

Creativity, Copyright, and Close-Knit Communities: A Case Study of Social Norm Formation and Enforcement

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Social norms as a regulatory mechanism often carry more weight than formal law—particularly in contexts when legal rules are gray. In online creative communities that focus on remix, community members must navigate copyright complexities regarding how they are permitted to re-use existing content. This paper focuses on one such community—transformative fandom—where strong social norms regulate behavior beyond copyright law. We conducted interviews with fan creators about their "unwritten rules" surrounding copying and remix and identified highly consistent social norms that have been remarkably effective in policing this community. In examining how these norms have formed over time, and how they are enforced, we conclude that the effectiveness of norms in encouraging cooperative behavior is due in part to a strong sense of social identity within the community. Furthermore, our findings suggest the benefits of creating formal rules within a community that support existing norms, rather than imposing rules from external sources.

CCS Concepts: • **Human-centered computing** → **Empirical studies in collaborative and social computing**;

Additional Key Words and Phrases: collective action; copyright; fandom; fanfiction; law; online communities; policy; regulation; remix; social norms

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1 Introduction

Whereas we know of many examples of highly successful online communities, from Wikipedia to Facebook to Reddit, others struggle, and still more fail. In understanding how we might better support interaction and collaboration between groups of people in online spaces, it is critical that we identify the challenges that these communities face, and that we interrogate examples of success that might provide lessons that can be applied elsewhere. One of the known challenges that online communities must overcome is the necessity of dealing with different or even competing interests—that is, effective regulation [64]. Regulation largely involves deterring inappropriate behavior and limiting damage when inappropriate behavior occurs—but effective regulation can also encourage pro-social behavior.

Regulation comes in different forms. For example, Lessig's model of regulation emphasizes four major forces: law, norms, market, and architecture [69]. These forces often interact, and even "law"

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comes from different sources, including formal law (e.g., copyright) [39], platform policies (e.g., Terms of Service) [83], and explicit community rules [41]. Understanding the role of policy is critical to the design and study of online communities [58], but sometimes the most important regulation is invisible, occurring at the level of informal social norms. These collectively determined rules for behavior are enforced by informal sanctions that community members place upon each other [69].

Social norms may or may not track to related regulations such as formal law. However, in the context of law, norms are often the strongest, and arguably most important, in situations in which the law is unclear. For example, in Ellickson's seminal study of norms through the example of cattle ranchers settling trespass disputes, he pointed out that policies are often based on the assumption of perfect knowledge of legal rules—whereas in reality, legal knowledge is usually imperfect [33]. In the context of this imperfect knowledge, people often resolve disputes by applying lower-level norms, and when these are inconsistent with formal legal rules, norms prevail. Prior work has suggested that this principle applies in the case of copyright law in online communities—specifically in the context of remix, where legal rules around content re-use are unclear [39].

In the United States, the legal doctrine that governs how copyrighted content can be re-used under certain conditions is called fair use (and similar concepts, such as fair dealing, exist in other countries [29]). Fair use is traditionally one of the most confusing aspects of copyright law, largely because it is considered on a case-by-case basis by courts, and there are guidelines rather than bright-line rules that govern its application [39]. Though this flexibility is desirable in a legal context (particularly because the law can be slow to catch up to technology) [2], it is difficult for people to apply in their own decision-making [39, 46] and likely impossible to model computationally [37]. As a result, if lawmakers, judges, and legal scholars can have reasonable debates about what may or may not be a fair use, then it is not surprising that ordinary Internet users have trouble as well. As with Ellickson's cattle farmers [33], when people have imperfect knowledge of copyright law, norms can not only fill in the gaps, but they are often more strongly enforced than law. Copyright therefore provides an excellent domain in which to examine social norm enforcement.

In order to interrogate well-established social norm enforcement online, we looked toward a specific online creative community—transformative fandom—as a case study that illustrates the broader principle of how social norms around copyright form and are subsequently enforced. Transformative fandom represents a community of creators who specialize in fanworks—writing, art, video, and other media that are based upon existing works like *Star Trek* or *Harry Potter*. We chose this domain to explore the functioning of social norms in an online community for several reasons: (1) as a technology-agnostic, longstanding community, fandom has strong social norms that have had decades to form and for enforcement mechanisms to be established [43]; (2) prior work supports the strong relationship between norms and copyright law in this community [39, 40, 46], which makes it a good case study for examining competing methods of regulation; and (3) successful enforcement of copyright norms in this community could have implications for other online creative communities [38].

Building off of prior work about copyright-related behavior in fandom [39, 46], we conducted interviews with fan creators who represent a range of types of fanworks (writing, art, video) and a range of online platforms (e.g., Tumblr, LiveJournal, fanfiction.net, Archive of Our Own). Through these interviews, we identified highly consistent copyright-related norms around issues of attribution, plagiarism, commerciality, and secrecy. We also traced the formation and evolution of norms over time, and the ways in which norms are strengthened and enforced. Our findings support prior speculation that norms are successfully regulating copyright-related behavior in this community [38], but more importantly, provide insight into why. Drawing from theories of social identity, we describe factors that contribute to the close-knit nature of fandom, and further, enforcement practices that serve to simultaneously cement community identity and reinforce

norms. This community as a case study suggests the benefits of norm enforcement strategies that focus on instilling internalized beliefs rather than a fear of punishment, as well as empowering communities to create their own rules rather than imposing them from external sources.

2 Background

2.1 Regulation and Social Norms in Online Communities

Formal policies that regulate online spaces are important, particularly when they can help translate community values into user interaction [20]. However, more often policies like Terms of Service (TOS) are far removed from the community itself—inconsistent, rarely read, and difficult to understand [42, 77, 83]. Given how mismatched users' expectations of the content of those formal policies can be from the reality [42], much of the time it is also unlikely that they are doing much work to influence community values or even user behavior [48]. Some online communities (e.g., Reddit) have community-created rules or community moderation with more formal enforcement mechanisms [41], but even when formalized rules exist, implicit social norms are still frequently a significant form of regulation [21, 22].

In both the physical and online world, these social norms govern personal interactions as shared standards of behavior and inferences about how others behave [26]. Within a community, they become informal rules that are then policed by informal sanctions that community members impose on each other [35]. Of course, the negotiation of these rules can be complex—as norms develop, they also fluctuate as both membership in the community and tools for communication change [65]. Therefore, understanding how norms function within a community is critical in the context of online spaces, to avoid designs that poorly align with social factors [4].

One challenge for the communication and effectiveness of norms within online communities is that because they are typically implicit, they can be difficult to learn, particularly for newcomers. This might lead to newcomers leaving a community or violating norms without intending to do so [67]. Actual collective norms might also be different than norms as perceived by individuals [68] and furthermore, community members may bring norms with them from other contexts. One cause of conflict in online communities is when community members disagree on what the norms are [47]. Norm clashes can be particularly problematic when, in some communities, norms deliberately reinforce non-normative behavior [63, 84] or harmful behavior [21]. Norms are not an inherently positive force, but can provide important insight into what a community values [22].

Our findings will reveal how copyright norms in fandom reflect deeper community values, and we will tie norm formation and enforcement in this case study to existing knowledge about social norms, including types of norms [68], the impact of marginalization and subculture [23, 70], norm conflict [47, 73], social influence and social identity [6, 55, 66, 93], explicit and formalized norms [14], and types of norm enforcement [9, 14, 36, 62, 106].

2.2 Copyright Norms

Social norms related to copyright can be particularly complex. Though mainstream coverage of intellectual property often focuses on simplistic narratives, people within different artistic communities tend to have much more nuanced understandings of copyright [11]. Legal scholarship on the subject of social norms supports this idea as well, suggesting that people often have intricate intuitions about the law without actual knowledge to back it up [33]—and that this phenomenon is particularly pronounced in communities of online content creation such as fan creators [38, 90, 99]. "Copynorms" are the informal social rules that determine the social acceptability of copying works created by others [92]; though digital piracy and peer-to-peer file-sharing (P2P) has been a focal point in discussion of these norms, there are also norms around content creation practices.

Traditionally these norms are based in part on complex ethical judgments; for example, one study found that though participants had difficulty addressing theoretical questions due to a lack of knowledge about intellectual property law, they expressed moral justifications for their behavior [105]. Therefore, even in the absence of knowledge of what the law actually says, technology users often form their own heuristics about appropriate behavior, and one source of these heuristics is social norms. In the case of piracy, these norms are often considered unethical—"if many people do it then it isn't really wrong" [76], in which case research has shown that there is a contagion effect.

In the context of creative communities specifically, creativity is inevitably influenced by the social context of that community. Even the choice of what content to remix depends in part upon social embeddedness and the reputation and community connections of content creators [18, 24]. Studies of remix in online communities often include a backdrop of copyright in discussions of issues such as distribution, sharing, or commercialization. This is true both for creators of original content, such as digital musicians [27] or knitters [57], and for remixers like video mash-up artists [72] or, of course, fan creators [39, 46]. In the Scratch online community, where young people share creative works through programming projects, norms about reuse and attribution have evolved with remix practices, and have a significant influence on behavior [75]. In sum, in the context of creativity online, norms around content reuse can be critical to the functioning of that community.

2.3 Transformative Fandom

Transformative fandom is characterized by the community that forms around creative work inspired by media properties such as television shows, books, and movies. Though we characterize fandom in this paper as single overarching community, there are also sub-communities that represent different media (e.g., Star Trek versus Star Wars) or that vary across online platforms, and people and practices may vary across these [16]. Despite these variations, however, we have seen in previous work (and again in the findings described here) that many types of norms are widely cross-cutting [19, 32, 39, 52].

Moreover, fandom has existed since long before the internet, and has been a subject of scholarly study for decades [59]. Fandom's shift to online platforms was gradual, beginning largely with Usenet and now spread across a number of online spaces. The social life of fandom is currently most active on Tumblr [54], with fanfiction.net and Archive of Our Own as the most popular fandom-specific archives [19, 43]. Online fandom has become increasingly more present in social computing and HCI scholarship in recent years, exploring, for example, design for social systems [43, 54, 97], information work online [13], and collaborative and informal learning [19, 44].

In addition to research on copyright norms and behavior in fandom that this current study expands upon [16, 39, 46, 96], prior work has established the importance of social norms in fandom around issues such as privacy [32] and feedback and critique [19]. We have seen that norms around learning, constructive criticism, and a general positive environment have had positive impacts for both young people improving their writing skills [19] and women learning to code in order to help on fandom-related projects [44]. In fact, parts of fandom constitute communities of practice [44], which require etiquette-based norms to function effectively [86]. As we will expand on in more detail in this paper, the power of norms in fandom may come from a strong sense of group identity due to shared experiences of marginalization and stigma [23, 49, 70], outside threats and the encouragement of self-categorization [6, 55], and even anonymous interaction [56, 87]. Theories of social identity predict that the more salient group identity becomes, the more likely group members are to cooperate with each other and form norms [6, 93]; our findings will confirm the importance of group identity in fandom.

These strong social norms became important in 2008 when the fanfiction writing community self-organized around building their own platform that, unlike the online spaces they had been

inhabiting, would support their existing values [41]. The design of Archive of Our Own, which now has almost 2 million users, includes features that purposely reinforce community norms, or even mitigate normative tensions [43].

Though the design of fan spaces, like other technologies, can have norm-enforcing or norm-influencing properties [43, 97], fandom as a community is so long-lived that it is essentially technology-agnostic, migrating across different platforms over time. As a result, social norms have had a long time to form independent of technological affordances, making fandom a uniquely appropriate online context to examine norm enforcement mechanisms.

3 Methods

Drawing insights from our previous exploratory work that established the importance of norms in copyright decision-making in this community [39], we designed another interview study to focus explicitly on those norms—beyond just what they are, but also how they form and how they are enforced. We chose semi-structured interviews as a data collection technique because this method focuses on considering not just a behavior itself, but the meaning behind it [94]. Though we also speculated about social norms in this space in previous work that examined trace data [40], interviews allowed us to consider motivation and meaning that goes beyond behavioral traces.

We recruited participants via postings in online communities frequented by fan creators, primarily Tumblr and LiveJournal. Because we were interested in a range of fan creation activities, we ensured that we had representation from artists, writers, and remix video creators (called "fanvidders" or "vidders") among our sample, as well as participants who came from different parts of fandom (e.g., different online platforms, and sub-communities for different media properties). We conducted interviews in late 2014, by voice chat (phone or Skype) or over instant messenger, at the preference of the participant. When recruiting, we expressed a preference for voice interviews, but allowed IM for participants who felt more comfortable in that medium [30].

Of our 15 interview participants, 13 were women and 2 were men, ranging in age from 19 to 39. This gender breakdown is typical for fan creators, a community that is traditionally predominantly female [28, 60] As Jenkins described the phenomenon in early work, "Media fan writing is an almost exclusively feminine response to mass media texts" [60]. This gender balance is important, however, because gender may well play a role in attitudes towards intellectual property [51]. Tushnet also argues that it is important to include traditionally female forms of remix in discussions of copyright, which in policymaking have been largely based on male exemplars [102].

All participants lived in the United States with the exception of two: one in Germany (Sara) and one in Canada (Lily), though both reported that they tend to think about U.S. copyright law as being the most relevant to their online activities and participate in primarily U.S.-based online communities. Table 1 lists participants along with the types of remixed content they create and the platforms that they frequent or have frequented in the past. Names given are pseudonyms chosen to match gender identification.

Interviews were semi-structured, giving us the flexibility to adjust questioning based on responses [94]. We asked about remix-related online activities, including types of content creation and sharing, as well as online communities participated in. We also asked about their knowledge, attitude, and experiences about copyright. Based on prior work, we were already aware of key copyright-related issues for different media types and were able to ask specifically about those. Questions then focused on delving into social norms, e.g., asking about "unwritten rules," including knowledge of the origin of these rules, how people find out about them, and how they function in the community. Within these 15 interviews, we reached saturation very quickly—that is, the point during our data collection at which no new relevant information emerged [50]. We suspect that the close-knit nature of this community, and the strength of these social norms, contributed to the consistency

Participant	Art	Video	Writing	Past Sites	Current Sites
Lily		2	1	Fanfiction.net, AO3, Tumblr	LiveJournal, YouTube
Christina	2	2	1	LiveJournal, Tumblr, AO3, Vimeo	Fanfiction.net, YouTube
Karen		2	1	AO3, Fanfiction.net, YouTube, Tumblr	
Patricia			1	Tumblr, AO3	LiveJournal
Maria		2	1	Dreamwidth, AO3	LiveJournal, Fanfiction.net
Ellie			1	Tumblr, AO3	Fanfiction.net, DeviantArt
Harry			1	Fandom-specific archive, Fanfiction.net	
Andrea			1	AO3, Tumblr	LiveJournal
Aaron			1	Fandom-specific archive	
Eve	1		2	Tumblr, AO3	Fanfiction.net, LiveJournal
Carrie	1		2	Tumblr	DeviantArt
Felicia	1	2		Vimeo, Tumblr	YouTube
James	1			DeviantArt, Tumblr	
Sara		1	2	LiveJournal	YouTube
Victoria		1	2	Dreamwidth, YouTube, Tumblr	LiveJournal

Table 1. Media creation type identified by each participant, along with which study they were part of. Darker grey (1) indicates their primary creation activity/community, and lighter grey (2) any secondary activities. Names are pseudonyms.

across our participants. This sample size is also in-line with previous work in this area [39] and local standards for HCI research [17].

Following transcription of voice interviews, we conducted a thematic analysis of the data. This method of identifying, analyzing, and reporting emergent patterns (or themes) within a set of data is a type of open qualitative coding that maintains some theoretical freedom [10]; two researchers

conducted individual analysis and met to iterate and converge on relevant themes. Final analysis focused on identification, formation, and enforcement of social norms and other rules. In the sections that follow, we detail each of these themes relevant to the functioning of social norms within an online community, with illustrative quotes as examples that represent larger themes present in our data.

4 Norm Identification

Prior work has identified common "misconceptions" around fair use in remix communities, suggesting that these misconceptions represent social norms that do not entirely track to the law—including the importance of noncommerciality and attribution [39]. Our findings here further validate that the strongest and most consistent social norms associated with copyright in fandom fall into those categories, along with related norms around permission and secrecy. Though these norms appeared consistently throughout these interviews, it is also the case that fan communities differ between fandoms and across technologies, and therefore can develop a diverse range of internal community rules [16]. It is important therefore to remember that social norms represent not a single point but a range of permissible behavior [98]. Moreover, norms shift over time, and recent work suggests that within fandom norms around commercialization and secrecy may be evolving due in part to generational differences and broader changes outside fandom in the context of the commodification of culture [32]. However, even if the norms identified in this paper may be less salient today or in the future than when these interviews were conducted, the subsequent illustrations of formation and enforcement are still highly relevant.

Additionally, measuring norms, particularly at the collective rather than individual level, is challenging because aggregating individual responses may yield perceived rather than collective norms [68]. However, the norms we identified are consistent with prior work [3, 15, 16, 25, 52, 53, 96, 99], including research based on observation of trace data [40] or that involved asking community members about behavior rather than norms [39]. Because our focus in this paper is on formation and enforcement rather than detailing the norms themselves, we will describe them only briefly to provide relevant context that will be important for understanding the mechanisms behind them.

4.1 Attribution

As evidenced by the common misconception that giving proper credit is an explicit fair use component [39], attribution is a norm so strongly entrenched in fandom that it is often mistaken for a legal rule. However, except as it relates to infringement or plagiarism, it is largely unregulated by the law since intellectual property in the United States does not include a moral right of attribution. As a result, nearly any community that involves creation adopts some process or rules for attributing creators' work properly [45]. Remix communities are no exception, and tensions around ownership in communities outside of fandom also often focus on standards of attribution [1, 71, 72, 75]. However, this norm is particularly important in fandom, which is considered to be a "gift economy," meaning that as far as fans receive any kind of payment for their work, it is in the form of credit [52, 99].

Though our interview participants also spoke of credit to source material (e.g., acknowledging JK Rowling as the author of Harry Potter), the more important norms involve explicit credit to a fan creator when appropriating or sharing work:

I always, always, always attribute the inspiration for fan works if it's another fan. I think that's like one of those huge sort of social norms on Tumblr, that you acknowledge other fan's creative contributions to the community. (Patricia)

Closely tied to this norm of credit to creators is the strong norm against plagiarism. The legal (and seemingly ethical/normative) difference between copyright infringement and plagiarism is that plagiarism involves passing something off as your own. This can be particularly complex within fanworks communities where there may be unclear lines about how much of something need be changed before it constitutes a new work. As articulated by Stanfill, transformation is haunted with the specter of stealing someone else's work [96]. However, the worst cases of plagiarism are obvious and purposeful:

In fanfiction, plagiarism is... representing those words as words that they have written when they're not. Authors have gotten pushback for doing what I've described. (Ellie)

This "unwritten rule" to give credit where credit is due is also important on Tumblr, which is a common platform for sharing fan art; there, reposting artwork without credit to the original artist is a known taboo. This norm is so important to the fandom community that it was integrated explicitly into the design of Archive of Our Own, by way of a feature that allows authors to note with metadata if a work was "inspired by" someone else [43]. And many of our participants mentioned that the safest course to avoid violating this norm is to ask for explicit permission from other fan creators to use pieces of their work.

4.2 Commerciality

Another consistent misunderstanding of fair use is the idea that it hinges on commerciality—i.e., if you aren't making money from a remix, then it is always fair use [39]. When it comes to fanfiction, this norm is consistent, strong, and unambiguous; one interview participant articulated it as "thou shalt not sell your fanfiction." Many expressed profit as the bright line for whether fanfiction is ethical and legal, including profiting from advertisements.

That's where the line is... By creating fanworks, you're accepting the fact that you're borrowing from someone else's creative work. To make money off of that just seems wrong. (Sara)

This has also been a heavily enforced norm. One participant described "laptopgate," in which a fanfiction writer had asked for donations to help her purchase a laptop to replace a stolen one. This would be an ambiguous reading of "commercializing" at best, but was still criticized:

I guess people saw it as saying like, if you don't give me money then I won't keep writing! They crucified her for it, too. That's the number one rule. You don't make money from fic. It's weird but I guess they didn't see that as any different than throwing it up for sale on Amazon. (Victoria)

Hellekson writes that "at the heart of the anticommercial requirement of fan works is fans' fear that they will be sued by producers of content for copyright violation" [52]. It is true that noncommerciality makes a fair use argument much easier to make, but the norm against commerciality also has at its source the gift culture of fandom. In writing about the fandom backlash against the short-lived platform FanLib (which monetized fanfiction), Hellekson framed this as illustrating that "attempts to encroach on the meaning of the gift and to perform a new kind of (commerce-based) transaction with fan-created items will not be tolerated" [52]. Indeed, even when there isn't a legal issue with commercialization—for example, through Amazon's Kindle Worlds program [101]—selling fanfiction is still often frowned upon, in part because it does not support the "freedom and joy" of fan culture [100].

Also beyond legality, several interview participants mentioned *Fifty Shades of Grey*, a successful commercial novel that began as Twilight fanfiction [61]. A variation on selling fanfiction is "filing off the serial numbers" before sale. This essentially means changing the names of the characters

and any other identifying features. In the case of "alternate universe" stories—in which, for example, the characters aren't vampires but normal college students—these repurposed fanworks likely do not constitute copyright infringement regardless of commerciality. However, the ethics of "pulling to publish" are still hotly debated, and many considered the publication of *Fifty Shades of Grey* to be a norm violation—not because of copyright, but because commercializing fanfiction in any form goes against this gift culture. Once you gift something to the community, it is poor etiquette to then take it back again.

Once it becomes an actual "We're going to make money off of that," it's fairly dicey, even in the fandom community, just because it's like, "Should these people be making money off of things that they previously were providing for free?" As a person in fandom, it leaves a very bad taste in your mouth, the idea that these people could use their fandom clout, if you will, and then just kind of be like, "Peace out, guys!" (Maria)

Another strong norm in fandom surrounding commerciality does not track to the law: It is okay to sell fan art, but not fanfiction. Of the 12 interview participants who expressed a strong opinion about whether it is okay to sell fanworks, all 12 said absolutely not for fanfiction, but 10 of these said that it was okay for fan art. Many participants commented on the inconsistency in this norm, though could not articulate precisely why this rule existed; some had theories if pressed, but most just thought it "has always been this way." Under the law, it is unlikely that one medium would be treated systematically differently than another when it comes to fanworks and fair use. One might think that the lack of lawsuits against fan artists might be some comfort to fanfiction writers, perhaps shifting a norm towards commerciality, but this does not seem to be the case. Rather, it highlights the strength of a norm that does not track entirely to the letter of the law.

4.3 Secrecy

Norms around attribution and commerciality are closely related in that at their core is the gift culture of fandom. However, one final norm that came up consistently among interview participants is that of maintaining some secrecy—not drawing too much attention to the community, in part due to a fear of inviting legal trouble. Freund notes in her discussion of copyright negotiation among fanvidders that some of the "culture of fear" about copyright in the community arose after they became more visible on LiveJournal, and that many vidders are highly concerned with privacy, "locking" their posts and avoiding popular websites like YouTube [46]. She also quoted a fanvidder as noting that there was a sense of "You don't talk about Fight Club" because of fears of copyright and exposure. Similarly, several interview participants expressed adherence to norms about not drawing too much attention to themselves—for example, not showing fanworks to the copyright owners [46].

That's kind of scaring me a little bit, the disappearing barrier between the fans and the people who are making the thing that we're fans of. Fans have to realize that they can't keep shoving things in the creator's faces or else they might take legal action. (Karen)

This "keep it secret, keep it safe" mentality [70] actually serves to strengthen the "insider" status of members of the fan community. As Goffman points out, shared experiences of marginalization can actually foster more a sense of community [49]. Though "geek culture" is generally becoming more mainstream, a spread in popularity also brings with it the danger of segregating remaining outsiders—excluding those who do not fit that more mainstream model [15]. Fandom's "underground" status also gives them a degree of creative freedom that they might not have otherwise [60]. Moreover, fandom communities tend to have a significant number of LGBTQ participants who have safety concerns that reinforce the importance of privacy-related norms [32].

Stigmatization can also affect the ways that community members seek information. Chatman's theory of information poverty, though largely focusing on poor information resources in small communities, also ascribes it to suspicion of information from outsiders [23]. Lingel and Boyd's study of the body modification subculture suggests that marginalized communities experience tension between wanting to share information and wanting to keep it secret and safe [70]. Similar to fan creation activities, which traditionally experience some stigma even outside of legal matters, the threat of legal awareness reinforces a need for maintaining borders between insiders and outsiders. One fan creator's testimony to the Library of Congress regarding copyright rulemaking argued that a copyright regime that threatens remix with sanctions can be particularly damaging to members of marginalized groups, already nervous about expressing themselves [102]. Existing in a legal grey area presents a clear driver for secrecy, which then reinforces the social norms built up in the community over integration of outside rules.

5 Norm Formation and Evolution

As noted with respect to the norm about selling fanfiction versus selling fan art, when questioned about where norms actually come from, most interview participants simply did not have an answer:

I don't know why I've drawn that line down the middle. (Lily)

I don't know why... I think it's something the community has decided. (Sara)

We know that these norms are highly ingrained, but where do they come from and how do they evolve? Despite community members not necessarily being aware of this process, there are some common themes related to the formation of norms in these communities. In this section we discuss three ways in which norms form or evolve—observation, migration, and formalization—as well as how group identity contributes to the success of norm formation.

5.1 Emergent Practice and Observation

We know from prior work on social norms and newcomer behavior in online communities that behavior is largely socialized through observation. Newcomers learn to interact in online communities by seeing how others conduct themselves and by applying norms from other contexts (including offline life) [47, 73]. As a result, norms may emerge organically as newer members of the community pick up on behaviors of other individuals (whether this behavior is new or was brought with them from another context). In fandom communities as well, learning how to properly engage with the community (what it means to be a fan) is a kind of initiation [52], and it is common for older members of the community to act as mentors and gatekeepers for newcomers [3].

These processes are also driven in part by the underlying value system of fandom, that involves complex negotiations of online privacy and control, affective aesthetics, and the value of fan labor [16]. Though fanworks are not limited to women, this value system (particularly as it applies to interpretations of intellectual property) is also influenced by the predominantly female nature of fan communities [15, 51, 102], and prior work shows that gender may be a factor in the enforcement mechanisms for social norms in that community [5]. Therefore, the fact that women serve as the primary gatekeepers and mentors that influence newcomers [3] may have an impact on how newcomers interpret and understand emergent norms.

One of the clearest examples of adoption-through-observation is the widespread use of disclaimers attached to fanworks. These disclaimers, often some variation on "I don't own these characters," do not actually carry any legal weight [99]. However, this legal "tissue paper," as one participant called it, became such a prevalent norm that in some online communities it has been formalized into site policy. The original spread of the practice, however, came from emulation of others in the community.

When I first started writing, I would emulate the kinds of things that other people would do and people would always put a disclaimer at the beginning of their stories... I picked up on that. I noticed it on all the stories I was reading and I would put it in mine. (Ellie)

I must admit though I'm not even sure if that thing is an actual legal thing, you know? But we had seen some of the "big" vidders in the big fandoms use this disclaimer so we used it too. (Sara)

Sara's comment highlights the importance of the most visible members of the community. Leaders who emerge in a community tend to be the most prototypical of group norms [93]. Moreover, because norms emerge from observed practices, early members of the community often have the most prominent role in shaping norms, as do leaders and those with the most social influence [55]. Participants also reported looking to early adopters for guidance on proper behavior:

You have what I would consider like the early adopters. So, the people who find the show in the first, or the second, or the third season, and they love it. Then they get excited about it. They're the ones that sort of form the fandom. (Karen)

Looking to other community members for guidance is particularly important for newcomers, who traditionally have a more difficult time learning established norms in a community [67]. This is an even bigger problem when norms are ambiguous or when they evolve quickly, as in online communities and social networking sites [73]. Therefore it is easy for norms to trap newcomers since they have not yet been exposed to the expectations of the community, which only become clear through the shared history of the group [14].

It is kind of frustrating when you see people enter the community, or trying to enter the community, and clearly not aware that there is a community there and it already exists, and it has been going on for years before them. They're sort of acting like they're a special snowflake that has just discovered this amazing show. Meanwhile, we have a fandom manual and four years of history with each other and that sort of thing. (Patricia)

As Patricia adds in the quote below, one solution to this can be to spend time observing the interactions of the community, and indeed, some online communities explicitly encourage members to do this prior to group interaction [14].

I lurked for about a year before I got a Tumblr. So, because of the people that I had sort of stalked and what I had experienced before I got one, I had sort of had expectations about the language, about how to use tags, about social norms of behavior that were and weren't allowed. (Patricia)

With respect to copyright specifically, a number of participants mentioned learning about both law or community rules from interactions with and observations of other fan creators:

You know, they tell you read the terms and conditions. No one reads the terms and conditions. They tell you you should read the copyright policy. No one reads the copyright policy. But you sort of pick up bits and pieces of it just by seeing other people interact with it. (Eve)

I think Tumblr especially is the kind of community where there are people who will read into everything. Then they will share that kind of information [about copyright policy]. Fandoms are really aware of these things in general. So, it's not necessarily something you, in particular, have to be seeking out. People will tell you. (Maria)

Moreover, once norms begin to propagate, an "everyone is doing it" mentality only serves to reinforce them. A number of participants attributed their understanding of what is legal and/or

ethical when it comes to copyright practices as sort of following the herd—if they're not getting into trouble, then I won't either.

I feel like it can't be illegal because many people are doing it and there are whole sites devoted to it. (Lily)

I'm not what you'd call an early adopter. So, I sort of figured if there was going to be a problem with copyright, I would have heard about it by now. I didn't, so I was like, "Oh, man! I'll just post my fic here!" (Patricia)

5.2 Migration

Many fan communities have existed since long before the Internet [59], and are tied to an interest rather than a particular technology, migrating in reaction to technological advancements [43]. Therefore, some of the highly ingrained norms in these communities formed not within the current instantiation—for example, a "Tumblr fandom" for a particular television show—but have evolved over the course of many years and many different spaces. A number of interview participants discussed the migration of their creative communities. One notable example is what one participant described as a "mass exodus" from LiveJournal. Six interview participants noted LiveJournal as a former major hub for fan creation activity, now replaced largely by Tumblr for social interaction and Archive of Our Own for archiving fanfiction.

In Pearce's ethnographic account of the immigration of players from a shutdown multiplayer online game to a new virtual world, she observed that the persistent community maintained characteristics and norms even in a new technological environment [85]. Similarly, intellectual property norms in fandom communities may have a long pre-Internet history and have simply been maintained by a persistent community identity despite changes in technology and membership.

[A friend] told me how there wasn't this huge Internet thing back then, obviously, so they'd send fanfiction to each other by snail mail. Or they'd meet up once a year and put out a newsletter, for free, that had tons and tons of fanfiction in it. Maybe that was practiced a lot in fandoms, just this sharing thing. No charging money for it, and maybe that stuck with fanfic, so no one would try to sell their fics now. (Sara)

However, technological migration also serves to explain how norms change over time. These descriptions of shifting norms on Tumblr track to the idea that community norms may start out very similar to a previous space after a migration, but then begin to diverge:

I've been on Tumblr for 3-4 years now I would say. The user culture has changed. I went onto Tumblr right before it sort of exploded, and took off, and got really popular. But the social norms and expectations of behavior, I think, were more rigid in the beginning. (Patricia)

Things just seem kind of different now that most people have moved on from LiveJournal. It's taken a while, but people definitely think differently about some things. Like, people get way more weird about attribution rules on Tumblr than they ever did on LiveJournal. (Victoria)

Differences in design and policies may contribute to this divergence. For example, the design emphasis on Tumblr towards sharing content has led to a unique set of norms dealing with definitions of plagiarism. Archive of Our Own also has design features intended to influence norms [43], and several interview participants mentioned that platform's mission statement of protecting transformative works as contributing to more of an awareness of intellectual property issues in the community. This greater awareness, driven by Archive of Our Own's formal statement, could also have helped the community converge even more strongly on these norms.

5.3 Formalization

Social norms discussed so far are largely implicit norms—that is, they emerge organically through the interactions of the group. By contrast, explicit norms are codified in formal documents [14]. These can co-exist, with explicit norms supplemented by norms that are not formally articulated, and implicit norms can also become explicit through a process of formalizing them. For example, Usenet groups relied on FAQs to codify their norms and define boundaries of expected behavior, constructed by the community through group discussion [14]. Rules on individual subreddits may also reflect norms that have emerged over time [41]; these formalized norms still have their roots in the community itself.

Though no interview participants described formalizing processes quite like the creation of an FAQ or community rules, there were mentions of metadiscussions about copyright. Burnett and Bonnici describe metadiscussions as relating to norm formalization in that they are the primary mechanism for a community to discuss dynamics of their interaction and the acceptability of behavior [14]. Metadiscussion can also serve the same function as communication around cooperation, which has carryover effects that tend to strengthen norms [6]. In online creative communities, including fandom, copyright is a common topic in discussion forums, which can sometimes lead to explicit rules being stated by moderators or administrators [40]. The creation of Archive of Our Own was in large part due to one extended metadiscussion about the importance of fans having control over their own content and protecting themselves against legal challenge [43]. Sometimes these discussions extend into formalizing mechanisms such as the mission statement for Archive of Our Own stating that "we believe that fanworks are transformative and that transformative works are legitimate."¹ One interview participant also mentioned a "fandom manual" that she said served to introduce newcomers to their community, and even included suggestions for copyright disclaimers.

Beyond formalizing that happens within the community itself, there is also an interaction between social norms and formal policies like Terms of Service. These policies could be seen as a type of institutional norm. Institutional norms are binding expectations from an institution about the range of appropriate behavior for those subject to the institution [74]. Some formal policies are closer to the actual community—for example, on Archive of Our Own, which was built by the fan community for themselves, and has policies that intentionally reflect the community's values [43]. Other policies, such as those on YouTube, are arguably far removed from users, who have negligible input. However, the policies of a site can have an influence on norms as well, in the same way that the actual letter of the law has some effect on how people think about intellectual property [39]. For example, policies might nudge norms through formal moderation, where the attitudes of moderators can influence the community.

There was a really interesting discussion about moderator power. What it pretty much boiled down to is, look, these are the guys that are running the show. They're trying to keep all this as organized as possible. Though we do know that some of the moderators are prejudiced in different ways. (Harry)

Additionally, there may be interaction between enforcement through moderation and the community, when community members report behavior to moderators. In one example, a participant described going to the moderators because she felt that someone had broken an unspoken rule about copying:

¹https://www.transformativeworks.org/what_we_believe/

I did go to the moderators. I was like, "Just as a head's up, this person did this and I'm not super-happy with it. Also, she didn't care. So, what can we do?" They were very cool and they took care of it. (Maria)

his type of interaction is more common and more effective in smaller, close-knit communities, however. The types of formalizing mechanisms that Burnett and Bonnici describe actually serve to strengthen community identity by the creation of a "we"—a formal description of the kind of person the group is meant for [14]. This could explain in part why, based on statements by our interview participants, agreement with and adherence to the rules of a website correlates with how close to the community that website is. For example, whereas participants spoke of agreeing with copyright policies of Archive of Our Own, the most common disagreements were with large user-generated content sites with a diverse user base, such as YouTube or Instagram:

I did disagree with YouTube a number of times. In middle school, we had a short course of lessons on copyright law and fair use. I knew that what I was posting was within fair use. But whatever company owned it was getting annoyed anyway. (Carrie)

Instagram had a thing with that where for a period of time they were saying that under the new terms of services, they'd be able to take your photos and do what they wanted with them. People in fandom were very against that. When made aware of it, it always makes me kind of wary. (Maria)

When creators feel far removed from website policies, or when they feel these policies go against established norms, those policies subsequently have little influence on those norms. However, they can still impact the way that people think about copyright. Seven participants mentioned disagreeing with YouTube's policies or having had work taken down for copyright violations. Yet all of them also assumed that if YouTube said so then their work must have been copyright infringement. Though it might not change their opinion about what was appropriate (e.g., the norm), it did change what they thought was legal.

5.4 Group Identity

As we have emphasized, fan communities tend to be close-knit. This closeness, along with the degree of self-identification with the group, explains why some of the mechanisms we've just discussed (e.g., observing others, formalization) have been so effective. Our findings suggest that fandom is an example of how social identity contributes to the strength and speed of norm formation. The strongest social norms tend to be tied to self-identification within a community, forming most rapidly when new members immediately identify strongly with the group [55]. This is even true with respect to influencing or changing behavior. Kraut et al. found that when introducing new technology to a group, social influence for technology adoption is strongest in smaller, primary groups [66]. Norms also tend to be stronger when the group's value or existence is under threat in some way [55], and outside threats of IP enforcement may be particularly impactful since creative appropriation is this group's primary community-building activity [90]. In other words, the more these creators associate being a fan with their identity, the easier norms about this important activity—content appropriation—will form.

As noted in our explanation of copyright-related secrecy norms, fandom is also a community with strong norms around privacy. These manifest in the ubiquitous practice of using pseudonyms rather than real names [32], which is important for a community that involves identity exploration [103]. Though some research studies have shown a link between anonymity and deviant behavior [31], others have suggested that anonymity is harmless or may even support community building [82]. Work that links deviance and anonymity also tends to focus on contexts that lack strong signals of identity (including social identity) [31, 93]—whereas the social identity model of deindividuation

suggests that anonymity can actually increase the salience of group identity [87], a theory that has been supported by subsequent experimental and social science research [6, 8, 56]. For example, research has shown that though feeling identifiable can increase feelings of accountability, actually knowing the identity of others can decrease group identity and adherence to group norms [8]. However, identity cues that signal group membership (e.g., a list of children's birthdays in a signature in a parenting group), without revealing too much about a specific individual, can increase norm adherence and trust [8]. Pseudonymous fandom, which is built upon persistent identity without personal information, and furthermore thrives on identity markers (e.g., I am a Star Trek fan!), appears to support the social identity model of deindividuation.

Taken together, these innate characteristics of fandom provide the ideal environment for social norms to form. However, mechanisms for norm enforcement (particularly those that work to encourage internalization of norms) can also serve to further cement group identification. In the next section, we discuss two major mechanisms for enforcing norms: sanctions and internalization.

6 Norm Enforcement

When participants spoke about following rules or how they made decisions about copyright, these judgments were more often ethical/normative rather than based on law or policy. Additionally, with one notable exception (works being removed from YouTube through DMCA takedown procedures), most of the enforcement mechanisms they discussed were community-based as well. Though sometimes norms can be formalized into rules for a particular community [41], unofficial mechanisms often exert more normative pressure on community members than these more explicit norms [14]. Smith et al.'s study of conduct control on Usenet revealed that the majority of reprimanded transgressions were violations of the implicit norms of a particular newsgroup, such as failing to demonstrate knowledge of an FAQ or "undermining the communal spirit" of the group [95]. This is especially true in spaces where formal law is absent or unclear, and social norms have to fill in the gaps in regulation [33].

Informal enforcement mechanisms (those not prescribed by law or other formal rules) involve either personal enforcement, which is retaliation by a specific victim, or community enforcement, where bad behavior triggers sanctions by other members of a group [62]. Community enforcement is important because if only the "second party" (the victim) of a violation imposes sanctions, only a limited number of social norms can be enforced. Instead, sanctions by a third party (someone who was not directly affected by is aware of the violation) enhances the scope of norms in a given community [36]. For our interview participants, third party enforcement of the social norms are an important part of community engagement and the intellectual property landscape of fan creation. As one participant put it, this is to be expected in any close-knit group, and is important to a group's success:

I just think that there are going to be social consequences to entering any group. I mean, it doesn't matter if it's fandom, if it's a sports team, it's a church group, it's a political activist group. When you enter into an established community, especially an identity-based community, there are always social norms and expectations of behavior. You're entering a group that has existed before you. If you're going to be a dumb ass, you should get called out on it. (Patricia)

Fear of "social consequences," or sanctions, drive injunctive norms—people's beliefs about how they ought to act in a given situation [68]. In contrast, descriptive norms come from people's beliefs about how people in a given group actually act [68]. Both of these types of norms provide information that will help someone decide appropriate behavior in the context of a social group, but descriptive norms typically do not involve sanctions for noncompliance [68]. These categories

also mirror another way of thinking about how enforcement takes place: (1) pure coordination, shared expectations about the solution to a coordination problem; (2) threat of social disapproval or punishment; and (3) internalization of norms of proper conduct [106].

Our findings largely track to these traditional mechanisms of norm enforcement. With respect to the first, coordination situations are strategic social interactions where everyone is better off with the norm followed; with everyone sharing the same interest, there is no need for sanctions (or incentives) [104]. Pure coordination is not as common for the types of norms outlined here, since there is typically some self-interested motivation for breaking a norm, such as making money from selling fanfiction, or gaining unearned praise from plagiarized work. However, coordination could explain in part why we don't see many public flagrant violations—such as highly visible attempts at commercial fanfiction. These tend to be noticed and stamped out by copyright owners quite quickly—for example, the case of an unauthorized Star Wars fan novel [38]—and thus the incentives are low. Our participant Victoria noted that fan creators as a whole "know not to do really stupid things like try to sell your Harry Potter novel on Amazon without permission." Therefore, most mechanisms for reinforcing norms are either sanctioning (i.e., towards injunctive norms) or internalizing (i.e., towards descriptive norms).

6.1 Sanctions

One way that social norms are enforced is through sanctions—the penalty or social consequences for violating the norm. Though some sanctions may be more extreme than others, they are generally a way to negatively reinforce norms; they are punishments driven by negative emotions and negative fairness judgments towards norm violators [35]. Participants gave many examples of observing, giving, or receiving sanctions having to do with copyright norms in fan creation communities. Here we discuss types of sanctions—notably, public shaming and ostracization—as well as the impact they have on community members.

The most common type of sanction noted by our interview participations was public shaming—for example, the LiveJournal community that maintained a list of known plagiarizers [16], and similar examples:

There were at one time pages on various fandom communities dissecting [a fanfiction writer's] work and putting it side-by-side with those of other original works that were in Harry Potter and showing all of the instances of plagiarism. I think they've since been taken down. But at one time, it was a big to-do. (Ellie)

This kind of shaming—publicly calling out community members for norm violations—has long been a common and effective mechanism for social control. In newsgroups where community sanctions were more effective than formal rules [14], researchers observed shaming behavior ranging from public reprimands to "ruder" sanctions such as attaching a note describing the violating behavior to a person's avatar [81]. Similarly, in the early days of MUDs, one method of ritual shaming was "toading," where an administrator would alter the offender's persona into something shameful like a toad [88]. Public shaming has also become a common style of "vigilante justice"—a type of online harassment that is often perceived as justified [7]. Criminologist John Braithwaite posits that one reason that sanctions imposed by relatives and friends can be even more effective than threats of legal consequences is because sanctions are in large part about shame, and people care more about their reputation with people they know than with strangers of the criminal justice system [9].

Shaming is also a particularly common enforcement mechanism in the context of intellectual property. As legal scholar Elizabeth Rosenblatt writes, "In the shadow of formal law, shame and shaming govern intellectual property's liminal spaces, where protection is uncertain or inconsistent

with the strictures of formal law... where copying norms are created and internalized by the creative community and optimized to its needs, rather than being imposed, top-down by Congress and courts" [91]. Discussions of intellectual property's "negative spaces" (where relevant legal rules do not exist) such as stand-up comedy [78], jam bands [92], and roller derby names [34] focus heavily on the role of social norms and typically include references to public shaming. Our participants gave examples of communities specifically stepping in to police behavior that they knew would not be regulated in other ways:

People are more willing to share with celebrities, be it fan art or fanfiction. That kind of makes me uncomfortable a little bit. Because it just depends on what they're sharing. So, we're trying to police within the fandom. (Karen)

Another severe consequence that participants mentioned was ostracization from the community, which might occur in conjunction with public shaming. Our participants presented this as the worst-case scenario of norm breaking—not only being "called out," but also "shunned":

When someone tries to plagiarize fan fic, generally they get called out. They get chastised. The community is made aware that someone is stealing someone else's intellectual property, and they are shunned. (Patricia)

Just as those with the most social influence have the greatest role in shaping norms [55], they also have a significant role on the effectiveness of sanctions or attempts to shun or ostracize. Sometimes the negative reaction to a norm violation is not just to draw attention to it, but to encourage the community to act, even if that act is simply to pass the message on further. For example, perusing the "art theft" tag on Tumblr will show many examples of posters asking for reblogs of public shaming posts. As Eve points out, drawing the ire of someone with "a lot of followers" means the sanctions will be more severe:

A lot of times if you get called out on a post, it's very easy for the rest of the community to see it, especially because the people who are oftentimes calling out stolen artwork are the big-name fans in the fandom. So, they have a lot of followers, and a lot of people see what they post. If they call out somebody, it's very easy for the person who stole the artwork to be ostracized from the rest of the community. (Eve)

One challenge with this kind of sanctioning is that there is a fine line between "calling out" (however justified it may be) and harassment [7]. For example, journalist Jon Ronson's book on public shaming explores a number of case studies in which the punishment may not have fit the crime—lives and careers ruined over arguably minor offenses [89]. In this context, a number of our participants pointed out the importance of drawing that line and not condoning harassment:

Sometimes I worry that people might go too far. I'm all for calling out people for being jerks, but let's not send out the pitchforks for what might be an honest mistake. Thankfully I haven't seen fans get too crazy about that. (Victoria)

Participants also noted that sanctions that go far enough as to ostracize a community member is an extreme last resort, and applies mostly to "outsiders" like FanLib, rather than pushing legitimate members of the community out. In this way, shunning is one method of maintaining community boundaries. Though fan creators want to encourage newcomers who legitimately want to engage with the community, outsiders receive more skepticism. Hellekson's description of the "swift punishment" of the website FanLib is essentially a story of outsiders being run out of the community [52]. She quotes an open letter from a fan explaining why the "intense backlash" against the site occurred:

You do not understand us and our communities, nor do you respect us. . . . If you want us to participate in your endeavor then make it something in which we would want to

participate. . . . You do not come to us as equals and that is your fundamental failing in this endeavor. You cannot build a new community at your site all nicely regimented and controlled because the community already exists and we will not be controlled by the likes of you [52].

Though as we have described here, public sanctions are still part of norm enforcement, our data suggests that the emphasis is not on pushing people out of the community, but rather helping them stay in by internalizing the norms themselves, as we discuss in the next section.

6.2 Internalization of Norms

Even with shaming sanctions, it may not be the formal punishment that matters so much as informal moralizing features—for example, studies have shown that education about moral reasons for compliance can be more effective than education about the penalties for non-compliance [9]. However, punishment is not the only type of enforcement mechanism. Burnett points out that newsgroup enforcement that was helpful and welcoming as opposed to ostracizing actually strengthened community ties by encouraging newcomers to ask for help [14]. Similarly, Baym's early study of an online community of soap opera fans revealed that social norms were enforced through "gentle reminders" about appropriate behaviors [5]. She speculated that the fact that most participants were women may have influenced the ethic of friendliness in the group [5], which could certainly be true of current predominantly female fan communities as well.

Though when asked directly about "enforcement" in their community, participants gave examples as above that focused on the more negative/sanctioning side, when asked about why or how they personally follow the rules, we heard more about enforcement along the lines of Baym's "gentle reminders."

Fandoms are really aware of [copyright rules] in general. So, it's not necessarily something you, in particular, have to be seeking out. At least in my experience, people will tell you. Then you can say, "Ah, I'll stay away from that." (Maria)

I would probably be annoyed that they didn't actually ask for permission [to write a sequel to my fanfiction]. But I would probably just message them and ask, "Thank you, but why didn't you ask for permission?" (Lily)

This variety of norm enforcement encourages internalizing belief rather than changing behavior through fear of reprisal. Though some research has shown it to not be as effective as negative shaming [80], there are advantages to the "gentler" approach to community norm policing. Braithwaite frames this difference as "reintegrative" as opposed to "disintegrative" shaming: "here's how to do better next time" over "you've been bad" [9]. Reintegrative shaming internalizes belief, but this also means that its effectiveness is reliant on a bond to the community. When this bond exists, however, Braithwaite argues that reintegrative shaming is more powerful than law in shaping behavior [9].

Similarly, Hogg posits that, based on social identity theory, the prescriptive force of norms comes not from perceived social sanctions from their violation, but instead from an internalized self-definitional function—a knowledge of how we ought to behave as members of a group [55]. Therefore, for all of the same reasons that norms may form easily in close-knit fan communities based heavily on community identification, reintegrative sanctions may also be the most effective. Education rather than punishment also works towards alleviating fears like Victoria's that a community might "send out the pitchforks" for honest mistakes.

7 Lessons for Community Regulation

In Elinor Ostrom's discussion of how social norms evolve in response to collective action problems, she posits that norms often have more staying power than cooperation enforced by externally

imposed rules [79]. Moreover, externally imposed rules tend to "crowd out" cooperative behavior; in other words, it is more difficult for norms to evolve efficiently when they compete with formal rules. This idea mirrors Ellickson's collective action argument that social norms are most efficient at filling in gaps where law is absent [33]. We also know that a source of conflict in online spaces is when norms imported from elsewhere conflict with one another [47], which also happens in the context of copyright when norms conflict with law or platform policy [40]. Ostrom suggests that the "worst of all worlds" when it comes to the relationship between law and norms is when external authorities impose rules with weak monitoring or sanctioning [79]:

In a world of strong external monitoring and sanctioning, cooperation is enforced without any need for internal norms to develop. In a world of no external rules or monitoring, norms can evolve to support cooperation. But in an in-between case, the mild degree of external monitoring discourages the formation of social norms, while also making it attractive for some players to deceive and defect and take the relatively low risk of being caught [79].

This hypothetical worst-case scenario is easily what the environment around intellectual property reuse, despite not being a traditional collective action problem, could become. Unlike intellectual property's "negative spaces" where relevant laws are entirely absent [90], fanworks and other remix exist within the legal purview of fair use. Therefore, the situation is not (as in Ellickson's cattle farmers) that social norms fill in the gaps when law is absent [33], but instead that they clarify rules for gray areas where law is confusing. In other words, fan creators are operating in a space in which there are externally imposed legal rules that are poorly defined and inconsistently applied. In Ostrom's view, a likely end result for this scenario is both difficulty in norm formation and an increase in deviant behavior [79].

However, our findings from this interview study suggest that within fan creation communities Ostrom's fears have not come to pass. Instead, there exists a specific set of social norms related to copyright that are effectively enforced by the community. We argue that the successful formation and enforcement of norms, leading to largely cooperative ownership behavior in these communities, is due to the strong ties and sense of community identity. Group membership is essential to successful formation of norms [55], and contributes to the more successful methods of enforcement as well. Braithwaite posits a number of reasons why reintegrative shaming is more efficient than instilling a fear of punishment [9], but in sum, instilling internalized beliefs contribute to an increased sense of community identity, which in turn helps form and reinforce norms.

Ostrom concludes that a solution to tensions between norms and formal rules is to increase the authority of individuals to devise their own rules [79]. The fact that fan communities have been doing this informally could explain their relative success in self-regulating ownership norms. Moreover, experiments around cooperation suggest that discussion is one of the most important factors in activating norms formed through group identification [6]. A number of our research participants mentioned the importance of the metadiscussion surrounding Archive of Our Own in explicating the community's values and converging even more strongly on norms. This suggests that the act of discussing and creating policy can therefore be as important as the formalized policy itself. Moreover, even when rules are less explicit (as in the case of implicit norms, which can be difficult for newcomers to learn [67]), norm enforcement practices that focus on describing and teaching norms—therefore integrating people into the community rather than pushing them out—can lead to stronger group identity and internalization of norms [9]. We therefore suggest that a potential solution to dealing with legal gray areas is to encourage community-based formation of rules, and further, to encourage enforcement of these rules through reintegrative practices.

But could this recommendation work for other types of online spaces? It seems particularly challenging for those that may have very little existing "community" [12], and difficult to implement at scale. As Blackwell et al. point out, the increasing size and scope of online interactions may have outgrown normative regulation [7]. One reason that conformity may not be influential for some kinds of online behavior [7] is that on a platform like Twitter, for example, there may be little sense of social identity and therefore little motivation to internalize observed norms. Therefore, despite suggestions that user-generated content platforms like YouTube might learn something from the successful copyright norm enforcement in fandom [38], it seems unlikely that a platform with weak ties between users rather than a community of close-knit members would reap these benefits.

However, fan creation communities have also exploded in size and scale. As of 2016, fanfiction.net was the 440th most popular website in the United States [19], and both fanfiction.net and Archive of Our Own include millions of published works and millions of registered users [43]. One explanation for the ability of fandom to maintain strong norms even at scale is a continued sense of "insider" status that strengthens community identity, perhaps in part due to historical shared experiences of marginalization and stigma. Explicit threats from and mistrust of outsiders also strengthens in-group identity and subsequently conformity [6, 55], which in the case of fandom can occur as a reaction to fear of copyright law [46, 96].

However, another explanation is that, even at scale, the community continues to reinforce its own values through both policy and design. Not only does Archive of Our Own, designed and developed by community members, influence norms directly through the design of the platform itself, but the formal policies are based on those values [43]. As both institutional norm [74] and reflection of the community's emergent social norms, the platform's formal policy is a perfect example of what Ostrom suggests—for a community to create its own rules [79]. We speculate that this formalization is one reason why, even following the explosion of size in the fan creation community, norms around copyright seem to have remained fairly well internalized and enforced.

Though it is challenging for platforms without a sense of community identity to formalize community-created rules, there may be opportunities to create broader community buy-in for policies. Considering the importance of usability for design decisions, it is surprising that we rarely see user experience research for something as important as the policies that govern a platform. Moreover, the interplay that we see between norms and community identity in fan communities suggests that reintegrative norm enforcement practices also reinforce social ties—thus making social identity even more important and norms overall easier to enforce. In other words, if you want to create strongly enforced norms in a community, it is a better strategy to use positive measures that reinforce being part of a community rather than negative measures that push people away.

8 Conclusion

The gray area of copyright law in online remix communities like fandom has provided an opportunity to examine the interplay between formal law and community norms—and moreover, effective norm enforcement mechanisms in a longstanding, successful online community. Our findings emphasize the important link between a strong sense of community identity (in this case reinforced by shared experiences of marginalization, outside threats, and pseudonymous interaction) and effective norm enforcement mechanisms. This connection provides the opportunity for a reinforcing cycle between reintegrative norm enforcement practices (e.g., "here is what you can do to be a better member of this community!") and community identity, thus making norms increasingly easy to enforce. This case study of a longstanding online community provides support for a number of theories surrounding social norms and society identity, but moreover, we feel that despite additional challenges at scale, there are lessons here that can apply to communities with weaker ties as well.

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