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PLATFORM GOVERNANCE AND CIVIL SOCIETY ORGANISATIONS: TENSIONS AND INSIDER PERSPECTIVES

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Overview

Focusing on the European context and the Digital Services Act, this article probes the role of civil society organisations (CSOs) in platform governance. Theoretically, we locate CSOs within the paradigm of neoliberal governance, which aims to limit state power advancing a market-based rationality. Civil society is tasked with pushing against both state and markets, although in doing so it may end up upholding the terms of neoliberal governance. In this context, we ask to what extent can digital rights CSOs fulfil their normative role and how do they participate in platform governance? Empirically, we rely on a set of in depth interviews with key informants from five leading EU digital rights CSOs, supported by autoethnography and document analysis. Our findings suggest that CSOs operate across what we refer as the 'reform versus revolution' continuum. While those closer to the 'reform' end aim to make incremental changes to improve platforms, those closer to the 'revolution' end take a more radical view aiming to dissolve platforms altogether. While this structuring division reflects positions that are critical in different ways, pragmatic issues around funding and the hegemonic role of platforms undermine CSOs ability to act altogether, reorienting them towards identifying ways in which they can sustain themselves.

The DSA and CSO participation

The EU Digital Services Act (DSA) came into force in N2022 and fully applied across the whole of the European Union in 2024. This regulation constitutes the first systematic attempt to regulate platforms. The DSA as operates at two levels: at the first level it works through providing a set of mandatory but broad rules for different categories of platforms; and at the second level it provides for the development of a set of voluntary codes of conduct which contain specific guidance for the application of the regulations

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and rules. Both make provisions for the participation of civil society organisations (CSOs) though there is a lack of specific details.

The development of voluntary codes is considered part of a broader shift from 'command and control' regulation towards the incorporation of informal and voluntary steering mechanisms for the operation of transnational corporations (Gorwa, 2019a). These mechanisms involve the participation of platforms themselves in forms of self-regulation as well as the participation of CSOs representing diverse communities and interests. The associated inclusion of CSOs is rooted in the multistakeholder governance model pioneered by the World Summit on the Information Society (Raboy and Landry, 2005) and represents in broad terms the increasing involvement of civil society in governance.

Multistakeholder Governance and Civil Society

Our discussion illustrates two key tensions in the involvement of civil society in processes of governance: the first tension stems from the power asymmetries between civil society and the other actors in multi stakeholder governance, namely states and private companies; and the second tension is linked to the great diversity of CSOs and their potentially conflicting priorities and interests.

Platform governance, the neoliberal turn and CSOs

The DSA, and similar legal and regulatory instruments at the national level, are integral to platform governance in the EU. Gorwa (2019a; 2019b) understands platform governance as consisting of a set of multilayered relationships between key stakeholders, including platforms themselves, individual and business users, governments, and other social and political actors. Flew (2021) proposes a three-phase periodisation of platform governance: the early phase of unregulated libertarian internet; the phase of platformisation, characterised by the dominance of platforms; and a new period that we are entering currently, which sees the dawn of the regulated internet. Here, we discuss the (neo)liberal approach to governance, positing that the space created for CSOs emerged within this paradigm. Thus, the involvement of stakeholders from civil society is linked with the delegation of state power into the hands of non-state actors and with shifts in political rationality and the exercise of power (Foucault, 2008). Theoretically, we locate the emergence of civil society as part of (neo)liberal governance and this comes with a set of structural tensions that can capture CSOs in ways that may end up reproducing a system of governance that civil society was formulated to oppose or mitigate. While the location of CSOs in between states and platforms is taken to constitute an independent position outside the formal exercise of power, it may be an integral part of it. CSOs operate by seeking to bring matters to the attention of the state and corporate actors, where, to be addressed, they must be integrated into state and corporate rationalities (Lipschutz, 2005). In this sense, civil society operates as a legitimisation mechanism not only because it adds a superficial layer of democratic participation, but also at a deep, structural level, as it effectively advocates for state and corporate actors to deal with problems through incorporating them in their logics.

The DSA and CSOs

While for the most part the role of civil society in platform governance is to develop normative approaches (as in digital constitutionalism) or to advocate for rights and fundamental freedoms, for the first time the DSA provides a path for direct participation in governance rather than looking to exert influence and shape policy. Its chief goal is to set clear rules to protect citizens and their fundamental rights while fostering “innovation, growth and competitiveness” (European Commission, n.d.). There are three areas where the DSA provides (but does not mandate) for civil society involvement: firstly, in efforts to monitor the enforcement of its rules (e.g. Recital 90); secondly, in co-designing mitigation measures and contributing to the drawing up of additional codes of conduct as and if required by the Commission (e.g. Article 45(2); and thirdly, in advising and providing expert support to the Commission (e.g. Recital 137).

The potential for direct involvement of CSOs in the DSA marks a departure from their typical role of indirectly influencing policy and shaping public opinion. On the one hand, this development recognizes the importance of non-state and non-market actors in regulatory efforts. On the other hand, the quasi-formalised role allocated to CSOs raises important questions concerning their capacities, their independence and their structural position in platform governance.

Our research approach

The article makes use of ethnographic methods, in depth interviews with key informants, together with document analysis. Our empirical analysis is grounded in institutional ethnography as a qualitative research method (Smith, 1987). Unlike other research where researchers consider the working of groups that are external to them, our empirical approach is informed by insights obtained through a privileged insider perspective of one of the authors, who has a background of an EU CSO worker and is therefore familiar with the processes, arguments, tactics deployed, and field-level impacts targeted for digital rights and regulations. There are two ways this approach has been useful for the current study: (i) in conjunction with our theoretical perspective it provided an entry point and guided the questions asked; (ii) as with the document analysis, it provided validation and support for the issues raised by the informants.

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