ELEMENTS OF ZUBOFF’S SURVEILLANCE CAPITALISM

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Elements of Zuboff’s surveillance capitalism

Graham Greenleaf analyses Shoshana Zuboff’s book which argues that surveillance capitalism and its social engineering is profoundly undemocratic and exploitative.

Shoshana Zuboff’s *The Age of Surveillance Capitalism* (Public Affairs, New York, 2019, 690 pp.) has, in the six months since its publication succeeded in familiarising the term “surveillance capitalism”, coined by her in 2015 to describe a new stage of capitalism. Most users of the term may not appreciate the complexity of the 600 pages of argument that it encapsulates. The book is the most ambitious analysis of the dominant form of post-industrial capitalism that has emerged since the turn of the century. It aims at the scale of analysis that Adam Smith, Karl Marx and others applied to industrial capitalism in all its dimensions: moral, economic and political. It is also a call to arms: an exhortation to rise up against and destroy this mutant version of information capitalism before it destroys us, but without attempting a blueprint for how this is to be done, or what should replace it. While others have analysed threats and mechanisms of the “digital surveillance economy” (another apt, but arguable too limited, conception), Zuboff’s analysis of both is at the more radical end of the spectrum.

The purpose of this brief article is neither to endorse nor critique Zuboff’s analysis. A web search will find an abundance of both critiques and endorsements. My purpose here is to provide a compelling chapter-by-chapter overview and introduction. I have taken a different focus.

The logic of surveillance capitalism

Zuboff sets out a series of largely sequential steps or stages to explain how “surveillance capitalism” emerged and changed over time, which probably explains the concept better than any short definition.

The origins of surveillance capitalism are traced to the discovery (by Google in 2001) of behavioural surplus, “ready made” as data exhaust in the digital environment. This stems from the realisation (originally the context of operation of a search engine) of the significance of “two texts”, one public-facing and the other its shadow. The “public-facing text” is largely created by and accessible to individuals – articles, emails, news stories, photos, videos etc – though not necessarily by those it is about. The hidden text or shadow text accompanies each public-facing text, and is essentially (what we now call) all the metadata about each public-facing text; it is “hidden from public view, ‘read only’ data for surveillance capitalists”. “Behavioural surplus” is the otherwise unused part of the shadow text generated by a particular digital transaction/service (e.g. conducting a search) which is not needed in order to deliver or improve the transaction/service. This “surplus behaviour”, the unnecessary “data exhaust”, turned out to be of enormous value for unrelated purposes such as selling advertisements (which could be totally unrelated to the operation of a search engine).

Analytics were required and developed to combine behavioural surplus into prediction products, which then “ignited new markets in future behaviour”, initially through targeted advertisements which Google could sell. Google’s pioneering role in surveillance capitalism was followed by Facebook in 2003, and subsequently by Amazon, Microsoft and others. Other capitalist firms became customers of surveillance products such as targeted ads, or purchased surveillance products to use in their own businesses (in relation to customers, staff or others).

The “extraction imperative” is the necessity to obtain greater volumes of behavioural surplus, because volume increases quality of prediction products. The effects of Facebook’s 2009 implementation of the “Like” button, when they found it to be “a powerful source of surplus behaviour”, were, in Zuboff’s view its “single most momentous innovation in social engineering”.

The extraction imperative was justified by the logic of conquest applied to human experience. Google is claimed to have made six “declarations” (perhaps metaphorically), by analogy with colonial conquerors, by which it claimed the “right to expropriate human experience”. Each of these builds on and depends upon its predecessors: (i) human experience is “raw material free for the taking”, irrespective of “individuals’ rights, interests, awareness or comprehension”; (ii) a right to translate it into behavioural data (rendition); (iii) a right to own the behavioural data; (iv) a right to know what it discloses; (v) a right to decide how to use this knowledge; and (vi) culminating in “rights to the conditions that preserve these rights”. These are the foundations of surveillance capitalism, on which its justification depends.

The extraction imperatives’ “need for scale drove a relentless search for new high-volume supplies of behavioural surplus”, with new competitive dynamics, as surveillance capitalism’s leaders “aimed at cornering these supplies of raw materials and seeking lawless undefended spaces in which to prosecute these unexpected and poorly understood acts of dispossession.” To me, this seems to be much the same mechanism by which the logic of industrial capitalism, particularly the inevitable decline in profitability in existing markets, required it to invent new and more profitable types of markets such as “education”, “entertainment”, “fashion”, “sport” and “warfare”, encompassing aspects of human
behaviours which were previously regarded as part of the domestic sphere or that of the state. This was in addition to the geographical expansion of markets in industrial capitalism made possible by colonialism and by international trade, which has its analogies in the surveillance capitalist’s evangelism to “connect” the whole world, and to unsuccessful attempts to facilitate low cost Internet access throughout the developing world.

The “prediction imperative” arises because “[m]ore powerful prediction products required economies of scope as well as scale”, so this involved the increase in extension of surveillance across many new activities, plus expansion in the “depth of predictive detail” of the behavioural surplus obtained through surveillance, in addition to mere volume.

To satisfy this prediction imperative required the development of techniques for “rendition of all aspects of human experience” into behavioural digital data. Rendition is where surveillance data crosses the boundary directly into the real world, and is no longer only dealing with the virtual world. “Rendition” is the same as “datafication” in big data theories.

“Economies of action” is Zuboff’s expression to describe practices which involve going beyond predicting behaviour “in order to intervene in the state of play and actively shape behaviour at the source” in the real world. Economies of action were initially most vividly illustrated by the success of the Pokemon Go in causing people to act as predicted and desired in the real world, and most dangerously by the actions of Cambridge Analytica to cause people to change voting behaviour.

In relation to both the virtual and real worlds, “elaborate new means of behaviour modification” have been developed “to shape … behaviour in ways that continuously improve their approximation to guaranteed outcomes”. “Guaranteed outcomes” is a key but particularly confusing term, since the aim is only to obtain a closer approximation to a desired behaviour, not to obtain it with complete certainty (“guaranteed”). The methods and ideologies of behaviour modification are discussed further below.

“Surveillance capitalists are now locked in a cycle of continuous intensification of the means of behavioural modification”, and presumably of each prior stage. It is not clear why they are “locked in”, and what would happen to a surveillance capitalist that tried to change direction (as Zuboff considers Amazon, and perhaps even Microsoft, might still do).

Although Zuboff is insistent that the invention and pursuit of surveillance capitalism by its initial proponents was contingent (other choices could have been made), there is a strongly deterministic element in that each stage after the first two is regarded as following “necessarily” from the preceding steps.

‘HOW DID THEY GET AWAY WITH IT?’

Zuboff identifies 16 reasons why surveillance capitalism has been able to get away with developing this audacious new “market form”, and consolidating it in little over 15 years. Some of the most important need to be mentioned. Like totalitarianism in the 1930s, it was so unprecedented in what it was doing that understanding lagged behind implementation. The various declarations of rights to expropriate human experience disarmed opponents, allowing Google and others to move swiftly. The timing (2001) created an environment of “surveillance exceptionalism”. “The dispossession cycle” by which “audacious incursions” (such as StreetView) were followed by retreat when resistance was met, then gradual habituation and PR to accustom the public to the general idea, and some adaptation of the concept, followed by even greater expansion, was repeated in many contexts. Ignorance of the true nature of surveillance capitalist practices is compounded by the dizzying speed at which they change. Dependency on free services by consumers has become close to addiction, fed by anxieties of loss of inclusion. Hero-worship of the innovative geniuses of Silicon Valley created authority for them, supported by powerful PR machines, and close ties to Washington, resulting in perceptions of the inevitability of the present situation. A huge variety of “fellow travellers” participated at the margins of surveillance capitalist practices, or held shares dependent on their continuing success. And in the US, the dominant location where this played out, both data privacy and consumer protection laws are very weak, and the enforcement of competition laws stayed frozen since the turn of the century.

HOW DOES ALL OF THIS CHANGE POWER RELATIONSHIPS?

How do these ten steps in the formation of surveillance capitalism, and the sixteen side-steps to support them, change the distribution of power in our societies? The results are three-fold: (i) an asymmetric division of learning in society; (ii) instrumentarianism; and (iii) an anti-democratic seizure of social power.

The division of learning: The distinction between public-facing texts and shadow texts, from which surveillance capitalism originated, and the fact that surveillance capitalists monopolise control over the shadow texts, creates “unprecedented concentrations of knowledge and power, surveillance capitalism achieves dominance over the division of learning in society – the axial principle of social order in an information society”. “Division of learning” is not defined, but is described as something close to asymmetric accumulation of knowledge, and control over how to acquire it. For Zuboff, the result is that the ‘division of learning is … a hostage to surveillance capitalism’s privileged position as the dominant composer, owner and guardian of the texts’, producing “unprecedented asymmetries of knowledge and power”.

Control over the division of learning can readily be equated, in my view, with control over the division of labour in industrial capitalism. The concept of “behavioural surplus” on which it is based has obvious echoes of Marx’s key concept of the “surplus value” of labour as the basis of industrial capitalism and the ultimate source of profit.5

Instrumentarianism – radical behaviourism: Zuboff argues that an unprecedented form of power is created by surveillance capitalism, which she labels “instrumentarian power”. It differs from “totalitarian” power (itself
unprecedented when it arose in the 20th century) in various ways, including: (i) there is no single dictator, nor party, holding this power, it is distributed (unevenly) among competing surveillance capitalists; (ii) it is located primarily in the market, not the state; (iii) it does not rely on physical force, and nor is it aimed against any target "out-groups"; and (iv) there is no prescribed ideology to which individuals must submit (no "engineering of the soul", in Stalin’s terms), but a more limited aim to achieve conforming behaviour.

"Instrumentarianism" is defined as "the instrumentation and instrumentalization of behaviour for the purposes of modification, prediction, monetization and control," where "instrumentation" is 'the ubiquitous connected material architecture' through which control is exercised (described rather oddly as "the puppet"), and "instrumentalization" is "the social relations that orient the puppet master." Power was once identified with the ownership of the means of production, but is now identified with ownership of the means of behavioral modification that is "Big Other". This is Zuboff’s term for the impersonal, indifferent perspective of the pervasive means of behavioural modification through which this power is exercised, and derives from Skinner, not Orwell.

The most important origins of instrumentarianism are in the radical behaviorism of BF Skinner (Beyond Freedom and Dignity 1971), which limited the scope of scientific psychology to the study of visible behaviours, described as focusing on the Other One, people solely as their externally observable behavior. Concepts such as "freedom", “will” and “dignity” are seen as nothing more than ignorance of the behavioural causes of actions, and democracy similarly. Skinner lacked the tools for the large-scale implementation of his ideas, but Zuboff sees his role as overtaken by modern successors with similar ideology, led by Alex Pentland (MIT Media Lab, Social Physics 2014) who pioneered “reality mining” from phones and wearables, leading to extensions of surplus behaviour beyond data mining into real life.

The resulting ideology is one which sees behaviour modification, in the pursuit of profit (rather than for the purpose of inculcating any set of beliefs), and in the belief that people will cooperate in order to receive the benefits of a completely ordered life, as the main goal of surveillance capitalism. The role of machine intelligence intervening in human life is exemplified by an “Internet of things” (IoT) enabled factory where “the cloud with an intelligent edge” can result in a local machine “anticipate and pre-empt variations from the norm ‘before they happen.’” Humans learning to act more like machines is seen as desirable. The presentations by CEOs of the major surveillance capitalism platforms are shown to often present such views, but the extent to which this ideology is adopted by those involved in its daily operations is not explained fully.

An anti-democratic “coup from above”: Zuboff concludes her argument by reiterating why surveillance capitalism is a radical departure from classic (industrial) capitalism. First, classic capitalism says market actors must have broad freedom of action because the whole state of the market is unknowable. Surveillance capitalism distorts this because it tries to make the whole of the market knowable (predictable), although only by the practitioners of surveillance capitalism, while those practitioners retain freedom from regulation: “an unprecedented convergence of freedom and knowledge”. Second, “surveillance capitalism abandons the organic reciprocities with people that have long been a mark of capitalism’s endurance and adaptability”, so ideas of workers also being consumers and thus requiring a living wage, fair housing etc, no longer have a role. Third, surveillance capitalism has a form of “collectivist orientation” toward predictable group outcomes, that does not sit comfortably with market capitalism or market democracy, or even with neoliberalism.

Zuboff therefore characterises surveillance capitalism as “a profoundly anti-democratic social force” … “a coup from above”, and an “overthrow of the people” by a technological Trojan horse (Big Other). She regards it as a mutation of capitalism which needs to be overthrow, but that this does not entail overthrowing capitalism in general, or some other form of information capitalism. Her book does not dwell on solutions (it is long enough already), although she thinks some must originate with strong enforcement of the EU’s GDPR, and the engagement of NGOs and activists to ensure such enforcement occurs. She endorses Thomas Piketty’s comment "If we are to regain control of capital, we must bet everything on democracy."

Conclusion – Read, Don’t Ignore

Zuboff is not a fatalist: surveillance capitalism is not a technology, but a market form. Its logic of accumulation is currently dominant, but neither inevitable, nor impervious to
Privacy Shield Ombudsperson confirmed

The EU has been pressing the US for a long time to appoint an Ombudsman for the EU-US Privacy Shield programme, and on 20 June the US Senate finally confirmed Keith Krach as the first permanent Privacy Shield Ombudsperson at the State Department. The Ombudsperson will deal with any complaints about national security access to personal data transmitted from the EU to the US.

Applicable data transfers include not only those under the EU-US Privacy Shield Framework, but also the Swiss-US Privacy Shield Framework, standard contractual clauses (SCCs), Binding Corporate Rules (BCRs), and possible future derogations.

US FTC action: Equifax settles

Equifax Inc. has agreed to pay at least $575 million, and potentially up to $700 million, as part of a global settlement with the FTC, the Consumer Financial Protection Bureau (CFPB), and 50 US states and territories, the FTC reports. It says that the credit reporting company failed to take reasonable steps to secure its network, which led to a data breach in 2017 that affected approximately 147 million people.

The breach exposed millions of names and dates of birth, Social Security numbers, physical addresses, and other personal information that could lead to identity theft and fraud.

US FTC fines Facebook a record $5 billion

Facebook Inc has agreed to pay a record-breaking $5 billion penalty issued on 24 July by the Federal Trade Commission (FTC), and submit to new restrictions and a modified corporate structure that will hold the company accountable for the decisions it makes about its users’ privacy.

This fine is the largest imposed on any company for violating consumers’ privacy and almost 20 times greater than the largest privacy or data security penalty ever imposed worldwide, the FTC says. It is also one of the largest penalties ever assessed by the US government for any violation.

In addition to paying the fine, Facebook must “conduct a privacy review of every new or modified product, service, or practice before it is implemented, and document its decisions about user privacy. The designated compliance officers must generate a quarterly privacy review report, which they must share with the CEO and the independent assessor, as well as with the FTC upon request by the agency.” The settlement order also requires Facebook to exercise greater oversight over third-party apps, including by terminating app developers that fail to certify that they are in compliance with Facebook’s platform policies or fail to justify their need for specific user data. The 20-year settlement order also includes many other details.

Mark Zuckerberg, CEO, said on Facebook: “As part of this settlement, we’re bringing our privacy controls more in line with our financial controls under the Sarbanes-Oxley legislation. Our executives, including me, will have to certify that all of the work we oversee meets our privacy commitments. Just as we have an audit committee of our board to oversee our financial controls, we’ll set up a new privacy committee of our board that will oversee our privacy program. We’ve also asked one of our most experienced product leaders to take on the role of Chief Privacy Officer for Products.”

“To implement this, we’ll have to review our technical systems to document any privacy risks and how we’re handling them. Going forward, when we ship a new feature that uses data, or modify an existing feature to use data in new ways, we’ll have to document any risks and the steps we’re taking to mitigate them. We expect it will take hundreds of engineers and more than a thousand people across our company to do this important work. And we expect it will take longer to build new products following this process going forward.”

For valuable comments, thanks to Roger Clarke, Elizabeth Coombs, and Marc Rotenberg, but responsibility for all content remains with the author.
Belgium’s DPA aims at mediation rather than fines

Previously the DPO for Nielsen, the new Belgian DPA brings both academic insight and a business experience to his regulatory role. Stewart Dresner and Laura Linkomies report.

Dr David Stevens was appointed as Chairman of Belgium’s DP Authority on 28 March 2019, together with the other members of the Executive Committee of the Belgian Data Protection Authority. The delay in appointments was partly due to strict language requirements; the GDPR implementing Act was adopted in 2018 and entered into force on 5 September 2018 (PL&B International February 2019, p.1).

Dr Stevens is an experienced data

National approaches to ‘legitimate interest’ trouble EU

The European Commission’s unease over national implementation of the GDPR also encompasses limits to data subjects’ rights and ‘effective’ independence of DPAs. Tom Cooper reports.

The European Commission is continuing bi-lateral and group discussions with Member States as it pursues the harmonisation of data protection rules across the bloc. But multi-state operators remain wary of tripping over national variations in the implementation of the EU General Data Protection Regulation (GDPR). Karolina Mojzesowicz, Deputy Head, Data Protection Unit, European Commission, confronted

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Data protection is taken seriously – also in the US

The $5 billion fine imposed on Facebook by the US Federal Trade Commission is the largest we have seen for a privacy violation (p.32) and will perhaps influence EU DPAs in their enforcement. However, a ban on certain types of processing may be more effective than any fine when talking about a company the size of Facebook. Europe has yet to see such a large GDPR fine. PL&B’s interview with Belgium’s new Data Protection Commissioner reveals that he in fact regards mediation as more effective than fines (p.1).

On Internet giants and surveillance capitalism, read Graham Greenleaf’s analysis of Shoshana Zuboff’s thought-provoking book on p.29.

The European Commission monitors the Member States’ implementation of the GDPR, and much work still remains to be done. In some instances, Member States have introduced national requirements on top of the Regulation, in particular, through many sectoral laws. This practice leads to fragmentation and results in creating unnecessary burdens, the Commission says in its recent Communication. Speaking at our Annual Conference in Cambridge in July, Karolina Mojzesowicz, Deputy Head, Data Protection Unit, European Commission, said that the Commission has taken a “very proactive” approach to the implementation of the Regulation, working with Member States to discuss options, possibilities and solutions. It continues to analyse national legislation and to clarify issues in bilateral discussions (p.1).

We follow closely the Commission’s work in this field which will result in a report in 2020 (p.10). In this issue, we are pleased to bring you news from two more countries in our series of articles on GDPR implementation at national level; our correspondents from Latvia (p.16) and Croatia (p.14) discuss their countries’ laws, which have both been in force since last summer.

Another area of work at the EU Commission is to review the existing adequacy decisions and evaluate any new national applications for an adequacy assessment. With Japan having achieved the mutual adequacy decision, Korea is next in line (p.6). The G20 is discussing an overarching framework that promotes cross-border data flows (p.18), and the next EU-US Privacy Shield review will begin in mid-September.
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