student practices in copyright culture:
accessing learning resources

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# Abstract

Using Schatzki’s practices framework as a lens, this paper reports on the practices of university students accessing learning resources at a research-intensive university in South Africa. Using a mixed methods approach, 1001 survey responses and six focus groups were analysed to explore how students in three professional disciplines access learning resources, with the focus on digitally-mediated piracy practices. The findings suggest a blurring between the legal and the illegal and indicate the normalcy of piracy practices, with nuanced distinctions and understandings manifest.

# Keywords

Piracy, students, learning resources, practices, copyright

# Introduction

The focus of this paper is on students’ learning resource access practices, particularly those generally considered piracy practices, Using Schatzki’s practice framework, the paper explores how students report they access learning resources; whether and how students download and share learning resources (especially books and papers); whether these resources are understood to be legal or illegal; what their attitudes are as well as the general and practical understandings that enable their access to resources. The practices approach ensures an emphasis on what students report actually doing, rather than on the nature of the students themselves.

The context of the investigation is the digital networked age, often described as an era of content abundance, where access to content is no longer shaped by scarcity. A recent survey of how people consume culture in the form of digital media found that 'the end of content scarcity [has arrived] as digital distribution achieves ubiquity” (Colombani and Videlaine, 2013, p.1). Indeed, in the current “platformizing” media ecology, digital intermediaries promise an abundance of content for citizens and consumers (Mansell, 2015). For students learning in the new multimodal communication order, widespread access is assumed; yet the diverse array, status and accessibility of learning resources means that students are negotiating a complex information and communication ecology. As students move from page to screen (Snyder, 1997), assumptions are challenged, understandings eroded and communication and access practices shifting profoundly.

Underpinning this world of ubiquitous content and abundant learning resources is contestation about the nature of intellectual property, with battle lines drawn over the public domain, open licensing and increased protection for creators rather than users. It is in this fraught context that students access learning resources. However, they are unlikely to be overtly aware of these debates, even though these disputes shape the copyright culture in which they study and draw on the resources they need to enable their learning.

# Framing the study

## Piracy in general

The extensive literature on piracy is largely framed in legal or economic discourses, and generally located in the creative industries, particularly music and film; there is relatively little research about how and which books and learning resources are pirated. An extensive and rigorous scoping review carried out between 2003 and 2013 to investigate and summarize the extent and nature of research into the implications and determinants of unlawful file sharing identified 206 empirical studies, of which only three were about books (Watson et al., 2014).

There is also surprisingly little research about actual practices relating to piracy, with the authors of the review noting that “[o]nly a fraction of the studies looks at observations of actual behavior, with almost no studies of actual behavior looking at moral and social sources of utility”, a finding they considered surprising “given the way that costly anti-file sharing campaigns have been built on the premise that these matter” (Watson et al., 2014 p.6).

In 2011 a prominent copyright theorist asked what it is about the nature of piracy that creates such uncomfortable silence and went on to suggest that it is useful to shift attention from what a pirate is to what a pirate does (Liang, 2011). In more recent years there has been growing recognition of the ubiquity of piracy in everyday life. The renowned legal academic, Benkler, observes “pervasive low-level illegality and radical resistance, both legal and illegal, are there, alive and kicking in both the real world and, very forcefully, the networked environment “ (Benkler, 2013 p.247). A similar observation was made by sociologists Castells and Cardoso in 2012 when they noted: “All over the world, we are witnessing a growing number of people building media relationships outside those institutionalized sets of rules” (Castells, 2012, p. 826). Thus, the mutability of actions and rules are being recognised in this sphere.

Castells and Cardoso believe that “a very significant proportion of the population is building its mediation through alternative channels of obtaining content” (*ibid* p.826), and that “[p]iracy cultures have become part of our everyday life in the network society, sometimes even without us, fully acknowledging them as such” (*ibid* p.827). Indeed, they go as far as saying that “the pirates are more often than not all of *us*” (*ibid,* p. 827) (italics in original). Others have noted that the borders between piracy and everyday life in the information society are thin (da Rimini and Marshall, 2014), arguing that digital sharing “is an everyday practice by millions of people, and in that sense *normal*” [italics in original] (quoting Peukart, 2010); they describe piracy as boring and unadventurous. da Rimini and Marshall assert that when people have grown up viewing the Internet as a ‘resource for everyone’ they become less likely to distinguish between what is defined as legal and illegal forms of content. This is of consequence because historically these kinds of engagements were likely to have had strong ideological undertones, but now a person does not need to overtly subscribe to either hacker or digital commons ideologies to engage in file-sharing.

These are amongst the few social scientists who have explored pervasive piracy practices and the blurred boundaries between the legal and the illegal. Their approach stands in contrast to the discourses of piracy in the literature overall, which denote scandal, dishonour, and criminality. Based on an analysis of films and piracy, Loboto suggests that there are six conceptual models or faces of piracy: piracy as theft (the most common); piracy as free enterprise; piracy as free speech; piracy as authorship; piracy as resistance; and piracy as access. While all these faces may potentially pertain, it is the last one which is particularly pertinent to this paper, what Lobato explains as “piracy’s capacity to disseminate knowledge culture and capital (Lobato, 2008 p.29)[[1]](#footnote-1).

### Students and piracy

Research does exist which has focused on students and piracy; these studies, like the broader literature, are generally about films, music and software (Gunter and Higgins, 2010; Podoshen, 2008)**,** and, as do other studies, they are premised on criminality and focus on “the pirate”. A study by Yu (2012) found that students rate digital piracy as less serious than other crimes; they said it did no harm. The study concluded that in part digital piracy stems from a lower level of moral judgment (Yu, 2013)**.**

Another study used neutralisation theory (developed to study delinquency) to investigate student attitudes to piracy. It identified key factors, the most relevant being self-control and deviant peer association (Yu, 2012). This same study reported that Asian students show a stronger tendency to justify digital piracy than American students do. A related study found that students in Taiwan possess a higher level of moral intensity than the same disciplinary group of students in China (Wu, 2013). However, these kinds of studies are deeply problematic as they take an essentialist stance on, for example, identity, and are overwhelmingly normative. Their premise is the “piracy as theft” face.

A study with a different approach, undertaken as a dissertation in economics, surveyed undergraduate students and found that books that are very useful and integrated into the way a professor teaches the course are less likely to be pirated (Rebelo, 2014). The link to curriculum and pedagogy here is a rare exception in the literature.

In addition to these academic studies, book publishers, through their Book Industry Study Group (BISG) that regularly surveys US college students, with a reported 1600 students surveyed in August 2014, found that “alternative acquisition behaviors, from scanned copies to illegal downloads to the use of pirated websites, continue to increase in frequency” (BISG quoted in Stone 2014). Reporting on their findings in 2014, BISG trends show a rise in all forms of “illicit acquisition behavior” between Fall 2011 and Fall 2013, at which point students reported “at least occasional acquisition” by photocopied or scanned content from other students (39%, up from 25%); downloaded content from other students (26%, up from 10%); acquired content from pirate websites (24%, up from 9%) and acquired international version of texts (32%, up from 17%) (Vassallo, 2014).

The Organisation Havoscope which provides “security threat intelligence and business risk assessments of the global black market” (see www.havocscope.com) maintains regular information on book piracy. Its reports include data from the Netherlands, UK and Russia. In the Netherlands they report that only 10 percent of all ebooks on devices were actually paid for, with most of the digital books being pirated.[[2]](#footnote-2) In the UK they report up to 76 percent of the 50 popular textbooks that are used by students are available as free pirated e-books[[3]](#footnote-3) and in Russia that 92 percent of ebook readers obtained their books by illegally downloading the materials.[[4]](#footnote-4)

In addition, there are regular newspaper articles which report on students in relation to books or learning content and piracy (Arden, 2012; Cushing, 2014; Nestel, 2014). It is of interest to this study that at least one such recent newspaper article includes reference to “open source” textbooks, commenting that these exist but are still rare (Stone, 2014).

While the existing literature indicates that student behaviour has been changing and that piracy practices are widespread, none of the literature uses an explicit practice theory lens to frame or explore what is happening. Practice theory is beneficial because it decentres the individuals by focusing on what is being done as well by providing a language and logic for how activities are organised, understood and shaped by context.

## A practices framework

Schatzki’s (1996, 2002, 2010, 2011) practices’ theory is used to frame students’ reported behaviour and understandings in context. He explains that practices are organized nexuses of actions, comprising doings or sayings which together are organised and linked through practical understandings, rules, a teleoaffective structure and general understandings. These core concepts form practices’ organisation, which is out there in the practices themselves rather than in the minds of the actors and at any given ‘duree’ a participant in the practice is likely to be carrying out actions of all types. It is of note that people are almost always aware of and have the words for the integrative practices in which they participate (Schatzki, 1996, Schatzki, 2002).

Practical understandings “refer to abilities - knowing how to X, knowing how to identify X, knowing how to prompt and respond to X-ings” (Schatzki, 2002 p.77) and are therefore understandings which is more simply a form of tacit knowledge. General understandings are commonly shared beliefs, enterprises, concerns or fates. Rules are formulations interjected into social life for the purpose of orientating and determining the course of activity, typically by those with the authority to enforce them (*ibid* p.80); rules are formalised descriptions of what and how activities work.

A teleoaffective structure is a range of normativised and hierarchically ordered ends, projects and tasks to varying degrees allied with normativised emotions, even moods. Teleoaffective structures are value laden and articulate what is considered of value, or correct, or suitable. A practice always exhibits a set of ends that participants should or may pursue, a range of projects that they should or may perform for the sake of those projects (ibid p.80). Importantly, teleoaffective structures do not govern activity as they are not a set of intrinsic properties of actors.

The material is integral to the sites of the social articulated in “bundles of practices” and “material arrangements” with such material arrangements meaning “linked people, organisms, artifacts, and things of nature” (Schatzki, 2011 p.4). He has explained that objects can acquire meanings ( Schatzki, 1996 p.113) and that materiality includes the physical composition of things which render combinations and sequences of actions possible (2010, 137). In practice theory, objects enable and limit certain bodily and mental activities, certain knowledge and understanding as elements of practices (Reckwitz, 2002 p.253). Of particular relevance to this study is the relationship between material arrangements and practices, especially that of prefiguration: “the social present shaping/ influencing/ affecting the social future, above all the nascent social future” (Schatzki, 2010, p.140) – thus prefiguration signals more than possibilities, it is a qualification of possible paths of actions on various registers.

These finely theorised concepts provide a way of viewing and understanding this investigation into students’ practices accessing learning resources.

# The Study

The study reported in this paper formed part of a larger multi-country research project (Argentina , Brazil, India, Poland, South Africa, USA), investigating ecologies of access to learning materials and shadow libraries. The focus here is on student practices in one site, a South African university, one of the top five research-intensive universities in the country. The investigation was undertaken through questionnaires and focus groups aimed at first-year students because this is the level of the system most likely to prescribe and use textbooks. The study was undertaken in three broad disciplinary areas: Law, Media Studies and Health Sciences. These disciplines were chosen for three main reasons: three different faculties provided variety; all three are professional disciplines which are likely to prescribe textbooks; the researchers in the broader study had access to the three areas which allowed comparison across the sites.

A questionnaire containing 63 questions was distributed at lectures with lecturer permission and 1001 respondents provided 21 602 usable answers. The questionnaire was developed with colleagues across the six countries and was divided into sections on access to technology, acquisition of materials, libraries’ databases and online platforms. The survey analysis was undertaken by the data specialist in the USA serving the broader project. After the surveys had been completed, six student focus groups were run, two in each of the three disciplinary areas. Forty-two students were interviewed: 12 male, 30 female. All remained anonymous and their responses were coded by disciplinary grouping, focus group number, and student number. Preliminary analysis of the surveys informed the framing of the focus group questions which were structured by a model of access around medium and legality with analogue and digital on one axis, and legal and illegal on the other. Analysis and coding were informed by the conceptual approach. Codes comprised: competence and ability (practical knowledge), attitudes and motivation (teleoaffective structure), and rules. The access model was used in the indicators. Coding was undertaken by both a research assistant and the principal researcher. In the quotations selected, M = Media studies, L= Law and H = Health Sciences.

# Findings

## Students are accessing learning resources both legally and illegally

In an age where and where print books have been the dominant form of content but analogue and digital now co-exist, the study examined students’ practices in accessing all learning resources, including downloads and file-sharing. This paper does not report on the findings regarding print resources (including book buying both new and second hand, and photocopying). The findings from the survey show that students are accessing learning resources in both print and digital forms (i.e. not either /or) and that they are accessing them both legally and illegally without necessarily knowing the difference.

Students were asked what percentage of sources they downloaded from sources they believed to be legal. Their answers showed an even spread on both ends of the legal spectrum, with 21% of the respondents saying that all of their materials came from legal download sources. Notably, 24% of the respondents said that none of their materials were acquired via sources believed to be legal. The remaining answers, which account for a little over half of the respondents (55%), fell somewhere in the middle, with around 37% of the respondents claiming that half or fewer of their sources were legal with the remaining 17% saying that in between 50 and 80% of all materials came from legal sources.

There was an intriguing discrepancy in replies when the same question was asked differently. When asked specifically what percentage of materials was downloaded illegally, almost two thirds (64%) said “none” and 18% said less than 20% was. Only a minute percentage (3%) claimed that over 80% came from illegal sources, with the remaining 14% (n 141) falling somewhere in between 40 and 80%. This is a striking contradiction: if two thirds report that none of their materials were illegally downloaded this does not square with the reported 20% of legal downloads when the question was phrased differently. The reasons for this could be that students did not understand the question, or that students were less likely to honestly answer a question framed as illegality.

1. The answers to the open-ended questions where students were asked to list a source for legally downloaded materials and illegally downloaded materials were revealing in terms of what they indicated about students’ understanding of what is legal and what is illegal. With regard to legally downloaded materials, a small number of answers name Wikipedia (14 respondents, or 1%) which suggests some understanding of legally open resources. An even smaller number (5) listed sources which are in fact illegal sources (mp3skull.com, mp3.li, piratebay, DC++ and clip.dj). Interestingly, students regarded the materials which they obtained from the university learning management system as legally accessed: 9% of the answers included the LMS.

When asked about illegally downloaded resources, 15% of the students’ answers comprised the honest response, “I don’t know”. This particular question had a marked drop in responses, with 35% (n 122) of the 334 respondents refraining from giving an answer, and 9% (n 21) affirming that they never downloaded illegally which wasn’t the question.

With regard to whether or not students believed copying files from fellow students is legal, almost half (46%) said yes, while 28% answered with a categorical no. The remaining 26% declared that copying is sometimes legal.

Comments from the focus groups emphasised that students do download and that they do not necessarily differentiate the legal from the illegal. One student said bluntly: “*Everyone has engaged in piracy*” (M5) while another confirmed: “*Everyone copies... I am a pirate*” (M2). A dialogue between two other students confirmed both the ubiquity of the resources and of the practices: *“I think DC has just complicated things. Because, ja, you think ok, it’s on an individual level, because you get textbooks* ( H7); Response: *“Lecture notes”* (H5); Response: “*Lectures… lots and lots…* “(H7); Response: “*Summaries. like everything that you use. So, I think that’s why we don’t have much to say. Because we all pirate*“(H5).

Students observed: “*You find everything online anyway*” (M1). Another commented: “*Oh. I don’t know. I don’t know if it’s illegal or not. You just… If I type into Google and something pops up and it allows me to download it, I will download it. I don’t know if it’s illegal or not. If it asks for me to pay for something, then I don’t. Then I’ll try to find another version of it.”* (M9).

These finding confirm that downloading and file sharing as activities forming part of students’ practices, in addition to other forms of accessing of learning resources. They also bring into light new forms of cyber materiality, including the role of search engines as part of the material arrangements which render actions and bundles of practices possible.

## Practical knowledge

What practical knowledge do students report having regarding accessing resources? What understanding as in “knowing how to carry out actions (Schatzki 2002, P164) do they have - not in general - but quite specifically regarding knowing how to download and where to find resources?

The survey included an open-ended question regarding illegal downloads which a large number of respondents refrained from answering. Of those who did, two categories of websites were identified. Data storage sites comprised 30% of the answers, with the sites Megaupload (7%), 4 shared.com (4%) and the book downloading site Library.nu (4%) receiving the most mentions. Peer-to-peer sites such as torrent providers were also popular, amounting to 38% of the total, with the sharing software DC++ appearing in 16% of the responses and well-known Piratebay website taking 9% of the specific answers. Friends and fellow students showed up in 7% of the answers.

In the focus groups, students spoke knowledgably about where they accessed resources, and in which circumstances. In one group students spoke in unison, (“*DC, we just use DC*, L10 and others). Some specified the location: “*I use DC on campus*” (H11), indicating a different web site for off-campus access. As access to the Internet could not be assumed off campus, widespread campus–based wifi enabled access to resources:

Just like everyone downloads, they use DC++, I know first year students, or if you are on campus and you have easy access to wi-fi, everyone uses it and it downloads in seconds. A lot of kids I know… – I put in requests with what I want with a friend, if they have DC, and then they will go, whilst on campus studying, they’ll just download… anything, apparently. Movies, songs, stuff, there are also notes ( M9).

Other students confirmed that they downloaded illegally rather than buy resources: “I have never bought ebooks but I have downloaded them from DC, there are a whole lot of ebooks on DC “ (H12). They also confirmed the role of their peers, “Word of mouth is the way to find free stuff online” (M6) and “Yes, DC is the place ( M8). Of note is that students mentioned finding specific lecture notes for their own courses on DC: “You know what, I think they, there was a point when they stopped putting up lecture notes, but I still get them on DC from, like, three years ago, and it’s the same ones. I mean, they tried to stop it, but we’d had fire, man! ( H2).

Other sites were also mentioned in the focus groups, although less often. One example rarely mentioned was sharing sites: “There’s this other, ‘shared’ something” (L11)…”4shared” (L10). Indicating a common conflation of a search engine with a website, one group of students said: “Google , Pirate Bay“ (M2 ) which was echoed by a few others. Another mentioned finding a site via Google: “I went to Google and searched for a chapter and it took me to another website I think is a chapters’ website” (H11). “Go mostly to Google (H10), response “It is the mother of them all [laughs]” (H11).

The differing nature of torrent sites and other sites was relevant to whether and how materials could be sourced, both in terms of access and control: some were more difficult to block and some easier to access. The enabling environment of on-campus wifi also provided accessibility and ease.

It is clear that there is a general understanding amongst students that illegal resources are available which can be sourced in order to access learning resources. They have the practical knowledge needed for retrieval; there were specific sites which appeared to be known to all, particularly as they were already using these sites to download music and movies. They clearly shared a concern about how to access these resources as efficiently and cheaply as possible. The forms that these sites take and their location are material arrangements which play an essential role in shaping possible actions; knowing how to gain entry to these cyber forms of digital artefacts – networked devices, the Internet itself , Google, Pirate Bay and the like – are specific forms of know-how and know-that. The ubiquity of devices and connectivity frames these practices, as do shared understandings of how they can be used to meet student needs.

### Differentiated practical knowledge

Access to learning resources is determined to some extent by competencies, and the digital literacies required to engage with opaque sites, invisible procedures and murky protocols. The know-how which makes possible courses of activity is unevenly distributed. The focus groups revealed the diversity amongst the students regarding what can be done: some students had sophisticated and in-depth knowledge of pirate sites and file sharing, while others had little to none.

One student spoke with authority about the variety of sites and their attributes:

Ja, I mean eBook piracy sites, it looks like a, they’re mostly quite text based. They… You know when you’re looking for torrents, you get Pirate Bay, and you get all the main ones, but you get those, kind of weird-ass in-between ones that are kind of like actually torrent site aggregators. EBook sites look a lot like torrent site aggregators. It’s generally like a, one colour thing and, like, eBooks pulled in from many sources in a list, and they try to design it so it looks like it’s their list. And half the links won’t work (M10).

Another spoke admiringly about a classmate’s ingenuity:

Well, I mean, in the particular case of [name], I’ve been surprised about the particular places he’s gone for learning material. I can’t think of anything off hand, but there’s been a couple of things he’s come up with and I’ve been like ‘wow’, you know. Never thought to look there! (M11).

Another acknowledged that students were the ones needing to go to these sites:

… I guess one place maybe lecturers wouldn’t go, don’t really think about, because I don’t know if they’ve got greater access to the books or whatever than we do, but I find that I… There are all these kind of pirates’ eBook sites. (H2).

There was also reference to quite simple practical skills:

I have downloaded pdf versions of prescribed texts, illegal copies, uh, used, I think, that, that’s probably the most …crude forms (L2). Even more simple was “For me, Google Books, copy-paste.” (L12).

Specific searching skills also formed part of this practical knowledge:

“When I look for a book I search title free and if I can't get it that way I search title pdf and if I can't get it that way ... then I will go and look at the bookstores and look at other means of finding it. But if I can get it for free, then why should I pay for it.” (H12).

On the other hand there were those who didn’t know how and asked: “*Free? Where do we access them?*”( M2). This was echoed by others who said: “*I don't know how to use DC+ I’m trying to get how to use it, but I can't* ( H10). This was associated with anxiety: “*No, it’s difficult to do that....I don't trust the Internet*” (H11). Some students were disparaging about their peers’ naivety: *….the thing about DC++ is you can get into people’s actual folders, and you can see anything from personal photos to – if they are rookies and upload everything.“* (H2).

The varying levels of sophistication needed to navigate pirate sites were evident in this interchange: “I don’t understand why DC doesn’t work from my room, guys. (H9) ---Are you sure you’re sharing enough stuff…( H6) --- I haven’t shared and I’ve got the hub from XX. I guess that’s why.( H9) ---That’s the problem.” (H7).

The notion of a homogenous student body, the natural “digital native” is challenged by these findings which demonstrate the differing levels of skills, the mixed cultural capital students have, which they need to negotiate these, and all digital spaces.

## Practice moods

1. Following Schatzki, 'meaning' and 'thinking' are kinds of doings, and teleological structures include emotions, moods and attitudes. Thus moods are an important dimension of practice structures. Further, even though “participants may disagree about whether or not background agreement reigns, their opinion does not determine its absence or presence” (Schatzki, 2002 p.85). A copyright culture exists whether or not participants agree about its importance, with varying moods or attitudes to legal, and especially illegal, downloading co-existing. Moods, tones and attitudes regarding piracy, downloading and copyright were detected in the focus groups had three faces: amused distancing, pragmatic and principled.

### Amused distancing

The tone of some of the focus group discussions was of guilty or defiant amusement. There were jokes referring to common anti-piracy adverts: Copyright is theft! (H3) [Laughter] You wouldn’t steal a bag! (H1)[laughter] Another laughed, calling out, “Conspiracy!” (H8). There was an amused shifting of responsibility to the search engine: “You literally just Google whatever title you’re looking for, pdf, and it pops up with it. So, it’s Google’s fault! (laughter)(M9). This latter comment is also a form of distancing, one that reflects the way that copied resources are used and found, their links with original authors somewhat diminished. Through this light-hearted handing over of responsibility to the search engine, students abdicate their own responsibility and provide agency to a piece of software.

There was also a shifting of responsibility to another person. There were several examples where practices were attributed to someone else rather than the speaker: “You can do that on DC”, “probably, ja”, “Ja, I did it. I mean…” [laughter] “I mean, I know someone who did it”, “Ja, my cousin” [Student E faux-clears throat] [laughter] (M1). There was regular giggling when the word “illegal” cropped up (e.g. L5). As Schatzki points out, participants in a practice – the students in this case - are aware of and have the words for the practices in which they participate. It is of note that there is a tendency for students to use very pragmatic and everyday language, as these and the examples below show, to express their approach to piracy.

### Matter-of- fact pragmatism

A matter-of-fact mood also formed part of the students’ piracy practices indicating a reconciled self-knowledge, the kind of practical intelligibility to which Schatzki refers. Students recognised and accept their own activities: “Sometimes, you see something online, you just read “downloads” without actually paying, realising consciously that what you’re doing is illegal, you know”( L4). As another student said, “It is very hard to motivate yourself and do the “right thing” and buy the legal thing” (M1).

However, self-knowledge is often tinged with caution. Clearly there is a level of surreptitiousness: “… because you’re taking the thing, and it’s illegal, yes, but you’re using it for your good, which is still illegal, so I should actually just shush.” (H5).

Students expressed a reasonable expedience in how they understood what they were doing. They treated their actions as necessary, a required means for their ends.

### Principled

A prevalent mood amongst students was one justificatory of their actions and attitudes. A principled argument was put forward: ‘Is it unethical to want to be educated or is it unethical to charge so much?... to have to pay that amount when you can't afford it?’ (M5). It was also considered a matter of necessity: “It’s never like is it right, is it wrong? It’s just, I need it, and I will get it the cheapest way possible.” (H12). This was echoed by others: ‘I think personally, I’m not worried until I am in that situation. But, like, when I am doing it, it’s just like, you know what, I just need to do this right now’ (L13); … and ‘… in my head, even though in my head I know it’s wrong, it’s just a technical thing. Substantively speaking, it’s the right thing to do…’ (L15).

The specific argument made was that it is necessary for education: “And I think, in general, those cases are for, say if we were selling it, or we were gaining something commercially by it, I think we’d all feel guilty, because it’s for private use, and you’re just trying to get by. You’re just trying to study from the book and move on”( L11). It is a necessary means to an end. As another student says, “I am not worried about the consequences of illegal downloading. Worried about graduating”. (L7). Also “But I mean, like with your education, if you think about it, you’re paying so much to get in here, if you don’t get that textbook sometimes, not always, you could be missing out on something really important (L18) response “You could fail a course”. (L19), One student explained in some detail:

I was just gonna say, on the whole profit of the author’s… listen, I need to get my degree. Honestly and truly, I’m gonna prioritise what I need to do, to get what I need to get, over his profit. Like, I’m not concerned about that. Like, I’m really not. He wrote his textbook, thank you! It’s there, but I need to get my education. But that’s the story. And I think in Africa, it’s a really sad thing that people fail to get education simply because of textbooks. Simply because of resources; that’s ridiculous in this day and age. So, kudos to him for his textbook, but I need a degree. Sorry! (L12)

Students’ authentic needs and motivations to succeed academically stood in stark contrast to apparent ‘piracy’ actions. Student activities are embedded in the values of educational pride, learning related purposes and performance-oriented principles geared towards academic success.

Books and learning resources were seen as arguably “different”: “Music and DVD and stuff is different. That’s, it’s not for your mind! (L16) Indeed, the educational nature of books is the distinguishing consideration, as another student explained that education is itself arguably different: “It’s about access to education: It is huge! It’s of the future of our country”. (L6). And another: “It just seems, morally, if anything, we should have that stuff available.” ( L18).

The moral dimension extends to distinctions being made between plagiarism and copyright, with plagiarism considered both unethical and risky: “*Plagiarism is scarier than IP infringement. …. the consequences from a plagiarism report saying you’ve plagiarised are greater* (L11). Further, “*Well, plagiarism is basically attribution, and it’s also, it’s a moral thing,*(L6). In the process attribution is foregrounded. As another students says, “*With plagiarism, it’s more like, ‘this is mine’, claiming this is your own and that’s why it’s a little bit more scarier than the other*” (L3). This was emphasised again in the following comment: “*Plagiarism is claiming it’s yours, and then copyright is…* (H2 ) *just taking it.* “ ( H8). The distinction was clear in students’ minds: “…. *plagiarism, you’re lying but I mean, copying a textbook, you’re not trying to harm anybody… it’s your education.”* (L15).

Like Loboto’s face of “piracy as resistance”, it is evident that the mood of piracy practices includes an acknowledgement of its illegal nature, and a belief that, despite such illegality, these activities are justified. Thus students are aware of the rules, but feel justified in breaking them; while the rules are orientating, they do not determine the course of action. For students, piracy has another face: ‘principled pragmatism’.

## Practice motivations

Part of the teleological structure of a practice is its motivational dimension. The motivations shaping the students’ practices were obtained through the reasons found in the open-ended questions in the survey and through the focus groups.

Regarding the respondents' reasons for downloading illegally, the most common answers referred to accessibility, with 37% pointing to how easy it is to find and download materials in illegal websites. Ease and convenience was followed by cost, with respondents saying that such materials were cheaper (financial reasons accounted for 17%) or completely free (18%). A substantial group of answers (15%) indicated that respondents were driven by need, as they said that they simply after information and did not mind if the source was legal or not. Although the survey was about learning resources, a small number of responses mentioned downloads destined for leisure purposes, with only 3% respondents mentioning the acquisition of mp3s and films as necessary for courses, these being Media students.

1. Accessibility and cost were also raised in the related question regarding what hindered students’ access to learning resources.Materials being too expensive was the second most mentioned reason ( 16% of the answers). The largest category of constraints was what could be described as infrastructural: 35% of the answers indicated internet-related difficulties, such as unreliable or sub-par internet service (18%), data limits (6%), no internet at home (3%), or simply being unable to access the net (for unspecified reasons) (7%).
2. Cost was the most common reason which emerged from the focus groups, with the high cost of books raised: *“It is ridiculous [what we pay for books] when you consider what you are paying for university”* (M8). This was added to the high cost of the education itself: *“But I mean, like with your education, if you think about it, you’re paying so much to get in here, if you don’t get that textbook sometimes, not always, you could be missing out on something really important… (*L18*). If there’s a pay option, I’m like, I’m so out*.” (H3). Books have to be bought within financial constraints: *”… because you know that there’s free things. They may not be legal, but there are free things out there. You would much rather do that, take that. You’re on a student budget, you don’t have [money]…* “(H5). One heartfelt comment was simply: “You don’t have money, honestly…” (H3).

There was also acknowledgement that students would pay if costs were reasonable: “There will always be a black market for any product, so there will always be someone doing it illegally, but I do think that if the textbooks were more reasonable, that more people would try and buy them. … People are doing what they can to pass the course and to get by.” (L11). This was echoed by others: “I don't know that people necessarily want to disrespect that artist or the author; it’s because you can't go get it you can't actually afford it.” (MI7).

Reviewing attitudes, moods and motives is important for emphasising the contextual considerations which inform and form part of student practices. Thus broader considerations of cost and affordability, availability, ease of access and the like show the logic of student practices which on their own terms are purposeful and indeed rational in context. When Schatzki described prefiguration - the social present shaping the nascent social future - is palpably discernible here. There are sufficient indications in this study that the social structures which have –and to some extent still do - constrained piracy practices, are being eroded. Prefiguration is also manifest in the reconfiguration of the rules pertaining to copyright, and the role that these rules play or don’t play.

## The rules

Formulations interjected into social life for the purpose of orientating and determining the course of activity, typically by those with the authority to enforce them (Schatzki, 2002, p80), rules were manifest in the study in a few ways: through the “rules in play” around the acceptability and justification of illegal practices; through the actual regimes of pirate sites themselves and through engagement with the tenets of copyright. To what extent does the legal shape what students do? In particular, and of relevance to the matter of illegally downloading resources, is whether the existence of copyright influences what is done.

### Copyright

Two contrasting findings emerged pertaining to the rules at the heart of piracy practices: copyright. The first was a complete dismissal and the second a reformulation.

In this first group, copyright was acknowledged as existing, but disregarded and dismissed. As one student said: *“Copyright is something I ignore completely*” (M2). The following conversation in a different discipline made the same point: “*To be honest, I never think about copyright. Do you think about it?* ( H3) *No*. (H7) *No*. (H9*). I do* (H5). *I* *honestly just… If it’s there for free, I really want the material*.” (H3). Law students made the same point although they framed copyright as intellectual property. There were also voices which concurred: “*Everyone has infringed upon intellectual property rights in some form*” (L5). When prompted further as to whether this was true, sixteen hands of the nineteen in the room were raised. When the interviewer asked further, “*In what form, would you say*?” The response was: ”*In every form.*” (L2).

For some there was no longer caution, as copying has become normalised: “*Otherwise, copyright, it does not even seem like an issue anymore….I copy everything…..But it almost seems like it isn't copyrighted, it almost seems like it’s free for everyone.*“ (M9). Through repetition and its widespread nature, copying, with or without reference to copyright, has become routine.

In addition, students noted that there appeared to be no consequences for copyright infringement: *“It’s difficult .... I think the law can't fight piracy ... they can’t ... they find it difficult to fight piracy.“* (H10), and, in response, “*But not much happens*” (H11). A student in a different discipline made a similar point: “*I just, I don’t think I’ve ever, I’ve never known anyone that’s been up for copyright infringement, that’s actually have been sanctioned. And, I mean, you hardly ever read about it, even, so you think, what are the chances of it ever happening to you?(*M4*)*”

The second cluster of responses recast issues of copyright; instead of simply dismissing it, students suggested that it would be more useful if resources were made available as legally open content. Thus, for example, one comment made in the context of books being so expensive did not veer to piracy and illegal access (as so many others had done) instead, the student spontaneously suggested OERs: “*These resources and tools being so expensive makes it only accessible to a certain group of people... I am not ungrateful for what I got but I was given a certain amount of money and I had to get everything from that ... everything should be open education resources*” (M5).

A student from Health Sciences was emphatic: “*Open access is awesome. It’s like, basically, it’s like your databases or catalogue – it’s like Google Scholar, and you can get it for free access. And basically, what happens, I know with our lecturer, she posted some of the lecture notes there, and they were like, legit, there was like, lecture slides, as well as the article, and also a bit of summary about the work content. So, it was like, really easy access, yeah*.” ( H9). A Law student spoke gratefully of the value of openly available post graduate dissertations: “*Ja, and even like, for some of my materials, that I’ve accessed, it’s, a lot of Master’s papers get published, and that’s amazing, because …, those papers have so much information in them, and they are just so freely out there … they are amazing because they have everything you need, all the materials you need, all the references, and they’re out there for you to use* “(L12).

These comments and others indicated that some awareness of legally open content and practices were in part recognised in the rules of access practices. This knowledge of legal forms of sharing offered students an alternative to piracy practices about which there is evidently ambivalence. What emerges from the study is that legal frameworks do not determine student practices in terms of accessing learning resources.

# Concluding discussion

Schatzki’s framework provides a way of describing students’ practices within its own logic, rather than shaped by industry needs and concerns or those of copyright advocates. The discourse in the small literature on book piracy is strongly normative and tends to represent specific interests. A practices framework provides a language which describes the organisation of a practice out there in the practices themselves, thus making it possible to decentre the students as “pirates” or as “thieves” and to provide a more complex explanation of arrangement of activities, materials and rules in more nuanced structured and structuring contexts.

The paper confirms the normal, even mundane, nature of piracy practices; students report that “everyone” engages in piracy, “everyone” infringes copyright. Yet the study also reveals the messiness and the contradictory engagement. The findings affirm Schatzi’s explanation that “which ends, projects, tasks or emotions are obligatory in a practice is open ended. A teleoaffective structure is infinitely complex. What is acceptable in a practice is often subject to discussion or contention and the results of such disputes are indeterminate.’ (Schatzki, 2002, p.85). The complex ecologies of access to learning resources are expressing these disputes, as student practices shift uncomfortably between the legal and the legal, between novel forms of literacies and between strategies which include and exclude in unexpected ways.

The survey results indicated that some students reported no illegal activities, no illegal downloads and no file sharing. Yet these findings were contradictory; when the same question was asked in different ways the responses and the percentages were widely divergent. The findings also showed that students are accessing learning resources both legally and illegally and that they often do not know the difference. Students gave conflicting answers when asked the same question in different ways about how many illegal resources they downloaded. Their lists of legal resources included illegal ones and their lists of illegal resources included legal ones. Students also admitted that they did not know which was which.

Differentiation amongst students in regard to their practical knowledge was evident in the findings. Accessing books and other learning resources from unconventional sites needs students to know where they are and how to get them. This might be relatively simple or it might require a form of hacking that is quite difficult (as noted by (Zimerman, 2011). In effect, this kind of practical knowledge is a form of digital literacy which these findings indicate is unevenly spread amongst students. As the study method assured students of complete anonymity there was no way of knowing which students were ignorant of illegal sites and/or how to access them. It is likely that it is students with better understanding of digital literacy who have the practical knowledge, in other words, the students with more cultural capital. If illegal access is driven by need it would be ironic if it is the more needy students who are less able to access the resources by these methods.

As Schatzki points out, actors are aware of and have the words for the practices in which they participate. They are aware of the rules of the game, the structuring through copyright. Students express and articulate a range of tones and languages and moods. Many are matter of fact, resigned, accepting, considering their practices as a necessary part of life, specifically of their education. Many justify their behaviour, they take a principled position, and they view their participation in these practices as required for their education arguing particularly that books and learning resources are different.

Students consider the issues through a moral lens, weigh different rights and needs against each other, and provide a strong voice that while copyright may be a contentious and mutable concept, attribution and plagiarism, in their view, is not. The findings of the paper therefore shift notions of piracy from those who rip and upload to those who download as part of their practices, having to ’resort’ to piracy and thus not necessarily part of a hacker culture whose motives and motive seem different to the urgent educational motivations of the students.

There are also indications in the findings that terms are blurring and conflating; piracy has multiple meanings, terms such as “download” appear to be conflated with cutting and pasting rather than with their formal technical definitions. In contrast, copyright and plagiarism are starkly differentiated as if they had nothing in common. In this emergent space, words and concepts are fighting for new meanings.

The findings of this paper have implications for pedagogy, for student engagement with texts, for plagiarism and attribution and for academic and digital literacies. They also suggest that higher education needs to look closely at the need to change publishing models and entrepreneurial content models so that they are cheaper and easy to use. Finally, the findings are relevant to those with an open education and open scholarship agenda and to all those who seek to take forward the core values of knowledge creation and dissemination. Acceptable activities, practical and general understandings and teleoaffective structures supported by material conditions and justified ends are all coalescing into a reality where such practices are now ordinary. From a variety of perspectives in higher education, it is clear that piracy practices are quite simply part of the new order.

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# References

Arden, P., 2012. Publishers Fight Back Against Schoolbook Piracy Textbook Torrents. Village Voice.

Benkler, Y., 2013. Practical Anarchism: Peer Mutualism, Market Power, and the Fallible State. Polit. Soc. 41, 213–251.

Castells, M.C., 2012. Editorial Introduction to Piracy Cultures. Int. J. Commun. 6, 826–833.

Colombani, L., Videlaine, F., 2013. The age of curation: From abundance to discovery. Bain and Company, Forum d"Avignon.

Cushing, T., 2014. Study Indicates College Textbook Piracy Is On The Rise, But Fails To Call Out Publishers For Skyrocketing Prices. Techdirt.

Da Rimini, F., Marshall, J., 2014. Piracy is Normal, Piracy is Boring, Systemic Disruption as Everyday Life, in: Fredriksson, M., Arvanitakis, J. (Eds.), Piracy: Leakages from Modernity. Litwin Books, Sacramento.

Gunter, D., Higgins, E.G., 2010. Pirating Youth: Examining the Correlates of Digital Music Piracy among Adolescents. Int. J. Cyber Criminol. 4, 657–671.

Liang, L., 2011. Piracy, Creativity and Infrastructure: Rethinking Access to Culture, in: Subramanian, R.K. (Ed.), The Global Flow of Information : Legal, Social, and Cultural Perspectives. New York University Press, New York, pp. 54 –89.

Lobato, R., 2008. The six faces of piracy: global media distribution from below, in: Sickels, R. (Ed.), The Business of Entertainment. Greenwood Publishing Group, Westport, Connecticut, pp. 15–36.

Mansell, R., 2015. Platforms of power. Intermedia 43, 20–24.

Nestel, M., 2014. Why College Students Are Stealing Their Textbooks. Vocativ.

Podoshen, J., 2008. Why Take Tunes? An Exploratory Multinational Look at Student Downloading. J. Internet Commer. 7, 180–202. doi:10.1080/15332860802067664

Rebelo, F., 2014. Textbook Piracy: Exploring the Decision to Pirate or Not. Universidade Católica Portuguesa.

Reckwitz, A., 2002. Toward a Theory of Social Practices: A Development in Culturalist Theorizing. Eur. J. Soc. Theory 5.

Schatzki, T., 2011. Where the Action Is (On Large Social Phenomena Such as Sociotechnical Regimes) (No. Working Paper 1). Sustainable Practices Research Group.

Schatzki, T., 2010. Materiality and Social Life. Nat. Cult. 5, 123–149.

Schatzki, T.R., 2002. The site of the social: a philosophical account of the constitution of social life and change. Pennsylvania State University Press, University Park, PA.

Schatzki, T.R., 1996. Social practices: a Wittgensteinian approach to human activity and the social. Cambridge University Press, Cambridge.

Stone, J., 2014. Pirate Bay Goes To College: Free Textbook Torrent Downloads Soar Amid Rising Costs. Int. Bus. Times.

Vassallo, N., 2014. Student Attitudes Toward Content in Higher Education, Volume 4. Book Industry Study Group.

Watson, S., Zizzo, D., Fleming, P., 2014. Determinants and Welfare Implications of Unlawful File Sharing: A Scoping Review. CREATe.

Wu, W.-P.Y., 2013. A comparative study of college students’ ethical perception concerning internet piracy. Qual Quant 47, 111–120. doi:DOI 10.1007/s11135-011-9506-1

Yu, S., 2013. Digital Piracy Justification: Asian Students Versus American Students. Int. Crim. Justice Rev. 23, 185–196. doi:DOI: 10.1177/1057567713485416

Yu, S., 2012. College Students’ Justification for Digital Piracy: A Mixed Methods Study. J. Mix. Methods Res. 6, 364–378. doi:10.1177/1558689812451790

1. Laboto also says that piracy as access is a “form of everyday piracy that takes place in the developing world” (p30), a somewhat contentious statement given the evidence of the widespread nature of piracy globally. However, the debates on the global politics of piracy so ably challenged by Liang and Philip amongst others are beyond the scope of this paper. See for example Philip K. (2005) What is a technological author? The pirate function and intellectual property. *Postcolonial Studies,* 8: 199–218. [↑](#footnote-ref-1)
2. http://www.havocscope.com/tag/book-piracy/ Source Michael Kolowski, “eBook Piracy a Big Deal in the Netherlands,” Good E-Reader, February 5, 2014 [↑](#footnote-ref-2)
3. http://www.havocscope.com/tag/book-piracy/ [Source](http://www.bbc.co.uk/newsbeat/24540745): Chi Chi Izundu, “Students ‘worst’ at e-book piracy, says data monitor,” BBC News, Newsbeat, October 17, 2013 [↑](#footnote-ref-3)
4. http://www.havocscope.com/tag/book-piracy/ [Source](http://mashable.com/2013/07/09/russia-ebook-piracy/): Lauren Indvik, “92% of E-Book Downloads in Russia Are Pirated,” Mashable, July 9, 2013. [↑](#footnote-ref-4)