Preprint. Published as:
Hansen, Ejvind: “The Homo Sacer of open-source journalism”

In: *Empedocles: European Journal for the Philosophy of Communication*, 6 (1), pp. 21–38, 2015.
https://doi.org/10.1386/ejpc.6.1.21_1

The Homo Sacer of Open Source Journalism

I

New communicational technologies open the path to new practices for media professionals, which over time become necessary routines and standards. Traditional tasks assume a lesser priority, while the problems formed in the space of new practices transform the way media professionals identify themselves. The journalist profession has been strongly challenged by an Internet based public sphere that has devalued older forms of credentialing. In this paper I will discuss some democratic implications of a journalistic turn towards some of the ideals hosted in the open source movements. I will argue that such a turn would be, from the egalitarian and democratic points of view, of real benefit, since it seems to facilitate a dissolution of dichotomies between experts and laymen, between the rich and the poor, and between the private and public interests. It is, however, also important to notice that in this gesture of overturning ossified norms, new kind of blind spots in the public awareness are created.

My argument will run as follows: I begin by sketching in broad terms the state of journalistic media at the present time, putting an emphasis on the current crisis that has affected the journalist's role as a gatekeeper. To understand how an open source approach might transform the self-understanding of journalistic institutions, I turn, next, to the core elements of the open source movement and how they can be applied to the journalistic context. At first glance, it would seem that eroding the monopoly of establishment media would be a democratic gain in as much as it makes more raw information available to a broader public, bridging the informational divide between insiders and laymen, and potentially making relevant information available to the poor. I propose that we can elaborate these democratic potentials further by referencing Hardt and Negri, showing how these theorists have articulated the critical potential in the open source movements. They argue that open source structures can serve as vehicles for the complex and diverse multitude to affect real change. They further argue that in this movement, it is important to notice that the open source structure actually bridges the oppositions between the private and the public.

A turn towards open source movements thus carries the potential to dissolve a number of traditional dichotomies. It is however, as I point out in the fifth moment in my argument, important to contemplate the scenarios that will frame and modify the transformation we are describing. It is here that I find it useful to draw on the writings of Giorgio Agamben. I argue that we should be aware that open source structures tend to lose sight of, on the one hand, the communicational and technological illiterate, and, on the other hand, the marginalized and excluded aspects of humanity. I conclude by developing the idea that however democratic the turn towards open source inspired journalism seems to be, it is still important to have professional journalists who are obliged and trained to seek out and give voice to the new Homo Sacers and the power structures that both generate and exclude them.

II

Journalists emerged as the gatekeepers of the public sphere as that sphere established itself in modernity. Their position was always linked to the technology of the diffusion of images and texts, on the one hand, and to the struggles within liberalizing cultures for 'freedom of expression', on the other hand. The journalist's role was always dependent on the mass media – which was transformed by the industrialization of the printing press in the 19th century, which immediately allowed for quick mass printing. Further technological innovations in the 19th century, from the introduction of lithographs to the use of photographs, canonized a certain social object: the news. In the twentieth century, this object was translated into the air waves by radio and into a filmed object by documentary film and television.

From the London Times to the Cable news channels, the mass media was, throughout the modern era, a few-to-many structure – i.e. they facilitated a communicative structure in which few agents communicated to many in a unidirectional structure. Furthermore, the increase of the public and political spheres entailed increases in which issues could be seen as relevant to the public. At the same time the informational band width of the mass media was limited. This meant that a public which was increasingly educated and literate was supplied with the information, viewpoints and forums of opinion through a media that was inherently bandwidth-limited.

The practice of journalism asserted itself as the 'fourth power' in the state. The journalists competence was to recognize what was and what was not news. The journalist then made the object accessible to agents who were, presumably, not "in the know" – who were either not qualified to understand the issues, or who were outside of the information loop and thus lacked access to informed sources. The economy of this mediate position was defined by the fact that the possible relevant information is always endless, while the readers, listeners and viewers search time and attention space was limited by their quotidian routines. The job of journalists (in the mass-medial setting) was thus to be fair, to investigate, to select and create narratives, and finally to communicate in a perspicacious manner to the audience. The journalists had to navigate between huge amounts of information and the necessity of choosing the right norms of relevance (Hansen 2013).

This narrative has been upended by the material nature of Internet based media – for many reasons. The barriers to entry as publishers on the Internet is significantly lowered, and at the same time the technological bidirectionality of the Internet facilitates the possibility of user generated input. Journalists thus no longer hold the monopoly over the creation of public content – of the news object. The traditional news-makers who were given a voice in the public spheres through the microphone of the journalist can now communicate directly with the agents in the public sphere, and contend with a new kind of news mediator: the 'citizen' journalist, the blogger, the commenter, etc. Background information from public and private institutions is increasingly distributed directly on the Internet. Geeks and nerds share their insights through weblogs, forums and social media. And those who were formerly outside the loop – the mere consumers – are now asked, at a minimum, to "like", rate or comment upon content, participate in polls or share their findings with their friends.

There is no consensus as to how deep these changes go. Some arguing that the material change in the technology and its diffusion has created only a surface change, with the usual journalistic institutions still shaping the way news is made and perceived in the public sphere. These critics argue that all other kinds of journalistic activity on the web are parasitic on the standard journalistic institutions (Bondebjerg, 2010); or they claim that the utopian idea that lay users would seize the tools of news content production, has proven not to be realistic (Schradie, 2011).

Others argue that the changes *are* deep, but differ in their assessment of whether they are for the better. One side argues that they feed a necessary democratization of the public sphere (Gilmor, 2004; Bowman & Willis, 2003; Stuart, 2002; 2006; Howard, 2011). Another argues that they undermine the journalistic profession and the institutions in which it operated, leading to a loss of investigative, critical and communicational competences (Reich & Lahav, 2012; Carr, 2010).

My point of departure will be merely to note that the underlying structural changes in the public spheres carry both opportunities and challenges for the traditional public agencies and institutions. At the same time these new structures have enabled a variety of new social and cultural movements.

One of the most famous of them was the hacker movement, which spawned the open source movement of the 1990s (Castells, 2001: ch. 2; Himanen, 2001; Ockman et al., 1999; Raymond, 2001; Stallman, 2002; Thomas, 2002). These movements are certainly not uniform, and encompass differing views and ideals, but a common starting point is the idea that information should be as openly or freely available as possible.

The ideas behind the open source movements certainly challenge some of the traditional revenue strategies. This is certainly a very complex discussion, which cannot be exhausted in this paper. It should, however, be noted that from the outset, the open source movement defined itself not against the profit motive itself, but rather as protecting an information commons that enabled commercial activity, particularly paid for services, to flourish (see Raymond, 2001: 113-166). The model enterprise to which open source thinkers turned was Linux, which gave away its product for free, thus allowing for companies to charge for servicing it. This influenced the way the open source movement positioned itself: revenues should not be gained by preventing people from access to information, or software codes, but rather should be gained by services and other kinds of practice (Behlendorf, 1999; Young, 1999). These strategies were put into practice successfully in software development (recent examples are Canonical and Red Hat Inc.'s strategies with operating systems, Google's strategies with Android and Chrome, Automatic Inc.'s involvement with the Wordpress CMS) and also in parts of the entertainment industry (musicians giving their music away for free, hereby hoping to gain increased revenues through live shows[1]).

Not surprisingly, there are some examples of journalistic media or practices, that may be described as open source media (*The Huffington Post* in its early days, *The Guardian's* use of open newslists[2], *NowPublic* and *Wikinews*) but it is probably too early to conclude whether or not the model is feasible as a general business model for journalistic media. Translating some of the experiences from the open source software movement, it is, however, important to notice that the products (the software or the information) ceases to be the prime revenue generator. When customers buy Canonicals Linux distribution they do not primarily pay for the code. They could have acquired that for free. They pay, rather, for the Canonical brand, a brand that carries increasing amounts of trust. Customers trust that the Canonical *selection* of freely available code is operable in the desired ways, and supported by the necessary amount of services (Young, 1999). Likewise, even if *The Guardian* started to reveal the huge amount of underlying research material, whereby other competing news distributors could use it, they might still be able to attract customers if they persist in maintaining their brands of trust, i.e. if customers experience *The Guardian* selection as more trustworthy or relevant than the competitors.[3]

The business dimension of open source journalism is, however, not of prime concern in this paper. Rather, the main question of this paper concerns the *democratic* gains of such a turn. Which democratic gains might be reached if journalism treated the news object as a kind of open source software, making its servicing and development the focus of its value added activities?

III

In order to discuss the implications of a journalistic turn towards open source ideas, it is necessary to get a clear reading of the heart of these ideas. The open source ideas originate to a large extent from the hacker movement, the ethos of which was essentially autonomous, individualistic and hostile to systems and authorities. It is thus certainly difficult to get a clear and systematic grip on the hacker movement. Even though defining texts can be located (such as Blankenship, 1986; Tulsyan, 2012; Levy, 1984; Raymond, 2001; see also Lakhani & Wolf, 2005: 6), the representativeness of these texts never stands unchallenged.

Similar problems are encountered when trying to defining the open source movement. However, in this case it helps that the open source movement was from the very outset centered around discussions of licenses. A look on the open source definition (http://opensource.org/osd) will thus give a good understanding of the underlying rationales (see also Perens 1999).

Looking at these findings, it makes sense to look at the open source movement as the product of the following demands:

1. Software should be redistributable. No party should be prohibited from selling or giving away the software.
2. The source code, i.e. the humanly readable code upon which the software has been compiled, should be easily accessible.
3. The license must allow modifications and derived works.
4. No restrictions should be imposed on ways in which the software is used.

Since the aim of this paper is to reflect upon the implications of transferring these ideas into the domain of journalistic practice, a translation into a journalistic oriented language is necessary. I suggest the following:

1. Journalistic products should be redistributable. No party should be prohibited from selling or giving away the journalistic products, within fair practices of attribution.
2. The research material upon which the journalistic products were created, should be made freely accessible.
3. The journalistic products can be used in derived works, as long as it accords with the norms of attribution.
4. No restrictions should be imposed on the ways in which the journalistic products are used –

again within the fair practices of attribution.

Now, in its pure form this list poses some problems for journalism as it is presently practised. I have already mentioned the problem of discovering a viable business model that would let such journalism happen.[4] Another problem stems from the second demand: some of the most important journalistic products are based on background information, sources that do not want to reveal themselves, which it is traditionally considered the journalist's responsibility to protect. For instance, whistleblowers, humiliating pictures or videos, disclosure of genuinely private information, security violating information, etc. fall under this rubric. The claim is that such information will dry up if the informants feared being exposed. In some cases this problem can be solved through an anonymization of the sources or individuals portrayed in the journalistic background material. But this is not always possible (even though the information gathered from a whistleblower is without the name of the whistleblower, often there are very few possible sources).

Another problem with the second demand is that journalistic research will be impeded if every informal, of-the-record, conversation with sources is to be published in the research databases, because sources will become more reluctant to participate in such exchanges. The databases will have to be selective in that respect too.

Essentially these problems are examples of what happens when ideal norms meet reality. And of course the problems we have named are not different in kind from those that crop up in traditional journalism. Codes of practice have to be adaptive as different situations appear and institutions evolve. For instance, traditional exclusive copyrights on creative works are often modified by rules for "fair use" for various reasons. Modifications thus will surely be articulated in the course of the development of open source journalism. Suggestions and experiments have already taken place – coined under names like citizen/participatory journalism (Rosen, 1999; Gilmor, 2004), collaborative journalism (Lih, 2004), and opensource journalism (Lewis & Usher, 2013), but the final sustainable form is still to be found.

However, while acknowledging these problems, my focus is elsewhere: the aim of the paper is primarily to discuss the social and political implications of the ideals – taking it that some of the above practical problems might be solved. And for this, the decisive claim is that even though exceptions in the request for openness will have to be made, it makes a difference that the starting point is openness, and that exceptions will be explicitly argued for – rather than the present situation in which the background information in the outset is hidden.

Turning towards the social and democratic-political perspective there are some obvious benefits that are often emphasized. First of all the open source approach will, ceteris paribus, make more information available to a broader public. Information that is not hidden behind copyright fences will be available to interested "outsiders", who will presumably sometimes use the information in creative ways. Increases in levels of information are, certainly, not a guarantee that the public is better enlightened – that will also depend on (among other things) the intelligibility of the information, the skills of the public and the willingness of the public to engage with the information – but in as much as the danger of confusion, due to the overwhelming amount of information, is avoided (and I postulate that the Internet carries structures to take care of this) it can be argued that the open source approach delivers on the great Enlightenment project of educating the public.

A second democratic benefit is that open source potentially challenges some informational divides. On the one hand, the divide between experts and non-experts (laymen or outsiders) is challenged. Differences in informational skills will certainly persist,[5] but there will no longer be a basic inequality of access to the background information that, ceteris paribus, currently disempowers lay users with interests in specific fields. This can be seen in traditional open source software development. Open source software does not, certainly, make every end-user a programmer, but it does allow end-users to become part of the developing processes, either as testers, translators or requesters (suggesting or requesting new features) and further permits some users to look into the code and start learning elementary programming, thus making software much more user friendly and seeding communities which end-users one can go to for explanations and help with software problems. The final application hereby ceases to be a black box. A similar process can be expected if journalists revealed their research material.

The economic informational divide may also be bridged with a turn towards open source journalism. If information ceases to be hidden behind pay walls, lack of money ceases to be an issue to keep information from poor people – although of course this is only a part of the picture, as deeper divides in education also have a major bearing on the interest in the news, or the feeling of being empowered to question it.

Open source may, fourthly, increase the possibility of a informational interoperability (cf. http://opensource.org/osr-rationale). In theory, everybody has the possibility to contribute, and insofar as various contributions are embodied within newsmaking structures that further the progress of the projects (fruitfully open evaluation and review processes), this could raise the quality of the product (due to the diversity and increase in resources used to create the product) as well as increasing the influence of lay users on the processes. The openness of the informational structure will furthermore facilitate an enhanced use of open APIs which makes it possible to present available information in various ways, hereby approaching different skills of the addressees (Aitamurto & Lewis, 2013).

The argument that an open source structure may lead to better products has certainly been disputed by proponents of restrictive copyright structures, who find the process we are describing a recipe for muddying clean design and bringing forth bug ridden products. An iconographic version of this counter argument was articulated by Microsoft founder Bill Gates: "One thing you do is prevent good software from being written. Who can afford to do professional work for nothing?" (Gates, 1976). This argument, however, presupposes an incentive structure that is wholly profit based and that there are no other alternative ways of generating revenue. But alternative reward systems do exist, and even within open source approaches there is no rule excluding the possibility of professional expert structures. Open source access will function as a stage in the development of the product, meaning that the professionally developed news and analysis is, potentially, challenged by the insights and critiques of laymen. Journalists should welcome the reawakening of the dialogic element in information delivery, knowing that the scrutinizing work can make it more thorough and address holes and other points of view to which the journalist or the institution has been blind.

A fifth gain is that open source interoperability decreases differences in personal interests (Himanen, 2001: ch. 3; Lakhani & Wolf, 2005: 19). By keeping the products and the sources in the open, it is not possible to keep others from enjoying the gains of the products. Everybody thus gains from successful improvements. Personal successes in open source projects are thus to the benefit of the commons – if the changes are acknowledged as valuable. In open source projects it is thus rational to be fully collaborative, and merge one's own interest with the success of the others. Now, democracy should certainly not be thought as an aiming towards the dissolution of differences; however it has been convincingly argued that democracy without some amount of common identification becomes precarious (Habermas, 1996) and open source based structures can support this prerequisite. I will elaborate this argument a little in the following section through Hardt and Negri's dissolution of the dichotomy between the private and the public.

IV

None of the above arguments for the democratic benefits of open source are impervious to dialectical counter-arguments. The open source approaches are in many respects radical, and thus the consequences of an open source inspired change of the public sphere is certainly difficult to anticipate. Many of the arguments I am following presuppose "ceteris paribus" clauses that are vulnerable to abuse (an impression of the complexity of the issue is mirrored in Feller et al. 2005). And certainly, as pointed out in Schudson 2010, no technological or procedural change leads to qualitative changes unless carried forward by the agents in the field. On the other hand, they do indicate that an increasing turn towards open source structured informational flows might respond to the problem of certain urgent democratic deficits (further elaborations can be found in Fitzgerald, 2005; Lessig 2005: 349-50; Lessig, 2006: 8; Galloway, 2004: ch. 5+6).

It is thus not surprising that shortly after the beginning of the open source movement, social theorists such as Manuel Castells (Castells, 2001: ch. 2; Castells, 2005), Yochai Benkler (Benkler, 2006: ch. 3; Benkler, 2011), Michael Hardt and Antonio Negri (Hardt & Negri, 2004: ch. 3.2) began to reflect on its further sociological and philosophical implications. I will focus on Hardt and Negri's approach:

The starting point for Michael Hardt and Antonio Negri's analysis is that the nation state is losing its key function as the fundamental base upon which all other power structures are built. Instead we see the emergence of *Empire*:

> Along with the global market and global circuits of production has emerged a global order, a new logic and structure of rule – in short, a new form of sovereignty. Empire is the political subject that effectively regulates these global exchanges, the sovereign power that governs the world (Hardt & Negri, 2000: xi).

Unlike the nation state, Empire is structured as an all-inclusive power structure. This change is technologically based on three global forces and structures: the bomb (the global reach of military forces in the shape of thermonuclear weapons), money (the liberalized market regulated mainly through global institutions) and ether (management of communication that is now spread through Internet structures with global reach) (Hardt & Negri, 2000: 345-7).

Hardt & Negri states that of these three powers, the main democratic power is the communicative (Hardt & Negri, 2000, 347). This is probably an oversimplification. In the following we will, however, mainly focus on the communicative power, since distribution of information and communication is the main focus of the journalistic practice.

> Empire establishes no territorial center of power and does not rely on fixed boundaries or barriers. It is a *decentral* and *deterritorializing* apparatus of rule that progressively incorporates the entire global realm... (Hardt & Negri, 2000: xii).

The result of this is that there are no clearly defined insides and outsides of the prevailing power structures. In this paper our focus is not the establishment of sovereignty, but a discussion of how a change in journalism might facilitate democracy.

One of the important tasks for the journalistic practice is to act as the fourth Estate as a counterpower to established ruling powers. With the above analysis, it thus becomes an urgent question, how it is possible to act as the fourth estate in a situation in which there are no clear barriers. How is it possible to criticize powers without situating oneself *outside* or *in opposition to* the institutionalized powers? It is, certainly, possible to articulate opposition, but in order to be heard, you have to submit to the very structures you are criticizing; with the risk that the criticism will be simply appropriated by the prevailing power structures. In Hardt and Negri's approach this becomes the question of how it is possible within a well-structured, globally reaching Empire to live out an alternative to these structures (Hardt & Negri, 2004: xiii).

Modernity and capitalism are in this account intimately intertwined with antimodernity and anticapitalism. Modernity and capitalism are characterized by being ideas of dynamic relations. Modernity would wither without the critique it generates that can feed ideas of progress into the prevailing account of modernity, Capitalist mechanisms are characterized by a persistent adaptation of new kinds of commodity that can be capitalized – anticapitalist movements thus unconsciously aid the advance of commodification by pointing out new dimensions or aspects of the world that are of value, and thus capitalizable (Hardt & Negri, 2000: ch. 2.4; Hardt & Negri, 2009: ch. 2.3).

Hardt and Negri thus argue that in order to change the repressive structures of the institutions of Empire it is important to create alter-movements rather than anti-movements (Hardt & Negri, 2009: ch. 2.3). Anti-movements are, in Hardt and Negri's account, characterized by fighting for certain specific changes. Alter-movements, on the other hand, do not necessarily have fixed (or at least unified) notions of a better world. They are rather characterized by an emphasis on the fluidity of social structures. Their aim is to demonstrate the *contingency* of prevailing structures. Alter-movements fight for spaces that are liberated from mainstream norms, appealing for alternative visions of legality and justice.

This is the background for their interest in the open source movements. In Hardt and Negri's view the main political challenge is to be found in the misrepresentation of the multitude (i.e. the diverse, non-coherent networks of social agents) which is diffused through the economic-political establishment that constitutes the command structure of Empire. However, the multitude cannot break with Empire because Empire is everywhere. The opposition of the multitude cannot be an anti-Empire – it has to flesh out alter-Empire within existing conditions.

Hardt and Negri mainly praise the open source movements due to their ability to create innovation through diversified networks:

> One approach to understanding the democracy of the multitude, then, is as an open-source society, that is, a society whose source code is revealed so that we can all work collaboratively to solve its bugs and create new, better social programs (Hardt & Negri, 2004: 340).

Open source movements are, according to this argument, important because they demonstrate that decisions (developmental as well as political) can emerge despite the lack of clear decisional centres.

In a previous paper I have demonstrated that the point could actually be extended (Hansen 2011). In this argument, briefly put, the open source movements can also be seen as examples of alter-movements. It can be argued that open source movements probe the very core of liberal capitalist societies and deconstruct notions of private property. The notion of property is in many ways a nucleus of the liberal account of capitalism as a way to regulate accessibility of goods. Open source movements grew out of the experience that accessibility to products and other goods indeed needs to be regulated, otherwise, what you have created will suddenly be taken away from you (cf. the case of Unix being removed from the public domain. Stallman, 2002: 22).

The defenders of the open source movements accept the premise – but they alter it (Coleman, 2013: 200-5). The focus shifts from private exclusive copyrights (copyright thought in terms of private property rights) to copyrights of the commons (non-exclusive property rights).

This aspect of open source parallels the aim of Hardt and Negri in *Commonwealth*. In this book they seek to transgress the traditional liberal dichotomy between private and public interests, the idea that subjective autonomy is challenged by the interests of the others and the general public (Hardt & Negri, 2009: 310-1). The open source movement demonstrates how social interaction can happen without sharp contradictions between private and public gains. Pekka Himanen has shown how this line of thought matches common approaches within the hacker movements:

> The decisive difference from the Protestant ethic is that for hackers it is important that peer recognition is no substitute for passion – it must come as a *result* of passionate action, of the creation of something socially valuable to this creative community (Himanen, 2001: 51 – italics in the original).

Within this approach the fusion of "personal satisfaction" (passion) with "public value" is a crucial part of social recognition. Hackers primarily value hackers who are able to fuse personal passion with public value.

Returning to the question of democracy, the open source approach is valuable because it is able to host the complexity of the multitude on the one hand, and set up innovative, progressive and flexible frames on the other. The plurality of the multitude can be capitalized without exploitation (because there is no contradiction between the common and the personal gains).

This narrative is certainly simplified and at points wilfully naïve, as it romanticizes the process of collaboration as though it would remove the obstacles to a collective good will. As such much more needs to be said about what to do about the less constructive approaches in traditional societies (see section VI below). For our purposes, however, we are interested in the fact that innovation and progress here are not thought of in competitive terms (in which there is always necessarily both a winner and a looser) but rather in terms of common wealth.

Democratically the new suggested political constellation will probably not become more focused. Just as in the prevailing structures, personal and social resentment will find it difficult to find exact responsible targets. But as the public/private dichotomy dissolves, the new constellation makes it possible to increase the set of social processes and objects that are relevant to political discussions and interventions (Hardt & Negri, 2012: 69-78). The traditional accentuation of the private property rights in the economic field has been used to withdraw economic mechanisms from political decision making ("leave the private market alone"). Such arguments will not survive in the new constellation.

V

Summarizing, it should be clear by now that the open source movement is manifestly an organizational pattern with democratizing potentials. In its wake, a number of seemingly hard and fast dichotomies in society (e.g. dichotomies between experts/laymen, wealthy/poor, private/public) are, at least *structurally*, counteracted. In the words of Hardt and Negri one might say that the open source movement constitutes an alter-movement because it shows the contingency of prevailing dichotomies. Democracy as constituted by an endeavour to peacefully negotiate differences is thus facilitated by these changes. Ideally this alter-movement can facilitate the potential for diversity in society to become a positive force. Insofar as the journalistic field would be able to make a turn towards more opensource inspired procedures (either in the form of citizen/participatory journalism, collaborative journalism, opensource journalism – or in even more radical ways) it would so far, ceteris paribus, be democratically attractive.

At the same time it is, however, important to keep an eye on possible dangers. One of the most fundamental warnings against this kind of political efforts (as an effort towards the inclusion of all interests and dissolution of dichotomies) has been articulated by Giorgio Agamben.

Agamben's critical approach to current political constellations has many faces, but one of the most persistent faces targets the line of thought presented above. According to Agamben the main problem with modern political constellations is that they make us believe that there is no "outside" of the democratic project:

> If anything characterizes modern democracy as opposed to classical democracy, then, it is that modern democracy presents itself from the beginning as a vindication and liberation of *zoē*, and that it is constantly trying to transform its own bare life into a way of life and to find, so to speak, the *bios* of *zoē* (Agamben, 1998: 9).

Agamben articulates politics as a dialectic between the Greek terms *bios* and *zoē*: *Zoē* expresses "the simple fact of living common to all living beings (animals, men, or gods)" (ibid., p. 1) while *bios* expresses "a particular way of life" (ibid.). On the one hand, "bare-life" articulates the fact that there are certain inevitable biological necessities in our human lives. On the other hand, the "way-of-life" articulates the process of individualization that emerges in the joining or creation of communities. In communities certain ways of life are necessary. The "way-of-life"-aspects of humanity is characterized by the embrace of contingency, against the necessity that rules the "bare-life": Humans cannot escape from nutritional and sexual needs and desires, but they do have some control over who they are and which kinds of community they want to join/create. The individualization and participation in communities (the-way-of-life, *bios*) are thus politically open phenomena that transcend the bare-life, *zoē*:

> There is politics because man is the living being who, in language, separates and opposes himself to his own bare life and, at the same time, maintains himself in relation to that bare life in an inclusive exclusion (Agamben, 1998: 8).

In this quote Agamben introduces the idea of the "inclusive exclusion": Important in this paper is the point that politics has to happen in a dialectical relation between inclusion and exclusion. Politics originates from and targets the challenges raised by "bare-life", but without being reducible to "bare-life", because politics introduces a logos-linguistic rationale to life – there is always more than one way to respond to the challenges of "bare-life".

Political endeavours are essentially oriented towards the range of possibilities, but this takes on a paradoxical bearing: *Decisions* have to be made (this is demanded by "bare-life": We cannot stay in open, contemplative reflections, because then we will not survive). Together with Jacques Derrida and heavily inspired by Carl Schmitt Agamben stresses that decisions essentially has to short circuit the open relationship between "bare-life" og "way-of-life" (Schmitt, 1922; Derrida, 1994b: 86-8). The law constitutes this decisional body and the force of the law is then what necessitates the individual.[6] The (political) openness of *bios* as a "way-of-life" is thus through the body of law transposed into a *contingent* necessity.

According to Agamben, the paradoxical character of the political endeavour is to be found in the political peripherals – e.g. the sovereign (Agamben, 1998: 1.1), homo sacer (Agamben, 1998: ch. 2.1 – elaborated below) and the state of exception (Agamben, 2005: ch. 1). The political endeavours always originate from and target challenges that are not by themselves political. They have to be politicized.

The main problem with *modern* political approaches is, however, that the politicization has been so successful that we become blind to the paradoxical nature of politics. The lawless are enclaved in the law. The first historical example of this was, according to Agamben, the Nazi concentration camps (the lawless Jews were "Entlösst"), a more recent example is the treatment of the "unlawful combatants" on Guantánamo Bay camps.

According to Agamben this modern feature of democratic self understanding is dangerous, because as soon as we lose sight of the political "outside" we potentially forget that the political and the necessary is the result of an artificial movement, the politicization of the non-political. We thus think we are situated in the politics of necessity and it, consequently, becomes possible to legitimate the most outrageous projects.

What has this got to do with open source journalism?

VI

For Agamben, as well as for his main inspiration on this subject, Carl Schmitt, the main interest is the analysis of sovereignty. Homo Sacer is an internal figure in the emergence of the sovereign. It is a product in a governmental creation of social and political normativity: Who rules, what does it mean to rule, and who are the subjects of the ruling.

Open source journalism as such is not obviously conceivable as a sovereign. However, as stated by Hardt and Negri, the handling of communication is a decisive aspect of the ruling of the sovereign in the Empire setting. It is thus important to reflect the ways in which the communicative structure of an important part of the public spheres embodies certain social and political norms – hereby generating certain kinds of ruling and, as a consequence, new kinds of Homo Sacer.

As mentioned above a key figure in Agamben's interpretation of the political condition is Homo Sacer. Homo Sacer is in Agamben's image of the human being who is essentially outside the law while being within the commonwealth. Differently put: Homo Sacer is the "remainder" from the meeting between *zoē* and *bios* – the meeting that is characterized by urging for political decisions while not offering any unproblematic solutions. The lesson from the previous section, following Agamben, is that Homo Sacer emerges in every structured social community. Homo Sacer raises the question: What is left out of sight in the prevailing setting?

The important question now is: Who would be *Homo Sacer* in an open source based public sphere? Answering this question it is important to notice that we deviate somewhat from Agamben's initial account: Agamben's Homo Sacer is the paradoxical product of a legal body. The Homo Sacer is the subject with no legal right to life. In the public sphere we will not restrict ourselves to only reflect legal exclusions, but mainly look for ways in which agents are included as excluded.

As demonstrated previously, open source inspired approaches can overcome dichotomies of various kinds. The dichotomies and contrasts between experts/laymen, wealthy/poor, private/public are potentially overcome. As such open source inspired processes imply both inclusion and diversity, according to the narratives we have examined above. In open source inspired approaches differences are transformed into productive resources. However, with Agamben's warning in mind, it is important that we become aware of the outsides of any social-political approach. So what, then, is exterior to, and yet within, open source journalism? What kind of violence comes with the conditions for collaboration? Who is the Homo Sacer of open source journalism?

The question is, certainly, complex. For one, open source movements are not abstract. They origin from certain social and technological structures, and their responses to the general social, political, technological, economical, etc. settings are certainly just as open as any other social movement. The following suggestions should thus not be interpreted deterministically. Open source based journalism *could* answer most of the succeeding objections, however in their structure they carry mechanisms that suggest that the articulated problems will not be of prime concern.

On the preceding pages I have suggested that the democratic gains of open source journalism could be found in the dissolution of a number of dichotomies (experts/laymen, wealthy/poor, private/public). At least two of these dissolutions might generate the conditions in which new kinds of Homo Sacer might emerge:

The dissolution of the dichotomy between experts and laymen on the one hand might risk creating the *illiterate* Homo Sacer. It is important to distinguish between several kinds of illiteracy: Users who lack the proper literacy skills needed to communicate properly (in a broad sense: ability to read, write, argue, articulate themselves), and users who are technologically illiterate (find it difficult to understand and handle technical user interfaces flexibly to answer their needs). In the new open source structured public spheres, a visible identity will depend on communicational *activity*.

At the outset, this expectation actually stems from the *bi-directional* structure of the Internet. In traditional broadcast mass media this was not an option, and the challenge of lending a microphone to the silent audiences was an explicit task of traditional journalism. In the bi-directionally constituted public sphere journalists have other tools. They can track through Facebook, Twitter, Youtube, Wikipedia, etc. to feel the public pulse.

The illiterate Homo Sacer is thus not a product merely of the turn towards open source structures. In the open source structured public sphere it is, however, further accentuated because the possibilities, due to the increase in interoperability, are extended. Journalists might thus expect citizens themselves to contribute in the research phases. The urge to actively seek out the citizens decreases as the distance between a certain class of citizen and their technical capacities widens. Thus, if you are not actively engaging in these activities – due to some kind of illiteracy – your (silent) voice becomes even more invisible.

The dissolution of the dichotomy between the private and public may also create new kinds of Homo Sacer. In Zizekian wordings one may argue that this dissolution narrows the field for the true "ethical act" (Zizek, 2000) – i.e. the political act of transgressing the rules of the established social order. Or to put it in a Freudian way: What happens with the essentially anti-social, egoistic and destructive sides of subjectivity? The desire to be unethical, not to care about the well-being of others.

I am not saying that these aspects of subjectivity *ought* to be given room in our public social settings, but the Homo Sacer condition that is part of the possibility of the Multitude warns us that to be a human being *also* means having a destructive side that refuses collaboration and actively seeks to undermine it. However, by bridging the divide between public and private there is a risk that we lose sight of this, imposing a collaborative situation on those who, for one reason or another, do not desire to collaborate on this or that project. These less flattering aspects of our subjectivity tend to become invisible, or become stigmatized so that these refuseniks are made socially invisible.

In today's public setting we already see the results of these destructive aspects of subjectivity in the trolls, who are often articulated as individuals who do not have the skills to negotiate the protocols of ever new ways of communication. However, Homo Sacer might suggest that the trolls are integral products of the new public setting, and with a turn towards open source based journalism the trolls may gain impetus, because new ways of active engagement in public exchanges will come about.

VII

At this point it is important to notice that the ability to point out Homo Sacers in social constellations does not in itself refute the constellations, because no constellations are without Homo Sacer. The violence that is inflicted on this figure has the positive effect of binding together into a community diverse sets of interests. The illiterate agents and the anti-social desires are not easily incorporated in a public sphere based on open source journalism. They will constitute persistent challenges of an open source based journalism.

Pre-Internet journalism also had its own Homo Sacers, in which the problem of raising all voices of the public sphere in a narrow informational bandwidth was the main challenge (Hansen 2013). This challenge was, to some extend, solved with the emergence of the Internet, because it allowed a presentation of a multitude of voices.

This is the reason why communicational and organisational structures are not enough. Open source structured media may open new pathways to democratically attractive possibilities – but only if the structures are supplemented by media professionals who are aware of the inherent Homo Sacers. The structures have to be supplemented with training in which professional journalists are taught how to counteract the tendencies carried in the structures – meaning that they question hegemony, even of the "friendly" open source kind. If journalism increasingly turns towards open source inspired structures, journalists will face new tasks. On the one hand, they certainly have to be able to facilitate that the productive open exchanges come about. On the other hand, however, they also face the task of reminding the public about the existence of the invisible – e.g. the invisibility of the illiterate and the anti-social.

Some journalists feel threatened as a profession. Are professional journalists still needed if everybody is a journalist? The answer so far is that professional journalism has survived. Professional journalists are important because they are trained (or should be trained) to raise the voices of the silent. As they have always done – but differently.

Literature

Agamben, G., 1998. *Homo sacer: sovereign power and bare life*, Stanford, Calif.: Stanford University Press.

Agamben, G., 2005. *State of exception*, Chicago: University of Chicago Press.

Aitamurto, T. & Lewis, S.C., 2013. Open innovation in digital journalism: Examining the impact of Open APIs at four news organizations. *New Media & Society*, 15, pp.314–331.

Behlendorf, B., 1999. Open Source as a Business Strategy. In C. DiBona, S. Ockman, & M. Stone, eds. Open Sources. Voices from the Revolution. Sebastopol: O'Reilly Media, Inc., pp. 149–70.

Benkler, Y., 2011. *The penguin and the Leviathan: the triumph of cooperation over self-interest* 1st ed., New York: Crown Business.

Benkler, Y., 2006. *The wealth of networks : how social production transforms markets and freedom*, New Haven Conn.: Yale University Press.

Blankenship, L. ('The M., 1986. The Conscience of a Hacker (The Hacker Manifesto). *Phrack*, 1(7), p.3.

Bondebjerg, I., 2010. A New Space for Democracy? Online Media, Factual Genres and the Transformation of Traditional Mass Media. In J. Gripsrud, ed. *Relocating Television. TV in the Digital Context*. London: Routledge, pp. 113–125. Available at: http://www.academia.edu/2548869/A_New_Space_For_Democracy_Online_Media_Factual_Genres_and_the_Transformation_of_Traditional_Mass_Media.

Bowman, S. & Willis, C., 2003. *We Media. How audiences are shaping the future of news and information*, The Media Center at the American Press Institute.

Carr, N.G., 2010. *The shallows: what the Internet is doing to our brains*, New York: Norton.

Castells, M., 2005. Innovation, information technology and the culture of freedom. *Choike*. Available at: http://www.choike.org/nuevo_eng/informes/2623.html [Accessed June 6, 2013].

Castells, M., 2001. *The Internet Galaxy. Reflections on the Internet, Business, and Society*, Oxford: Oxford University Press.

Coleman, E.G., 2013. *Coding freedom: the ethics and aesthetics of hacking*, Princeton: Princeton University Press.

Derrida, J., 1994a. *Force de loi : le "Fondement mystique de l'autorité,"* Paris: Galilée.

Derrida, J., 1994b. *Politiques de l'amitié. Suivi de L'oreille de Heidegger*, Paris: Galilée.

Feller, J. et al. eds., 2005. *Perspectives on free and open source software*, Cambridge, Mass: MIT Press.

Fitzgerald, B., 2005. Has Open Source Software a Future? In J. Feller et al., eds. *Perspectives on free*

and open source software. Cambridge, Mass: MIT Press, pp. 93–106.
Galloway, A.R., 2004. *Protocol : how control exists after decentralization*, Cambridge, Mass.: MIT Press.
Gates, W.H., 1976. An Open Letter to Hobbyists. *Homebrew Computer Club Newsletter*, 2(1), p.2.
Gillmor, D., 2004. *We the media : grassroots journalism by the people, for the people* 1st ed., Sebastopol CA: O'Reilly.
Habermas, J., 1996. Der europäische Nationalstaat – Zu Vergangenheit und Zukunft von Souveränität und Staatsbürgerschaft". In *Die Einbeziehung des Anderen: Studien zur politischen Theorie*. Frankfurt am Main: Suhrkamp, pp. 128–153.
Hansen, E., 2013. Aporias of Digital Journalism. *Journalism – Theory, practice and criticism*, 14(5), pp.678–694.
Hansen, E., 2011. Den åbne kapitalisme. In E. Hansen, M. Thorup, & M. Raffnsøe-Møller, eds. *Kapitalismernes ansigter*. Aarhus: Philosophia.
Hardt, M. & Negri, A., 2009. *Commonwealth*, Cambridge Mass.: Belknap Press of Harvard University Press.
Hardt, M. & Negri, A., 2012. *Declaration*, New York: Melanie Jackson Agency, LLC. Available at: http://public.eblib.com/EBLPublic/PublicView.do?ptiID=931436 [Accessed June 19, 2013].
Hardt, M. & Negri, A., 2000. *Empire*, Cambridge Mass.: Harvard University Press.
Hardt, M. & Negri, A., 2004. *Multitude : war and democracy in the age of Empire*, New York: The Penguin Press.
Himanen, P., 2001. *The hacker ethic and the spirit of the information age*, New York: Random House.
Howard, P.N., 2011. *The digital origins of dictatorship and democracy: Information technology and political Islam*, Oxford: Oxford University Press.
Lakhani, K.R. & Wolf, R.G., 2005. Why Hackers Do What They Do: Understanding Motivation and Effort in Free/Open Source Software Projects. In J. Feller et al., eds. *Perspectives on Free and Open Source Software*. Cambridge: MIT Press, pp. 3–21.
Lessig, L., 2006. *Code : version 2.0*, New York, N.Y.: Basic Books.
Lessig, L., 2005. Open Code and Open Societies. In J. Feller et al., eds. *Perspectives on free and open source software*. Cambridge, Mass: MIT Press, pp. 349–360.
Levy, S., 1984. *Hackers : Heroes of the Computer Revolution*, Doubleday, N.Y.: Anchor Press.
Lewis, S.C. & Usher, N., 2013. Open Source and Journalism: Toward New Frameworks for Imagining News Innovation. *Media, Culture, Society*, 35(5), pp.602–619.
Lih, A., 2004. Wikipedia as Participatory Journalism: Reliable Sources? Metrics for Evaluating Collaborative Media as a News Resource. In *Proceedings of the 5th International Symposium on Online Journalism*. 5th International Symposium on Online Journalism. Texas.
Ockman, S., Stone, M. & DiBona, C., 1999. *Open sources : voices from the open source revolution*, Beijing: O'Reilly.
Perens, B., 1999. The Open Source Definition. In C. DiBona, S. Ockman, & M. Stone, eds. Open Sources: Voices from the Open Source Revolution. Beijing: O'Reilly Media, Inc., pp. 171–188.
Raymond, E.S., 2001. *The Cathedral and the Bazaar: Musings on Linux and Open Source by an Accidental Revolutionary, Revised Edition* 2. edition., Sebastopol: O'Reilly Media, Inc.
Reich, Z. & Lahav, H., 2012. Are reporters replaceable? Literary authors produce a daily newspaper. *Journalism*, 13, pp.417–434.
Rosen, J., 1999. *What Are Journalists For?*, New Haven Conn.: Yale University Press.
Schmitt, C., 1922. *Politische Theologie. Vier Kapitel zur Lehre von der Souveränität* Zweite Auflage (1934)., Berlin: Duncker & Humblot.
Schradie, J., 2011. The digital production gap: The digital divide and Web 2.0 collide. *Poetics*, 39(2), pp.145–168.
Schudson, M., 2010. Political observatories, databases & news in the emerging ecology of public information. *Dædalus*, pp.100–109.
Stallman, R.M., 2002. *Free Software, Free Society: Selected Essays of Richard M. Stallman* J. Gay, ed., Boston, Mass.: GNU Press.
Stuart, A., 2006. *Online News: Journalism and the Internet*, Berkshire: Open University Press.

Stuart, A., 2002. Reweaving the Internet. Online news of September 11. In A. Stuart & B. Zelizer, eds. *Journalism after September 11*. London and New York: Routledge, pp. 119–140.
Thomas, D., 2002. *Hacker culture*, Minneapolis: University of Minnesota Press.
Tulsyan, Y., 2012. The Jargon File, version 5.0.1. Available at: http://cosman246.com/jargon.html [Accessed May 29, 2013].
Wark, M., 2004. *A hacker manifesto*, Cambridge, Mass.: Harvard University Press.
Young, R., 1999. Giving It Away. How Red Hat Software Stumbled Across a New Economic Model and Helped Improve an Industry. In C. DiBona, S. Ockman, & M. Stone, eds. Open Sources. Voices from the Revolution. Sebastopol: O'Reilly Media, Inc., pp. 113–125.
Zizek, S., 2000. *The ticklish subject: the absent centre of political ontology*, London; New York: Verso.

1 Hosted on sites like freemusicarchive.org, noisetrade.com, jamendo.com, soundcloud.com, soundclick.com.

2 http://www.guardian.co.uk/news/series/open-newslist

3 The trustworthiness might even be enhanced by the professional pressure that will be put on journalists who have to produce journalistic products, while knowing that their work can be scrutinized due to the availability of the research material. For an elaboration on revenue-models through open exchanges of journalistic content can be found in Aitamurto & Lewis, 2013).

4 A moderation of the suggested model could be to focus the approach on the *research material* of the journalists – the literal meaning of "open sources" – but keeping traditional copyrights on the final journalistic products. This would still empower laymen so that they could contribute to the making of the news object. In the process journalists could interoperate, and derived products could be made. In the succeeding discussion in this paper this moderated stance would mainly affect the possibility to traverse the division between the resources and power of the wealthy and the poor.

5 Notice, however, that the open availability of information will further a development towards open APIs which makes it possible for journalists to present scattered pieces of information within new interfaces – a point well articulated in Aitamurto & Lewis, 2013. This may help reducing the informational gap, because the different kinds of API may appeal to different kinds of informational skills within the endusers.

6 An elaboration on the notion "force of law" can be found in Agamben, 2005: ch 2. The chapter is certainly decidedly inspired by Derrida, 1994a.