

Come Together: Digital Associations and Democracy

February 11, 2019

Presented by the Sydney Policy Lab, University of Sydney, and the Digital Civil Society Lab

Reflections by Lucy Bernholz and Tanya Notley

Panel: Digital Associations and the Ethics of Data Use

Lucy Bernholz (moderator), Director, Digital Civil Society Lab, Stanford

Ellen Rennie, Associate Professor, RMIT University

Lyndon Ormond-Parker, ARC Research Fellow, Melbourne School of Population and Global Health, University of Melbourne

Jane Farmer, Director, Swinburne Social Innovation Research Institute, Swinburne University of Technology, Melbourne

Lyria Bennett Moses, Director, Allens Hub for Technology, Law and Innovation; Professor, UNSW Law

Rohan Clarke, Chairman, BCCM's Platform Cooperative Taskforce

Three key themes emerged from this panel. The first centered around associational governance of digital data and the extent to which we need to shift our focus from data as the object to the stack of governance, legal, and digital characteristics and regimes associated with digital networks. Co-operatives as an established governance model are proving themselves again in the digital age as a means of both controlling data access and use and ensuring that the people who generate the data, belong to and govern the coop, and set the rules for data collection, use and commercialization receive some of the financial benefits. Platform coops are emerging in sectors from agriculture to co-working spaces, freelancers to musicians. Analog cooperatives are also beginning to factor in their digital resources as part of the collective.

These issues of data sovereignty are critical in indigenous communities, who have been building governance and legal regimes to control data for their community benefit against great odds and often in opposition to white civil society (or uncivil society). Data inequality, data protection, and access to data taken from them are longstanding inequities experienced by Aboriginal people and communities. Currently, two important self-sovereign efforts are underway to counter the digital incarnation of these extant inequities. The first is the Indigenous Data Network which is governed by a board of Indigenous people working on issues of data skills, curriculum, and governance issues – paying attention to succession planning (as individual data implicates future and past generations) and the tensions between collective and individual rights. The second is the Indigenous Reference Genome, a global project, is active on many of these issues, and is fighting again against national regimes attempting to lay claim to both the genomes and the governance infrastructure.

Data Co-ops are a topic of interest in universities. At Swinburne the effort is focused on working with community organizations to develop models that can build capacity in low-resourced

organizations. Challenges are many, including unclear risks, funding uncertainty, and a lack of familiarity.

The second theme concerned the ways in which commercial platforms may be “automating our associational lives.” The clustering of people by characteristics derived from deep individual data is pervasive in political messaging, advertising, and other domains. Some of these groupings – such as by race or gender – may be visible and familiar to (even if the clustering itself is opaque) to the individuals thus affected – and there may well be existing, physical world civil society associations organized around the same or similar characteristics (e.g. gender or race). But platforms and algorithmic decisions making tools used by public agencies may also be clustering us (automating our associations) around characteristics derived from data that we don’t necessarily identify with. For example, children of separated parents, people with similar shopping behaviors or others. This phenomenon of “automated associations” is important on its face and understanding it needs the same scholarly attention as content moderation has received. The effects on civil society – replacing (or at least adding to) the voluntary nature of associational life with an involuntary process is one implication; a second has to do with if/how analog civil society associations exist or will develop in ways that mimic these data driven, involuntary clusterings or that can represent the interests of those captured in these groupings.

The third theme – the degree to which a focus on voluntary ethical codes, discussions, or framing of the issue is a means of deferring meaningful regulatory development – came through in this discussion and was carried forward throughout the day. There was strong agreement in the room on several aspects of this: 1) that ethical frames were plentiful in number and woefully lacking in enforcement, 2) that every effort should be made within civil society to prevent these discussions from distracting from regulatory and legal action, and that 3) within civil society there is still only a thin understanding of the nature of digital data, governance, and its potential harms.

This final point – the degree of understanding of digital data, governance and harms – is another thread that gained traction throughout the day. This manifests itself in important ways at many levels: misuse (or perhaps compromised use) of data at the organizational level, as a barrier to building strong, mutually supportive connections between digital rights expertise and civil society advocacy organizations, and the asymmetrical and exploitative dependence of organizations on commercial platforms for basic functions such as fundraising.

Panel: Digital Design and Associations

Kimberlee Weatherall (moderator), Professor of Law, University of Sydney

Julia Powles, Associate Professor, University of Western Australia Law School

Marta Poblet, Associate Professor, Graduate School of Business and Law, RMIT University

Monique Mann, Vice Chancellor’s Research Fellow in Technology and Regulation

Craig Furneaux, Subject Area Coordinator for Philanthropy and Nonprofit Studies, Australian Centre for Philanthropy and Nonprofit Studies, Queensland University of Technology

Penny Harrison, Director, Volunteering, Australian Red Cross

This panel took on the opportunity to imagine digital platforms and associations explicitly designed for democratic purposes. There were several important themes discussed. First, the degree of corporate capture of civil society. This requires interrogating and revealing the nature of financial and personnel relationships between tech corporations and individual civil society

groups, between tech companies and academic centers/departments, and between tech companies and regulators. It also requires enabling a widespread and deeper understanding of the idea of digital dependencies – a frame which can be thought of as “digital corporate capture.” It is critical to avoid “ethics washing,” which is now clearly seen as an effort to distract from regulation.

Second, the need to imagine and create coalitions to potentially create, alternative visions of technology and avoid the rampant defeatist mindset. These need to include, as noted in earlier panel, not just software or hardware systems, but governance and legal alternatives. Connecting this idea to the policy panel were clear calls to recognize that there are rampant rights abuses and acts of unjust enrichment underway, violations which can be identified by citizens and civil society but that require regulatory/legislative/judicial redress. Here there is much to be learned from indigenous communities that have built their own systems, long relied on independent governance structures, and developed comprehensive strategies such as the indigenous data network.

One example of an alternative vision includes the philanthropically funded, not-for-profit produced encrypted messaging app Signal, made by the nonprofit Open Whisper Systems, which is independent except for its dependence on Amazon’s servers. Calls to inspire philanthropy and to reimagine governments’ roles in both incubating, financing, and setting parameters around the use aggregated data and massive computing power in the public interest. Others noted that there was a critical need to expand public understanding of the issues of digital corporate capture as extending beyond privacy to autonomy. While experiments in blockchain and self-sovereign ID are uncertain, they are raising awareness of the need to design technologies, purpose, governance and legal regimes together.

Third, designing for democracy requires working from an agreed upon set of democratic principles. It will also require attention to both the digital spaces and capacities for democratic action – such as identity systems that enable both verification, obfuscation and anonymity, but also organizational forms and structures that can sustain and protect the digital interactions. Lessons from experiments using mini-publics in Ireland and Utrecht, among others, highlighted the need to design for knowledge aggregation, knowledge codification, and the transmission of that knowledge from the public to policy makers.

Fourth, the Australian Red Cross’s efforts to experiment with developing self-sovereign ID system for its volunteers was seen as one way to start small and attempt to reveal the technological, organizational, legal, and human/social challenges of designing a technological solution around a specific civil society problem. Questions about legal jurisdiction – and the lack of clarity about both relevant legal domains and the lack of enforcement or application of existing legal doctrine were noted. The discussion generated an interest in both the legal professions’ efforts to bring together multiple legal domains with direct technological and policy expertise and the role the academy can play here. The Red Cross example was noted for its practical inclusion of engineering, legal, governance, design, and civil society expertise.

Finally, Australian civil society and philanthropy has an infrastructure to support strategic litigation, which should be seen as an important tool in civil society’s toolbox regarding digital dependencies/digital corporate capture.

Panel: Paying for Change

Ariadne Vromen (moderator), Professor of Political Sociology and Associate

Dean of Research, Faculty of Arts and Social Sciences, University of Sydney
Josephine Barraket, Director Centre for Social Impact Swinburne (CSI),
Swinburne University of Technology
Tom Dawkins, CEO, StartSomeGood
Sarah Davies, CEO, Philanthropy Australia

The panel began with a discussion of the specific elements of the current philanthropic funding landscape, the relationships between public (government) funding and various private sources (including the role that corporate funders play, especially in supporting core social/health/educational infrastructure for many indigenous communities), and the evolution of some newer forms of capital and enterprise. The panel debated the role of crowdfunding as risk capital – and the perception or reality of philanthropic capital as such.

Sarah Davies laid out the various ways philanthropic capital is organized and emphasized the need to focus on the bigger questions of value exchange and value capture for public benefit. Jo Barraket provided important insights from national surveys of nonprofits in Australia, and along with Tom Dawkins noted how risk and value were structured differently depending on relations to public or private donors. The panel noted connections to the discussion on co-operatives, noting the same structures that allow members to capture digital benefits apply to exchanging and capturing the financial benefit.

Second, the idea of using access regimes to capture the public benefit potential of large data pools was put forward. This was framed (by Nick Gruen, building off earlier ideas from Julia Powles and Sarah Davies) in terms of value capture and as a means of breaking the hold of the current tech giants without necessarily breaking them up. In outline, the idea involves “freeing” the vast data pools currently held by individual corporations and making them available for other enterprises, both public and private, to build upon. Doing so would break the lock-in effect currently held by individual companies, in which the cost of switching off a platform are too high for users, allow new competition and alternative networks or exchanges to be built from the value in those data pools, and use existing legal regimes. Doing so would align with the ID2020 principles of portability, persistence, and control.

Panel: Digital Associations and Policy Making

Tanya Notley (moderator), Senior Lecturer, Western Sydney University
Scott Wright, Associate Professor, University of Melbourne
Lyndsey Jackson, Founder of WeCollaborate and Chair of Electronic Frontiers
Australia
Hokyu Hwang, Associate Professor, UNSW Sydney
Ed Santow, Human Rights Commissioner, Australian Human Rights Commission

The ability of civil society to form associations in order to hold governments to account and to shape public policy has always been critical to our democracy. In the past NGOs, unions, labour organisations, social movements, political parties and organisations have played a pivotal role in leading civil society engagement with policy. But mobile and networked technologies have led to an increase in more spontaneous, transient, sometimes looser associations and these have often emerged to address a single issue. Some associations that have formed spontaneously online or using digital technologies grow and continue. Others peter out and disappear. So, in light of that, on this panel came together to discuss new possibilities and risks associated with new kinds of civil society forms associations. The panel considered what policy settings and

technology settings we need to protect citizens capacity to form associations that can critique and influence policy.

This panel highlighted both practical examples of scholarly theory on connective action, feminist theories on the nature of work, and the interplay between formal organizations and informal associational roles both online and offline.

One insight drawn from the examples of #NotMyDebt and #HandsOffMyCharity were the ways in which hybrid, punctuated relationships between networks of individual activists and formal organizations allow for expertise exchange as they seek policy change. Both examples are credited with achieving regulatory and policy change. These efforts also demonstrated ways in which the unpaid, unrecognized work of online activists can bring technological knowledge and practice, and organizing skills, to formal organizations while those organizations in turn can bring the sustained attention and possibility of future work to individual, unpaid activists.

Three key issues emerged from the discussions.

First, in relation to responsive “born-digital” campaigns that seek to influence policy, the panel noted vast, unpaid labour that is required. This needs to be recognized. Lyndsey Jackson noted that this was a key consideration when she initiated the #NotMyDebt website and campaign. To address this she initiated discussions with all volunteers about what they could offer the campaign but also what the experience could offer them. Based on these discussions she took some volunteers to strategic meetings they could benefit from and she built into the project and supported training and capacity building. Jenna Price noted agreed with Lyndsey that far too often the labour associated with these efforts fall on the shoulders of women based on her experience of co-leading Counting Dead Women and Destroy the Joint. To address this, the panelists and participants noted that not-for-profits could consider ways to support these movements: whether formally by offering paid labour or by offering to provide other kinds of resources (for example, web hosting, tech support, printing). Too often not-for-profits stand back, rather than support these initiatives even when they are directly relevant to their work and advance their causes. In many cases, as with efforts relating to the #MeToo movement, women’s participation also comes with serious risks. Women digital campaigners very often face harassment and abuse. They need to consider their visibility in light of this. Thus it is vital that digital campaign organisers provide digital privacy and security training and that they discuss these risks from the outset. Social media companies also need to be held to account: they need to recognise the abuse faced by women rights campaigners and provide additional support to address this abuse. They need to do more to reduce bots and fake accounts that damage and limit digital campaigns. Scott Wright also pointed out that research shows, time and time again, that the idea that large born-digital social movements are non-hierarchical and spontaneous is often debunked by research with clear leaders and leadership. At the back end these efforts are often highly coordinated and structured. Therefore we need to be wary about assumptions made based on observations from the ‘front-end’ of these campaigns. Research can offer rich perspectives to illuminate how successful born-digital campaigns operate and how they are sustained.

Second, Hokyung Hwang pointed out that we need to understand the benefit of the not-for-profit sector in Australian society. Citing US research, he found that high levels of civic participation are found in places where diverse not-for-profit organizations exist. These don’t need to be political necessarily: they might include not-for-profit child care centers, bushwalking, seniors or landcare groups. The point is that not-for-profits nurture civic engagement and lots of organizations are needed to support high civic engagement. The density of not-for-profits in any

one place really matters. Hwang also asked us to consider that organizations are technologies: they have particular structures that enable particular kinds of participation and processes. It is important that we understand what not-for-profits, as specific organizations and as a sector, do for Australian society in terms of supporting policy engagement. Contrarily we also need to consider how they are restrained. Late last year Pro Bono Australia and the Human Rights Law Centre, published the Civil Voices report which found that “self-censorship” is rife among not-for-profits because of funding agreements, management pressure and the “implied repercussions” of political speech. In this way, it’s clear to see that not-for-profits can benefit from independent actors who respond to policy changes or the political landscape in ways they may be unable to.

Third, Ed Santow, Human Rights Commissioner, Australian Human Rights Commission noted that it is vital that we look at human rights issues as we see the increasing use of new technologies to deliver public services and innovate solutions to problems. One participant noted that this and other examples how the Australian government are clearly using social security as an innovation playground and this puts the most vulnerable Australians at risk of abuse. Santow noted that Robodebt -- a program where the Australian government used a computer algorithm to identify social security overpayments over a period of 7 years and issued debts by matching Centrelink reporting periods to annual income from the Australian Taxation Office -- raises clear issues about algorithmic decision-making. He said it is vital that we ensure existing rights are not lost and most importantly this includes the basic right of all citizens to know how a decision was arrived at in detail. The presumption must always be of innocence and the onus on the government to provide otherwise. This is not the experience of so many targeted by Robodebt as highlighted on the #NotMyDebt website. Santow agreed that errors made by these new systems should be reported on by government so that civil society can critique the way they work and who they impact upon.

Finally, the discussion made it clear that there is great opportunity for not-for-profits and philanthropic sector to engage with and support digital rights advocacy, as these policy issues matter to every domain of civil society. Since we agree digital environments are critical to citizen’s engagement with policy we need to make sure these environments are kept safe, are transparent, operate in ways that align with broader social and democratic values. We need to recognize that let’s that digital rights are also women’s rights, Indigenous rights, workers rights and they shape fundamental practices in today’s world such as access to education, health, and jobs.

Suggested Actions

- Fund strategic litigation: one way to pursue the application of access regimes and break the lock in power over data pools with potential for serving public interest.
- Act to better connect digital rights expertise with civil society expertise, in mutually reinforcing ways, at both operational and policy levels.
- Need to share and invest in understanding the standards of digital decentralization
- Support the continued development of sovereign indigenous data efforts (e.g., indigenous data network and reference genome)

- Help the Museum of Australian Democracy and other cultural heritage institutions engage the public in these ideas. Consider the role of participatory exhibits and art (e.g., the Biometrics mirror, Melbourne University)

Questions for Continued Inquiry

- Who counts as a digital citizen and how do we think about this across generations?
- How can Universities and legal practitioners bring together expertise in the many regulatory regimes that apply: IP, antitrust, anti-discrimination, human rights law, plus engineering, policy making and civil society?
- What can be done to raise awareness among community groups that digital platforms and data pools can be open source, cooperatively owned, subject to rules that empower individuals and the collective?
 - Can we shift the focus from data control to enabling collective capacities to use data across generations and cultures?
- What are nonnegotiable design criteria for platforms/technologies to be used in the pursuit of public benefit?
 - What is a more ambitious vision of do no harm?
 - What new organizational models – beyond data coops – are needed?
- What roles can universities play for enabling these new approaches?
- What role can civil society play in fighting for a right to encryption, obfuscation, or other digital rights?
- How do new coalitions in issues-based campaigns endure and grow in digital society?