Towards a theory of justice for the digital age

In defence of sphere and value-pluralism
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As digital expertise becomes increasingly important in all spheres of society, from health and education to law and public administration, it raises the spectre of two forms of injustice. First, the values that digital technologies embody – including efficiency, standardisation, control and optimisation – can clash with the core values that have traditionally organised societal spheres, such as empathy (healthcare), collaboration (education) and due process (law). Second, the actors that possess digital expertise – namely large tech corporations – are gaining ever more influence in new sectors, reshaping them in line with their own interests. This can lead to the foundational values of our public sectors being crowded out and new dependencies on private actors for the provision of public goods being formed. Tamar Sharon proposes a new theory of justice for the digital age, which allows us to ask what the moral limits of digitalisation are and how we should define them.
TOWARDS A THEORY OF JUSTICE FOR THE DIGITAL AGE
IN DEFENCE OF SPHERE AND VALUE-PLURALISM
Towards a theory of justice for the digital age

In defence of sphere and value-pluralism

Inaugural lecture by Tamar Sharon, Chair of the Department of Ethics and Political Philosophy, Faculty of Philosophy, Theology and Religious Studies, Co-Director of iHub, the Interdisciplinary Hub for Digitalization & Society on June 30, 2023.

door prof. dr. Tamar Sharon
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Introduction

As you join me on this special occasion, you probably did not think twice about the role technology has played in making it possible. My lecture will be enhanced with images displayed on a screen using a software program. We have all had to get here using some form of transportation and navigation, in which artificial intelligence was probably involved. I, like many of us I presume, need an alarm clock to wake up in the morning (although that was not really necessary this morning). Reflecting a little more broadly, my research would be very different if the internet did not allow me to access and store information and connect with other researchers around the world. Even more broadly, it is questionable if I, a woman, would be standing here, were it not for the existence of technologies like the contraceptive pill.

These examples seem to indicate two things. First, that our daily lives are thoroughly entangled with technologies. And second, that technologies are merely tools that enable us to achieve our goals – only more efficiently and conveniently. While I agree with the first point, I want to contest the second.

It may seem like common sense that technologies are mere tools, but this is an overly simplistic story. My alarm clock, which I do love, with its simulated sunlight, 15 different waking sounds and snooze options to choose from, is no innocent device. From the ringing bells calling monks to prayer in the Middle Ages, through to the mechanical clocks that defined the shifts of factory life in the Industrial Era, the clock is a technology that broke up natural time so it could be controlled and regulated. Capitalism would hardly have been possible without it.

The clock, as the internet and the contraceptive pill, are not just tools that help us reach our goals more efficiently. They also destabilise existing values, norms and practices; they make new things possible, desirable and compulsory; they reshape our world and our relationship with it. The world before and the world after them are very different realities. Reflecting on this – in all of its political, moral and social complexity – is what the philosophy of technology does.

Philosophy of technology: technical versus general universities

In the Netherlands, the philosophy of technology has, for the most part, found its home in the country’s technical universities, where a specific type of philosophy of technology has developed: one where philosophers work together with engineers to develop responsible or otherwise ethical technologies. At general universities, such as Radboud, the philosophy of technology has been less prominent. However, general universities offer productive breeding grounds: for a philosophy of technology that draws on a strong tradition of moral and political philosophy; for a philosophy of technology that engages with the numerous disciplines that are present at general universities, including law and the social sciences; and for a philosophy

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1 In his influential history of the machine and its effects on civilisation published well before the advent of the internet, in 1934, Technics and Civilization, Lewis Mumford argued that “the mechanical clock made possible the idea of regular production, regular working hours and a standardized product.”
of technology that seeks to intervene not just at the level of technology design, but also at the level of policy and regulation. It is this type of philosophy of technology that we are developing at Radboud’s Interdisciplinary Hub for Digitalisation and Society, the ‘iHub’, and at the ‘Radboud Center for Philosophy and Society’. Today, I would like to present to you the broad lines of a new theory of justice for the digital age, which is grounded in this type of philosophy of technology, and which I will be working on and with, in the years to come.

Why do we need a (new) theory of justice for the digital age?
A new theory of justice for the digital age. This is ambitious – not to say presumptuous – but also, I believe, urgent. First, because the risks and harms that digital technologies are causing are far-reaching and profound. When I began studying the societal impacts of technology in my graduate studies many years ago, I was very sensitive to the claim, which was backed by a rich body of literature in Science and Technology Studies, that users always interact with technologies in unexpected ways in different contexts and that, because of this, we should be nuanced and avoid generalisations about technology.

I have become much more pessimistic in recent years. Research increasingly shows that, left unchecked, digital technologies negatively impact our individual wellbeing, diminish the inclusive nature of our institutions and undermine the hard-won rights and rule of law on which our democracies thrive. Unlike the promises of these technologies, which are always on some future horizon, and unlike the so-called ‘existential risks’ of AI that developers have suddenly started speaking about, these harms are already here, in the form of ubiquitous surveillance, algorithmic discrimination, fake news and gig work. Many scholars, including some in this room, have been warning about these harms; some for many years (e.g. Lyon, 2007; Nissenbaum, 2010; Eubanks, 2018; van Dijk, Poell and de Waal, 2019). I aim to complement this body of work with conceptual and philosophical insights.

The second reason I think we need a new theory of justice for the digital age is because the more philosophical frameworks that we do have for understanding these harms – such as Foucauldian-inspired algorithmic governmentality (Rouvroy, 2011) or “soft vs. hard impacts” (Swierstra, 2015) – do not translate easily into regulation and policy. I would like to do more bridging work. I would also like to do this in my role as a member of the European Commission’s Group on Ethics in Science and New Technologies.

The third reason I believe we need a new theory of justice for the digital age is because the dominant regulatory frameworks for addressing digital harms today, certainly in the EU where much is being done on this front, focus on the protection of individuals, and draw on the conceptual language of fundamental rights and the values that they embody: digitalisation should be regulated where it impacts individuals’ rights to privacy, to non-discrimination, to freedom of information. While immensely important, I believe this is limiting. Instead, my starting point is the understanding that societal spheres – and the values that they embody – also need protecting from digitalisation. This is an alternative and complementary but much needed starting point for thinking about justice in the digital age, as I hope to show.

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For some classics, see Bijker and Law (1992), Mol (2003), Oudshoorn and Pinch (2003).
Spheres of Justice

But first, a little detour through political philosophy. In the 1980s, the political philosopher Michael Walzer published a book called *Spheres of Justice* (1983). Walzer was writing in a loose tradition that thinks of society as being made up of different domains, or ‘spheres’. We have the market sphere, the sphere of medical care, the sphere of politics, family life, education and so forth. For Walzer, each of these spheres is characterised by a certain good and certain criteria for distributing that good. We receive healthcare, for example, because we need it, not because we deserve it or as a result of a lottery. Commodities in the marketplace are distributed based on the principle of free exchange – buying and selling. We offer people affection because we love them, not because they deserve it or because they have bought it. And political power, the main good of the sphere of politics, should be distributed according to voter preferences.

This is quite intuitive. Most people would agree that even if there is a lot of overlap between these spheres in practice, they should remain relatively autonomous; that if a good that is important in one sphere starts to become too important in another sphere, or if criteria of distribution start to move from their original sphere to another, we run into problems. Indeed, such ‘transgressions’ between spheres, as Walzer called them, can lead to injustice. This is for two reasons.

First, when a good is treated according to the wrong principle of distribution, the wrong mode of valuation, something happens to that good. We can say it becomes ‘degraded’, some authors even speak of a good being ‘corrupted’. Some obvious examples are when goods that are not commodities are distributed according to market principles. For example, paying for sex, or paying for organs for transplantation. More controversially, one could look at governments paying drug addicted women to get sterilised or rich countries buying carbon credits. Not everything should be for sale. Numerous philosophers, ever since Plato, through Karl Marx and, more recently, philosophers such as Elizabeth Anderson (1990), Michael Sandel (2012) and Deborah Satz (2010) have argued, based on this understanding, that there are moral limits of markets; that some goods and some spheres should be protected from market logics.

The second reason that transgressions between spheres can create injustice is that they can lead some people in society – those who are powerful in one specific sphere – to become powerful in other spheres. When a good from one sphere, say money or hereditary power, becomes dominant in another sphere, then the people who possess that good, wealthy people or members of powerful families, inevitably become dominant in new spheres, and may begin to wield power across society. This argument is beautifully put by the 17th century philosopher Blaise Pascal, in his *Pensées*. He writes:

In the various departments for men of strength, beauty, sense and piety, each man is master in his own house but nowhere else. Sometimes they meet and the strong and the handsome contend for mastery, but this is idiotic because their mastery is of different kinds (...) Tyranny is wanting to have by one means what can only be had by another. We owe different duties to different qualities: we must love charm, fear strength, believe in knowledge. (Pascal, 1966: 45)
Now, let us return to digital technologies. In general, none of the philosophers using such sphere ontologies have paid much attention to technology or to the digital. However, I think that it can be useful to think of a ‘sphere’ of the digital, which is increasingly encroaching, or transgressing, into other spheres of social life. The main ‘good’ of this sphere, we could say, is technical and digital know-how and expertise that seeks to realise certain values: efficiency, standardisation, control, optimisation and convenience.

I realise this may sound a little strange, that there is a sphere of the digital, which is somehow similar to spheres like healthcare, education or politics. But allow me to try to make the case for this. And most importantly, allow me to make the case that thinking in terms of encroachments and transgressions from a digital sphere is very useful for identifying harms that digitalisation can cause and for thinking about what can be done to prevent them.

**A sphere of the digital?**

**The non-neutrality of technology**

The idea that digital technologies should constitute their own sphere sounds very strange when we think of technologies as neutral instruments, as value-free tools. I tried to push back against this type of thinking in my opening words. I explained that the idea that technologies are not just neutral tools is one of the core tenets of philosophy of technology. It is something that I think all philosophers of technology would agree with. However, the idea that technologies are not neutral can mean several things.

In a first sense, it means that technologies are always value-laden and can embody many different values (e.g. Verbeek, 2011). For example, touchless faucets have been designed to promote the value of hygiene (‘don’t touch the faucet with your dirty hands!’), and occupancy sensor lights have been designed to promote the value of sustainability (‘no need to remember to turn off the light!’). Here, it is up to whoever commissioned or designed the technology to decide what values the technology seeks to realise or promote. It is this understanding of the non-neutrality of technology that motivates what is known as ‘value-sensitive design’, which focusses on designing desirable values into a technology. The Yivi app, developed by colleagues at iHub for privacy-friendly authentication, is a good example of this. But this sense of the non-neutrality of technology still leaves quite a lot of neutrality to technologies: technologies are seen as always value-laden, to be sure, but those values are built into an otherwise neutral system. Technologies here act as a neutral vehicle for values.

A second sense in which technologies are not neutral is the idea that in some fundamental way a technology embodies specific values, regardless of what its designers

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3 Some philosophers writing on technology have been inspired by Walzer’s spheres of justice in their work. Of note are Jeroen van den Hoven’s (1997) and Helen Nissenbaum’s (2010) use of this framework to argue that information which is generated in one sphere (or ‘context’) should not carry over into other spheres; the result being breaches in privacy. These philosophers’ use of Walzer’s sphere ontology is quite different to mine, which I use to develop the notion of a sphere of the digital, from which goods and influence can transgress into other spheres.

4 https://www.yivi.app
have in mind. Namely, the values of efficiency, standardisation, control, objectivity and optimisation. It is this second sense that I am drawing on when I speak of a 'sphere' of the digital, which promotes its own values.

The idea that technology embodies specific values has been elaborated by many philosophers and social theorists. In the 1930s and 40s, members of the Frankfurt School critiqued the rise of what they called ‘instrumental reason’, a form of thinking that was characterised by rational calculation and focused on means rather than on ends. For these thinkers, technology was a materialisation of instrumental reason (Marcuse, 1982). Later, scholars such as Martin Heidegger (1977) and Jacques Ellul (1964) wrote about technology not just as an instrument but as an attitude to the world; a certain way of approaching the world around us that views everything in it as a resource, which can be extracted, controlled and manipulated. This certainly resonates today as we face a climate catastrophe caused by the exploitation of our planet as a resource.

Talk of an ‘essence’ or a ‘logic’ of technology can sound quite vague. But it is not difficult to see this logic at work. A paradigmatic illustration of this logic is Henry Ford's famous assembly line for the production of Model T cars, which sought to increase efficiency and productivity by fragmenting and simplifying work tasks into their smallest possible units.

More recently with the advent of digital technologies, we can add optimisation, as well as personalisation and convenience to the values like efficiency and control that earlier scholars identified as comprising the logic of technology. Optimisation and efficiency are related, but they are not the same thing. While efficiency refers to doing things with the least amount of waste or effort, optimisation is about finding the best solution. For example, finding the fastest route between two points using Google maps, predicting which product a consumer will like using a recommender system as Amazon does, or predicting who is most likely to commit fraud with a sophisticated algorithm, as we have seen in the Dutch Child Benefits Scandal. Optimisation becomes interesting when we have lots of data. The more data we have, the better we can optimise a process. In this way, optimisation has become one of the core values of technology in the digital era.

Thus, technology, and in its most recent form digitalisation, is not neutral. It is value-laden, and laden in particular with the values of efficiency, standardisation, control, optimisation, personalisation and convenience. It is in this sense that I speak of a distinct ‘sphere’ of the digital. And like the market sphere and its main good – money – the digital sphere and its main good – technical know-how and expertise – is expanding. The logic of digitalisation and the values it seeks to realise travel from their original sphere to others. We now try, through digitalisation, to optimise everything from dating to the labour market, to healthcare and public administration.

Two questions concerning technology
Now, you may wonder, what is wrong with efficiency and optimisation? In themselves, increased efficiency and optimisation are not bad things. All values are valuable. And many

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of our systems could benefit from more efficiency. But it is important to ask two questions here, I think.

The first is: ‘Do digital technologies actually realise their values of efficiency and optimisation?’ There is a large body of empirical work that shows that the introduction of a new technology always involves some amount of unexpected and invisible work on the part of the humans whose work is supposed to be rendered more efficient by the technology (e.g. Star and Straus (1999) and Suchman (1995)).

Elderly care is a good example of this. This is one sector where digital technologies are increasingly being touted as solutions to a system that cannot keep up with the demand for care, which needs to become more efficient, and a variety of ‘carebots’ are being introduced to do this. However, research is showing that carebots are not living up to this promise. In his ethnographic study of how robots are being implemented in an elderly home in Japan, James Wright (2023) shows how the robots that were introduced created new types of work for staff. The robot Paro, which was meant to provide a form of animal therapy, was quickly appropriated by some patients, who refused to eat meals or go to sleep without it, meaning the staff had to keep a close eye on it at all times. The robot Pepper was supposed to lead activities, like karaoke and exercise sessions, with residents. But staff soon realised that to get residents to participate in these sessions, they had to stand next to the robot and copy it, or the residents would not do what it said.

These are somewhat comical examples. However, while technologies fail to live up to their promises of efficiency and optimisation, they can also do a lot of damage. Some studies (Collier, 2017) report that the introduction of the electronic health record – meant to save physicians time – has been an important contributor to physician stress and burn-out.

Still, some technologies are successful in increasing efficiency and optimisation. But here we need to ask another question: ‘what happens when promises of efficiency and optimisation are realised?’ ‘What effect does this have on the practice being digitised?’ This question brings us back to the issue of justice.

**Injustice caused by transgressions from the digital sphere**

**A transformation of the good that becomes digitised**

Let us look again at the two ways in which sphere transgressions can result in injustice and think about digitalisation in these terms. The first was that injustice occurs when a good is treated according to the wrong mode of valuation, because this can transform a good, crowding out the values it sought to realise. What happens, then, when digitalisation and the values it seeks to realise is applied to goods such as healthcare, education, law or public services?

Let us think about carebots again, now in the home setting, where they are beginning to be used to supplement or replace home nurses. What do home nurses do? A home nurse often helps clients dress, bathe and eat. But home nurses, while they do this, they also do other things. They use their sense of smell to determine how clean a client’s home is. They
scan the kitchen cupboards and the refrigerator to see if there is fresh food around. They chat with their clients to pick up clues about their general health and wellbeing. Viewed from the standpoint of efficiently dressing, bathing and feeding, this is relatively inefficient. Actually, from the standpoint of efficiency, we might speak of ‘purposeful inefficiency’ (Pasquale, 2020) to refer to what home nurses do. And this may very well be true for the value of care in general, which usually requires things like: time, the capacity to contextualise and interpret information, creativity and the ability to improvise. The practice or the value of care, then, is in some tension with the values that digitalisation tries to realise.

We can see this in other areas as well. AI is increasingly being integrated into education, where it seeks to optimise learning through personalisation. But as it does this, it can put forward a specific understanding of education: as an individualised, out-put oriented process. This can clash with core educational values, including collaboration and creativity. And it can put other core values under strain too, such as pedagogical autonomy (Kerssens and van Dijk, 2021; Fiebig et al., 2021). These are some of the ethical issues we are studying in the NOLAI lab for AI and education at Radboud University.6

In the field of law, similarly, the speed and efficiency that digitalisation promises can clash with one of the core values of this sector: due process (Ortolani, forthcoming). For example, a document-based online procedure for dispute resolution may save time and money, but it does not offer the parties the same opportunity to present their case as an oral hearing.

In the media, efficiency and convenience can clash with journalistic standards, including independence, impartiality, diversity of views and truthfulness (Bastian, Helberger and Makhortykh, 2021).

We could go on. The point is that digitising these professional practices can transform them, turning the aims of these practices, and of these spheres, into problems that can be streamlined, optimised and rendered more efficient using a technology while crowding out other values that were fundamental to the sphere and its aims.

The dominance of some actors across society
So that is the first way that sphere transgressions from the digital sphere can lead to injustice. The second way that sphere transgressions can lead to injustice is because the actors who possess a good that becomes important in more than its original sphere can become powerful across spheres. For example, when money becomes important not just in the market sphere but also in others, wealthy people gain influence in other spheres.

What Walzer calls a “dominant good” is a good which allows those “individuals who have it, because they have it, [to] command a wide range of other goods” (1983: 10-11). In our society, as digital know-how and expertise are increasingly being touted as solutions to a host of societal challenges, digital expertise is becoming a dominant good. It is coveted everywhere. But the actors who possess this good today, more than any others, are large tech corporations. Indeed, in the past decade, we have seen how Alphabet, Apple, Amazon,
Meta, Microsoft and a few other large technology firms have moved swiftly and aggressively into virtually all spheres of society. If this is education, the news, finances, geopolitics, science, agriculture, up until what may be the last frontier: outer space. With a group of researchers and funding from the European Research Council, we have been studying this expansionism of Big Tech into the sector of health and medicine for several years. We have called this the “Googlization of health” (Sharon, 2016).

Now, if we understand this phenomenon as a sphere transgression – as actors moving from their original sphere of activity (the digital sphere) into new spheres, such as health – a number of risks that tend not to be identified by existing regulatory frameworks become evident. Let me describe these quickly.

First, the more involved these actors become in sectors such as health and medicine, the greater a role they begin to play in decisive processes, such as agenda setting, which can eventually reshape a sphere in line with their own interests. One example of this is Alphabet’s long-standing interest and investment in Parkinson’s disease research – from the development of a wearable for clinical and diagnostic research, to a philanthropic foundation set up by Sergey Brin, co-founder of Google, which has funded over $1 billion in Parkinson’s research. Sergey Brin has been open about the fact that he has a rare form of Parkinson’s disease, and that this is why he is particularly interested in Parkinson’s research. So there is a clear personal interest here.

We might ask what is wrong with this. Parkinson’s is an incurable disease that afflicts some ten million people worldwide. But philanthropy has been shown to distort funding landscapes, creating attention for a particular area, while drawing attention away from others (McGoey, 2015). And while Brin’s Parkinson’s-related philanthropy may be of apparent value to global health, many Silicon Valley tycoons are currently actively investing in areas like life extension and anti-ageing. The value of this type of research to global health is a lot more questionable. To be clear, in strong democratic societies, research agenda setting should be the outcome of some form of public deliberation where the interests of all and the vulnerabilities of the weakest are taken into consideration. Transgressions from the digital sphere are putting pressure on this.

Second, spheres can also be gradually reshaped when clashes between tech actors and domain experts play out in favour of the interests of tech companies. You may remember that with the outbreak of COVID-19 there was a scramble to develop digital contact tracing: apps on our smartphones that could communicate with each other and notify us if we had come into proximity with an infected person. Early on in the pandemic, Google and Apple launched an API, a protocol, on which such apps could run. This was important because without it different countries would need to develop their own infrastructure from scratch. But it also meant that countries had to comply with the specifications that Google and Apple put in place. One of these was that apps would be ‘decentralised’, meaning that the data they collected would remain on people’s phones, rather than going to a centralised storage system, such as a public health authority.

Now, decentralisation is good for privacy reasons. But it is not necessarily the best thing in a pandemic, where you also want some overview of pandemic spread and cluster
detection. For these reasons, some public health officials and epidemiologists – domain experts – were in favour of centralised rather than decentralised apps. But Google and Apple, reports showed, were uncompromising on this point. To work with them, apps had to be decentralised; there was no room for discussion or negotiation. Countries such as Germany, Norway and the UK that had already designed centralised apps, had to redesign their apps to work with Google and Apple. So there was a clash of expertise and authority here, in which Google and Apple won (Sharon 2020). They determined – over and above some public health experts and sovereign states – what a large-scale public health intervention would look like.

The third risk of tech actors transgressing into new spheres is that the public sector becomes more and more dependent on these actors for the provision of basic goods, such as healthcare, education and public services (Gürses and Dobbe, 2020; Taylor, 2021). Increasingly, citizens access government services using a Facebook page, children are educated using platforms like Google classroom and, as a university employee, I am compelled to use Microsoft services to research, communicate and store data. Crucial elements of our public sectors are being built on top of an infrastructure that is under the control of these private actors. This increases the influence of these actors across society and undermines the “publicness“ (Lopez et al., 2022) of our public sector.

These transgressions by tech actors are happening in virtually all spheres of society. Last year, our research group launched a digital tool that visualises this expansionism over the last decade. Sphere Transgression Watch7 tracks the presence of Big Tech companies in a number of spheres: health, education, urban planning, law, public administration, the environment and others. You can click on a sphere and see which initiatives have been launched by different companies or follow what a specific company has been doing in all spheres. Our aim with this tool has been to raise awareness about this phenomenon among the general public, policy makers and professionals, and to make our own data public in the hope that other researchers will use it.

Concluding remarks

A theory of justice based on the autonomy of spheres, which also acknowledges the existence of a sphere of the digital, can sound simplistic and essentializing. After all, spheres are ideal types; there has never been a complete autonomy of spheres, rather, there are always overlaps and spheres evolve over time. This is all true. But such a theory sharpens our senses. It encourages us, when we witness digital transgressions, to stop and reflect, to examine what the impacts of a transgression might be, to consider if it should be blocked or if certain conditions should be put in place to mitigate potential harms.

Theories of justice based on the autonomy of spheres have tended – rightly so – to focus on the need to contain the expansion of the market sphere into other domains of life.
To define the ‘moral limits of markets’. Updating this theory for the digital age encourages us to ask the question, similarly, ‘what are the moral limits of digitalisation?’ How these limits should be defined is what I would like to work on in the coming years. For now, a few concluding insights.

1) Decouple digitalisation from marketisation
Today, digitalisation and marketisation usually go hand in hand, as can be seen in the case of Big Tech expanding into new sectors. What the framework I have presented today makes clear is that each of these phenomena brings with it distinct risks, which should be disentangled and addressed separately. One means of decoupling this disastrous combination is to provide more structural financing for digital innovation developed in the public sector, by universities for example, which can offer non-commercial alternatives that foreground public values, for example through open-source software. If, conversely, only private actors can provide the digital services we need, better agreements should be established that stipulate conditions whereby profits generated by tech corporations – for example from proprietary algorithms trained on public datasets – flow back to the public sector. This way, the public sector does not end up paying twice: once for the creation of datasets, and a second time for buying back services developed using those datasets. Currently this is the dominant business model.

2) We need to think beyond privacy as the main risk of digitalisation
What we have seen in our research is that many of the initiatives that tech corporations are introducing in health and medicine are privacy and data protection friendly. The heightened concern for privacy that our society has developed in the past decade is good. But it is currently distracting us from other risks of digital sphere transgressions. These have to do with how the values that have traditionally organised spheres – care and empathy in the medical sector, pedagogical autonomy in the educational sector, due process in law – are being crowded out by technical values. These are not privacy or data protection concerns, and so if we only focus on privacy and data protection, we will miss out on them.

3) Beware of solutionism
Awareness of the distinct risks of digital sphere transgressions should make us think twice about turning to digitalisation as solutions for complex problems in the public sector. In particular, we should be wary of technosolutionism. Often, the problems we face are not best solved by technology and thinking that they can be can twist problems in such a way that we redefine our original problem into a simplified version of a problem that can be solved by a technology.

A quick example: a study that has recently made a lot of noise in the medical field showed that patients rated the answers they were given by a chat bot as ten times more empathetic than the answers they received by human doctors (Ayers et al., 2023). Ten times! This, for some, is a good argument for introducing ChatGPT into healthcare. Of course, ChatGPT cannot actually be empathetic. It is only a sophisticated autocomplete program,
which has no agency or intentionality (Bender et al., 2021). But this is what happens when we try to optimise something as complex as empathy. More importantly, by doing so, we miss out on the real problem: empathy requires time, and this is something human doctors are not getting enough of to practice their profession properly. In other words, we should be wary of investing in digitalisation when we should be improving work conditions. Especially considering that improving work conditions is a tried and tested method that brings much fewer risks than digitalisation; from privacy breaches to algorithmic bias to the reshaping of spheres.

4) Regulation that protects spheres as providers of basic goods

Finally, this theory of justice calls for an approach to regulation that takes the protection of spheres as its starting point; and individuals as they are defined within those spheres. This means individuals, not just in their role of consumers or even citizens, but as patients, students, beneficiaries of public assistance and so forth, with all the specific vulnerabilities these roles involve.

The EU has been very busy positioning itself as a global leader in the stride to mitigate digital harms, first with the GDPR, and now with an ambitious regulatory strategy that includes a host of new instruments. This is admirable and will certainly have beneficial effects. But there are deep-seated reasons why this strategy cannot properly protect spheres from digital transgressions. This is because this strategy is based on a two-pronged approach: on the one hand a focus on data protection as a means of protecting fundamental rights, and on the other, the development of fair digital markets (Sharon and Gellert, 2023). But sphere transgressions, as I have mentioned, can be data-protection compliant. Moreover, focussing on fair markets promotes a view of sectors such as health and education as markets, the good governance of which requires only fair competition. This does nothing to protect the ‘publicness’ of our public sectors.

Furthermore, the catalogue of fundamental rights that EU digital regulation draws on may be too narrow for the task at hand. These include civil and political rights, such as the right to privacy, freedom of information and non-discrimination. But it may not be these rights that are necessarily at stake in digital sphere transgressions. Indeed, we may do better to focus on so-called ‘socio-economic rights,’ such as the right to health, the right to education, to housing and employment. These rights are notoriously difficult to legislate for, but they may be more attuned to the risks created by sphere transgressions in the digital age.

There is a lot of work to be done: to identify which core values are affected in different spheres; to distinguish when digitalisation should be the solution and under what conditions; to decide where to re-draw healthy boundaries between spheres. This brings me to the many people I would like to thank for being part of this endeavour and for helping me get here, only a few of which I have time to name.
In grateful acknowledgement

I came to Radboud University to help build iHub – an interdisciplinary research centre on digitalisation and society, which promotes public values. To me, this kind of centre is the most logical response academia can provide to one of the biggest societal challenges of our time. But, of course, I am biased. And I would like to thank the people who have had the foresight and openness of mind to grasp the importance of such a research centre: Han van Krieken, our Rector, Christoph Lüthy who was Dean of the Faculty of Philosophy, Theology and Religion at the time, and Bart Jacobs, who was originally tasked with setting up iHub. Bart, it has only been a few years, but I think we should be proud of what we have achieved. It has been a fantastic adventure – thank you so much for asking me to join it!

I want to thank all the people at iHub who have helped turn it into a thriving research centre. The legal scholars, the computer scientists, designers and software programmers, the linguists, the historians, the organisational scholars, anthropologists and philosophers. This is how it should be done. Special thanks to my own little research group: Marthe, Lotje and Steven. Our weekly meetings about sphere transgressions are all of what is best in academia.

To my colleagues at the Department of Ethics and Political Philosophy. When I came to Radboud, there was quite a fuss about which faculty I would settle in. I insisted on joining you all. I knew that this is where my conceptual roots would strengthen and grow. It is an honour to now also be your head of department and navigate complex issues like social safety and work pressure from a shared vision of societally engaged philosophy.

Before Radboud, I was already doing interdisciplinarity at Maastricht University. I have many colleagues there to thank, in the Philosophy Department, the STS program and the EPET research group. In particular, I want to thank René Gabriëls, for late night philosophical discussions (and arguments), and Tsjalling Swierstra, who introduced me to the value of doing empirical philosophy and the philosophy of value antagonism. Tsjalling, you have influenced me in more ways than you would know, as a philosopher, a teacher and a manager.

I stand on the tenacious shoulders of many female role models: outstanding scholars and gracious human beings, who have shown me that being both, and in style, is possible: Sally Wyatt, Barbara Prainsack, Linnet Taylor to name a few.

I thank my mother, who sadly cannot be present, for showing me that justice matters, always. And my father, for supporting me, from university to university, and discipline to discipline, and for teaching me that skill and excellence are virtues, regardless of which sphere they belong to. Toda Aba.

Jonah, Loulou: merci de me rappeller, toujours, que même en tant que professeur, je ne suis jamais plus qu’une ‘vice-présidente.’

And Willem: I wish I could give you back a fraction of what you give me every day – kindness, patience, wisdom, courage – without which none of this would be possible. But that would be the wrong principle of distribution. And so I love you, not because you deserve it or need it, but because I follow my heart.

Ik heb gezegd.
References


Tamar Sharon studied history, political theory and Science and Technology Studies in Paris and Tel Aviv. She received her PhD from Bar Ilan University in 2011 (cum laude) on the ethics of human enhancement. Before becoming Professor in Philosophy, Digitalization and Society at Radboud University, she worked at Maastricht University from 2011 to 2018. At Radboud University, she is Chair of the Department of Ethics and Political Philosophy and co-director of the Interdisciplinary Hub for Digitalization and Society (iHub). She is a member of the European Group on Ethics (EGE), which advises the President of the European Commission.

As digital expertise becomes increasingly important in all spheres of society, from health and education to law and public administration, it raises the spectre of two forms of injustice. First, the values that digital technologies embody – including efficiency, standardisation, control and optimisation – can clash with the core values that have traditionally organised societal spheres, such as empathy (healthcare), collaboration (education) and due process (law). Second, the actors that possess digital expertise – namely large tech corporations – are gaining ever more influence in new sectors, reshaping them in line with their own interests. This can lead to the foundational values of our public sectors being crowded out and new dependencies on private actors for the provision of public goods being formed. Tamar Sharon proposes a new theory of justice for the digital age, which allows us to ask what the moral limits of digitalisation are and how we should define them.
Towards a theory of justice for the digital age

Radboud

In defence of sphere and value-pluralism

Inaugural lecture by prof. dr. Tamara Sharon