

What Platforms Mean When They Talk About Human Rights

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This article examines how staff working on two major Internet platforms—Google and Facebook—make sense of human rights such as freedom of expression and privacy. Based on interviews and online material, the article examines how the two rights are spoken of, how threats are perceived, and how the companies define their role in terms of protecting those rights. The article finds that both companies frame themselves as strongly committed to (and actively promoting) human rights. The framing, however, focuses primarily on potential human rights violations by governments, and pays less attention to areas where the companies' own business practices may have a negative impact on their users' rights and freedoms. While the platforms are spoken of using civic-minded metaphors connected to people's ability to exercise rights and thus to participate in public life, the companies actually retain the freedom to set and enforce their own rules of engagement.

KEY WORDS: Google, Facebook, privacy, freedom of expression, personal information economy

The vast majority of us will increasingly find ourselves living, working and being governed in two worlds at once. (Schmidt & Cohen, 2013, p. 6)

Introduction

It is commonly stated that human rights apply online as they do offline, yet in practice the online domain poses significant challenges to human rights protection, many of which remain unresolved. One major challenge concerns the fact that users exercise their rights within privately owned platforms that operate in a “governance gap” vis-à-vis their human rights impact.

While there is a growing body of literature on the algorithms, architecture, and politics of platforms such as Google and Facebook (Bucher, 2012; Gillespie, 2010; Helmond, 2015; Van Dijck, 2013) we know little of how these corporate actors “think about” and “work” with human rights. Despite the increasing impact of platform practices for billions of users' abilities to exercise fundamental rights, these practices remain hidden from view and largely inaccessible for researchers or the general public.

Responding to this paradox, this article sets out to investigate how staff from Google and Facebook frame and deploy the human right to privacy and to freedom of expression within their platforms. The two rights are chosen as examples of rights that are strongly influenced—and addressed—by the companies. The article argues that both companies are guided by narratives that speak to their products as freedom of expression enablers, yet that effectively enforce boundaries for expression based on a complex mix of company policies and legal standards. Concerning privacy, the ability of users to exercise control is limited to adjustments on how they share information, while they have no means of limiting the data collection that takes place as a premise for using the services.

The article is structured as follows. First, it opens with a brief introduction to the human rights literature related to the online domain, including the specific challenges related to human rights protection in privately owned platforms. Second, it uses a public sphere perspective to provide a critical take on the inherently economic character of social interaction within platforms. Third, it presents the empirical findings, focusing on the way in which Google and Facebook frame and incorporate their human rights responsibility.

Human Rights and the Online Domain

Scholarship related to human rights and the Internet is scattered around different disciplines spanning from international law and Internet governance to media and communication studies. Since the topic began to surface on the global Internet policy agenda during the first World Summit on the Information Society in 2003, a large number of books, reports, and soft-law standards, especially from the Council of Europe, UNESCO, OSCE, and the UN Special Rapporteur on Freedom of Expression, have been produced. The majority of these sources present empirically grounded studies of (i) opportunities and threats to established human rights standards by use of communication technology, in particular the right to privacy and the right to freedom of expression (Akdeniz, 2016; APC & HIVOS, 2014; Benedek & Kettemann, 2014; Brown, 2013; MacKinnon, 2012; Mendel, Puddehatt, Wagner, Hawtin, & Torres, 2012); (ii) cases that focus on the use of technology for human rights and social change (Comminos, 2011; Earl & Kimport, 2011; Souter, 2009); or (iii) standard-setting that seeks to establish norms for human rights protection in the online domain (Council of Europe, 2014; Council of the European Union, 2014; United Nations General Assembly, 2013; United Nations Human Rights Council, 2014). At present, there is a lack of scholarship that situates the human rights challenges raised by these numerous studies within a theoretical discourse, for example, related to the platform society (Dijck, 2013; Helmond, 2015) or surveillance capitalism (Fuchs, 2015; Zuboff, 2015).

Human Rights and Private Actors

Privacy and freedom of expression are some of the most debated human rights in relation to the online domain. For freedom of expression, specific

challenges relate to new means of curtailing expression and information rights, spanning from overly broad legislation to the disruption of services or the blocking and filtering of content presented to users (Deibert, Palfrey, Rohozinski, & Zittrain, 2010; MacKinnon, Hickock, Bar, & Lim, 2014). In relation to privacy, the wide range of issues include expanding surveillance regimes; tracking and profiling of users' online behavior; and data transfer without the required safeguards (Deibert, 2013; Schneier, 2015). Whereas human rights risks caused by governments have received considerable attention, there is a growing awareness of the risks posed by private companies, as illustrated by recent reports from UN Special Rapporteurs (Cannataci, 2016; Kaye, 2016).

One cross-cutting challenge concerns the fact that the online domain is largely controlled by private actors, whereas human rights law is binding on states only. The human rights responsibility of private actors has, however, received increasing attention, resulting in the adoption of soft law standards¹ and multi-stakeholder initiatives such as the Global Network Initiative (GNI; Maclay, 2014). In 2011, the baseline in this field was adopted—the United Nations Guiding Principles on Business and Human Rights (UNGPs) (United Nations Human Rights Council, 2011). The UNGPs focus on the human rights impact of any business conduct and elaborate the distinction that exists between the state *duty* to protect human rights and the corporate *responsibility* to respect human rights. In relation to the corporate responsibility, the framework iterates that companies have a responsibility to assess the way their practices, services, and products impact on human rights, and to mitigate negative impact. The framework has been widely praised by both states and companies, but also criticized for its slow uptake, ineffectiveness, and lack of binding obligation on companies (Aaronson & Higham, 2013; Bilchitz, 2013). In relation to privacy and freedom of expression it is important to note that whereas states have regulated to a varying degree the duties of private companies concerning users' data protection rights (not least in Europe), company practices that may affect freedom of expression have not been subjected to similar state regulation.

In addition, both companies are part of the GNI set up in 2008 “to protect and advance freedom of expression and privacy in the ICT sector”² via compliance with GNI-defined standards for best practice. While GNI is the major platform for human rights discourse among Internet companies, it has been criticized for lack of participation (including by smaller and non-U.S. companies); for not being independent enough in the assessment process; for lack of a remedy mechanism; for insufficient focus on privacy by design; and for lack of accountability (MacKinnon, 2012, pp. 179–182).³ In November 2015, MacKinnon and her team launched the *Ranking Digital Rights Corporate Accountability Index*⁴ with the aim of enhancing corporate accountability among Internet and telecommunication companies. While the index covers a broad range of indicators related to freedom of expression and privacy, its score is based on publicly available material and thus the companies' own statements concerning, for example, top-level commitment to human rights, accessible policies, and grievance mechanisms.

The Online Public Sphere

The development of the online public sphere is often framed as the migration of an already existing public sphere to the online platform and/or the advent of a new type of public sphere facilitated by the Internet (Goldberg, 2011, p. 741). Numerous scholars have examined the claims for a new or extended virtual public sphere (Balnaves, 2011; Dahlberg, 2007; Goldberg, 2011; Jørgensen, 2013; Papacharissi, 2003; Rasmussen, 2008), in particular the extent to which the open architecture of the Internet might revitalize and remedy the deficits associated with the public sphere.⁵ The online domain has arguably provided for a variety of new public and private spaces, but there is no indication that the new online spaces and modalities have in fact contributed to a strengthened democracy (Papacharissi, 2010, p. 124).⁶ To the contrary, *commercialization* has been identified as one of the characteristics that prohibit the transition from a public space to a public sphere (Papacharissi, 2010).⁷ Indeed, since Habermas' original work on transformations of the public sphere, various aspects of commercialization have been raised and widely discussed in relation to the increasing power of private media corporations over public discourse, particularly their economic and institutional configurations (Verstraeten, 2007, p. 78). In contrast, the relationship between the online public sphere and the platform economy has not yet received similar attention. "The inherently economic quality of Internet participation contributes to the production of a different and under-examined mode of power than is presumed in scholarship of the public/virtual sphere" (Goldberg, 2011, p. 744).

Within science and technology studies it has long been recognized that technology is socially constructed and that the design of a system affects the freedoms and control that the system enables (Bijker, Hughes, & Pinch, 1987; Mackenzie, 1996). It is thus crucial to ask whose interests are being served in a particular technological solution. Services that collect personal information as a prerequisite to participation inevitably place power in the hands of the companies providing them. Although part of public life has always unfolded within commercial domains such as the commercial press, the current situation is different. Previously, the commercial press comprised only part of the system of free expression, supplemented, and countered by "political party press, government subsidized media, civic associations, and street corner pamphleteers" (Elkin-Koren & Weinstock Netanel, 2002, p. vii). These institutions were also to some degree driven by public interest. Arguably, this is not the case with most Internet platforms. Any deliberation within, for example, Facebook, is part of an underlying transaction that transforms that activity into advertising revenue. "On the internet, there is no 'debating and deliberating' that is not also 'buying and selling' (to use Fraser's term); participation is a commercial act" (Goldberg, 2011, p. 747). Yet we know little of how these commercial drivers challenge the basic assumptions and freedoms associated with public life. As cautioned by Cohen (2013, p. 1914), the shift to "black box" platforms for public participation makes the processes of mediation more difficult to understand or possibly to contest.

The Personal Information Economy

The personal information economy (PIE) is a notion used to describe the ad-based online business model that derives its economic value from users' personal data, preferences, and behavior (Elmer, 2004), coined by Zuboff (2015) as surveillance capitalism. According to this model, every instance of online participation involves "a transfer of data which has been economized" (Goldberg, 2011, p. 747). On a legal level, the commodification of personal information implies "the organized activity of exchange, supported by the legal infrastructure of private-property-plus-free-contract" (Radin, 2002, p. 4). The PIE model has been so successful that, in a remarkably short time, it has created some of the richest companies of our time. In 2015, Facebook commissioned a report on how to "sustainably maximize the contribution that personal data makes to the economy, to society, and to individuals" (Ctrl-Shift, 2015, p. 3). The report explains how "today's practices, whether they drive the production of a coupon or a digital advertisement, employ data analysts and complex computational power to analyze data from a multitude of devices and target ads with optimal efficiency, relevance and personalization" (Ctrl-Shift, 2015, p. 3). As highlighted in the report the business model has given rise to a number of concerns, such as a lack of reasonable mechanism of consent, a sense of "creepiness," fears of manipulation of algorithms, and unaccountable concentrations of data power. As we shall see below, Facebook's response to these concerns focuses on expanding the radius of user action (privacy settings) within the preset economic model. On the assumption that privacy is a core element in sustaining critical societal discourse and personal boundary management (Cohen, 2013, p. 1905), the PIE model disrupts basic elements of boundary management and discourse, since it extracts value from the analysis, prediction, and control of all mediated experiences, with no appreciation of a space outside the reach of this economic paradigm.

In the following section, empirical findings are used to illustrate how staff within Google and Facebook frame and operationalize the right to privacy and freedom of expression, and how this in turn affects the protection of these rights within the platforms.

Methodology

This article relies on a context-oriented qualitative approach, including interviews and online material as key sources of data (Huberman & Miles, 1994). Over the course of 2015 and 2016, 21 semi-structured interviews were conducted with current and former staff of the two companies (13 from Google and 8 from Facebook), supplemented with conversations and observations carried out at policy events such as the Global Internet Governance Forum in Brazil, the Danish Internet Governance Forum, the Global Network Initiative Learning Forum at Stanford University, the Digital Single Market Meeting in Copenhagen, and the Child Safety Summit in Dublin. The interviewees were primarily policy staff, though I also spoke to technical and legal staff. Access to the companies was a

challenge, but through a combination of personal contacts and persistence, contact was established with staff from both companies. The interview situation was constrained, however, in that recording the conversations was not allowed, meaning notes had to be typed while interviewing. Also, there are issues of validity and reliability related to elite interviewing (Dexter, 1970; Mikecz, 2012), for example, how to get “truthful” and granular responses, not least when the topic is as sensitive as corporate practices vis-à-vis human rights. In the interview situation, a balance was struck between allowing the conversation to unfold relatively freely, while ensuring that core themes were dealt with. To this end, open-ended questions focused on the company discourse around freedom of expression and privacy, in particular how rights are understood and threats perceived, and how the role of the companies is seen in relation to those rights. To limit the scope, I focused mostly on Google Search, YouTube, and Facebook’s social network.

As part of the data collection, I also analyzed 20 public talks by either founders or key staff from the two companies, and visited the United States as well as the international (Dublin) headquarters of Google and Facebook. In the analysis that follows, quotes from the interviews are presented in an anonymized form, while quotes derived from public presentations are referenced with name and organization.

Human Rights Framing Within Google and Facebook

In 2013, Google executives Eric Schmidt and Jared Cohen argued that modern technology platforms such as Google and Facebook are even more powerful than most people realize, and that the world will be “profoundly altered by their adoption and successfulness in societies everywhere” (Schmidt & Cohen, 2013, p. 9). Their power is ascribed to their ability to grow and the speed at which they are able to scale up: “Almost nothing short of a biological virus can spread as quickly, efficiently or aggressively as these technology platforms, and this makes people who build, control and use them powerful too” (Schmidt & Cohen, 2013, p. 10). An important element of the power narrative is the companies’ unique position in the markets they dominate; namely, search, online expression, and social networking. Since the stories of both companies are described extensively in the literature (Jensen & Tække, 2013; Kirkpatrick, 2010; Levy, 2011; Vise & Malseed, 2005), I will only point to a few key figures to give an indication of the companies’ ability to grow.

In February 2016, Google (Alphabet) became the world’s highest valued company (a place it has since lost to Apple) worth 560 billion USD. Google was founded in 1998 with the mission to “organize the world’s information and make it universally accessible and useful”⁸ and has since then developed its services from search to advertisement, maps, library, glasses, self-driving cars, artificial intelligence, robotics, and a wide range of other areas. In August 2015, Google restructured to become Alphabet, although commercially Google still represents the vast majority of Alphabet’s revenues, and almost all of its major businesses

are located under Google.⁹ As for Facebook, its February 2016 value was 348 billion USD, just three years after it became listed on the U.S. stock exchange. Founded in 2004 with the mission “to give people the power to share and make the world more open and connected,”¹⁰ it has become the fastest company in the S&P 500 Index to reach a market value of 250 billion USD.¹¹ With 1.65 billion users in 2016, founder Mark Zuckerberg is now the sixth richest person in the world.

Privacy

The business model of the PIE underpins both companies. Google remains the undisputed leader in total U.S. digital advertisement revenues with 32 billion USD revenue and 37.4 percent of the market; Facebook comes second with 8 billion USD revenue and 13.2 percent of the market in 2015.¹² Essentially, the business model implies that the information, patterns, preferences, likes, habits, etc. of billions of users is stored, analyzed, and used to sell targeted advertising.¹³ Since the business model extracts economic value from knowing as much as possible about the users, its core market incentive is to maximize the number of users and the corresponding data collection: “This may sound a little ridiculous to say, but for us, products don’t really get that interesting to turn into business until they have about 1 billion people using them.”¹⁴ Both companies make a clear distinction between being data brokers (a term clearly associated with low business ethics), and the business they are in, that is, offering targeted advertisement based on their users’ data: “We try to keep a high ethical stand, we don’t sell our users data. Like data brokers, we don’t do that” (Google, #6) and “We never sell your information. Advertisers who are using the site never get access to your information.”¹⁵

When questioned about the business model and its potential conflict with the right to privacy, three lines of arguments are generally brought forward. First, the business model is seen as integral to the provision of a free service, something that both companies take great pride in: “Our mission is to connect every person in the world. You don’t do that by having a service people pay for”¹⁶ and “We can offer someone in Africa the same product as the President of the United States. And we don’t have to take any extra money for it.”¹⁷ Second, it is stressed that having extensive knowledge about the user adds value to the user experience by enabling better services: “If you’re willing to let a company like Google know more about you, we can deliver much better services”¹⁸ and “One of the best ways to improve relevance is to help advertisers reach the right audience with their messages. Facebook’s age and gender targeting is 45 percent more accurate than the digital industry average.”¹⁹ Third, while both companies attribute great importance to privacy, they do not see a conflict between privacy and the business model, as privacy is primarily taken to mean user control over what information to share with other users: “Everything is bundled around how people share. Not being aware is like driving a car without a licence (#8, Facebook)” and “We have designed our platform with a view to giving people power and control over their own experiences”²⁰ and “To get privacy right, to provide a solution of

choice – is the leadership mantra” (#8, Google).²¹ The emphasis on user choice is exemplified by Facebook privacy features such as the *Privacy Assistant*, *Privacy Checkup*, and *Data Takeout*, and in Google features such as *Incognito Mode*, *Data Takeout*, and the *Privacy Dashboard*, which are repeatedly mentioned as examples of how the idea of user control is implemented into the design of the platforms. In relation to user control over advertisement, respondents point to Facebook’s *Ad Preferences* and Google’s *Ads Settings*. In short, privacy is seen as points of control by means of which users may adjust their boundaries for sharing, that is, deciding on levels of sharing for a number of predefined categories. At Facebook, for example, users can choose between *Global*, meaning everyone, *Friends of Friends*, *Just Friends*, or *you only*. None of the people I spoke to associate the company’s dedication to privacy with limits on the information that is collected about its users. Data collection and targeted advertising is the taken-for-granted context in the sense that it is a premise for using the service. As such, there is no opting out of the business model, except to stop using the service. Users may adjust their sharing preferences and choose not to see personalized ads, however, they cannot opt-out of the ad-model as such.²² These features are part of the “technological unconscious” (Beer, 2009, p. 988), and a basic premise for taking part in the online experiences that the services facilitate.

At the legal level, the collection and use of personal information is codified in the privacy policy of both companies. These policies are rather similar and both emphasize that data are collected in order to provide better services. Google’s privacy policy states: “We collect information to provide better services to all of our users—from figuring out basic stuff like which language you speak, to more complex things like which ads you’ll find most useful, the people who matter most to you online, or which YouTube videos you might like.”²³ Google distinguishes between information provided by the user, and information about the user, such as information on devices, logs, location, unique application numbers, local storage, and cookies. It is stressed that the data are used to “offer tailored content” and to provide “more relevant search results and ads.” When consenting to the terms of use, users consent to sharing their personal information with companies, organizations, or individuals outside of Google. Likewise, Facebook’s Data Use Policy stresses that information provided by the user, as well as by the users’ devices, including location data provided by GPS, Bluetooth, and Wi-Fi signals, third-party apps and websites, friends, etc., are collected and used to offer a personalized and rewarding user experience.²⁴ The narrative of collecting information to provide the best possible service for free was echoed in all the interviews undertaken, and there was a general sense that the critique raised by privacy advocates failed to understand the online business model and “the way the web works” (#4, Facebook).

In terms of governance, staff from both companies describe an internal evolution of privacy, with an increasing attention toward privacy over the past years, not least due to the many European cases that have iterated the need of U.S.-based companies to comply with European Union (EU) data protection law.²⁵ At an organizational level, this is reflected in an extensive internal system

of control and governance around privacy, including several layers of checks and balances to ensure that no product revision or new product is released without data protection clearing: “At Google we have something called a privacy design document. So whenever a new product or feature is conceived of, the tech lead for that project has to complete a document that includes a lot of information about how information is going to be collected, processed, shared, used, deleted” (Enright, Google, May 5, 2015)²⁶ and “Every staff member gets privacy training when joining the company” (Facebook, #8). Also, both companies have formalized procedures for handling external requests for user data by government and law enforcement.²⁷ As such, there is a corporate sense of paying great attention to privacy; to provide users with tools to adjust with whom they share, and to push back against government requests for user data with due diligence standards. The enormous data extraction and analysis that both companies excel in, however, is not framed as a privacy problem.

In sum, both companies have brought in control points at different stages in their privacy evolution, reflecting an increasing attention to the topic, not least due to European (as well as U.S.) privacy cases. These control points are implemented at organizational level with privacy risk assessment before any product release, in the privacy policy that users consent to, and at technical level. The privacy settings provide users with a predefined means of restricting the flow of their information, yet the business model largely dictates the boundaries for exercising this control. In short, it is not possible to engage with the platform’s offerings of information search, public discourse, social sharing, and so on without submitting to the underlying model of data collection, profiling, and advertisement. Interviewees did not perceive this as a contraction of user privacy, but as an integral part of the online business model that enables the provision of free services.

Freedom of Expression

Whereas the ability of individuals to exercise privacy rights is closely connected to the online business model, the boundaries for freedom of expression are defined in a gray zone between legal frameworks and company norms. Also, as we shall see below, users play a crucial role in the process of content moderation. The notion of content moderation refers to the processes whereby online services decide on the boundaries for appropriate speech in the public domain (Crawford & Gillespie, 2016; Roberts, 2014).²⁸ Since its launch, Facebook has been subject to continuous criticism for not doing enough, for example, to protect children, and for doing too much, for example, removing content that is legal within a given jurisdiction. As for Google, its capacity to provide access to allegedly harmful content frequently results in external pressure to restrict access to content via its services (Hoboken, 2012, p. 233).

All the interviewees express a strong commitment to freedom of expression. Freedom of expression is seen as a crucial element of the corporate identity, or as formulated by some of the interviewees: “Freedom of expression is an integrated part of everything we do” (#4, Facebook) and “Freedom of expression is part of

our founding DNA" (#3, Google). In line with this, the interviewees take great pride in the way their services enable people to search, share, and express opinions around the globe: "What we do will help make the world a better place" (#3, Google). The commitment to freedom of expression translates into organizational processes set up to ensure that external requests for interference with the ability of users to freely search or express themselves, for example, a government request to remove certain content, meet the requirements of human rights law. Both companies stress that they push back fiercely against government attempts to narrow the boundaries for allowed expressions whenever these attempts fail to meet such requirements: "Any law enforcement agency with lawful authority can submit a request and then our team will evaluate those requests and if they're lawful, consistent with international human rights standards, and consistent with prevailing law, then they will work with law enforcement in those places" (Richard Allen, Facebook, May 7, 2013)²⁹ and "In countries where we are presented with a valid court order, which we verify, we look at the law, we look to see whether the agency giving us the request is authorized under the law; if it actually is illegal then that is the only time it would come down" (Nicole Alston, Google, July 1, 2014).³⁰

In short, human rights standards are iterated as a benchmark for take down of content, yet only in relation to government requests.³¹ As we shall see below, company policies are another source which accounts for a much larger volume of content moderation. These policies are informed by national laws as well as company norms regarding the types of expression allowed. As freedom of expression is not an absolute right, the national boundaries for its exercise vary considerably. Operating global platforms across diverse national jurisdictions effectively means that the companies decide on a global standard. While compliance with national laws is stated as a given, U.S. law plays a prominent role in the standard-setting, as both companies are headquartered in the United States: "In many ways when a new internet company is created it is like an offshore island but it is attached to a host jurisdiction. So it has to comply with the rules, the jurisdiction, the framework of the host jurisdiction and that can lead to differences. I mean many of the big internet services are offshore islands off the coast of California by origin" (Richard Allen, Facebook, May 7, 2013).³²

Legal requirements, however, are only part of the picture. In practice, a number of norms guide the numerous decisions taken with regard to content takedown each day. A reading of the community standards of Facebook or YouTube reflects the complex set of issues that may justify content removal. The justifications for content removal (and account deactivation) range from content that is illegal under U.S. law—for example, child exploitation, terrorism, copyright violations, fraud, criminal activity—to content that is legal but outlawed by the community norms, for example, pseudo-identity (Facebook), harassment of others, harmful or hateful content, nudity and sexually explicit content, and certain categories of graphic content. Needless to say, the content categories are not black and white, and with more than a millions posts flagged each day at Facebook³³ or 400 hours of video uploaded each minute at

YouTube,³⁴ drawing the line represents a formidable challenge. According to Facebook's community standards, nudity, for example, is restricted "because some audiences within our global community may be sensitive to this type of content—particularly because of their cultural background or age."³⁵ In line with Facebook, YouTube specifies that the service "is not for pornography or sexually explicit content."³⁶

Whereas Facebook and YouTube are framed as communities with boundaries for "appropriate/non-appropriate" content, Google Search is described as a service that "gives users exactly what they want."³⁷ The search engine has to reconcile the ideal of facilitating access to *all online material* with the promise of providing information that is *valuable for the user* (Hoboken, 2012, p. 233). The process of locating the most relevant information is based on user preferences following the PageRank algorithm. In practice, each click on Google is part of a global recording of user preferences that inform future decisions on what content is presented to users. Also, Google Search may remove certain content according to their removal polices.³⁸ This includes content that is allegedly illegal (e.g., child sexual abuse, copyright violations), as well as "sensitive personal information" such as credit card numbers, and nude images shared without consent. Moreover, following the "right to be forgotten" ruling (Rustad & Kulevska, 2015), European users may request to have personal information that is no longer relevant removed from the search index.

While government requests at both Google and Facebook are governed by international freedom of expression standards, enforcement of community standards is not. Instead, the incentive to maximize the freedom of users to express themselves is countered by competing norms related to "safety," "disorder," and "community expectations"—"We want to deal with harmful content or deal with content that leads to a disorderly space, or a space that a massive community of people don't want to be in because they feel unsafe" (Richard Allen, Facebook, May 7, 2013).³⁹ Both within Facebook and YouTube, users are encouraged to flag inappropriate content which is then subjected to review by globally distributed teams of reviewers: "Our Community Operations teams work in offices around the world, 24 hours a day, 7 days a week, and in multiple languages. These teams are always ready to review things you report to make sure Facebook remains safe."⁴⁰ And, in similar language from YouTube: "Our staff reviews flagged videos 24 hours a day, 7 days a week to determine whether they violate our Community Guidelines. When they do, we remove them. Sometimes a video doesn't violate our guidelines, but might not be appropriate for everyone. These videos may get age-restricted."⁴¹ At both platforms, users play a critical role as "content police" or "neighborhood watch," since the system depends on them flagging problematic content, thereby shaping the norms for what content is allowed. As has been pointed out by scholars, these user flagging processes are not an uncomplicated representation of community sentiment (Crawford & Gillespie, 2016, p. 413). A recent survey of 161 user reports on content removal on social media platforms found that there is "a lack of transparency surrounding content moderation

decisions, as well as the processes through which users can appeal to restore their content when it is removed" (Anderson, Stender, West, & York, 2016, p. 3).⁴² The majority of the reports F127 concern Facebook takedowns, whereas eight reports relate to YouTube takedowns (Anderson et al., 2016).

When working through the empirical data, "public" and "private" surfaced as two competing yet co-existing narratives used to describe the services that the companies provide. On one hand, Facebook and Google are private companies, with freedom to conduct their business within certain limits; on the other hand, they provide services that have come to resemble and be understood as public utilities. "These companies have become the 21st-century public utilities."⁴³ In relation to enforcement of community standards, for example, it is stressed that as private companies they have the right to define and enforce the rules for allowed content on their platforms: "It will impact the scope of expression, but we don't consider ourselves to be deciding on freedom of expression. We take decisions on a specific product" (#6, Facebook) and "We have rules; we don't want bomb making and other dangerous activities although it is protected speech in the U.S." (#7, Google). Yet they also emphasize the perception of themselves as neutral platforms that play an important role as enablers of freedom of expression: "Everyone who has a Facebook account has a voice" (Zuckerberg, December 15, 2010)⁴⁴ and "My hope is to provide instant access to anything anybody wants in the future" (Brin, Google, January 24, 2013)⁴⁵ and "We think it is important that we remain a neutral public space, albeit a public space that's privately managed" (Allen, Facebook, May 7, 2013).⁴⁶ In short, the companies present their services and "public spaces" as closely connected to people's ability to exercise rights and thus to participate in public life, yet require the freedom to set and enforce their own rules of engagement. While the services are framed as open and neutral platforms, they effectively set the rules for public discourse.

Conclusion

The analysis presented in this article has illustrated how Google and Facebook produce and reproduce online boundaries via algorithms (e.g., search results), design features (e.g., privacy settings that codify user affordances), company norms (e.g., community standards), and governance mechanisms (e.g., review teams). All of these elements work together to establish specific boundaries and in this way represent "its owner's attempt to steer users' activities in a certain direction" (Van Dijck, 2013, p. 144). As illustrated, both companies see themselves as strongly committed to—and actively promoting—human rights. The framing, however, focuses primarily on potential human rights violations caused by governments, and pays less attention to areas where the companies' business practices may have a negative impact on their users' rights and freedoms.

Concerning freedom of expression, the boundaries are governed differently depending on the type of interference request. For government requests, both companies commit to due diligence standards derived from human rights law. However, for user requests, of which there is a much greater volume, content

policies are defined and enforced in a highly invisible way. Since freedom of expression sets out to defend particularly those expressions that raise controversial or critical issues, one conflict is between the desire to keep the community happy and the decision to protect expressions that may be unwanted yet that would be allowed under international human rights law: “Often the communities that are most impacted by online censorship are also the most marginalized—so the people that are censored are also those that are least likely to be heard” (Anderson et al., 2016, p. 21). In short, having companies define, and users police, unwanted expressions, creates a narrower space for allowed expressions, compared to legal provisions on freedom of expression. With regard to privacy, one area of conflict is between privacy as a human right—a fundamental freedom crucial for individual development and free societies—and privacy as something that can be waived as part of an economic transaction. At the heart of both Google and Facebook lie narratives concerning the liberating power of technology, which see no contradiction between the individual’s right to privacy and the PIE. As such, free communication and free commerce are seen as complementary ideals, or as two sides of the same coin (Patelis, 2013, p. 3). Both the Facebook narrative (giving all individuals the ability to share and connect) and the Google narrative (making all the world’s information accessible) feed the endless accumulation and processing of personal data as a premise for providing the services for free. In sum, there is no perceived contradiction between providing a public space where users exercise fundamental rights and the harnessing of these communications as part of the online value chain. The narratives speak to civic-minded metaphors, yet online public participation via these platforms is effectively anchored in a commercial rather than civic domain.

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Notes

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1. See, for example, the OECD Guidelines for Multinational Enterprises, available at: <http://mneguidelines.oecd.org/text/>.
2. See www.globalnetworkinitiative.org. Google is a founding member of GNI, whereas Facebook joined in 2013.
3. For news coverage on this see, for example, <http://www.forbes.com/sites/larrydownes/2011/03/30/why-no-one-will-join-the-global-network-initiative/m> (accessed October 1, 2016) and <http://thehill.com/policy/technology/327831-internet-freedom-group-splits-from-tech-companies-over-surveillance-concerns> (accessed October 1, 2016).
4. See <https://rankingdigitalrights.org/>.
5. For an account of critiques related to the public sphere, for example, concerning its legitimacy, fragmentation, and power structures, see, for example, Fraser (2007).
6. In contrast to this overall conclusion, many empirical examples demonstrate the way communication technology has empowered actors and groups at local level. See, for example, MacKinnon (2012).
7. Access to information and reciprocity of communication are two other major concerns.

8. <https://www.google.com/about/company/>.
9. <http://www.statista.com/statistics/266249/advertising-revenue-of-google/>.
10. https://www.facebook.com/facebook/info/?tab=page_info.
11. <http://www.cnbc.com/2015/06/23/>.
12. <http://www.emarketer.com/article.aspx?R=1012954&RewroteTitle=1#sthash.0UF4eOmf.dpuf>.
13. Facebook has the largest social network data set in the world, commonly referred to as the social graph.
14. Zuckerberg quoted in “Facebook Q3 2014 Earnings Call” (2014). Zuckerberg Transcripts. Paper 153.
15. Zuckerberg interview by Time (Stengel) 2010, available at: http://content.time.com/time/video/player/0,32068,711047870001_2037225,00.html.
16. Zuckerberg quoted in Time (Grossman) 2014, available at: <http://time.com/facebook-world-plan/>.
17. Page quoted in, One for All—Larry Page, Zeit Online, available at: <http://www.zeit.de/wirtschaft/unternehmen/2015-05/larry-page-google-inventor/seite-4>.
18. Drummond quoted in Freedom of expression: how Google sees the world, 2010, available at: https://www.youtube.com/watch?v=4IKm6YQ_7wc.
19. Sandberg quoted in “Facebook Q3 2014 Earnings Call” (2014). Zuckerberg Transcripts. Paper 153.
20. Safety at Facebook, p. 9 (“You’re in Charge” section).
21. As stressed by several scholars, there is an inherent conflict between privacy as individual control and the networked privacy that social media platforms afford. In short, users may restrict their own sharing of information, yet still be exposed via tagging, etc., from friends with more liberal privacy settings. See, for example, Marwick and boyd (2014).
22. <https://www.facebook.com/about/ads/#568137493302217>.
23. Facebook’s privacy policies from 2005 to 2015 have been ranked based on Patients Privacy Rights indicators. The findings suggest decreased accountability and transparency over time (Shore & Steinman, 2015).
24. https://www.facebook.com/full_data_use_policy. The changes in default settings for personal information on Facebook in the period 2005–2010 has been illustrated by McKeon, available at: <http://mattmckeon.com/facebook-privacy/>. See also Stutzman, Gross, and Acquisti (2012).
25. At EU level, the right to privacy is subject to detailed data protection legislation, which companies targeting the EU market have to comply with. A number of European complaints concern the lack of compliance with this legislation by Facebook and Google. In a U.S. context, a number of privacy complaints have been raised via the Federal Trade Commission. See Jørgensen and Desai (2017).
26. Hot Topics in Privacy: A Conversation with Facebook, Google and Microsoft, 2015, available at: <https://www.youtube.com/watch?v=msc15s52ejc>.
27. Reporting practices related to U.S. government requests for user information are examined in a recent survey that looks at 43 companies, including Google and Facebook. Available at: https://cyber.law.harvard.edu/sites/cyber.law.harvard.edu/files/Final_Transparency.pdf.
28. See also coverage in The Verge (2016), available at: <http://www.theverge.com/2016/4/13/11387934/internet-moderator-history-youtube-facebook-reddit-censorship-free-speech> and in the New Republic (2013) available at: <https://newrepublic.com/article/113045/free-speech-internet-silicon-valley-making-rules>.
29. Panel at Re:publica 2013, available at: <https://www.youtube.com/watch?v=1gSTwaYVERo>.
30. Panel on the Future of Free Speech at the Aspen Ideas Festival, available at: <https://www.youtube.com/watch?v=7LH-dt72RTM>.
31. The extent to which the companies actually follow these standards is outside the scope of this article.
32. Panel at Re:publica 2013, available at: <https://www.youtube.com/watch?v=1gSTwaYVERo>.
33. Monika Bickert at SXSW Harassment Summit March 13, 2016, available at: <https://www.youtube.com/watch?v=WNgvlCuS6cc>.
34. Juniper Downs at SXSW Harassment Summit March 13, 2016, available at: <https://www.youtube.com/watch?v=WNgvlCuS6cc>.
35. <https://m.facebook.com/communitystandards/?section=1>. Research suggests that Facebook’s “parallel norm space” is inspired by the fact that the platform has to cater to users as young as 13 (Wagner, 2013, p. 137).
36. <https://www.youtube.com/yt/policyandsafety/communityguidelines.html>. Research has found that Google affords more attention to issues related to pornography compared to other issues, reflecting the norms of the advertisers (Cafaggi, 2011).
37. <https://www.google.com/about/company/products/>.
38. <https://support.google.com/websearch/answer/2744324?hl=en>.
39. Panel at Re:publica 2013, available at: <https://www.youtube.com/watch?v=1gSTwaYVERo>.

40. *Safety at Facebook* folder, section on Reporting and Blocking.
41. <https://www.youtube.com/yt/policyandsafety/communityguidelines.html#communityguidelines-enforce>.
42. The survey is based on user reports from November 2015 to March 2016 covering six social media platforms, including Facebook, YouTube and Google+. Available at: https://s3-us-west-1.amazonaws.com/onlinecensorship/posts/pdfs/000/000/044/original/Onlinecensorship.org_Report_-_31_March_2016.pdf?1459436925.
43. Quote from U.K. government adviser John Carr in the Guardian 11. April 2016, available at: <https://www.theguardian.com/technology/2016/apr/11/facebook-twitter-google-urged-to-step-up-online-abuse-fightback>.
44. Zuckerberg interview by Time (Stengel) 2010, available at: http://content.time.com/time/video/player/0,32068,711047870001_2037225,00.html.
45. Corporate Valley interview with Larry Page and Sergey Brin, 2013, available at: <https://www.youtube.com/watch?v=0vv0NKieCoI>.
46. Panel at Republica 2013, available at: <https://www.youtube.com/watch?v=1gSTwaYVERo>.

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