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Articulating a Chinese Commons: An Explorative Study of Creative Commons in China[1]

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In this article, I use the introduction of the Creative Commons approach to China as a lens through which to examine the processes of framing arguments in a way that shape public attitudes. Creative Commons has been organized as a social movement which tries to implement and render immediate, a cultural shift. How it diffuses its message in China is key to understanding its effort to reframe attitudes toward the dominant paradigm of positioning copyright. I will first discuss CC as a global movement aiming at building a cultural commons for the future. I then explain the differences between the original context from which CC movement emerged and the Chinese one where CC is now picking up momentum. The combined effect of the ideological ambiguity of CC and local conditions ends up producing different discursive positioning for CC China. Instead of acting primarily as a counter-force against the privatization of intellectual works, CC China is first and foremost about cultivating the "rights consciousness" of Chinese people and giving individual creators (especially marginalized groups) a sense of controlling their own work in a communication environment that is dominated by both the state and the market forces.

There is a complex debate over global flows of information and the implementation of international intellectual property regimes, such as the *Agreement on Trade Related Aspects of Intellectual Property Rights* (TRIPS). While critics have lined up on one side or the other of an ideological divide over the benefits and burdens of universalizing strong intellectual property (IP) protection, more attention could be given to the evolution of the tropes of debate — framing devices that are designed to cue political support or opposition. Those who rely on selling copyrightable works as commodities (media industries, software industries, etc.) tend to frame copyright as an issue of private property, which is said to provide a crucial incentive for production and distribution. In recent years, there have been more and more voices challenging this dominant discourse, offering alternative ways of framing copyright issues, for

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example, copyright as communication policy (Samuelson, 2003; Vaidhyanathan, 2001), copyright as development strategy (Endeshaw, 1996, 2002), and copyright as potential obstacle to creation and innovation (Lessig, 2004b; Zittrain, 2008).

These alternative frames provide discursive tools for mobilizing support for various social movements, such as Free and Open Source Software, Creative Commons and Access to Knowledge, to fight against the overexpansion of intellectual property rights. As sociologists have noticed, framing plays a significant role in social mobilization and, more importantly, framing processes are contingent upon the social and political context (Snow, 2004). As demand for the harmonization of IP protection at the global level increases, the movements advocating public access to information and knowledge are also spreading across both developed and developing countries. Further research is needed on how these movements interact with local conditions, in order to better understand both globalization in general, and the dynamics of global IP regulation in particular.

In this article, I use the introduction to the Creative Commons' (CC) approach in China as a lens through which to examine the processes of framing arguments in a way that shapes public attitudes. Creative Commons has been organized as a social movement which tries to implement, and render immediate, a cultural shift. How the message is diffused in China is key to understanding this effort to reframe attitudes toward the dominant paradigm of copyright. I first discuss CC as a global movement aiming to build a cultural commons for the future. I then explain the differences between the original context from which the CC movement emerged, and the Chinese context where CC is now picking up momentum. The combined effect of the ideological ambiguity of CC and local conditions ends up producing a distinctive discursive positioning for CC in China.

Through analyzing relevant documents and interview results,[2] I suggest that rather than acting primarily as a counterforce to the privatization of intellectual works, CC in China is first and foremost about cultivating the "rights consciousness" of the Chinese people. CC licenses give individual creators, especially marginalized groups, a sense of controlling their own work in a communication environment that is dominated both by the state and by market forces. I will illustrate through the China case that the ideological ambivalence of CC could work as a double-edged sword to both propel and hinder the movement. Various conditions within the local context will also have an impact on this ambitious global initiative of building a cultural commons for the future.

Creative Commons as a Social Movement

Founded by Stanford Law Professor Lawrence Lessig, Creative Commons, at the operational level, is a copyright licensing scheme that seeks to alter the dynamic of the copyright debate. Rather than a more or less 'all or nothing' approach to the granting of rights (where monopoly rights could be the default position), CC has engaged in what seems to be a compromise, a more community-oriented

[2] Eleven phone interviews were conducted, between January and March 2008, with key organizers of CC China as well as with a small group of early adopters of CC licenses. Some interviews were followed up by e-mails for further inquiry and clarification.

sharing approach which sets forth terms on which copyright holders may grant partial rights to the public while retaining other rights. CC was developed on the basis of two major concerns that Lessig saw as cultural imperatives at the heart of the system of creativity. First, the uniqueness of cultural production predicates that all creations are built upon previous creations, in one way or another, and thus, it is crucial to ensure a diverse and viable public domain from which everybody may draw intellectual "raw materials" for the generation of new content. Second, in opposition to industrial interests, which advocated a move toward copyright expansion as a basis for further creation, Lessig argued that these global steps exacerbated the unbalanced power relationship between established and new content providers, creating a dominant and restrictive "permission culture" in which "creators get to create only with the permission of the powerful, or of creators from the past" (Lessig, 2004a, p. 6).

It is against this background that Creative Commons proposes to move from a default "All Rights Reserved" position established by the dominant copyright regime to a "Some Rights Reserved" model that enables individual creators to determine, at the moment of publicizing their work, the conditions under which the content can be used by others. CC licenses are meant to strike a balance between increasing commodification and the need to share. At the core of this scheme are four types of licenses: use with attribution; use for non-commercial purposes only; no derivatives (others may use exact copies of the original, but may not produce works derived from it by parodying, remixing, etc.); and share alike, which requires that any derivative work is released under a similar license. Content creators may combine these four licenses in different ways, with attribution being the minimum requirement. Once the choice is made, the license is communicated in three ways. First, there is a simple, plain-language summary of the license, complete with the relevant icons, which is especially targeted at the creative community. Second, there is a legal code version that provides official documentation and is adapted for different national legal systems. Third, there is the digital code version, which is a machine-readable translation of the license that helps search engines and other applications to identify a creative work by its terms of use (http://creativecommons.org/about/licenses).

While the licenses have deliberately been kept simple, CC is an ambitious movement attempting to revitalize a culture of free sharing and collaborative authorship in the networked era. Tilly (1999) defines a social movement as "a sustained challenge to power holders in the name of a population living under the jurisdiction of those power holders by means of repeated public display of that population's worthiness, unity, numbers, and commitment" (p. 257). Creative Commons does not represent the interests of a fixed group, but challenges the corporate control of creative works on behalf of anyone who has a stake in creating and using intellectual products. Following the first release of CC 1.0 licenses in December 2002, there were, as of June 2008, 46 jurisdiction-specific licenses, with nine other jurisdictions engaged in the drafting process, and more countries joining the project. In 2005, CC established a separate international non-governmental organization (NGO) called iCommons with the objective of advancing the wider dissemination of non-commercial sharing of scientific, creative and other intellectual works by the general public. Inspired by the open source and free software movements, CC also aims to create an alternative to the existing copyright system. More ambitious than its predecessors, CC "seeks to become a popular movement that addressed the public at large" (Elkin-Koren, 2005, p. 388). Therefore, given its ideology, strategies, and projected scale, CC is nothing short of a social movement.

In order to convince the general public that CC is a better practice, and to achieve mobilization at the broadest level possible, it is important for the movement to link the previously arcane subject of copyright law with other socially desirable goals. While traditional social movement theories put more emphasis on the structural tensions, political opportunity, and resource availability that give rise to social mobilization, new social movement theories stress that even similar material conditions may be subject to differential interpretations, hence the importance of articulation and framing (Canel, 1997; Snow, 2004). Laclau and Mouffe (1985) assert that identities and interests have no pre-discursive existence and are contingent upon political processes. Since each subject position is open to multiple constructions, discourses and vocabularies play a major role in shaping social agents. The way a political cause is articulated is crucial to the spreading of values and building of political coalitions. A prime role in political articulation is played by framing devices, which can be understood as discursive tools for defining problems, diagnosing causes, making judgments, and suggesting solutions (Entman, 1993).

There were several major positioning elements of CC designed to increase public support. In order to counter the industrial sector's dominant frame of copyright as private property, which ensures the commodity transaction of creative works on the market, CC attempts to revitalize the notions of "public domain" and "commons." Lessig argues that the existing copyright paradigm has led to a harsh contraction of the "public domain," which is believed to be vital to a free flow of information and to future creation. He has claimed that the "Read-Write" culture that has been the norm for most of history has been converted during the last century to a "Read-Only" culture dominated by a regime of producer control (Lessig, 2001, 2004b). Another founding member of the CC project, James Boyle, contributed a striking metaphor, arguing that modern copyright, as more and more intellectual works became privatized, was a second Enclosure movement, echoing the first Enclosure, that of land, which took place in England during the early stage of capitalist development (Boyle, 2003).

To be sure, Lessig and other CC advocates are not arguing for the "public domain" or "commons" to replace the market, but rather for the importance of the two different mechanisms to coexist. "Public domain" denotes open and equal access, shared responsibility, and viable exchange, all of which are not just ideals but also constitute a set of practices. For CC participants, sometimes referred to as commoners, this particular set of practices is "threatened by a set of dominant and powerful interests, principally that of the entertainment industry, who have remade federal copyright law to serve an even more particular and more narrow definition of legitimate practice which they assume to be universal and would very much like to see imposed worldwide" (Kelty, 2004, p. 556). Putting this in an even broader context, CC resonates with many other global activist initiatives that advocate a politics of inclusion. At the eco-politics frontier, there has long been discussion of how to build better governance of common natural resources — the so-called "global commons" (Buck & Ostrom, 1998; Ostrom, 1990). In fact, as early as 1997, Boyle called for a politics of intellectual property resembling the environmental movement's effort to preserve a shared ecosystem. Such information environmentalism arguably is necessary because copyright law, which regulates the production and distribution of forms of expression, is closely connected with key issues like cultural diversity, freedom of expression, access to information and democracy (Boyle, 1997).

In addition to the "commons" frame, the CC movement has also questioned the dominant approach to authorship, advocating a user-generated "remix culture." This can be seen from their recent promotional video that highlights the exciting potential of remixing cultural works with "no friction, no legal doubts, no middleman" (see CC promotion video at: http://mirrors.creativecommons.org/reticulum_rex/cc.remixculture.101906.swf). The romantic notion of authorship, that an individual is solely responsible for the creation of a unique piece of literary or artistic work, is one of the cornerstones of copyright law. A copyrightable work is recognized as the fruit of an individual author's creative labor and thus to be reproduced, distributed, and reused only at the author's discretion. This basic assumption, which underpins the current legal system affecting intellectual products, turns out, however, to be problematic, as has been pointed out by many literary critics. Roland Barthes (1978) states that "the text is a tissue of citations, resulting from the thousand sources of culture . . . the writer can only imitate a gesture forever anterior, never original" (p. 146). Michel Foucault (1979) also deconstructed the idea of the author as originator, declaring the "death of the author," while emphasizing that the "author" is the product or function of writing. Foucault contends that the author function is not formed spontaneously. Rather, it results from various cultural constructions, in which we choose certain attributes of an individual as "authorial" attributes, and dismiss others. In her now classic "Genius and Copyright" (1984), Woodmansee traced the economic and legal conditions that lead to the emergence of "authorship" as we know it today. She pointed out that the modern notion of individual authorship was not "invented" until the 18th century, when a new group of writers began to seek a living from selling their writings to the new and rapidly expanding reading public.

Critical legal scholars, including Lessig and Boyle, have pointed out a number of biases created by the dominant notion of authorship. First of all, individual authorship is closely tied to the Western tradition of individualism and thus implicitly unfavorable to collective creations in non-Western, non-mainstream cultures, such as storytelling, knitting patterns, etc. (Boyle, 1996). They also challenge the emphasis on originality, which tends to undervalue the importance of sources and of the public domain. Thirdly, since the law grants rights holders a monopoly in exchange for making creative works available to the public, copyright can be used as an instrument for creating exclusion. The monopolistic power of copyright can be further exacerbated if combined with an oligopolistic structure of copyright industries (Lessig, 2001, 2004b). In his book *Free Culture* (2004b), which was written after the launch of CC and released under a CC license, Lessig offered many examples of how later creations had always built upon previous ones, and how problematic it was to claim exclusive ownership of the final products. In his numerous speeches promoting CC, Lessig always uses examples of digitally remixed creative works to demonstrate how creativity relies on the freedom to remix. For CC, "individual creations are understood within a cultural context that gives them meaning and value" (Elkin-Koren, 2005, p. 387).

In sum, while property rights and individual authorship are two fundamental rhetorical tools for framing justifications of copyright law, CC offers two counter-frames of culture as "commons" and creative works as "remix." In this way, the movement aims to stimulate an ideological shift from a commodity-based to a community-based approach to intellectual products. It is in this sense that legal scholar Niva Elkin-Koren (2005) contends that "the ideology of Creative Commons reveals a deep sense of social order and allocation of power" (p. 387).

The problem with this approach, however, is that it is being developed from a Western context where private ownership of both tangible and intangible products is well established and the enforcement of copyright law is becoming increasingly strict. Just like any other efforts in "building a social movement from the bottom-up"[3] on the global scale (e.g., environmentalism, anti-globalization, etc.), local context plays a critical role in shaping the contours of CC in different parts of the world. It is relatively straightforward to understand how CC needs to port[4] its licenses according to the legal system of each country, but it is much more complicated to envisage how mobilization could take place. Among the 46 jurisdictions that CC now covers, China provides a particularly interesting example of how a global movement transmutes into a new shape through interaction with local forces. In the following sections, I will discuss the discursive environment of copyright in China and how CC, as an "ideologically thin" (Bennett, 2003) network, has been able to adapt to this different environment and mobilize participation across many social groups.

CC China: Change of Context

The importance of sharing a common pool of cultural works is not something alien to the Chinese. Historically in China there has not been an indigenous notion of intellectual works as private property. Alford (1995) contends that we should turn to political culture for the "principal explanation." He makes a compelling argument for how the great importance of Confucian political culture in the past created an environment inimical to private ownership of literary and artistic creations. It is the Confucian vision that civilization is defined by a network of relationships, each bearing reciprocal responsibilities and expectations, which individuals are morally obligated to fulfill. The way that individuals, be they rulers or ruled, learn about their proper position in the network is through interacting with the common past, which is conserved in concepts like the "rules of propriety (*li*)," the Classics compiled by the ancients, the poetry written by earlier scholars, etc. In brief, access to the cultural heritage is crucial to the establishment of a society where everyone knows right from wrong. In this context, creators of literary and artistic works are less eager to claim uniqueness and individual authorship than to maintain the connection between their own work and that of their predecessors. Because the past validates the present, being part of the tradition is essential to legitimacy. In fact, from the Sui Dynasty (A.D. 581-618) onward, any intellectual wishing to obtain a position in the civil service had to take examinations that mostly tested understanding and interpretation of the Classics. As Confucius himself indicated in the *Analects*, "I transmit rather than create; I believe in and love the Ancients" (Alford, 1995, p. 25).

The Confucian view of the relationship between the ruler and the ruled is also relevant. In a political culture originating from an agrarian civilization, the importance of family cannot be overestimated. Family is the basic economic unit around which agricultural activities are organized, the starting point for every person to learn about their social roles and responsibilities, and also the constitutive element of a harmonious society. In Imperial China, the structure of the state was in many

[3] See http://icommons.org/articles/what-is-icommons

[4] The process of porting core Creative Commons licenses involves both linguistically translating the licenses and legally adapting them to particular jurisdictions.

ways an extension of the family hierarchy, where "the ruler had a fiducial obligation to provide for both the spiritual and physical well-being of the populace, who, in turn, were expected to be loyal and productive" (Alford, 1995, p. 20). Unlike John Stuart Mill, who firmly believed in the ability of truth to win out in a marketplace of ideas, Confucian philosophers since Mencius and Xunzi have emphasized the human tendency to become deluded through the interplay of "truth" and "falsehood" (Metzger, 1981). It has, therefore, been seen as the duty of state officials (parents) to filter any potentially dangerous knowledge that could harm the "spiritual well-being" of their people (children).

These two aspects of Confucian political culture — the importance of people sharing a common cultural heritage, and the necessity for the state to take control of ideas—were major disincentives to the emergence of private ownership of creative work. They also help to explain the weak consciousness of intellectual property rights among Chinese today, and the Chinese government's continuing effort to exert censorship.

History, of course, only tells part of the story with regard to social norms of copyright protection in contemporary China. In anticipation of its accession to the World Trade Organization (WTO) in 2001, China made substantial revisions to its copyright law in order to meet the international standard. The 2001 Amendment not only clarified and expanded the economic rights of copyright holders and enlarged the scope of copyrightable works, but also placed more limitations on fair use and statutory free use (Feng, 2003; Mertha, 2005; Xue & Zheng, 2002). Compared to the 1990 Copyright Law, the 2001 law is much more explicit in treating copyright as a property right, and also more comfortable in referring to copyrightable works as exchangeable commodities in the market economy (Yu, 2006). For example, while the 1990 law had no provisions concerning the assignment of copyright, the amendment addresses such issues, with clear reference to contracts. In addition, the 2001 law and the new software regulations permit contracting parties to freely negotiate the duration of their licenses, as compared to the 10-year renewable terms stipulated in the old copyright law and software regulations. This means that copyright, just like any tangible property, is now recognized as something alienable from the initial author/creator. On the one hand, the 2001 amendment resulted from the combined effects of exogenous pressure from developed countries and the domestic needs of marketization. On the other hand, the new law also provides the hegemonic frame for discussing copyright issues as matters of private property in China.

In general, when CC was introduced to China as a new initiative, it faced an environment where Confucianism still had a significant legacy, and where the authoritarian control of information persisted, and the privatization of creative works was emerging. In these circumstances, a movement that was started in order to combat the overexpansion of copyright changed course. I explain here how it was transformed into a platform for educating Chinese people about the importance of copyright protection. More broadly, CC China has also contributed to the prevalence of proprietary discourse, as well as to discourses on personal rights. This is unfolding at two different levels. Firstly, for individual bloggers who have adopted CC licenses, the CC symbol is primarily a statement of copyright ownership, rather than placing restrictions on such ownership. Secondly, CC licenses help civil society groups and NGOs carve out a communicative space between the state and the market.

Articulating a Chinese Commons: Personal rights and communication autonomy

The propagation of CC licenses in China can be divided into two periods. The first time period was from 2003 to 2005, and the second from 2005 onward. It was not until 2006 that China was recognized by the standard bearers of CC as one of its jurisdictions. CC v. 1.0 licenses were first translated into Chinese by Isaac Mao and a group of China's earliest bloggers, with support from the Institute of Information Science, Academia Sinica, in Taiwan. The Chinese name for the project was *chuangzuo gongyong* (sharing creations/creative works), which is not a precise literal translation for Creative Commons. Mao is a Shanghai-based venture capitalist with a background in computer engineering who has enthusiastically promoted free access to information and social learning in China. He is the cofounder of CNBlog.org, the earliest site in China to specialize in "grassroots publishing." Beginning in November 2003, Mao and a dozen volunteers began to introduce the basic rationale and operational mechanism of CC on CNBlog.org. Since this roughly coincided with the period when blogging began to take off in China, with fewer than 2,000 bloggers in China at that time, CC spread rather quickly through either offline interpersonal connections among bloggers, or online hyperlinking. Mao recalls that "when a newcomer to CNBlog saw the CC logo on somebody's Web site, they would be very interested to know more. After all, those who started blogging as early as 2003 were all more or less innovators" (personal interview, Jan. 10, 2008). According to the documentation of the project team, by February 2005, a Google search for CC in Chinese would have already returned more than 75,000 results.[5]

A shift occurred in 2005 when CC updated its licenses from v. 1.0 to v. 2.0, and iCommons handed the task of propagating new licenses in China to a group of legal scholars at the People's University of China, led by Professor Wang Chunyan. The Chinese version of the CC 2.0 license was launched in March 2006 at a conference in Beijing, and the official Chinese translation for CC was changed to *zhishi gongxiang* (sharing knowledge). The rhetorical strategy that both teams adopted serves to emphasize that, compared with most developed countries, China is moving toward the CC ideal from the other side of the spectrum. The widespread copyright infringement in China, both online and offline, would seem to undermine the significance of CC as an alternative copyright regulatory scheme, yet for early adopters CC licenses are about explicitly stating the individual's control over their own works and reinforcing the sense of personal rights. Mao explains the rationale this way:

> The Internet is really a mirror of society. Rights consciousness is generally very weak in Chinese society and it's the same in Chinese cyberspace. So many people just don't know how to respect others' [rights]. I think CC will help to cultivate a stronger sense of personal rights in China; sharing is actually secondary in this matter, as I believe that is basic human nature and people get some reward from sharing, although not necessarily a material reward. (Personal interview, Jan. 10, 2008)

Similarly, Wang Chunyan emphasizes that "CC educates people about personal rights rather than asking them to give up everything" (C. Wang, 2007). Another member of the first CC China project team states:

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[5] http://www.creativecommons.cn/ccblog/2005/02/

> I know that to introduce CC to China may seem a bit counter-intuitive, but I believe it will help teach Chinese people about copyright. Those commercial Web sites, you know, they just thought it was ok to copy and paste others' work. Now at least bloggers can apply CC licenses to their Web sites. (Personal interview, Jan. 9, 2008)

While the intention of CC was to shift the balance from "All Rights Reserved" to "Some Rights Reserved," and to battle against the way that "big media uses technology and the law to lock down culture and control creativity," as stated by Lessig in the subtitle of his book *Free Culture* (2004a). The "commons" frame is downplayed in the Chinese context and "sharing" is given a much more prominent position, as indicated by the Chinese translation of the movement's name. CC advocates seem to be cautious of the ideological baggage that comes with the word "commons," which is reminiscent of the communist value of collective ownership. In one of his speeches promoting a culture of sharing, Isaac Mao contended that, unlike the utopian ideals of communism or socialism, "sharism" is rather a "personalized mindset and practical spirit" that can be practiced by each individual.[6] In the Google discussion forum that archives some of the public deliberation of the CC movement in China,[7] one early adopter suggested in 2006 that *chuangzuo gongshe* (creative commune) was a better translation than *zhishi gongxiang* (sharing knowledge), but others soon responded that the former could alienate potential participants who are wary of communist ideology, which is something from which the CC should distance itself. These discussions suggest that discursive strategy was from the very beginning an important concern of the CC China team.

For Chinese bloggers, CC provides an opportunity to restore some rights for individual content producers in a "few rights protected" environment. Although there have been no court cases testing the enforceability of CC licenses, bloggers have successfully invoked CC to stop commercial Web sites from redistributing material for which they had granted only non-commercial usage. Hecaitou, a famous Chinese blogger who started using CC attribution-non-commercial licenses in 2006, made the observation that the CC symbol could help in raising awareness of copyright, and that "at least more Web sites would now ask for my permission if they were not sure about the freedom those licenses granted" (personal interview, Feb. 12, 2008). Since the legal cost for any individual to sue internet service providers for copyright infringement is high, CC provides a convenient contractual tool for individual right holders to spell out conditions of usage. In this sense, CC has increased both the visibility and the accessibility of copyright regulation.

Another important dimension of CC China is that, rather than relying on the frame of "culture as remix," CC is now used to articulate a more inclusive communication environment that invites the participation of marginalized groups. Since CC China became affiliated with one of the most prestigious Chinese universities in 2005, the project leaders have been able to mobilize more resources on a larger scale, also making it possible to define the agenda of the movement in more ambitious terms. The change of the Chinese translation from the initial *chuangzuo gongyong* (sharing creations) to the current *zhishi gongxiang* (sharing knowledge) is a good indication of the wide range of goals that the movement is

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[6] http://www.isaacmao.com/meta/2007/09/sharism-is-not-communism-nor-socialism.html

[7] http://groups.google.com/group/ccchina?pli=1

trying to achieve. The release of the new "official" name in 2006 caused considerable controversy among early CC followers,[8] many of whom consider the new translation a distortion because "knowledge" does not cover many creative works like photos, music, videos, etc. But Wang Jing, a cultural studies professor at MIT and Chair of CC China's Advisory Board, made it clear in her speech at the 2006 CC China launch conference that translating Creative Commons as *zhishi gongxiang* would make it easier to propagate such ideas among average Chinese people, because this phrase is not totally new to them (J. Wang, 2006). The new team wanted CC to simultaneously reach out to four different target segments: 1) the Chinese middle class; 2) the vast number of "well-to-do" Chinese households; 3) rural communities and migrant workers in urban China; 4) the digital elites (J. Wang, 2007). For example, part of the agenda for the third segment was to use CC as a tool to crack open some existing databases and content pools so that these materials could be used to improve education and social learning in rural China. Obviously, for the rural population, it will be easier to talk about sharing knowledge than about sharing creative works.

In contrast to Richard Stallman's strong objection to privatization in the Free and Open Source Software (FOSS) movement, CC's strategy depends entirely on a proprietary regime and derives its legal force from the regime's existence. Despite the criticism such strategy has drawn in the Western context (e.g., Berry & Moss, 2006; Elkin-Koren, 2005), the libertarian sentiment of letting owners rule their own property increases the project's appeal to Chinese civil society groups that are eager to carve out their own communicative space between regulation by the state and the power of the market. While the Chinese state invokes censorship in order to regulate undesirable forms of expression, and copyright facilitates the market exchange of creative works in the form of commodities, the goal of CC is to revitalize a common pool of creative works that facilitates non-market based social production. This is not to say that CC content would be exempt from censorship or commodity rules, just that these licenses enable users to conceive of the exchange of creative works in an alternative manner. For example, the *Migrant Youth Performing Art Troupe* is a grassroots organization composed solely of migrant workers in Beijing. The group was established in 2002 to perform songs and skits mainly for an audience of migrant workers who, given their relatively low social-economic status, are under-served by the mainstream commercial media in China. As Sun Heng, the director of the troupe, remarks in an interview, many migrant workers live in conditions of cultural poverty in addition to economic hardship and their life outside work is rather dull. The troupe considers itself a voice for this underprivileged and underrepresented social group, and has adopted CC licenses for the release of its two albums, "Workers are in the same family" and "Singing for labor." Sun considers that CC coincides with the troupe's main concerns of sharing their creations, on the one hand, and exerting control over copyright, on the other:

> You know, as artistic creators we always want to share our works with more people, but infringement and piracy are constant headaches and concerns. We don't write these songs and plays for the purpose of making money, we want to engage more migrant workers. They really understand and like what we are singing. So we have been looking for a

[8] Some discussions are documented here: http://ohmymedia.com/2006/03/29/603/ and here: http://groups.google.com/group/Creative-Commons-China

> proper way to disseminate our songs so that the creators can be respected first, and their works can be disseminated for public welfare. (Personal interview, March 10, 2008)

This is another example of how CC goes beyond serving as an alternative copyright licensing scheme, and becomes a social movement that taps into a wider range of issues related to the communication environment in China. The copyright debate is actually a corollary of other longstanding themes in rethinking cultural production in different contexts. For groups who have neither "official" status nor market power, CC allows them to publish content on terms that they themselves may specify. For them, CC is another symbolic mode of contesting corporate or state power, a way of claiming in the Chinese context, "I get to decide how my work shall be used." Phrases like "user-generated content" and "remix culture" may appeal to the hip population in developed countries, but frames like "the right to communicate" and "sharing knowledge" seem to have greater mobilizing power in China.

Because it is now known in China as "sharing knowledge," CC China enjoys more flexibility in associating itself with causes that may be only tangentially related to copyright, but are generally relevant to sharing information and participating in communication. For example, CC China has launched a new initiative to conduct ICT training for NGOs working in West China (J. Wang, 2007). The idea is that Western China, which now finds itself at the lower end of the digital divide, has a chance of 'leapfrogging,' not only in building information infrastructure but also in cultivating an open culture on top of the physical network. CC China is sending volunteers to carry out IT training for rural NGOs in the Western region so as to help build capacity and promote technological autonomy. Much research has been done on the empowering potential of the Internet for Chinese civil society (Yang, 2003a, 2003b, 2003c; Zheng, 2008; Zhou, 2006). Results demonstrate not just that the Internet provides an important communicative tool for NGOs, but also that civil society and the Chinese Internet are mutually constitutive of each other's development. By positioning itself as a movement for knowledge sharing and open access to information, CC could provide further discursive tools for civil society in China to articulate its agenda.

While the "remix culture" frame foregrounds the critique of the romantic notion of individual authorship, CC in China is expected to be an instrument for socially marginalized groups to exert their copyright while participating in communication activities. In the broad social political context of China, where there has been a rise of *wei quan* (defending rights) movements on the frontier of property rights and environmental protection, CC becomes another (unintended) platform for cultivating legal consciousness of personal rights.

Conclusion

This article is a study of the discursive strategies of CC in different social contexts. As research in framing and social movements has shown, the actions people take toward an issue are contingent upon the way in which they make sense of that issue at the discursive level (Canel, 1997; Reese, Gandy, & Grant, 2001; Snow, 2004). Differences in framing and articulating the cause and tactics of a movement could result in differences in action. Pan and Kosicki (2001) consider framing as a discursive means of building political alignments through influencing public deliberation. The achievement of such political

goals involves "weaving a web of subsidies and building a 'discursive community'" (p. 59). Furthermore, framing is a rather dynamic process that is subject to change as social contexts change.

In order to counter the two fundamental assumptions of copyright law, namely copyright as private property and individual authorship, the Creative Commons movement started with two major arguments of the importance of commons and culture as remix. However, a shift occurred in CC China's discursive strategies, with more emphasis on personal rights and communication autonomy than on restricting some of those rights. CC China is acting first and foremost as a platform for educating people about copyright, as indicated by the statements of license adopters. In this sense, CC has acquired the unintended role of raising the rights consciousness of individual authors, and increasing the prevalence of proprietary discourse.

Ever since CC licenses were first introduced in China in 2003, various groups have taken part in this movement, including scholars, digital artists, migrant workers, bloggers, Web 2.0 services providers, and various NGOs. This contributes to a more democratic and inclusive communication environment through enabling the creation and distribution of diverse content. More importantly, the circulation of such content takes place in a "third space" that is different from (although not insulated from) either state-generated communication or market-driven communicative activities. In the process of defining and articulating the agenda of CC China, many other related issues have also been brought into the discussion, such as diversity of creative content, open access education, the digital divide, etc. CC is thus part of a new social movement that makes no real distinction between instrumental and expressive actions, since "the organization is itself an integral component of the message" (Kelty, 2008, p. 7).

Nonetheless, as Bennett (2004) points out when summarizing the new trends in networked politics, "ideologically weak networks can reduce the conflicts often associated with diverse players entering campaigns; they also may harbor intellectual contradictions" (p. 135). Rather than rejecting the private ownership of intellectual products, CC takes an eclectic approach that still relies on the property regime. CC's message of "some rights reserved" has proved successful in building a wider alliance, as seen from the case of China. But, one also wonders if by emphasizing personal rights over shared commons, CC China has the potential to negatively affect the sustainability of the public domain. After all, what the CC movement wants to promote eventually is the culture of sharing rather than owning.

Furthermore, various contradictions still exist and these may not be resolved simply by adopting a different framing strategy. For example, as a tool for facilitating sharing, CC licenses have relatively low enforceability. Cases already exist where images and designs publicized under CC have been used, both inside and outside China, for company logos or advertisements, despite the "non-commercial" license attached to the original work. Lawsuits have been filed in Australia and in the U.S. (Cohen, 2007), but not thus far in China due to the generally low trust that Chinese citizens have of the legal system, as well as to the high cost usually associated with such lawsuits. The potential for individual creative works to be exploited by commercial interests poses a threat to the culture of sharing. Aside from commercial interests, government censorship could also run against the spirit of CC. While certain marginalized groups find it symbolically empowering to adopt CC licenses for their creative works, censorship can easily render such action meaningless. In sum, although CC China has demonstrated discursive power in

enabling participatory communication, it remains to be seen how the movement will interact with various social, economic, and political conditions that result in information exclusion rather than inclusion.

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