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INTERNET GOVERNANCE AND MORAL ENTREPRENEURS

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A growing body of academic work on internet governance focuses on the “deplatforming of sex” (Molldrem, 2018). Linked usually to the American Senate passing the FOSTA/SESTA bills that permit holding internet intermediaries responsible for ‘promoting or facilitating prostitution’ or ‘knowingly assisting, facilitating or supporting sex trafficking,’ the scholarship on deplatforming of sex explores the banning, shadowbanning, demonetizing and suppressing of sexual expression on a variety of platforms since 2018 (Lingel, 2021; Pilipets & Paasonen, 2020; Reynolds, 2021). The deplatforming of sex is not new, but instead part of a sixty-year campaign against “obscenity” by conservative lobbying groups like the National Center on Sexual Exploitation (NCOSE, formerly Morality in Media and Operation Yorkville). In this paper, we analyze NCOSE’s archive of statements to trace how NCOSE’s crusade against “obscenity” led them to intervene in internet governance: first, via the Communication Decency Act (CDA), then the Child Online Protection Act (COPA), and finally, the already mentioned SESTA and FOSTA.

We analyze NCOSE’s discourse as that of a moral entrepreneur (Goode and Ben-Yehuda 2009). Moral entrepreneurs define and combat social “threats” by trying to shape “public discourse, the law, and public policy” (Krinsky, 2013, p. 5). When they manage to join forces with lawmakers they become capable of launching “crusades, which occasionally turn into panics, to make sure that certain rules take hold and are enforced” (Goode & Ben-Yehuda, 2009, p. 67). To further nuance our analysis of NCOSE strategies, we rely on the work on technology and media panics, in particular, their intersection with sex panics as described via the concept of a “trifecta of anxieties” suggested by Tiidenberg and van der Nagel (2020) and the strategic use of ‘strong theory,’ (Paasonen et al. 2020, p. 46), in particular media effects theories in moral panics. We explore the shifts within NCOSE’s discourse, what they frame as the social threat, what they position as a solution, and whom they construct as the main moralized subjects and objects.

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Process

We worked in a layered, iterative manner loosely following the tenets of ‘conjunctural analysis’ (Hall et al., 1978) as operationalized by Jamie Hakim (2019) – evaluating the conservative internet governance lobby as a response to the specific mix of social contradictions that constitute the historical conjuncture. First, we analyzed NCOSE press releases (n= 719 between 1996-2022) for recurring patterns, followed by a meta-analysis of earlier press releases and news sources for an overall understanding of the shifts in rhetoric. This was followed by analysis of COPA (n=11, 1998-2009), CDA (n=108, 1998-2022), and FOSTA/SESTA (n=76, 2017-2022) related press materials specifically. Finally, we conducted a discourse analysis of 29 selected texts, focusing on framing of actors, legislation and its aims, and rhetorical work done to legitimize claims, classify and define problems and create links.

CDA

As the 1990s ushered in new intermediaries for distributing content and information, NCOSE shifted its gaze to the internet. NCOSE (then MIM) was “deeply involved in the issue of Internet pornography” and “active supporters of the 1996 Communications Decency Act.” (Lane, 2001, p. 100). The version of the CDA that was signed into law in 1996, however, failed to adopt “many of Morality in Media's suggestions” (*ibid*). Further, the sections of the CDA explicitly focused on regulating obscenity were found unconstitutional by the Supreme Court in 1997. One of the few remaining sections of CDA was Section 230 – widely considered critical for internet governance as it exempts internet intermediaries from liability from UGC. This became a new battleground for NCOSE.

COPA

Following their “failures” with CDA, NCOSE focused on the federal Child Online Protection Act (COPA). NCOSE believed their additions of particular legal language would save COPA from the fate of CDA. COPA passed, but was struck down immediately in 2000, and finally by the Supreme Court in 2010. Instead, parental use of filtering technologies was promoted. This was a direct failure for NCOSE, which explicitly argued against filtering, recommending “vigorous enforcement of the federal laws against Internet obscenity” instead (NCOSE 20.10.2000).

NCOSE’s COPA discourse has two dominant pillars. First, “all porn is hardcore porn, thus obscene, thus illegal,” and second, “porn creates child exploitation.” Both are scaffolded by a strong theory rhetoric of media effects. Their claims rely on sensationalism and disgust-mongering, as well as on legal discourse regarding an obscenity test established in *Miller v. California* in 1973. NCOSE also started building explicit rhetorical linkages between pornography and harm to children through (1) what is depicted in porn (young-looking actors), (2) porn as a gateway to child abuse, (3) porn as a tool for training/grooming children as sex workers, (4) porn as a template from which adults AND children learn sexual violence and (5) porn as an industry that creates demand for prostitutes which leads to child trafficking.

SESTA and FOSTA

In 2015, NCOSE rebranded from Morality in Media to the National Center on Sexual Exploitation and seemed to shift gears from fighting obscenity via targeting pornography to “fighting” sexual exploitation and trafficking instead. The linking of pornography to sexual exploitation and trafficking introduced in the COPA coverage became central in NCOSE’s FOSTA/SESTA rhetoric between 2017-2022. In this period, sex trafficking takes center stage as the predominant problem, with the internet more broadly and CDA230 expressly framed as the biggest hurdle in legislative efforts to combat it. The shift towards the rhetoric of exploitation and trafficking introduced an explicit anti-internet stance. According to NCOSE, “The Internet” is the reason for epidemic levels of “sexual exploitation of women and children” (NCOSE, 19.07.2018), and NCOSE is “confronted with a relentless stream of technology-related issues exponentially compounding efforts to combat sex trafficking” (NCOSE, 10.01.2020). Amending CDA is cast as “the most important, most urgent legal issue,” and CDA is regularly called “outdated,” “archaic,” and actively harmful. While specific perpetrators shift from Backpage.com to OnlyFans and Twitter, “Big Tech” in general is articulated as a public enemy. To villainize Big Tech more persuasively, NCOSE rewrites the history of CDA and articulates a new victim, survivors of sex trafficking, all the while astroturfing (Leaver et al 2019) the #metoo hashtag and the broader social movement.

Conclusion

We argue that NCOSE has systematically attempted to deplatform sexual expression to control public discourse by centering it on the idea of harmful obscenity. To do this, they have experimented with and adjusted their discourse to first link pornography to addiction and pedophilia, and later, after repeated failures to shape legislation, shifted to the language of trafficking and exploitation. The latter eventually led their “victory” in FOSTA/SESTA. In the process, they interfered in internet governance in direct and indirect ways important for internet scholars to understand. While many agree that CDA230 might need reforming, FOSTA/SESTA was unnecessary (sex trafficking and child pornography are illegal and therefore not protected under CDA230) and harmful (vague wording and anti-sex-worker sentiment invited regulatory overreach) (Blunt et al., 2021). NCOSE has shown themselves to be an important actor within the field of internet governance, and it has now come to represent an explicitly hostile stance toward freedom of information, expression, and speech that remain foundational to the internet.

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