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THE REGULATION OF THE NEW MEDIA AND THE
“ROAD TO SERFDOM”

Alexandra Lucia Teodorescu,

*Corresponding author

a) Dunarea de Jos University, Faculty of History, Philosophy and Theology,
Email alexandra.teodorescu@ugal.ro

Abstract

This paper investigates current attempts to regulate the new media (digitised electronic communications), especially in the context of privacy issues emerged in the case of Facebook, and its effects on freedom of speech and freedom of thought. Based on the theoretical framework of the Austrian thinker Friedrich A. Hayek, we will discuss the political implications of government control over social platforms and the effects of this kind of regulation on political responsibility of governors. Tracing back to Étienne de La Boétie, we discuss and apply his argument that people have the tendency to enslave themselves. Going deeper into the analysis of the Panopticon supported by the new media, we identify the consequences of this paradigm on the notion of truth. We analyze the concept of post-truth and explain the relation between democracy and security of the social corpus. Furthermore, the new media as structure of communication tends to create „truth bubbles”, „echo-chambers” in which different groups enhance their own identity and seem to live isolated from other groups, thus contributing to the atomisation of societies. This is the ideal framework for the raise of dictatorship and generation of „truth discourses” convenient to oppressive regimes.

Keywords: New media; censorship; regulation; freedom; post-truth era; panopticon;

1. INTRODUCTION

In March 2018, a scandal broke out, shaking the entire world, when Christopher Wylie, former employee of the company Cambridge Analytica, provided information about the method through which its former employer collected personal information from 87 million Facebook users (Solon Olivia, 2018), in order to use it both for the Donald Trump campaign in the United States of America, as well as in the Brexit campaign in Great Britain. After this information saw the light of day, the debate on privacy in the new media, the impact of social media on politics in democratic regimes and the issue of “fake news” broke out all around the world.

Mark Zuckerberg, CEO and founder of Facebook, the greatest social media platform, was called to testify before the United States Congress in April 2018 and before the European Parliament in May 2018. The most discussed issues during these hearings have been the identification of security breaches that have led to the leak of data and the new regulations to be imposed by states or international organisations in order to prevent such events from occurring again. The General Data Protection Regulation is the most recent regulation becoming directly applicable in all European Member States in May 2018, as well as in EEA countries. In the United States, the Federal Communication Commission regulates traditional media, but the internet is also regulated through 11 federal laws that are in force (for example Computer Fraud and Abuse Act, Cybersecurity Information Sharing Act).

One justification for the increasing tendency to regulate the “new media” (“computer technology used as a distribution platform”) is that this type of environment allows dissemination of fake information used to manipulate the masses of users. Since recently, social platforms such as Facebook have not even defined themselves as media, but as a platform for communication. Thus, its owners and administrators could not be made responsible for the content uploaded there by users. However, since the data leak scandal, Facebook has announced increased safeguarding of the platform, building better controls and new technology to prevent abuse, increasing investment in security:

“It’s not enough to just connect people, we have to make sure those connections are positive. It’s not enough to just give people a voice, we have to make sure people aren’t using it to hurt people or spread misinformation. It’s not enough to give people control of their information, we have to make sure developers they’ve given it to are protecting it too. Across the board, we have a responsibility to not just build tools, but to make sure those tools are used for good.” (Mark Zuckerberg, 2018)

These words of Mark Zuckerberg indicate that the pioneer of social media has become aware of its tremendous role in the shaping of societies nowadays and, essentially, in the evolution of democracy in Western countries.

At the same time, the vulnerable position that Facebook was cast in by this scandal has opened the door for a more perverse effect: the transfer of responsibility from professional politicians involved in democratic processes to the new media and the temptation to over-regulate an area that is, by definition, one of freedom of expression and thought. If social media is responsible for fake news, manipulation, illegal data-gathering, no politician is responsible for surprising political outcomes such as Brexit or the election of Donald Trump as President of the United States of America.

This is the context in which this paper will analyze if this tendency of the state to regulate further and further is just one step on the “way to serfdom” (Friedrich Hayek, 1946).

2. PROBLEM STATEMENT

The issue of limitation of freedom of expression is certainly not new and the literature dealing with this topic is vast. Liberal and libertarian thinkers like Étienne de La Boétie, Friedrich Hayek, Robert Nozick have warned against the danger of censorship for centuries now. Their work is the main source of inspiration for defenders of freedom all over the world.

Nonetheless, these philosophical landmarks must be interpreted in the new context of “new media” regulation since this presents certain particular aspects that we will refer to in this paper: the new social effects of social media on community building, the shifts in political responsibility generated by this new type of communication, the danger of over-regulating the Internet. This paper brings together these new events with great significance and philosophical concepts that have proven to be timeless.

3. RESEARCH QUESTIONS

The question that this paper attempts to answer are:

- 1) How is Jeremy Bentham’s Panopticon embodied in social media?
- 2) What are the main effects of the social media on democratic regimes?
- 3) What are the main effects of regulating social media on freedom?

4. PURPOSE OF THE STUDY

In order to answer the research questions above the paper will aim to:

1) Explain that social media is an example of self-imposed Panopticon, through its constant information flow and omnipresent virtual socialization.

2) Show how social media influences democratic regimes by facilitating access to information, involvement in public discourse, collective action, generating freedoms. At the same time, it can easily be used by governments or occult actors for propaganda and manipulation and it may generate “echo-chambers” that contribute to the atomization of society.

3) Prove that regulating social media will negatively impact freedom of expression and will contribute to the shift of power from the hands of private actors to governments and political elites.

5. RESEARCH METHODS

This paper will begin with a presentation of the concept of Panopticon and its manifestations in social media nowadays. Further, we will discuss in more detail the ways in which social media shapes democracies in Western countries. Finally, we will present the negative consequences of regulating the social media.

6. FINDINGS

6.1. Jeremy Bentham, founder of utilitarianism, was the first to define the Panopticon, a type of building and an architectural model for a penitentiary, in which the guardian can constantly monitor all the prisoners, without them knowing it. The necessity of this concept arose from the desire to improve prison management: the number of guardians could be considerably reduced since the prisoners would feel the pressure of constant monitoring, without it actually happening. The concept could be applied in many institutions, such as schools, asylums, construction sites, hospitals, reducing the number of people in charge with supervision. The innovation consisted precisely in inducing the feeling of permanent surveillance that leads, implicitly, to behaviour regulation. Hence, an impeccable discipline mechanism is generated which is applied all over the world, due to its effectiveness. In totalitarian regimes, such as communist Romania, Panopticism was reflected by the all-encompassing eye of state surveillance.

In the context of social media, Panopticism is present through the benevolent contribution of users. Obviously, there is no comparison between state surveillance and the voluntary sharing of information, however private and intimate, over a social network. The scandal of private data harvest raises the issue of protection of data, but, at the same time, this falls into the responsibility of the social platform and it is not the prerogative of the state whether it is democratic or totalitarian. Essentially, one can always delete a Facebook account and stop using a social media platform without being limited in this action by any constraint.

What we have found is that this type of socialization, generated by the social media, bears in it a strong element of Panopticism as it involves constant exposure of the self to be observed by others. Moreover, the technological developments that made gadgets such as smart phones and tablets available to the masses have generated a ubiquitous character of this type of communication. The user is always connected in a constant exchange of information with other users. This too is significant since it shapes a new paradigm of existence that involves always being present, active and willing to share.

6.2. Starting from the impact of social media Panopticism, we have found that this impact is not only reflected on individuals, but also on democratic political regimes.

First, platforms such as Facebook or Twitter facilitate access to information since they are the ideal relay for communication, especially in countries in which the classical media is censored or under the control of media moguls.

They are also a great platform for public discourses of all types (even negative discourses such as hate speech), which stimulates the involvement in public issues, since it appears more at hand than access to a television or newspaper.

It is an excellent engine for collective action. In his address to the House of Representatives, Mark Zuckerberg underlines that “Just recently, we’ve seen the metoo movement and the March for Our Lives, organized, at least in part, on Facebook. After Hurricane Harvey, people raised more than \$20 million for relief. And more than 70 million small businesses now use Facebook to grow and create jobs.” (Mark

Zuckerberg, 2018) In Romania, all anti-corruption rallies in January 2018 have been organized through Facebook and entire social movements have been created. This new type of communication also generates new freedoms, such as the freedom to demand political change. (Shirku Clay, 2011)

So, social media platforms contribute to political participation since they can mobilize citizens for a certain cause. At the same time, the issue with online participation is that it creates the illusion of involvement, turning classical participation methods such as going to the polls or running for an office obsolete. In fact, they create the perfect environment for people to get rid of frustrations simply by expressing them, but it can become an outlet through which political energies can be lost. This is indicated by the voter turnout rate trend:

“In Europe, the region which experienced the highest level of voter turnout between the 1940s and the 1980s, voter turnout has decreased significantly since the 1990s. The decline in Europe is more significant than the decline in the other regions. In Asia and the Americas, the trends in voter turnout appear more stable over time.” (Solijonov Abdurashid, 2018)

Besides this negative effect, as it has actually happened in more than one case, social media can easily be used by governments or occult actors for propaganda and manipulation. Thus, it is a useful tool both for democratic, as well as totalitarian regimes.

Cass Sunstein warned against the danger of the so-called “echo-chambers” that contribute to the atomization of society:

“Although millions of people are using the Internet to expand their horizons, many people are doing the opposite, creating a Daily Me that is specifically tailored to their own interests and prejudices.” However, more recent studies such as that of Seth Flaxman from Oxford University have shown that “It seems counterintuitive, but direct browsing often just consists of one or two sites that you regularly read – such as the BBC and CNN – while by its nature, social media will expose you to a number of other sources, increasing the diversity.”(Sunstein Cass, 2018)

Consequently, social media platforms, despite their true potential for creating protected areas where one’s opinions are not challenged, still have the advantage of exposing users to a larger variety of views on current issues. Moreover, after the personal data scandal, Facebook pledged hiring fact-checkers to verify any news that enters the users’ newsfeed, made their advertising policy stricter and took down thousands of fake accounts belonging to spammers.

After analysing Zuckerberg’s testimony before the House of Representatives on April 11 2018 and the consequent application of the measures included in the document, it can clearly be stated that such an important private player on the social media market responded quickly and effectively in order not to lose profitability and image capital.

6.3. In a chapter visionary called “The End of Truth”, Hayek states that: “The effect of propaganda in totalitarian regimes, from the perspective of results, is different both from the perspective of span as well as from a quality point of view from the propaganda performed with different purposes by independent companies that are in competition. If all information sources are under unique control, we don’t have to worry about convincing people.”

Acknowledging the role of propaganda in democratic regimes is necessary in order to have an honest debate about the limits that must be imposed on it. However, when more and more regulations are imposed on a private actor by the state in order to determine it to censor the content uploaded on a social media platform by its users, the danger of centralization is high.

That is not to claim the uselessness of regulation for the improvement of services or for the protection of fundamental human rights. But, this should be more of a self-imposed regulation, like that taking place with Facebook nowadays, one that is generated by the effort to maintain a top position on the market. Besides the danger of reckless censorship and limitation of freedom of speech on these social media platforms, regulation by the state of these networks will lead, sooner or later, to a tendency to turn them into scapegoats for every electoral defeat. It will no longer be the responsibility of politicians and statesmen to explain the importance of informed voting to citizens, but their lack of interest and absenteeism from the polls is blamed on the manipulation of the social media.

When applying the extraordinary philosophy of La Boétie on the current issue of the regulation of the Internet and, more specifically, on social media platforms, we can refer to two of his ideas. The first

one is that tyrants are not, as one might presume, always in power by force. "There are three kinds of tyrants: some receive their proud position through elections by the people, others by force of arms, others by inheritance." (de La Boétie Étienne, 1975, 58) So, it is not exceptional that tyrants become autocratic rulers by democratic elections. European history offers the infamous example of Adolf Hitler. The potential for tyranny is only reduced and not eliminated through democratic structures of society. Citizens must always keep alert to protect their freedom as the tendency of power is to accumulate more power. And how would a modern tyrant proceed in order to obtain that "voluntary servitude" that the French thinker so brilliantly presents? Speaking about tyrants, La Boétie says: "they never undertake an unjust policy, even one of some importance, without prefacing it with some pretty speech concerning public welfare and common good." (de La Boétie Étienne, 1975, 71)

Any state intervention is justified traditionally, especially in democratic regimes, by the common good and the safety of every citizen. That is why reasonable citizens sometimes approve of state actions that excessively limit their freedom since it seems only natural that the common good prevails. And so it is, but the question remains: aren't there other mechanisms of regulation? In this particular case of social media, like in many others, the efforts of writing the wrongs are more naturally coming from the private actors involved, than from the state whose innovation potential is limited. Finally, the danger of placing the power of censorship in the hands of governments is too significant to ignore.

7. CONCLUSION

Social media is a significant and powerful modern Panopticon. It influences behaviour of exposure, sharing and participation. From a political perspective, its qualities in favour of democracy are numerous: access to information, expression relay, and community organization platform. At the same time, its tendency to create "echo-chambers" and to generate the illusion of involvement are real. The regulation by state institutions of these issues related to the social media is bound to have more negative effects on freedom of expression than those generated by the development of new ground rules by the private actors involved in this business.

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