CC China Mainland and the Global Infrastructure for Creative Commons

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My goal in this essay is to introduce a Web 2.0 legal protocol called Creative Commons (CC), its journey in China, and the stakes of a developing country in supporting a global 2.0 project that grew out of the vision of digital elites based in post-affluent America. Indeed, the competitive advantages, or the "soft power," of a nation or a place depend increasingly less on tangible infrastructures such as roads, bridges, or electricity grids than on the ubiquity of information highways, broadband, and wireless technology. As a result of the quick spread of peer-to-peer networks and the breakdown of the traditional client-server model, content is now easily and quickly downloadable and sharable across device, application, and platform. Web 2.0 technology gave rise to new forms of user participation (i.e., collective authoring as seen in closed and open wikis), new platforms of socialization (i.e., MySpace, Facebook, etc.), new business models (i.e., Magnatune), and more importantly, new opportunities for the growth of a creative culture online that is no longer dependent on big music labels, mighty publishers, or other creative industry conglomerates for dissemination. What also became apparent is that our current intellectual property rights regime has been way out of line with modern technological development and with what it enabled - the collaborative trends and open nature of knowledge production.

Put it in another way, the new momentum for the critical studies of culture in the digital era was less driven by the once familiar critiques of commercialism than by the struggles of grassroots creators and end-users against digital rights management (DRM),

one of the theses I argued in Brand New China.[1] The alleged backlash against brands predicted by Naomi Klein did not happen. [1] Today's young generation is not averse to consumerism and commercial culture per se. What they revolted against was the monopoly control of the intellectual property rights of culture by heavyweight creative industries. The issue is about control and how to "bring the higher powers back to grassroots action."[2]

Once an Internet surfer can post and distribute content by herself, a new range of legal questions popped up: how does she go about distributing her own work online legally and making idiosyncratic decisions about how others can use her work? How can she feel assured that fellow netizens will comprehend and comply with her choices on each occasion? For example, if a creator is mindful of the urgency of contributing to the public domain (upon which the chain of creativity and innovation depends), how can he or she signal to the others that the content is free to share and build upon? And what is to be done, on the other hand, if she only wants to share to a certain degree (i.e., sharable but not modifiable, not sharable for commercial use, etc.) What is in great demand, in short, is a cascading, flexible copyright infrastructure that goes in tandem with the 2.0 technology and the 2.0 culture of sharing and remixing.

This essay addresses the issues revolving around the *legal infrastructure* designed by Creative Commons that affords creators such flexibility. CC challenges the stringent permissions culture upon which the current "all rights reserved" IP regime is built. It does so by providing a flexible copyright architecture free of charge, enabling content creators to easily mark their works as free to copy, or modify, display or distribute for commercial or non-commercial purposes. Because the licenses are machine readable, CC encountered

few blocking stones in populating and implementing its vision globally. All five major jurisdictions in East Asia – South Korea, Taiwan, Hong Kong, mainland China, and Japan – had already ported the licenses and indigenized them for use by the locals. A discussion of the "new geography of East Asian media cultures" necessarily entails that we pay attention to this emerging digital ecology and look into the attendant legal infrastructure that sustains a vibrant grassroots creative culture online.

That China should join this open content movement was indeed a celebratory event. At the Beijing launch in March 2006, Lawrence Lessig, the mastermind behind CC, made an auspicious remark that "CC's global user community exploded instantaneously with the addition of 1.3 billion Chinese overnight."[3] Lessig's upbeat sentiment about CC China Mainland notwithstanding, I felt a bit dubious about such optimism not least because China's 700 million peasants could be theoretically excluded from the parameters of Creative Commons if we were to cling on to the concept of "creativity" defined in Western bourgeois terms. As congratulatory as I was about the launch event, I gave a cautionary speech on the road blocks impeding a full blown Creative Commons culture on the mainland.[4]

As CC slogans and practices spread over the globe, I often wondered if one concept fits all. During the Q&A session of ccChina Mainland (ccCM)'s launch event, I asked Lessig what kind of feedback that the CC Headquarter had received from the local chapters in developing countries. By "feedback," I meant "local challenges" posed to an American paradigm. My veiled critique of a first world discourse traveling East or South was lost in that quick, polite exchange. Understandably, Lessig did not grasp my question because he was probably not aware of the West-rest or center-periphery

complex that plagued socially concerned cultural studies critics like I myself. But to this day, my inquiry remained relevant if not more urgent due to my involvement in the advisory work for ccCM. I wonder, in what way could CC models and practices in developing countries talk back to our normative understanding of "creativity"? More precisely, how can we meet the enormous challenges of promoting CC in those parts of the world where the digital elites are a minority?

Our answer to that question is incorporated into the road map for ccChina Mainland. We were consciously designing promotion activities in the past two years to develop a CC model that serves both rural and urban Chinese targets. Indeed, the blind spot of the global model resides in its assumption about total access and a lack of attention to the interest of the underprivileged. To those who insist that CC is all about legal instruments and nothing more, I would respond by saying that behind an instrumental vision (the creation of licenses) lies epistemology and values, in this case, post-affluent, Western epistemological values. The stakes of our subscription to a class-blind worldview embedded in the current CC vision is obvious - we risk writing off the majority of the Chinese population. Building such a critique into our promotion activities has indeed been a challenge both daunting and exhilarating. We start with creating a nomenclature for ccCM that speaks to the commoners in China.

The Nomenclature: *zhishi gongxiang* 知识共享

Instead of translating the English term directly and word for word into Mandarin Chinese, an awkward and unintelligible "chuangzuo gongyong," we opt for a different naming strategy by picking a colloquial term that makes sense to all walks of Chinese

society, namely, *zhishi gongxiang* (literally "knowledge sharing"). Although our choice was successfully tested on various occasions, it sparked a lingering controversy because a small group of digital elites felt wary that the Chinese term took away the edginess and trendiness implicit in the English term. I was relieved that such opposition represented only a minority view. Otherwise one could be justifiably dismayed at the deteriorating sense of social responsibility of Chinese netizens. On the contrary, influential bloggers (such as Flying Pig in Beijing and Fang Xingdong, the "Father of Blogging in China") came to endorse this term precisely because they recognized the egalitarian principle underlying such nomenclature.[5]

The term z*hishi gongxiang* made it clear how we positioned ourselves. Behind a new nomenclature sits a vision that is often accompanied by a critique—in our case, a well pronounced critique of elitism. We are intent on reaching not merely the urban twenty somethings, but more importantly, the diverse constituents on the other end of the divide, among them, the *xiaokang* households (a cut below the middle class), and the socially marginalized in the cities and rural hinterlands. We take a two-pronged approach – concentrating on license promotion in the cities by mobilizing young creators; and in the countryside, conducting experiments that are not necessarily licensed focused but which dovetail with the open content spirit characteristic of the Creative Commons movement.

Blocking Stones

Before I elaborate on the two-pronged approach and the programmatic vision underlying CC China Mainland, an overview of the major challenges we faced is in order. Starting a

CC project requires some quixotic faith, but rooting it calls for pragmatic strategies. It is difficult enough to promote CC in developing countries where the digital divide is a known fact. In China, we have to tackle additional barriers. First, the culture of intellectual property rights on the mainland (as that in other developing countries) is undernourished. As indicated in the wiki for the "Asian Commons" workshop at the 2008 CC convention, most Asian countries "do not come to the CC with the same sense of crisis that animated CC in the US" ("The `Asian Commons' Workshop).[6] The majority of Asian countries do not suffer from the over-protection, but under-protection, of IP rights. Although China has signed on to several international IPR accords, such as TRIPS and Berne Convention, it is widely known that legislation is one thing, and implementation another. Counterfeit cultural goods and piracy have yet to be held in check effectively despite the sincere pledges made by the central government to comply with the global IPR protocols. Thus CC promoters in China have to take on a two-fold, seemingly conflicting mission simultaneously: cultivating and strengthening the public awareness of the importance of protecting intellectual property while persuading creators to share their rights to a certain degree because, unlike any other private possessions that are exhaustible in repeated use, "knowledge" and "creativity" is better understood in terms of the commons – shared resources –upon whose reuse and remix the past and future of creativity and knowledge society is built. The problem is: can a "no rights reserved" culture like the Chinese appreciate the solution to a crisis encountered primarily by post-affluent and post-IP protection societies? Is it possible for us to ask Chinese creators to think about giving and sharing even before their own rights are guaranteed?

That is the kind of question we constantly ask ourselves. At the moment, the logic of leapfrogging was driven by one powerful argument. Currently, China has adopted a cultural policy that gave preferential treatment to cultural and creative industry conglomerates in the name of accelerating a modern innovation culture. The interest of the emerging creative class as discrete pools of talents was only nominally folded into the policy agenda even at those locales where the "creative industry park" model seems to work fairly well. If the country follows the existing policy at the current speed, knowledge in China will soon be privatized, and the knowledge divide between the rich and the poor will escalate. CC's ideal of open access and its some-rights-reserved approach can help prevent China from repeating the mistakes made by Western developed countries. There are leapfrogging possibilities in the IPR domain. A steady development of CC may counteract China's overheated drive toward the corporatization of creativity and knowledge that fanned the disproportionate growth of centralized cultural and creative industry monopolies.

Apart from the task of cultivating the popular consciousness of "knowledge as private goods" and "knowledge as sharable property" in society at large, CC China Mainland faced a second challenge, to wit, the tight grip of regulations on the transmission of user generated content on the Internet. At present, the rights of broadcasting online video and audio content were only given to a few privileged portals like sina.com. And yet although Chinese Internet end-users continued to play the cat-and-mouse game with Internet policemen and women, they have, thus far, had an easy time to seek, and post, content deemed off limits by authorities. Chinese websites are peppered with pirated and "risky" content. In fact, prior to 2008, the Olympic year, the

online market place was largely unbridled, a relatively unmonitored grey domain was the norm, and illegal content providers were a dime a dozen.

In December 2007, however, China's State Administration of Radio, Film and Television (SARFT) joined hands with the Ministry of Information Industry (MII) to publish a set of new regulations for online audio and video services, which took effect on January 31, 2008. All existing and new online audio and video service providers now have to be majority state-owned and are required to apply for an "Online Audio-Visual Broadcasting License." Forbidden content ranges from specific subject matter such as pornography to the vaguely defined topical areas (i.e., content that "damages China's culture or traditions"). Even licensed companies may not allow individuals to upload "news content." Furthermore, no companies or individuals are allowed to "re-broadcast, link, or aggregate content from illegal TV channels or illegal online audio and video sites."[7] This policy, if implemented, would cut down the free riders' traffic and could be a boon to the all-rights reserved IP regime which the Chinese government tried to transplant verbatim from the West.

What is of relevance to ccCM is undoubtedly the new constraint imposed on a user's uploading rights. It is still too early to tell if this policy will be strictly enforced and whether such uploading restrictions will also cut into the volume of original content creation and its circulation. I interviewed several industry insiders, trying to gauge the impact of the new regulations on their operation. Most of them assumed that SARFT and MII would "grandfather" existing players out of this new rule.[8] In one savvy observer's words, "it's more about holding these video sharing and P2P companies responsible for naughty content than about trying to shake – or shut down the industry."[9] Intriguingly,

shortly after the announcement of the new regulations, eight companies co-signed the "Self-Discipline Agreement for Chinese Internet Audiovisual Programming", and another forty-two online video sites requested to make the same pledge. Among those signed, one can find some well-known names: Netmovie, Jeboo, Vodone, Sina, PPStream, Youku, Quacor, UUsee, 6Rooms (6.cn), Hupo.tv, UiTV, QQ.com, and PPLive.[10] Those seemingly voluntary declarations sent a double-edged message to the public – first, the fifty-some portals are well aware of the importance of self censorship, second, the sizable industry is chugging right along and going strong – one of those Chinese paradoxes that baffled analysts faithful to the dichotomous mode of thinking.

Meanwhile, ccCM is happy to report that we have not encountered issues of content monitoring or censorship by the government in any of our promotion activities, which include two CC-licensed photographical contests that garnered more than 20,000 ???? submissions online.

The Licenses, "Share-Alike," and Remixing

What I outlined above yields two sets of reflections – first, what ccChina Mainland can do (i.e., providing a conceptual middle ground between two extreme positions - the "no rights reserved" Chinese approach and the "all rights reserved" mainstream Western system), and second, what we cannot do (i.e., changing the Chinese state regulations that govern the digital content sector). Setting up the terms of opportunities and constraint is crucial because CC is both a conceptual revolution and a social practice. As practitioners, our ability to respond to contingencies and deterrents is a required skill. It is the

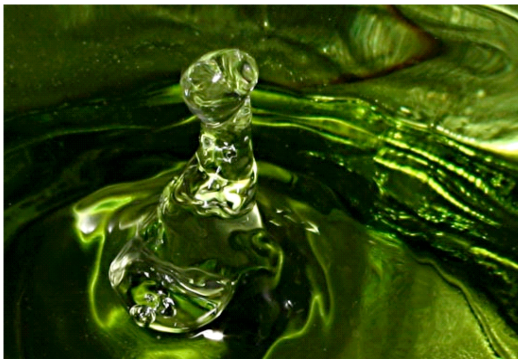
"practice" aspect of my involvement in CC that truly energized me as I traveled back and forth between a scholar's studio and our targets in the content sectors.

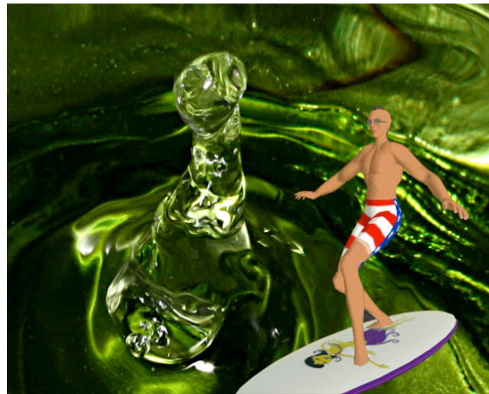
CC licenses constitute the core of such a multifaceted social practices and deserve a substantive treatment here. One big public misconception about Creative Commons is that it is a movement about giving content away unconditionally. There is no better evidence against such a perception than the birth of CC plus, a license that signals to the for-profit companies and organizations that the content in question can be commercialized for a licensing fee. In addition to CC+, there are four other major license categories which a creator can toss and mix to build a licensing structure for a given piece of work. Those are by attribution (by), non-commercial (NC), no-derivative (ND), and share-alike (SA). The combination of those categories brings forth six variations of CC licenses.

The most important category of all is *SA* which indicates that you allow others to tweak, transform, or build upon your work as long as they license the resulting work under the identical terms.[11] With the share-alike license, remixing is just a click away. What made CC unique is not only that it supports the rights of a user to remix other creators' work legally but more important, it provides the legal mechanism to distribute remixes. All this hinges on the application of the share-alike license, a path-breaking invention of the CC architects.

What is remixing? The non-commercial mash-up of copyrighted content that lies at the heart of CC licensing and CC culture. The pair of examples below shows how the chain of creativity is made possible by legal remixing. The image on the left, a drop of ocean water, sits in the public domain; on its right is a remix of the original aquatic image

created by Tracy Cao, a Chinese experimental artist. Cao's work was published with the SA license that carries two legal implications instantaneously DOUBLE CHECK WITH CHUNYAN: other users now have the permission to modify and recreate her image for non commercial purposes, and second, the other remixers are obliged to apply the share-alike license to their resultant work as well. This example makes it clear why sustainable creativity in the digital era is dependent upon a legal infrastructure that ensures that creators can build upon each other's work legally and at no cost. The beauty of CC is that this kind of reciprocity is coded, machine decipherable, and therefore, automated and replicable in the other parts of the globe. Legal remixing, in short, is a technologically enabled creative act crucial to the flourishing of the digital commons.





The utopia of a thriving commons aside, one may ask, isn't illegal remixing a rampant practice seen in both the developed and developing worlds? Or to bring the question closer to my article: Is the phenomenon of the increasingly heavy flow of grassroots content in the digital commons changing the protection-jealous behavior of the creative industries in those parts of the world where CC was deeply rooted?

I asked that question because remixing has been a thorny issue for Western creative industries which saw the practice as offensive as piracy. It was therefore all the more surprising that starting in 2007, a noticeable turning point occurred in the corporate practice of DRM, a change that could be partly attributed to the influence of the open access ideology promoted by CC and other kindred movements. Earlier that year, British music label EMI decided to abandon digital copy protection altogether. But the more sensational headline was George Lucas's historic announcement made on May 24. As part of the celebration of its thirtieth anniversary, Lucasfilm Ltd. made 250 clips of six "Star Wars" films available to fans for remix in whatever way they choose. Lucas's decision was not controversy free,[12] but it was widely interpreted as a signal that the American media industry was ready to show a more flexible attitude toward intellectual property rights. As CC garnered more accolades in the US and globally, it is almost certain that the content industry will respond by playing with the ideology of open content to their own advantage.[13]

Now that remixing as a practice is examined and understood, let us switch to China and ask, what is the Chinese remixing culture like today? According to the current Chinese copyright law, an author has the "right of integrity," to wit, the"right to protect one's work against distortion and mutilation. Remix in general was an alien concept to the Chinese and sat safely in the legal limbo until 2005 when a Shanghai-based video editor Hu Ge made a spoof of Director Chen Kaige's blockbuster film "The Promise." Hu remixed scenes in the film to create a twenty-minute parody called "A Murder Brought on by a Steamed Bun" (nicknamed "Mantou"). He sent it to a few friends online who passed it on to other peers. A viral phenomenon soon broke out. *Mantou* became the

most frequently watched Internet video in China for at least eight months. Chen felt humiliated and threatened to sue Hu Ge. Online and off line, the incident triggered endless debates among lawyers, netizens, and ordinary movie goers and turned the young amateur video filmmaker into an instant celebrity. Although falling short of becoming a real cause célèbre (an off court reconciliation saved Chen from total infamy), the Chen vs. Hu case stimulated the growth of two sub cultures in China – spoof culture (*egao*) and remixing culture. By June 2006, spoof web pages sprung up to nearly seven thousand. A typical spoof page (taken from QQ) looks like the following –

Remixing was another activity that thrived. There is a huge online market for audio and video spoofs and remixes in China. Their popularity spurred sina.com, an officially sanctioned portal to broadcast videos, to host a massive video blog contest in July 2007. Among the category of competition were surely spoof and remix, which indicates that the larger media environment in China welcomed the idea of legal sharing and legal remixing.

It will be fascinating to see whether the 2008 new content regulations on Internet audio and visual services will change this ecology.

Moreover, it is important to note that however strictly enforced, the said policy only applies to *Chinese* content providers. In other words, the new regulations cannot touch foreign commercial platforms set up by big advertisers that exploit the DIY trend among Chinese youths. Multinational advertisers like 7 UP, Pepsi, and H&P developed a popular practice – launching user-generated-content (UGC) driven advertising campaigns by posting UGC submissions on the special mini websites run during each campaign.[14] The best grassroots creative content in China can now be found on those commercial platforms rather than on regular video sharing sites like Tudou and Youku. Indeed, those seeking contemporary samples of Chinese creativity are advised to visit those sites of DIY-styled ad campaigns. Other logical places to turn to for grassroots content would be search engines that can ferret out CC licensed works. Yahoo, Google, and Flickr have all integrated CC search into their services to help online surfers quickly find photos, music, text, art, books, educational material, and even scientific data that are free to share or build upon. No such partnerships were sealed in China yet. But ccCM is planning to negotiate with Baidu and Sogou, and Web browsers like Firefox, to build a plugin for CC search on Chinese materials as well. It is one of those tasks we are geared up to undertake as ccChina Mainland moves beyond its preliminary stage of development. To ccCM and our double-pronged strategy I now turn.

A Two Pronged Approach: The Urban Story

In 2006, CC licenses were indigenized to synchronize with the Chinese copyright law. I got involved as the Chair of the International Advisory Board, working closely with the Project Lead Professor Chunyan Wang at Renmin University to develop both promotion and research activities for ccCM. Our goal, simply put, is to build multi-faceted Chinese CC communities that include both urban elites and marginalized social groups.

Promotion in urban China unfolded across several content sectors. In education, we partnered up with CORE (China Open Resources for Education), the Chinese counterpart of MIT's Open Course Ware, and are in the process of bringing CC licenses to grassroots educational platforms like Kaifu Student Net and Educator Roundtable. In the domain of the sciences, we work toward promoting scientific data sharing and will co-host a symposium in 2009 on what open content means to Chinese scientists, an event to be held in collaboration with the Science Commons and the Chinese Academy of the Sciences. This is foreseeably a difficult domain to knock open. We saw the symposium as the first step we took in discovering what kind of barrier lies ahead. On the other hand, Qiji Archive, a multidisciplinary scientific knowledge repository, has integrated CC into its various science literature categories, which is a small feat indicating that grassroots efforts often led the way. In the sector of culture, we serve as a legal consultant to National Cultural and Information Sharing Project (NCISP) whose resources are open and completely free to the public. The national project boasts of a recipient network that extends from the central government, and then tier by tier all the way down to county towns and individual "cultural offices" in villages across the country. Similar national and local sharing projects on such a gigantic scale sprang up here and there throughout the country without much coordination. Making inroads into those centrally and locally

sponsored public projects may require building a network with the Ministry of Culture, SARFT, MII, the Communist Youth League, and National Copyright Protection Center, a complex task that may take years to bear fruits. A common complaint about CC voiced by Chinese officials and commoners alike was the complexity of its cascading mechanism. In a country where making a choice is an acquired skill, making hairsplitting decisions about how to publish one's work online is easier said than done.

Those difficulties and barriers aside, our biggest success thus far was the experimentation with the visual arts category. In 2007, we collaborated with Nphoto to hold our first contest of CC licensed photographical works. 10,000 submissions of professional and amateur works licensed under various localized CC licenses poured in. Three prizes were given. It is a tradition that will continue annually. In the category of 3D virtual worlds, we have conducted a series of dialogues with HIPIHI (the Chinese Second Life) since July 2007 to devise a plan of building CC licenses into the terms of use for their in-world residents. The share-alike license, in particular, should make it easier for HIPIHI members to populate and redistribute remixes in the mataverse. It is a win-win proposition that awaits execution. And of course, establishing relationships with the Chinese search engines and Web browsers also sits on the top of our action agenda as I indicated earlier.

The Rural Tale: Crossing the "Digital Divide"?

All those activities in metropolitan China have helped us build awareness among a diversity of urban constituencies not only about the importance of sharing knowledge and creativity at a *conscious* level but also about the significance of taking into one's own

hands the precise manner with which one's own creative work should be distributed online. Generally speaking, the CC experience is appealing to the younger generation in China, especially college students who have lent us steady support on occasions like the CC Birthday Party and ????Midi Music festival. In fact, urban promotion as detailed above is strategically important not just because China's digital elites congregate in metropolitan and urban areas but also because the language of urbanity can easily cross national borders and connect us to the other CC jurisdictions in the world. Urban CC initiatives thus form the core experience of Creative Commons as a global project.

Significant as it is, the urban methodology of CC promotion is more or less predictable. On my scale of value that prioritizes local flavor over universality, it is the rural component to ccChina Mainland that distinguishes us from our more affluent counterparts and turns this project into a truly meaningful social practice. This section will focus on the other trajectory of our two pronged approach – projects involving the poor and the disfranchised.

The mission in question was built into the agenda of a research platform I set up at MIT – Critical Policy Studies of China (CPSC) – which has served as the research arm of ccCM since its inception.[15] From the very beginning of my involvement in Creative Commons, I never stopped asking myself, how relevant is knowledge to action, and theory to practice? I raised those questions because there is a conceptual underpinning behind Creative Commons China Mainland that goes beyond simple instrumentalism (i.e., our obligation of instructing Chinese people how to use CC licenses). The vision behind ccCM, as I mentioned pages earlier, contains a critique. It is a vision made for a developing country with a large population of the underprivileged. My goal, simply put,

is to maintain a healthy balance between building promotion activities catering to the digital elites and those that target the socially marginalized. To that end, we put a great emphasis on broadening the target segment of CC China Mainland by extending it beyond the elites living in the first-tier and second-tier cities. There are four other target segments we try to reach, which include (1) the Chinese middle class, approximately a little over 100 million; (2) the vast number of the relatively well-to-do households (known in Chinese as *xiaokang*) that amount to 500 million people; (3) the rural communities in the countryside and migrant workers living in urban China, a population of 700 million.

Needless to say, China's human geography calls for a different approach than a ready-made model that grew out of the digital ecology of a post-affluent society where going online and paying for content-making software tools is the birth right of a citizen. How to tailor a model that suits the needs of those living in the backwaters of rural and urban China requires, first of all, an intuitive understanding that *a license focused approach is not going to be of great relevance* to those who have yet to acquire the capability of navigating online in confidence and the kind of proficiency in creating the type of UGC content normally associated with Creative Commons. But resisting the pessimists' view that CC is inconsequential to the have-nots, we launched two experiments to explore ways of reinventing the conventional approach of CC. One project involved Beijing-based Migrant Youth Art and Performance Troupe, another plan is focused on designing a new technology platform and ICT training workshops for small, emerging NGOs in West China.

The West China project, in particular, is built upon our recognition that the difficulties of establishing CC presence in the countryside reside less in the alleged deficiency of the rural IT infrastructure than in the ability of an underprivileged end-user to manage the Web experience well, both in conceptual and operational terms. Catering to the specific needs of those rural clientele who enjoy basic access to the Internet, we designed an educational project focused on ICT training that incorporates the introduction of Web 2.0 culture and technology. Indeed, by 2010, all villages in China will be wired up (*xiang xiang neng shangwang*).[16] The gaps of Internet access will decrease gradually between inland and the coastal areas. But the discrepancies of the technological know-how between rural and urban Web users will remain as large as ever. It is eventually the knowledge divide that marks the disadvantages of being the old poor.

The first project, which I elaborate below shortly, serves a slightly different target - the new poor in the cities. It is in them that we saw the danger embedded in a popular concept like the "digital divide." As we shall see later, the marginalized as well as the elites generate creative content online. The concept of the so-called divide is problematic in as far as it writes off the underclass as irrelevant to the digital era.

"Singing out Loud" – Migrant Workers' Creative Culture

The Migrant Youth Art and Performance Troupe are now six years old (????). Its target audience is their own kind. Twenty-five devoted migrant workers travel to county towns and cities all over China, and sometimes overseas, to perform music, skits, and other pop cultural shows made with the goal of enriching the cultural lives of migrant workers and educating them about their rights. Their favorite and frequented venues are construction

sites, factories, and schools for migrant workers' children. The troupe fulfils multiple functions. Apart from linking the workers to the general public, it is an advocacy group and an entertainment service provider for the underclass, as well as a platform on which they explore, sustain, and promote a migrant workers' creative culture. They also recruit and train artistic, musical, and literary talents among fellow workers to expand their volunteer base.

Anybody who visited the troupe's music site *Dasheng chang* (http://www.dashengchang.org.cn/) will be impressed by the rich specimens posted there and wonder how those migrant workers managed to be so productive while earning their hard livelihood as day laborers. Each of their public performances is a multi-media presentation built around central themes such as "how to negotiate for being paid on time," "status discrimination," and "how to spot scams by job agencies." Each performance is made up of folk ballads, talk shows, folk games, *xiangsheng* (spoken drama), skits, one-act plays, and lectures. You can probably tell now that the troupe's strong desire to share their creative culture with the general public coincides beautifully with the goal of Creative Commons. Not surprisingly, they agreed to publish all their audio and visual works using ccCM licenses.

In summer 2007, I made a trip with two other CC volunteers to Pi Village (where the troupe is based) to demonstrate to them how to embed CC licenses onto their music site. After we finished that task, Sun Heng, the founder of the Troupe, took us to the construction site of a new migrant workers' museum – China's first – which they were building, brick by brick, all by themselves. Standing inside the half-finished exhibition rooms, we were at once impressed by Sun's audacious vision and overwhelmed by a

bittersweet sentiment for we realized acutely that the museum's future is as unpredictable as the Troupe's. Having a museum is not just a wish made by migrant workers in a single city. Sun Heng's dream was shared by his fellow workers in other cities. Through those exhibitions they wish to construe not just a tale of survival but a collective desire *to find a place for themselves in history*. In Sun's words,

> "Although we created the material world [for the city folks] and built history for them, our own culture wasn't documented anywhere. Our history was absent because it wasn't archived. The mainstream culture is not *our* culture because it didn't' record the history and culture of migrant workers."
>
> "Is that because we don't have own culture? Absolutely not. We created this city . . . we built the skyscrapers and produced materials goods. Of course, we have our own life experiences, we exercise our own thinking, and we experienced happiness, anger, sadness, and pleasure [just like everybody else]."

Sun insists that taking future into their own hands means "having their past recorded *from their own perspectives*." That's what the museum does. It exhibits migrant workers' photography, calligraphy, music, literature and art, their children's paintings, and oral histories of select workers, and copies of letters sent to their loved ones who stayed behind in their home towns. Through the museum, they hope to convey to the public that like other social groups, they, too, have a material, artistic, spiritual, and moral culture of their own and aspirations of which they are very proud.

What does that museum have anything to do with CC China Mainland? It was during that visit in July 2007 that I proposed an idea to Sun Heng – that he considers setting up a digital museum to sustain his effort and propagate his vision to a wider circle of constituents in China and possibly to the rest of the world, that is, moving his museum

online beyond the physical confines of Pi Village. There were practical reasons for my suggestion. The museum is in a very remote area on the outskirt of Beijing, out of reach for regular visitors and tourists. It is also tiny, composed of only half a dozen rooms without storage space. How can they manage to preserve the exhibits without recourse to digitalization? ccCM has a big role to play in that context. Once digitalized, all the museum pieces will be published online with CC licences. I am in the process of helping Sun identify potential donors.

The migrant workers' museum and their "Singing out Loud" music website (which carries By-NC-ND licenses) validate my suspicion that the concept of the "digital divide" does not serve the interest of the underclass well. I have shown that not only is CC relevant to the have-nots but that the underclass is as concerned as the elites about the potential copyright violations by for-profit organizations. Sun Heng told me in particular that they didn't want their content used for commercial purposes without compensation. On their website, that particular statement flashed out in bright red in animated form!

ICT West China NGO Project

Our collaboration with the Migrant Workers' Troupe marked an effort of seeding the notion of creative commons in the disfranchised communities in urban China. At the same time, a more ambitious project of a non-licensed focused approach will unfold in rural China. Conceptualized by my MIT research group (Civic Media & Communication, henceforth CMAC), the project will introduce Web 2.0 culture and tools into select regions in West China where ICT infrastructure is catching up with that in the coastal areas. Partnering up with the University of Science and Technology of China (USTC) and

utilizing the extensive NGO network set up by Zhongshan University, Yunnan Development and Communication Net, and Friends of Nature, we will conduct annual ICT training workshops for small and medium sized homegrown NGOs located in Qinghai, Yunnan, Guizhou, and Sichuan provinces. A digital platform will be built on an open-source architecture that combines the strengths of Web 1.0 and 2.0 functionalities for communication capacity building of targeted NGOs; a set of CC-licensed training materials focused on Web 2.0 culture and tools will be designed and delivered at the training workshops to help select NGOs to get a handle on social network technology. During each workshop, we will work with local NGO teams to plug their specific technological needs into the platform and fine-tune its structure continually.

The workshops and training materials are devised to fulfill several purposes all at once. First, they will help grassroots NGOs (not GONGOs) to enhance their organizational capacity and build their volunteer base more swiftly than before. Precisely because managing 2.0 requires a low technological threshold, participating NGOs that did not have sufficient knowledge of Web 1.0 technology can leapfrog right into 2.0. The new platform will also enable them to access and interact with important information on a scale larger than currently possible. Second, through those workshops, we will introduce CC culture and basic 2.0 tools (such as video sharing, photo sharing, blogging, wiki, social bookmarking, etc.) – killing two birds with one stone. Third, by developing an ICT training model that is scalable in underdeveloped regions in China, we will be taking a small step toward closing up the gaps of information inequity between rural and urban China. The 2.0 features on the platform have an added attraction to younger volunteers who are potential donors who live like fish in the water in the 2.0 sharing and

participatory culture. Last, this ICT-NGO strategy is not only scalable within China but it may be replicable in other developing countries.

Alternative Approaches to the "Asian Commons"?

Now we are back to complete the cycle of my argument, that is, China, like other developing country-jurisdictions, has specific needs that cannot be neatly contained in a universal model that catered essentially to post-affluent societies. Take the term "grassroots" for example. Its meaning goes far beyond a stands-in for "bloggers." "Grassroots" in the developing world carries a specific reference to the underprivileged - those sitting on the lower social strata. I can't emphasize enough that the fundamental concern for the weaker peoples need to be put on the agenda of global CC communities and be incorporated into the CC world view and into our CC practice. Otherwise, the licenses became nothing more than a rich man's toolkit and a token decoration of globalism for poor countries. That's precisely why the two-pronged approach we are taking in China could have significant repercussions for other countries where the ICT infrastructure and culture of intellectual property rights differs significantly from that of the US, UK, Hong Kong, Taiwan, Japan, and Australia.

One of the cardinal issues put on the table of the 2008 iSummit (an annual convention of Creative Commons and International Commons) was the consolidation of local CC projects into regional groups, a strategy that could presumably facilitate meaningful collaborations that cross jurisdictions. The proposal of dividing the global commons into regions and continents was not an outlandish idea. While no proposals

were made about a "European Commons" or a "Latin American Commons," the pressure seems to be put on "Asia" to declare such a uniformed entity. A conference was held in the name of the "Asian Commons" in Taiwan, and the same idea reappeared on a workshop originally titled the "Asian Commons?" in the 2008 iSummit. There is no better way to voice my views on this controversial proposal on the "Asia Commons" than quote myself at length from the speech "An Alternative to 'Asian Commons' -

"I think it is productive to raise the question [of "Asian Commons"] precisely because there is *a lack of consensus* on what "Asia" means," let alone finding an answer to "what Asian commons" may mean. But the question of Asia is important because it pushed us into thinking about alternative frames of identification.

"I propose that we think of "Asia" along a dual track of identification – let's think about Asian *developing* countries/regions on one end of the spectrum, and *developed* countries and regions on another end. I think regional divisions – whether we are talking about Asia or Europe or Latin America - are not entirely meaningful. That's because the challenges of promoting CC in Asian developing countries are different from those in affluent & post-affluent jurisdictions in Asia.

"Asian developing country-jurisdictions constitute a natural grouping in itself because countries like China, India, and Vietnam already shared a lot in common. It will be fruitful to not only build coalitions of Asian developing countries (I am aware that such coalitions were already in existence), but to substantiate those symbolic ties with *projects that are not necessarily license focused* but which intersect meaningfully with what we do for CC."[17]

I agree completely with Lawrence Liang, the Legal Project Lead of CC India, who debunked the notion of the "Asian Commons" not only because it has a "misleading intelligibility about it" but also because naming it as such replays the century-old logic of Orientalism– a familiar code name for the "unequal exchange between Europe and Asia in the creation of intellectual discourse." [18] Every Asian country offers its own historical account of "what Asia means." And there has been a long train of critical scholarship on the historical formations of Asia as an imaginary discourse.[19] The richness of "Asia" as a reality is resistant to any attempt to unify it - even at the discursive level. "Pan-Asianism" has created its own issues and problems throughout history. A more practical approach would be for us to seek alternative frames of reference that can build tangible solidarity among jurisdictions divided along the fault line of modernization. Speaking from the vantage point of China, it is natural that we share a lot in common with jurisdictions like India, Vietnam, Cambodia, Brazil, and other developing countries in Eastern Europe, Africa, and Latin America. Until developing countries collaborate to explore ways of shaping out approaches that are *not necessarily* license focused, this peer-to-peer open content movement will stumble into a bottleneck that is difficult to overcome.

[1] Jing Wang, Brand New China: Advertising, Media, and Commercial Culture. Harvard University Press, 2008. p. 101.

[2] Anne Sutherland and Beth Thompson, Kidfluence. New York and Chicago: McGraw-Hill, 2003.

[3] The statement was taken from a congratulatory remark made by Lawrence Lessig at the launch of CC China Mainland.

[4] My speech was entitled "Zhishi gongxiang: jiwang yu banjiao shi" (Knowledge Commons, Expectations and Blocking Stones), March 29, 2006. The speech was given at the conference "Intellectual Property and Creative Commons" that accompanied the launch event. See the speech at http://web.mit.edu/fll/www/people/JingWang.shtml.

[5] Regrettably though, to this day two names and two sets of CC licenses are circulated online simultaneously, adding confusion to those who want to adopt the CC protocol in the mainland.

[6] See http://wiki.icommons.org/index.php/ISummit_2008/Asia_Commons. Accessed in July 2008.

[7] SARFT and MII, "Hulian wang shiting jiemu guanli guiding" (Regulations for Online Audio and Video Services), December 29, 2007. http://www.sarft.gov.cn/articles/2007/12/29/20071229134709730745.html. Accessed in March 2008.

[8] A Wall Street Journal Asia report confirmed this assumption. See Duncan Clark's "WeTube," July 22, 2008.

[9] Kaiser Kuo, http://digitalwatch.ogilvy.com.cn/en/?cat=32. January 2, 2008. Accessed in July 2008.

[10] See Marbridge Daily. http://www.marbridgeconsulting.com/marbridgedaily/2008-03-11/article/14716/42_online_video_sites_to_sign_self_discipline_agreement. Accessed in July 2008.

[11] See the definition on the CC website. http://creativecommons.org/about/license/.

[12] Lawrence Lessig's critique of Lucas's decision was simple and clear: "A careful reading of Lucasfilm's terms of use show that in exchange for the right to remix Lucasfilm's creativity, the remixer has to give up all rights to what he produces. In particular, the remixer grants to Lucasfilm the 'exclusive right' to the remix -- including any commercial rights -- for free. To any content the remixer uploads to the site, he grants to Lucasfilm a perpetual non-exclusive right, again including commercial rights and again for free." See "Lucasfilm's Phantom Menace," Washington Post, July 12, 2007, p. A23.

[13] Indeed, the interest in exploring the business potentials of grassroots content may turn out to be a crossover phenomenon. Just as it is possible for the industry to invent business 2.0 models (Magnature on a larger scale, for instance), so can Creative Commons generate revenue on content created in forty-six jurisdictions. The success of the Google model is an obvious example to emulate. I will save the discussion of the business side of CC in a different essay.

[14] I will provide one such example: H &P's "My Computer My Stage," http://www.hpmystage.com.cn/ for hip hop remixes.

[15] Critical policy studies website address????

[16] "2008 nian nongcun hulian wang diaocha baogao" (The 2008 Research Report on the Condition of Rural Internet Development), CNNIC, March 31, 2008, http://www.idequan.com/report/723538.html. Accessed in July 2008.

[17] Jing Wang, "An Alternative Proposal to the "Asian Commons," http://web.mit.edu/fll/www/people/JingWang.shtml. Accessed in August, 2008.

[18] Lawrence Liang, "How Does An Asia Commons Mean? Notes towards a Genealogy of the Commons in Asia," http://www.mefeedia.com/entry/how-does-an-asian-commons-mean/6149115/. Accessed in July 2008.

[19] Sun Ge, "What Does Asia Mean?" Inter-Asia Cultural Studies. Vol. 1, No. 1 (April 2000), No. 2 (August 2000), 13-47, 319-341.