

Free Software (and FOSS) Vs. Libre-Halaal Software In Search Of The Right Societal Label And Definition For The Right Manner-Of-Existence Of Software

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1 Summary

We are Software Engineers and this is in the context of our professional responsibilities.

Software and Internet Services have become an integral and critical component of societal functioning, and the consequences for humanity are enormous. Of fundamental importance in this regard is what we will call the *manner-of-existence* of software.

In this document we survey and analyze different ways of labeling and defining manners-of-existence of software, which include “Free Software” and “Open-Source Software” (OSS) and their union “Free and Open-Source Software” (FOSS).

We conclude that these definitions and labels are problematic and incapable of establishing the right relationship between the Software Engineering profession and Society.

We introduce the definition and label of “Libre-Halaal Software” as the right convergence point.

We invite our “Free Software” and “Open-Source” brothers and sisters to recognize that the “Libre-Halaal Software” model is a more complete model and that the “Libre-Halaal Software” label is a better label.

2 The Manner of Existence of Software

By “manner-of-existence” of software we mean everything relating to how the software exists within society. This includes but is not limited to:

- Are there any restrictions for possessing the software by anyone who wishes to possess it?
- Is copying the software restricted by local law?
- Is copying the software restricted by other methods?
- Is use of the software restricted by local law?
- Is use of the software restricted by other methods?
- Is the software internally transparent?
- Is the software modifiable and enhanceable?

Manner-of-existence of software impacts societal and social structures and autonomy and privacy of the individual.

Today there are two models for the manner-of-existence of software.

1. The Proprietary Software Model.

This model is exemplified by Microsoft Windows. It is based on a competitive development model, and dominated by American companies. It is protected and rooted in the corrupt Western so-called Intellectual Property Rights regime, in particular the twin ownership mechanisms of patent and copyright. It is opaque and prevents software users from knowing what their software is doing. Therefore, the user can not trust the software. Its distribution is controlled by its producer.

2. The Non-Proprietary Software Model.

This model is exemplified by Debian GNU/Linux. It is based on a collaborative development model where software engineers worldwide work collectively to move the software forward. It rejects the corrupt Western so-called Intellectual Property Rights regime of patent and copyright. It is internally transparent and permits the Software Engineering profession to verify the software. Therefore, the user can trust the software. Its distribution is unrestricted.

Though it is not part of popular cultural awareness, there is currently a titanic battle taking place between these two competing ideologies. This is a to-the-death battle, from which there can eventually emerge only a single winner.

The software battle is part of a broader ideological contest, about ownership models for **poly-existentials in general** (software, but also including literature, music, images, movies, etc.) in the digital era.

The result of this battle has broader ramifications for individuals and society – which impact autonomy, privacy, freedom, and social interaction. The model that any given society chooses for the manner-of-existence of software (and more broadly digital constructs and poly-existentials) impacts social and societal behaviors and shapes what people become.

Clearly, we believe that the non-proprietary software model is the “Right” model. But, there are many flavors of the Non-Proprietary Software Model. This document is about comparing these Non-Proprietary Software Models.

3 Libre-Halaal Software versus FOSS

Free and open-source software (F/OSS, FOSS) or free/libre/open-source software (FLOSS) is software that is both free and open source. It is liberally licensed to grant users the right to use, copy, study, change, and improve its design through the availability of its source code. In the context of free and open-source software, free refers to the freedom to copy and re-use the software, rather than to the price of the software.

The Western FOSS Movement has produced the GNU/Linux operating system and has demonstrated the viability of free software as a development model for creating large-scale, complex, relevant software systems. GNU/Linux is a fully viable free software alternative to the proprietary Microsoft Windows operating system, against which it continues to make steady inroads. Mozilla/Firefox is a fully viable alternative to the proprietary Microsoft Internet Explorer, and is also experiencing steadily increasing usage. And apart from such well-known and high-profile projects, behind the scenes the free software movement has become a flourishing creative environment, generating a constant stream of new and better software packages, duplicating and surpassing the capabilities of an ever-increasing portion of proprietary software territory.

FOSS is rooted in Western values of liberty and individuality. Free software focuses on the philosophical freedoms it gives to users, whereas open source software focuses on the perceived strengths of its peer-to-peer development model.

The Free Software and Open Source movements and their combination the Free and open-source software (F/OSS, FOSS) or free/libre/open-source software (FLOSS) have been attempting to address this labeling challenge. Because their philosophical and moral analysis is shallow, all of their labels are problematic in a number of respects.

The FLOSS movement lacks deep recognition of IPR regime being just Western and does not call for full abolishment of the IPR regime. The FLOSS movement lacks deep recognition of the place of software as a special form of digital poly-existential. The FLOSS movement lacks deep recognition of importance of morality and role of software engineering profession in formulation of definitions and labels.

3.1 Libre-Halaal Software versus Free Software

The defining criteria for free software are as follows. This is reproduced from <http://www.gnu.org/philosophy/free-sw.html>, current as of July 2011.

Free software is a matter of the users’ freedom to run, copy, distribute, study, change and improve the software. More precisely, it means that the program’s users have the four essential freedoms:

- The freedom to run the program, for any purpose (freedom 0).
- The freedom to study how the program works, and change it so it does your computing as you wish (freedom 1). Access to the source code is a precondition for this.

- The freedom to redistribute copies so you can help your neighbor (freedom 2).
- The freedom to distribute copies of your modified versions to others (freedom 3). By doing this you can give the whole community a chance to benefit from your changes. Access to the source code is a precondition for this.

A program is free software if users have all of these freedoms.

This definition is consistent with our own definition of Halaal software. So why have we taken the trouble to define Halaal software, when it turns out to be consistent with free software?

The reason is that the two definitions are ideologically different. They exist in ideologically different contexts, and this ideological difference is reflected in their phrasing.

The term “Free Software” was coined in the early 1980s in America. Their culture and language lacked the word “Halaal”. So “Freedom” as the pinnacle of American values became the key word. The label “Free Software” has proven problematic in many respects. Free in English has two meanings, “gratis” and “liberty”. For the public at large the “gratis” meaning is dominant, so the “Free Software” label never worked well. To address this, the word “Libre” has been introduced into Globish and “Free Software” and “Libre Software” have become synonyms. But, “Libre Software” is also not a good label because it does not focus on the ethical, moral and societal manner of existence of software. The focus of the label needs to be on morality and society. Once “Halaal” is properly introduced into Globish [1], the label “Halaal Software” will prove more crisp and more on the mark.

The free software definition exists in the context of Western copyright law, and implicitly accepts that as a reality. The key to free software is the GPL (General Public License), a form of licensing intended to preserve the four definitional freedoms. But this is of course a form of copyright, and so the free software definition resides within and submits to the Western copyright conventions.

The free software definition is rooted in the context of Western values and assumptions:

- It is centered on the individual (individual freedom), as opposed to being centered on society (ethics and morality). The concepts of profession and society are absent. The definition is based entirely on the individual, and the individual’s freedom.
- It exists in the context of the Western Copyright and Patent regime. Freedom 2 and freedom 3 are written in response to this, and implicitly accept this as a reality. There is no explicit assertion that the ability to copy is a natural law and a human right.
- It does not recognize the Software Engineering profession as a guardian. Freedom 1 makes no distinction between ordinary users (i.e. almost everyone), and software engineering professionals. The implication is that anyone can exercise freedom 1, without need for guardianship by the Software Engineering profession.

The Halaal software definition on the other hand makes no concession whatever to Western Intellectual Property Rights. We view the Western Intellectual Property Rights regime as a fundamental misconception, and fundamentally invalid.

While operating in countries where Western Intellectual Property Rights regime are law of the land and have deep roots, we subject our own work to the most stringent forms of the General Public License that is available.

While operating in countries where Western Intellectual Property Rights regime have not taken root or are not valid (e.g., China, Iran) we also work towards rejection and abolishment of Western Intellectual Property Rights regime and work towards requiring that all software entering the country and used is Halaal Software.

3.2 Libre-Halaal Software versus Open Source Software

The other branch of the Western FOSS movement is Open Source Software. Open Source demands internal transparency and focuses on a collaborative development methodology.

The primary difference between Open Source Software and Free Software is the intent for keeping Halaal Software perpetually Halaal Software through Western copyright law.

In that respect Halaal Software is more aligned with Free Software.

3.3 Proprietary Culture's Bastardizations Of FOSS

The model of Halaal Software is towards Halaal Software remaining Halaal Software.

The Western FOSS movement either does not care much about this (the Open Source branch) or attempts to accomplish that through the Western Copyright law.

The desire and intent to keep the software halaal is continuously violated by the proprietary model. We call this bastardization of halaal software.

Four significant models for bastardizations Of FOSS are mentioned below.

3.3.1 Appleization: Bastardization based on Copyleft ambivalence

Apple's Mac OS X is a derivative of 4.4BSD-Lite2 and FreeBSD. The FreeBSD Copyright license is very loose and makes no effort towards keeping halaal software, halaal software.

As a result what used to be halaal software has evolved into proprietary software.

3.3.2 Tivoization: Bastardization based on Copyleft License Holes

Tivoization is the creation of a system that incorporates software under the terms of a copyleft software license (like the GPL), but uses hardware restrictions to prevent users from running modified versions of the software on that hardware. This is in reference to circumstances such as TiVo's use of GNU GPL licensed software on the TiVo brand digital video recorders (DVR).

In such cases the spirit of halaal software is circumvented by exploiting holes in the underlying copyleft license.

So while TiVo has complied with the GPL v2 requirement to release the source code for others to modify, any modified software will not run on TiVo's hardware. GPL v3 attempts to plug that hole in the context of Western IPR regime.

Note that this form of bastardization leads outside of software as a pure poly-existential and towards viewing the system as a poly-existential – or not.

3.3.3 ASPization: Bastardization based on Copyleft ASP Loophole

Transformation of Software into Service permits use of software that often is not covered by copyleft licenses.

This is usually labeled the "ASP loophole". For example, GPL v2 talks about distribution of software and includes a copyleft clause that triggers when you distribute your code. Much software is now accessed as a service which requires no distribution of code.

Large service providers such as Google, use halaal manner-of-existence of software heavily to provide haraam manner-of-existence Internet services.

In the arena of internet services, the basic principles of the FOSS movement have been bastardized, where transparent software is used to provide opaque internet services.

They use the ASP loophole and as parasites on Free Software, abuse the spirit of halaal software.

In the context of Western IPR regime, the Affero General Public License, (AGPL), addresses the problem where by using but not distributing the software, the copyleft provisions are not triggered.

3.3.4 Andoidization: Bastardization Through Control of the Development Process

In our model, halaal software empowers the entirety of the software engineering profession to collectively develop and to collectively serve humanity.

With Google's Android, adherence to Western FOSS is observed in letter but not in spirit.

Google's mobile platform is a masterful manipulation of open source designed for driving commercial agendas. While profiting from the goodwill surrounding FOSS, the Android model violates the spirit of public collaboration.

The Android governance model consists of an elaborate set of control points that allows Google to bundle its own services and control the exact software and hardware make-up on every handset. All this while touting the openness rhetoric. Current relevant code is well controlled and closed. Old code is made open source. And the development process is defined and controlled by Google.

3.4 An Invitation To Converge

We invite our "Free Software" and "Open-Source" brothers and sisters to recognize that the "Libre-Halaal Software" model is a more complete model and that the "Libre-Halaal Software" label is a better label.

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