

Normative Notions of Authorship and Participation in the iSociety

Laura R. Lenhart

School of Information Resources and Library Science

University of Arizona

1515 E. 1st St.

Tucson, AZ 85719

lenhartl@email.arizona.edu

ABSTRACT

This paper addresses the role that conceptions of authorship play in governing participation in society. Following a brief review of the literature, the philosophical method of conceptual analysis is combined with historical examples to argue that conceptions of authorship have at least three universal features. First, 'authorship' demarcates certain activities and practices. Secondly, conceptions of authorship contain a normative element which is used to identify which activities and practices are constitutive. Finally, once identified those activities and practices become eligible for social, legal, and economic benefits that enable participation in the i-society.

Topics

e-Inclusion in the iSociety
Information policy, ethics, and law

Keywords

Authorship, participation, conceptual analysis, normativity

1. INTRODUCTION

Authorship is a topic that has been studied by researchers from a wide variety of fields, including literary theory, sociology, history, bibliography, and critical theory. Each of these researchers are equipped with very different sets of theoretical commitments, preferred methodologies, and objects of study.

Literary theorists have typically focused on the role, or lack thereof, that authors have played in fixing or constructing the meaning and significance of their texts. Towards this end, they have often been particularly concerned with teasing out the intentions of individual authors through close readings of their works, correspondence, unpublished materials, and other documentation of their lives. In Barthes "The Death of the Author," he argues not that individuals have ceased to engage in text-producing activities, but that the author is not, and should not be, the figure around which meaning and significance are constructed (Barthes, 1977).

While often grouped with Barthes' critique of intentionalist approaches, Foucault's seminal "What is an author," is better

characterized as a broad sketch of a research agenda which aims to identify the social, legal, and economic processes that lead to the development of the particular role played by the author-function. Following Foucault, the legal historian David Saunders has stated that "it is certainly valuable to distinguish between the individuals who writes and the authorial personality, status, or function which he or she might bear and to which legal capacities might attach" (1994, p. 99). So, too, with the actual practices and activities that individuals may engage in, and the special recognition or function that is borne out by conceptions of authorship.

Despite the attention and effort that has recently been paid to the subject, there is relatively little consensus regarding what authorship is. There is certainly no widely agreed upon definition of authorship, despite the multitude of historically and culturally specific definitions of authorship that have been used in the literature. Authorship has been variously defined, implicitly or explicitly, as the professional, market-driven production of cultural commodities (cf. Adams, 1990; Griffin, 1990; Turnovsky, 2003); the autonomous creation of original texts or ideas (cf. Haynes, 2005); and authorship as compilation or craftsmanship (cf. Summit, 2003; Minnis, 1984).

Attempts to define the term are complicated by the fact that authorship is a social construct that has been constructed in different ways in different historical periods and contexts (Summit, 2005). At best, these definitions are well-suited to describing authorship within certain historical periods or contexts, but as authorship is not limited to a particular historical period, nor isolated to any particular culture, none of these definitions are well-suited to describing authorship as a global phenomenon. In particular, these sorts of definitions are unable to capture authorship practices in the early manuscript period, or authorship outside of the West and among indigenous peoples. As a result, they are poor responses to the question, "What is authorship?"

Given the recent attention and the central role 'authorship' plays in our conceptual web, it would be useful for researchers and scholars to have some consensus regarding an answer to the question posed above. The philosophical method of conceptual analysis may be a useful tool to identify such common ground. Conceptual analysis can generally be described as the process of breaking a concept down into its basic components in order to reveal its logical structure. Despite the fact that substantive conceptions of authorship have changed over time and differ between cultures, it is possible that the structure and function of the concept may be stable.

Conceptual analysis is also a useful methodology in this particular case, as it allows us to avoid problematic anachronism, teleology, and arguably cultural specificity which can make universal definitions impossible, and consensus in a multidisciplinary environment difficult. I argue that there are several universal features of 'authorship,' and that these features shed light on the role that conceptions of authorship play governing participation in society. By illustrating these features with historical examples, we can also attempt to ensure that they are consistent with the historical record. While by no means offering a universal definition of authorship, these features do form the basis for a useful theoretical framework.

2. DEMARCATION

Quite apparently, not all text-producing activities and practices are those which we consider authorship. As Foucault observes, "a private letter may well have a signer-it does not have an author; a contract may have a guarantor-it does not have an author. An anonymous text posted on a wall probably has a writer-but not an author" (Foucault, 1979, 148). This illustrates an important feature of society: only certain kinds of activities and practices are constitutive of authorship in any given context.

Authorship is something that persons do, either alone or in concert. It refers to a particular set of activities or practices. There are a wide range of practices and activities which have at times been associated with authorship: writing, publication, patronage, compilation, dictation, editing, etc. (cf. Griffin, 2005; Summit 2003; Dobranski, 1999). This list is by no means exhaustive, rather, it is intended to demonstrate the variety of activities and practices which are candidates for authorship. Not all, or even most, of these activities or practices have been constitutive of authorship in any particular context. Depending on the context and historical period, different activities have been interpreted as "authoring" (Summit, 2003). The same activities and practices in one historical context that were considered authorship may not necessarily have been considered authorship in another. Conceptions and definitions of authorship necessarily identify which activities and practices are constitutive of the concept. In other words, 'authorship' necessarily demarcates certain activities and practices.

3. NORMATIVE ELEMENTS OF 'AUTHORSHIP'

If we accept that 'authorship' demarcates certain practices or activities, we can further examine the means of demarcation: that is, how and why are certain practices selected but not others? I argue that conceptions of authorship necessarily contain a normative element that is used to identify those activities and practices that are consistent with the standard.

3.1 Types of normative judgments

Descriptive statements are those that purport to describe some feature of the world: "The sky is blue," "The table has four legs." These can generally be contrasted with normative claims that involve evaluative judgments and prescriptions: "Sushi is good,"

"That's not fair," "One ought never lie" (cf. Wengert, 2001). There are also several different classes or categories of normative judgments or claims: aesthetic, epistemic, and moral judgments are each different sorts of normative judgments.

Aesthetic judgments involve judgments of taste and beauty. "Sushi is good" is an example of an aesthetic judgment, as is "The *Pieta* is beautiful." Similarly, the statement that "Mann's *The Magic Mountain* is a masterpiece" is also an aesthetic judgment. In arguing that 'authorship' involves a normative element that is used to demarcate certain activities and practices, I do not mean to argue that 'authorship' involves aesthetic judgments. Rather, I contend that in addition to judgments of taste or beauty, conceptions of authorship also contain moral and epistemic normative judgments which are used identify certain kinds of practices and activities that are deemed more worthy or valuable.

Moral judgments and claims are those which track the rightness or wrongness and goodness or badness of actions or character. Normative epistemic judgments or claims track features of some of our epistemological beliefs about how we acquire knowledge and what knowledge consists in. Not all epistemic judgments or claims are normative. Statements or judgments concerning truth are arguably descriptive. However, statements and judgments concerning knowledge are normative, and are also importantly involved in conceptions of authorship.

3.2 The Romantic conception of authorship

To illustrate, let us consider the Romantic conception of authorship: the autonomous creation of original ideas and text (cf. Haynes, 2005; Woodmansee, 1984). This particular conception of authorship involves the notions of 'originality' and 'genius' and can be traced as far back as Edward Young's *Conjectures on Original Composition* (1759). His work would be influential on many German philosophers during the 18th century, who adopted his thoughts on original composition in their own works on the nature of authorship and literary property.

Prior to this, the received view of authorship was the idea that the author is best characterized as an artisan or as a craftsman: he uses traditional materials, rules, and ideas, those that had been handed down by posterity, in order to produce certain effects. Authors could occasionally move beyond the mere manipulation of received goods to create works that were truly great. In these instances, authors were said to be inspired: typically by the Muses or God (Woodmansee, 1984). What is important is that the source of inspiration was external to the individuals who were actually writing.

Young substituted originality and genius for inspiration. The source of the great works was no longer situated outside of the author, but within:

The mind of a man of Genius is a
fertile and pleasant field, pleasant as
Elysium, and fertile as Tempe; it enjoys
a perpetual Spring. Of that Spring,
Originals are the fairest Flowers:
Imitations are of quicker growth, but
fainter bloom (1759).

This particular passage highlights two features that have been inherited by the Romantic conception of authorship. First, it is notable that the source of originality lies in the mind of the writer. Secondly, while the genius produces both works that are imitations and works that are original, original works are to be valued more than imitations. While this may seem both intuitive and obvious to the modern reader, it is a marked contrast to earlier scholastic attitudes towards composition, knowledge, and authority.

On this interpretation of authorship, we can equate "Mary is an author," with "Mary autonomously creates original ideas and text." That statement is much stronger than descriptive statements such as "Mary writes" or "Mary wrote that text." While the latter two statements are descriptive accounts of a particular individual's activities, the former involves an evaluative judgment about the nature and result of those activities: that Mary acts autonomously, and that the results are "original." Built into this particular concept of authorship is the notion that originality is to be sought and encouraged.

4. SOCIAL, LEGAL, AND ECONOMIC BENEFITS

Having hopefully established the normative feature and the demarcative function of 'authorship', we can identify another common feature: once certain practices or activities have been demarcated as constitutive of authorship, those practices and activities are eligible for certain social, economic, and legal benefits. These benefits play an important role in governing participation in society. As a result, there are practical ramifications to the particular conception of authorship that obtains in any context.

The legal instrument of copyright, for example, is designed to give individuals the exclusive rights to copy, distribute, display, and make derivative works. These rights give copyright holders an ability to control how works are accessed, disseminated, and used within society. It also allows authors to profit, either socially, economically, or both, from the distribution and sale of their works. Copyright originates with authors, but only certain kinds of works are eligible for copyright. Eligibility is dependent upon a particular normative conception of authorship: works must display originality in order to qualify. The following sections will attempt to demonstrate that intellectual property laws, copyright in this case, often assume or are based upon particular conceptions of authorship.

4.1 'Authorship' and copyright

The German states were slow to adopt copyright laws. Even as they did so, each state only had the ability to enforce the laws within their particular territory. Combined with a shared language and literary culture, this created an environment ripe for piracy (Saunders, 1992). Piracy negatively affected writers, as it reduced printers' ability to compensate them for their works. Most authors wanted to end piracy and therefore wanted more stringent, enforceable copyright laws that recognized their interests and rights in regard to their work.

The 18th century German philosophers work on the nature of authorship and composition was motivated by, and contingent upon, a particular set of historical circumstances (cf. Saunders, 1992; Woodmansee, 1984). They were doing more than just theorizing about the nature of authorship: they were utilizing this conception of authorship as an argument for a particular kind of intellectual property law. If an authors' work is an expression of his or her personality or essence, who else would it belong to but him or her? They were establishing the groundwork for what would later be called the rights of personality which formed the basis for much of the Continental framework of intellectual property.

Intellectual property laws tend to presume or rely upon particular conceptions of authorship. This is true not only of the Continental framework for intellectual property, but also of the Anglo-American model instigated with the landmark 1710 Statute of Anne. The Statute of Anne was the first legal copyright law implemented, and also marked the first time that authors, rather than printers or booksellers, were the locus of the right to copy, sell, and distribute works. For our purposes, it is important that rather than cementing the status of literary property in early modern England, the Statute of Anne sparked a debate on the nature of authorship and literary property that lasted from 1710 until 1774, with the House of Lords ruling on *Donaldson v. Becket* (Rose, 1994).

An important thread running through the debate was the role of authors within society. The early 18th century was the beginning of the rise of the professionalization of authorship heralded by the growth of a literary marketplace and a decline in the importance of certain kinds of patronage. Authors, including the likes of Samuel Johnson and Alexander Pope, were increasingly considered independent professionals. This particular conception of authorship could be characterized as the production of cultural commodities. When the House of Lords ruled in 1774 to uphold the limits to copyright terms established by the Statute of Anne, the House effectively ruled in favor of a conception of authorship that presented the author as a proprietor, whose interests must be balanced with those of the public (cf. Ross, 1992).

These two competing conceptions of authorship, as the production of cultural commodities and as the autonomous original text and ideas, form the basis for two very different models of intellectual property law. The Continental model, which presumes the Romantic notion of authorship, assumes that authors have certain inalienable rights in regards to their works. Our Anglo-American model, while influenced by the Romantic notion in its requirements on originality, is still primarily based on the idea that the author is best characterized as a proprietor.

5. AUTHORSHIP AND PARTICIPATION

As demonstrated by the fact that these laws and policies presume a particular conception of authorship, there are ethical considerations regarding whether that conception of authorship fosters participation in the i-society. The activities and practices demarcated by conceptions of authorship become eligible for social, legal, and economic benefits; but those activities and practices that are not demarcated can be hindered and individuals'

engaging in them may be excluded. This section of the paper will use examples of indigenous cultural production to demonstrate that there are important ethical considerations to be made regarding how we foster participation in the i-society, and what our objectives ought to be.

First, however, it will be necessary to demonstrate the importance of authors and authorship to participation in society. The following section endeavors to lay out the relationship between authorship and participation.

5.1 The importance of authors and authorship to participation in society

Whether we characterize ourselves as members of an information society, knowledge society, post-industrial society, or dismiss such assertions as misleading, it seems relatively uncontroversial to note that the means through which information is accessed, disseminated, and used are changing. Perhaps more controversial, but nonetheless plausible, is the assertion that information itself is becoming or has become more fundamental to the cultural, economic, and social activities that we engage in.

Regardless, it remains true that before information or knowledge can be accessed or acquired, it must first be created or be available through some means. Primarily, information or knowledge is possessed by individuals who then choose to share or exchange it. Writing, editing, collaborating, and other similar activities can be means of sharing and exchanging that information or knowledge. From the foregoing sections, it should hopefully be clear that authorship, then, is a particular kind of sharing and exchange of information, one that is facilitated by the social, legal, and economic benefits that are conferred upon those activities and practices that are deemed constitutive.

Writing, collaborating, editing and similar activities are just a few ways that individuals participate in society by sharing the knowledge or information they have. And when individuals access and use the products of those activities, they, too, are participating in society. This raises an important point about these activities and participation: by engaging in them individuals actively participate in society, however, their engagement also enables other individuals to participate by accessing the products of those activities.

5.2 Indigenous attitudes towards intellectual property and authorship

As noted above, the Anglo-American system of intellectual property law is deeply influenced by the idea that the author is best characterized as a proprietor: an individual involved in the production of commodities which are available through a market, whose interest must be balanced with that of the public. This can be contrasted with the Continental model of intellectual property law that is apt to consider works created by an author to be an expression or manifestation of her personality or essence. While these are markedly different approaches to intellectual property law influenced by different notions of authorship, they are more closely related to each other than to indigenous or non-Western conceptions of authorship and intellectual property.

Both conceptions assume that the appropriate locus of intellectual property is that of the individual. Many indigenous and non-Western cultures view the community or society as the possessors of ideas, information, and knowledge (cf. Brown, 2003; Townley, 2002; Endeshaw, 2005). While individual writers, artists, or storytellers may be the custodians or guardians who are entrusted with preserving and sharing such information or knowledge, their role as authors is more akin to that of a trustee (Brown, 2003, p. 46). Ultimate responsibility and ownership for the intellectual property rests with the community, group, or society.

The case of *Bulun Bulun and Milpurrurru v. R & T Textiles Pty. Ltd.* is a good illustration of the way that many indigenous cultures view the relationship between an author and the community (Brown, 2003, p. 44). The first plaintiff in this copyright infringement suit, Bulun Bulun, is an Aboriginal artist whose work has attained a global following. The second plaintiff, George Milpurrurru, is a senior clan official for the Ganalbingu community. When a textile company imported fabric containing images from one of Bulun Bulun's more famous paintings without his consent, Bulun Bulun and Milpurrurru together brought suit: they alleged that not only was Bulun Bulun harmed, but his community, as well (Brown, 2003, p. 45-46). While Bulun Bulun may be "authorized" by his clan to depict certain kinds of religious and cultural imagery, he does so for the benefit and under the supervision of the traditional owners: the clan.

This particular case illustrates the role that many indigenous authors or creators play within their communities. Case law regarding indigenous cultural production has in many ways improved, for instance, much indigenous art was once deemed uncopyrightable: folklore, or "folkloric" art, was regarded as lacking the requisite originality (Brown, 2003, p. 44).

These conceptions of authorship and intellectual property are not uncommon among indigenous peoples and outside of the West. In Asia, difficulty enforcing intellectual property law is partly attributable to differing social and cultural assumptions regarding the nature of intellectual property, namely that intellectual "property" is ultimately held by society or the community as a whole (cf. Endeshaw, 2005).

At this point, it should hopefully be clear that conceptions of authorship underlying intellectual property law are fundamentally different from those held by many indigenous communities and non-Western cultures.

5.3 Ethical considerations

By conferring certain social, legal, or economic benefits on the activities and practices that are deemed constitutive, the notion of authorship facilitates participation in society for those who engage in those activities, and also for other individuals accessing the products of those activities. Depending on the particular conception of authorship that obtains, more or fewer of those activities will be facilitated, which will have consequences for not only those engaging in them, but also for those who participate by accessing those products.

It does not follow from the fact that the conceptions of authorship which underlie intellectual property law are fundamentally different from those which obtain in indigenous cultures that the

conception somehow fails to foster participation in society, or that other conceptions of authorship foster participation more effectively. But, it does demonstrate that we are faced with a set of alternatives. Presented with such, we can ask ourselves which conception is the *best* means to foster participation. The final section of this paper attempts to identify one ethical consideration regarding conceptions of authorship and participation in society, though ultimately abstains on the issue.

Before we can address the question of which conception of authorship best fosters participation in society, we must first address the question of what our goals are. A natural objective regarding participation would be to maximize participation in terms of the total number of individuals who participate. Another compelling objective would be to ensure participation among the least-advantaged members of society. There are certainly other objectives that we might adopt, however, given limited time and space, I will devote my attention to what seem the most compelling candidates.

5.3.1 Maximizing participation among individuals

In his defense of intellectual freedom, John Stuart Mill provides us with one reason to think that maximizing participation among individuals would be optimal: exposure to a wide array of opinions, perspectives, and beliefs is the best means to ensure that individuals acquire true beliefs. If, as Mill argues, truth is generally more useful than falsity, then maximizing participation among individuals would be a way to attempt to ensure that they acquired more useful beliefs (Mill, 1989). If this were our goal, then we would ideally want a conception of authorship which would facilitate participation for as large a number of individuals as possible.

5.3.2 Ensuring participation among the least-advantaged members of society

Alternatively, we might decide that in the interest of being just, we might decide to ensure participation among the least-advantaged members of society. While the best way to ensure participation is not immediately clear, John Rawls' could potentially provide us with the principles that might guide such an endeavor (Rawls, 1999).

Consistent with Rawls' two principles of justice, to ensure participation among the least advantaged members of society we might adopt a conception of authorship that preserved an egalitarian right to participate, such that individuals have equal opportunity to engage in the practices and activities that are constitutive. Any differences in the way social, legal, economic benefits of demarcation would be distributed would need to be guided by the principle that inequalities should be structured in such as way as to benefit the least advantaged members of society.

6. CONCLUSION

The picture that emerges from the above discussion of authorship hopefully establishes that conceptions of authorship utilize normative judgments regarding which text-producing practices and activities are more valuable in order to establish the limits and boundaries of the term. Once demarcated, those activities and practices are eligible for certain legal, economic, and social

benefits that facilitate participation. This framework for authorship provides a means of establishing non-arbitrary order on what is a rich and varied subject, as well as raises some important ethical considerations regarding which conceptions of authorship best foster participation in society.

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