

The Bigger Picture: A Commentary on Forcehimes - Karjiker Debate

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Forcehimes poses a parity between libraries and downloading books online and concludes that the im/permissibility of one of them entails the im/permissibility of the other and vice versa. Karjiker rejects this parity arguing that the magnitudes of these two are vastly different and while libraries do not lead to a considerable market failure, downloading ebooks does. In this article, I try to clarify some points, show a kind of parochialism in Karjiker's arguments, propose a thought experiment to neutralize the magnitude problem, and justify Forcehimes' main idea.

In his article titled 'Download This Essay: A Defence of Stealing Ebooks' (*Think* 34), Andrew Forcehimes argues that every plausible argument one can give in favor of (physical) public libraries is also an argument in favor of downloading (stealing) ebooks. For example, he contends that if some egalitarian considerations justify libraries, these same egalitarian considerations will justify downloading books online. He also argues that every plausible

argument against downloading ebooks is also an argument against libraries (109). If, for instance, one thinks stealing ebooks would reduce production of new work by decreasing economic incentives for authors, this could be an argument against libraries too.

In a reply (*Think* 38), Sadulla Karjiker contends that this parity does not work. There is a considerable economic difference, he maintains, between ‘making an ebook available online for free download’ and ‘making physical copies of that work available in a public library’ (53). He agrees with Forcehimes that copyright imposes some costs on the society and the ‘law permits exceptions, to reduce the social costs’. Libraries are justified as exceptions (53), but downloading ebooks online is not, because ‘the scope of the sharing of copyright works is no longer confined by physical restrictions’ (54).

In this commentary, I first try to clear up some of the confusions and misunderstandings in this discussion and then provide arguments in favor of Forcehimes’ main idea.

1. Clarifying the Debate

In both papers, there is some confusion concerning the morality and legality of downloading books. In this respect, the title of Forcehimes paper is misleading. Some people define ‘stealing’ as the (morally) wrongful taking of another’s

possession. If we use stealing in this sense, then Forcehimes, insofar as he believes that stealing ebooks is not immoral, does not think it is stealing at all.

On the other hand, Karjiker's use of consent is restricted to a legal context. If an action is not immoral, some people's lack of consent per se is irrelevant. For example, before abolishing racist laws in the US, ignoring these laws was illegal and also against the consent of some people. But this lack of consent was not morally relevant and these laws should have been abolished. It is obvious that downloading ebooks (except a small number of them) at this moment is illegal (then it is 'stealing' in the legal sense) and against the consent of their publishers, authors etc., but if it can be shown that downloading ebooks is not immoral, then we might permissibly change the current laws, even if some do not consent.

The other issue that needs clarification pertains to Forcehimes' attitude regarding copyright. As far as the concept of copyright is concerned, we can distinguish three situations: a) A person publishes (copies) another person's (or institution's) work as his own work (plagiarism); b) A person copies another person's work for commercial use; c) A person copies another person's work for personal use or provide others with this work for their personal use without commercial benefits. The first two situations are, we can assume, immoral. But Forcehimes is exclusively concerned with the third situation and thinks that the way we think about it seems to be inconsistent. He does not attack copyrights as

such (as Karjiker seems to imply in page 53). In the same way that libraries do not challenge the concept of copyright, ebook-downloading does not either.

It should be added that both Forcehimes and Karjiker seem to think that the subject of their discussion is primarily a theoretical one and can be settled theoretically. This is a mistake. As we know, the concept of copyright did not exist before the invention of the printing industry and especially before 18th century, because on the one hand, wide copying of literal or art works was not possible and plagiarism (at least widely) did not exist. On the other hand, given the difficulty of transportation and travel and also insubstantial amount of human works, any kind of access to these works was considered a privilege. Two factors especially in recent decades lead to the copyright conflict (especially in developing countries). First, the progress of technology made possible wide copying of various works. Second, the number of people involved in the digital goods market (including authors, writers, filmmakers, directors, journalists, publishers, booksellers etc.) increased exponentially. Then there developed a historical conflict between copyright laws and the desirability of the dissemination of intellectual goods. This conflict is primarily a practical conflict rather than a theoretical one. It needs a practical solution.

2. Responding to Karjiker

Having clarified some points in the debate, I now turn to Karjiker's response. Karjiker uses the 'magnitude strategy' (As Forcehimes calls it in an unpublished reply) to reject Forcehimes' main idea. He argues that 'economically, there is a material difference between permitting public libraries making physical books available and allowing such online distribution of ebooks' (51). Karjiker then believes that the market failure resulting from libraries is much smaller than the failure resulting from downloading ebooks. But this comparison does not end here and I think the 'magnitude strategy' fails.

First, the costs of these two systems (a library-based system and a download-based system) must be compared in their complete realization. The costs of the library-based system include the costs of establishing and managing current and future physical libraries, delayed (or lack of) access to intellectual goods, environmental costs (the necessity of using paper) and the costs of transportation (people, books and so forth). We must add to this the enormous subsidies paid by some governments to reduce the price of paper or books.

The most important cost of the library-based system is the deprivation of a great population from accessing intellectual goods and this very point may make the library-based system immoral (especially in developing countries where purchasing power is low). The download-based system (or print-only-on-demand system) has a very important benefit which is the access of all Internet-users to all digital goods including ebooks, films and music. Therefore even a

simple cost-benefit analysis shows that investment in a download-based system is more profitable than a library-based system.

Second, a thought experiment can be proposed to neutralize the magnitude problem and evaluate the moral and legal aspects¹:

Imagine a very high-tech (physical) library in a ten-million-people city. All these people are the members of the library. The library uses UAVs to send books to its members. So access to a physical book is possible only in a few minutes after the user sends a request for it and after he/she finished reading, the book is immediately sent back to the library (by UAVs). Therefore, the library can provide services to all the population of the city with only twenty copies of every book, because the people who want a certain book at a certain time (during the day or night) are not more than twenty people. So, in this city, nobody needs to buy any books and a book which was to be published in (say) twenty thousand copies, is published only in twenty copies. Moreover, the books are of a very high quality and may not be damaged. Then there would be no 'degradation of the quality of the content' as Karjiker points out (54). The books can also be highlighted and commented by the users, but these changes are not visible for other users, because each user has her own high-tech glasses that show her own changes.

¹ I proposed the first version of this thought experiment in a paper (in Persian) in the Network for Public Policy Studies (NPPS): <http://npps.ir/ArticlePreview.aspx?id=111810>

As this library seems exactly parallel to downloading ebooks in all morally relevant respects, we might ask: Is establishing such a library permissible? Whatever you think about downloading books online, you should also think about this high-tech physical library. I think most people will think such a library is not ethically problematic. And hence they should also think download-based system is not problematic.

In conclusion, I think the most practical solution would be to totally replace the library-based system by a download-based system and I believe this is possible and even unavoidable in the near future.