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Checking the Unchecked: An Argument for Stricter Policies Governing Social Media Use and Abuse in the 21st Century

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Abstract

Since its inception in the early 2000s, social media has been powerful through unregulated force for social interaction, idea generation, and the galvanization of social and political movements. In Cyberland, geographic barriers have been lifted, and individuals can mingle, cooperate, and participate collectively towards common aims and common goals. This article exposes the existing gap between social media use and social media regulation by providing the context on how social media has democratized communication and flattened the playing field of influence, and on the same time, it also has complicated governance oversight and regulation. It identifies instability and conflict within society due to failure in regulating social media. Finally, the paper has put an argument for regulatory modifications that can be made to better ensure that social media and its use adhere more closely to its original aim as a democratizing, unifying international force for good.

Keywords

Social Media, New Media, Media Law, Sovereignty, Governance, censorship.

Introduction: An Unchecked Digital World

In a world mediated by technology, social media is deeply woven into the social, political, and economic fabrics of everyday life. The media's embeddedness in our daily lives gives technology the power to influence values, create norms, augment interest, and prioritize culture. Despite its profound prominence, it is a curious fact that technology is not closely monitored or regulated when it comes to its influence on people and their actions (Vanderborght, 2005). In their efforts to utilize the Internet as a communications platform, users build complex socio-technical systems capable of swaying citizens at all levels of society (Hankey et al., 2018). As McLuhan (1964) stated, 'We become what we behold; we first make the tools then the tools will make us'. McLuhan believed that when technology is pushed to its limits, it bends citizens to its will, and most people do not even recognize it.

Over the past quarter-century, the power of the Internet has been misappropriated for negative uses by corrupt groups and organizations—governing bodies, corporations, and agencies promoting self-serving agendas by targeting potentially vulnerable consumers. As an example, through exploiting social media's ability to bring people closer in a virtual sense, terrorist groups have utilized new media as a recruitment tool for targeting youths, vulnerable individuals whom they co-opt into performing destructive, illegal acts. Al Qaeda and ISIS have recruited youths to carry out bombings, help with recruitment, engage in combat, and carry out other destabilizing, heinous acts (Awan, 2017). In other cases, such as the 2016 Presidential campaign, social media has been used to sabotage elections and upend democratic integrity (Senate, 2018). As social media becomes a progressively stronger mechanism for hijacking consumers and engendering social control, the lack of Internet regulation becomes more problematic.

In the current age, a concerning, antithetical duality has been born—while social media has grown in power, the power to control or regulate its use has diminished. This divide has been further exacerbated by the fact that each country operates under its own idiosyncratic laws and jurisdictions. For instance, the United States may have laws against certain types of Internet fraud that do not exist in other countries. Successfully enforcing such laws may require all nations to operate under the umbrella of a common legal system— a cyber United Nations, of sorts. According to (Kelleher, 2000):

While legislators have been struggling to create new laws, it has always been hard to apply them because technology is ever-changing. It has been more a question of interpreting the law for each case and to develop general guidelines to follow. The easiest way to determine what you are allowed to do and not to do with your digital media is to follow laws about copyright.

The present paper seeks to illuminate this problematic disconnect, to expose the existing gap between social media use and social-media regulation. Through examining several domains in which Internet use proceeds unchecked and

unregulated, this paper will attempt to expose how a failure in regulation has engendered a wild, wild west among social media users and abusers– one that must be re-imagined and appropriately regulated so that the next quarter-century and beyond will see fewer abuses of power and maintain greater integrity and stability within this complex, technologically far-reaching space.

Discussion

Social Media Influencing Governance

Social media has forever changed the way that citizens perceive and interpret the bodies that govern them. Across the globe, citizens use digital media to monitor, oversee, and evaluate governance; at the same time, they leverage the tools endemic to social media as a way of holding governments accountable for their actions (Fakhfakh, 2013). This is what Noam Chomsky means in *Understanding Power* when discussing media's role as society's watchdog Entman (2007). In developed countries, it has become common for citizens to use phone cameras to document how government employees treat citizens within governmental institutions– from the receptionist to the top-ranking official government employee's fear that anonymous citizens might capture any untoward actions on social media.

Beyond simply being a mechanism for exposing and indemnifying corrupt governance, social media watchdogging provides timely information about government plans and actions and contributes important insights into the way that citizens are able to monitor and evaluate those in governing positions. Some positive outcomes have resulted. According to Malhotra, social media sites produce better governance by promoting transparency and holding governments accountable for their actions (Malhotra 2015). Social media also aids in exposing corruption, highlighting poor administration, and calling out abuses of power. In cases where governments are poorly run or abusive, social media undermines public trust in the government and empowers individuals to exercise their voting rights to enact change. Fundamentally, social media can be used by public citizens in order to demand better governance.

Politically, social media has been used to spread fake news and propaganda, sometimes leading to widespread though unwarranted panic. In response, governments have implemented regulatory policies focusing on the restoration of order and tranquillity. The United Kingdom proposed legislation to tackle "Fake news", as it considers it a national security threat (Senate, 2018).

Bejesky (2015), who researched determinants of government regulation of technological innovations such as social media, argues that a universal 'system of property rights must be established'. E-commerce has significantly increased in popularity over the last two decades. Increased production and dissemination of digital content requires government regulation to protect both authorship and ownership. From this perspective, government regulation of social media and other digital technologies aims to protect people from exploitation, including piracy and

infringement on property rights. According to Meindertsma et al. (2014), the Fairness Theory of Copyright states: '(t)he law ought to give authors what they deserve, including protecting their intellectual property within various digital content spaces. The unlimited capabilities of digital technologies, especially social media, threaten adherence to such laws.

According to Kleven (1991), government regulation of free speech is focused on ensuring that power and stability remain with those already in power: 'although the First Amendment generally applies only to government action, the Supreme Court has held that in limited, special circumstances, private actors should be treated as the government and must comply with constitutional standards when interacting with others'. Because users generate social media content, its authenticity and originality cannot be guaranteed. Due to increasing technological developments, governments must ensure that the established public spheres do not disrupt established constitutional law.

Regulation of the Social Media by Government

Prior to the advent of social media, understanding media and political policy was predicated on understanding local media and local culture. However, with the explosion of social media and its influence, today's citizens must consider the logic and parameters of the global system when determining how local media deviates from global media. We need to consider the diverse ways that censorship is carried out from nation to nation. The word 'censorship' itself is not clearly or universally defined. As Scott (2016) states:

To answer the question—what is censorship? —is to undertake much more than a definition. Identifying what constitutes censorship in our societies turns out also to be an attempt to identify the limits and effects of regulatory power as such. And more than that: about the productive means by which regulatory power makes and shapes communicative social formations or culture.

This section will examine the divergent ways that various nations worldwide monitor, censor, and/or regulate social media activity.

The global social media regulations that currently exist aim to foster national security, protect minors, safeguard human dignity, protect business and individual reputation, ensure economic security against piracy and fraud, protect individual privacy, and safeguard intellectual property. In the United States, all electronic communications are regulated by the Federal Communications Commission. Generally speaking, these Internet and social media regulations attempt to mirror the free speech ideologies established under the First Amendment. This fact distinguishes the United States from other countries, many of which do not prioritize freedom of speech for their citizens (Flew et al., 2019). While the United States prioritizes freedom of speech on social media platforms, it carefully regulates how people utilize and interact online. In fact, the United States has one of the most sophisticated social media regulatory platforms (Flew et al., 2019).

As a result of growing legislative threats in the United States over privacy, data protection, and security, Twitter began blocking suspected terrorists and terrorist sympathizers from using the platform (Macdonald et al., 2019). Presently, Twitter actively engages in counterterrorism actions aimed to prevent governments from attempting to destabilize United States governance and authority. Similar platforms can be witnessed in Europe, with EU nations aggressively fighting hate speech. EU social media platforms invest in calming activist lawmakers attempting to develop legislation to regulate social media. In Germany, Facebook has been forced to undertake drastic measures to implement new counter-hate speech efforts (Flew et al., 2019). In 2019, in Australia, sweeping laws were passed to punish and even jail social media companies' representatives who allowed abhorrent and violent materials such as terrorist attack videos, rape, kidnapping, and murders to remain on social media sites. Australian social media platforms that fail to remove such materials expeditiously are likely to be heavily fined Ammar (2019).

In China, the government has implemented firewall and filtering technologies to block unwanted content originating from other nations (Lee & Liu, 2012). The first white paper was published by China's State Council Information Office (SCIO) (White Paper). It exposed China's Internet policy, including vaguely defined subjects (Rongji, 2010). This has led to increasingly restrictive settings, where the state enforces control in a manner that Chu et al. (2017) refers to as "monolithic". As one of the nations that most strictly regulates consumer experience, social media companies that operate in China must conform to stringent government requirements, including the vaguely defined regulations on prohibited content. Internet firms who fail to abide by the regulations must answer to governmental bodies such as The Ministry of Culture, the State Administration of Press and Publication, the SCIO, the Ministry of Industry and Information Technology, and SAPPRFT (Salojärvi et al., 2017). In 2014, the Cyberspace Administration of China, headed by President Xi Jinping and answerable to the Central-leading Group, instituted internet-based centralization and management policies leading to wider Internet censorship (Wang, 2020). Moreover, to enact even more social media control, China disallows foreign social media platforms and substitutes in Chinese-created platforms such as WeChat and Douyin. In summary, China disallows all foreign platforms that interfere with the government's ability to censor them or their users.

Iran seems to have followed an analogous regulatory system to China, actively censoring the Internet and social media use. Censorship of the Internet started under the conservative presidency of Mahmoud Ahmadinejad in 2005 (Lerner, 2010). In 2013, social sites such as YouTube, Twitter, Facebook, and Blogger were blocked. Presently, Iran is one of the nations that most aggressively and comprehensively censors Internet censorship (Yalcintas & Alizadeh, 2020).

Twitter Policies Worldwide

In recent years, the concept of Twitter diplomacy Sobel et al. (2016) has become pervasive. Twitter diplomacy occurs when a political leader utilizes Twitter as a means of promoting a political agenda. Former U.S. President Donald Trump, whose Twitter account currently has more than 88 million followers (Francia, 2018), is a clear example (more on this shortly). Even before President Trump began tweeting foreign policy stances, other global leaders were using Twitter to broadcast political views and generate controversy. In 2012, President Hendrik of Estonia blasted a New York Times blogger for criticizing his country's economic recovery efforts: "Let's write about something we know nothing about & be smug, overbearing & patronizing: after all, they're just wogs" (Francia, 2018).

According to Collins et al. (2019), as global leaders increase their digital diplomacy, many political theorists and media scholars have asked why they deploy Twitter. The answer may be simple: Twitter provides direct access to a large audience base (330 million users worldwide) (Peterson, 2012). Given its massive audience base, world leaders can use the platform to reach a significant number of users efficiently. At the same time, leaders who post to Twitter can independently control the tone, integrity, and meaning of the posted messages (Zavattaro et al., 2015). This is in sharp contrast to relying on traditional media outlets, whose journalists may have their own agendas, craft their own narratives, and distort or otherwise propagandize a given leader's original intention. As a platform, Twitter enables global leaders to shorten the feedback loop by leveraging their networks to ensure maximum reach. A short feedback loop means that global leaders can Tweet about a policy and, within minutes, assess the reactions and general responses of both the general public and international leaders.

Despite Twitter's efficiency and global reach, it should be noted that posts can upset diplomatic relations since leaders who utilize the platform risk exposing their personal emotions and flouting their individual preferences. Trump is an obvious perpetrator of this phenomenon, as we can see from the following controversial tweets:

To Iranian President Rouhani: NEVER, EVER THREATEN THE UNITED STATES AGAIN OR YOU WILL SUFFER CONSEQUENCES THE LIKES OF WHICH FEW THROUGHOUT HISTORY HAVE EVER SUFFERED BEFORE. WE ARE NO LONGER A COUNTRY THAT WILL STAND FOR YOUR DEMENTED WORDS OF VIOLENCE & DEATH. BE CAUTIOUS! (Jacobson, 2019)

The United States has foolishly given Pakistan more than 33 billion dollars in aid over the last 15 years, and they have given us nothing but lies & deceit, thinking of our leaders as fools. They give safe haven to the terrorists we hunt in Afghanistan, with little help. No more! (Jacobson, 2019)

Give the public a break - The FAKE NEWS media is trying to say that large scale immigration in Sweden is working out just beautifully. NOT! (Goldstein, 2018)

During Trump's time in office, Twitter was urged to censor his posts and potentially deny his access to the platform, especially when his tweets opposed the company's own policies and guidelines. In 2017, after Trump threatened the Foreign Minister of North Korea—"Just heard Foreign Minister of North Korea speak at U.N. If he echoes thoughts of Little Rocket Man, they won't be around much longer!" (Colley, 2018) —Twitter openly stated that it needed to evaluate the newsworthiness of posts, implying that it might be forced to remove future tweets (Lasorsa et al., 2012).

In the wake of Trump's tweet, Twitter established a policy for hostile or ill-intending tweets that are bad enough to be brought down but merit remaining for the sake of documentation and accountability. Lasorsa et al. (2012) in such scenarios, Twitter labels the offending post and users prohibited from sharing, liking, or retweeting it. Twitter also examines the language of reported tweets. All tweets from world leaders are reviewed, as well as those tweets that promote terrorism, threaten violence, indulge private information, share intimate footage of another person without their consent, encourage self-harm, engage in child sexual exploitation content, or other practices that go against public interests. Conversely, Twitter will not delete tweets from political figures who violate its rules if Twitter decides the posts are beneficial to the public interest.

In May of 2020, after Twitter fact-checked one of his personal tweets, President Trump issued an Executive Order Preventing Online Censorship. The order aimed to restrict the legal safeguards enjoyed by social media firms. Trump argued that although a small number of powerful social media firms have enormous power over public and private communications in the United States, such powers must remain unchecked when it comes to censoring, limiting, altering, editing, shaping, and hiding human interactions. President Trump hoped that the executive order would ultimately set a new standard for regulating social media and other technological firms such as Facebook and Twitter. In reality, legal experts doubt that the order will have any practical implication for the technological giants, since Donald Trump does not have the power to amend existing federal laws or influence federal courts' decisions.

How Governments Fight Social Media Companies

Historically, while some nations have granted extensive rights to media outlets, regions with more authoritarian governments— Iran, Iraq, Eritrea, Libya, Chad, and North Korea, to name a handful— have denied or severely limited freedoms to the press. When outlets within these nations have attempted to publicly air or contest propaganda, they have been subject to tremendous government scrutiny, persecution, or, in the most extreme cases, death. According to a report from Freedom House (Bertot et al., 2010):

Chinese officials have applied pressure on critics in foreign media through those countries' own court systems, and at times have pressured local officials to aid them. In Southeast Asia, several cases have emerged involving the Sound of

Hope radio network. Based in the United States and founded by practitioners of the Falun Gong spiritual group, which is banned in China, the station broadcasts uncensored news about rights abuses and corruption in China, among other debate-based and cultural programming.

These threats and restrictions on media freedoms have compelled media outlets in authoritarian nations to advocate for freedom of the press, including the right to report and circulate news without government control or intervention. Some governments have granted this right; Malaysia and the Maldives come to mind (Piróth & Baker, 2020). More rigid governments, such as China, Iran, and North Korea, have held the line. Yet this is where social media has come in to play an important role in promoting press freedom.

As social media has burgeoned, controlling the dissemination of information has become increasingly more difficult. Citizens throughout the world have ready online access to media platforms, which enable them to promote ideas and share content freely. This reality has created bitter conflict between government officials and social media conglomerates. While authoritarian governments (China, Iran, and North Korea) express a will to suppress and regulate content, they are simultaneously aware that social media outlets such as Facebook, Twitter, and Instagram are primarily unregulated and, by construction, democratic. Today, concerns over the regulation of content in these media platforms are increasing, as a growing awareness of the potential disruptive uses of social media platforms becomes more evident. This is the case when it comes to social media used to sabotage government operations and promote terrorist activities, child pornography, human trafficking, etc. It has even become more problematic in the world's greatest democracy, the United States, where on January 6, 2021, pro-Trump rioters stormed the U.S. Capital and threatened violent action on congressmen and senators.

Certain national leaders, such as French President Emmanuel Macron, have fought back against social media corporations. Since being elected President in 2016, Macron has publicly fought against false, malicious, hateful online content spread on Facebook, YouTube, and Twitter. He has called on social media platforms to control and regulate content. With lawmakers' help, Macron approved a bill requiring said platforms to report posts glorifying or promoting violence and hate speech (McDermott et al., 2018). The bill required companies to delete incendiary posts within 24 hours. It also reminded users of potential civil and criminal offenses associated with posting hateful content, giving the government the right to retain illegal content for at least one year in the event that the authorities found it potentially destabilizing. Failure to adhere to these requirements is subject to a fine up to \$1.4 million. With such regulations, the French government aims to ensure social media companies such as Twitter and Facebook exercise responsibility.

France continues to fight digital hate speech. In May 2020, the country passed a law fining social media corporations that fail to remove illegal content

within 24 hours (Tworek, 2021). New Zealand also lobbied for and signed an analogous bill into law (Reffell & McKee, 2009). However, some legal experts and activists (La Quadrature du Net) fear this law will grant the government too much power to censor online activities (Löblich & Wendelin, 2012).

Interestingly, even though the United States shares several common values with France and New Zealand, the U.S. administration so far has been unwilling to sign a bill potentially undermining freedom of expression. Regardless of whether that expression seems to endanger or pose a direct threat to governance. The United States' failure to do so maybe because the government believes it already has substantive counter-terrorism programs in place, including the ability to capture and kill terrorists. This has been unintentionally helpful for terrorist recruitment tactics. For instance, during the rise of ISIS, the group extensively utilized social media to appeal to recruits. None of these practices were checked or mitigated by regulations or policies. ISIS could post just about anything to social media without the threat of repercussion. The problem here is that policies and regulations arise in response to the crisis rather than in advance of it. Much needs to be done to prevent issues before they arise.

Social Media Regulation during the Trump Administration

The United States' regulation on social media changed during the Trump administration. In 2016, the U.S. joined the fight to utilize the law to hold social media companies accountable. Companies such as Facebook, Twitter, and YouTube are now held legally responsible for the content their users' post. Before Donald Trump's executive order targeting social media, social media companies within the United States were not held liable for the content circulated on their platforms under Section 230(c) (1) of the Communication Decency Act (McKinnon and Ballhaus 2020). However, under the new order, Trump aimed to remove all legal protections for social media corporations, threatening them with litigations for failure to moderate content. The executive order holds individuals who post unseemly content on these sites accountable for their actions. The executive order 13925 Waslin (2020) states:

It is the policy of the United States that the scope of that immunity should be clarified: the immunity should not extend beyond its text and purpose to provide protection for those who purport to provide users a forum for free and open speech, but in reality, use their power over a vital means of communication to engage in deceptive or pretextual actions stifling free and open debate by censoring certain viewpoints.

The order prohibits the government from spending, marketing, and advertising on these platforms. It directs prosecutors and regulators to examine the actions of social media giants (Facebook, Twitter, Instagram), giving regulators the power to judge the extent to which posted content is both reasonable and responsible for public consumption. Although the order was instituted with the stated goal of holding social media outlets more accountable, in reality it seemed

enacted to protect Trump's online presence and promote a more ideal representation of his rule. Again, we see how tricky social media regulation can be, as it is at times hard to tease out whether the law was designed to serve the greater good or to protect the President's personal and political reputation.

Digital Laws without Geographic Borders

Because social media outlets exist in a technological space not defined by physical parameters, they are intrinsically not limited or delineated in scope by national borders. Facebook, Twitter, and YouTube are multinational corporations not bound by will-delineated, geographic regions. That said, social media networks are held responsible for complying with the national laws of the countries in which they operate. Dilemmas may occur when the ethical standards of the multinational corporation differ from the national laws within a respective region. A recent example of this phenomenon involves Twitter and Iran's Supreme Leader, Ali Khamenei: "Twitter on Friday removed a tweet by Iran's Supreme Leader Ali Khamenei that suggested COVID-19 vaccines made in the US and Britain could be designed to 'contaminate' people." (Haque & Pant, 2020)

On one level, global ethics encourages the free flow of information to the public without restrictions. However, national laws in some countries— China comes to mind— encourages extensive state censorship, leading to constant conflicts between social media companies and the national government. In such instances, social media sites may employ myriad tactics, including obeying the national law, exercising civil disobedience, attempting to change the law, or halting operations in the country (Ward & Wasserman, 2010).

In 2010, Google announced it would re-evaluate its operations in China following censorship laws passed by the Chinese government. Since penetrating the Chinese market in 2006, Google has been forced to operate within Chinese strict censorship laws, which give China the right to remove content it deems unacceptable. Such subjugation directly clashes with Google's stated mission, which prioritizes democratic, equal sharing, and access to information (Ward & Wasserman, 2010). Invariably, tensions rose to the point where Google opted to shut down operations in China, foregoing its own potential profits to avoid censorship. Prominent social media companies (Facebook, Twitter, YouTube) operating in India, France, and Russia have faced similar ideological mismatches (Meleagrou-Hitchens et al., 2017).

Additionally, it is worth noting that social media has powerfully transformed how individuals perceive and interact with the concept of sovereignty. Traditionally, sovereignty refers to the extent of power that governing bodies have over either citizens or their own governing bodies, without the threat of interference from other governing bodies or individuals. Sassen (1997) discusses the Internet's duality as something that both strengthens national and global governance while simultaneously threatening how we have traditionally thought about sovereignty. During its primacy, Perritt Jr (1997) warned: "sovereignty, the power of a nation

to stop others from interfering in its internal affairs, is rapidly eroding." With the rise and diffusion of social media across the globe, sovereignty has been redefined. Citizens view governments as instruments at the service of the people, a perception that makes it more difficult for citizens to understand why outside governing bodies interfere.

The Arab Spring, which began in Tunisia in December of 2010, is an excellent example of how social media changed the way that citizens perceived the concept of state sovereignty. During this period, Arab citizens in Egypt, Tunisia, Algeria, Oman, and other Middle Eastern countries utilized Twitter and Facebook to express discontent with their governments (Kodali et al., 2012). It invariably resulted in the toppling of certain regimes and enhanced responsibility of governments for their citizens. In this way, social media propels changes in how citizens perceive sovereignty by returning power to the people.

Conclusion: A Need for International Accord

Media innovation and media policy affect every citizen on this planet. Access to modern technology, once a luxury, is now a necessity in contemporary life. Surviving the future means bringing technology and policy together. In the decades to come, artificial intelligence may altogether replace conventional human decision making. As a global planet, we must be ready for these changes, and part of readiness involves policy-making and regulations.

If the Internet– social media, more specifically– continues to advance unchecked, then the stability of how governments, corporations, large-scale organizations, and politicians utilize it may pose more of a threat than an advantage to human society. In the cases and examples cited above, it is clear how irresponsible and unfettered social media use can be. It run rampant, impacting elections (as it did in 2016 in the United States), silencing citizen voice (as continues to happen in China, Iran, and the Congo), and rallying vulnerable recruits into terrorist organizations such as ISIS.

The 21st century mind is keenly aware of the vast powers and unprecedented influence wielded by social media outlets, but great power must be aligned with great responsibility. Should social media continue to march forward as an enterprise with no bounds, restrictions, or limitations? Its intended goal as a democratizing force capable of expanding and prioritizing individual voice will surely continue to erode into a propaganda machine serving the economic and political aims of its most powerful users.

In this new phase of responsible social media adoption and policy-creation, new laws must be written– rules that respect and uphold sovereignty, while being capable of absorbing and accommodating the inevitable modern changes that transform the way we live and experience the world. As the United Nations does for international peace and security, and the Paris Agreement does for global climate change and the environment, an organization must be created to align nations to Internet standards and usages that promote the dissemination of

information and content, doing so in a way that is moral, socially-progressive, and protective of human rights. For the greater good of both technology and the people it has been created to serve, this is essential.

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