studies. The formidable cultural theorist bell hooks explains the fascination of cultural studies with the following words:

To me, that's the exciting dimension of cultural studies, that it can take place, not as me writing a privatized article, but as a response to students asking what type of critical thinking allows them to engage this cultural production in a way that informs our political practice.<sup>3</sup>

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1 Paco Underhill, consumer researcher, quoted in Ylan Q. Mui. "In shoppers' Web networks, privacy has no price tag" *The Washington Post* May 22, 2010 p.A01.

2 Rob Shavell, a co-founder of Abine – a privacy software maker, quoted in Riva Richmond. "As 'Like' Buttons spread, so do Facebook's tentacles" *The New York Times Bits Blog* September 27, 2011.

3 Quoted in John Storey "Cultural Studies: an introduction" in *What is Cultural Studies? A Reader*. John Storey. London: Arnold, 1996. p.5.

Teaching PIP or any subject for that matter, means being able to answer questions by non-academics, the quintessential task of cultural studies according to Lawrence Grossberg<sup>4</sup>.

I have to admit, after having taught a class on “Communication in the age of Twitter and Facebook”, I was shocked to learn how little my students contemplated their own PIP. Despite empirical evidence to the contrary<sup>5</sup>, I found myself confronted with students, who were incredibly insecure, sometimes even naïve, with regard to the complex dimensions of PIP. Many of my students were the living prove for Andrejevic's observation that we rely on these technologies for socialization because “they provide a ready, convenient, and entertaining way of enriching, extending, and preserving our connections with others”<sup>6</sup>.

If I wanted to teach students something about the value of PIP in the context of social network sites, dismissing the usefulness of social network sites such as Facebook, as one possible strategy to increase student's control over personal information, surely did not describe a useful teaching strategy. Moreover, my knowledge of dana boyd's research about the extensive tactics with which young people sought to protect their online PIP, made contributions of behavioral scientists such as Alessandro Acquisi<sup>7</sup> equally dissatisfying. Acquisi argues that in theory, we all are concerned about our PIP but this

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4 Lawrence Grossberg “Cultural Studies: What's in a name (one more time)?” *Taboo* p.22.

5 The PEW Internet and American Life Project reports that 85 percent of Facebook and 24 percent of Twitter users have some sort of privacy protection mechanism in place. The PEW Internet & American Life Project “Teens, Social Media and Privacy” data can be accessed here:  
<http://www.pewinternet.org/Infographics/2013/Teens-Social-Media-And-Privacy.aspx>

6 Mark Andrejevic “Social Network Exploitation” in Zizi Papacharissi *A Networked Self* p.88.

7 Quoted in Somini Sengupta “Letting down our guard with web privacy” *New York Times* March 13, 2013. <[http://www.nytimes.com/2013/03/31/technology/web-privacy-and-how-consumers-let-down-their-guard.html?\\_r=1&](http://www.nytimes.com/2013/03/31/technology/web-privacy-and-how-consumers-let-down-their-guard.html?_r=1&)>

concern does not translate into our actual daily activities. Focussing exclusively on the perils of online activities seemed to, at best, present a similarly limited approach to PIP. I began to question, whether critical scholarship could provide any meaningful approach to PIP.

However, after writing this dissertation, I am convinced that classes in communication studies and media studies offer one possible space to alert students to the increasingly vital role PIP plays in their lives. Since I take great inspiration from Nick Couldry's socially oriented media theory, which focuses on the whole range of “social processes that media constitute and enable”<sup>8</sup>, the curriculum I propose could be a starting point for a discussion that transcends the boundaries of communication studies departments. Doing media studies from a perspective that is less-media centric but that looks at the entire social, cultural, economic, and politic spectrum invites the active exchange with other disciplines such as technology studies, anthropology, sociology or even computer sciences to name just a few.

Nevertheless, the context of critical digital media studies is probably best suited for interrogating the meaning and relevance of PIP from a perspective that acknowledges that our notion of PIP is “directly oriented to media, involve media, [or are] conditioned by media”<sup>9</sup>. Throughout the dissertation, I have argued that our expectations and tastes for PIP are constitutive of who we are as citizens and, hence, are foundational to the ways in which we shape and make sense of our democracy. If both media *and* PIP play such a fundamentally important role in our lives as citizens, it seems only plausible to develop a

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8 Nick Couldry *Media, Society, World* p.8.

9 Nick Couldry *Media, Society, World* p.180.

curriculum that helps students to investigate this particular relationship.

My curriculum borrows Nick Couldry's wonderful question “what role should media play in our lives”<sup>10</sup> and sends students on an exploration tour of their own embedded media habits as far as their personal information privacy is concerned. However, the goal of such an endeavor must be to go even further, as Couldry emphasizes, and should ask what it would mean to live a *good* life with media or “what is it to live ethically with, and through, media?”<sup>11</sup> PIP is, as this dissertation demonstrates, an increasingly important dimension of this question, albeit one that remains overlooked and under-explored. A shortcoming that the proposed syllabus at the end of the chapter seeks to mitigate.

I propose that the extremely polarizing ways of talking about PIP, which I quoted at the very beginning of this chapter, teach us very little about the actual value and role of PIP since they fail to provide students the tools necessary to negotiate their own role vis-a-vis PIP. Instead, my teaching approach proposes three separate but arguably related ways of thinking about PIP: (a) the political and ordinary dimension of PIP, (b) the relationship between accountability and PIP, and (c) the pragmatist approach to PIP. It is important to emphasize that these ideas are interconnected and cannot and should not be separated as neatly as this writing suggests. Instead, the goal of the curriculum is to foster a teaching environment in which all three ideas work simultaneously. Finally, while the ideas remain rather abstract, they ultimately lead to lesson plans and exercises that help students to apply the discussion to very concrete problems in their lives.

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10 Ibid.

11 Ibid. p.28.

First, PIP (just like culture) is ordinary, a constitutive element of us becoming who we are, and an increasingly important aspect of our everyday experiences. Hence, PIP is a political practice because people actively participate in the meaning making processes that shape PIP at the current conjuncture. Conceptualizing PIP as ordinary “grounds” the concept and, to say it with Lawrence Grossberg, “begins where the people are”<sup>12</sup>.

Secondly, teaching PIP requires us to investigate the extent and degree of accountability for our own activities as well as the activities of other people. What are the very standards against which I hold myself and others accountable with regard to PIP? Should we rely on individuals to account for the ways in which information flows – lets say from one Facebook account to another? What are possible processes that help to negotiate accountability for information flows in contexts that affect more than one individual? What are ways in which we should hold governments or corporations accountable for the channeling and protection of certain information flows?

Post-privacy advocates dismiss the notion of collective accountability and, instead, favor radical individual accountability. However, somewhere else in this dissertation, I quoted Allen's critique of the traditional liberal approach to privacy and its negative impact on marginalized groups. For Anita Allen, accountability is foundational to her work<sup>13</sup>. To her, privacy is our “repose [from social participation] and accountability our engagement [with social participation]”<sup>14</sup>. In the context of Facebook, students must be reminded that their individual actions have ethical consequences. Being accountable

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12 Lawrence Grossberg. “Cultural Studies: What's in a Name (One more time)” *Taboo* 1 Spring, 1995. p.22.

13 Among other places, Anita Allen discusses the nature of accountability in the Daniel J. Meador Lecture, delivered 2003 and titled: “Privacy is not everything: Accountability as a personal and social good” published in *Alabama Law Review* 54.4 2003 pp. 1375-1391.

14 *Ibid.* p.1376.

means that you take into consideration that your personal communication habits, such as trading away your own privacy for certain benefits, might have. In a recent study, the PEW research center has found out that “others posting things about you or pictures of you without permission” ranks on top of a list of Facebook activities that its users strongly dislike<sup>15</sup>. In other words, thinking about accountability requires students to leave behind the egoistical perspective that is all too easy to adopt when you are sitting in front of your computer in your own room.

Interestingly, thinking about PIP from an accountability perspective does not mean to dismiss the participation in online networking at all. In fact, when students investigate the stakes involved in their engagement with social participation, they might find out that giving away a particular amount of information about themselves is perfectly justified in light of the value they gain by having access to a network of friends. I, myself, have negotiated the value of this exchange many times as my personal social network spans multiple continents and thousands of miles. While I am keenly aware of Facebook's privacy problems, I have yet to quit my account. Instead, in my communication activities, I try to be *accountable* towards my friends and Facebook's curious data tentacles.

Overall, the dialectical relationship between PIP and accountability encourages students to think about the ways in which the norms, values, expectations, and tastes that shape this relationship are also products of a particular historical context. This approach teaches students that our standards for accountability can best be described as a web of

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15 Aaron Smith “6 new Facts about Facebook” PEW Research Center February 3, 2014.  
<<http://www.pewresearch.org/fact-tank/2014/02/03/6-new-facts-about-facebook/>>

relationships that is “both flexible and sticky”<sup>16</sup>.

The accountability net is *sticky* “in the sense that socially determined and reinforced expectations impel us” to act in certain ways in certain contexts. At the same time though, the accountability net is *flexible* “in the sense that we have a good sense of freedom to stretch and mold the connections to suit individual taste”<sup>17</sup>. Students must be taught to recognize the very fact that *both* the meaning of accountability as well as the meaning of PIP are constantly negotiated, made, and unmade. This, in turn, requires students to contemplate their role and the extent to which they actively participate in the making of these standards with respect to their friends, families, coworkers, and acquaintances within all the many overlapping contexts pertinent to their daily lives. More abstractly, it forces students to reflect on the relationship between their own agency and certain structural constraints in order to evaluate how sticky yet flexible their very own accountability net truly is<sup>18</sup>.

Thirdly, students must be equipped with a pragmatic attitude towards PIP that “refuses any and all dreams of universal, absolute, complete, and perfect truth”<sup>19</sup>. Guided by this “intellectual modesty”, students are taught to contextualize and historicize the revolutionary claims made by the various engines of discourse that I introduced throughout the dissertation. These can include statements which celebrate Facebook's commitment to radical transparency, arguments about the a-political nature of post-

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16 Anita Allen discusses the nature of accountability in the Daniel J. Meador Lecture, delivered 2003 and titled: “Privacy is not everything: Accountability as a personal and social good” published in *Alabama Law Review* 54.4 2003 p.1389.

17 Ibid.

18 I thank my advisor Gil Rodman for alerting me to this dimension of the accountability argument.

19 Lawrence Grossberg *Cultural Studies in the Future Tense* p.9 and also James Carey “Historical Pragmatism and the Internet”.

privacy, or the general tendency to view PIP's destiny as doomed. The goal of my teaching approach to PIP is to enable students to complicate these narratives in ways that allows them to re-discover their own agency.

Moreover, the goal of the curriculum is to make students aware of a paradox, namely to install in the them a keen sense for the importance of PIP, while debunking alarmist and all too ambitious arguments that render privacy as the one and only issue at stake in the shifting boundaries that mark personal and private information. Such an approach to PIP creates the space to address the number of important yet not inevitable connections between PIP, capitalism, politics, and culture. It facilitates a bottom-up understanding of PIP and encourages students to actively think about their own political stakes within the debate.

My approach to teaching PIP describes a radical departure from and break with the technological and market-place approaches to PIP that journalists and Facebook advocate for in the previous chapters. A number of scholars point to the flaws of technological solutions. James Grimmelman convincingly argues that Facebook offers ample “evidence for the surprising ineffectiveness of technical controls [of privacy]”<sup>20</sup>.

The main problem with relying on technical solutions is of course that students do not learn to consider alternative ways of conceptualizing PIP that exist outside of Facebook's technological infrastructure. In the absence of viable alternatives, users have to rely on the PIP protection measures, which are always already situated within Facebook's data use policy. Hence, these solutions help little to alleviate the actual harm that emanates from Facebook's rather lax approach to its users' PIP. In other words,

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20 James Grimmelman “Saving Facebook” *Iowa Law Review* 94. 2009. p.1140.



technological solutions usually fail to account for the ways in which either a protective or an adverse PIP attitude is already integral to web services.

Lawrence Lessig is probably the most prominent advocate of this architectural approach to digital PIP. The point he convincingly makes, is that the architecture of an organization such as Facebook already determines whether individuals will be “able to control information about themselves”<sup>21</sup>. Teaching students the ways in which certain political and economic motivations are intrinsic components of web architecture, forces us to interrogate the question of regulation more broadly.

“Who regulates us?” is the difficult question that Lessig wants us to contemplate. Thinking about the possible ways in which governments, commerce, social and cultural norms, and architecture each regulate what we can do online, encourages students to scrutinize the extent to which any single form of regulation can ever propose a satisfactory condition for the protection of PIP<sup>22</sup>.

Ira S. Rubinstein's plea for “Regulating Privacy by design” provides an impressive overview of similar arguments. Her proposal is particularly relevant to my subject as she convincingly describes the ways in which PET (privacy enhancing technologies) are unable to effectively deal with today's challenges to PIP. In other words, a curriculum based on technological solutions establishes an “inward-looking” perspective rather than a context-specific perspective. It risks that contemplating PIP remains limited to “how-to” questions rather than inquiries into the political, cultural, and economic ideologies that motivated Facebook's infrastructure in the first place.

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<sup>21</sup> Lawrence Lessig *Code 2.0* p.231.

<sup>22</sup> I thank Gil Rodman again for helping me understand Lessig's larger intellectual project and for bringing to my attention the ways in which Lessig so effectively deconstructs the multiple dimensions of the idea of regulation.

Grimmelman warns that “[t]he availability of technical controls further invite users to think in terms of boundedness, even though the actual network boundaries are highly porous”<sup>23</sup>. Instead, students need to be reminded that the new information reality online is characterized by hyperfluidity. For example, my students still envisioned the various google services (google mail, chat etc) as bounded services rather than interconnected parts of the google empire, all designed to collect data from us. Moreover, many of my students were shocked to learn that the now ubiquitous “Like” button allows Facebook to track user activities beyond the boundaries of the actual website. If we limit teaching PIP to technological solutions, we fail to install in the students the ability to distinguish between the world they experience as Facebook user and the world as it presents itself to the Facebook corporation.

Yet, making students aware of this distinction is crucial in order to understand the means by which corporations such as Facebook or google attempt to become an indispensable utility to social life itself. To de-naturalize this processes is one of the principle tasks of teaching the political dimension of PIP. Interestingly and in surprising ways, this argument pays homage to Jenkins' convergence culture claim. He argues that whereas the “collective intelligence/power” of most web 2.0 processes “is so far mostly used through our recreational life, soon we will be deploying those skills for more 'serious' purposes”<sup>24</sup>.

In addition, the exclusive emphasis on technical solutions bears the risk of adopting a world view that reduces everything to 0 and 1. danah boyd reminds us that

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23 Ibid. p.19.

24 Henry Jenkins *Convergence Culture* p.4.

[t]he tech world has a tendency to view the concept of 'private' as a single bit that is either 0 or 1. Data is either exposed or not. [But] privacy is not simply about the state of an inanimate object or set of bytes; it is about the sense of vulnerability that an individual experiences when negotiating data.<sup>25</sup>

Grimmelmann ads:

We think about privacy in terms of social rules and social roles, not in terms of access control lists and file permissions. Thus, when given the choice, users almost always spurn or misuse technical controls, turning instead to social norms of appropriateness and on informal assessments of practical obscurity.<sup>26</sup>

Rather than proposing an independent solution to the PIP challenges of our current conjuncture, technical questions should be understood as entry point into a debate about broader and more systemic issues. For instance, Facebook's granular control approach to PIP very much leads to and requires a debate about whether PIP should be regulated according to an opt-in or an opt-out model – each of which are based on fundamentally different assumptions about the relationship between individuals and society.

Europeans, for instance, are hugely skeptical towards Facebook's privacy policy and support governmental intervention for the sake of the protection of user privacy. A majority of US Americans, on the other hand, mostly fear and reject governmental intervention. Whitman attributes this outspoken skepticism to “a European interest in personal integrity, threatened primarily by the mass media” and contrasts it with US American interests in “liberty”<sup>27</sup>. Arguably, there is not one monolithic European attitude towards privacy just as there are massive regional differences within the United States, when it comes to the interpretation of constitutional rights. While each national culture is

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25 Danah boyd “Facebook's Privacy Trainwreck” *Convergence: The International Journal of Research into New Media Technologies* 14.1 2008. p.14.

26 Grimmelmann “Saving Facebook” *Iowa Law Review* 94. 2009. p.36.

27 James Whitman “The Two Western Cultures of Privacy: Dignity versus Liberty” *Yale Law Journal* p.1219.

itself fractured, Germany seems to be a haven for privacy advocates within the EU, as its law-makers are recognized as staunch defenders of PIP and bold adversaries to US American companies such as Facebook<sup>28</sup>. And even here, regional differences in pro-privacy attitudes vary. Nevertheless Whitman's article illustrates, going beyond the limitations of a purely technological discourse allows students to internationalize and de-provincialize technological solutions to PIP.

In an effort to pursue a transnational and thus comparative perspective to PIP and Facebook, students should be invited to discuss among others the European Data Protection Directive 95/46 EC<sup>29</sup>, the European Convention on Human Rights<sup>30</sup>, or the OECD Privacy Guidelines<sup>31</sup>. Comparative assignments should, however, not be limited to European or US American contexts but, instead, should look at the ways in which privacy is an important issue to societies around the world. What are the contexts that shape the assumably different understandings of privacy around the globe? This assignment is particularly useful for the integration of international students, whose unique perspective

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28 For two brief analyses in English: Heather Horn "Germany's War with Facebook and Google over privacy" *The Atlantic* December 2012. <<http://www.theatlantic.com/international/archive/2011/12/germanys-war-with-facebook-and-google-over-privacy/248914/>> and David Meyer "The Schleswig-Holstein Question" *BBC News* September 10, 2011 <<http://www.bbc.co.uk/news/technology-14859813>>

29 James Whitman for instance ascertains that in contrast to the US, the 1996 European Community Directive on Data Protection while far from perfect at least recognizes some of the dimensions of privacy 2004. p.8.

30 Daniel J Solove adds to Whitman a rich discussion of the differences between US American approaches to privacy and the European understanding. For instance he highlights how the European Convention on Human Rights states in Art 15: "Member states shall grant the right to every person not to be subject to a decision which produces legal effects concerning him or significantly affects him and which is based solely on automated processing of data intended to evaluate certain personal aspects relating to him, such as his performance at work, creditworthiness, reliability, conduct, etc." The European Convention on Human Rights furthermore states in Art 8: "prohibits the processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, and the processing of data concerning health or sex life"(Solove *The Digital Person* p.107)

31 Internationally, OECD Privacy Guidelines provide that 'personal data should be relevant to the purposes for which they are to be used, and, to the extent necessary for those purposes, should be accurate, complete, and kept-up-to-date'(Solove *The Digital Person* p.106).

can contribute to an enlightening discussion.

In addition to technological solutions to secure our PIP, the market for privacy enhancing technology (PET) proposes a second popular yet equally dissatisfying approach to teaching PIP. Adam Thierer advances what he calls the “3E approach” in order to advocate a “more bottom-up, multifaceted, and evolutionary”<sup>32</sup> way of thinking about privacy. His 3Es stand for education, empowerment, and enforcement, the three principles to facilitate “critical thinking” and “digital citizenship” as educational goals.

Accordingly, teaching PIP to students must include the following measures:

- (a) how to use whatever controls are built-in to the browsers, (b) how to distinguish between advertising and editorial content, (c ) how to evaluate whatever information they come across to be able to make informed choices, (d) to maintain a smarter online hygiene (sensible personal data use) and 'netiquette'(proper behavior toward others), and (e) to avoid the dangers of over-sharing.<sup>33</sup>

To Thierer, it is particularly important that we find ways to “enhancing online safety without sweeping regulations”. In other words, Thierer's applied theory to PIP is emblematic for some of the broader US American political sentiments that Whitman highlighted above. He goes out of his way in order to establish firm boundaries for possible governmental interventions into the regulation of PIP.

Government officials can take steps to encourage the use of PETs, but it is even more essential that they do not block or discourage their use. For example, limitations on encryption technologies or mandates requiring that web surfers use online age verification or identity authentication technologies would undermine user efforts to shield their privacy.<sup>34</sup>

Thierer insists that his 3E approach is particularly suited for the US American context

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32 Adam Thierer “The Pursuit of Privacy in a World where Information Control is Failing” *Harvard Journal of Law & Public Policy* 36. 2013. p.437.

33 Adam Thierer pp.438/439.

34 Ibid. p.446.

because of its great emphasis on “both free speech rights and the importance of online commerce and innovation”<sup>35</sup>. Accordingly, what is needed to enforce new ways of protecting privacy is not regulation because “a plethora of privacy laws, data security-related statutes, and other consumer protection policies already exist.” These are, as he goes on to argue, “[...] no substitute for a more educated, empowered, and responsible citizenry”<sup>36</sup>.

On first sight, the 3Es promise a comprehensive teaching curriculum and integrate a number of arguments widely circulated among privacy advocates. Yet, the pro-market attitude undergirding Thierer's 3E approach leads to important gaps in understanding PIP. It is Thierer's instant dismissal of governmental regulation as un-American, his unquestioned embrace of the self-regulatory power of markets, and the fact that the 3Es approach “assumes and depends upon a certain amount of personal and parental responsibility”<sup>37</sup>, that dwarfs the approaches' educational potential.

Why are Thierer's suggestions not enough? Could his 3E approach not describe the best possible scenario given the current political circumstances? Did not the first chapter of my dissertation outline the government's reluctance to actively regulate privacy policies for information corporations and online commerce? I argue that even if we accept that the government is not willing to regulate corporations, Thierer is all too accepting of the fact that parents and users themselves are responsible for educating themselves about privacy.

Even if we accept that governmental regulation plays a limited role in the US

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35 Ibid. p.412.

36 Adam Thierer “The Pursuit of Privacy in a World where Information Control is Failing” *Harvard Journal of Law & Public Policy* 36. 2013. p.454.

37 Ibid. p.437.

American context, my discussion of the HEW fair information principles shows that we cannot let the current administration of the hook quite so easily. Previous administrations experienced backlash against overly ambitious regulatory attempts as well, yet they took a much more pro-citizen stand than the current administration. Therefore, the symbolic power of demanding the current government to refrain from its pro-business attitude is far from trivial. In fact, if we want students to consider alternative options to the corporate PIP-is-dead narrative, the government should return to the pro-citizen rhetoric it facilitated in the 1970s.

Moreover, as I said before, the government has to inevitably play an active role in the regulation of PIP since the government is involved in how cyberspace overall is regulated. My investigation of the *White House Guidelines on Consumer Privacy* demonstrates that Thierer's dismissal of governmental action only camouflages the very fact that the government already plays a problematic role in the debates over and battles for ordinary people's PIP. For example, the *White House Guidelines* actively discourage the use of PETs. Bracketing the government's role makes it more difficult to analyze how Facebook, the White House, and Capitol Hill have developed an increasingly symbiotic rather than the check-and-balance relationship they are supposed to have. On top of this, parts of the NSA scandal revealed that the government actively pursues an arms race against encryption technology (one of the PETs Thierer promotes) with little tolerance for the PIP interests of the ordinary people<sup>38</sup>.

That is why student empowerment and digital citizenship must include the ability

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38 Zachary Graves "The NSA war against encryption" September 10, 2013.  
[http://www.huffingtonpost.com/zachary-graves/the-nsas-war-against-encr\\_b\\_3901328.html](http://www.huffingtonpost.com/zachary-graves/the-nsas-war-against-encr_b_3901328.html)

to look critically at the government's role. Such critical inquiry should not be limited to the stereotypical and dichotomous big-government versus small-government argument, as Thierer suggests. Instead, what is at stake is the student's ability not to take the government's role for granted but to look at the specific ways in which it describes one actor among many to shape the meaning of PIP at the current conjuncture.

Whereas Thierer rightly insists that regulation alone can never satisfy the changing expectations and tastes for PIP, students must be taught to develop the ability to explore the often-times complex and troublesome connections between corporate and governmental interests. In so doing, they need to learn to go beyond simply assuming that more government means more laws and more top-down market regulation.

If regulation in the US at the current conjuncture does not describe a reasonable option for change, Thierer's 3E approach should consider other options to level the playing field. Placing the burden on individual actions will simply not be a successful strategy. For instance, Thierer's ambitious list of essential skills explains how young people need to be taught “how to distinguish between advertising and editorial comment”. The fact that it proved impossibly difficult to distinguish between a sponsored article about Scientology and regular *The Atlantic* content<sup>39</sup>, illustrates how it has become incredibly difficult even for professionals to make these judgements.

Counter to Thierer's assessment, the *Atlantic* moment is another incident that underscores the need to thoroughly discuss the role of the government. In chapter one, I

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39 Here is a critical analysis of the scientology advertising that appeared in *The Atlantic*. Josh Vorhees from Slate magazine argues convincingly that the small yellow disclaimer right above the article hardly represents a satisfactory warning sign to identify the sponsored nature of this fake editorial. <[http://www.slate.com/blogs/the\\_slatest/2013/01/15/the\\_atlantic\\_sciencology\\_magazine\\_yanks\\_sponsored\\_content\\_after\\_outcry.html](http://www.slate.com/blogs/the_slatest/2013/01/15/the_atlantic_sciencology_magazine_yanks_sponsored_content_after_outcry.html)>



criticized the fact that the White House guidelines refrain from any type of regulation of data collection for statistical purposes. It is precisely this type of business, as Joseph Turrow shows, that “is destroying traditional publishing ethics by forcing media outlets to adapt their traditional content to advertisers' public-relations needs”, [in *the Atlantic* case it was scientology], and slice-and-dice demands”<sup>40</sup>.

Furthermore, Thierer's reliance on rather static social standards online are another reason for a critical intervention. His conceptual framework ignores the managerial, relational as well as context-specific, and intensively subjective notion of PIP. Teaching PIP should highlight the idea that individuals are active participants in the political and the disciplining (dubiously labeled hygienic in Thierer's essay) processes of defining the proper netiquette and proper social network behavior. While it is obviously important to understand that the violation of any type of social standard might lead to sanctions, our teaching should emphasize the bottom-up potential of students investigating these processes in the first place.

From Thierer's passages, it becomes clear that he conceives digital citizenship not as something that users have to develop from the bottom-up and through permanent struggle, but as something that can be pushed-down by institutions. For instance, Thierer presents the FTC's guide *OnGuard Online* as a helpful tool to facilitate digital citizenship. In a previous chapter, I have already criticized the FTC's limited scope and ability to help ordinary users alleviate their PIP problems effectively. Thierer on the other hand, trusts the commission and points out how the guidelines raise “awareness about various

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40 Joseph Turrow *The Daily You* p.2.

legitimate online threats, including spyware, phishing, laptop security, and identity theft”<sup>41</sup>.

Another central tenet of his 3E approach is the thriving market for 'self-help' tools and privacy enhancing technologies (PETs) that supposedly empower users to take care of their privacy online. To him, the existence of an impressive list of PET's “illustrates a well - functioning marketplace that is constantly evolving to offer consumers greater control over their privacy without upending online markets through onerous top - down regulatory schemes”<sup>42</sup>. Thierer advances that a pro-market ideology is fundamental to his 3E approach for teaching PIP, since only a vibrant market “meets new challenges”<sup>43</sup>.

When Thierer makes users accountable for ignoring the various PET tools, his argument effectively resembles that of Facebook. Critical media studies scholars feel reminded of Eileen Mehan's argument in *Why TV is not our Fault*, when Thierer laments that users fail to take advantage of the opportunities the PET market provides to them. Similarly, Turrow's research shows that blaming users really misses the point that “the rhetoric of consumer power [is already losing] credibility”.

PETs can hardly function as meaningful defense mechanisms for user PIP, when consumer power is being replaced by “a rhetoric of esoteric technological and statistical knowledge that supports the practice of social discrimination through profiling.”<sup>44</sup> Thierer seems to say that because most consumers “never take advantage of these empowerment tools”<sup>45</sup>, we cannot blame the marketplace for the deteriorating conditions for protecting

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41 ONGUARDONLINE, <http://onguardonline.gov> quoted in Thierer p.439.

42 Adam Thierer “The Pursuit of Privacy in a World where Information Control is Failing” *Harvard Journal of Law & Public Policy* 36. 2013. p.445.

43 Ibid. p.440.

44 Joseph Turrow *The Daily You* p.3.

45 Thierer *The Pursuit of Privacy*. p.440.

PIP. Alarming are the ways in which Thierer embraces the myth of the technological fix according to which privacy enhancing technology promises consumer empowerment.

Let me shift to what an alternative teaching would actually and concretely look like. The following pages propose and discuss some possible readings but mostly explain the main ideas that undergird my syllabus. Most importantly, I want to point out that the proposition of alternative ideas about PIP in the forms of a variety of readings does not suffice to counter the teaching approaches criticized above. Instead, I depart radically from technical and pro-market approaches to PIP by connecting the theory with the student's own social reality, while not taking for granted the idea of privacy in the first place.

Accordingly, the syllabus I propose is influenced partly by John Dewey's ideas on education. I adapted his pragmatist writings on education in schools to my interest in PIP. Outlining his basic assumptions about what good education must look like, Dewey emphasizes how the true center of education is the social activities of our everyday lives<sup>46</sup>. He furthermore declares:

I believe that the only true education comes through the stimulation of the child's power by the demands of the social situations in which he finds himself. Through these demands he is stimulated to act as a member of a unity, to emerge from his original narrowness of action and feeling and to conceive of himself from the standpoint of the welfare of the group to which he belongs. Through the responses which others make to his own activities he comes to know what these mean in social terms. The value which they have is reflected back into them.<sup>47</sup>

The central questions that shape the conversation I am hoping to have with students echo

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46 John Dewey "My Pedagogical Creed" in Larry A. Hickman and Thomas M. Alexander (eds.) *The Essential Dewey* Vol.1. p.232.

47 John Dewey "My Pedagogical Creed" in Larry A. Hickman and Thomas M. Alexander (eds.) *The Essential Dewey* Vol.1. p.229.

Dewey's general observations about the purpose of education. In the course of my class, I encourage students to think about the following, more general, questions:

- What does personal information privacy mean for you?
- What are your expectations for PIP when you are online? Are these different from when you are not online? If so, how?
- What are the conditions that shape your tastes and expectations for PIP?
- How do you manage your PIP?
- What are some of the practices and tactics you use to protect your PIP?

These questions are not only conversation starters, they also serve as a bridge between the theoretical texts I want the students to read and the social reality/context of their lives. Hence, the questions fulfill two functions: first, they help to investigate the relationship between text and context. Secondly, they not only shape my assignments but they also help to take the lessons from class to the everyday lives of my students, hopefully teaching them that work in class can make a difference in their everyday lives.

It is precisely the dialectical relationship between theory and the students's actual social reality that serves as backdrop for the initial discussion of the ideas behind the concept of privacy. The ways in which Daniel J. Solove's theory of privacy, Helen Nissenbaum's work on privacy in context, and Julie E. Cohen's attempts to re-imagine privacy present a useful theoretical discussion of the various dimensions of privacy that all pertain directly to the students's lives. Obviously, an inquiry into the plethora of ideas that shape our expectations for PIP has to also include those voices that suggest the death of privacy. Part of this work gets mentioned by the three authors above. Some of those ideas I will introduce to the students in a lecture referring to German authors such as Christian Heller. Also, post-privacy voices are present throughout the class as art of Facebook's commitment to radical transparency and in the work of many journalists.

However, adopting Dewey's insights forces educators to offer students more than text. It also demands that we provide students tools to then use, apply, and test as part of their social lives outside of the classroom. In one of his more promising moments, Thierer suggested “critical thinking” as one such tool. Unfortunately, he avoids detailed instructions about how educators could foster the development of this skill that is so difficult to teach in the classroom. My syllabus introduces a number of methods and tools for the inquiry into PIP that are constitutive of critical thinking but are more readily applicable for students. In other words, rather than announcing the grand goal of turning students into critical citizens, Nippert-Eng's managerial approach to privacy, James Carey's and Jonathan Sterne's pragmatist approach to claims about technology and the internet<sup>48</sup>, Anita L. Allen's notion of accountability, and Raymond Williams's concept of culture as ordinary provide concrete guidelines for how to investigate the PIP at the current conjuncture.

Along these lines, danah boyd's and Alice Marwick's research on teenager's attitudes towards privacy<sup>49</sup> is a great example for how applied theory can offer students important scholarship as well as the opportunity to situate a theoretical inquiry within their own social reality. In addition to a brief theoretical introduction to privacy, students learn from boyd and Marwick that their interviewees were quite actively shaping their own notion of PIP. Students are introduced to the complicated consequences of the managerial notion of PIP, which include both political agency as well as the structural

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48 For example, students have to read Craig Mundie's “Privacy Pragmatism” approach from *Foreign Affairs* to demonstrate the different ways in which pragmatism can be understood and applied to the question of PIP.

49 danah boyd and Alice Marwick “Social privacy in Networked Publics: Teens' attitudes, practices, and strategies”

limitations to this agency. The experiences that teenagers share in boyd's and Marwick's study provide students a context to identify with.

One of the central conclusions from boyd and Marwick is that in an information society, information is public by default and private by effort. From this central insight follows a very useful in-class exercise that has students check their own Facebook privacy settings along with the various web provider options that manage internet browsing history, cookie regulations, and tracking settings.

If the goal of education is to guide students in their effort to make sense of issues that matter to their social lives, then students must be provided the vocabulary, both in terms of abstract ideas as well as actual words, to re-imagine or even reclaim the value of PIP. At the very least, students must be enabled to think about and communicate what possible expectations for PIP might be when the focus is not on corporate or governmental interests but on the interests of ordinary people.

Political scientist Christopher Parson has collected and synthesized the work of a group of young scholars, who ignited such a conversation that dares to re-imagine people's relationship to social networks sites such as Facebook. Parson's *Social Media Bill of Rights* includes fourteen principles, all of which are designed to empower users and to facilitate a bottom-up and more democratic social network infrastructure:

1. Honesty: Honor your privacy policy and terms of service
2. Clarity: Make sure that policies, terms of service, and settings are easy to find and understand
3. Freedom of speech: Do not delete or modify my data without a clear policy and justification
4. Empowerment : Support assistive technologies and universal accessibility
5. Self-protection: Support privacy-enhancing technologies

6. Data minimization: Minimize the information I am required to provide and share with others
7. Control: Let me control my data, and don't facilitate sharing it unless I agree first
8. Predictability: Obtain my prior consent before significantly changing who can see my data.
9. Data portability: Make it easy for me to obtain a copy of my data
10. Protection: Treat my data as securely as your own confidential data unless I choose to share it, and notify me if it is compromised
11. Right to know: Show me how you are using my data and allow me to see who and what has access to it.
12. Right to self-define: Let me create more than one identity and use pseudonyms. Do not link them without my permission.
13. Right to appeal: Allow me to appeal punitive actions
14. Right to withdraw: Allow me to delete my account, and remove my data<sup>50</sup>

Parson's short document serves simultaneously as a tool to re-imagine what PIP from a user perspective might entail, and as a primary source against which students can compare corporate as well as governmental guidelines for privacy policy. These fourteen guidelines exceed by far the FTC FIPS (Fair Information Practices), which the White House endorses in order to provide stronger “protections from onerous corporate control, manipulation, or aggressive anti-privacy monetization schemes”. Instead, Parson's social media bill of rights allows students to investigate the extent to which their own rights are at odds with the actual social media contexts in which their activities take place.

Furthermore, via the discussion of the individually listed ideas, students should begin to examine the political economy of PIP. Therefore, Parson and his colleagues can either serve as an introduction to the questions that interests Lawrence Lessig in *Code 2.0* or their *social networking bill of rights* can make some of Lawrence's abstract ideas more

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<sup>50</sup> Christopher Parson July 8, 2010. <<http://www.christopher-parsons.com/on-a-social-networking-bill-of-rights/>>

accessible. Both Lessig and Carson et. al helpfully initiate a conversation about the ways in which ordinary people can actively contribute to digital architectures that protect the “values that we believe are fundamental”<sup>51</sup> to these social spaces.

Lessig's catalogue of political economy questions about the nature of such a third internet architecture includes: “Which regulators do we prefer? Which regulators should be controlled? How does society exercise that control over entities that aim to control it?”<sup>52</sup> Undergirding this political economy of the internet is an understanding that context, architecture, structural conditions shape values and our very understanding of what privacy might mean, what it entails, and why it might matter. Lawrence Lessig insists that we need to think of cyberspace and Facebook in terms of both substance and structure. By highlighting that both of these components are outcome of economic, cultural, and social decisions, Lessig provides students yet another tool to critically assess who should be held accountable.

Robert W. Gehl is a critical new media scholar, whose definition of web 2.0 services (which include Facebook) emphasizes the importance of paying attention to the peculiar relationship between the form and content made possible of social network sites and the structural conditions that shape our daily lives. He writes:

As the new media capitalist technique of relying upon users to supply and rank online media content, then using the attention this content generates to present advertisements to audiences. [...]. As is evident from their interfaces, these sites are dedicated to immediacy, social connection, and instant access to information [...].<sup>53</sup>

Too few people speculate about the ways in which Facebook's interface regulates, even

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51 Lawrence Lessig *Code 2.0* New York: Soho Books, 2006. p.6.

52 Lawrence Lessig *Code 2.0* p.7.

53 Robert W. Gehl “The Archive and the Processor” p.2.



determines, the types of messages its users distribute. One of the more obvious Facebook features is the time line interface. Occasionally, observers have pointed out that its radically linear attempt to chronicle and organize our lives buries the complexity and oftentimes circular nature of our lives<sup>54</sup>. In any case, the time line feature certainly epitomizes Zuckerberg's naïve understanding of human identity by subordinating all life events to a singular progress narrative – a life free of friction, breaks or contradictions.

Students should begin to question the ways in which infrastructure shapes our relationships to other users as well. What information are we comfortable sharing and, in turn, what information do we expect from other users? How and why does what we share online impact our expectations and standards for PIP? How and when should I feel accountable towards others? When should other individuals and/or institutional and corporate actors be accountable to me?

Using Facebook as a case study, students should be asked to examine the ways in which their own expectations for information disclosure relate to the content categories provided by Facebook. How do students react when their friends refuse to publish information about their favorite “movies”, “TV shows”, and “books”? Arguably, Facebook is built on the premiss of reciprocity, according to which users are expected to share information with other users. In an earlier reference to Lessig's work on regulation, I highlighted that social and cultural norms also regulate spaces such as social networks. Therefore, it seems only reasonable to ask students if they have ever witnessed social sanctions for when one of their friends did not comply with the expectations set up by the

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<sup>54</sup> The German journalist Nina Pauer argues that “a biography is more than merely a protocol. The heart of the social experience is precisely not the complete record but the contingency of the social” (my translation) “Die Utopie ist da” *Die Zeit Online* September 28, 2011. <<http://www.zeit.de/2011/40/Facebook-Timeline>>

mere existence of these identity categories.

On a similar note, Facebook's now iconic status update can be interpreted as a measure of somebody's profile's liveness/popularity. Facebook reinforces this interpretation by providing tools such as the “like” and “share” function, which measure this popularity and make it more transparent. From Facebook's perspective, the status update feature is designed to stimulate data production as it draws attention to the website and makes users dwell on the website. But does the status update also dictate a communication standard to Facebook users? Do students even feel obligated to communicate? Are they accountable to others for a minimum number of posts? Conversely, can Facebook users rightfully demand a certain information density from other users? What are the consequences of a lack of frequently occurring status updates?

As Lawrence Lessig reminds us,

structure matters as well, though we have not even begun to understand how to limit, regulate, arbitrary regulatory power. [...] As we slowly come to see how different structures within cyberspace affect us - how its architecture [...] “regulates us” - we slowly come to ask how these structures should be defined.<sup>55</sup>

Even if it seems basic and banal, but at the current conjuncture, reminding students that both the substance and the structure are something to struggle over rather than something to passively accept, is a huge task. It is important to highlight the connections between these digital infrastructures and certain political ideologies, ideas, and values. Such a conversation is crucial in order to develop a technological and legal literacy.

The differences between digital opt-in and opt-out architectures offer a concrete context to teach students the relevance of these architectural issue. Lilian Edwards and

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<sup>55</sup> Lawrence Lessig *Code 2.0* New York: Soho Books, 2006. p.7.

Ian Brown cite research that convincingly argues that

[a]fter all, if people don't know about defaults, they will assume that any alternative settings are impossible or unreasonable. The influence on people's perceptions of their control over software configurations is a core concern with software regulation.<sup>56</sup>

By contrast, most of Facebook's default settings rely on an opt-out approach. For the social network service, this decision is perfectly reasonable since it provides individual users the granular control over every bit of information they post. Over and over again I have criticized the weaknesses of the granular approach to individual user control. By contrast, opt-in architectures help to manage the ever-faster release of new products and privacy policy changes as they take the maximum privacy setting as their default and leave it up to the user to adjust their settings accordingly.

In my previous attempts to teach the subject, I found that the students had a keen interest in debating these principles and expressed great frustration with the current “opt-out” regime that undergirds Facebook in the United States. The Internet law scholars Lilian Edwards and Ian Brown render opt-out as “useless”. In a surprisingly frank tone, they argue that:

First, defaults provide users with agency. Users have a choice in the matter: They can go with the default option or choose another setting. Second, a default guides a user by providing recommendation. [...] Defaults are important not only in affecting a person's choice, but also in shaping norms and creating culture.<sup>57</sup>

Students who need to investigate the consequences of these default settings are motivated to speculate about the individual freedom gained from an architecture that foregrounds users rights and PIP by relying an opt-in model. Under its current opt-out regime,

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<sup>56</sup> Edwards and Brown “Data Control and Social Networking” p.21.

<sup>57</sup> Ibid.

changes in Facebook's privacy and data management policy almost automatically lead to exacerbated information privacy conditions for its users.

In *The Digital Person* Solove neatly outlines the advantages of opt-in systems:

The effective privacy regulation must legally require an opt-in system which contains a meaningful range of choices as well as addresses inequalities in knowledge and power and other impediments to voluntary and informed consent.<sup>58</sup>

However, while Solove fails to acknowledge the complications integral the term “informed consent”, students need to be taught to take a more critical approach to the concept of consent based infrastructures. In Solove's defense, he is not alone in underestimating the radical ways in which the principle of information flow has rendered consent-based mechanisms almost meaningless.

In a paper about the value of consent-giving in the context of behavioral advertising, British scholar Andrew McStay proposes the distinction between “genuine consent and consent that is simply enforced agreement”. He states that, unfortunately, the latter serves as “modus operandi” for most websites<sup>59</sup>. In his paper, McStay insists that “to give [genuine] consent is to act”. It requires people to do something for which they have to “be informed and able to conceive an educated opinion so as to express will”. He explains that “in expressing will there is agency, volition, control, deliberateness and making something happen”<sup>60</sup>.

James Grimmelman and Julie E.Cohen suggest a more critical perspective on the idea of consent. Grimmelman states straight-forwardly that consent in the context of

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58 Daniel J. Solove *The Digital Person* p.106. *Emphasis added*.

59 Andrew McStay “I consent”. *New media & Society* published online September 30, 2012. p.5.

60 Ibid.

Facebook is “meaningless; users can't reasonably be asked to predict what new sites and services might become Facebook partners”<sup>61</sup>. Julie E. Cohen reminds us that the “quality of consent attenuates over time”<sup>62</sup>, rendering the scope of ones decision vague at best and leaving the significance of ones consent for future constellations uncertain.

In contrast to McStay, Cohen distinguishes a variety of different forms of consent rather than reducing this complex construct to merely the one type of “informed consent”. Cohen underscores the importance of contextual analysis. Facebook's granular approach to privacy for instance, is based on the idea of “particularized consent”<sup>63</sup> - that is to give consent to fragments of information. On the one hand, such an approach values the specificity of information and allows users to evaluate every bit of data they consider important. On the other hand, such a micro-managerial approach is cumbersome and, in the case of Facebook, distracts from the fact that by using the social network site, users give “silent consent” to its many problematic PIP practices anyways.

Moreover, Cohen warns that “consent is meaningless if recipients may transfer the data to third parties without the restrictions that accompanied the initial transfer”<sup>64</sup>. In other words, giving consent to Facebook's data use policy has no binding implications for the hundreds of thousands of apps and games and websites have become integral to the service. In so doing, Facebook extends its particularized consent principle to its entire network. Only if students understand that information online defeats the idea of physical and temporal boundaries and that it cannot be controlled as suggested by Facebook's

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61 James Grimmelmann “Saving Facebook” *Iowa Law Review* 2008. p.45.

62 Julie E. Cohen “Examined Lives. Informational Privacy and the Subject as Object.” *Stanford Law Review* 52.5. p.1433.

63 Ibid.

64 Ibid.

official rhetoric, students can develop a critical understanding for the concept of consent.

This realization will probably not change the fact that most ordinary people don't get to negotiate the terms of their contractual relationship with large organizations. But teaching students the difference between the various forms of consent still offers a valuable lesson about how asymmetrical power relationships lie at the heart of consumer-empowerment myth. In other words, the inquiry into the political dimension of PIP offers a broader lesson about the ways in which casting a vote on an issue or signing an agreement to a contract does not automatically level the playing field. It teaches students that, unless they are actively involved in the shaping of the contractual arrangement they are giving their consent to, they will always surrender some of their own agency. That in and of itself, describes a powerful lesson in the context of imagining a bottom-up notion of PIP and democracy more broadly<sup>65</sup>.

In many conversations, I realized the gulf between my student's confidence in being able to *participate* in all the new Facebook functions and their huge skepticism when it came to *actively shaping* the principles according to which services such as Facebook operate. Hardly any of my students envisioned themselves as playing an active role in such a process. Therefore, the widely assumed identity of the user and producer role must be taken with a grain of salt, as the role of the *prosumer* is limited to the creation of content and does not include architectural duties.

Many of my students have surrendered to the claim that programmers and hackers hold the power to change the world (thus echo the Facebook rhetoric). They forget that all technology and all code depends on the people that use it. I am not so naïve to believe

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<sup>65</sup> I thank Gil Rodman for his encouragement to push this argument a little further.

that my approach to PIP can help students to invent the next non-profit driven social network site that replaces Facebook. While I realize that my syllabus probably won't change the fact that governments and commerce are the ruling hand behind most of what is going on online it will at least offer students the tools and the vocabulary to scrutinize some of the corporate and governmental claims about how to best protect PIP. It will remind students that their everyday activities are already a function of some agency and it will hopefully make students mindful of the fact that social values and expectations for PIP are not set in stone but to some extent subject of our own making. As a consequence, the ability to complicate some of the PIP narrative, demonstrates to students their own agency.

Before I finally present the syllabus, I want to highlight some of the specific ways in which James Carey and cultural studies scholar Jonathan Sterne have advanced Dewey's pragmatist approach. Sterne's particularly relevant guidelines for a pedagogy on the internet which seeks "to denaturalize and radically contextualize the Internet itself"<sup>66</sup>, provides the theoretical backdrop for some my in-class exercises.

Sterne suggests that students pick one claim about the Internet and choose another medium to see if a similar claim has been made about it and if so, under what conditions this claim surfaced. This comparative perspective is equally useful for the study of PIP – especially when emphasizing the connections between communication technology and privacy. Students will quickly realize that the introduction of older communication technologies such as the telegraph, photography, the telephone, the radio, the TV, and

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<sup>66</sup> Jonathan Sterne: "Thinking the Internet. Cultural Studies versus the Millenium" in Steve Jones *Doing Internet Research. Critical Issues and Methods for Examining the Net* Thousand Oaks, CA: Sage, 1999. p.

even electricity overall had a socially disruptive effect throughout the last one hundred years. Brandeis's and Warren's article can start a conversation about the similarities and differences between the mediated world of 1890 and the “media manifold”<sup>67</sup> we live with today. It thus helpfully sharpens the student's awareness for the context specific or inter-contextual nature of certain discursive claims.

While these histories teach students to understand the ways in which both communication technologies and PIP are “part of the mundane fabric of social and cultural life”<sup>68</sup> and are ordinary rather than revolutionary, students also learn to historicize PIP itself. Jonathan Sterne inspires us to take into account that privacy not only means different things to different people but also that it “is more important to some people than to others”<sup>69</sup>. What privacy means changes over time and from context to context. Why PIP matters is “bound up in differential power relationships”<sup>70</sup>.

Students must be taught to remake these contexts in order to understand the similarities and differences between the various meanings of PIP. That is where articulation theory proposes a particularly useful tool because it insists that “are no necessary correspondences among different elements (people, ideologies, places, events) but, rather, these correspondences have to be made”<sup>71</sup>.

For instance, in order to understand why politicians felt the urgent need to announce the five principles for the Fair Information Practices developed by the Department of Health, Education, and Welfare in 1973, students must study the earlier

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67 Nick Couldry *Media, Society, World* p.16.

68 Ibid.

69 Adapting Sterne's argument about the fact that the Internet's “form and content change over time, and its social significance varies from context to context” *Doing Internet Research* p.278.

70 Sterne *Doing Internet Research* p.279.

71 Ibid. p.263.



history of the tendency to increasingly digitalize data that dominated the health care sector during the 1970s. How did people conceive of PIP back then? How did journalists write about PIP? When and under what circumstance did people expect PIP? What are parallels and where difference between then and now in the discussion over PIP?

In addition to teaching the importance of historical context, great effort must be invested in order to denaturalize Facebook as well as cyberspace itself. Along these lines, it is important to install in the students an understanding of lives online as integral to their offline lives and vice versa. Too often, the public discourse conceptualizes cyberspace as separate from our ordinary lives, as detached from our bodies and offline identities, and as a space in which all “real life” obstacles are meaningless. These separatist voices perpetuate claims in which cyberspace operates according to an independent set of moral and social principles. However, in one of my favorite pieces on this subject, Julie E. Cohen makes clear that:

Cyberspace is not, and never could be, the kingdom of mind; minds are attached to bodies, and bodies exist in the space of the world. And cyberspace as such does not preexist its users. Rather, it is produced by users, and not (in the most cases) as a deliberate political project, but in the course of going on about their lives.<sup>72</sup>

Discussing the nature of race online, Kolko, Nakamura, and Rodman add that

all of us who spend time online are already shaped by the way in which race [and gender] matters offline, and we can't help but bring our own knowledge, experiences, and values with us when we log on.<sup>73</sup>

This insight is particularly useful as it encourages students to connect notions of PIP online to the ways in which they try to protect certain valuable information about

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<sup>72</sup> Julie E Cohen “Cyberspace As/And Space” *Columbia Law Review* 107, 2007. p.218.

<sup>73</sup> Kolko, Nakamura and Rodman quoted in Slack and Wise *Technology + Culture. A Primer.* p.168.

themselves offline. Viewing PIP issues offline and online as part of the same challenge motivates students to interrogate the possibly different standards they apply to information and can jumpstart a discussion about the reasons we have to think differently about the value of PIP online and offline.

Part of the task of historicizing Facebook and the Internet requires the students to understand that the very infrastructure they rely on for most of their daily activities has had, itself, a history characterized by multiple ideological and structural shifts. Lawrence Lessig's summary of the history of the internet, which distinguishes between a first generation of architectures built by a non-commercial sector – universities and the military – and a second generation of architectures built by a commercial sector, is a useful starting point.

Similarly, van Dijck's observation about Facebook's own connective turn reminds us that, in its brief 10 year history, Facebook experienced (even facilitated) some major shifts during its evolution from a small, exclusive and bound network at Harvard to the data behemoth it is today. An awareness for this history enables students to critically interrogate Facebook's revolutionary rhetoric and could help students to begin a conversation that imagines a digital future and that benefits from studying the Internet's earliest and non-commercial experiences.

Finally, a productive PIP pedagogy should be characterized by a programmatic openness (an oxymoron?!) that encourages a fair amount of speculation about the value of PIP at the current conjuncture. Arguably, at this point much of the theoretical research on the internet and Facebook is partly speculative as researchers deal with a moving and

constantly evolving research object. Therefore, students should take a rather creative approach to theory that takes advantage of the merits of an eclectic and strategic approach to theory. That is they should test theories for their usability by remixing and mashing-up various ideas.

One such discussion could speculate about Lawrence Lessig's idea of PIP when he writes that “[f]riction is thus privacy's best friend”<sup>74</sup>? Daniel J. Solove also states that “[a] privacy disrupts particular activities” and calls for an understanding of privacy that focuses “on the specific types of disruption and the specific activities disrupted”<sup>75</sup>. Counter to the many claims that view information as fluid, asking about the value of friction proposes an interesting counter-perspective. Students should be encouraged to speculate about reasons for this emphasis on disruption.

Returning to Julie E. Cohen's investigation of the metaphorical work that language does in privacy discourses, we find indirect references to friction throughout conversations about Facebook and the Internet. Mark Zuckerberg celebrates “frictionless sharing”<sup>76</sup> and Bill Gates has notoriously described the Internet as heaven for a “frictionless capitalism”<sup>77</sup>. We lament constant information overflow. We “stream” data from server to server or “stream” movies online. Much of journalism 2.0 depends on “traction” in order to assess relevance. Entire websites operate on the premise that stories only matter if they generate a “buzz”<sup>78</sup>. A buzz, it seems, constitutes the only measure to bring the constant stream of information to a momentary halt. Friction as counterweight

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74 Lawrence Lessig *Code 2.0* p.202.

75 Daniel J. Solove *Understanding Privacy* 2008. p.77.

76 Mark Zuckerberg during the product release presentation for “Time Line” at the 2011 F8 Conference in San Francisco in 2011 <<http://www.youtube.com/watch?v=9r46UeXCzoU>>

77 Quoted in Schiller *Digital Capitalism. Networking the Global Market System* p.1.

78 The social media news website “Buzzfeed” runs on said principle.

to frictionless sharing; a moment for pause and contemplation.

Tiziana Terranova, in her compelling book *Network Culture*, begins the thrilling discussion of concepts such as control and power in an information culture based on these “informational dynamics”. Terranova seems to suggest that the relationship between signal and noise is increasingly blurry (just like the separation between what counts as private and what as public) and characterized by “fluctuations and microvariations, entropic emergencies and negentropic emergences, positive feedback and chaotic processes”<sup>79</sup>. As part of this new information reality is the relinquishing of PIP exactly because, as Lessig suggest, PIP interrupts flow because it provides obstacles and renders certain information invisible.

Jodi Dean is another scholar who thinks, albeit from a different perspective and with a different agenda in mind, about the changing nature of information as well as the consequences thereof for our society. In a similarly intriguing book, she writes:

Under conditions of intensive and extensive proliferation of media, conditions wherein everyone is presumed to be producer as well as a consumer of content, messages get lost. They become mere contributions to the circulation of images, opinion, and information, to the billions of nuggets of information and affect trying to catch and hold attention, to push or sway opinion, taste, and trends in one direction rather than another.<sup>80</sup>

She too has observed the changing nature of information and proposes a theory according to which signals have lost their ability transmit meaningfully content and instead now resemble the characteristics of noise. Just as a footnote and comment on the “teachability” of these works. I discussed Jodi Dean's most recent book *Blog Theory*<sup>81</sup>

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79 Tiziana Terranova *Network Culture. Politics for the Information Age*. Pluto Press: New York, 2004. p.7.

80 Jodi Dean *Democracy and other Neoliberal Fantasies* Duke UP, 2009. p.24.

81 Jodi Dean *Blog Theory: Feedback and Capture in the Circuits of Drive* Polity, 2010.

with my students and was surprised to learn how they were able to relate to her arguments. Many of my students were all too readily willing to accept Dean's arguments and found a number of connections between her work and their ordinary lives.

There is of course much more to discuss about these authors as their work offers food for thought and for many more dissertations to come. That is why it must suffice to introduce them here only briefly and as a way of illustrating how theoretical texts can serve as a fruitful starting point for students to interrogate the meaning, role, and function of privacy at the current juncture. Lastly, as I learned from teaching both Dean and Terranova, that a pedagogical approach to PIP requires to also break open these critical theories and discussing with students who are overly sympathetic to these ideas how our mundane and ordinary lives might be more contradictory and complicated than these meta-theories assume and allow.

## **“PIP is Political” - What do we expect from Personal information privacy in the age of Facebook?**

Privacy has been declared dead, a concept of the past, and a concept no longer relevant to us. The social network service Facebook has praised the advantages of radical transparency and its CEO Mark Zuckerberg wants all of us to believe that “if we give people control over what they share, they will want to share more. If people share more, the world will become more open and connected. And a world that's more open and connected is a better world”<sup>1</sup>. At the same time, privacy has been declared as essential to democracy and as constitutive of an emotionally and psychologically healthy self.

This class/workshop is organized around a set of questions

- What does personal information privacy mean to you?
- What are your expectations for PIP when you are online? Are these different from when you are not online? If so, how?
- What are the conditions that shape your tastes and expectations for PIP?
- How do you manage your PIP?
- What are some of the practices and tactics you use to protect your PIP?
- What information are we comfortable sharing and, in turn, what information do we expect from other users?
- Does what we share online impact our expectations and standards for PIP? If so, how?

We will investigate these questions bearing in mind that “the work of privacy – is a daily, dynamic task” that we perform in a variety of contexts both online and offline. That is why, some of the questions above take inspiration from the “managerial conception of privacy” and assume that there is nothing intrinsically or inherently private. It is up to you to explore and discuss what shapes your understanding of PIP. In class, we will think about some of the reasons why our notions of PIP might coincide and why some of them differ.

Since this is a class in Communication Studies/Media Studies, we will pursue our inquiries from a particular perspective that the British scholar Nick Couldry calls *socially oriented media theory*. We will interrogate the meaning and relevance of PIP from a perspective that acknowledges that “we live *with* media, *among* media”<sup>2</sup>. One of our central goals is to understand how and in what ways our notion of PIP is “directly oriented to media, involve media, [or are] conditioned by media”. We will discuss the various ways in which PIP helps us to think about Couldry's question: “what is it to live ethically with, and through, media?”<sup>3</sup>

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1 Mark Zuckerberg. “A New Page in Facebook Privacy”

2 Nick Couldry *Media, Society, and World* p.180.

3 Nick Couldry *The Social, Media, World*. p.28.

We will think critically about the ways in which our expectations for PIP are made possible/impossible by certain regularities of context and resources. We will explore how and why certain PIP practices unsettle/challenge or help to restore and maintain dominant social structures.

### **Student Learning Outcomes:**

This class teaches you how to interrogate the changing tastes and experiences for privacy as well as the various values that are attached to it in a mediated world. It will demonstrate that you *have mastered a body of knowledge and a mode of inquiry*.

This class requires you to discuss a variety of challenging and at times controversial topics. Hence, You will have to communicate with your fellow students and need to produce work – both individual essays as well as group presentations – that relies on this collective and cooperative effort. In order to accomplish this, you have to prove that you can *communicate effectively* in the context of group work as well as in your function as writer and presenter.

This class requires you to historicize, contextualize, and transnationalize various scholarly, journalistic, political, and corporate statements about the value of PIP. Your group blog post demonstrates your ability to *critically evaluate these arguments*.

This class requires you to actively discuss your arguments with other students. Most of the your assignments are group works in which written summaries of the discussions are graded and results are presented in front of the class. By completing assignments such as the “Social Bill of Rights”, you demonstrate your ability to *locate and critically evaluate information* and your capability to *identify, define, and solve problems* specific to your group's specific discussion.

### **Course requirements:**

#### **1. “Doing Privacy Work” essay (20%)**

How do you protect your privacy? For the “Doing Privacy Work” paper, I ask you to think about all the possible situations in which you actively protected some information about you from discovery. Take careful notes about when, where, and how you managed your privacy on that day (see example Rainee and Wellman: “A day in a connected life”). Go over your notes on Saturday morning and write an essay of 500 to 750 words in which you contemplate your experience. Post your essay to the class blog until Sunday, June 2 - 4PM. In preparation for Monday's class, read the other essays posted to the blog and take notes on how they are similar or different from your own experience.

## **2. Thinking about digital technology and PIP – lets be pragmatic – group presentation. (30%)**

For this assignment you will work in small groups (maximum of 5 people per group). Every member of the group has to individually research at least three mainstream media or corporate claims about the relationship between privacy and Facebook (or any other digital technology). The quality and comprehensiveness of your claim catalogue will be graded, so take this preparatory exercise seriously. Apply Carey's and Sterne's guidelines for internet research to every claim and take careful notes (no worries, I will introduce Carey and Sterne extensively in class).

Your group gets to spend an entire class session comparing and contrasting the your notes on the various claims. You will use the second half of the session to prepare a 20 minute group presentation – more instructions for that presentation will be announced in class. The group presentation along with 1-page hand out.

## **3. Analyzing Privacy Guidelines a comparative perspective - paper (20%)**

For this third assignment, you will critically analyze one document that directly pertains to the question of PIP. You can either choose to analyze one of the suggested documents listed under the case study section in the syllabus or an equally comprehensive document of your choice (please notify me about your choices so I can make sure that the document of your choice meets the requirements of the assignment).

Please write an essay of 1000 words in which you choose one of these two options:

- Examine a historical case study (e.g. Brandeis and Warren's essay “A right to Privacy” or the HEW FIPS) for its intellectual purchase today. Part of the challenge for this essay is to reconstruct the context relevant to your case study and to compare that context to today. Your essay may engage with questions such as: What were the expectations for privacy back then and how do they compare with today's expectations? What social, political, and cultural processes might have shaped the contemporary expectations for privacy? What were some of the perceived threats to privacy back then? Do those threats continue to play a role in today's discussion of privacy?
- Compare two contemporary documents such as President Obama's opening letter to the *White House Guidelines for Consumer Privacy* with *Facebook's data use policy* with Thierer's 3E approach. For this essay you may think about the roles the respective documents assign to users, governments, and corporate actors respectively. For your essay, analyze how these documents discuss the role of regulation (either by the government, by social and cultural guidelines, by commerce). Which regulators do we prefer in the context of privacy? Which regulators should be controlled? How does society exercise that control over entities that aim to control it?



#### 4. “Digital Media Practices Bill of Rights” presentation (30%)

How to live well with media is the central question guiding this group assignment. You will spend the final third of the semester contemplating and discussing what is at stake both politically and ethically in the ways intersects we live with and through media every day. The goal is to present a “digital media practices bill of rights” that outlines tentative standards for how to live well with digital media today. You will work in groups to formulate guidelines for a media environment characterized by inclusivity and justice. The results of your group work are shared via a wiki entry on our moodle site and via a final presentation of 30-45 minutes (detailed guidelines for the final presentation will be provided in class) due during the last days of class.

#### Tentative thematic reading list

Theory: What is privacy?	<ul style="list-style-type: none"> <li>▪ Daniel J Solove: “Privacy: A Concept in Disarray” <u>and</u> “Privacy: A New Understanding” from <i>Understanding Privacy</i> (2008)</li> <li>▪ Helen Nissenbaum: “Introduction” from <i>Privacy in Context</i> (2010)</li> <li>▪ Julie E. Cohen: “Reimagining Privacy” from <i>Configuring the Networked Self</i> (2012)</li> </ul>
Claims of Post-Privacy	<ul style="list-style-type: none"> <li>▪ Lecture on Christian Heller: <i>Post-Privacy</i> (2011) <u>required readings</u></li> <li>▪ Bruce Schneider: “Will giving the Internet eyes and ears mean the end of privacy?” from <i>The Guardian</i> May 16, 2013</li> <li>▪ Somini Sengupta: “Letting down our guard with web privacy.” from <i>The New York Times</i> March 30, 2013</li> </ul>
A new PIP theory	<ul style="list-style-type: none"> <li>▪ Lecture: “ordinary – pragmatic – accountable – three key concepts for an articulation and assemblage theory of PIP”</li> </ul>
Methods and tools to investigate the role of privacy in our lives	<ul style="list-style-type: none"> <li>▪ Nippert-Eng: <i>Islands of Privacy</i> (2010)</li> <li>▪ James Carey: “Historical pragmatism and the Internet”(2006)</li> <li>▪ Jonathan Sterne: “Thinking the Internet”(1999)</li> <li>▪ Anita L. Allen: “Privacy isn’t everything: Accountability as a personal and social good” <i>Alabama Law Review</i> (2004)</li> <li>▪ Raymond Williams: “Culture is ordinary” from <i>Resources of Hope</i> (1989)</li> <li>▪ Christopher Parson – <i>Social Networking Bill of Rights</i> (2010)</li> </ul>
Theories / tools to investigate how the meaning of privacy relates to context	<ul style="list-style-type: none"> <li>▪ Jennifer Daryl Slack and J. Macgregor Wise: “Defining Technology” <u>and</u> “Articulation and assemblage” from <i>Culture+Technology. A Primer</i> (2005)</li> <li>▪ Lawrence Lessig: “Architectures of control” <u>and</u> “Privacy” from <i>Code 2.0</i> (2006)</li> <li>▪ Nick Couldry: “<i>Media Ethics and Media Justice</i>” from <i>Media, Society, World</i> (2012)</li> </ul>

	<ul style="list-style-type: none"> <li>▪ Tiziana Terranova: “Introduction” from <i>Network Culture</i> (2004)</li> <li>▪ Jodi Dean: “Affective Networks” from <i>Blog Theory</i> (2010)</li> <li>▪ José van Dijck: “Ecosystem of Connective Media: Lock in, Fence off, Opt out?” from <i>Culture of Connectivity</i> (2013)</li> <li>▪ Robert Gehl: “The Archive and the Processor” <i>new media&amp;society</i> (2011)</li> </ul>
Case studies / primary sources for analysis	<ul style="list-style-type: none"> <li>▪ Samuel D. Warren and Louis D. Brandeis: “The Right to Privacy” <i>Harvard Law Review</i> (1890!!!)</li> <li>▪ Mark Zuckerberg: “A New page in Facebook Privacy” <i>The Washington Post</i> May 24, 2010</li> <li>▪ Mark Zuckerberg: “Letter from Mark Zuckerberg” (2012)</li> <li>▪ David Kirkpatrick: “Privacy” from <i>The Facebook Effect</i> (2010)</li> <li>▪ danah boyd and Alice Marwick: “Social Privacy in Networked Publics” (2011)</li> <li>▪ HEW – <i>Code of Fair Information Practices</i></li> <li>▪ Craig Mundie: “Privacy Pragmatism” <i>Foreign Affairs</i> (2014)</li> <li>▪ excerpts from Dave Eggers's novel <i>The Circle</i> (2013)</li> <li>▪ Opening letter to the <i>White House Guidelines for Consumer Privacy</i> by President Obama (2012)</li> <li>▪ Bill of Consumer Rights in White House Guidelines for Consumer Privacy (2012)</li> <li>▪ FB Data Use Policy; Tumblr Data Use Policy (or the data use policy of any other social network site you use)</li> <li>▪ European Data Protection Directive 95/46 EC</li> <li>▪ European Convention on Human Rights</li> <li>▪ OECD Privacy Guidelines (or any other national directive specifically aimed at privacy)</li> <li>▪ FTC guidelines “On Guard Online”</li> </ul>

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