A Digital Bill of Rights?

Democracies face two adversaries when fighting
for their survival in the digital age

BY MARIETJE SCHAAKE

The hope and excitement about the opportunities of digitization have blinded democratic governments to associated risks for too long. Democratic values such as fair competition, accountability and public health protection are now threatened by an overreliance on a few unaccountable technology companies with large powers. Attacks on democratic institutions such as the SolarWinds hack reveal the security risks hidden in commercial software. And the ongoing 'winners-take-all' effects, such as Facebook having the resources to acquire WhatsApp or Instagram only to avoid their competition, are clear. Hard work is needed to catch up and to strengthen democracy.

Throughout the developed world, we lean on corporate data infrastructure, outsource national security to cybersecurity firms and rush to adopt artificial intelligence without fully understanding the societal consequences. Various systems engineered for efficiency or profit are usually not designed to serve the public interest. Vulnerable populations are often facing disproportionate harm as technologies exacerbate existing power relations. Oversight and accountability are increasingly challenging tasks given the lack of transparency into ever-changing, proprietary data-processing systems or algorithms.

The European Union and the United States have taken distinct approaches to handle the technology and digitization that impacts people's lives. The EU, unlike the United States, has led in taking a variety of legislative initiatives, but that could not prevent that all over the democratic world corporations have outsized and unchecked power over everything digital. The United States' role remains the most significant among democratic states, not only as it is home to the innovations of Silicon Valley but also as the main proponent of a hands-off approach to its sprawling technology sector. Over-confidence in the benefits and freedoms that technologies would bring is now backfiring, however. After the storming of the US Capitol on 6 January, as well as after the societal harms from disinformation about COVID-19, the tide is changing in the United States too.

Over-confidence in technology is backfiring

As the global battle for setting norms and standards for and through technology heats up, which govern-ance framework have the United States and other democracies proposed to counter the authoritarian offering? A vacuum of governance is hard to defend or promote with other states. Leaving a gap will inevitably have it filled by other actors such as China. And, indeed, authoritarian states have moved steadily to sophisticate their use of technology and to expand their production capacity. Mirroring

and cementing top-down, control-maximizing political systems, new technologies are now increasingly part of autocracies' arsenal.

The challenging task for democratic governments is to catch up while staying true to democratic norms. A coalition of like-minded states offering a coherent and positive vision of democratic technology governance will be even more persuasive. Germany, as a leading nation in the EU, can set the tone by reminding others of the historic lesson that democracy cannot be taken for granted, and the abuse of power by states or companies must be prevented by clear countervailing powers.

Technology needs to become democratic

To realize this, the status quo in Germany, the EU and other democratic states needs to change. Currently, journalists, civil society and democratic representatives cannot meaningfully access tech companies' datasets and algorithms or the insights they produce. Addressing that should contribute to the public good and help restore trust – in technology but also in the institutions that govern.

The starting point should be a frank identification of principles that need protecting, such as the rule of law, democratic freedoms and universal human rights. We need to ask ourselves in which cases are these values eroded by the unique characteristics presented by emerging technologies and, if so, how can we proactively reverse these trends?

Second, democratic states should negotiate a shared set of standards and incentives to favour a liberal vision of technology as opposed to the illiberal surveillance-obsessed reality we see developing before our eyes. Germany's next government, representing the largest European economy, could

articulate such a vision and spearhead the liberal democratic version of the Belt and Road Initiative.

Building on existing laws such as antitrust and non-discrimination ones, due-process principles such as the presumption of innocence and redress, or rule-of-law practices such as independent oversight should produce the fastest and least controversial results. There is no need to reinvent the wheel. Efforts to develop specific digital bills of rights or ethics declarations have either failed to make meaningful ground or lack teeth for enforcement. At the same time, obsolete mechanisms and hollowed-out institutions would benefit from being updated and strengthened. Without reviving democratic institutions to deal with digital disruption, their relevance diminishes, and private-sector actors and authoritarian states become more powerful.

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Is an increasingly digital world a threat or an opportunity for democracy around the world?
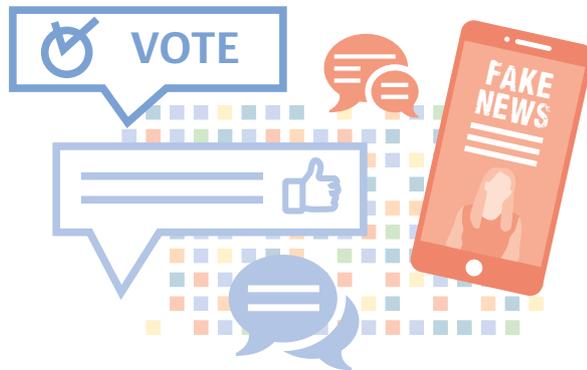
German respondents:

51 %
Opportunity for democracy

41 %
Threat to democracy

US respondents:

57 %
Opportunity for democracy

40 %
Threat to democracy

Pew Research Center