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“Publicity”, Privacy and Social Media. The Role of Ethics Above and Beyond the Law

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Premise

One area where the relationship between ethics and the law seems to be ever more important is that of social media. There are many aspects in which this relationship touches upon dynamics which are either completely new or, at the very least, highly original. Among these, one of the main areas in need of further attention is that of the meaning, which the term “publicity” takes on within the realm of the social media. This is an area for which the limits of the law (and of deontological rules) are becoming increasingly evident. Consequently, the ethical dimension has become the most central in determining where the boundary lies between that which may be considered “public” and that which, by its very nature, is “private” and, as such, must be protected.

1. “Publicity”, a polysemic notion

The original concept of “publicity” has also, over the course of time, taken on diametrically opposite meanings from both a semantic and from a categorical view point. The meaning adopted here is the one closest to the Latin etymology of the word, and subsequently the French *publicité*. It derives from the verb *publicare*, meaning to present something, to make something known to all or, better still, «to make public», «to occur in the presence of the public»¹. This clearly differs from the meaning that we

¹ Meaning extrapolated both from the entry «*pubblicità*» in *Il Vocabolario Treccani* (Istituto

usually attribute to the word today, to refer to messages, which are aimed at a specific market sector.

In the realm of the World Wide Web, and in particular of social media, the verb “publish” has regained its original meaning, “to make public”, that is to communicate to an indeterminate public. In the case of social media, this means to the circle of established social relations, or “friends”.

On this basis, the concept of publicity evokes the alternative between that which is “public” and that which is “private”, the latter being a term, which in turn calls to mind the Anglo-Saxon notion of privacy, conceived by the American legal doctrine as the «right to be let alone»². This notion has become increasingly associated, in parallel with the technological development of recent decades, as the right to the protection of one’s personal data against the unauthorized use by third parties. This concept can be compared with what Floridi refers to as the «informational privacy» of an individual or of a small or larger group of individuals³.

In Italian law, the legislative decree of 30 June 2003, n. 196, sets out the «Code for data protection» in Art. 3 as follows: «information systems and programmes shall be configured to minimize the use of personal data and identification data, so as to rule out their processing if the purposes sought in the individual cases can be achieved by using either anonymous data, or mechanisms that allow identification of the person concerned, only in the case of necessity». It establishes this concept, in deontic terms, stipulating the principle of necessity in the processing of personal data.

Essentially, if each individual corresponds to their own information (obviously not in the journalistic sense, but as a set of data that contributes to revealing and creating the – virtual – identity of a particular individual), the right to privacy can thus be understood as «a right to personal immunity from unknown, undesired, or unintentional changes in one’s own identity as an informational entity, both *actively* and *passively*. Actively, because collecting, storing, reproducing, manipulating, etc. [...]. Passively, because

della Enciclopedia Italiana, Roma 2003, p. 1382) as well as the entry «publicity» in the online version of the *Oxford Dictionary* (<https://en.oxforddictionaries.com/definition/publicity>).

² S. Warren-L.D. Brandeis, *The Right to Privacy*, in «Harvard Law Review», 4 (1890), pp. 193-220.

³ Floridi also identifies a further two types of privacy which are, also in my opinion, and in the context of the present essay, in some way pertinent to the concept of informational privacy: mental privacy, that refers to protection from psychological and persuasive interference and decisional privacy, that refers to protection from procedural interference in the decision making process. Cf. L. Floridi, *The Fourth Revolution: How the Infosphere is Reshaping Human Reality*, Oxford University Press, Oxford 2014, pp. 102 ff.

[...] privacy may now consist in forcing [the individual] to acquire unwanted data, thus altering [his/her] nature as an informational entity without consent»⁴. Privacy means, however, also having the right to renew one’s identity, an identity understood as the sum of the personal and the social.

In its various forms, the common feature of privacy is to highlight (in particular) the potentially negative side of “making public”. Hence the need to develop adequate protection of what is private, *against* such publication. Such protection, as mentioned above, takes on a rather particular role in the realm of social media, an aspect upon which the moment for reflection has now well and truly arrived.

2. *The protection of privacy and the growing inadequacy of the law: social media as an emblematic phenomenon*

The emergence of the need for the protection of privacy as a «right to be let alone» was at the origin, on different levels, of the elaboration of a system of legal rules. Thanks to various judicial decisions, these have reached a satisfactory degree of effectiveness and equity in balancing conflicting requirements, such as – to make a paradigmatic example – the freedom of the press for journalists. The case of Italy is emblematic of how the protection of privacy has evolved: in the absence of specific legislation, the case-law progressively recognized (up until the final consecration of the Supreme Cassation Court, in its judgment of 27 May 1975, No. 2129, in the *Soraya* case) the existence of a right to freedom from intrusion into one’s personal sphere. The foundations of which have been traced back to the principles stipulated in the Constitution, and, notably, in Art. 2, which recognizes the fundamental rights of the person.

The regulatory balance has, however, been undermined by technological innovations, in that the need for the protection of personal data has encountered increasing difficulties, for the law, in responding effectively to the social inputs. Reasons for this include the continual new challenges arising from the evolution of the communication media, as well as – with the advent of the Internet – the transnational dimension of this network. This has led to a complication of the legal response, which is anchored, essentially, at national level or at the very most, continental level (the reference made is naturally to the European Union).

⁴ *Ivi*, pp. 120-121.

The clearest demonstration of the difficulties afflicting the law in this field lies in the fact that the rules adopted are becoming ever more analytical and ever more extensive. Examples include the articulation of the aforementioned Legislative Decree No. 196, 2003. Also, at European level, Directive No. 95/46/EC of the European Parliament and of the Council, 24 October 1995, on the protection of individuals with regard to the processing of personal data and on the free movement of such data. Then, more recently, the EU Regulation No. 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons was approved with regard to the processing of personal data and on the free movement of such data⁵. This is not enough, however, to ensure that the law is really able to guide the actions of the individual. Not surprisingly, more and more legal provisions explicitly rely on codes of conduct and deontological rules, entrusted with the regulation for other sectors of great importance. This is to say that the Institutions are less and less able to *impose* rules and more and more often have to rely on the autonomy of private bodies, albeit “qualified private bodies” such as, for example, the Professional Associations.

From this perspective, the domain of social media is emblematic, from at least two points of view. Firstly, it is significant that in legislative texts, even the most recent ones, such as the EU Regulation, the protection of privacy on social media is not expressly and specifically regulated: therefore, for social media the legal regulation must either be obtained from general laws or from proceeding by analogy with other regulated areas. Secondly (and more importantly, for present purposes), in the context of social media, the established dynamic of referring to “qualified private bodies” cannot possibly be effective, other than in a very partial sense: the deontological rules and legal provisions may be applied to qualified private bodies (defined as persons performing special activities, such as service providers and persons who carry out professional activities on the social media). The area of privacy protection in relation to “common users” of social media, however, remains totally “uncovered” (as demonstrated by the household exemption, i.e. the non-applicability of the EU privacy legislation to persons who process personal data without commercial purposes and within a generally circumscribed group of individuals)⁶.

⁵ S. Gutwirth-R. Leenes-P. de Hert (eds.), *Data Protection on the Move, Current Developments in ICT and Privacy/Data Protection*, Springer Netherlands, Dordrecht 2016.

⁶ P. Passaglia, *Privacy e nuove tecnologie, un rapporto difficile. Il caso emblematico dei social media, tra regole generali e ricerca di specificità*, in «Consulta Online», 3 (2016), pp. 338 ff.

This lack of legal and deontological cover in the case of the “common user” is particularly serious in light of the possibility (confirmed almost daily by the press) that those very users can be at the origin of major privacy violations. The critical issues that emerge can take one of two partially diverse forms, at least from a legal viewpoint, since there are two fundamental dimensions (A and B – below) upon which the action of the user can be differentiated.

First and foremost, because users of social media, upon entering the virtual community, automatically waive a share of their privacy (A). On this point, it is widely felt that there is a need to prevent individuals from giving rise to excessive waivers. However, a “protective” legislation would appear difficult to draw up, because the very fact of limiting the possibility of a self-regulation of the individual concerning his/her privacy runs the inevitable risk of being perceived as a limitation of the freedom of self-determination of the individual. Ultimately, therefore, as an attack on one of the cornerstones upon which the rule of law and the Liberal democracy rely. It follows that the law may intervene, generally if, and only if, there are good reasons to limit self-determination, particularly if other aspects come into play (for example, on the grounds of public safety). Even beforehand if the self-determination cannot be considered valid, as in the case of minors and persons who have been legally declared not competent.

The tension between privacy and social media, however, does not apply only in the perspective of self-regulation of the law: the “common users” of social media, although not subject to any legal and ethical constraints in terms of privacy, can actually cause serious damage to the privacy of others (B). In theory, the law could intervene in this type of conduct; however, a problem of effectiveness arises, since it is very difficult to “attack” social media behaviour effectively and without veering towards a politics of censorship⁷.

Therefore, what emerges is that, with reference to the “common users” of social media, the law is sometimes (A) unable to intervene, whilst at other times (B) suffers from an incipient ineffectiveness. Such deficiencies cannot be remedied by deontological rules, for the simple fact that, since

⁷ S. Di Guardo-P. Maggiolini-N. Patrignani (a cura di), *Etica e responsabilità sociale delle tecnologie dell'informazione. Etica e Internet*, 2, FrancoAngeli, Roma 2010, pp. 252-256. For a discussion on ethical and legal issues regarding *privacy* on the Internet, see also J. Berleur-P. Duquenoy-D. Whitehouse (eds.), *Ethics and the Governance of the Internet*, IFIP Press, Luxembourg 1999, pp. 38-53; J. Berleur, *Questioni etiche per la governance di internet*, in S. Di Guardo et al., *op. cit.*, pp. 259-274.

we are dealing with “common users”, those who do not engage in professional activities on the social media, these rules have no possibility of application. So ultimately, the task of behavioural guidance regarding social media can only be assigned to the field of ethics.

3. *Privacy and social media: ethics, the last fortress*

Any investigation, from an ethical view point, into the problems connected to privacy on social media, has to start with the process of the spectacularization, the “showcasing” of one’s existence. This pervades contemporary society and is increasingly focused on a radical visibility⁸. This process has already been theorized by Debord (1967), who, prophetically, asserted that «reality emerges within the spectacle, and spectacle is real. This reciprocal alienation is the essence and support of the existing society»⁹. After all, «What appears is good; what is good appears. [...] the spectacle is *leading production* of present-day society»¹⁰. In this «Age of Access» we continue to use the same metaphor of the stage *à la* Debord, albeit an electronic stage in these modern times, upon which, Rifkin writes, we observe an alternation, in real time, of individual representations¹¹. A stage which opens up to multiple personalities, «powerful metaphor for thinking about the self as a multiple, distributed system»¹².

⁸ There have been some recent proposals which suggest tighter controls on published information, also through stricter access limitations. Cf. H.T. Tavani, *Philosophical theories of privacy: Implications for an adequate online privacy policy*, in «Metaphilosophy», 38 (2007), n. 1, pp. 1-22; Id., *Ethics and Technology: Controversies, Questions, and Strategies for Ethical Computing*, John Wiley & Son, New York 2011. Others, instead, propose the control of «contextual integrity», in relation to the distribution, appropriacy and pertinence of the information. H. Nissenbaum, *Privacy as Contextual Integrity*, in «Washington Law Review», 79 (2004), n. 1, pp. 119-158; Ead., *Privacy in Context: Technology, Policy, and the Integrity of Social Life*, Stanford University Press, Palo Alto (CA) 2009.

⁹ G. Debord, *La société du spectacle*, Buchet-Chastel, Paris 1967, engl. transl. by K. Knabb, *The Society of the Spectacle*, Bureau of Public Secrets, Berkeley 2014, § 3.

¹⁰ *Ivi*, §§12, 15.

¹¹ J. Rifkin, *The Age of Access: The New Culture of Hypercapitalism, where All of Life is a Paid-for Experience*, Jeremy P. Tarcher/Putnam, New York 2000, pp. 214-215.

¹² S. Turkle, *Life on the Screen: Identity in the Age of the Internet* (1995), Simon and Schuster, New York 2011, p. 14; E. Goffman, *The Presentation of Self in Everyday Life*, University of Edinburgh Social Sciences Research Centre, Edinburgh 1956. However, there are those, like Baudrillard, who sustain that we have already gone beyond the stage of the spectacle: since there is no distinction between public and private, individuals have become the recipients of a plurality of communication networks (J. Baudrillard, *L'autre par lui-même*, Paris, Galilée 1987, engl. transl. by B. Schütze, *Ecstasy of Communication*, Semiotext(e), New York 1988).

The spectacle thus appears to be the beginning and end of the communication on social media: the self is constructed and develops a sense both *in* and *through* relations with others, through accessing, or otherwise, the private universe of others and certain social media. This process of the spectacularization of the self has made the social media an emblematic place of what can only be described as «social showcasing»¹³. Putting oneself on display means also to expose one’s private sphere, and as such, to risk having it turned into a commodity. Furthermore, this may result in the fuelling of dysfunctional behaviour, and not only on the part of corporations engaged in online marketing¹⁴.

The amplified exposure of oneself has an immediate impact on the first type of relation outlined in the previous paragraph (A), that is, relative to the person entering his own data: it lowers the “warning threshold” of the individual, who is willing to publish his own data so that he may appear in the “showcase”. In parallel, it is evident that there is much encouragement on the part of the *social platforms* towards users to share information, which is either personal, or relating to other people and entities¹⁵. These are voluntary, albeit imprudent, practices due partly to lack of information or misinformation¹⁶.

Is it, therefore, always good or always bad to enter one’s own personal data? Where should one draw the line? Or is everything reduced to a mere waiver of privacy protection?

First and foremost, it is necessary to get away from a vision based primarily on the aesthetics of the staged spectacle. We need to move, if anything, towards an ethical representation. This affirmation means that we need to assume that the surrendering of privacy, *hic et nunc*, could lead to

¹³ V. Codeluppi, *Ipermondo*, Laterza, Roma-Bari 2012, pp. 84-97; Id., *La vetrinizzazione sociale. Il processo di spettacolarizzazione degli individui e della società*, Bollati Boringhieri, Torino 2007.

¹⁴ N. Abercrombie-B. Longhurst, *Audiences: A Sociological Theory of Performance and Imagination*, Sage, London-Thousand Oaks 1998.

¹⁵ Of interest, and confirmation of the ease with which individuals tend to publish even the most distinguishing of data, are the cases which are analyzed in C. Rizza *et al.*, *Interrogating Privacy in the Digital Society: Media Narratives after 2 Cases*, in «International Review of Information Ethics», 16 (2011), pp. 6-17; A. Acquisti-R. Gross, *Imagined Communities: Awareness, Information Sharing, and Privacy on the Facebook*, in P. Golle-G. Danezis (eds.), in «Proceedings of 6th Workshop on Privacy Enhancing Technologies», Robinson College, Cambridge 2006, pp. 36-58.

¹⁶ S. Vallor, *Social Networking and Ethics*, in E.N. Zalta (eds.), «The Stanford Encyclopedia of Philosophy» (2016): <https://plato.stanford.edu/archives/win2016/entries/ethics-social-networking/>.

a permanent future loss of control regarding certain information (both due to, and thanks to, the continual availability of such information). This waiver may also have repercussions on other individuals, those who have not chosen to be visible in this virtual *agorà*, and certainly not to be subjected to the spectacle of their own lives. It is the case of parents who publish images of their children, who, as adults, may not feel represented by an identity built online without their consent or, indeed, disagree on principle with the spectacularization of their lives.

Finally, one must take into account that this waiver can be used by others to spread our data (voluntarily and/or involuntarily), perhaps even in a distorted way. Furthermore, via channels other than those originally chosen by us, without any prevision of the consequences that may result in our off-line day-to-day lives. Alternatively it could result in individuals entering information about others, thus creating multiple (and often false) identities.

Here we invite reflection on issues related to the second relational type mentioned above (B). Serious damage can be caused thereby, to the privacy of third parties. This relational type is more difficult to control, due also to its widespread use. Such a dimension, therefore, has inevitably to be restricted by ethical considerations.

Two key aspects emerge in particular (the first one fundamental to the existence of the second): the autonomy of technology and the mutability of the identity of an individual. Regarding the autonomy of technology, it should be noted that data change their ontological status, once inserted into the social media: what was once static information turns into autonomous agents (which is true for the internet in general). In some respects, this information can also turn into moral agents, since these can produce real consequences that could be qualified from an ethical point of view¹⁷. This data can develop in any direction and acquire a meaning that is different from the original one. In the wake of what has already been mentioned by Anders in relation to the artificial man-made devices produced during the Second World War, one must take into account that, also as aware and informed users of technology, individuals can still, in spite of themselves, become instruments of this same technology (even) against their will¹⁸. Similar fears, moreover, have been expressed by Jonas, according to whom one must take into account the responsibility on the

¹⁷ L. Floridi, *op. cit.*, pp. 101 ff.

¹⁸ G. Anders, *Die Antiquiertheit des Menschen, I: Über die Seele im Zeitalter der zweiten industriellen Revolution*, Verlag C.H. Beck, München 1980.

shoulders of today’s individuals when working on technological developments for the future generations¹⁹.

Furthermore, it is because of the autonomy of this technology which «creates itself»²⁰ that identity becomes mutable. This identity allows space for potential selves, which may even be turned into something different from the original self²¹. The most significant aspect from an ethical point of view, therefore, calls for quality, and in particular preciseness, of the entered data: if one publishes, deliberately or otherwise, false data regarding oneself, or if data is tampered with by another individual, a chain of misunderstanding and distorted information can ensue. This can potentially cause serious damage to third parties in their off-line day-to-day lives.

These changes can be implemented through subtle strategies. Counter-images of the self may be introduced, playing upon the ambiguity of certain data and the levity with which this data can sometimes be “shared” on the social platforms, which consequently receive and often redirect the data. Moreover, unlike in offline relations, the information or disinformation exchanged remains forever indelible in “cyber-memory”. Furthermore, there may be an overlap between the various identities present on the social media. «Egocentric» communications about the self-become, involuntarily, «allocentric»²². Thus, from a self-presentation of the persona, a hetero-produced presentation can derive. Consider, for example, the tagging phenomenon, through which you can attach photos or texts to a person, without their prior consent (when, due to lack of experience of the system, the person has not asked for any notification and is therefore unaware). Even more subtly, a self-presentation can be used to form and convey an impression of a person, which is only slightly different from how they actually are offline. The author of the profile himself, or on the part of other “friends” may do this either. In the first instance, control is lost regarding exactly what is being disseminated. Furthermore, particularly in the latter case, (apparently) imperceptible changes are carried along, through a process which has a concrete impact, even offline, in terms of public access to our personal

¹⁹ H. Jonas, *Das Prinzip Verantwortung. Versuch einer Ethik für die technologische Zivilisation*, Suhrkamp, Frankfurt am Main 1979, engl. transl. by H. Jonas and D. Herr, *The Imperative of Responsibility: In Search of an Ethics for the Technological Age*, University of Chicago Press, Chicago 1984, pp. 92-93.

²⁰ A. Fabris, *Etica delle nuove tecnologie*, La Scuola, Brescia 2012, p. 55.

²¹ K.J. Gergen, *The Saturated Self: Dilemmas of Identity in Contemporary Life*, Basic Books, New York 1991, p. 79.

²² G. Riva, *I social network* (2010), Il Mulino, Bologna 2016, p. 27.

data²³. The data recorded by the system are then used for advertising purposes (in the commercial sense) or news (information) targeted to a specific audience. These incentivate the individual to make purchases or to take interest in certain issues that perhaps would never have otherwise come to his attention. These aspects lead to continual comparisons with other individuals present on the social media. It creates a tendency to continually go one-step further in order to increase the number of relations (both strong but, in particular, weak). This happens in an undifferentiated context in which misunderstanding can be both frequent and dangerous, due partly to the large quantity of potentially publishable data.

Technological autonomy, therefore, raises yet another aspect, related to the handling of data which, if detrimental to an individual image, should never be used: one thing is to share certain information with “friends”, quite another is to have it shared with “friends of friends”, who in turn can forward the information to other “friends”, and so on.

What, therefore, can be the motivation that draws us to behave in a way, which is detrimental both to our own privacy and to that of others (A and B)? In light of the above, the motivation behind certain spectacularization behaviour could lie in the human tendency of individuals (as pointed out by Riva) to desire an escape from anonymity, as well as a longing for personal recognition, combined with a necessity to meet those needs linked to relationships, self-esteem and self-actualization that Maslow places on the last steps of his famous pyramid²⁴. However, these needs may become satisfied in a distorted way, or endanger both the subject himself as well as third parties.

Hence, everything can be linked to self-promotion deriving from a tendency towards narcissism, which can give rise to the (un)conscious transformation of one’s image, into valuable goods. Creating intermediate spaces of “inter-reality”, of «in-betweenness»²⁵, in which the boundary between public and private is increasingly less perceptible²⁶. What is more, the desire to ‘appear’ seems sometimes to distract us from the ethical implications that can result from certain decisions.

²³ J. Palfrey-U. Gasser, *Born Digital. Understanding the First Generation of Digital Natives*, Basic Books, New York 2008, p. 42.

²⁴ A.H. Maslow, *A Theory of Human Motivation*, in «Psychological Review», 50 (1943), n. 4, pp. 370-396.

²⁵ L. Floridi, *op. cit.*, p. 25.

²⁶ J. Van Kokswijk, *Hum@n, Telecoms & Internet as Interface to Interreality*, The Netherlands: Bergboek, Hoogwoud 2003.

4. The “last fortress” of ethics and the strengthening of the buttresses

On the basis of this argument, there is the clear need for a rethinking both of how we act *on* social media as well as in our approach *to* social media.

So how can ethics guide us in the publication of our information, avoiding possible risks (A and B)? Upon which principles should we base our decisions in order not to harm our own privacy or that of third parties?

In reply to the first question, it should be taken into consideration that poor computer skills can result in a lack of control of the data entered. But even if digital skills were promoted, would it actually contain the problems that have emerged regarding privacy? Individuals should certainly know how social media function before using them, both from a technological and an operational point of view. Riva, for example, with reference to their use by minors, suggests the introduction of a license, just as for driving a car²⁷. However, focusing principally on these skills is perhaps merely a shift back in the legal-deontological direction. Most probably, the social media, in view of their very ontological status, need to be conceived on an ethical basis, i.e. respecting the privacy of the individual, easy-to-use, transparent regarding the behavioral rules to be adhered to, where failure to comply could result in the degeneration and even the breakdown of a relationship.

Could then the answer be a responsible campaign to raise awareness regarding the appropriate use of social media? Certainly the one promoted by the Italian Data Protection Authority, based on a guide to social media (2009 and re-published in 2014), was aimed at promoting reflection on the meaning and the consequences of individual and collective action in the virtual *agorà* of the social media²⁸. Particular attention is paid to the respect of the privacy of the individual. Nevertheless, the social media continue to be perceived and used as (pseudo) private spaces.

Neither of the afore-mentioned proposals, though indispensable in terms

²⁷ G. Riva, *op. cit.*, p. 167.

²⁸ Cf. <http://194.242.234.211/documents/10160/10704/Opuscolo+Social+Network+pagina+singola.pdf>: «with the objective of raising the awareness of users and providing them with food for thought as well as the tools for their own safeguard» (*ivi*, p. 3). This document is divided into a series of «warnings for internet surfers» (*ivi*, pp. 9 ff.) as well as questions to stimulate the self-responsabilization of the reader (*ivi*, p. 17), concluding with «10 tips on how not to get caught up in the trap» (*ivi*, pp. 23 ff.) and a glossary of the slang terms most commonly used on the web (*ivi*, p. 31). P. Galdieri, *Il trattamento illecito del dato nei social network*, in «Giurisprudenza di Merito», 44 (2012), n. 1, pp. 2697 ff.; P. Passaglia, *op. cit.*, pp. 345 ff.

of raising awareness, shields us completely from the risk of infringement of privacy, of losing control both of the published information and of the technological tool itself. It is not always clear at what point one should stop in order not to violate the other's space: without face-to-face interaction, the empathy and emotional openness that facilitate "good" communication are not developed. The «actualization» of a process, as Levy defines it, is intended as its occurrence and resolution in a space other than that of the network (in this case social)²⁹. It is, in this sense, a litmus test of the performative scope of certain actions performed both *for* and *on* the social media. We run the risk, when not acting responsibly, of creating and encouraging a relational illiteracy. Considering the number of possible contacts, the qualitative aspect is neglected, since one is able to conceal emotional discomfort behind the construction of a certain virtual visibility. In online social relations, the signals transmitted by other channels are not present; significant and cognitive signals which are equally important in understanding the sense of the communicative exchange in all its complexity. Moreover, individuals seem less conscious of their online actions – almost as if they hadn't actually performed them – actions which offline they would never dream of carrying out.

So, which principles can guide our actions on social media? Without doubt we must return to a full restoration of the concept of responsibility, both in terms of what is done in relation to oneself and to others³⁰. Furthermore, we must be answerable, above all, for the correctness and truth of the information conveyed, but also the authenticity of the exchange, which must be aimed at promoting understanding³¹. This requires our adaptation to a system, which, though at the outset showed only its positive aspects, has now also revealed its more negative side. It would appear the moment has arrived to attempt a re-semanticization of the concept of publicity, which no longer means to make public to a select and limited group, rather to a potentially infinite public, and for a potentially infinite period of circulation. Equally, a re-semanticization of the notion of privacy is required, to embrace a new meaning of the concept of private. Fundamental in this medial universe where the spaces appear indeterminate and ambiguous, due both to lack of knowledge, but also due to the ontological sta-

²⁹ P. Levy, *Qu'est-ce que le virtuel?*, Éditions La Découverte, Paris 1995, p. 15.

³⁰ A. Fabris, *Etica della comunicazione* (2006), Carocci, Roma 2014, pp. 47-51; M. Vergani, *Responsabilità. Rispondere di sé, rispondere all'altro*, Raffaello Cortina Editore, Milano 2015.

³¹ D.M. Boyd-N.B. Ellison, *Social Network Sites: Definition, History, and Scholarship*, in «Journal of Computer-Mediated Communication», 13 (2007), n. 1, pp. 210-230.

tus of the social media. Speaking of privacy on social media could seem a contradiction in terms: private data is no longer something to be safeguarded *tout court*, rather something to be conveyed, albeit most certainly in a more aware and informed way. That which is considered fine to be made public, or otherwise, varies over time, in relation to society and to the individual himself³². So ethics must absolutely play a role in this (necessary) re-definition, especially if, particularly among young people,

‘privacy’ is not a singular variable. Different types of information are seen as more or less private; choosing what to conceal or reveal is an intense and ongoing process [...]. Rather than viewing a distinct division between ‘private’, young people view social contexts as multiple and overlapping. [...] Indeed, the very distinction between ‘public’ and ‘private’ is problematic for many young people, who tend to view privacy in more nuanced ways, conceptualizing Internet spaces as ‘semi-public’ or making distinctions between different groups of ‘friends’ [...]. In many studies of young people and privacy, ‘privacy’ is undefined or is taken to be an automatic good. However, disclosing information is not *necessarily* risky or problematic; it has many social benefits that typically go unmentioned³³.

The responsabilization (and awareness-raising) of individual users, which is currently the only real option on the part of Institutions and corporations, must be founded upon the new meaning that “make public” has taken on in the world of social media. Before the advent of the internet, to “make public” required mediation. Now anyone can transmit or transform information, highlighting certain aspects rather than others. Although nowadays, to “make public” on social media means to convey a radical transparency, at the same time, this transparency may be rendered opaque to the point of it taking on its own hue. This is what is happening, for example, even in the field of journalism with the “post-truths”, about which so much has been written³⁴.

³² Moreover, according to Acquisti, Brandimarte and Loewenstein, transparency and control alone are not enough: «To be effective, privacy policy should protect real people – who are naïve, uncertain, and vulnerable – and should be sufficiently flexible to evolve with the emerging unpredictable complexities of the information age». Cf. A. Acquisti-L. Brandimarte-G. Loewenstein, *Privacy and Human Behavior in the Age of Information*, in «Science», 347 (2015), n. 6221, pp. 513-514.

³³ A.E. Marwick-D. Murgia-Diaz-J.G. Palfrey Jr., *Youth, Privacy and Reputation (Literature Review)*, Berkman Center Research Publication No. 2010-5, Harvard Public Law Working Paper No. 10-29, p.13, available at <https://ssrn.com/abstract=1588163>

³⁴ M. Del Vicario *et al.*, *The Spreading of Misinformation Online*, in «Proceedings of the National Academy of Sciences», 3 (2016), n. 113, pp. 554-559.

The manipulability of «artificial nature» can reveal extremely ambiguous aspects. «Artificial nature» is a term composed of two seemingly counterposed words. This, however, is not the case if we consider that the very aim of modern technology is to render artificial that which is natural³⁵. Although it is a positive thing that social media should affirm areas for freedom of expression, such freedom must appeal to the co-responsibility of all the players involved. It is a responsabilization that must necessarily develop through (self-)limitation. However, intervention is required that could somehow limit our options, albeit responsibly, in order to develop a project of social participation, whilst maintaining a space of mutual respect³⁶. A classic example of self-limitation is the need to protect the weakest members of society. This is particularly the case with minors, who run the risk of having their images circulated in a potentially uncontrolled fashion. These photos may even become the object of serious, often criminal, abuse. On this note, it is worth highlighting a recent initiative in Germany. A new Facebook page was opened up, dedicated entirely to the compromising photos of minors, which parents themselves had imprudently published on social media.

«Responsible freedom»³⁷, therefore, that takes account, not so much of the intentionality, as of the imputability of our choices and the consequences that may result, both inside and outside the social *agorà*. This could represent an opening towards the type of protection that, by the very nature of social media, the law is only able to offer up to a certain point, leaving the field of ethics with ample room for reflection. This would ensure that relations are established and maintained, which do not deviate into disinterest and indifference, but come back to the constitutive sense of the social media, a network for socializing, sharing, participation and connection in real-time³⁸. These relations should be impressed upon all

³⁵ A. Fabris, *Etica delle nuove tecnologie*, cit., pp. 38-41.

³⁶ On this point, Vallor's perspective is of interest. She establishes an ethical behaviour on the *social networks* based on three "virtues", namely patience, honesty and empathy. S. Vallor, *Social Networking Technology and the Virtues*, in «Ethics and Information Technology», 12 (2010), n. 2, pp 157-170.

³⁷ A. Fabris, *Etica e internet*, in S. Di Guardo-P. Maggolini-N. Patrignani (a cura di), *Etica e responsabilità sociale delle tecnologie dell'informazione. Etica e Internet*, 2, FrancoAngeli, Roma 2010, pp. 185-199, 196; V. Cesareo-I. Vaccarini, *La libertà responsabile. Soggettività e mutamento sociale*, Vita & Pensiero, Milano 2009.

³⁸ On the themes of indifference and virtual relations: A. Fabris, *Etica del virtuale*, Vita & Pensiero, Milano 2007, pp. 12 ff.; Id., *RelAzione. Una filosofia performativa*, Morcelliana, Brescia 2016, pp. 164 ff.

social media users, with no distinction, on an ethical level, between what, conversely, for the law is a very significant aspect: the renunciation of one's own privacy (through data input on the part of the individual himself) (A), and the utilization of data published by others (B). Thus privacy ought to remain, and as Floridi also asserts, albeit in a partial reattribution of the meaning, «should be considered a fundamental right and hence that, as for other fundamental rights, by default the presumption should always be in favour of informational privacy»³⁹.

Abstract

Nowadays social media play an increasingly important role in the relationship between ethics and the law. They have raised new issues regarding the concepts of both “publicity” (in the etymological sense of “making public”), and privacy. The limits of both the law and of deontology are becoming more and more evident, in this arena of the relations, which are established through the social media. This aspect implies the need for ethical reflection, focusing on the motivation that leads users to convey certain information – in primis the desire for a spectacularization of one's life – as well as on the possible principles that may help guide informed choices. Among these would appear fundamental a reference to the concept of ‘responsible freedom’, and hence to the possible consequences which may arise as a result of certain choices, consequences both for oneself and other individuals, on social media as well as in our off-line day-to-day lives.

Keywords: ethics; law; privacy; publicity; responsibility; social media; spectacularization.

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³⁹ L. Floridi, *An Interpretation of Informational Privacy and Its Moral Value*, in «Proceeding of CEPE 2005, 6th Computer Ethics: Philosophical Enquiries Conference, Ethics of New Information Technologies», The Netherlands: University of Twente, Enschede 2005.