

Platforms, neoliberalism, and bot activism: The legislature and society in the wake of disinformation

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Abstract

The structure and agency of digital platforms, especially social networks and messaging services, are essential media content distributors in democratic societies. We examine the evolution of the web, highlighting questions about transparency and the use of personal data by technology giants. We offer a critical perspective on the business model of these platforms, exploring conflicts of interest, public values, and everyday goods, as well as the impact on the spread of misinformation. We carried out a survey that reveals the deliberate use of disinformation on social networks and messaging services as a political weapon in the 2022 presidential elections. We also point out the legal resources used in the fight against it.

Keywords: Platform. Neoliberalism. Activism; Misinformation; Elections 2022.

Introduction

The debate on the phenomenon of digital platforms has intensified in recent years due to the accelerated advancement and sophistication of digital technologies and their operating models. Several studies seek to understand the current transformation of social life with the Internet. In his article *Data Necropolitics*, Antonio Pele (2022) refers to the growing literature on the topic, illustrating with new concepts such as *Algorithmic Governmentality* (Antoinette Rouvroy, 2020), *Expository Society* (Bernard Harcourt, 2015), *Black Box Society* (Frank Pasquale, 2015), *Surveillance Capitalism* (Shoshana Zuboff, 2020), *Technofeudalism* (Cédric Durand, 2021) and *Radical Anti-humanism* (Eric Sadin, 2021). We could add to this representative selection *The Platform Society* (José van Dijk, 2019), *Platform Capitalism* (Nick Srnicek, 2016), or *Burnout Society* (Byung-Chul Han, 2015) to bring a common point in the analysis of the contemporary moment in profound transformation with the emergence of technologies pointed out by Pele (2022, p. 1):

“... these debates understand how our social existence and future are being shaped by the development of new technologies, guided by profit profitability and power struggles...”

Analyzes around Web 2.0, the second generation of the World Wide Web - reinforced social interaction, focused on collaboration and the benefits of this transformation that enabled individuals to create businesses, sell goods, and communicate online without corporate or state intermediaries, the pretended innovative disruption. Even though new initiatives and technological development have triggered a series of benefits, the current reality of the web is different:

After two decades of digital utopianism, marked by the unconditional adoption of the latest trends in Palo Alto and Shenzhen, the world has finally entered an era of digital sobriety. (MOROZOV, 2018, p. 7).

Large technology companies build digital environments that change how people work, communicate, buy, sell, and consume products or services. The recent discussion is more focused on opposing the platforms' promises to offer personalized services and contribute to innovation and economic growth in contrast to the lack of transparency, accountability, power concentration, and massive use of personal data - the heart of these oligopolies, primarily American companies. Apple with digital communication devices and applications; Meta (Facebook, Instagram, and WhatsApp) with social networks and messaging services; Alphabet Inc. (Google and YouTube) in the internet search and video transmission system; Amazon as a

protagonist in the e-commerce market and cloud storage; and Microsoft, with its dominance in software and operating systems, are called the Big Five. They not only govern the technology market but have become Communication Empires (WU, 2012) despite fighting hard not to be recognized as such and, thus, evading regulations that establish rights and duties.

Global technological platforms are no longer seen as harmless and invisible companions, committed to softening or eliminating the rough edges of everyday existence – always in the name of uncomplicated sharing and universal transparency. Such platforms are increasingly perceived as a powerful bloc with hidden mercantile interests, lobbying, and world domination projects (MOROZOV, 2018, p. 7).

Together, these companies had, in the third quarter of 2022, a market value of US\$ 6,7 trillion, around R\$ 34 trillion (Valor Invest website, 2022), the equivalent of more than four times the Brazilian GDP (US\$ 1,6 trillion) or sixth place in the world ranking prepared by the International Monetary Fund, ahead of Germany (7th position, with a GDP of US\$ 3,78 trillion). Such economic power, market concentration, and technological innovation have not resulted in maintaining the Internet as a healthy environment and raise a necessary discussion about private benefit and corporate gain versus public interest and collective benefits. At this point, we have another issue in common with the research above: the overlap with the neoliberal system.

Based on this concentration of power, we propose in this article a look at platforms that emphasize conflicts of interest, public values, and everyday goods, raising questions for reflection on how the business model of large platforms, a product of the neoliberal capitalist system, comes extending its domains in the contemporary communication flow, defining what, who, when, where, how and why will have access to digital content. Until recently, these were just the five questions the lead (first paragraph of a report) had to answer, an essential item in any journalistic writing manual. Ironically, it demonstrates how platforms, especially social networks, have deinstitutionalized the production and circulation of information and opinion, directly reaching media companies and assuming hegemonic control over the circulation of communication. These foreign oligopolies lead not only digital communication in the world but also the advertising market without specific legislation with rules to establish transparency and responsibilities in operation and guarantees for the population.

By way of illustration of the consequences of this regulatory void, we carried out a survey that exposes how social networks and messaging services were instruments of disinformation and hate speech with the explicit purpose of disrupting and influencing the 2022 Brazilian presidential elections. The Superior Electoral Brazilian Court (TSE) applied legal measures to combat the deliberate use of disinformation as a weapon of political action and to guarantee the integrity of the elections.

Platforms and Neoliberalism

The dominance and concentration of power in the Big Five should not be surprising. These technology companies control the social and economic traffic and infrastructure of our society through a system driven by bots, algorithms and powered by data (HARCOURT, 2015; MOROZOV, 2018; ROUVROY, 2020; VAN DIJCK, POEEL, WAAL, 2018; ZUBOFF, 2020).

It is essential to define some crucial terms for this discussion, such as the concepts of ‘algorithm’ and ‘bot’. In mathematics and computer science, algorithms are defined as a finite sequence of executable actions that aim to obtain a solution to a given type of problem. In the case of contemporary social networks, the ‘type of problem’ to be solved consists of the ‘curation’ of the content offered to each user, created based on previously searched or approved content (through the “like” button or other types of engagement). A ‘bot’ or ‘chatbot’ is a semi-autonomous computer program guided by an algorithm to emulate the discursive conduct of a human participant in written interactions. Large companies have used bots for almost a decade in text-mediated Call Center services. However, as a social network requires relatively little information from a person to become a ‘participant’, it is straightforward for a programmer to provide false data and create fraudulent profiles, which are then used by bots that participate as legitimate discursive actors in digital environments.

It is important to highlight the possibility of programming bots with different discursive ‘profiles.’ A bot can be programmed to be aggressive and personally offend anyone who challenges it. It can also be programmed to emulate a “thoughtful,” “naive,” “informative,” “questioning” person, etc. Thus, a ‘discursive community’ constituted with the intensive presence of bots can occupy any field of debate on the networks, discussing among themselves and leaving to individual users who access these environments the strong impression of predominance in the public arena of the position desired by the programmers (or rather, by those who hire them). A machine for producing hegemony. We call this particular use of chatbot technology an ‘activist bot’.

Reducing this complex universe of phenomena to the antics of the “ambitious boy wonder” Mark Zuckerberg (now 38 years old), who at 18 built a billion-dollar empire, or to the eccentricities of the richest person in the world, Elon Musk, who in a troubled process acquired Twitter, is not taking into account the historical, economic context and the contradictions of the global capitalist system. They are social actors emerging from a new phase of capitalism under the aegis of neoliberalism. According to Harvey (2018), it is a doctrine based on political-economic practices that propose human well-being based on individual entrepreneurial capacity in a whole regime of private property, free markets, and free trade. This model implies a triad composed of deregulation, privatization, and withdrawal of the State from the economic order. The role of the State in this model would be to guarantee the quality and integrity of money, take care of the military defense structures and functions, the police, and the legal system required for the full functioning of the neoliberal model (HARVEY, 2018).

Services offered by the platforms are not free. Online social networks are monetized by automating connections between users, content, data, and advertising. According to Digital AdSpend, in the first half of 2022, 81% of total investment in digital advertising in Brazil was allocated to social media platforms (52%) and search systems (29%). Media and communication companies received only 18% of the digital budget, representing over 50% of total media budgets in the principal Brazilian sectors. One of the main reasons behind this move by technology companies against PL 2630 would be the interference in their business models, which could make it challenging to use consumer data for digital advertising, their primary source of income, as Caitlin Mulholland, professor of Civil Law at PUC in Rio de Janeiro points out in conversation with Ana Frazão, professor of Commercial and Economic Law at the University of Brasília, on the Digital Law podcast, during the episode dedicated to the Bill of “Fake News”, in April 2022.

In this context, for Zuboff (2020), we have reached the era of surveillance capitalism – a new economic order that claims human experience as free raw material for covert commercial practices of extraction, prediction, and sales. In other words, we are not “the product” of social networks but rather an inexhaustible source of data used as raw material for companies to predict behavior and, therefore, profit. Preventive action is yet another particularity of the platformization of society. “The best way to be sure of the future is, in fact, to produce it in the present” (ROUVROY, 2020, p. 19).

In this sense, media ecologist Douglas Rushkoff (2016, s/p) says that far-right populist movements such as Brexit and Trumpism are effects of the widespread use of digital media:

The Internet was supposed to break down those last boundaries between what are essentially synthetic nation-states and herald a new, global community of peers. National governments were considered extinct... But the Internet age has actually heralded the opposite result. We are not advancing toward some new global society, but instead retreating back to nationalism. Instead of moving toward a colors of Benetton racial intermingling, we find many yearning for a fictional past when people like to think our races were distinct, and all was well. (...) Computer programs all boil down to a series of 1's and 0's, on or off. This logic trickles up to the platforms and apps we use. Everything is a choice. (...) Did you send the email or not? There are no in-betweens. So, it's no wonder that a society functioning on these platforms would tend toward similarly discrete formulations. Like or unlike? Black or white? Rich or poor? Agree or disagree? In a self-reinforcing feedback loop, each choice we make is noticed and acted upon by the algorithms personalizing our news feeds, further isolating each one of us in our own ideological filter bubble. Not one of the thousands of people who show up in my own Twitter feed support Brexit or Trump. For those supporters, I am sure the reverse is true. The Internet helps us take sides.

These elements support the ecosystem that made the Internet essential for participation in society under subordination to surveillance capitalism (ZUBOFF, 2020, p. 22). Social insertion presupposes dependence on a commercial infrastructure based on the compulsory and free provision of data by citizens. This subsequently analyzed, mined, and modified data is the platform system's revenue source. Thus, "surveillance capitalism imposes a fundamentally illegitimate choice, which individuals in the 21st century should not have to make, and this normalization leaves us trapped, but with a feeling of happiness" (*ibidem*, 2020, p. 26).

Rouvroy (2020, p. 25) attributes this phenomenon to an "astonishing digital passivity" and its consequences:

Many people think that with the help of technology, digital votes, petitions, and insults will change things and even lead to citizens' assemblies. I don't want to criticize all of this, but online insult fuels algorithmic capitalism. Spending time being insulted on Facebook is what feeds the beast.

This is how the model stands out: they thrive on extracting personal data and selling predictions about user behavior to advertisers. For profits to grow, forecasts must be accurate. We then have another issue: it is not just necessary to predict; it is about modifying human behavior on a large scale (ZUBOFF, 2020), not just as consumers but as citizens. Oligopolies that operate under the platform model have specific norms and values, especially the principles of the American capitalist system. These may or may not conflict with values established in the global social structures where they operate. Because they act based on algorithmic processing, whose formula is not revealed, they are not open to democratic control. Van Dijck (2019, s/p) warns: "Thus, the ideology of neoliberalism defines the architecture of our connective society. An architecture that leaves no space for public sectors, public values, and public space."

Rouvroy's (2015) concept of algorithmic governmentality comes close to this vision of Van Dijck (2019) by presupposing that the government of the social world is based on the algorithmic processing of large volumes of data and not on policies, laws, and social norms and that the data is excessively centralized by large companies and outside of any democratic control.

Conversely, algorithmic governmentality considers optimizing the current situation to remain favorable to specific stakeholders. It is a new form of rationality, optimizing an assortment of juxtaposed objective functions, which today are mainly determined by industrial interests. Neoliberalism has taken us to a place where everything becomes calculable. (ROUVROY, 2015, p. 20).

The neoliberal system has always demanded technology for generating information, storing, and analyzing databases to guide marketing decisions, leading to investments in

information technologies. However, the volume and current commodification of data is unprecedented. This extraction and compilation of personal and private information are sources of dossiers about who we are. They are available to public and private agents: immense personal databases (registrations filled out by users) are legally or illegally for sale. Tapping into the desire to access everything, digital technology is breaking down the boundaries between the state, the market, and the private domain. This digital scenario is called by Bernard Harcourt (2015) an exhibition society, a society with unprecedented levels of exhibition while at the same time being continuously observed and influenced. This model, in Harcourt's (2015) view – also shared by Zuboff (2020), Van Dijck (2019), and Rouvroy (2020) – would be reconfiguring our political relationships and remodeling our notions of being an individual.

“From this arises neoliberalism's interest in information technologies and its promotion of these technologies” (HARVEY, 2018, s/p). In this way, achieving social good is intrinsically related to market transactions' potential and positive results.

Self-regulation

High-tech runs three times faster than normal businesses. And the government runs three times slower than normal businesses. So we have a nine-times gap.

Andy Grove

The quote above is from former Intel CEO Andy Grove and is the mantra of technology giants. This type of argument is characteristic of platform managers, who, like other companies, developed under the hegemony of the neoliberal free market discourse and resort to its precepts to justify their freedom of action. “To the extent that it believes that market exchange has an ethics in itself capable of serving as a guide to all human action, and that replaces all previously held ethical beliefs” (REAVOR *apud* HARVEY, 2018, s/p), neoliberalism emphasizes the significance of contractual relationships in the market (HARVEY, 2018, s/p). In this logic, the “enemies” of business prosperity would be state regulation and supervision. They reinvigorate the neoliberal belief in a self-regulating market endowed with a “natural” force of such complexity and perfection that it demands total freedom from the State.

The disproportionate economic, political, and social power of digital platforms has attracted attention in countries around the world. The discussion and disputes in courts over regulating platforms, especially those operating social networks and messaging services, have caused controversy. The platforms claim that they are technology companies and that, therefore, they do not fall under the rules and responsibilities of communication companies. As intermediaries, connectors, according to this discourse, could not be held responsible for the content conveyed. At the same time, in each legal action, they defend themselves by arguing freedom of expression, a fundamental right guaranteed by Article 19 of the Universal Declaration

of Human Rights and, specifically in Brazil, by Article 5 of the Federal Constitution, which ensures that the expression of intellectual, artistic, scientific, and communication activity is free, irrespective of censorship or license.

It should be noted that the exercise of these freedoms is not unlimited. All abuse and excess, especially when the intention to insult, slander, or defame is verified, can be punished according to Civil and Criminal legislation. On this issue, companies dodge. Presenting themselves as mere intermediaries, they argue that they could not be held responsible.

Another point supported against regulation – press freedom – arises from the right to information. Citizens can create or have access to various sources of data, such as news, books, and newspapers, without State interference by Law 2.083/1953, which attests to both the freedom of publication and circulation of newspapers or similar media within the national territory regarding the punishment of those who commit abuses in their exercise. Those who publish fake news or disseminate untrue, truncated, or distorted facts that cause social alarm or disturb public order will be penalized. Therefore, these companies do not want to be considered communication vehicles so as not to be held responsible.

In Brazil, Bill 2.630 of 2020, known as the Brazilian Law on Freedom, Responsibility, and Transparency on the Internet, is the most advanced matter on the regulatory path. Nicknamed the Fake News Bill, the text presents more elements to regulate the communication platform market – social network providers, search tools, and instant messaging, whose registered users in Brazil are greater than 10 million – than just combating disinformation. As its original name makes clear, it is an attempt to establish user rights and duties of these companies through transparency measures in the platforms' business models and actions and assign responsibilities and, consequently, the possibility of punishment.

The project was presented in the Senate in 2020 and went to the Chamber. During the procedure, it experienced several changes, caused controversy, and led Big Techs to lobby the Legislature and mobilize public opinion strongly. Faced with the possibility of the matter being definitively voted on in the Chamber of Deputies in the first half of 2022, preceding the elections, Google, Mercado Livre, Facebook, Twitter, and Instagram released a joint letter in February 2022 against Bill 2.360. The companies argue that the text is no longer based on combating disinformation and starts to “represent a potential threat to the free, democratic, and open internet” (Site PODER 360, 2022). Strategically, companies call themselves “technology platforms”, highlight disinformation, and position themselves as agents capable of combating it as long as there is no regulation. “Online content moderation is a task that requires platforms to take quick action in the face of new threats. Therefore, we need flexibility to act to remove harmful content.”

On April 2, two days after the project's rapporteur in the Chamber, Orlando Silva (PC do B-SP), presented the final opinion for urgent voting in the Chamber of Deputies, Google launched an advertising campaign against the PL under the allegation that the text could “force” them to finance fake news. Paid advertisements were published in the most important national

newspapers. This rhetorical strategy always seeks to automatically characterize any platform regulations as harmful, while what is sought is to expand and democratize access to information. Scandals, such as Facebook and Cambridge Analytica, which influenced the victory of Brexit and the election of Donald Trump in 2016, demonstrated that the model based on self-regulation of platforms, in which companies develop their services and digital environments without any external regulatory control, proved obsolete due to its incapacity to maintain the sustainable digital environment on its own.

On April 6, parliamentarians rejected in plenary the urgent request to vote on Bill 2.630 with 249 votes in favor, one abstention, and 207 votes against. At least 257 votes were needed to confirm urgency, that is, an absolute majority.

An emblematic case: disinformation and the 2022 elections

Without specific legislation that attributes responsibilities and transparency to digital platforms, combating disinformation is done on a case-by-case basis. Chase one's tail. Given this scenario, on August 4, 2021, the TSE established the Permanent Program to Combat Disinformation in the Electoral Justice. The objective was to combat disinformation related to the Electoral Justice and its members, the electronic voting system, and the electoral process based on a systemic approach and with the current participation of 60 civil and governmental organizations, including press, fact check agencies, Internet and telephone providers, academia, and political parties. Currently, Google, Meta (Facebook, Instagram, WhatsApp), Telegram, Twitter, TikTok, LinkedIn, Twitch, and Kwai are part of the program and have signed a cooperation agreement that provides for the use of their technological resources in carrying out continuous actions to curb the spread of false content during the election campaign and confronting structured disinformation networks.

However, despite these efforts, the TSE concluded that the first round of the 2022 elections was marked by “an intense proliferation of fake news related to the electoral process”. The main messages denied by the Electoral Court and the nine TSE partner checking agencies were accusations and conspiracy theories of fraud at the electronic ballots box, erroneous analyses of the Voting Bulletin released by the TSE, and lies about the functioning of the totalization system (responsible for adding up the votes of the entire Brazilian electorate). Among those that had the most impact were videos about the existence of an algorithm capable of dictating the operating pattern of the process and blocking the transmission of votes from the Northeast and another saying that Russian hackers invaded the system to benefit one of the presidential candidates, and with the discovery of the scheme, the Army intervened to prevent the consolidation of the plan.

On October 20, with ten days left until the second round, the TSE unanimously approved Resolution 23.714, which “provides for combating disinformation that affects the integrity of the electoral process” and prohibits the “disclosure or sharing of facts known to be untrue or

seriously out of context” that aimed to undermine the voting, counting and totaling of votes processes. After a collegial decision that determines the immediate removal of dishonest content, under penalty of a fine of R\$ 100 thousand to R\$ 150 thousand per hour of non-compliance, starting from the end of the second hour after receipt of the notification, the Presidency of the TSE itself may determine that the same irregular content replicated on other channels be removed.

The resolution also reduced the deadline for social networks to remove false content from 24 hours to up to two hours and just one hour on the election weekend. “Once verified by the TSE that that content is defamatory, insulting, hate speech or fake news, it cannot be perpetuated on the network”, explained the president of the TSE, Minister Alexandre de Moraes, and concluded by justifying that the measure aims to reduce the time that untrue information will remain in the air. Until then, the candidates’ lawyers needed to open new actions to take down the link, even if they presented content identical to those already identified as false by the court. In other words, it was necessary to call the TSE so that it could judge and make a decision whether or not to have the content removed. Following the resolution, Moraes began to act *ex officio*, without the need for any external initiative, expanding the powers of the TSE, which has been the subject of criticism regarding the minister’s autocracy.

Another point of the resolution authorizes the temporary suspension of profiles, accounts, or channels maintained on social media if there is a systematic production of disinformation and prohibits paid electoral propaganda on the Internet, such as advertisements, monetization, and content boosting, in the period that begins 48 hours before voting day and closes 24 hours after the second round. According to the text, this type of advertising should be removed immediately by the networks, under the risk of a fine equal to that established for removing content considered false or offensive by the court’s plenary.

A report from the TSE showed that in the 36 hours before the second round of elections, Minister Alexandre de Moraes ordered the platforms to remove 354 fake news boosts, demonetize seven websites, remove 701 URLs based on 12 court decisions, and suspend 15 profiles of primary spreaders of disinformation and five Telegram groups, which totaled 580 thousand members. All platforms complied with the requirements in less than one hour. TSE and the Electoral Observation Missions concluded that an enhanced disinformation network marked the 2022 Brazilian electoral process.

The fascist riot of January 8, 2023, in Brasília, would become the dramatic epilogue of this war of political unrest, which exemplifies the potential for harm of a political process in disregard of the legal system.

Conclusion

The last elections made clear what is already observed around the world: the connective qualities of online platforms do not automatically translate into public values (VAN DIJCK,

2019, s/p). Legislation is delayed, and initiatives need to be more punctual and efficient, given the power of many platforms to manage issues of life in society, such as the mass dissemination of disinformation through bots and hate speech. It was necessary to create a resolution to force platforms to remove lies intended to disrupt and influence the vote quickly. Other public values such as privacy, security, and consumer protection have also stimulated regulatory movements, often driven after a scandal, yet have been a point of contention and resistance among platform owners.

The 2022 elections showed that Google's president's argument that regulation would take away the agility of platforms was unfounded. Moreover, the legislation, the information program, and the resolution that made it quicker to remove disinformation content still proved insufficient. In a press conference after the election results, Alexandre de Moraes recognized the need to change legislation and regulate platforms. Moreover, he pointed out one of the issues that is most important to him:

Platforms can't continue to be considered technology companies, as they are the largest media companies in the world and the ones that earn the most from it. Traditional media has complete freedom of expression but freedom with responsibility. The platforms are left in a legal vacuum because they are considered technology companies. (ConJur, 30 oct, 2022)

It is a necessary discussion, but it is late. Many platforms became surprisingly influential before a genuine debate about public values and commons could begin. Platforms cannot be seen separately from each other, as they dominate the Western media ecosystem, forming a core infrastructure and business model that is reflected in dominance over public space, concentrating market sectors, data distribution, and information.

Experts in Digital Law point out the need for a broad debate on guaranteeing the quality of information flow in a democratic regime that includes two other concerns foreseen in Bill 2.630: transparency and responsibility. It is necessary to establish mechanisms so that citizens know what content is spontaneous, false, coming from bots, whether it is promoted/sponsored, and that there is the possibility of accountability for online actions (FRAZÃO and MULHOLLAND, 2022).

Social networks have changed in recent years: from a place of idyllic idealized 'virtual communities' to a battlefield for state control, with chatbots and algorithms used as weapons in a hybrid and never clearly declared war. In times of the resurgence of fascist, moralistic, and totalitarian thinking, traditional journalism begins to play an essential role in the practice of necessary activism for democracy. On the other hand, algorithm technology puts battalions of bots on the scene, emulators of political activists, but who defend neoliberal interests, mimicked in the diversity of social groups, collaborating in creating a dangerous farce: the legitimacy arising from a supposedly spontaneous social movement.

To provide some relief in this chaotic scenario, it is worth remembering that the terrorists participating in the January 8th riot in Brasília received two exemplary punishments: in addition to mass imprisonment, research carried out after the attacks revealed that more than 93% of respondents (GIELOW, 2023).

Even so, the regulatory void in online environments continues to leave society vulnerable to illicit practices on the networks and untimely and one-off initiatives without broader efficiency in the guarantees of the Democratic Rule of Law.

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Authors' contribution

Braga, A.: conception – organization – analysis – final manuscript; writing Montenegro, C.: conception – organization – analysis – final manuscript writing.

Data availability

The data supporting this study's findings are available from the authors upon request.

Conflict of interest

The authors declare no conflict of interest.

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