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Mapping the Frontiers of Governance in Social Media

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The research activities described in this paper have been initiated by Wolfgang Schulz, Jan-Hinrik Schmidt (both Hans-Bredow-Institut for Media Research, Hamburg), Karl-Heinz Ladeur (University of Hamburg, Faculty of Law), Niva Elkin-Koren, Tal Zarsky (both University of Haifa, Faculty of Law), Gustavo S. Mesch (University of Haifa, Department of Sociology)

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***Abstract:** The reflections about “Governance in Social Media” presented in this paper are not just de-scribing an interesting area for potential studies but have already led to certain research schemes. This paper describes the starting point for future research in the field of governing Social Media Platforms (see below 1.). The schemes themselves are briefly outlined in the paper as well (see below 2.). We believe that the state of knowledge and the ideas tossed around in this paper can be the starting point for much more research activities.*

1. Social Media and Governance

1.1 Knowledge on “Web 2.0” and “Social Media”

Over the last 15 years, the Internet has become an integral part of society. It allows for different modes of action, ranging from mass-media-like communication over interpersonal ex-change to human-computer-interaction. More recently, technological innovations like Blogs, Wikis, Social Networking Sites and Tagging Platforms, as well as shifts in the corresponding practices have further lowered the barriers to create, share and modify information and knowledge online. Although the popular chiffré “Web 2.0” (O’Reilly, 2005) puts too much emphasis on the notion of a revolutionary change (as opposed to a mere evolution from existing practices the internet already provided), it nevertheless captures the idea that the Internet has reached a stage where it has an even more profound influence on individuals, organisations and social systems – as well as on existing content markets and forms of human interaction.

Various authors from different disciplines have characterized these developments as the emergence of “commons-based peer production” (Benkler, 2006), as a shift from clear-cut roles of media producers and media users towards the mode of “produsage” (Bruns, 2008), or as an environment for “participatory culture” (Jenkins, 2008). At the heart of the technological innovations and the advanced forms of social interaction these “social media” afford, there are two central and relatively novel features to which researchers turned their attention: (1.) The articulation of the social graph and (2.) lower barriers for user generated content and social production.

1. Articulation of the social graph: The prototype for this characteristic are social network sites (SNS), i. e. platforms which allow users to present information

about themselves (such as age, gender, location, education and interests) and to make connections to other users explicit by adding them to friends' or contacts' lists (Boyd/Ellison, 2007; Ellison/Steinfeld/Lampe, 2007). These functions are not, however, restricted to SNS, but might also be integrated into other sites such as video platforms or collaborative tagging systems. The articulation of the social graph is thus usually not an end in itself, but rather the means for other types of interaction: Sending and receiving messages to/from site members, participating in online communities and fora, and exchanging multimedia content (music, short movies, artwork and pictures). However, it could also serve as a measure to signal to others one's social connections and standing (Tom Tong et al., 2008; Walther et al., 2008).

2. Lower barrier for user-generated content (UGC): Assisting individuals to not only consume information and content online, but also to become active creators and contributors, has already been mentioned as a key characteristic of the Web 2.0. The lower costs of coordinating creative efforts and distributing materials allow individuals to generate their own content and collaborate with others in social, economic and political activities (Benkler, 2006; Tapscott/Williams, 2006). Social media platforms facilitate various ad-hoc as well as formal and small- as well as large-scale online communities, where UGC flourishes: bloggers post news and analysis, independent musicians distribute their music (MySpace), and amateur photographers post their photos (Flickr) or distribute their videos (YouTube). UGC also takes the form of large-scale online collaboration in producing and disseminating knowledge (such as the Wikipedia project). Most notably, these developments change the context in which professional journalism is taking place and giving rise to sometimes competitive, most often complementary practices such as "citizen journalism" (Gillmor, 2004) or

“participatory news” (Deuze/Bruns/Neuberger, 2007), where “the people formerly known as the audience” (Rosen, 2006) are becoming more active in the process of producing, filtering and disseminating information. These dynamics challenge the role of professional experts, the organizational structure of producing and disseminating knowledge, and the ability to control access to content.

Both characteristics of social media raise some fundamentally new aspects, e.g. with regard to the boundaries between the public and private realm. Within articulated social graphs, different layers of communication which used to remain separated and undisclosed in the past are now starting to overlap and come into the public light. A message, picture or video primarily addressed to friends or class mates can systematically or accidentally end up in the hands of the public at large (as was the case, for example, with the “Star Wars”-Kid). Furthermore, this type of information may also become accessible to third parties who could use the information for additional purposes, beyond those originally intended by the parties, e.g. employers scanning potential applicants or the police validating information (generally Strandburg, 2008). Similarly, the rise of UGC and collaborative production of knowledge may destabilize the notion of private ownership over content.

1.2 Knowledge on governance

The research project addresses the forms of governance emerging within these novel technological and social spaces. Since governance is in close relationship to legal regulation and discussed by legal scholars, the academic debate has certain national particularities. In the German line of debate, governance is understood to be a counter-concept to hierarchical control, relating to both the structure and the process of regulation. Arthur Benz defines governance as “the sum of all of the parallelly existing forms of collective regulation of societal circumstances” (cf.

Benz 2003: 21; Trute/Kühlers/Pilniok, 2008; Schuppert, 2008: 24). In other countries, the literature concerning "governance" refers to a broader concept which includes governmental regulatory steps of various nature. Governance refers to a system of norms, rules, laws – and factual restrictions of similar effect – that guide and restrain the activities in society (based on Keohane/Nye, 2001) and is not exclusively conducted by the state (although the state is a powerful player in this context). Private entities, research and development, nongovernmental organizations and citizens all play an important role in shaping and maintaining governance in general – and in the online realm in particular.

While it remains to be seen whether these concepts constitute a paradigm shift in regulatory theory, governance certainly involves a structural view which seems especially adequate for analyzing regulation in communication networks, which by definition have no organising centre. The mapping of governance in the online realm has famously called for addressing an additional dimension – that of code, i.e. the design of the underlying software interface (Les-sig, 1999; in a similar vein and more recently also Zittrain, 2008). The design "governs" the online conduct of users by providing interfaces and algorithms for certain actions and operations. It also governs in subtler ways, by proposing specific default settings or a specific form and range of options and configurations, while leaving out others. We will address these elements in depth, below. This element joins direct and indirect state regulation, market forces and social norms to formulate a four pillar structure which governs online conduct.

The analysis of online governance has taken several turns. At the relative dawn of the web, a cyber-libertarian notion emerged, arguing that only an extremely limited level of direct (national) state regulation in this realm is needed (Barlow, 1996; Johnson/Post, 1996). This, it was argued, was both because it was unnecessary given the strength of the three other elements mentioned (markets,

social norms and code), and because it would be quickly rendered outdated and moot (see Netanel, 2000, for a full discussion and critique of this analytic discourse). At this point in time, a consensus has built that such radical positions are not always adequate starting points for analysis. This all brings us to examine the nature of governance in the contemporary age of social media.

1.3 Governance in social media relating to certain legally protected interests

Online social media facilitate the emergence of new forms of coordination by introducing new dynamic processes where individuals are working together with various degrees of coordination (Shirky, 2008; Howe, 2008). The network structure further transforms existing institutions of governance. Emerging business models (such as online marketing and peer promotion, which are enabled by data mining techniques) are shaping the very nature of interpersonal communications and community building (Wellman/Haythorwaite, 2002; Mesch/Levanon, 2003). In fact, the social media realm is leading to the emergence of novel and intriguing forms of governance. One can argue that while the online dynamics drawn out above might appear random and spontaneous, they proceed along the lines of specific sets of rules and norms. These new forms of social coordination challenge our current understanding of governance. The purpose of our research is to conduct a comprehensive investigation of the sources, nature and impacts of such norms and rules of governance in the social media realm.

The social web has been the object of several studies in recent years, some of which specifically addressed certain aspects of social web governance that relate to different legally and socially protected interests. We have chosen three of those interests: Privacy and transparency, ownership of content, and protection of minors.

1.4 Privacy and transparency in social media communication

The issues of privacy and transparency in communication take a central role in legal and ethical discussions regarding the conduct of users in social media. Even a casual review of daily papers will, no doubt, reveal the reflection of these issues in the news – stories concerning the disclosure of information in public, the misuse of information or identity, and many other variations. Of the various issues these topics entail, we choose to focus our analysis at this juncture on two areas for in-depth research. Here, within the broader theme of protecting privacy and anonymity while facilitating pseudonymity we address the notions of (1) protecting personal information and (2) transparency in communication when addressing issues such as “astroturfing”.

1.5 Protecting personal information

Many social media, particularly social networking sites, serve the purpose of disclosing information towards others, and this social function quickly leads to privacy issues. As Grimmelmann (2009) puts it: “Users want and need to socialize, and they act in privacy-risking ways because of it”. Privacy-related problems transpire at various points along the personal information flow – at the point of collection, analysis and usage. Questions arise concerning the uploading of information by one individual, which pertains to another (regarding status, whereabouts or – perhaps most intriguingly – a picture). They concern the liability of the platform for managing and distributing this information – for instance by allowing various circles of “contacts”, “friends” or other online participants to access the information. They also concern the ability of “third parties” (besides the platform itself – such as data collectors or potential employers) to use and access information taken from within the social media.

Face-book might serve as an example for problems revolving around privacy issues; applications using data without explicit prior consent by users ignited enormous debate about Facebook's privacy policy which unfolded in various fora (Boyd, 2008). The issue of using information outside of its originating context, thus destroying its "contextual integrity", has been recently developed in general by Nissenbaum (2009).

There are several works on the legal background - separately for different jurisdictions - with regard to protecting personal information and the complex legal framework cannot be outlined here in detail. However, the specific legal problems of social media in this respect have so far only been tentatively touched (for Germany Dix, 2009; Schulz/Dreyer, 2007; for the US Grimmelman, 2009). A broader approach to privacy issues on social network platforms that also incorporates looking at social norms and design factors has been adopted by various other scholars. Acquisti/Gross (2006) detected patterns among Facebook users which are compatible with a number of different hypotheses. Some evidence is compatible with what they call "signalling hypothesis", i.e. publishing personal information because the benefits they expect from public disclosure surpass its perceived costs. Yet, the evidence is also compatible with an interface design explanation, such as the acceptance (and possibly ignorance) of the default, permeable settings, the code. Peer pressure and herding behaviour may also be influencing factors, and so also myopic privacy attitudes and the sense of protection offered by the (perceived) bounds of a campus community (Acquisti/Gross, 2006). A comparison between Facebook and MySpace showed similar patterns, but generally more trust in Facebook and its members (Dwyer/Hilz/Passerini, 2007). Barrigar (2008) described different privacy elements and features of six social networks.

Recent studies indicate a possible dissociation between disclosure of online and offline personal information, indicating the possibility of the emergence of two alternative normative systems of social behavior: one of offline norms and one of online norms of behaviour. In a study of young adults that used social networking sites it was found that participants perceived that they disclosed more information in these sites than they disclosed personal and identification information in general (Christofides/Muise/Demarais, 2009). Another study on adolescents' disclosure of personal information in Instant Messaging found that only adolescents who perceived reduced non-verbal cues were more likely to feel disinhibited disclosed more personal information while using Instant Messenger (Schouten, et al, 2007).

Mesch and Becker (2010) investigated the link between norms of private information disclosure online and offline in a sample of U.S. teenagers and found evidence for a generative effect of CMC as they found that norms regarding online identity disclosure were not related to norms of disclosure of offline identity suggesting that youth hold two different set of norms that are not related: one that indicates when and under which circumstances to disclose personal identification information to others and the second regarding what online identity to disclose. Furthermore, the most important and significant result of this study is that norms of disclosure of online identity are associated with online behavior. At the same time, it is important to note that young adolescents and adults apparently are starting to develop mechanisms to control the personal information that they make available in social networking sites (Tufecki, 2008). This area has only started to be investigated and requires intensive research to fully understand the mechanisms of user governance.

1.6 Anonymity and transparent communication

Whether or not to disclose one's identity in social media is a controversial issue in many ways. The question as to the extent of the right to and protection of anonymity is currently widely discussed (see e.g. Brunst, 2009). Rather than approaching this general question, we chose to focus our query on a narrow, yet important, matter: transparency in communications in face of the fear of the usage of false identities for manipulative objectives. The underlying assumption of companies, governments and other institutions that engage in "astroturfing" appears to be the possibility to generate a great impact by many (artificial) independent voices. This issue is of great significance in social media, given the importance of trust in seemingly "unfiltered" and thus authentic communication by users and the lack of physical or verbal cues. The use of false identities could "contaminate" the discourse, while leading to consumer confusion and other problematic outcomes (see Bartow, 2008; Mackie, 2009). Numerous policy issues are at stake here, including consumer protection, recipients' protection, balanced political debate, transparency as regards the purpose of communication and finally the effectiveness and added value of new knowledge systems such as product or other rating platforms.

"Sock-puppetry", "astroturfing" and other problematic practices are only beginning to come into the academic and policy debate. Having said that, concealed advertising in social media has already been the subject of state regulatory action, not in Israel or Germany, but in the US. The relevance of undisclosed self-promotion is underscored by cases such as the one involving a company called "Lifestyle Lift" that settled with the NY State Attorney General over publishing fake consumer reviews on the internet (http://www.oag.state.ny.us/media_center/2009/july/july14b_09.html). Additional rules recently issued by the FTC (cf. 16 C.F.R. Part 255) regulating bloggers' ability to favourably report on items after having received gifts and promotions from

their manufacturers and producers tie in to this upcoming complicated policy matter.

Similar cases in Germany (such as the case of the Deutsche Bahn AG commissioning PR agencies to post anonymously and pseudonymously in blogs and fora, see decisions of the German Council for PR (DRPR), a self-regulatory body for the public relations industry, on 27 June, 24 August and 7 September 2009, or the case of the German Farmers Association encouraging its members to speak up favourably as “private persons” in online discussions concerning the Association, see decision of the DRPR on 2 November 2009) have provoked an initiative by the DRPR to establish a “netiquette” for PR agencies, blogs, social networks etc. which deal with issues of intransparent advertising (see <http://www.wiwo.de/technik-wissen/schleichwerbung-in-blogs-soll-oeffentlich-angeprangert-werden-410460/>).

1.7 Ownership of content

As mentioned in the introduction, the rise of user-generated content (UGC) and collaborative production is a central aspect of the social web, leading to a shift from industrial production of content to social production (Benkler, 2006; Bruns, 2008). Consequently, users in the UGC environment are more actively engaged in creating cultural flows. Users-authors, “Prosumers” (Toffler, 1980) or “Producers” (Bruns, 2008), are generating content and at the same time using content originated by others. At the normative level, social production is somewhat controversial. Several scholars argue that UGC endorses political empowerment by enabling mass self-communication and thereby promoting freedom and autonomy (Castells, 2009). Others have argued that the shift from an environment where the production of content was dominated by the highly concentrated culture industry into a hybrid environment where content is also generated by

individual users and groups, is democratizing the public sphere. This marks a greater progress towards a participatory culture (Lessig, 2004) and a more democratic public discourse (Benkler, 2006; Horowitz, 2009). Other scholars were more skeptical, raising concerns regarding the decline of journalism and the old intermediaries (Netanel, 2000), the rise of new powerful intermediaries in the online environment (Elkin-Koren, 2010; Grimmelmann, 2009) and the potential exploitation of individual users by social media platforms owned by multinational corporations (Hetcher, 2008; Scholz, 2008).

Social production destabilizes the tenets of copyright law. Copyright law grants authors ownership over their creative work and therefore requires a license prior to each and every use of the work. This enables the owner to extract the commercial benefits associated with her copyrighted materials. The exclusivity offered by copyright, however, is sometimes unnecessary and often harmful to social production. Recent studies show that social production takes advantage of a variety of social motivations, such as self-expression, creative satisfaction and pleasure, and the wish to gain online reputation, self-esteem, affiliation and reciprocity within a community of users (Moglen, 1999; Helberger et al., 2008; Rafaeli/Hayat/Ariel, 2009). Moreover, current copyright law creates new impediments to access by individual amateur users who wish to make use of creative materials which are available online (Lessig, 2004; Litman, 2004; Cohen, 2005).

Another issue relates to the governance of informational resources. Copyright law, which governs the use of creative works, concentrates the power to authorize use at the hands of a single owner: individual author, employer, exploiting firm, or even partners who share ownership. What was suitable for the content industry, may not necessarily serve the needs of a collaborative environment

which requires coordination, cooperation and mutual accountability in Massive Multiauthor Collaboration (MMC).

Use and access to creative materials is also governed by social norms. As recently suggested by Fauchart/von Hippel (2008), there are norm-based intellectual property systems that provide group members with rights which are similar to intellectual property rights in their nature and the effectiveness of the protection provided. Similarly, Oliar/Springman (2008) describe how stand-up comedians protect their jokes using a system of social norms. Within the broader scope of property law and norms, Nobel prize winner Elinor Ostrom identified formal and informal rules which manage the use of (natural resource) commons and enable the sharing and making productive and sustainable use of resources (Ostrom, 1990). Such institutions, she argued, are contextual and tailored to particular environments. Similarly, the study of the institutional structure of social production requires a contextual approach. The purpose of this research is to explore social production and identify the institutions which govern the production and distribution of content in the social web. Our research will identify the design (i.e. interfaces, language, protocols), the legal and contractual rules (copyright, licenses, Terms of Use) and the social norms which shape the behavior of individuals and groups with respect to content.

1.8 Protection of minors

Minors' protection is a regulatory objective which can be distinguished from other aims which lead to finding that specific content is objectionable (or illegal under the system in place, e.g. hate speech, forms of pornography). Systems of protection of minors are intended to reduce the risks content might trigger for minors or – if the system is more elaborate – for young people of a specific age group (for an overview cf. Carlsson/Feilitzen, 2006). The forms of objectionable

information which we might aim to shield children from are varied. Regulation addresses obscene content of sexual nature, content including extreme violence, commercial solicitations which are unfitting (for instance promoting smoking and alcohol) for minors, hate speech and other matters which vary from society to society.

For a system to achieve this broader objective, it must meet the following criteria. Firstly, such a system needs means to classify content. It is typical for this aim that criteria for such a classification depend on values that differ on the level of nations, social milieus and even personal preferences. Secondly, there must be a system of protection depending on the classification of the content; there are basically two ways to model such a system: (1) reducing content and (2) reducing access by or availability to minors (De Haan/Livingston, 2009: 9 ff.). Since in most societies protecting minors is a commonly held goal and new media are always seen as a potential risk there is extensive research done on protection of minors in the media (Langenfeld, 2003).

Social media are extensively used by minors (Lenhart et al., 2007; Busemann/Gscheidle, 2009), so installing mechanisms of adequate protection for minors come as an important task. It is evident that both key features of the social web, the articulation of social graph and UGC, imply specific risks for children and adolescents (Livingstone/Haddon, 2009; Youth Protection Roundtable, 2009), such as cyberbullying or online-stalking. However, with regard to social media, up until now the debate is in an infant stage concerning all pillars of governance, although several initiatives already try to address some problems on a practical level, e.g. self-regulation of European platform providers (see agreement on the “Safer Internet Day” on 6 February 2007, http://ec.europa.eu/information_society/activities/sip/self_reg/phones/index_en.htm).

The applicability of the legal framework on social media in the context of governing the protection of minors is under debate (Ladeur/Wehsack, 2009; Lampert/Schmidt/Schulz, 2009). Although software design is already a means to protect children in the internet generally (e.g. tagging and filtering or age verification systems) there is no specific tool for social media so far. Recent evidence indicates that technological solutions (such as filters) alone do not provide protection from cyberbullying and cyberstalking (Mesch, 2009), but to achieve this objective. Our knowledge the role of design, social norms and contracts in social media has not been subject to academic research regarding the objective of minor protection and achieving this objective through various means of governance.

Currently we observe somewhat novel features – whether and how architectural measures could be applied towards facilitating governance for the protection of minors. For instance, some platform providers such as YouTube or Blogger.com have a reporting system in place which enables users to report on material which is deemed objectionable. Other systems allow for classification and tagging of information. On the other hand, systems apply various measures to reduce accessibility for minors through various measures of authentication. These will be examined as well.

1.9 Conclusion

The overview demonstrates that there is a profound lack of research that deals with governance structures within the realm of social media, especially with respect to the different pillars of governance identified (Law, Contracts, Code, Norms). Even for the topic of personal information, where there have been some empirical studies, the findings are fragmentary since e.g. contracts have not been

systematically included. Furthermore, interdisciplinary including legal expertise are rare. Additionally, in the analysis, comparative studies of governance structures in social media are lacking, both in respect to cross-country-comparisons and to comparisons across different social media practices.

2. *Research Objectives*

As mentioned before the evident lack of knowledge has motivated us to ponder about concrete research activities. The overall goal of those is to contribute to our understanding of governance in the realm of social media. To examine and map the governance structure, we chose three legally (and socially) protected interests which encapsulate, to a great extent, the overall breadth of issues information law is facing today: (1) privacy and transparency, (2) ownership of content, (3) the protection of minors. These three phenomena will be investigated for Germany and Israel, in accordance to the methodology we now present.

1. The first main objective is to map the governance structure of the social web. The re-search overview has shown that there are insights on some of the elements, but no comprehensive mapping of governance in social media as such. Governance in the social web is a complex matrix of factors, which are different in their scope and authority, originate from various sources and are defined by a variety of players. We will concentrate on four factors of governance which will serve as an analytical frame for future activities:

⊙ Law: formal rules which affect governance at the individual and communal level, including laws set by the state, regulation by agencies, co-regulation and direct regulatory limitations and restrictions on online behaviour. Laws could be setting mandatory rules and forms of conduct. They could also be setting "sticky"

defaults, which will re-quire parties to draft around them, if they are to be avoided. We will here give special concern to the role of the courts and judge-created-law, especially given that the diffuse, loose structure of social media will make it a “moving target” for legal control. Thus, in this context, this might lead to the shift of control from the state to courts at the expense of administrative agencies. When the law is unclear, as it most common-ly is in this fast moving realm, we will turn to the writing of scholars. We will also strive to take into account "law in action" – actual law suits filed and complaints voiced (while relying on press reports to the extent possible).

© Contracts: here we refer to private ordering (contracts and bylaws) and rules generated by platforms and users. Their existence reflects the preferences of the drafting party (as well as other opposing parties if the contract is accepted wilfully and with other options in hand), and they would arguably be enforced by the state, as they would be considered the extension of the will of both consenting parties. Governance could be set by the contractual provisions, by the remedies they assign or the information they provide.

© Design: the ways in which design of the relevant technological infrastructure may affect behaviour (e.g., enabling anonymity, structuring reputation, shaping coordination and invasive marketing) through features and options as well as interface or default settings. Future research will map and analyze existing designs and programs' architecture and will further inquire to what extent some technological measures are mandatory and to what extent providers might be liable for offering a particular design or for failing to do so.

© Social Norms: the informal rules, conventions and expectations on behaviour which are shared within certain cultures or communities, such as trust, reciprocity or privacy. Social norms shall be observed in a double perspective: in a horizontal one concerning their emergence in communication processes among users and a vertical one concerning the reaction of providers to patterns of behaviour and conventions emerging from these processes.

2. The second objective is to test six research questions regarding the relationship between the four factors of governance. This will enable us to explore the interaction between the four factors of governance and to develop a better understanding of the governance structure in the social web and of the interaction among the different forces which regulate the behavior of individuals and groups in this environment. The analysis can make use of existing findings regarding the relationship among these elements in other contexts, while striving to examine whether our findings fit, and what might be the reasons for differences (for general studies examining the relationship between contract and law, see Bebchuk/Posner, 2006; Johnston, 2006; for a general analysis of the relation between design and law, see Lessig, 1999).

There is one leading question for each connecting line between the corners.

1. Does the contractual framework comply with black letter law (including public law aspects and constitutional aspects)?
2. Does design coincide with law?
3. Do social norms coincide with design?
4. Does the contractual framework coincide with social norms?
5. Do social norms coincide with law?
6. Does the design coincide with contract?

3. The third objective is, by means of comparative research design, to explore similarities and differences regarding governance in the social web between (a) different contexts of social action, (b) different social environments, and (c) different points in time. By doing so, our research will provide a much richer understanding of the notions of governance (through the understanding of the differences along these lines).

(a) To analyse the different contexts of social action, the governance structure and the re-relationship of the four factors will be compared for the three legally and socially protected interests.

(b) To analyse the differences between social environments, actual online behaviour in Israel and Germany, countries which differ in their legal regimes and cultural contexts, will be studied.

(c) To analyse different points in time, our research will consist of two waves of analysis which allows for the tracking of changes as well as stability in governance structures, the relationship of the four governance factors and actual online behaviour.

4. The fourth and final objective is to assess the consequences of the findings for the proper understanding of the role of law and to discuss whether it is possible either in the field of substantive or procedural" law" to include at least a supplementary role for self-organisation (Ladeur, 2009; Teubner, 2006) and spontaneously-generated rules in online communities. Joel Reidenberg in particular has developed a parallel to *lex mercatoria* as an emergent base of self-organized law for the field of relationships in communications law named "*lex informatica*" (Reidenberg, 1998). The concept of law in a postmodern setting has

to be reflected and reframed with a view to the generation of social rules which might be regarded as a functional equivalent to state based law. The protest movements which can be observed within the social media (see Grimmelman, 2009) might be a case for a kind of social standards at least which could transpire into the law in the stricter sense by the traditional "bridging concepts" such as negligence (Brüggemeier, 2006, p. 52). Their emergence might also be supported by a reference to constitutional principles. At this point a reference to the emerging field of "network contracts" (Teubner, 2006) could be helpful. This approach lends itself to a new understanding of the legal value of the heterarchical web of relationships between the partners of a franchising firm for example (as opposed to the traditional look at the individual contracts themselves). To fulfill the fourth objective we build on those concepts of governance and try to develop them further making use of our analytical as well as our empirical findings.

3. Further research questions

1. What about the development of the structures of governance on social media plat-forms? Is there a kind of self-governance by the users? If so, in which cases (type of platform, issues,...) do they take over responsibility?
2. How can the legal system make use of the knowledge about governance on social media platforms to form an adequate, procedural framework?
3. Can cross-country comparison demonstrate significant difference between the structures of governance on social media platforms? If so, what are plausible causes for those variations?

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