The Ground Beneath our Feet

Embedding Digital Rights in Media Ecosystems and Technology Infrastructure

Dr. Ben Wagner

Inaugural Lecture

inholland
university of applied sciences

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Media, Technology & Society

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For D. & A.

Acknowledgements

My research has always been part of the digital rights community. I have learned so much from the activists, researchers, artists and many other wonderful people who have built this community and I could not begin to imagine my research without them. Since I joined Inholland, I have been lucky to find an impressive group of scholars who have helped me shape my ideas and connect them to challenges related to societal change, sustainability and media. In particular the Digital Rights Research Team[1], together with my wonderful colleagues Wina Smeenk and Ander de Keijer, have been a continued source of inspiration. This inspiration has also come from a great team of Professors at Creative Business, with Joke Hermes, Roos Gerritsma, Wina Smeenk, Karel Koch, Koos Zwaan, Guido Stompff, Jürg Thölke and Ko Koens shaping and challenging how I think about applied research. We have also been lucky to be able to build a Sustainable Media Lab[2] to explore what our future media ecosystems might look like, drawing inspiration from passionate students at Inholland who were eager to discuss these concepts within the lab, as well as an incredible team at the Sustainable Media Lab. The lab team with Susannah Montgomery, Vanessa Catalano, Irina Stoyanova, Bas van den Beld and Andy Sanchez remain a constant and much appreciated source of knowledge and enthusiasm for my research.

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Introduction

Can you remember the last time the ground gave way beneath you? When you thought the ground was stable, but for some reason it wasn't? Perhaps you encountered a pothole on the streets of Amsterdam, or you were renovating your house and broke through the floor. Perhaps there was a molehill in a park or garden. You probably had to hold on to something to steady yourself. Perhaps you even slipped or fell. While I sincerely hope that nobody here was hurt in the process, I would like you to keep that feeling in your mind when reading what follows. It is the central theme of the words that will follow.

The ground beneath our feet today is not as stable as the streets of Amsterdam, your park around the corner or even a poorly renovated upstairs bedroom. This is because whatever devices we use and whatever pathways we choose, we all live in hybrid physical and digital social spaces (Kitchin and Dodge 2011). Digital social spaces can be social media platforms like Twitter or Facebook, but also chat apps like WhatsApp or Signal. Crucially, social spaces are increasingly hybrid, in which conversations take place across digital spaces

'Whatever devices we use and whatever pathways we choose, we all live in hybrid physical and digital social spaces.'

‘The hybrid digital/physical world cannot be “fixed” by simply throwing away your smart-phone.’

(WhatsApp chat group) and physical spaces (meeting friends in a cafe) simultaneously. The ground beneath our feet is not made of concrete or stone or wood but of bits and bytes.

Neither you nor I can escape this unstable ground, which shifts and moves beneath our feet. We must continually wonder when we will have to steady ourselves, or slip, or fall. The hybrid digital/physical world cannot be ‘fixed’ by simply throwing away your smartphone. Why do we live in a world in which a 500-year-old city built on poles of wood and steel on top of a large muddy swamp (City of Amsterdam 2023; J. Paul Getty Trust and Netherlands Institute for Cultural Heritage 2023; Van Tussenbroek 2019) still seems to be more stable than the digital social spaces we have created? Why have we built such powerful digital social spaces that are so deeply unsustainable?

As you rush to a meeting, your digital presence is hard at work. You’ve left a digital footprint with every step you take; from the moment you woke up late and checked your email to when you booked a taxi ride online in order to make it on time. Your morning activities are enmeshed with a complex network of technology that stores data about your movements and whereabouts. These digital social spaces have become so deeply embedded into our everyday lives that it’s almost impossible for us to go through a day without leaving some trace online – from checking emails on your phone or using social media platforms like Facebook or Twitter, to ordering food delivery or taking public transportation. Most of these services are used daily by millions of people around the world, and each one collects data about its users in order to provide better services (Wagner, Winkler, and Human 2021).

The estate agent leads you through the apartment, and as you take in your surroundings and admire the clear view of the city skyline out of the living room window, your mind begins to wander. You think back to when you first started looking for a place – how excited you were at all of the possibilities. But then there was that nagging feeling that something wasn’t quite right. It took much longer than expected just to get to this one location. And parking? It’s nearly impossible! Maybe this isn’t really what I’m looking for after all, you think to yourself as you follow the estate agent into each new room. Sure, it looks nice here but getting around is going to be a challenge if I move here.

Do I really want my day-to-day life filled with traffic jams and long searches for parking spots? The more time passes by, the less sure you become about this apartment complex, until finally it’s time to decide on whether or not to rent an apartment there.

This feeling of difficulty is common for most people, especially when attempting to estimate travel times using digital tools like Google Maps or Apple Maps. It’s not just the complexity of understanding this subject matter that makes it difficult; the incentives embedded in socio-technical architecture are also often misaligned with the needs and preferences of many human beings. This misalignment can lead to frustration among travellers, who find themselves unable to accurately plan their trips or even complete them without encountering unexpected obstacles along the way. To better serve human beings, these digital infrastructures must consider both technical considerations as well as human factors, like user preferences, so digital rights can be fully embedded in these systems and used to their fullest potential.

By digital rights, I mean human rights which are implemented – at least partially – in a digital ecosystem

Sustainable Media Lab student Giovanni Westerman shows Inholland lecturer Shant Bayramian a VR prototype about empathy building for journalists working in crisis areas.

or environment. For example, human rights questions around freedom of expression change significantly when they take place in a digital environment like on a messenger app like Signal, or when they take place in a physical environment like in a printed newspaper. However, as most newspapers are now also available online and most ecosystems are hybrid physical/digital ecosystems, most human rights issues are also digital rights issues or at very least have a digital rights component.

The idea of time and space being enmeshed has become increasingly prevalent in our modern world, with the advancement of technology allowing for people to travel further faster. This means that physical distance between two locations is no longer a major factor when considering how far away something is; instead, it comes down to the amount of time it takes to get there. For example, if one place is hundreds of kilometres away but well connected via public transport systems or other forms of travel, such as planes or cars, it could be easier and quicker to reach than another location only a few dozen kilometres away that is hard to access due to a lack of transport links. Therefore, the concept of distance can now often be reduced to an issue of time.

As digital infrastructures become increasingly complex, routing options and alternatives have become more diverse. This makes it difficult for individuals to make the best decisions about which route is closest without using digitally mediated recommender systems. People rely on these systems to determine what is close or nearby in terms of both time and space. This reliance on automated systems has grown as digital infrastructure has become more pervasive in our lives. Therefore, it is essential that we embed digital rights into the core of these infrastructures in order to protect human beings from potential abuses

of power by companies who control them. By doing so, we can ensure that individuals retain their autonomy when making decisions with regard to distance, while also protecting their privacy and data security.

Although many of us may have the idealistic dream of a perfectly unbiased map or tech system, this is an impossibility (Harley 2009; Quattrone, Capra, and De Meo 2015). Often, these underlying assumptions are hidden from human beings in what's known as a 'black box', where it can be difficult or even impossible for people to gain insight into what lies beneath the surface. This lack of transparency has been noted by legal scholar Frank Pasquale, who suggests that 'the opacity and complexity of digital infrastructure' can be used to actively limit user autonomy and understanding within technology systems (F. A. Pasquale 2015; F. Pasquale 2015). It is therefore crucial that we strive toward more transparent models that embed digital rights at the core of our digital infrastructures (Flyverbom 2016; Wagner 2012; Wagner et al. 2020; Winfield and Jirotka 2018, 2018).

'It is important that we consider digital rights when developing digital infrastructures.'

It is naive to think that we can simply avoid technology and the influence it has on our lives. However, this attitude is reflected in courts, which often advise victims of online abuse to just stop using social media as a solution to their problems. This approach not only shows a lack of understanding of the legal system but also fails to address the underlying issues at hand. After all, offline abuse does not cease when someone stops using digital platforms, and there are no clear boundaries between what happens on and off the internet. Therefore, it is important that we consider digital rights when developing digital infrastructures.

The current state of online social spaces is dire. People are being asked to leave them for their own safety, yet these same spaces are still necessary and

relied upon by journalists for research and news reporting. It's clear that the government has failed to create healthy online social spaces, but it's possible that this may change in the future. With increased public pressure from citizens demanding that digital rights be embedded into digital infrastructures, governments may be compelled to step up and act. Platforms must be radically reshaped to prevent attacks on human beings before they happen rather than after people have already been harmed or put in harm's way. Hopefully, this shift toward greater security will lead to more equitable access and usage of online resources across all sectors of society.

It is natural for the attentive reader to feel confused when transitioning from a discussion of online mapping and routing in physical spaces to digital social spaces. This transition reflects the view that there is no meaningful systematic distinction possible between online, digitally mediated and physical spaces, as they all form part of one interconnected phenomenon. These different types of space continuously reshape each other on a daily basis, suggesting that it would not be analytically helpful or productive to separate them. Instead, researchers should recognise their interconnection and embrace this understanding when studying these issues further.

'We need broad societal consensus building around central concepts related to digital interaction.'

The idea that we can act and interact in a digital environment without taking responsibility for our actions is an illusion. Our interactions in digital spaces have real-world consequences, from how businesses operate to how countries engage with each other on the global stage (Wagner and Vieth 2016). It is not simply some abstract cyber-space. It is inhabited by billions of people, who are struggling to find norms and appropriate behaviours when interacting online. Netiquette was once used as a reference point to guide behaviour on the internet, but it no longer

suffices, due to the complexity of modern digital interaction (Shea 1994). We need broad societal consensus building around central concepts related to digital interaction. Unfortunately, there are numerous political actors looking to exploit these processes for their own gain, which further complicates matters. If we wish to make progress on embedding digital rights at the core of our infrastructures, much work needs to be done first. Given these challenges, democracy and human rights in the digital age remain central categories through which we can organise agency as well as central elements that can enable solutions.

How did I get here? My path to studying Digital Rights

My own history of engaging with digital human rights issues is quite personal. I've documented it here so that readers can better understand how I developed my perspective on digital rights, as well as the limits of my own perspective. I spend a lot of time writing about accountability, and accountability also means reflecting on my own subjectivity and how I came to adopt my positions on the issues. Whether these positions are reasonable or not I leave entirely up to the reader to decide.

I didn't plan on conducting research into digital rights or technology at all. I was trying and failing to learn Arabic in Tunisia in 2008. I was studying Middle Eastern politics at the time and thought learning Arabic would make sense. However, I also began to see digital technologies being misused in Tunisia and the urgent need for researchers with a mixture of social and technical skills to study them. The research I did in Tunisia in the summer of 2008 on how European technologies were being used to spy on the Tunisian population formed the foundation of my first academic paper on the topic, which was presented at an academic conference as part of the U.N. Internet Governance Forum in Hyderabad in 2008.

'I began to see digital technologies being misused in Tunisia and the urgent need for researchers with a mixture of social and technical skills to study them.'

Since then, my research agenda has never really strayed from the topic of digital human rights and is closely linked to the digital rights community. I spend as much time learning from the research done by civil society and human rights practitioners as I learn from academics and civil society. This research agenda has led me to work in Florence, Philadelphia, Berlin, Vienna and now The Hague at a variety of academic and occasionally more think-tank or policy-related institutions. In that sense, my research on digital rights has always been empirically led or practice driven, trying to both understand and change, to both interpret and respond.

‘My research on digital rights has always been empirically led or practice driven, trying to both understand and change, to both interpret and respond.’

I began studying issues of freedom of expression online in 2009, first in the context of the Middle East and North Africa, but later looking more closely at Europe and North America. I found that it was too ‘easy’ to point the finger at authoritarian states for filtering the internet when many of the practices by private companies and states in Europe and North America seemed not so dissimilar. I was also frustrated by only seeing scholarship on technology in relation to privacy and hoped that my research could contribute something different. This led to a PhD thesis at European University Institute (EUI) in Florence, which focussed on governing internet expression as well as my longstanding interest in the ways in which online platforms are governed.

It also led me to begin building communities working on digital rights, first at EUI and later at the UN Internet Governance Forum, where I led a group of stakeholders working on freedom of expression for several years. Then came the Centre for Internet and Human Rights at European University in Berlin, the Sustainable Computing Lab at WU Vienna, and finally my current two labs on Sustainable Media at Inholland and AI Futures Rights and Justice at TU Delft. All of these

Sustainable Media Lab student Did Baas rapidly prototyping a ‘planetary system’ of digital rights.

communities were heavily impact driven and attempted to bring together practitioners and scholars working on digital rights.

I've had the good fortune of having considerable support on the way from human rights defenders, civil society, policymakers, and academics, who helped me understand where I fit into their world. Indeed, it has been my greatest professional pleasure to find a place between these worlds, being able to engage in both. Doing so has also involved building communities that carve out a space between academia and civil society making, building spaces in which both can feel welcome.

I don't believe it's possible, either professionally or ethically, to 'look away' from the everyday human rights harms that can be encountered in digital environments. Instead, researchers who encounter these harms need to both try to understand how and why they happen and look for ways to lessen existing harms. To look away or pretend something doesn't exist is to make oneself complicit in the harm itself.

'In my experience, it is only when scholars are willing to let go of the disciplinary boundaries to which they are bound that real research can begin.'

This perspective on human rights harms has led me in many different directions, resulting in, perhaps, a challenging overall body of work. While digital rights remain the central element, there is no mono-disciplinary anchor for my research. I have found spaces where I can do my work in social and political science, computer science, law and international relations. However, I have only truly been able to come to rest in genuinely interdisciplinary locations, which may be why I found it easiest to conduct research that is rigorously interdisciplinary. In my experience, it is only when scholars are willing to let go of the disciplinary boundaries to which they are bound that real research can begin.

Finally, it's easy when writing a document like this to claim that I always knew where I was going or always knew what I was doing, but I'm happy to admit that neither are true. In my career, I rarely knew where I was going and tried hard to prioritise personal happiness over professional success, even if I wasn't always successful in doing so. Thus, this personal narrative should be seen as a post hoc reflection on how I ended up where I am, not a masterplan of who I always intended to become.

A Research Agenda for Digital (Human) Rights

So, what could a more social digital space look like? I believe strongly that the first challenge is to move away from our existing impoverished imagination of digital technologies (Mager and Katzenbach 2021). We are so stuck in our ideas and perspective of what technology does to our lives that we are unwilling to admit how they constantly shape our everyday practices. We are unable to see what it could be, perhaps even what it should be. Indeed, the impoverished world of technological imaginaries that we have come to call home is so restricting and curtailing, but it has become difficult to imagine a world in which agency rights and justice play a central role in socio-technical interactions (Costanza-Chock 2020).

‘It has become difficult to imagine a world in which agency rights and justice play a central role in socio-technical interactions.’

In the following sections, I will look at a set of key topics that I believe will become the foundational elements of my research agenda on digital rights at Inholland in the coming decade. Each section will explore a different area of digital rights and try to understand key areas where additional research is urgently necessary. In doing so, I will try to go beyond ‘traditional’ understandings of digital rights, which typically focus on privacy and freedom of expression.

I realised this most recently when I played with an AI system to help me write a few lines in this inaugural lecture. During the writing, I realised that the AI kept wanting to introduce words about privacy, anonymity, personal data and so on. I kept trying to fight the AI and remove all references to privacy, but after a while I gave up and let the AI win, at least for now. The truth is that I don't believe that privacy or personal data are the central categories of relevant digital rights, although they are frequently mistaken for them. This is because they are the human rights that humans first began talking about in the context of digital rights. They are our first contact point, our first imaginary and our first easy stereotype. Without them, we wouldn't know how to engage with concepts like digital rights. Privacy is perhaps one of the central enabling rights for other digital rights (Chamberlain 2016).

The problem with this is that by only being able to see digital rights through the prism of privacy, we lose much of the meaning and relevance. When focussing on privacy, all solutions to digital rights problems then seem to revolve around collecting less data, building 'technological fixes' to data-sharing problems within which data protection authorities – and large online platforms (F. A. Pasquale 2015; Wagner 2018b) – play a central role. While doubtless of great importance, the overt focus on data protection and its regulatory structures often hinders rather than supports a deeper understanding of digital rights (Wagner and Vieth 2017).

'The overt focus on data protection and its regulatory structures often hinders rather than supports a deeper understanding of digital rights.'

Of course, these are my own subjective choices within the wider field of digital rights. I've found the themes discussed in the following sections most interesting, however there are many others that I have left unexplored. Thus, the topics listed in the sections below should not be seen as an objective final list of relevant areas in digital rights, but rather a first draft of the areas and topics that I believe are currently most urgent and most interesting to study.

a. Sustainable Media Ecosystems

In my research at Inholland, a central element is related to sustainable media and media ecosystems. The term 'media ecosystem, understood in broad terms to encompass all actors and factors whose interaction allows the media to function and to fulfil their role in society' (McGonagle 2011:6). In order to understand how I developed my ideas around sustainable media, it is helpful to understand my previous work at the Sustainable Computing Lab, where we developed research projects focussed on making the process of developing computing technology more sustainable. Sustainable in this sense did not mean simply reducing CO_2 output; rather, it involved thinking from a more long-term perspective about computer software. This rarely happens, as computing is increasingly

dominated by an agile paradigm, which involves iterative experiments and avoids long-term planning (Gürses and Hoboken 2017). From this perspective, all solutions to existing problems can be 'patched' or fitted with a small, quick and easy software fix. However, more fundamental questions about media cannot be addressed. Ultimately, I do not believe it is possible to achieve a world with more digital rights for human beings without also ensuring more sustainable media ecosystems.

I brought in many of the same concepts and ideas into the Sustainable Media Lab to conduct research on sustainable media, as our lab claims that we strive to create 'media ecosystems that stand the test of time'.[4] Taking a more long-term approach to media sustainability also means working to reduce or remove many of the existing externalities that make media ecosystems problematic, such as hate speech on social media or abusive online-platform business models. It also means thinking strategically about the individual role of a specific media product within the wider media ecosystem. Our research and teaching shed a spotlight on the massive dependency that media systems often exhibit toward large online platforms and what individual creators can do to reduce it.

'Sustainability involves allowing ourselves to imagine technologies controlled by human beings and not by big tech.'

However, sustainability is also more challenging than the word may sound. If we as societies dare to take long-term sustainability in our lives, ecosystems and media seriously, it requires asking tough questions of ourselves and the socio-technical systems around us for which there are often no comfortable answers. Thus, in my experience working toward sustainable media ecosystems also means working toward digital rights. Even if working toward sustainable media might sound slightly less threatening, what it means in practice is equally transformative. It involves allowing ourselves to imagine technologies controlled by

human beings and not by big tech, to question power relations that help to reproduce problematic behaviours like hate and misinformation again and again and to refuse to accept short term 'fixes' for long-term systemic problems.

In this sense, the term media is used broadly to encompass a broad understanding of media and communications technologies. The seminal work of Tarlach McGonagle and the Council of Europe on a new notion of media (2011) already provided a fantastic overview of changing media ecosystems.

> Developments in the media ecosystem: Developments in information and communication technologies and their application to mass communication have led to significant changes in the media ecosystem, understood in broad terms to encompass all actors and factors whose interaction allows the media to function and to fulfil their role in society. It has allowed for new ways of disseminating content on a large scale and often at considerably lower cost and with fewer technical and professional requirements. New features include unprecedented levels of interaction and engagement by users, offering new opportunities for democratic citizenship. New applications also facilitate users' participation in the creation process and in the dissemination of information and content, blurring the boundaries between public and private communication. The media's intrinsic editorial practices have diversified, adopting new modalities, procedures and outcomes. (McGonagle 2011:6)

Media must thus be broadly understood and from a human rights perspective, a broad perspective on media is valuable to ensure that no relevant elements of what could constitute media are missed.

Sustainable Media Lab student teams brainstorming with SML learning coach Bas van den Beld in the Sustainable Media Lab space at Pand Zuidwest.

So, if media is understood broadly in the context of media ecosystems and digital rights form a central element of any understanding of sustainable media ecosystems, what does this mean in practice for conducting research on sustainable media? I believe that there are three central trends that need to be considered when thinking more broadly about sustainable media ecosystems.

A. Platformisation & 'Googlenomics': In the current media environment, the platform is king. Disinter-mediation and platformisation radically change the economics of media ecosystems, challenging business models and all existing infrastructures (Wagner 2018b; Zuboff 2015, 2019). Platforms set their own rules and define the terms within which business and online social interaction can take place, largely outside the scope of regulatory scrutiny (Kullmann 2022; Schnitzer et al. 2021).

B. Government Regulation: Rapidly shifting media governance environments are increasingly important in the media ecosystem (Barata 2016; Suzor 2018; Wagner 2021). Media start-ups cannot simply build a business from scratch. Instead, they must untangle a broad mass of legal and regulatory frameworks if they want to succeed online. As the online industry matures, it becomes more difficult for newcomers to innovate in the same way as before. This development is also accompanied by a geo-politicisation of technology and a re-nationalisation of supply chains, which challenge the global nature of the media and communication environment (Deibert 2008; Jack and Avle 2021; Tang 2020).

C. Vulnerable Media Ecosystems: These rapid shifts make media ecosystems vulnerable to dominance by a small group of players and a subsequent loss of creative and innovative potential. At the same time,

interdependent media ecosystems are forced to creatively adapt to these massive shifts. Additional societal shifts, such as those related to COVID-19, further increase this vulnerability, leading to a phase of vulnerability and instability in media ecosystems (Benkler, Faris, and Roberts 2018; Starbird 2017, 2019; Zuckerman 2021).

However, these challenges also bring with them great potential and opportunity for changing media ecosystems for the better. In order to respond success-fully, actors in media ecosystems need to strategically engage with large online platforms rather than take their presence for granted. Platforms are not neutral spaces. Creative media that are platform independent and keep control over core technology are much more likely to be successful and sustainable in the long term. Creative media across the world, from the New York Times to the Guardian, are increasingly taking control of a larger part of their core technology in-house and there have also been calls by leading scholars for public sector media providers such as the Dutch public broadcaster NOS to do the same (Dobusch and Passoth 2022). However, this is easier said than done and requires considerable resources and strategic thinking on the part of media actors. One evident opportunity here is collaboration with competitors to build sustainable media ecosystems to create space and avoid being swept away by the powerful forces shaping media ecosystems.

'Creative media that are platform independent and keep control over core technology are much more likely to be successful and sustainable in the long term.'

This strategic engagement goes beyond large online platforms and extends to regulatory environments. It is key for media actors to build their own effective governance mechanisms within existing legal frame-works, such as the EU's Digital Services Act, the EU Digital Markets Act and the AI Act. This approach of strategic engagement also means designing media ecosystems to promote less hate speech and more

Susannah Montgomery (right), Deputy Director of the Sustainable Media Lab, discusses international lab partnerships.

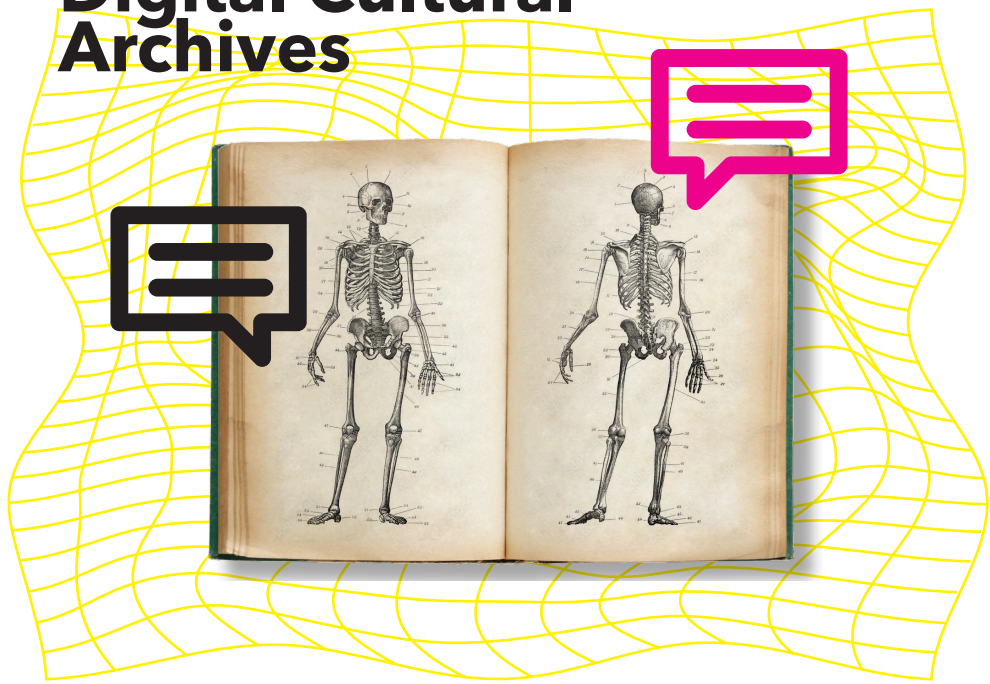
kinder and more supportive interactions among human beings, reducing costs and the regulatory burden associated with the ecosystems.

Finally, I strongly believe that a community-led approach to creative media is crucial for achieving sustainable media ecosystems. Communities and networks are key spaces that enable creativity. Ensuring that they are resilient and able to flourish is critical to responding to rapid change. Without the space to breathe, creative media cannot thrive and grow.

What research questions could move this part of my research agenda forward? Here are a few ideas on areas I believe are worth exploring.

- How can media ecosystems be redesigned to promote good behaviour and positive interactions among human beings?
- How can a community-based approach to media ecosystems be promoted and enabled through regulatory interventions in the Netherlands and Europe?
- What steps can media actors take to reduce the vulnerability in media ecosystems?
- Which steps can media actors take to respond to and pre-empt the regulatory burden around the DSA and AIA most effectively?
- How can DSA and AIA be implemented in a manner that protects and enables creative spaces?

Museums and Digital Cultural Archives



b. Museums and Digital Cultural Archives[5]

Cultural artefacts are central elements in how narratives of society are produced and reproduced (Hobsbawm and Ranger 1992). Even if, as argued by Hobsbawm and Ranger, much of the tradition we experience is a relatively recent invention, that does little to take away from the power of these societal narratives. Indeed, historical cultural narratives play a central role in defining what a country 'is' and what it wants to be (Bhabha 2013; Duara 1996). Both Bhabha and Hobsbawm and Ranger argue that nation states play a central role in the production of cultural narratives, with public education and cultural heritage institutions, such as museums, playing a central role in the process of producing cultural narratives (Rassool 2000). As Ciraaj Rassool argued, 'responsibility for the ideological work of national identity formation, and

the task of the creation of "good citizens", are in some ways being shifted away from the schools to heritage institutions and mediums of public culture' (Rassool 2000).

The role of cultural heritage institutions like museums is particularly interesting from a digital rights perspective. One of the often overlooked rights in the Universal Declaration of Human Rights is Article 27: 'Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits' (United Nations General Assembly 1949). As noted above, one of the main focusses of my research agenda is on *how power imbalances and inequalities shape access to digital rights*.

'Cultural heritage institutions play a central role in deciding which communities have access to cultural artefacts, how cultural artefacts are presented, which communities they speak to and how they narrate cultural histories.'

Within this context, cultural heritage institutions play a central role in deciding which communities have access to cultural artefacts, how cultural artefacts are presented, which communities they speak to and how they narrate cultural histories. Cultural heritage institutions can become central points of friction (Rassool and Kirshenblatt-Gimblett 2006) in how cultural narratives are explored and reimagined; some might even try to decolonise themselves (Rassool and Kirshenblatt-Gimblett 2006). However, in spite of this, vast structural imbalances remain. The colonial histories that shape cultural heritage institutions and the cultural artefacts they store are difficult to ignore. The centrality of colonial histories in understanding and re-interpreting the role that cultural heritage institutions play in society remains heavily contested (Birhane 2022; McNiven and Connaughton 2014; Van Huis 2019).

Yet, 'as archivists are the first to note, to understand an archive one needs to understand the institutions that it served. What subjects are cross-referenced, what parts

Sustainable Media Lab students participating in a writing workshop about crafting persuasive op-ed pieces.

‘Vast digital archives are being constructed based on the artefacts, often with a strong history of injustice.’

are re-written, what quotations are cited, not only tell us about how decisions are rendered, but how colonial histories are written and re-made’ (Stoler 2002:107).

There is an interesting digital dimension here, in that many cultural heritage institutions are in the process of digitising their existing catalogues (Truyen 2020). Vast digital archives are being constructed based on the artefacts, often with a strong history of injustice, both colonial and otherwise. At the same time, making the archives of museums legible also presents an enormous opportunity for cultural heritage institutions to show what it means to be a modern institution that responds to postcolonial debates (Birhane 2021, 2022).

Only by making legible what exists in the archives of cultural heritage institutions is it possible to begin a conversation on which communities should reasonably have access to it and control its framing. In making this information from these cultural archives available to relevant communities, many existing debates on digital human rights of content curation and content moderation are likely to come to the surface. The same questions of access, legitimacy and power that exist in relation to large social media organisations can equally be posited in relation to large cultural heritage institutions (Sacco, Ferilli, and Tavano Blessi 2018).

In terms of access, having digitised cultural archives that go beyond just basic information could also conceivably contribute to the ways in which affected communities are able to access and engage with cultural artefacts. This, in turn, could contribute to ensuring greater access for individuals from affected communities who believe that they have a stake in these artefacts. This does not have to be framed as ‘digital repatriation’ (Muñoz and Evans 2022). Rather, it can instead be conceived as a way of rebalancing

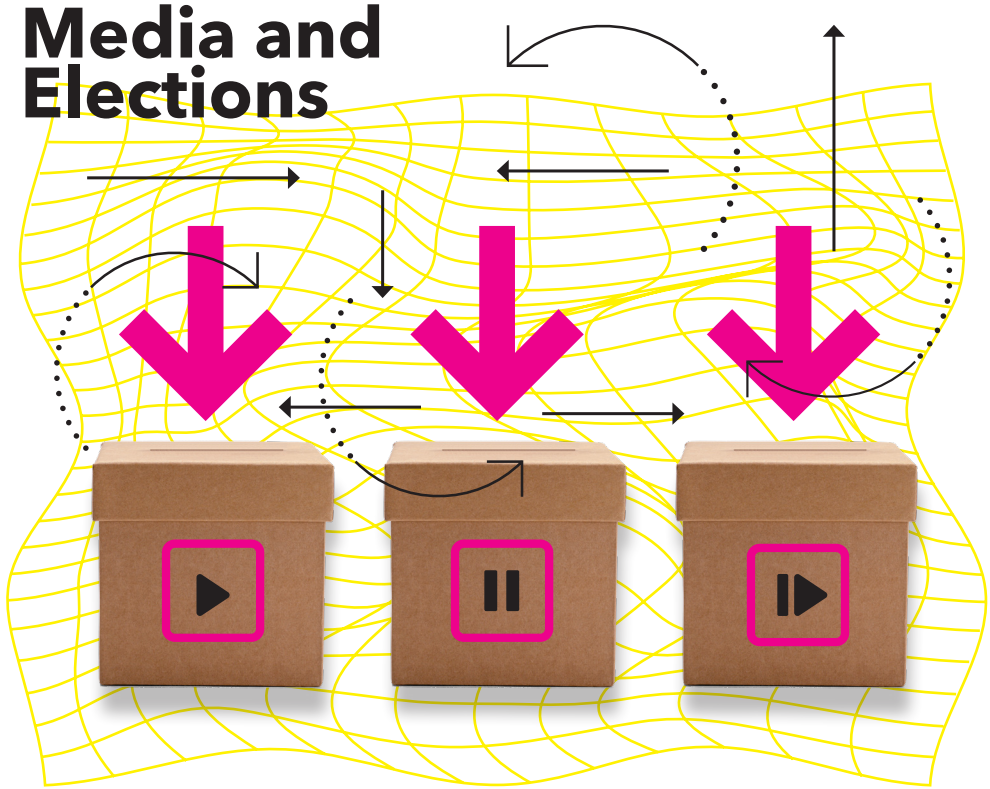
power and agency in a place where such rebalancing is urgently necessary.

Thus, the digitisation of cultural archives presents an enormous opportunity to reshape the relationships with the stakeholders of cultural archives. In the context of these newly digitised cultural archives, the curation of cultural objects shifts from a focus on the preservation of cultural artefacts toward a greater community management function, integrating relevant stakeholder claims and perspectives. Digital cultural infrastructures need to respond to these new power relations and systematically consider decoloniality, accessibility and sustainability if they are to withstand the test of time. This leads to an interesting set of research questions.

- How do existing digital infrastructures hinder or enable cultural heritage institutions (CHIs) to integrate decolonial perspectives into their everyday practices?
- What are key elements of sustainable infrastructures for digital cultural archives?
- To what extent are debates around digital rights relevant to the everyday practices of cultural heritage institutions?
- What could more equitable forms of governance for digital cultural heritage look like in practice?
- What steps can be taken to prevent digital cultural archives from making similar mistakes on existing online platforms?

Alara Iskili (left) and Elisa Zwart (right) give a tour of the Sustainable Media Lab.

Media and Elections



c. Media and Elections

Elections are another central point where digital rights can be exercised or limited. Questions of digital rights intersect with numerous other existing rights around electoral systems. However transparency and accountability mechanisms, such as election observation, have yet to catch up with the challenges of the digital age (Wagner 2020). While there are fierce debates about the extent to which digital tools have influenced electoral outcomes, it is unquestionably the case that digital technologies have some effect on elections, and empirical research in the U.S. has demonstrated this convincingly (Bond et al. 2012). This does not mean that any specific digital tool like Twitter or even 'the internet' cause phenomena like the outcome of Brexit voting in the UK or the election of Donald Trump in the U.S. But, it does mean that powerful digital tools of electoral campaigning and political mobilisation play an important role in many electoral campaigns.

However, existing socio-technical mechanisms for creating more transparent and accountable digital electoral advertising are evidently not fit for purpose. This situation urgently needs to be resolved to ensure meaningful transparency and accountability in online digital advertising during European elections, which is a key component of free and fair elections. We propose to bring together a leading multidisciplinary academic consortium integrating key stakeholders in the electoral accountability process.

'This situation urgently needs to be resolved to ensure meaningful transparency and accountability in online digital advertising during European elections, which is a key component of free and fair elections.'

Digital archives of electoral advertising play a key role in creating transparency and accountability in digital advertising practices for elections in Europe. Following widespread concern and critique regarding manipulative digital advertising practices used during the UK Brexit referendum and the U.S. elections in 2016, political parties across Europe have committed to more transparent and accountable digital electoral advertising (Kirk and Teeling 2022; Kübler et al. 2021; Marsden, Meyer, and Brown 2020).

However, the ways in which these political parties are pursuing transparency and accountability in digital electoral advertising are highly problematic. Currently, existing archival mechanisms for digital electoral advertising are heavily dependent on 'big tech' online platforms. Political parties typically rely on their existing advertising platform (e.g. Facebook) to create transparency, which is frequently lacking. At the same time, independent academic or civil society ad archives, such as the New York University Ad Observatory or the data donation project of the German civil society organisation AlgorithmWatch, are forced to stop working in the run up to German Federal elections

by Facebook, through either legal or technical means (Bobrowsky 2021; Kayser-Bril 2021).

What is missing is a reliable standardised approach for archiving electoral advertising developed in close collaboration with existing stakeholders that ensures meaningful transparency and accountability in political electoral advertising. Developing a reliable 'ground truth' based on collaboration with existing political actors is a central element of such a reliable standardised approach. At the same time, a standardised approach could enable shared ownership of the data as well as visualisation and analysis opportunities. Most importantly, adopting a standardised approach would be a first step toward more sustainable data governance of the advertising related to digital electoral campaigns. Rather than relying on big tech to archive, manage and govern existing advertising data, the human beings themselves would have far greater agency and control of their data. The shift in this centralised approach from a centralised ad archive to a web of interoperable ad repositories is similar to the shift from Twitter to Mastodon. Crucially, a web of interoperable ad archives would ensure collective ownership of ad archive data and prevent any single actor from being able to pull the plug.

'Adopting a standardised approach would be a first step toward more sustainable data governance of the advertising related to digital electoral campaigns.'

Another key challenge of electoral governance relates to problematic online content in electoral content. Together with some of the leading European experts on elections, we have been able to establish that vast swaths of online content related to elections are indeed problematic. On average, '6.72% of […] content on Facebook and 5.63% on Twitter' (Kübler et al. 2021) around elections are problematic. Roughly one in every 15 election-related posts on Facebook and one in every 18 posts on Twitter is illegal, contains misinformation or violates electoral rights.

To put that into perspective, an average Twitter or Facebook user will typically look at dozens or hundreds of posts on a topic they are interested in. Thus, having a significant number of those posts be clearly problematic means that human beings interested in electoral content will almost always encounter problematic content on Facebook and Twitter. By using a representative sampling method, we were able to ensure that our results were not just restricted to the sample we analysed but could also be generalised across the whole platform (Johanne et al. 2023).

More broadly, our analysis took place within the wider context of the new EU Digital Services Act (DSA), which will enter into force on 1 January 2024 (Wagner and Janssen 2021). The DSA focusses primarily on developing the transparency and accountability of online

platforms, taking a risk-based approach to ensure that certain risks around elections and other key areas are mitigated. Crucially, the DSA also provides tremendous opportunities for researchers, both in academia and civil society, to critically study online platforms. There are several key reasons for this.

The first is that the DSA provides new forms of access for researchers to platform data (Vermeulen 2022). While there is a constant struggle with online platforms about the reliability of such data, the DSA is a step forward in terms of researcher data access. The second, and perhaps more interesting, part of the DSA relates to impact. Researchers can make platforms aware of risks on their platforms, which they are then bound to respond to, based on the rules of the DSA.

Thus, the pathway to research on online platforms is considerably increased, making material changes to platform business practices far more likely. Based on these ideas, an interesting set of research questions can be developed.

- How do large online platforms respond to researcher concerns about elections before and after the introduction of the DSA?
- How prevalent is problematic online content in different election campaigns?
- What can platforms do to reduce problematic online content during elections?
- Do election observers have the capacity to oversee digital campaigns?
- What public institutions would be needed to ensure free and fair elections in the digital age?
- What could a decentralised interoperable web of digital ad archives look like?
- How could the data in a decentralised interoperable web of digital ad archives be governed in a sustainable manner?

Transparency and Accountability of Large Online Platforms

d. Transparency and Accountability of Large Online Platforms

A central element of digital rights research in the past decade has been the failures of governance in large online platforms. Given the evident and long list of problems and scandals associated with large online platforms, there is clearly room for improvement (Meredith 2018). One of the main challenges is that in the current situation, it's almost impossible to even know accurately what is happening in large online-platform environments (Wagner 2020). The massive scale of online platforms poses considerable challenges for both the general public and policy-makers in digital environments. This is because without knowing what is happening in digital environments, it is very difficult to engage with them effectively, let

alone regulate them. Notably, this opacity of big tech also exists for regulators, who are typically struggling to understand in a systematic and reliable way what large digital technology companies are actually doing (Wagner 2021).

'This opacity of big tech also exists for regulators, who are typically struggling to understand in a systematic and reliable way what large digital technology companies are actually doing.'

During the past decade, I've collaborated with a variety of regulators who acknowledged that they were unable to determine what was happening in online platforms. Whether they were media regulators, policymakers or even election observers, it was clear that they were not able to meaningfully know and understand what was happening in large online platforms. As acknowledged by a leading election observer, large online platforms are not being forthright and supportive in their engagement with public regulators: 'We're running after the tech companies, they have enormous resources, and they're playing us' (Wagner 2020:744).

To respond to these challenges, an increasing number of researchers are focussing on increasing the transparency and accountability of online platforms. While part of this is focussed on elections, as discussed separately in this document, there are many other areas where the business practices of online platforms are analysed and inspected. Perhaps the most common areas are related to privacy and security, with numerous research papers demonstrating the problems of large online platforms in this area (Diaz 2008; Wagner et al. 2020).

From my perspective, some of the most interesting research in this regard is linked to existing legal provisions, insofar as researchers can document infractions of the law, which can in turn lead to meaningful accountability and enforcement in response to these infractions. This has included studying ways in which platforms interpret legal regulations around

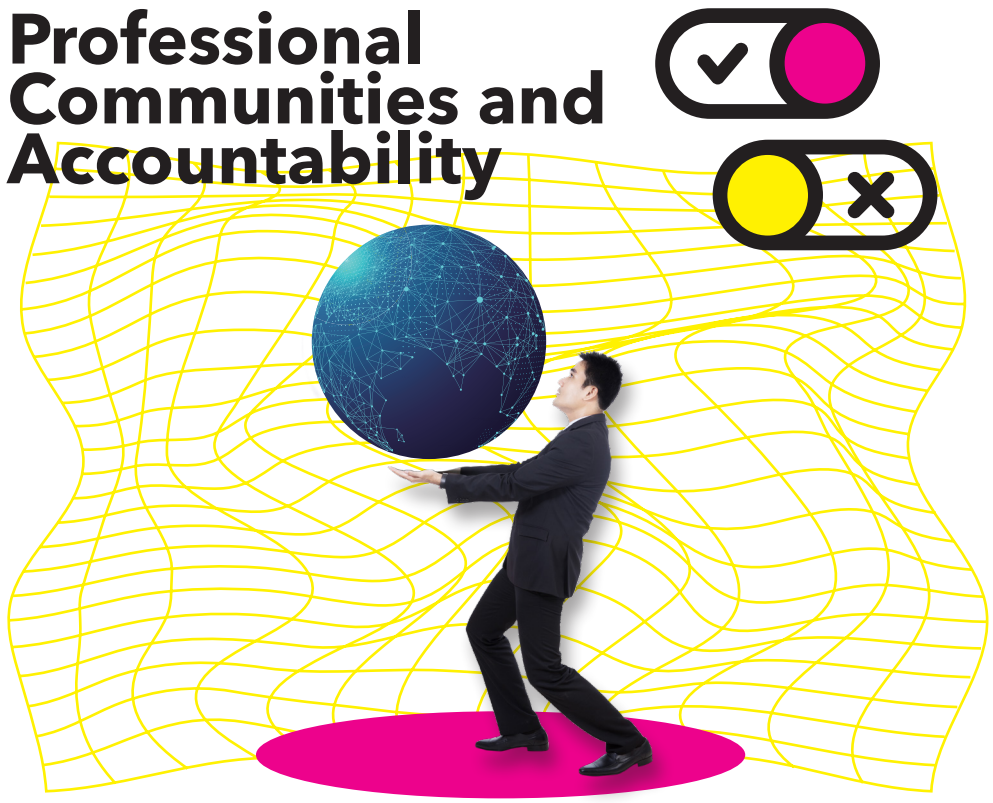
hate speech (ADL CIS and Design Lab 2018; Alkiviadou 2019; Holznagel 2020) as well as the ways in which the German Network Enforcement Act (NetzDG), which mandates, among other things, platform transparency, is enforced (Heise Online 2019; Heldt 2019; Wagner et al. 2020). What is fascinating is that, even in situations in which platforms are required to provide greater transparency by law, online platforms try to manipulate and game these transparency requirements to make themselves look better. While these platforms even receive seven-figure Euro fines for such infractions (Heise Online 2019), it does not seem to prevent them from continuing with these types of business practices.

This leads to the following research questions.

- How do platforms interpret existing legal rules (i.e. GDPR, DSA, AIA, etc.) on transparency and accountability?
- Is it possible to collect empirical data that document platforms' legal provisions for transparency and accountability?
- How do online platforms attempt to influence user behaviour around transparency and accountability mechanisms?
- What types of information would human beings using online platforms need to be able to exercise their digital rights?

Sustainable Media Lab students showcasing their Pop-up Podcast concept to at our first Community Day event in June 2022.

Professional Communities and Accountability



e. Professional Communities and Accountability[6]

Another key area of interest for digital rights is professional communities that codify and structure knowledge in different professional contexts. These are of particular interest, as they are often not just places where relevant professional knowledge is codified but also places where rules are developed and accountability is conceptualised. While it's been fascinating to analyse accountability in this context, it's also been quite frustrating. This is because with a few key exceptions, such as doctors, professional communities tend to be averse to the concept of accountability. Indeed, most engineering communities I've studied had either unclear or exceedingly narrow conditions in which their members would face robust sanctions or even be excluded from the professional community.

What is fascinating about this approach to accountability is that research in our own group suggests that there is a long history of accountability-averse professional communities. Even over a hundred years ago, engineering disasters did not typically have significant professional consequences for the individuals involved in them. An engineer who designed a bridge that collapsed was not typically prevented from continuing to design bridges, nor was he or she typically excluded from professional societies. Even specific engineering certifications, such as the U.S. Professional Engineering (PE) certification were not withdrawn.

Instead, professional accident investigators attempted to understand the reasons for the errors and prevent them from happening in future. The engineering culture around such accident events is thus very much focussed on understanding and prevention, rather than holding any individual accountable. Insofar as accountability mechanisms do exist, they are typically related to civil liability towards the organisations responsible for the engineering project itself, although even these tend to be rare.

'The engineering culture around such accident events is thus very much focussed on understanding and prevention, rather than holding any individual accountable.'

The argument frequently presented for this lack of accountability in the engineering profession is that it contributes to greater transparency and innovation. Rather than focussing on who is responsible, reducing accountability can produce greater accountability. What is sadly missing from this argument is that it creates problematic incentives and presumes 'good' actors. Without accountability, engineers do not have a great deal of incentive to learn from accidents if they do not affect the economic bottom line. Instead, the assumption of the enlightened or good engineer who wants to do the right thing prevails, who would always be willing to learn from the past and improve their behaviour to reduce societal harms. In light of any reasonable assessment of the literature on governance, both of these assumptions are highly problematic.

Of course, these same professional communities exist not only in the engineering but also in media communities. Here, press councils and similar media self-regulatory structures also create highly limited forms of accountability, in which accountability is typically severely limited (Eberwein et al. 2011; Eberwein, Fengler, and Karmasin 2019; Fengler 2012). The slightly more reasonable argument brought forward in the context of media professionals' aversion to accountability is that media self-regulation and self-governance also ensure freedom of expression. While safeguarding freedom of expression is certainly critical to digital rights in modern democratic societies, it's also dangerous as a central foil for accountability. As with engineers, it is important to ask whether freedom of expression is simply a useful excuse for avoiding accountability for professional malpractice (Delacroix and Wagner 2021) or an attempt to escape government regulation (Wagner 2018a).

'Human-rights-based framework is being undermined by platforms and weaponised by governments.'

Here, there is some particularly interesting work by the Representative on Freedom of the Media at the Organisation for Security and Co-operation in Europe (OSCE). Their report on the state of media freedom acknowledges an urgent need to 'rethink professional standards, not just for journalism but for the entire online landscape and different communities of content creators' (Wagner et al. 2022:40). Instead of just focussing on freedom of expression, the authors of the report argue for the increased use of a public interest framework, as freedom of expression in the existing 'human-rights-based framework is being undermined by platforms and weaponised by governments' (Wagner et al. 2022:24).

This proposed rebalancing and reinterpretation of human rights and governance frameworks seems urgently necessary in the online environment, without which it will be difficult to create meaningful

Sustainable Media Lab students visiting the Food YZA Future Food Supply Chain Expo in Amsterdam with Inholland lecturer, Bregje Abspoel.

accountability. This leads to the following set of research questions related to better understanding digital rights.

- How do professional media and engineering communities develop rules around the accountability of their members?
- How do the internal professional ethical rules in professional communities relate to external legal rules?
- How do professional media and engineering communities try to manifest or embody forms of accountability through rituals, symbols or artefacts?
- How common are concrete examples of media and engineering professional organisations excluding their members for professional malpractice?
- How does the education of engineers and media professionals teach accountability, and how does this teaching influence how these professionals think about accountability?
- To what extent are rules in media and engineering professional communities used as a way of avoiding more robust government regulation?
- How can professional media and engineering communities create more robust and effective accountability regimes?

f. Social Protection

Another central domain of relevant academic inquiry on digital rights relates to social protection. Social protection refers to the social services provided as part of a 'social safety net.' The goal of social protection is 'providing a higher level of social security through income security and access to essential services (in particular, health and education) throughout active and inactive periods and periods of need.'[7] While the digitisation of social protection seems like 'just another' digital public service, its central role in human beings' lives is evident in that it represents the core of social safety. When this social safety net fails, human beings suffer.

In particular, the Dutch case of the Toeslagaffair remains a stalwart reminder of how not to achieve the mission of social protection. In this case, thousands of

parents were falsely accused of defrauding their benefits payments, and in some cases they even lost custody of their children as a result (Brenninkmeijer and Marseille 2021). These types of human rights harms are so far beyond the imagination of typical discourses of digital rights that it is important to centre systematically and robustly within digital rights debates. This is not just about privacy or freedom of expression. We cannot ignore social protection if we wish to be successful in understanding central digital rights issues.

Sadly, this social safety net has failed a lot since it was digitised in Europe in recent decades. It is not just the Netherlands where it has failed considerably but also in Austria, Sweden and Australia. It is almost as if in trying to modernise public services and cut costs, public services have forgotten how to adequately 'serve' their public. This has become particularly apparent to me through my work with social protection providers as part of my work with a United Nations International Labour Organisation (ILO) working group on social protection SPIAC-B.[8] All of the organisations and agencies that I spoke to were deeply mission driven in their purpose to provide social protection.

'It is almost as if in trying to modernise public services and cut costs, public services have forgotten how to adequately "serve" their public.'

But, as social protection practitioners they sometimes felt that other digital rights (e.g. privacy) were getting in their way and that if only they were allowed to provide their services more efficiently, they would be able to fulfil their mission better. However, this drive toward efficiency and optimisation (Kulynych et al. 2020) has often hampered these organisations in delivering on their mission. The same is true for the massive (frequently politically mandated) focus of social protection providers on preventing fraud, often to increase the legitimacy of their programmes. Both the Netherlands and Australia are examples of how an attempt to automatically detect and counter fraud can undermine the core mission of social protection providers.

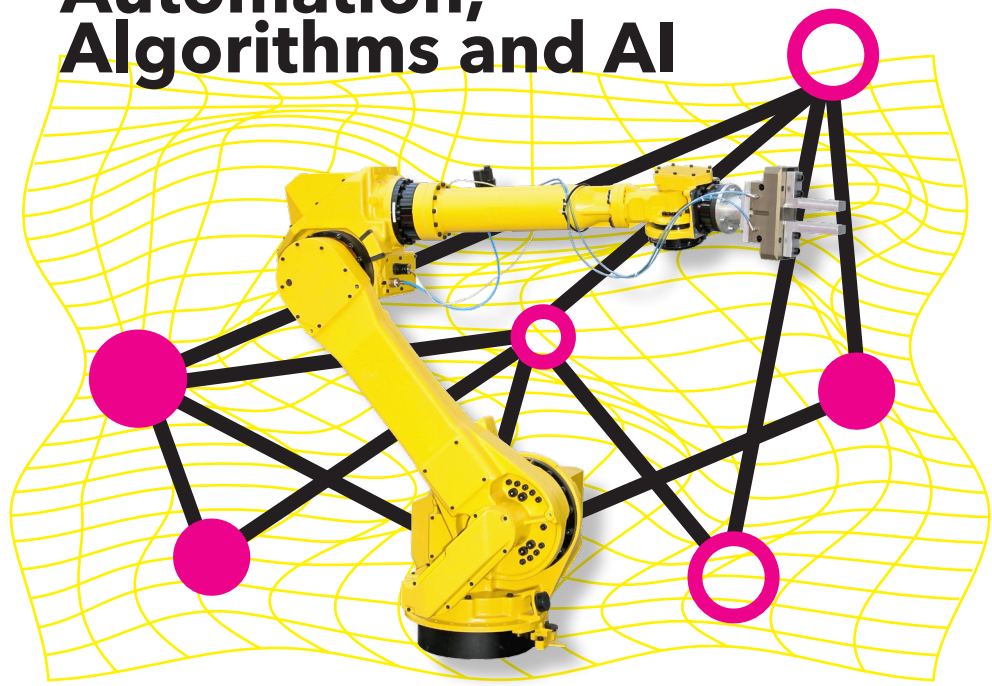
As part of my work with the ILO, I've been lucky enough to be able to contribute to recommendations on how to improve the quality of digital rights in social protection (Ferro and Wagner 2020). While privacy is a hook to get readers interested, digital rights are the central narrative that carries the report forward. The report is geared towards low- and middle-income countries, which we implore not to follow in the footsteps of the social protection programmes in

the Netherlands, Sweden, Australia and Austria. Instead, we argue for forms of social protection that put digital rights front and centre in how we think about social protection. Human beings themselves should have access to their rights and be able to control how their data are used and how payments are made. Of course, if it is assumed that all human beings are potential fraudsters, then this will be impossible. But, in the same way that – as discussed elsewhere – not all engineers or media professionals are good actors, so too not all social protection recipients are potential fraudsters. It is important to avoid miscatego-rising either group.

All this leads to a broad set of research questions that cover the length and breadth of the intersection between digital rights and social protection.

- How can digital rights be better integrated into everyday social protection infrastructures?
- How are human-in-the-loop protections integrated into automated social protection systems, and are these protections effective?
- What types of transparency and accountability mechanisms are necessary to safeguard the core mission of social protection in digital social protection systems?
- How can digital social protection systems be designed to promote access to social protection services by as many recipients as possible?

Automation, Algorithms and AI



g. Automation, Algorithms and AI

Another key area of my research has been automation algorithms and artificial intelligence (AI). While I must admit I've struggled with the term 'AI', which is typically used as a placeholder for technology in most public debates, it is certainly true that algorithmic decision-making systems are increasingly prevalent throughout society. Automated decision-making and decision-supporting systems are becoming so common that they are hard to overlook, yet due to legal constraints the way in which these systems are involved in decision-making is often not made fully transparent. In many legal regimes, such as the GDPR, human beings using technology have a greater degree of protection when fully automated systems make decisions about them. The result of this is that many fully automated systems are often not disclosed, with human intervention claimed at different stages in the

process to avoid legal liability (Wagner 2019). Sadly, this form of 'quasi-automation' is remarkably common and leads to the intentional opacity of automated processes.

However, the opposite trend to opacity can also be observed, where claims of automation are not actually accurate, but instead tasks are completed by badly paid 'click workers' in call centres around the world. Here, the opacity surrounding the algorithmic decision-making practices is created not in response to legal pressures but rather due to a lack of sufficient technological sophistication in the early stages of a project. Often, big claims made about AI systems are not yet matched by the technologies being used. The gap between technological reality and AI systems is typically filled in by badly paid click workers around the world (Crawford and Paglen 2021; Perrigo 2023; Sambasivan and Veeraraghavan 2022).

'The gap between technological reality and AI systems is typically filled in by badly paid click workers around the world.'

This trend is exacerbated by the data hunger of some new AI models, which typically require large training sets of data on which to develop their models. These training data are also frequently developed by badly paid 'click workers' but still used to provide a reliable ground truth based on which AI models can make decisions. What is often overlooked in these contexts is that these coders rarely make purely objective decisions about whether an object is black or white. Instead, they make interpretative decisions based on their existing values, which in turn are directly reflected in the AI products they train. Thus, it is often Venezuelan or Indonesian click workers (where some of the cheapest rates are currently available) who 'code' images, text and other content in ways that can later be interpreted by AI. In doing so, they also build worlds of meaning and interpretation and directly influence the ways in which AI makes decisions. In some ways, many AI models are more likely to be

influenced by Venezuelan interpretations of the world than many AI developers using the data they have coded would be willing to admit.

My own research in this area has also led me to draft as rapporteur one of the first studies on human rights in algorithmic decision-making by the Council of Europe (Wagner et al. 2018). The study consisted of a negotiated document, which had to be agreed on by the MSI-NET committee, which was composed of both members and experts and as such contains many compromises. In spite of this, it provides relatively robust ideas on how states should engage with algorithmic systems. This has led to the following interesting set of research questions.

- How does the cultural context of coders building datasets for AI influence the outputs of AI systems?
- How can AI datasets be coded more fairly and equitably?
- How blurry is the line between fully automated, partially automated and fully manual decision-making in different media sectors?
- How does quasi-automated decision-making influence the ways in which accountability is distributed?
- How does the design of regulatory frameworks influence the frequency of quasi-automated decision-making?

Andy Sanchez (left), senior researcher, shares about the student research mission for the Sustainable Media Lab.

Internet Shutdowns and Human Rights

‘Shutting down the internet has become a seemingly “normal” tool of governance for communications networks and is used in a wide variety of geographic and political situations.’

h. Internet Shutdowns and Human Rights

Over the past decade, the phenomenon of internet shutdowns has become increasingly common across the world. In 2021, the leading digital rights NGO AccessNow documented 182 shutdowns in 34 countries (Díaz Hernández, et al. 2022). To all extents and purposes, shutting down the internet has become a seemingly ‘normal’ tool of governance for communications networks and is used in a wide variety of geographic and political situations. This has even led some authors to argue for shutdowns of ‘forms of contestation – rather than just abuses by despotic leaders’ (Gagliardone and Stremlau 2022). This stands in contrast to much of the existing literature, which focusses on the human rights harms, economic impacts and authoritarian nature of internet shutdowns

(Deibert et al. 2011; Gohdes 2015; Purdon, Ashraf, and Wagner 2015; da Silva 2015; Wagner 2018c).

Gagliardone and Stremlau certainly have a point. Given the maturity of the practice of internet shutdowns, there is a need for a deeper understanding of how and why internet shutdowns occur. This is not an attempt, as Gagliardone and Stremlau emphasise, to ‘seek to justify or condone internet shutdowns’ (2022) but rather to understand the reasoning behind internet shutdowns more clearly. This does not mean accepting many of the common arguments that are frequently made regarding ‘security’ prima facie but rather acknowledging that, even in highly authoritarian contexts, the reasoning behind why internet shutdowns take place is more complex.

It is evident that many countries in the world feel that they are unable to sufficiently control common forms of digital communication like the internet (Shah 2019). While this wish to control is often outside the constraints of what would be considered reasonable in modern liberal democracies, this is not always the case. When even well-established democracies (Freedom House 2022) like Denmark or Costa Rica struggle to get their voice heard by ‘big tech’ online platforms, should we be surprised if other countries feel the same?

In this sense, the structural inequalities in the distribution of agency and power on the internet that have led to the digital dominance (Moore and Tambini 2018) of a few big tech actors have contributed to many of the human rights issues related to internet shutdowns. This is particularly interesting, given that big international technology companies have long portrayed themselves as protectors and promotors of digital rights, first around issues of freedom of expression and the Arab uprisings in the early 2010s (Allagui

and Kuebler 2011; Howard and Hussain 2013) and later around issues of privacy and the protection of user data in the late 2010s (Ahlam 2020). While it is certainly true that large technology companies have played a role in promoting and protecting human rights by enabling communication and resisting government control over user content and data, they ultimately lack the legitimacy to act as the kinds of global hegemons they have become.

'Government actors look for ways to influence the outcomes of elections or other sensitive political events.'

This legitimacy deficit is at the core of many of the debates on internet shutdowns that are present across the world. Frequently, government actors look for ways to influence the outcomes of elections or other sensitive political events. Between the lines, I've been told by both government policymakers and corporate actors that they are faced with the choice of restricting specific types of content on a large online (social media) platform, or the whole internet – or at minimum that specific platform – will be shut down. While the threat of such shutdowns is surprisingly common, the actual implementation has become sufficiently common that it constitutes a real risk in many parts of the world.

This discussion leads to the following research questions on internet shutdowns.

- Why do individual states choose to shut down the internet?
- How did shutting down the internet become so normalised that is now used as a policy tool in 34 countries?
- Can we observe forms of policy learning between different countries shutting down the internet?
- How has the practice of normalising internet shutdowns influenced how people use and engage with the internet?

- Is it possible to predict internet shutdowns before they happen?
- How does the existence of internet shutdowns influence electoral politics?
- What are the main alternatives to internet shutdowns, and what are the trade-offs between shutdowns and these alternatives?
- Could greater legitimacy on online platforms reduce the likelihood of internet shutdowns? What would this greater legitimacy look like in practice?

i. Living in Surveillance Societies

Living in a surveillance society has become a reality for many people around the world. Surveillance technologies, such as CCTV and biometric technology, have become increasingly common in both public and private spaces, and these technologies have been

used to monitor and regulate the behaviour of citizens. While surveillance technologies can be used to protect public safety and prevent crime, there are also serious concerns about the impact of these technologies on civil liberties, privacy and individual autonomy. This section will explore the implications of living in a surveillance society, with particular attention being paid to the literature on the ethical, legal and social issues associated with surveillance.

'Studies have found that living under surveillance can have a chilling effect on individuals' behaviour, as they may be less likely to express themselves freely or take risks.'

The impacts of living under surveillance on human agency, creativity and innovation have been studied extensively in the literature. Studies have found that living under surveillance can have a chilling effect on individuals' behaviour, as they may be less likely to express themselves freely or take risks (Büchi, Festic, and Latzer 2022). This can have a detrimental effect on creativity and innovation, as individuals may be less likely to challenge the status quo. Furthermore, surveillance technologies can be used to target and discriminate against certain groups of people, which can limit their ability to access the same opportunities or resources as others (Gandy 2007).

So, of course, this also means that different kinds of freedom become necessary (Alegre 2017, 2022). We know already that it is impossible to really imagine our future unimpeded if we live in a world in which we are constantly surveilled. Yet we still allow ourselves to continue living in surveillance societies. This type of freedom requires proactive steps, like protecting personal data and anonymity online, advocating for privacy laws and ensuring access to open networks so human beings can make informed decisions about their digital lives. Without these digital rights being protected by legislation and receiving sufficient actual protection from corporate exploitation, safeguarding human beings' freedom of opinion will remain difficult.

Sustainable Media Lab students visiting the Sound and Vision Museum in The Hague.

Freedom to think also means freedom to vote. Existing media ecosystems do little to ensure free and fair elections. However, troublingly, the current problems of living in surveillance societies go beyond challenges related to mass surveillance. Indeed, a recent report by the European Parliament Committee of Inquiry to investigate the use of Pegasus and equivalent surveillance spyware (PEGA) suggests a common practice of using surveillance technologies to spy on opposition political parties by incumbent governments in Europe (in 't Veld 2022). Rapporteur of the report Sophie in 't Veld notes that 'The impact of the illegitimate use of spyware is much more pronounced in Member States, where authorities that would normally be tasked with investigating and providing redress to victims, are held hostage by the State. In other words, where a rule of law crisis exists, the national authorities cannot be relied upon' (in 't Veld 2022:158).

'How can elections be organised in Europe when the political opposition must always be looking over its shoulder, wondering which part of the incumbent government's surveillance apparatus is spying on them?'

More broadly, this rule-of-law crisis also means that free and fair elections cannot be guaranteed within a context in which the surveillance of political opposition parties is omnipresent. Such surveillance operations also have a chilling effect on democratic participation in the electoral process, stifling meaningful participation and illegitimately restricting the potential for political change. How can elections be organised in Europe when the political opposition must always be looking over its shoulder, wondering which part of the incumbent government's surveillance apparatus is spying on them? This leads to a set of important research questions.

- How do political parties in Europe and beyond experience living in a surveillance society, and how does this influence how they conduct political campaigns?
- What steps can be taken by election regulators to ensure sufficient 'freedom of thought' for democratic decision-making during electoral campaigns?
- How does living in a surveillance society influence the ways in which marginalised groups engage in politics and make their voices heard?
- How does living in surveillance societies impact creative spaces?

Conclusion: Digital Rights for Digital Societies

When we think about justice, agency rights and even democracy, the ground beneath our feet does not have to crumble. In order to stand on solid ground, we need to take control, not just of physical but also of digital spaces. I started this journey in Tunisia in 2008, and I remain convinced that building robust communities is the key answer to challenges related to digital rights. Universities play a central role in building and developing these kinds of communities, whether they are for students, policymakers, activists, or scientists. There are generations of digital rights challenges ahead of us, and the only sustainable answer to these challenges is a generation of students who know how to respond to them.

‘There are generations of digital rights challenges ahead of us, and the only sustainable answer to these challenges is a generation of students who know how to respond to them.’

This does not mean that all these students need to be able to write computer code, practice law or build robots. If anything, in my experience having these technical or practical skills will often prevent them from being able to understand many of the digital rights challenges outlined in this lecture. Instead, using both your head and heart to better understand why the digital world is so strangely different to the physical world is a good path toward a better understanding of many of the digital rights challenges and harms we

face. Happily, I'm not the only one who thinks this is necessary. The Dutch National Advice Committee for the Higher Economic Education suggests that students should learn more about 'technological citizenship'.[9]

'My hope is that mainstreaming this knowledge in society will enable a different kind of discourse around, and engagement with, digital rights.'

My hope is that mainstreaming this knowledge in society will enable a different kind of discourse around, and engagement with, digital rights. While human beings should undoubtedly demand that governments and companies do more to address the many existing problems with digital rights, they cannot rely on them solely. A basic level of digital rights literacy is needed in order to be able to make the right demands and ask the right questions.

I'm lucky enough to be able to try out what it means to ask these questions in the Sustainable Media Lab, with students engaging with digital rights and learning to ask the right questions. I would hope that what we are learning in our lab can also be integrated into education more broadly at Inholland, both within the Creative Business domain and beyond. Certainly, ideas around digital rights and technological citizenship cannot be restricted to labs alone, but what this means for education at Inholland more broadly remains to be seen.

Having spent more than a decade studying digital rights, I find myself coming back to the same questions and the same challenges again and again. This is not to say that there aren't other relevant questions; there are. But for me, at least, the following paragraphs describe what I believe studying digital rights should be about.

Rights, Justice, and Power: Power imbalances and inequality are central elements of questions around digital rights. Without considering who has the

power to decide about social protection, online content moderation or the role of professional communities, we cannot meaningfully understand questions of digital rights. As digital infrastructures are inherently political, what makes them political from my perspective are questions of power and inequality. And these questions of power and inequality inevitably shape who has access to their digital rights and who does not. I believe that when technology is seen through a political lens, questions of rights, justice and power become unavoidable.

Transparency and Accountability: As both researchers and the general public, we are blind to many key digital rights issues. There is a lack of meaningful transparency and reliable data and some of the most powerful people in society, like government regulators who should know what is going on, have no idea what is happening in digital contexts. In order to build a world in which digital rights are meaningfully integrated into technological infrastructure, we first need to know what is going on. This requires meaningful transparency rather than the more common transparency fig leaves or transparency theatre that are often presented to the world. It also means ensuring that there is meaningful accountability for the ways in which digital rights are violated, often systematically. Greater accountability can contribute to raising the costs of digital rights violations, which would hopefully lead to less digital rights violations in future. At present I fear that ignoring or violating digital rights is far too easy and too cheap.

Thinking from the Edges: A large part of research on digital rights has focussed on Europe and North America. To many, this seems to be where 'everything' is happening on key digital rights issues. I don't believe that this is a healthy way to look at digital rights. It is key to take a more global perspective on

digital rights, even if you are trying to understand digital rights in the Netherlands. As many of the digital rights challenges experienced in the Netherlands have already been experienced elsewhere, understanding key digital rights issues and trends can give researchers and students a head start in thinking about these issues. Moreover, many digital rights issues on topics such as internet shutdowns or digital cultural heritage are deeply globally intertwined or need to be understood from the perspective of decolonialisation. Without meaningful engagement with stakeholders and perspectives from outside Europe and North America, it is difficult to truly understand digital rights.

‘Without meaningful engagement with stakeholders and perspectives from outside Europe and North America, it is difficult to truly understand digital rights.’

Technology and Infrastructure: The hidden fabric of hybrid physical/digital societies that few people really want to talk about – because it sounds quite boring – can be incredibly powerful. Without considering how technology and infrastructure shape human beings and societies alike, we have little chance of achieving digital rights. A key element of digital rights research is thus to make this infrastructure visible to the world, as well as all the complex and challenging political decisions that are embedded within it.

Participation and Getting involved: Studying digital rights properly also means looking at robust participation mechanisms that are not just for show. This inaugural lecture is designed as an open invitation to students, researchers, civil society, government policy makers, creative professionals and interested citizens. If you’re interested in working on any of these topics, please get in touch with us at the Sustainable Media Lab. While the list of questions presented in this lecture is not finite, it does represent a first draft of the issues we will be working on in the months and years ahead. A key part of our mission at the Lab is to work closely with a community of digital rights stakeholders, so we’re always excited to find ways to work together.

Finally, I recognise that much of my research agenda related to digital rights is highly political, which from my perspective is precisely the point. The power to swing elections, reshape people’s ideas about whole continents and challenge assumptions about what it means to live in a democracy is precisely what makes these types of research questions about digital rights so interesting. This can also mean dealing with considerable resistance to these questions being asked.
At the same time, studying digital rights also comes with tremendous responsibilities for those asking the questions about digital rights: to take the questions they are asking seriously, to constantly reassess whether they’re asking the right questions for the right reasons, and perhaps most importantly, to refuse to look away.

Notes

1 https://www.inholland.nl/inhollandcom/about-inholland/digital-rights-research-team/

2 https://www.sustainablemedialab.eu/

3 https://www.tudelft.nl/en/ai/ai-futures-lab

4 https://www.sustainablemedialab.eu/

5 Drafted with input and inspiration from Susannah Montgomery, Frederik Truyen, Sofie Taes, Adriana Muñoz and the entire DEDICATE project

6 Drafted with input from Andy Sanchez

7 https://socialprotection.org/learn/glossary/what-is-social-protection/european-commission

8 Social Protection Inter-Agency Cooperation Board (SPIAC–B)

9 Association of Universities of Applied Sciences, https://www.verenigninghogescholen.nl/system/knowledge_base/attachments/files/000/001/264/original/086_055_HEO_ENG_DEF.pdf

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Colophon

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