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# 28

## SCROLLING TOWARDS BETHLEHEM

### Conforming to Authoritarian Social Media Laws

*Yvonne Chiu*

#### 28.1 Introduction

What body of ethical principles should govern social media, or social networking sites (SNSs)? SNSs are hybrid entities whose natures are unclear, so which set or sets of ethical principles should apply to them? Their summative parts may make them new or unique, so perhaps an entirely separate professional ethic should govern SNSs.

Furthermore, what ethical principles should guide SNS activity overseas? International ethics should, at least initially, be considered separately, even if starting from universal principles<sup>1</sup> because professional ethics principles are shaped by the purposes, circumstances, and operations of particular industries.

The nature of SNSs and the ambitions of companies that run them mean that they often try to operate overseas, in countries with different underlying political principles and forms of governance. Ethical questions are most salient when an SNS from a more liberal country operates overseas in a more authoritarian country because liberalism carries more complex and stringent ethical considerations for its entities than does authoritarianism. (The questions arising from the reverse situation are not symmetrical).

Ethical demands are unclear because SNSs themselves need definition and come in different types. As of October 2020, the ten most widely-used SNS platforms world-wide are all American (Facebook, YouTube, WhatsApp, Instagram, Facebook Messenger) or Chinese (WeChat, TikTok, Douyin, TencentQQ, Weibo)<sup>2</sup> (*Statista* 2022b). They cover a range of functions in different combinations: social media, social networking, photo/video sharing, instant messaging and Voice over Internet Protocol service (VoIP), mobile payment service, e-commerce, and microblogs. Their relevant differences make it difficult to develop a cohesive body of professional ethics for SNSs.

SNS professional ethics are still in their infancy, but there are significant questions about their transnational operation, including whether and how to obey local media laws and how to handle different cultural norms and practices for privacy and surveillance, argumentation, political discourse, religious expression, and intellectual property, among others.

What are the ethical constraints on a SNS from a liberal democratic country (home country) that operates in an authoritarian country (target country) where protections for

privacy, personal and political expression, and intellectual property are less established and rigorous than those in the home country and whose government would be within its legal rights to make demands that would be illegal in the SNS's home country?<sup>3</sup> This cannot simply be dismissed as a question of cross-cultural differences. SNSs have multi-faceted natures: they function simultaneously as media, as technology, and as enterprises for communication, and as such, they fall within multiple ethical spheres. To date, however, they have essentially exploited the fact that they play a range of roles in order to avoid each particular sphere's professional ethics constraints, while not yet developing their own.

## 28.2 What is "Social Media"?

Is it media? A technology? A form of communication? An SNS can be simultaneously a mode of communication, media, a technology, and a business, and, insofar as it also aggregates and transmits first-hand news and/or third-party news media content, it is not just a private but also a public platform. Should the ethics of SNS operations then be guided by journalism ethics, technology ethics, business ethics, or all of the above—and if so, how can they be reconciled with each other?

Because operations of a SNS from a liberal democratic country are premised on its home country's institutional structure, including liberal free speech laws, privacy protections, and rule of law, we should start from a position of scepticism about operating in a foreign authoritarian country in contradiction with the values and policies of the SNS's home country.

This chapter addresses three major bodies of professional ethics relevant to SNSs—journalism, technology, and business—in turn, presenting a dialogue about what kind of entity an SNS is and is not, and how respective ethical principles may apply.

## 28.3 Social Media Sites as Journalism

In some ways, SNSs are news media, like newspapers or broadcast news. In 2021, nearly half of Americans (48%) "often" or "sometimes" got their news from social media, primarily Facebook (31%), YouTube (22%), and Twitter (13%), and around half of Facebook's and Twitter's users (47% and 55%, respectively) regularly get news there (Walker and Matsa 2021). Social media's role in gathering and disseminating news is all the more necessary in authoritarian countries as, even under greater restrictions, they can provide information that the population otherwise could not access, especially that which the target country's government prefers to hide.

If SNSs are media outlets, are SNS users journalists? SNSs allow anyone to spread "news" through convenient mass telecommunications, and whether individuals spreading news through SNSs should be considered journalists (e.g., "citizen journalists") and what their ensuing obligations should be are questions worthy of their own exploration.<sup>4</sup> Here, the question is whether SNSs are news media outlets insofar as they organize and disseminate news, even if it is third-party generated news from established media sources, as such designation bestows both privileges and responsibilities.

### 28.3.1 Constraints of Journalism Ethics

Suppose SNSs could be said to properly serve journalistic functions: How would journalism ethics apply with respect to overseas operations in more repressive and illiberal countries?

Perhaps the original sources, not the aggregators or third-party distributors, are the ones beholden to journalism ethics. If SNSs claim journalistic privilege as news media outlets, however, then they should be held to journalistic standards.<sup>5</sup>

Accuracy, independence, impartiality, transparency, and accountability are among journalism's foundational principles,<sup>6</sup> and they are not merely guidelines for individual action—they must be practised and reinforced, including with institutional procedures. For example, accuracy requires not just reporters using reliable sources and checking facts but also the media organization independently fact-checking. Independence requires not just taking a dispassionate stance, but also oversight institutions investigating potential conflicts of interest. Accountability requires not just apologies for mistakes, but also a formal process of issuing public *errata*, oversight to minimize mistakes and violations of journalism principles, and sanctions and punishments as necessary. If they are unable to establish and operate such institutions in the target country, then SNSs might still serve useful functions, but not on journalistic grounds.

### 28.3.2 Shortcomings of SNSs as Journalistic Organizations

To date, SNS institutions in the service of accuracy, impartiality, and accountability are unfortunately lacking and their measures to remove misinformation are still in their infancy and far short of the level of oversight expected from news media.

Most popular information shared via SNSs is innocuous and apolitical, but misinformation is an acute problem. For example, Facebook's top-performing link during Q1 2021 was a third-party article on a doctor's death two weeks after receiving a COVID-19 vaccination shot, despite noting insufficient evidence of a causal relationship between the two events; among the top twenty most-visited pages was a site touting COVID-19 misinformation and political conspiracy theories, including about the 2020 U.S. election (Dwoskin 2021). Even more urgent is the spread of *misleading*, as opposed to straightforwardly false, information, which gives rise to and amplifies misinformation and conspiracy theories, but in more sophisticated, subtle, plausible, and, therefore, dangerous ways. Facebook accounts receiving the greatest engagement and Facebook's Top 10 performing link posts regularly spread misinformation and misleading information (Facebook's Top 10 (@Facebook's Top 10) [online] (n.d.); Darcy 2020; Martinez 2018).

Link and page performance information comes mostly from third-party studies; Facebook confirmed its Q1 2021 top-performing links and pages only after the *New York Times* reported that Facebook had prepared, then shelved, its report on site and link popularity, for fear of bad public relations<sup>7</sup> (Alba and Mac 2021).

This newfound transparency coincides with Facebook's attempts to thwart research on its advertising targeting practices. In 2020, Facebook issued a "cease and desist" letter to academic researchers collecting Facebook advertising data, then disabled their accounts when they did not comply (Howell 2021). Exceptions to the fundamental journalistic component of transparency can be made for equally fundamental reasons, such as protecting a source, but *not* for protecting industrial or competitive secrets such as distribution algorithms designed to enhance usage and advertising revenue. Certainly, news media care about readership, as they too must make money in order to operate, but their fundamental principles cannot be sacrificed for commerce's sake.

If SNSs were serious about being media outlets, they could attempt to scrutinize third-party news content disseminated on its sites, with a journalist's attention to accuracy and

impartiality—after all, they do not randomly distribute that news to their users. Their distribution algorithms could also address secondary ethical concerns arising from journalism’s impartiality requirement, for example, acceptable methods of news gathering<sup>8</sup> and attention to how framing, language, or the choice of stories can generate or perpetuate biases by excluding information or presenting only partial information.

### 28.3.3 *Journalism vs Mere Speech*

Principles of journalism ethics and their reinforcing institutions and procedures distinguish journalism from mere speech. Journalistic speech serves a specific purpose, to inform the citizenry, and press freedoms are constrained by its function and its professional values. Free speech as a principle, on the other hand, permits one to say anything, including falsehoods, with no formal accountability save for legal restrictions or professional ethics particular to the country or industry in question.

Without journalistic institutions and safeguards, SNSs merely facilitate free speech. Not all publications are news media or journalistic institutions, and those that are not are under no obligation to exercise journalistic constraints of accuracy and impartiality; insofar as they do not care to be constrained by journalistic principles, SNSs are less Fourth Estate and more commercial publication enterprises.

Absent essential journalistic traits, there is no imperative for SNSs to work with unsavoury, dangerous, or oppressive regimes, as they do not provide the crucial societal and global services of a free press.

Journalists compromising their own positions by cooperating with an oppressive regime in exchange for access face many dangers, including dirtying their own hands<sup>9</sup> and helping to legitimize the authoritarian government. This may be worthwhile if they bring otherwise unavailable information to the target country’s population or to the SNS’s liberal democratic home population, who are stakeholders in a free and thorough global press corps. Information about target countries gleaned through SNSs, however, will be filtered through explicit censorship. Authoritarian government constraints on SNS operation and the population’s usage, as well as regime agents using SNSs to spread propaganda and falsehoods, will cut against potential benefits by skewing the information received.

## 28.4 Ethics of Technology Use and Dissemination

There may be better reasons for operating in repressive foreign countries, such as spreading the benefits of a technology. Most technology is, in itself, neutral, and its use can improve people’s lives and serve the common good—or it can do the opposite, or both.

### 28.4.1 *Technological Benefits and Harms*

Advances in communications technology increase efficiency and broaden capacity, and SNSs can bring enormous personal, professional, and commercial benefits to people. Like other technologies, however, they can simultaneously hand autocrats tools to better threaten and oppress their own population and others. Similar to recording and surveillance technology, artificial intelligence, and even nuclear energy, SNS technology is dual-use.

While falsehoods clearly do not need SNSs to spread, SNSs spread misinformation more quickly than it can be corrected and that same technology does not make it equally easy to

correct misinformation. Corrections are not disseminated by users to the same extent, misinformation gets more attention than factual news, and at some point, a difference in degree becomes a difference in kind. SNSs enable a greater perniciousness.

Unlike dual-use technologies with military purposes, SNS technology is nowhere near as dangerous and does not warrant international oversight; on the other hand, SNSs are also not so valuable that there is strong ethical imperative to either spread or withhold them as specific technologies. That does not mean, however, that there should be no ethical constraints on its spread. Technology does not have to be explosive in order to pose a security threat, and SNS technology is often used to threaten, both domestically and abroad.

Furthermore, when SNSs operate overseas in authoritarian systems, oppressive governments use them as tools to censor and to spread their own communications, misinformation, and propaganda, not to mention spy on, track, surveil, and otherwise oppress or alternatively organize its own people; as we have already seen, the early promises of social media-driven revolutions were dashed with the Arab Spring's general failure.

SNSs operating under authoritarian regimes will be directly and indirectly complicit in those governments' wrongdoings. To remain in business, technology communications companies have turned over private information and otherwise abetted oppressive governments. For example, Yahoo! gave information about private e-mail accounts that helped Chinese state security jail multiple people, for example, engineer Wang Xiaoning 王小宁 imprisoned for ten years for "inciting subversion of state power" (in 2003) and journalist Shi Tao 师涛 sentenced to ten years in prison (in 2005) and ultimately serving eight years and six months for divulging "state secrets" (Barboza 2012; Reporters Without Borders 2005). It is not publicly known how pivotal Yahoo!'s information was—whether it led to finding these people or only provided supplemental evidence about their actions—but Yahoo! supplied that information without knowing why it was requested (Kahn 2005; Reuters 2007).

While some government requests for private information will serve legitimate security interests, Shi posted "routine instructions" that were given to government officials about maintaining "social stability" on the impending 15th anniversary of the Tiananmen Square massacre, and Wang advocated democratic reform and ending one-party rule. In the latter case, calling for political reform, even stridently, is protected in liberal democratic countries, so Yahoo! abetted a prosecution that fundamentally contradicted its home country's principles<sup>10</sup> (Kahn 2005; Helft 2007).

Most of the time, SNSs will be in no position to adequately evaluate the legitimacy of particular requests, so why would it be morally acceptable to comply with governmental requests from a liberal democratic home country but not with those from an authoritarian target country?

There are always myriad direct and indirect indicators of a system's legitimacy, which include not only known facts about its actions and stated principles and laws, but also the extent to which the regime's practices approximate its rhetoric. All societies have fallen short of their professed principles and laws, but some have tried harder to approximate them over the long arc of history. If a regime's practices reasonably approximate its rhetoric, then faith in the system's legitimacy is more likely to be substantiated; in a liberal democratic system, not only are the practices and rhetoric more consistent than in other systems, but SNSs also have established ways (e.g., courts and the rule of law) to meaningfully fight requests it considers unreasonable or inconsistent with the regime's principles.

For example, as of 2016, the FBI has filed 89 cases with US federal courts to force Apple and Google to unlock individuals' mobile devices and provide private information.<sup>11</sup> Some

cases involved newer Apple phones running operating systems with encryption methods that Apple itself does not currently have the capacity to break, so Apple would have to write new software to break the encryption. Apple objected to each request, including one involving the phone of a shooter who killed 14 and injured 22 people in a terrorist attack in California, but the FBI withdrew its most significant requests when it found a third party who hacked into the phones, so the law in the US has not been fully tested.<sup>12</sup>

In liberal systems, entities have the meaningful ability to test the scope and reach of the law, whereas SNSs in authoritarian settings have to trust that system of governance. With less transparency, rule of law, and true information in authoritarian systems, SNSs must rely more on sheer say-so or some farcical aquatic ceremony<sup>13</sup> for faith in the system's legitimacy.

In fact, people need neither faith nor liberal-democratic levels of transparency to know that authoritarian systems are illegitimate and unreliable—they already have enough information. The very requests to censor what the government deems to be sensitive political or religious information in order for the SNS to be allowed to operate are telling. The gap between the regime's rhetoric and its public actions—such as, waxing poetic about freedom and equality, yet harshly punishing dissenters and sending its citizens to gulags—reveal enough. There is asymmetry in our capacity for judgement: it is harder to know if a system is legitimate, but easy to discern that it is illegitimate (Chiu 2011, 451).

Instances of SNSs bending to foreign governments to assist their domestic oppression are too numerous to recount, but some examples are illustrative. Under pressure in 2019, Apple removed several Hong Kong protest-related apps, including one that tracked police movements during the height of crackdowns on political protests (HKmap.live) and a news media app (Quartz) over its coverage of the protests, as well as later apps that identified retail stores and restaurants as “yellow” or “blue” (pro-democracy or pro-government); it also hid the Taiwan flag emoji for users in Hong Kong and Macau, forcing users to type “Taiwan” and choose the flag from suggested words or to copy it from elsewhere then paste it (Nicas 2019; Beech 2020; Statt 2019; Peters and Statt 2019). In China, Apple removes and/or rejects apps considered illegal there, especially those that mention Tiananmen Square (June 4 incident), Falun Gong, the Dalai Lama, or those that broadcast criticism of the Chinese government or support for Taiwan or Tibet (Nicas 2021).

Apple even exceeds Chinese law's requirements, for example on limitations on physical engraving on its electronic devices. While Apple rejects some words in every country, it does not deny any political words or phrases in Japan, Canada, and the US, for example, whereas nearly half of Apple's forbidden words in China and Hong Kong are political, including 人权 (human rights) and 8964 (in reference to the Tiananmen Square massacre) in China, and 新聞自由 (freedom of the press), 雙普選 (double universal suffrage), and 雨傘革命 (Umbrella Revolution) in Hong Kong. More egregious and concerning are prohibitions on certain engravings in Taiwan, an independent country where Apple has no legal obligation to so censor, but over which China claims ownership, so Apple refuses to engrave phrases such as 法輪功 (Falun Gong), an organization banned in China (Vincent 2021).

The Chinese Communist Party (CCP)'s restrictions on doing business in China motivate SNSs (and others) to go above and beyond what is technically required, and they have not held the line on making concessions. For example, from 2014 to 2021, LinkedIn (owned by Microsoft) was the only major foreign SNS permitted to operate in China<sup>14</sup> with a separate China-only site; as early as 2019 but much more widely in 2021, it censored in China the profiles based on its regular site. Many people who advocate, study, write, or report on



China reported receiving versions of the following notice, which invited users to self-censor in order to remain visible to the Chinese market and offered LinkedIn's help in doing so:

Your LinkedIn profile is an integral part of how you present your professional self to the world. That's why we believe it's important to inform you that due to the presence of prohibited content in your LinkedIn account, your profile and your public activity, such as your comments and items you share with your network, will not be made viewable in China. Your profile and activity continue to remain viewable throughout the rest of the countries in which LinkedIn is available. We will work with you to minimize the impact and can review your profile's accessibility in China if you update your profile. But the decision whether to update your profile is yours.

*(Grundy 2021; Weise and Mozur 2021)*

Blocking these profiles from view in China is problematic enough, but it is another matter to nudge users outside China into self-censorship in order to comply with CCP regulations.

In addition to speech issues, there are privacy violations and espionage concerns. Chinese-owned TikTok shares private information with the CCP and suppresses speech on its platform,<sup>15</sup> and it is even more concerning when SNSs from liberal-democratic countries do the same. For example, in 2017, Apple moved its Chinese customers' data to computers located in, owned, and operated by Chinese state-owned enterprise Guizhou-Cloud Big Data that Apple created for this purpose, and all iCloud data stored there is legally accessible to Chinese authorities and has been shared with them (Nicas 2021).

Conceding to authoritarian government demands makes commercial sense in order to gain access in a place like China that has not only a large market but its own locally-developed SNSs that are themselves already subject to tight usage restrictions and censorship,<sup>16</sup> so external SNSs are not doing anything more than what is required from domestic platforms—they are merely obeying the local laws. Even in Russia, with few local competitors in the SNS market,<sup>17</sup> there is ample compliance with censorship. Ahead of Russia's 2021 parliamentary election, Apple and Google removed an app (Navalny) containing a tactical voting tool (SmartVote) that recommended opposition candidates and a YouTube video with similar content, after escalating threats, including a visit by armed police to Google's Moscow office; Telegram also suspended SmartVote's interactive bot (Timberg et al. 2021; Durov 2021; *Moscow Times* 2021). In 2022, Russia suspended Instagram and the little-used Facebook, perhaps in part to warn the more popular foreign apps (Selyukh 2022; Oremus 2022).

In their home countries, SNSs can become platforms for foreign security threats. Totalitarian states and extremist groups use them to spread propaganda or recruit members (Alfifi et al. 2019; Timberg and Lima 2021). SNS electronic messaging capabilities (e.g., WeChat, WhatsApp, KakaoTalk) are used for misinformation campaigns targeting immigrants and minorities in their native languages, in order to influence voting, sow political discord and polarization, and otherwise damage the foundations of democratic society, as has been documented in the US and Eastern Europe, for example. Some misinformation, influence, and espionage campaigns are domestically run, but many are foreign-planned and operated, for example, by Chinese and Russian governments (Lu 2020; Nguyen 2020; Gursky et al. 2021; Posard 2020).

Authoritarian governments also use SNSs to spy on foreigners and their own nationals living abroad. SNSs regularly collect sensitive personal information, for example, systematically as with Chinese-owned TikTok or *ad hoc* as with California-based Zoom whose

China-based executive shared user information with Chinese authorities and who at the CCP's behest terminated accounts of Americans and calls originating in the US (Harwell and Nakashima 2020). The CCP also coercively chills speech abroad by exploiting the Chinese diaspora's family ties to China. For example, a New Zealand Chinese-language media site (Skykiwi.com) warns its message board users that information from those who violate Chinese laws would be shared with Chinese authorities (Stoakes and Sachdeva 2021).

Threats arise from individual breaches, software infrastructure collection of private information, and physical infrastructure. In 2021, the Defence Ministry of Lithuania advised people to not buy or to throw away Chinese mobile phones, as Xiaomi devices are built to recognize and censor a continually-updated list of (at last count 449) Chinese phrases including “democracy movement” “Long Live Taiwan Independence”, and “Free Tibet” (Sytas 2021).

There is only so much blame to cast on the technology itself, and restricting access to certain technologies may not be effective, as autocrats always find ways to oppress their own and other populations. In many cases, they develop their own versions of that technology, both legally (e.g., WeChat in China) and illegally (e.g., proto-nuclear weapons in North Korea). (Obviously, one is harder to create than the other).

Still, harms from an external source supplying that technology must be weighed against other considerations, especially if those harms might be unique. Akin to the moral distinction between “doing” and “allowing”,<sup>18</sup> that another party would develop the technology anyway is insufficient reason to elide scrutiny of one's own role in what comes to pass.

#### 28.4.2 Ongoing Technology Management

How responsible SNSs should be for how users utilize this technology is unclear, but SNSs are certainly responsible for how they themselves use it. They do not merely make the technology and sell or provide it to consumers for use: through complex and secret algorithms, they retain significant and sustained influence on every use of and interaction with the technology and with other people through it, which differs from most other technologies, such as vacuums (household appliances), chainsaws (electric tools), automobiles, and even guns.

Top-performing links are driven by user interest, of course, but SNS algorithms drive what is presented to users, and user preferences have limited effect. Both what could and should be done to defend against anti-democratic campaigns via SNS, for example, are dependent on not just the scope of free speech but also the nature of SNSs and their responsibilities as platforms of speech, as will be discussed in the next section.

SNSs have partially responded to sustained public criticism: for example, Facebook and Twitter began labelling accounts associated with state-controlled media as such, and Facebook said it would test tweaks to its News Feed algorithms to reduce emphasis on political content (*The Economist* 2021; Fischer 2021). Some SNSs started applying warning or advisory labels to content (sometimes called “fact checking”, although it technically is not), especially about political claims and public health matters, such as elections and COVID-19. From 2020 to 2022, Twitter's advisories said, “Learn more” or “Get the facts about...”, while Facebook labels stories with “Fact Checker” and links to external or curated internal sources (Silverman 2017; Matthews 2020).

These measures only potentially address one part of the problem, however, and there remain the SNS's own operations. In addition to shelving reports and stymieing independent research on its practices, Facebook sat on other findings, including on the pernicious

effects of its News Feed algorithms that were designed to encourage “meaningful interactions” (Oremus 2021). It gave incomplete and, therefore, flawed data to outside researchers and has itself used incomplete data (e.g., omitting private groups and accounts) for their own studies, then framed the released results with misleading interpretations (Alba 2021; Ingram 2021).

SNSs are not mere technology creators but also ongoing purveyors and managers of their use, so they have more responsibility for that technology, while lacking transparency, oversight, and accountability. Oversight could come internally, from within the industry, but there is so far little and only halting movement towards a strong set of self-governing professional ethics for the SNS industry.

## 28.5 Business Ethics

What if SNSs are not primarily technology companies, however, but rather simply business ventures? SNSs can plausibly claim to be e-commerce sites, as they sell applications to users and space to advertisers, operate consumer and business-to-business payment systems, and host retail enterprises (e.g., individual businesses and even whole shopping malls). What obligations do SNSs have as retailers, manufacturers, and other enterprises?

### 28.5.1 Commercial Constraints

All commercial enterprises have obligations of good faith and fair dealing (especially in contracts) and truthfulness, as well as obligations to their variety of stakeholders (e.g., investors, shareholders, employees) including navigating conflicts of interest, as applicable.

There may also be obligations specific to the type of business, including, in SNSs’ case, as distributors of communications. There is ample legal precedent in the US from which to argue that SNSs should not be responsible for the content that they distribute. A legal regime around cable companies, server hosts, and communications delivery services has arisen from a series of legal decisions: *Smith v. California*, 361 US 147 (1959) deemed it a violation of press freedom to hold a bookstore criminally liable for constitutionally-prohibited obscene content of which it was unaware; *Religious Technology Center v. Netcom*, 907 F. Supp. 1361 (N.D. Cal. 1995) held that a bulletin board service operator / internet service provider is not directly liable for users’ copyright infringement stored on their computers.<sup>19</sup> US Congress passed the Communications Decency Act (1996), whose Section 230 states, “No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider”, without impairing existing criminal and intellectual property laws. Although this statute has become more controversial as communications on social media platforms have become more consequential and controversial, courts have upheld SNSs as middlemen, although the law could be changed.

Those whose business is to engage in business should simply do business, and insofar as SNSs are just commercial distributors of content, perhaps there is little reason why they should not do so overseas as well. Different circumstances in overseas authoritarian settings, however, mean that one cannot easily analogize from country-specific political conceptions of free press, and free enterprise. When underlying legal, governmental, and societal frameworks differ, then it is not possible to derive the same conclusions about responsibility or the same conceptions of liability, or the lack thereof.

Lack of legal prohibition in either domestic or overseas settings does not mean all ethical concerns are assuaged, and enterprises can still behave inappropriately and unethically in ways consistent with the law. There is a long history of similarly social and commercial pressures on enterprises to change their ways, such as public shaming or boycotts in both domestic and international settings, notably abolitionists' sugar boycotts and "free produce" movements in the UK in the late 18th and early 19th centuries and coordinated sanctions and boycotts against South Africa's apartheid system in the 20th century. Present-day international disinvestment campaigns include those against Israel and China for their treatment of Palestinians and Uighurs, respectively.

As commercial enterprises, SNSs confront the same considerations that all businesses face about their practical and symbolic roles in consorting with particular governments and systems—and should receive additional scrutiny due to the content of their commercial dealings, which is in words, thoughts, and ideas. Given the importance of liberal rights, protections, and rule of law in making it possible for communications businesses to operate, liberal democratic principles should not be traded for economic gains, and political concessions should not be exchanged for market access, even in the name of "engagement".

### 28.5.2 Communications Managers

SNSs are a form of personal and public communication, akin to word of mouth, letters, telegrams, telephone, and pamphlets. Even commercial distributors of communications are under professional ethical constraints, and crucially, SNSs are not *mere* distributors. SNSs are not simply media, technology, or commercial entities—they are the combination of the three, and on any of these grounds, there are significant ethical concerns about liberal democratic-based SNSs operating in authoritarian systems.

Should phone companies, postal services, and other delivery services (whether public or private) be held responsible for what people convey or send via their services? Generally not; the U.S. Postal Service, for example, does not filter what mail a person receives and does not employ algorithms to promote some mail and not others—that filtering happens at origin with the sender and at destination with the receiver.

SNSs do, however: although SNSs allow users to set preferences for what they see, ultimately the SNS decides by filtering, promoting, and suppressing postings with their algorithms, which are generally calculated to enhance *engagement*, rather than respond to "interests" or "enjoyment", which can diverge from engagement, and push people down rabbit holes. In doing so, SNSs use their technological platforms to shape consumer use and private communications and to shape the news and information far beyond what an ordinary carrier could. Whether or not SNSs *cause* social and political strife, misinformation, psychological stress, or any number of other problems attributed to them, they have at least exacerbated these issues and fostered underlying political polarization and moral outrage.

The multi-faceted, yet ill-defined, nature of SNSs, like chimeras, have allowed SNSs to thus far have the best of every world—media, technology, and enterprise—while escaping the scrutiny and professional ethics constraints of each. This moral hazard permits SNSs to intentionally promote false and pernicious content for commercial benefits, while being shielded from liability, so they do not bear the costs of their actions. Given the significant moral hazards that we have already seen, there should be some restrictions on SNSs from

liberal countries operating overseas in authoritarian settings—where the moral hazards are even greater—until a reasonable professional equilibrium can be settled in the domestic realm first. SNS functions, operations, and capacities will continue changing along with the technology, but using these nested frameworks of professional journalism, technology, and business ethics and the ways in which SNSs resemble and crucially differ from these three industries will help to make sense of, and develop, professional ethics more suitable for SNSs even as they evolve.

## Notes

- 1 Cf. the contemporary philosophical debate between cosmopolitanism and liberal nationalism, patriotism, or communitarianism.
- 2 Facebook acquired Instagram (2012) and WhatsApp (2014). YouTube is owned by Google. TikTok is an international version of Douyin (China) with servers based outside China; both are owned by partially state-owned Chinese firm ByteDance. Douyin has more embedded e-commerce and social media features and “in-video search” capacity connected to other features.
- 3 Consider also the opposite scenario: Should freer countries restrict SNSs from more authoritarian countries because they may be used for surveillance or espionage?
- 4 The term “journalist” was formerly reserved for people trained as such or employed by formal media organizations but expanding literacy and advancing technology now allow many more people to engage in “acts of journalism”.
- 5 SNSs are also sometimes direct sources of news, e.g., when public figures make important announcements there.
- 6 See, for example, the Code of Ethics for the American Society of Newspaper Editors, which most American newspapers use as a model for their own codes. Journalism should also be guided by considerations of harm against the public’s essential interest in getting news, such as protecting sources, not exploiting subjects, and accounting for privacy.
- 7 Facebook later released its Widely Viewed Content Report for Q2 2021 and subsequent quarters (Facebook 2021).
- 8 e.g., whether to pay for information, which may affect its quality, or to use deceptive or illegal tactics to acquire information.
- 9 See, e.g., Walzer 1973.
- 10 In 2007, Yahoo settled a lawsuit brought by Wang, Shi, and others, over its role in their imprisonments, but has since been sued by other dissidents.
- 11 As of April 1, 2016, the American Civil Liberties Union (ACLU) found 63 confirmed cases, up to 13 additional cases, and one unconfirmed case, and Apple identified 12 pending cases across 21 states. (Sweren-Becker 2016; ACLU 2016).
- 12 The FBI bases its requests partly on the All Writs Act (28 USC §1651) from 1911, which authorizes “all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law”. This mandate first appeared in the Judiciary Act of 1789 (§14).
- 13 Gilliam and Jones 1975.
- 14 China has blocked Facebook, Twitter, and YouTube since 2009, and Google closed its Chinese search engine in 2010 after disputes with Chinese censors.
- 15 TikTok (used only outside China) censors in accordance with the CCP, with troubling opacity. For example, it deleted YouTube comments referring to *wumao* 五毛 (paid pro-CCP propagandists) in May 2020: did a pro- vs anti-CCP flame war trigger automatic removal by moderation software, was there an intentional campaign to influence the software, did a sub-contractor for labelling Chinese phrases flag this one, or was it something else? (*The Economist* 2020).
- 16 Undesirable social phenomena such as LGBTQ references are also blocked, initially with a warning to “Use the Internet in a civil manner. Say no to harmful information,” then shown as blank (Yang 2021).
- 17 As of 2021, only two of the top-ten SNSs in Russia were Russian, in third and sixth position (*Statista* 2022a).
- 18 See, e.g., Foot 1967, 1984, 1985.

19 *Fonovisa, Inc. v. Cherry Auction, Inc.*, 847 F. Supp. 1492 (E.D. Cal. 1994) dismissed charges of direct copyright infringement against a swap meet for sales by its leasing vendors of pirated recordings. (Later, *Fonovisa, Inc. v. Cherry Auction, Inc.*, 76 F.3d 259 (9th Cir. 1996) held the swap meet liable for vicarious liability, contributory copyright infringement, and contributory trademark infringement, because it had knowledge of and had contributed to the infringement).

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