Contents

My Data Is Mine
What Is the Meaning of Participation in Data Capitalism?

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ABSTRACT: *In August 2018, several European consumer associations have launched a lawsuit against Facebook arguing that "My data is mine,"* but chose not to boycott the social network in its publicity campaign. *The DECO FAQ list reveals why associations did not call for a boycott: they chose instead to use Facebook to disseminate information and to answer questions consumers might have. The argument presented by the associations confronts us with intricate questions concerning the nature of civil society, mainly with respect to the linkage between the market and the public sphere. Generally, critical theorists think that the realms of necessity and freedom are found incompatible with one another. The public sphere is considered as the realm of pure freedom where citizens deliberate matters concerning the destiny of the polis. The civil society is concerned with profit and with providing for material needs. The present paper approaches these questions by considering the nature of institutional configurations of contemporary digital capitalism and, also, the kind of interactions among social agents that act inside it. Are corporate digital networks (Facebook, YouTube, etc.) permeable enough to communicative rationality to make us believe that they can host a culture of convergence and cooperative interaction among social agents such that can aspire to a rational public sphere?*
To answer those queries, this paper develops a) a literature review on the contradictions of modern contemporary cognitive capitalism; b) a critical analysis of activists' statements against the use of digital networks; c) support for a critical literacy approach that identifies textual structures and contextual frameworks in digital public debate.

KEYWORDS: digital networks, Facebook, activism, critical theory, social phenomenology

1. INTRODUCTION

In August 2018, several European associations of consumers' rights from Portugal, Brazil, Belgium, Spain, and Italy have launched a lawsuit campaign against Facebook using "My data is mine" as their principal slogan. According to the statement published online by the Portuguese Association of Consumer Defense (Associação Portuguesa para a Defesa do Consumidor, popularly known under the acronym DECO), Facebook users were invited to join a class action lawsuit against the social network by signing a petition and indicating when they opened a Facebook account. Consumer associations argued that Facebook's use of its users' data should be transparent, and that consumer data should be protected by law. Therefore, promoters of the petition demanded compensation for the unauthorized use of data amounting to €200 per

registered user. This average amount of recompense was calculated by economists and information experts who considered statistics provided by Facebook among other sources. In the event of a successful lawsuit or settlement, the organizers undertook to contact the petitioners and instruct them how to claim their individual compensations.[45]

According to the petition's FAQ page available on DECO's website, despite criticism of Facebook's malpractices, consumer associations that organized the petition chose not to call for a boycott of the social network on the grounds that "they also use it to disseminate information and have a page on this social network to answer the questions of consumers" ("DECO"). DECO shares with other European consumer associations a position that on several levels touches one controversial question often discussed by social theory and philosophy, namely whether and to what extent the protection of consumers' rights counts as a political right. In other words, is the protection of an individual in matters related to personal identity—of men and women as consumers of services in the context of commercial exchange—the object of political concern that should be regarded as a political right? And, what seems to be even more important, can digital social networks be considered instances of a public sphere, part of a civil society built up by an effort of democratic associations independent of political and economic power?

Consumer associations targeted

Facebook with a lawsuit that objected to the use of consumers´ data as a commodity on a market-driven platform. At the same time, the associations themselves approached Facebook as an arena in civil society and a medium for critical publicity by circulating the petition's goals against the commodification of data. Significantly enough, the same digital platform where users' data was allegedly commodified was also used to denounce the process of commodification. As representatives of a consumer organization, the organizers of the petition had the mandate to support their associates as economic agents engaged in an act of consumption. Moreover, people take for granted that their rights extend to the marketplace and expect consumer rights to be protected by juridical protocols in addition to supports offered by philosophical and normative frameworks. In recognizing a link between the associative network of citizens and the activity of social actors as consumers, we acknowledge an attitude compatible with the position that consumers' rights are public issues worthy of being defended and supported in the public arena. Consequently, we adopt a hypothesis that changes in communication practices brought on by capitalist developments are never unilateral or unidimensional. Every new opportunity of communication and expansion of the market is also an opportunity for the emergence of new regimes of domination as well as an opportunity for recognition of new

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[45] "Facebook--Já Entregámos a Ação em Tribunal." *DECO Proteste*, www.deco.proteste.pt/acoes-coletivas/os-meus-dados-sao-meus. Accessed 9 January 2019. Subsequent references to web pages on the *DECO Proteste* website will be keyed to the first word in the page title as it is listed in works cited, e.g.: "Facebook."

rights. The current technological revolution is the present stage for those contradictory claims.

2. The Market, Civil Society, and the Public Sphere

At this starting point, one is confronted with questions concerning the relationship between the market, the public sphere, and the civil society. The history of the concept of civil society oscillates between alternative perspectives. The first one tends to reduce civil society to a sphere of antagonism and irrationality, which must be subject to an external constraint for cooperation. Following the arguments of G. W. F. Hegel in *Elements of the Philosophy of Right* (1/1831/1997), Karl Marx in *The Communist Manifesto* (1848/1963), and, more recently, Hannah Arendt in *The Human Condition* (1958/1987), the realm of economic necessity and the realm of freedom are thought to be incompatible with one another.

The Hegelian effort to theorize civil society in the *Elements of the Philosophy of Right* regards it as a bourgeois society opposed to the *polis*. Civil society is a universe of autonomous individuals who establish relationships with other independent individuals based on the principle of utility and economic interest (Hegel 206). But if individual consumers act to maximize their selfish individual interests, should they be considered rational citizens? To confront the proliferation of pathologies resulting from the selfish nature of individuals—the multiplication of desires, inequality, and misery—Hegel emphasizes the rationality of the State against the hegemony of arbitrariness and particularism characteristic of civil

society (Hegel 251).

The Marxist perspective, owing very much to Hegel, presents the civil society as an instance of economic (class) structures of selectivity and domination (Marx 162). Generally, Marxism identifies class relations and interests as the key to contemporary forms of collective action. According to most determinist views, the legal, associational, cultural, and public spheres of society have no independent theoretical place in Marxist analysis.

Even if one does not share what Seyla Benhabib identifies in *The Reluctant Modernism of Hannah Arendt* (1996) as the standard view of Arendt as a political philosopher of nostalgia, one must admit that Arendt searches for a lost distinction between the public and the private (Benhabib 11). Arendt's perspective, based on the Greek public sphere, criticizes the modern civil society in the context of "the rise of the social" and charges it with an increasing emphasis on the security of citizens at the expense of their concern with the common good of the *polis* (38). Benhabib claims that in Arendt's account, the social is meant as "a form of glorified national housekeeping in economic and pecuniary matters" that "displaces the concern with the political" kernel of the republic (23). Furthermore, Benhabib continues, Arendt's "social is the perfect medium in which bureaucracy, the 'rule by nobody,' emerges and unfolds" (23).

Arendt's *The Human Condition* finds modern civil society marked by the urgency of social needs at the expense of political freedom. It is understood as the development of an economic activity governed by the exchange of

goods and the satisfaction of individual economic interests. The expansion of the social sphere means the disappearance of a universal and common concern for political association and citizenship from, as Benhabib puts it, "the hearts and the minds of men" (23). The political sphere becomes a pseudo-space of interaction in which individuals no longer act politically but only react as economic producers and consumers (Arendt 74). The new order shifts from values that emphasize the freedom to think and act for the public good to those that promote the security (pax) of citizens. Moderns no longer ask, as the ancients did, about the moral principles of the good life but about the factual conditions of survival. Arendt's argument raises the question whether economic freedom is really freedom or just selfish self-preservation. When one chooses the second hypothesis, it is difficult to imagine the struggle for consumer rights as real political participation.

A range of multi-dimensional perspectives on deliberative democracy and discourse theory is offered in the work of Jürgen Habermas from *The Structural Transformation of the Public Sphere* (1962/1982) to *Between Facts and Norms* (1992/1996) and in Jean L. Cohen and Andrew Arato's *Civil Society and Political Theory* (1992/2001). Those are examples of a theoretical attempt to approach civil society as the center of a political and social theory that involves a three-part critical model distinguishing civil society from both state and economy.

Following this alternative theoretical perspective, thinkers like Habermas in *The Structural Transformation of the Public Sphere* (1989) found opportunities for connecting the civil society with the public sphere: the advent of capitalist modernity should be considered an opportunity for emancipation movements as much as for the emergence of new ways of domination and reification of social relationships. The economic emergence of the new middle classes is at the kernel of the appearance of a literary and political public sphere. As Habermas observes, the elements of a new social order were taking shape with the emergence of early finance and trade capitalism: "The conditions under which the economic activity now took place lay outside of the confines of the single household; for the first time, they were of general interest" (Habermas 19). Although the moment of the constitution of the public is presented as a relatively fleeting ideal frustrated by the conditions of developing capitalism, the normative potentialities of the Enlightenment recognized by Habermas are a clear novelty compared to the implied rejection of any illusions regarding the liberal and democratic state implicit in the Hegelian and Marxist critical views.

Even in Habermas's earlier work, this clear novelty consisting of the normative ideal issuing from the rise of an enlightened public sphere has its ground in the very conditions of bourgeois life, namely in the economic changes that arise with the emergence of capitalism:

The fully developed bourgeois public sphere was based on the fictious identity of the two roles assumed by privatized individuals who came together to form a public the role of property owners and the role of

human beings pure and simple. (Habermas 56)

The public sphere of citizens emerges as a functional element of the political realm assuming the normative status of " an organ for the self-articulation of the civil society with a state corresponding to his needs" (Habermas 74). Deepening this perspective, the recent problematization of civil society is understood as related to the struggle for the recognition of new issues and rights by groups that fight to obtain recognition or to affirm their visibility. Following this approach, the civil society is no more identified with the realm of needs, where social agents fight for individual maximization of profits and benefits, but, instead, *Civil Society and Political Theory* focuses "precisely on new, generally non-class-based forms of collective action oriented and linked to the legal, associational, and public institutions of society. These are differentiated not only from the state but also from the capitalist market economy" (Cohen and Arato 2). In fact, a significant part of the configuration of modern civil societies is due to the energies of groups such as religious movements, trade unions, anti-precarity movements, as well as movements spearheaded by migrants' rights, consumer rights, and environmental associations. These movements use new discursive practices to emphasize the principle of plurality and the consequent recognition of new agendas and new social and collective identities that have emerged in the consolidation of modernity.

3. THE DIGITAL CAGE

Those approaches must be simultaneously confronted and articulated with institutional configurations of contemporary digital capitalism and, also, by means of interactions among social agents that act inside those configurations.

If one believes in the relative autonomy of the associative civil society from the political and economic systems, the question that arises next, in the current case, is whether the digital networks owned by corporations like Facebook or YouTube are permeable to alternative rationality that implies the kind of cooperative interaction among social agents that Habermas would expect not from a system but in a lifeworld. This is a hypothesis that we can embrace with the clarification that our concept of the lifeworld preserves from Habermas's *Lebenswelt* the rule of discourse and ordinary language and the cooperative nature of interactions but does not accept that those are its only features. Lifeworld, as we see it, is not an essentialist instance of cooperation opposed to systemic reality but a place where one finds several uses of language (including the strategic one) and several domains of meaning, some of them marked by reification and dominance. The tension that a lifeworld preserves within helps to stave off the hegemony of a systemic rationality.

Or, instead, are the so-called institutions of cooperative interaction just profit-driven devices owned by giant corporations that turn shared information and social interactions among social actors into commodities? Is it possible to see citizens as consumers and vice-versa? Is participation on Facebook a *de facto* commodification of audiences or should we recognize the implicit

contradictions of cognitive capitalism and consider Facebook, as the consumer associations do, interesting enough to develop movements independent of the economic and political system? We saw in the public statement in which DECO dissuaded users from a boycott that consumer associations do not agree with the determinist point of view that sees information and communication technologies (ICT) and digital networks as corporate gadgets driven to data gathering and turning the audiences into commodities sold to advertisers. Our guiding questions resurface at last: may the digital networks work as a sphere of democratic and political participation? Will digital media be able to perform this role and turn passive audiences into active publics?

Following the concept of an open civil society in *Between Facts and Norms* (1992/1996), the public sphere is seen as a sphere of identification and detection of problems whose influence should continue to be reflected in the subsequent treatment of the issues that take place within the political system (359). Following this suggestion, many supporters of the democratic role of the Internet believe that a democratic and open political system is empowered by the autonomous activity of formation of public opinion, which can be carried by citizens' movements, social movements, and political participation nourished by social networks.

On the other hand, we have the institutional and legislative process that culminates in decisions that concern the development of concrete policies and legislative outputs. The Internet may be compared to a resonance box that amplifies the pressure of problems by dramatizing them, so they are considered by the parliamentary institutions. Thus, the identification of issues in the public sphere (civil rights, feminism, consumers' rights) usually follows the route designed by Habermas in *Between Facts and Norms*: (i) the issues are raised by intellectuals and social activists in the periphery of the political system; (ii) they are then picked up by journals, associations, clubs, forums for citizens, universities, professional organizations, social networks and so on; (iii) the issues crystallize at the heart of social movements and subcultures; (iv) they enter into the public agenda, reach a wide audience, and ultimately influence policy makers and legislative institutions (341–342).

There are several reasons to devise alternative ways of communication such as online movements that support popular petitions—a practice very popular in Portugal. Those alternative ways of communication emphasize a dynamic relationship with social movements, a relationship that maintains itself open to critical attitude and to the interchange of knowledge, opinions, feelings, and arguments. From this point of view, despite being traditionally confined by elitist and neoliberal theories to the private domain (women's rights, domestic violence, identitarian claims), elements of domination current in the lifeworld become issues of a critical debate in an open and independent civil society. Acknowledging those opportunities, we embrace a critical perspective conceptually influenced by authors such as Christian Fuchs and Vincent Mosco in their collaboration on *Marx in the Age of Digital Capitalism* and

maintain that one must not ignore the other side of the use of social platforms that minimizes this participatory and democratic view.

In the contemporary digital landscape, the prosumers, a neologism coined by Alvin Toffler in his book *The Third Wave* (1980) create, without reward, value for the products of entrepreneurs who provide them with content production. As Fuchs and Mosco ask, will the logic of shared content production recognize users only as creators of the products marketed by the corporations that control the platform or will they become the beneficiaries of the sharing of information and knowledge? (10) Will the prosumers be not only the unpaid producers but also the merchandise as audiences, clicks, and views that are essential for advertising on social networking platforms? If the data is used by Facebook for profit, are not the users and the content produced by them turned into commodities?

At the strictly political level, social networks are also suspected of reviving premodern elements. The irrationalism resulting from the exacerbation of affections coexists with the world of instant messages, direct television, inflamed tweets, and media controversies that seems to reinforce the commodified nature of such political participation. If one finds that social networks exploit free labor by using participation to gather data while commodifying and tribalizing audiences, it is difficult to see participation on social networking platforms as something that configures a new participatory dynamic performed by an enlightened public. In the reified environment of public media of communication, political

participation rarely meets the strong demands of authentic political freedom posited in the pure public sphere by Habermas and Arendt.

However, in the end, one finds an expansion of opportunities for critical agency. There is not any real and concrete experience of media democratization that fully fulfils the requirements of an ideal-type public sphere or any configuration of free and participatory communicative experience as envisioned by Walter Benjamin in "The Work of Art in the Age of Its Technological Reproducibility" (1936/1987, 196) as there is no "iron cage" like the one designed by Adorno and Horkheimer in their seminal essay, "The Enlightenment as Mass Deception" originally published in *Dialectic of Enlightenment* (1944/1995, 163).

The technological determinism visible both in orthodox Marxism and Fordist industrial capitalism is unable to explain the complexity of technological practices because it sees them only in an instrumental way and forgets their nature as social phenomena. But a utopia founded in a technological determinism also falls short of explaining the contradictions of collective participation. Postmodernism, for instance, has been based on cultural fetishism that dissolved the conflicts of economy and class into the realm of symbols, culture, and signification. On the other hand, orthodox Marxist approaches reduce life to labor. One fetishizes labor, the other fetishizes symbols, as Fuchs argues in *Critical Theory of Communication* (48). If techno-libertarian and some postmodern ideologies fetishize digital games and symbols under the theoretical umbrella

of a creative self, orthodox critics on their side are unable to understand the nature of tensions between participation and consumption.

Critical Internet Studies are now getting support and attention. Many collectives of participatory nature (MoveOn.org; platforms tailored to the needs of older consumers like https://www.age-platform.eu/policy-work/consumer-rights; or platforms dedicated to a particular commodity like Dona Ana Mutual Domestic Water Consumers Association Privacy Policies at https://www.dawater.org/privacy.htm) are successful in pursuing alternative models in raising new policy and regulatory challenges, including consumer protection issues. Regulation and use of software platforms that require a user profile and collect identificatory data are now studied and analyzed in emerging fields of sociological attention. These studies emphasize the need for a deconstruction of the techno-libertarian hegemony, debates on software ownership regimes, attention to corporate risks, digital divide, surveillance, development of sustainable and innovative economic models, and critical literacy directed to the use of online platforms that track users' data. In this particular sense, a perspective that distinguishes between public and private but does not account for the ever more pressing problems of consumers' rights will be too narrow for the understanding of many of the emergent political challenges.

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