

Is there a Theory of Justice on Social Media? A Rawlsian critique of Social Media Platforms

ABSTRACT

Throughout this thesis is a critical evaluation of the complex issues posed by social media platforms and their governance. I have employed the use of Rawlsian social contract theory to highlight key areas in which to form a more just society online. Firstly, this essay will introduce key theories from Rawls' *A Theory of Justice*, namely, the 'Original Position', the 'Veil of Ignorance', the two principles of justice being the assignment of rights and duties and the 'Difference Principle'. These will be central to formulating a basic framework in which we can analyse the matter at hand, how social media operates in society and politics. The reason for using Rawlsian contractarianism is due to its focus on egalitarianism within society. The argument of this essay is that the nature and privatisation of social media is contributing to a disparity between platform companies and users which is having an adverse effect on democracy. Next, I will assess how these principles put forth by Rawls become relevant in regard to the current state of social media platforms and companies. This includes concepts of deliberate polarisation and spread of misinformation on platforms, self-regulation of social media companies and a criticism of the position of the state in light of these issues. Modern social contract theory, revitalised by Rawls, provides the framework for a just society not only through formulating rights and liberties that are afforded to the people but also enable us to understand what the role of the state becomes.

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Introduction

This dissertation explains how the growing popularity of social media platforms are challenging conventional views of society and democracy, by using Rawlsian social contract theory as a framework to elaborate on. This project seeks to strengthen the arguments of social contract theory by applying them to 21st century issues. Namely issues of liberty, privacy and egalitarianism in cyberspace will be a prevalent topic throughout this project. This dissertation reimagines how we consider our relationship with the companies that control our online presence and their wider role within society and politics. I will argue that there must be a compromise between social media companies and the state where the governance of these platforms is mediated between them to ensure democratic values are protected. The project will contribute to the existing literature on social contract theory by offering a new perspective on how the age of the internet is affecting the well-established principles of contractarianism. I have used Rawls's *A Theory of Justice* as the basis on which we will critique the current state of social media. Highly regarded as one of the most influential pieces of contractarian literature of the twentieth century,¹ the theory grapples with prevalent theoretical issues of opportunity, liberty, and justice in the political world. I have employed the use of social contract theory as it becomes increasingly relevant with the issue of internet governance due to its explanation of the relationship between the state and its subjects. By not only scrutinising the role of the state we are also able to explore ideas of privatisation in a just society. By employing the framework of Rawls' namely his principles of justice including the 'Difference Principle' and his 'Veil of Ignorance' we are able to address issues of liberty, equality, and jurisdiction in an online society. When posed with a phenomenon that has a profound impact on society, such as social media, it can be useful to employ the works of Rawls as a framework for the foundations on which society is built. Therefore, allowing us to re-evaluate was aspects of our current society we would change in a scenario where we place ourselves in the 'Original Position'. By highlighting how social media has the ability to significantly challenge democratic values and infringe the role

¹ Minouche Shafik, 'What Is the Social Contract?', *What We Owe Each Other: A New Social Contract*, (Princeton University Press, 2021), p. 7

of the state, this essay identifies that both privatisation and laissez-faire capitalism contribute to a society that under Rawlsian contractarianism is becoming unjust.

It is perhaps 'easier' to think of offline and online society as separate entities however they are growing more intertwined as we delve into the digital age. Social media creates a conversation space in society just as effective as any pre-internet age spaces and, because of this it should be subjected to the same principles of justice Rawls's uses in *A Theory of Justice* to deliberate the rules on which society is founded.

Firstly, we must identify the relevance of social contract theory with regards to this modern issue. The social contract was prevalent in the political philosophy of the Enlightenment, it provides a foundation for the justifications of rights and authority between the state and its citizens. By emphasising the importance of rights and liberties in a co-dependent relationship with government we begin to understand what individuals owe and are owed. One of the idiosyncrasies of Rawlsian theory which differentiates him from other theorists is his use of a 'Veil of Ignorance', where individuals are exempt from the knowledge of their position in society yet agree on the principles to build its foundation on. As cyberspace expands into most facets of life whilst still remaining privatised the extent to which the user is prioritised comes into question. Using a 'Veil of Ignorance' to define the parameters of internet governance would result in privatised influence being restricted as they would choose rules that benefit all and not those that afford more power to corporate entities. As this project turns its attention to privately-owned companies it also brings in a critique of the state for its failure to protect the fundamental liberties and freedoms that Rawls argues is the fundamental role.

Minouche Shafik in her attempt to update the social contract in *What We Owe Each Other* reimagines the network of our relationships under the social contract as concentric circles of mutual obligations. The 'core' consists of family and friends, second is local community, thirdly, the nation state level where the social contract includes duties of citizenship, taxation, abiding laws and voting.² However, social media causes issues with Shafik's theory

² Minouche Shafik, *What We Owe Each Other* (2021), pp. 3-4

where these concentric circles can become intertwined due to the connectivity of the internet. Whilst the subject of social media and social contract theory is relatively niche there are a few articles and journals that attempt to address ongoing issues of namely data protection and user rights. Synder et al in their case study of MySpace in 2007 concluded that the current social contract with this platform is summarised in the 'terms of use' which suggests that its intended use is for personal and social means as opposed to information gathering.³ Yet it becomes apparent that the purpose of this platform has become blurred just as it has in differentiating between personal and professional life with the platform being used as a means for creating information profiles on users.⁴ Similarly, Berkelaar in 2014 researches the theory and perspectives behind cybervetting through social media. On the 'cybervetted' side Berkelaar found that applicants took issue with the practice believing it violated their privacy as well as relevant information being entirely subjective to the employer.⁵ Employers felt as though cybervetting gave them a deeper understanding of the character behind the applicant, both parties agreed that transparency was essential to the process with Berkelaar using Kantian philosophy to protect "human autonomy and dignity".⁶ Transparency has a prevalent impact within this thesis, suggesting that in cyberspace and social media platforms in order to prevent injustices companies must be transparent with the user and the state to protect individuals rights and liberties.

In the past some believe social contract theory holds little relevance in the regulation of business. Hodapp criticises Donaldson arguing that by using contractarian theory is to view the business as "an abstract entity without any natural rights" and thus invalidating the rights of the creator.⁷ As social media platforms are the property of its creator this poses issues for privacy, these platforms act as a public conversation space therefore it is a mutual relationship between the social media company and its user. Hodapp seems to suggest corporate social responsibility and minimal state interference in business is the most

³ Johnny Synder et al, 'MySpace.com - A Social Networking Site and Social Contract Theory', *Information Systems Education Journal*, Vol. 5, No. 2, (January 2, 2007), pp. 1-11, Retrieved from: <http://isedj.org/5/2/>

⁴ Ibid

⁵ Brenda L. Berkelaar, 'Cybervetting, Online Information, and Personnel Selection: New Transparency Expectations and the Emergence of a Digital Social Contract', *Management Communication Quarterly*, Vol. 28, No. 4, (2014), pp. 479-506

⁶ Ibid

⁷ Paul Hodapp, 'Can There Be a Social Contract with Business?', *Journal of Business Ethics*, Vol. 9, No.2, (February 1990), p. 129, Retrieved from: <https://www.jstor.org/stable/25072014>

suitable approach. However, as discussed later in this thesis, this attitude in which we have been reliant has placed a great amount of power in the hands of corporations that transcend state level. However, even though Hodapp's criticism of Donaldson's theory was before the rise of social media platforms, it is this phenomenon that has required a reassessment of how business and state interact especially with the unparalleled influence these platforms are accumulating.

Other researchers focus on the ethics of operations by social media companies. Ghosh contends that large internet businesses have damaged public trust resulting in the need for more regulation from government, Ghosh highlights three main areas for concern; similarly, to the views of Berkelaar and others, transparency followed by privacy and competition.⁸ On a policy of transparency Ghosh describes targeted online content as "the simplest of the digital giants' offenses to regulate and a good starting place for legislators".⁹ The author also suggests that the United States offers little in protection of privacy and although companies such as Meta have promised to make changes these are viewed as superficial and are being criticised by different states.¹⁰ Ghosh brings up important issues in need of regulation, the competition established by capitalism leads to the rights and liberties of the user being affected in order to prioritise profit margins. This point is further developed within this essay as regulation of social media platforms poses difficulties, to rely on self-regulation as government have already done so does not assure the user of any protection and complete state regulation creates a power imbalance in favour of the state. As these articles suggest, the current state of social media proves that the state is not doing enough in terms of user protection and as social contract theorists would suggest this shows the state is not fulfilling its duties to protect the user.

Upon reviewing the literature surrounding this subject there are many attempts to criticise the current state of social media and its effects on political ideals. That being said, the use of theorists such as Rawls and his contemporaries are not as frequent, this is most likely due to

⁸ Dipayan Ghosh, 'A New Digital Social Contract Is Coming for Silicon Valley', *Harvard Business Review*, (March 27, 2019), Retrieved from: <https://hbr.org/2019/03/a-new-digital-social-contract-is-coming-for-silicon-valley>

⁹ Ibid

¹⁰ Ibid

the fact that much of their ideology is before the time of social media. I will demonstrate that we can explore the use of works such as *A Theory of Justice* to show how social contract theory suggests the relationship between the states and its subjects should be. Issues of digital privacy and data protection are common themes amongst works critiquing social media platforms and companies in light of data breaches and political dissent which has often begun on platforms such as Twitter and Facebook notably including the Arab Spring. A study conducted by Tufekci and Wilson during the Tahir Square protests found “compelling evidence that supports the contention that social media, specifically Facebook and Twitter, played a vital role in the protests leading up to the resignation of the Egyptian President Mubarak”.¹¹ The role that these platforms have on society is constantly expanding, encompassing not only the world politically but socially and economically as well. In order to ensure this is done safely the role of the state and business needs to be reassessed.

Initially, the difficulty social media platforms posit is privatisation of areas that are public spheres. Social media companies are privately owned businesses focusing on driving profits through gaining traffic on their platforms. However, this essay believes that these spaces should have some level of public jurisdiction due to the platform’s reliance on its users’. Because of this, the arguments of political philosophers such as Rawls can provide relevant reasoning into the rights and liberties owed to the user as well as criticising the nature of how social media platforms are run.

As this essay reveals, social media and cyberspace is relatively unregulated due to conflicting jurisdiction of states on international platforms, yet we cannot reasonably rely on companies to regulate themselves and uphold the rights and liberties of the user due to their own ambitions dictated by the free market as proven in the Cambridge Analytica scandal. The compromise therefore is a combination of transparency and separation of powers, this means that social media companies and the state need to maintain a dialogue of how the former operates and how the latter will provide oversight that ensures

¹¹ Dustin Kidd and Keith McIntosh, ‘Social Media and Social Movements’, *Sociology Compass* 10/9 (2016), pp.787, Retrieved from: <https://doi.org/10.1111/soc4.12399>

democracy is not threatened by the profit of users' data and spread of misinformation. In both cases this will enable public trust to begin a path of rebuilding, whilst ensuring that social media companies are not left to their own devices in order to protect democratic values which is the role of the state itself according to contractarianism. We will also analyse contending views of Rawlsian theory using the libertarianism of Nozick and pluralism of Sandel, widely considered some of Rawls most renowned critics and summarise why Rawls' theory helps us to understand and answer this situation more accurately.

The final part of this essay uses a hard case of the Cambridge Analytica scandal to explain how social media companies and platforms have failed in the past and caused significant damage to political institutions and the reputation of government and cyberspace. In light of the recent events of political turmoil such as Capitol Hill riots, it becomes clear there is still progress to be made in terms of making social media a safer space for politics and society. By employing the work of Rawls, we can begin to shape a more just society that caters for the exponential growth of these outlets, in a space which is dominated by private enterprise driving profits from the actions of the user it is important to ensure that above all the user is protected as Rawls' *Justice as Fairness* accentuates.

1. Rawlsian Theory

To summarise Rawlsian social contract theory briefly is the "justification of liberal egalitarian principles of justice guaranteeing equal liberties to all, equal opportunity for all, and a distribution of economic goods that makes the least advantaged as well off as possible".¹² Heralded as one of the most influential twentieth-century contractarians, Rawls brought the popular enlightenment theory into the contemporary.¹³ Although faced with his critics, Rawls can be credited with the revival of social contract theory in modern political philosophy.

¹² Jonathan Wolff, 'Equality and social justice', *Issues in Political Theory Fourth Edition*, (University of Oxford Press, 2019), p. 115

¹³ Shafik, (2021), p.7

In *A Theory of Justice*, Rawls introduces the concept of 'The Original Position', the aim of this is to conceptualise a situation in which each citizen is represented where they all come to an agreement on the intrinsic principles of their society.¹⁴ Arguably the most important aspect of this agreement and feature of the original position is the 'Veil of Ignorance'. "Which prevents arbitrary facts about citizens from influencing the agreement among their representatives", these facts include: race, ethnicity, gender, age, income, wealth, natural endowments, doctrine, generational history, political system, class structure, economic system or the level of economic development.¹⁵ This, Rawls believes, is necessary to "nullify the effects of specific contingencies which put men at odds and tempt them to exploit social and natural circumstances to their own advantage".¹⁶ The 'Veil of Ignorance' is a hypothetical tool used to justify reasonable expectations from within a state of nature can be employed to scrutinise the relationship between the state and its citizens. Using a Rawlsian Veil of ignorance, we can begin to criticise the current state of affairs within society, for example can we reasonably expect civilians to enter into a society where democratic processes are negatively affected by online social media conglomerates? We can assume that in the 'Original Position', if the knowledge of social media and its management is permitted, 'representatives' would choose principles that ensure their liberties and rights are not affected by private business. According to Wenar, in the original position parties would have a comprehensive knowledge of "general facts and common sense about human social life; general conclusions of science (including economics and psychology) that are uncontroversial".¹⁷ Therefore we can make the assumption that the concept of social media is understood since this encompasses an important aspect of human social life.

Following the creation of the Veil of Ignorance Rawls explains that from the original position two principles of justice would be agreed upon. Rawls places these principles in a lexical order, the first being "the equality in the assignment of basic rights and duties, while the second holds that social and economic inequalities... are just only if the result in

¹⁴ Leif Wenar. 'John Rawls', *The Stanford Encyclopaedia of Philosophy* (Summer 2021 Edition), Edward N. Zalta (ed.), <https://plato.stanford.edu/archives/sum2021/entries/rawls/>

¹⁵ Ibid

¹⁶ John Rawls, 'The Veil of Ignorance', *A Theory of Justice*, (Harvard University Press, 1971), p.136

¹⁷ Wenar, (2021)

compensating benefits for everyone”.¹⁸ The second principles commonly regarded as the ‘Difference Principle’ ensures that those who are least advantaged in society must still benefit from social and economic inequalities. To clarify, the ‘least advantaged’ referred to here according to Rawls are still subject to social, economic and political inequalities in a just society, however it is the duty of the state and its institutions to ensure they are afforded equal opportunities. Therefore, society should be positioned to ensure that no private business can take advantage of those in a disadvantaged position especially in regard to their right and liberties. This essay poses that in an online society, the ‘least advantaged’ may account for a majority, as this essay shows, users who have had their rights and liberties impeded are subject to political inequalities such as in the case of the Cambridge Analytical scandal.

This is where social media posits its first issue, in ‘online society’ the jurisdiction of the state becomes more blurred as previously discussed, power is transferred into the hands of the companies that operate social media platforms in the form of terms and conditions and user agreements. Whilst it is worth noting that these companies are still subject to laws within the state they are based, due to their nature as international platforms this means the rest of the states have little control over their operations. We can see these frustrations surmount in light of the Cambridge Analytica scandal when the UK Parliament labelled Facebook as “‘digital gangsters’ in the online world, considering themselves to be ahead of and beyond the law”.¹⁹

When companies fail to protect users’ data whether this is through data leaks or in the instance of the Cambridge Analytica scandal (where data was sold to third party companies in order to create voter profiles) we must acknowledge that they are unable to properly govern in online spaces. Applying Rawls’ difference principles to this dilemma we can determine that users are the ‘least advantaged’ as the benefits they receive are of limited use to these platforms rather than individuals that profit from them. Not only this, but their

¹⁸Rawls, pp. 14-15

¹⁹ The Digital, Culture, Media and Sport Committee – UK Parliament, ‘3. Data use and data targeting’, *Disinformation and ‘fake news’: Final Report*, (18th February 2019), Retrieved from: <https://publications.parliament.uk/pa/cm201719/cmselect/cmcmds/1791/179102.htm>

political liberties have also been hindered by these actors, resulting in political inequalities compared the general population. Using the framework of Rawlsian contractarianism, we are able to determine that there are not sufficient checks and balances in place as it stands to maintain liberty and equality amongst social media. It is becoming more apparent that 'online society' has a prevalent impact on society today.

2. Contending Theories

Despite its popularity, *A Theory of Justice* still faces its criticism from other theorists, mainly those who take a more *laissez-faire* approach. Using the arguments of philosophers such as Michael Sandel, Robert Nozick, and Jürgen Habermas we are able to put issues of governance in cyberspace in a broader context. Sandel's critique of Rawls' theory focuses on the lack of pluralism believing that Rawls does not focus on community but rather individualism. Nozick is able to provide a libertarian argument on the theories posed by Rawls, Nozick emphasises individual rights and the right to private property arguing against big government and state regulation. On the other hand, as this essay argues, Habermas and Rawls draw similarities in their approach to the influence of public spheres yet still provides a contrast in approaches to domestic and international policy.

Sandel's objections on Rawls' philosophy with regard to the difference principle is "using some as means to others ends, a formula this liberalism in committed to reject".²⁰ Instead Sandel takes a communitarian view that focuses on maximising pluralism instead of individual rights. Sandel argues "deploying an individual's assets for the sake of the common good would seem an offense against the "plurality and distinctness" of individuals this liberalism seeks above all to secure".²¹ Here Sandel focuses on the use of individuals assets in the difference principle, yet this also demonstrates why Rawls' theory is more appropriate when discussing social media. With regard to social media, the concern of assets belonging to individuals being used in order to look after others is unnecessary in cyberspace. Social media companies accept the responsibility of protecting the user of their

²⁰ Michael J. Sandel, 'The Procedural Republic', *Political Theory*, Vol. 12, No. 1, (February 1984), p. 89, Retrieved from: <https://www.ijstor.org/stable/191382>

²¹ Ibid, p. 90

platform and hence are expected to commit resources to upholding this. Because these companies assume a position comparable to the state where they hold resources and assets something referred to as corporate social responsibility, they possess the means to ensure the vulnerable are protected.

Despite this, Sandel could be used to critique the state of tailored algorithms which have led to the conceptualisation of echo chambers and filter bubbles as well as the spread of misinformation, which contributes to the polarisation of social media. A popular argument formed by contemporaries including Sunstein in 2018 and Pariser in 2011 is that social media companies facilitate political polarisation through the emergence of tailored algorithms where like-minded individuals interact on a far regular basis which fosters homogeneous views leading to the increasing popularity of extremist views.²² The risk this poses to modern politics is through manipulating users access to certain knowledge by increasing interactions with only likeminded individuals using algorithms. The way in which social media companies are run leads to them promoting increased interaction to drive profits, this was also responsible for the campaigns behind the 2016 presidential election and the Brexit campaign. That being said, recent studies on echo chambers and algorithms causing polarisation and political dissent, Bruns in 2019 and Barberá in 2020 show that the due to the infancy of this field, lack of empirical evidence on these phenomena (combined with the repeated misuse of the terms) has led to a discursive knowledge of how politics and social media interact.

“The ‘filter bubble’ and ‘echo chamber’ concepts, however, with their strong technologically determinist elements, have very little to contribute to the solution of such fundamental challenges; indeed, with evidence for their absence in observable reality continuing to mount, perhaps it is time to allow them to fade into obscurity”.²³

²² Pablo Barberá, ‘Social Media, Echo Chambers, and Political Polarization’, *Social Media and Democracy: The State of the Field, Prospects for Reform*, (Cambridge University Press, 2020), p. 34

²³ Axel Bruns, ‘Filter Bubble’, *Concepts of the Digital Society*, Vol. 8, No. 4, (2019), Retrieved from: <https://policyreview.info/concepts/filter-bubble>

For this reason, this thesis neglects using the argument of ‘filter bubbles’ and ‘echo-chambers’ causing significant impact on political polarization until there is sufficient scholarly research to implement its use as a critique of the state of social media platforms and how they are governed. Despite this, Sandel’s critique could be a solution to the argument against tailored algorithms and how social media companies operate. Sandel’s pluralist beliefs would promote the exposure to different political views and beliefs, by social media companies deliberately showing the user content from similar backgrounds they limit pluralism online. One of Sandel’s arguments against the original position is the rejection of the unencumbered self, “on the grounds that a person without unchosen attachments to different communities is ‘a person wholly without character, without moral depth’”.²⁴ According to Sandel communities and exposure to different views play a key role in the identity of ones self, as interactions on social media generate a more specific algorithm for the user this can be seen as limiting the progression of society. Although it may not be clear yet whether online platforms cause political dissent deliberately, the notion that they limit the diversification of society online is substantial.

In a 2018 interview on *Q&A with ABC News* Sandel, in light of the Cambridge Analytica scandal, claimed that user’s privacy had been violated, “essentially the business model is to give us a service for free – it seems free – in exchange to sell information about us to advertisers so they can sell us stuff. That’s the business model”.²⁵ Sandel argues this ‘dark side’ of social media has an impact on how news is delivered to the user and also threatens democracy, finally Sandel asserts that “we are in for a long overdue debate about how to rein in the unaccountable power of these companies”.²⁶ In this interview Sandel suggests that regulation would be the answer to the ‘unaccountable power’ of social media companies, it is clear here that the manner in which these businesses operate challenge political theory. Sandel promotes ethical pluralism as a means for diversifying society, however these moral and ethical differences can lead to inequality especially in the case of

²⁴ Jonathan Marks, ‘Jean-Jacques Rousseau, Michael Sandel and the Politics of Transparency, *Polity*, Vol. 33, No. 4, (University of Chicago Press, 2001), p. 638

²⁵ Michael Sandel, ‘A Night with Michael Sandel – Q&A’, *ABC News*, (26th March 2018), Retrieved from: <https://www.abc.net.au/news/2018-03-26/ganda:-dark-side-of-social-media-threatening-privacy:-professor/9589004>

²⁶ *ibid*

social media companies that can act in their own interests corresponding with their own ethics and morals. We also see in elections where individuals can attempt to influence politics because they believe they are best suited for political responsibility like the case of the 2016 presidential election and the Brexit campaign. Facilitating the prerogative of individuals or groups with access to more resources/finances causes more disparity among society.

On the other hand, there are some theorists like that of Robert Nozick who engages in a libertarian critique of Rawls's stance on egalitarianism. Nozick believes in a 'minimal state', with his priority being the protection of the individuals rights, liberties, and properties. Because of this stance, Nozick has found himself the "ideological spokesman for that section of the American population who would dearly love to reduce or dismantle the welfare state" in his "valiant attempt to defend bourgeois individualism."²⁷ Nozick rebuttal to *A Theory of Justice*, with his book *Anarchy, State, and Utopia* the philosopher asserts that "a greater-than-minimal state could not arise without violating natural rights".²⁸ These natural rights notably include right to property, yet Wesche contradicts this by arguing that the unchecked right to individual control of capital "effects an unequal distribution of the value of liberty".²⁹ In this respect the state has a duty to protect the rights of all, this can be achieved by restricting certain liberties and rights.

Nozick's libertarianism when compared with Rawls egalitarianism provides a useful insight into different interpretations of priorities within a capitalist system. Nozick focuses on the rights of the individual and minimising the role of the state that does not engage in extensive regulation or distribution. Despite this, Nozick inherently fails to address issues of power imbalances and distributive justices caused by his libertarianism which can lead to the antithesis of Rawls's difference principle by disenfranchising the least advantaged. It becomes apparent that much of Nozick's theory in individual rights are contingent on property rights "overlooking other fundamental rights such as privacy, freedom of

²⁷ Boris Frankel, 'Robert Nozick's Anarchy, State, and Utopia', *Theory and Society*, Vol. 3, No. 3, (Autumn, 1976), p. 443, Retrieved from: <https://www.jstor.org/stable/656974>

²⁸ Ibid, p. 442

²⁹ Wesche, p. 101

expression, freedom of speech among others”.³⁰ Hence, Nozick’s entitlement theory focuses on the individual and their properties much more than society’s collective of individuals and their rights somewhat neglecting the idea of a society. The current state of social media companies could be seen to resemble much more of Nozick’s theory with minimal government intervention and property rights afforded to the companies that self-govern. In Nozick’s opinion a minimal state would result in the legitimisation of natural rights, however with the privatisation of public conversation spaces online we cannot rely on profit-driven businesses to protect the rights of individuals. Corporate social responsibility (CSR) fails to address and checks and balances for this level of governance in an ‘online society’. In this case, Nozick’s entitlement theory can be abused, his focus on property rights becomes much more difficult in cyberspace when the private property of companies and public spaces become intertwined. To accept that these platforms and hence businesses ascended to global level does not necessarily validate strong government regulation. It is only when the interests of these companies’ conflict with the rights and liberties of citizens, is the state required to expand its jurisdiction. Nozick’s failure in his theory is in creating more disparity between the advantaged and the less advantaged proposing that “it is permissible for people to have and hold property on however an unequal basis provided it was acquired legitimately in the first place”.³¹ This is the issue within society that Rawls is attempting to address in his work. In light of social media companies and their wrongdoings we can see how property can have damaging effects on society and democracy. Despite this, Frankel contends that Nozick would support this notion, “Nozick would rather compromise his own theory and sanction a more extensive State in the short run (in order to rectify past injustices)”.³²

When applying Rawlsian theory to a modern context it is important to address later critiques of his work including those from Jürgen Habermas in his *Theory of Communicative Action*. Habermas’s Critical Social Theory focuses on communicative action and discourse ethics, where individuals in society can reach agreement through open communication and

³⁰ A. Salahuddin, ‘Robert Nozick’s Entitlement Theory of Justice, Libertarian Rights and the Minimal State: A Critical Evaluation’, *Journal of Civil & Legal Sciences*, Vol. 7, No. 1, (2018) p.4

³¹ Ibid, p. 3

³² Frankel, p. 446

where rational discourse is promoted in order to provide a consensus also known as communicative rationality. In these cases, social media becomes a platform that can facilitate both communication and discourse, a symbolic reproduction, what we understand Habermas would consider “relief mechanism” - where society is maintained through communicative actions.³³ However, once communicative action becomes influenced by capitalist instrumental rationality ‘colonization’ occurs, where “systemic mechanisms suppress forms of social integration even in those areas where consensus-dependent coordination of action cannot be replaced”.³⁴ In the case of social media, we are beginning to see capitalist mechanisms such as the privatisation of these platforms begin to disrupt social integration either through the spread of misinformation or deliberately undermining democratic processes. In a just society, social media platforms would be a modality for communicative rationality as it is able to give an equal voice to all users, however, once this becomes encroached by instrumental rationality from specific parties, then democratic processes are undermined. Another project central to Habermas’s theory is discourse ethics which complements his theory of communicative action. Broadly speaking discourse ethics is “the language game of argumentation in which disputed validity claims are redeemed”.³⁵ There are, of course, rules of discourse to be established including that everyone is allowed to make an assertion and also question assertions,³⁶ as well as “no speaker may be prevented, by internal and external coercion, from exercising his rights”. In this case, in order to communicate and agree on principles, everyone is given a voice. This draws similarities to Rawls’s principle of equal opportunity where no one party can influence and limit the rights of others especially in regard to finding a consensus.

In the case of social media platforms, we can consider that they are a vice in which to demonstrate communicative action, facilitating discourse and promoting equality by giving every user a voice to make and dispute an assertion by becoming a public conversation space. However, once instrumental rationality becomes more intertwined with the role of social media, the role of the state is challenged, and rights and liberties are infringed. With

³³ James Gordon Finlayson et al, ‘Jürgen Habermas’, *The Stanford Encyclopaedia of Philosophy* (September 2023) Retrieved from: <https://plato.stanford.edu/entries/habermas/#HabeMatuSociTheoTheoCommActi>

³⁴ Ibid

³⁵ Ibid

³⁶ Ibid

that being said, there still remains some key differences between Rawls's and Habermas's social theory frameworks. In *A Theory of Justice*, Rawls's sets the framework of principles that govern a single society focusing on the cross-functional relationship with the state, whereas Habermas's theory approaches both domestic and international principles. For example, Habermas argues "that the constitutionalisation of international law can proceed without a global state, and as such, cosmopolitans should aim at a "politically constituted world society"". ³⁷ Whilst international thinking and a global constitutionalism may be applied to the case of social media and the privatisation of public conversation spaces because they transcend state borders. I will go on to explain why it makes more sense to use a Rawlsian *Theory of Justice* as opposed to a framework that deals with international relations using the case of Rawls's later work in the *Law of Peoples*. Beitz asserts that Rawls's international theory "seeks to articulate the fundamental purposes that should guide the foreign policies of liberal democratic societies". ³⁸ However, the limitations with this theory, as outlined by Beitz and Rawls himself is that not all states reflect liberalism and Rawls's *Law of Peoples* is a framework aimed at liberal political societies. ³⁹ This somewhat limits the application of the theory when most states have access to social media platforms, both liberal or non-liberal. Therefore, it is more suitable to consider issues in social media as a domestic issue and treat them as such.

"In the domestic case, the object is to choose principles of justice for institutions that will include and apply to everyone. In the international case, by contrast, the object is not to precisely choose principles for international institutions."⁴⁰

As explained here, Rawls's *A Theory of Justice* is the framework for the creation of a just society according to the principles that are chosen in the Original Position which apply to everyone. It is much more suitable to address issues in social media privatisation domestically as the companies that operate them do so nationally. As different states have different political beliefs, it would be difficult to find a consensus among such diversity

³⁷ Ibid

³⁸ Charles R. Beitz, 'Rawls's Law of Peoples', *Ethics*, (University of Chicago Press, 2000), p.670

³⁹ Ibid, p .675

⁴⁰ Ibid

about how to govern social media and then go on to enforce this. Instead, each states responsibility entails protecting the rights and liberties of their people, therefore this should be extended to the case of social media when it becomes apparent that these are being infringed. Whilst this does reflect more of the sentiment in Rawls's *Political Liberalism*, where in modern liberal societies "multiple comprehensive doctrines will arise each embodying different and possibly incompatible conceptions of individual good".⁴¹ It is important to understand why *A Theory of Justice* is more suitable as a framework, *Political Liberalism* is a more pragmatic approach to a pluralist society but is still limited with its application to liberal societies, where non-liberal societies are not represented, similar to his *Law of Peoples*. As stated previously, social media is available to liberal and non-liberal societies and if later Rawls cannot be applied due to its refrain of non-liberal societies, then we must employ a more domestic approach. Rawls's earlier work provides a normative framework for a just and ideal society; hence the nature of this essay is more normative and employs principles from *A Theory of Justice* to identify what a just society would look like in a world with social media.

The main argument for choosing Rawls when critiquing the state of social media is his focus on inequality in *A Theory of Justice* whether this is social or economic. By applying these principles to the philosophy of how social media operates we can ensure that there is justice. Employing the arguments of Nozick and Sandel provide deliberation on a field that is still in its infancy giving a wider scope of understanding. By using Habermas to compare later arguments of Rawls we are able to gain a better understanding of why it is more suitable to use domestic theory instead of international theory despite social media transcending state borders. Whilst the political theory surrounding the internet and more specifically social media is still being developed, it is clear that the companies that control them have a disproportionate amount of authority and power online and this poses significant issues for democracy.

3. The Social Media Effect

⁴¹ Ibid, p. 671

Social media, whilst becoming a platform for change and progress, has also become a facilitator and enabler of misinformation, political dissent and polarisation, as well as failing to protect user privacy by selling their data to third parties most notably occurring in the Cambridge Analytica scandal in 2016. This not only directly infringes the users' rights and liberties as a citizen but also causes social and economic inequality to the detriment of user. Socially, actions such as these have a major impact on democratic processes, during the 2016 presidential election Cambridge Analytica targeted 13.5 million 'persuadable' voters for Donald Trump in sixteen battleground states, focusing on the Midwest.⁴² Also targeting "Clinton supporters, especially "white liberals, young women and African Americans," with communications designed to reduce turnout among those groups".⁴³ Whilst it could be argued that data gathering has been a prevalent aspect of how social media companies are run as well as exercising free speech to some extent, deliberately attempting to affect the voter turnout of one party in order for the betterment of another is entirely undemocratic. Doing so, unbeknownst to the user, reveals issue of transparency about the operations of these companies. On top of this, undertaking smear campaigns such as "Defeat Crooked Hillary" draws a thin line between free speech and libel and slander which social media platforms are facilitating, regardless of its impact on politics.

Some believe Donald Trump's campaign was built on "little more than large rallies, a Twitter account, and the free media" with insiders suggesting that half the campaign budget went into digital media.⁴⁴ The idea that social media, a public space, can be bought and manipulated for the interests of the elite not only proves (a) that social media companies are incentivised by profits to such an extent where they are willing to place the user in a vulnerable position but also highlights (b) the inefficiency of the state in taking proper steps to stop this from happening. Therefore, by using *A Theory of Justice* we are able to identify not only issues of privatisation of public spaces but we are also able to hold the state accountable for when it does not properly protect its people.

⁴² Nathaniel Persily, 'Can Democracy Survive the Internet', *Journal of Democracy*, Vol. 28, No. 2, (April 2017) pp.65

⁴³ Ibid. pp. 65-66

⁴⁴ Ibid, p. 64

In regard to the first point made, the willingness to impede on the basic rights of an individual shows that users are the least advantaged in 'online society'. We can see that social inequalities begin to form due to the privatisation of social media which results in users being vulnerable to the actions of those in charge of social media platforms who can be considered 'more-advantaged'. We understand that the aim of the social media platform is to influence the user, however using the difference principle posed by Rawls in this dilemma, we can raise multiple issues with this. Firstly, the basic liberties of the user should be protected by the company, this includes political liberties and liberties of conscience, freedom of assembly, and freedom of speech all outlined in Rawls' first principle. However, once it becomes apparent that these values are left unprotected by the platform companies, the state must intervene. According to the difference principle, social and economic inequalities are just as long as the least advantaged benefit from them.⁴⁵ But as we see challenges to democracy through the spread of misinformation and profit-driven desires and as well as the injustices of the Cambridge Analytics scandal (which will be further explored later in the thesis) the least advantaged cease to benefit. As Rawls dictates "Injustice, then, is simply inequalities that are not to the benefit of all".⁴⁶ Because of this we can determine that it is unjust for social media companies to regulate themselves and we cannot expect them to have the interests of the public/users as their priority in a capitalist market that is driven by profits. Therefore, stricter measures need to be placed on these companies to ensure that least advantaged in society cannot be affected by these inequalities.

Measures have been taken by some companies in order to avoid criticisms of their initial regulatory measures for instance Meta (previously Facebook) launched an Oversight Board in response to growing concerns about self-regulation. However, Meta directly funds their oversight board having recently contributed \$150 million over a three-year deal, this and 'top executives' within Meta/Facebook played a significant role in its formation.⁴⁷ This raises issue in political theory, where political decision-making processes are dictated in privatised

⁴⁵ Rawls, pp.14-15

⁴⁶ Ibid, p. 62

⁴⁷ Cecilia Kang, 'What Is the Facebook Oversight Board?', *The New York Times*, (May 5th 2021), <https://www.nytimes.com/2021/05/05/technology/What-Is-the-Facebook-Oversight-Board.html>

areas that are self-regulated, this threatens democracy especially when these companies make decisions unbeknownst to the public/user and the state. Therefore, not only is transparency crucial to the processes taken by large companies when handling users' information, the Cambridge Analytica scandal is the most prevalent example of the consequences of the failure to do this. But also, it is imperative that separation of powers is maintained, this level of governance can only be achieved by state actors, ideally this would be the cooperation of different states as we understand how social media platforms extend beyond borders globalising society. David M. Douglas expands on this idea attempting to use Rawlsian theory to create a regulatory body for the internet, "the participants would be representatives of the populations of individual countries but without the knowledge of which country they are representing".⁴⁸ Douglas uses a 'Veil of Ignorance' among the regulatory body to ensure no biases affect the decision-making processes. However, he then asserts that this is accompanied by difficulties including governments and individuals that do not agree with Rawls' liberal theory. Although Douglas suggests a Rawlsian 'overlapping consensus' by using a variety of perspectives on an institution in this case the regulatory body it is still apparent a consensus will be difficult to reach.⁴⁹ Nevertheless, some issues such as stopping private business controlling the politics of different states would be far more likely to reach an agreement among this theoretical body, although it is important to understand its limitations. It is also worth saying this is also in the best interests of the social media companies in order to avoid full state intervention.

A prevalent aspect of cyberspace which could cause issues within governance is the anonymity of the internet. However, as discussed by Christopherson in 2007, a strong theory within online spaces is the 'Equalization hypothesis'. According to the researchers Postmes & Spears, computer-mediated communication (CMC) results in users unable to base social interactions off stereotypes or prejudice, on top of this "the anonymity of CMC frees members of lower status from their traditional social roles to behave in ways

⁴⁸ David M. Douglas, 'Towards a just and fair Internet: applying Rawls' principles of justice to Internet regulation', *Ethics and Information Technology*, (21st January 2015), p. 63, Retrieved from:

<https://link.springer.com/article/10.1007/s10676-015-9361-1>

⁴⁹ Ibid, p. 63-64

traditionally not associated with their group membership".⁵⁰ This could be seen as helpful in providing equality in cyberspace where individuals can act freely unconstrained by societal standards. That being said, there are concerns that this has a negative impact online where anonymity can enable anti-social behaviour.⁵¹ With anonymity comes many issues of identification, users can appear to be someone they are not and is a topic that is still being researched. Despite this, social media companies that have the user's data are able to understand much more about individuals than anyone else which is yet another reason as to why it is important that the information these platforms have are not being abused by any groups.

Private ownership and property has been a decisive issue among political theorists, relating to businesses or 'privately owned mega-firms', there is much debate over property based influence undermining democratic decision making.⁵² Wesche argues, using Rawlsian theory, that "political institutions have to account for a mechanism" that restricts this influence.⁵³ Therefore, using Rawls's principles in *Justice as Fairness* we can determine ways in which the state can account for the influence privatised social media companies. Under Rawls's two principles of justice, we can expect (a) each person to be subject to the same rights and liberties and (b) social and economic inequalities are arranged so that the least advantaged are better off.⁵⁴ In this case, we must determine whether these companies are infringing on a just society. As public spheres that include conversation spaces the privatisation of social media posits different issues of justice. In his restatement of *Justice as Fairness*, Rawls claims "Right to property as including the equal right to participate in the control of the means of production and of natural resources, both of which are to be socially, not privately owned".⁵⁵ To elaborate, online property is to be considered among property rights, as the collection of users data is monetised in cyberspace, generating profit for online corporations. This is also why data protection acts are crucial to the governance

⁵⁰ Kimberly M. Christopherson, 'The positive and negative implications of anonymity in Internet social interactions: "On the Internet, Nobody Knows You're a Dog"', *Computers in Human Behaviour*, Vol. 23, (2007), p. 3045

⁵¹ Ibid, p. 3051

⁵² Tilo Wesche, 'The Concept of Property in Rawls's Property-Owning Democracy', *Analyse & Kritik*, Vol. 1, (2013), p. 99

⁵³ ibid

⁵⁴ Rawls, p. 60

⁵⁵ John Rawls, *Justice as Fairness*, (2001), p. 138

of cyberspace as they understand that users are the owner of their data. Hence, the user is the primary means of production within cyberspace, therefore, using a Rawlsian lens, the privatisation of social media platforms restricts the rights of its users. Because of this, the arguments of political philosophers such as Rawls can provide relevant reasoning into the rights and liberties owed to the user as well as providing sufficient ground for regulation. Similarly, we can use a socialist view on property ownership to advocate for greater autonomy among users. It can be argued without users these platforms would not function, the fruits of their labour comes from content produced on these platforms by users therefore it would be 'just' to transfer more power to the public.

However, the blame cannot be put entirely on the corporate entities that look to sustain their business through the profits of their platforms, some accountability must be placed on the state. Their failure to protect users' rights and liberties not only questions the jurisdiction of government in online spaces, but directly impacts Rawls' proposed first principle. The state's priority is in protecting the fundamental rights and liberties of its citizens. By evaluating the United States' policy on content produced in social media we can recognise that constitutional law protects the interests of private companies in avoidance of promoting government regulation. In this vein, we understand that more responsibility is placed upon social media companies to provide their own set of legislation. To accept that private businesses can expand beyond the jurisdiction of the state admits that government is struggling to keep pace with the exponential growth of cyberspace. Pagallo contends that a contractarian conception of justice that relies on tolerance creates a foundational framework for cyberspace "because such rules have to operate across cultures, societies and states".⁵⁶ However, this also comes with its limitations, Pagallo also notes that too much tolerance can be abused, in this case the toleration of social media companies becoming their own bureaucratic powers. Ultimately, Pagallo settles on finding a compromise using 'morally coherent theory', this I argue puts pressure on the state to be more attentive to the role social media companies play in society in an age of uncertainty in cyberspace.

⁵⁶ Ugo Pagallo, 'The broken promises of democracy in the information era', *Digital democracy in a globalised world*, (2017), pp.77-99

It is not the argument of this essay to nationalise social media platforms in order to place them under 'social ownership' through the state. The jurisdiction of this ownership would transcend state borders resulting in conflicting interest from state-actors causing an authority vacuum. Instead, the compromise of state actors monitoring social media companies' operations is required in order ensure that the platforms users rights and liberties are protected from non-state actors. Although this may seem suggestive of total government regulation it is important to avoid this to ensure the state does not restrict the growth of the market and deter the progression of private business which sustains the economy. We can employ social contract theory to understand the roles of the state and its inhabitant, we can also identify if the current situation is in need of change. As social media platform become facilitators of "the distribution of fake news and fake products, manipulation of digital content for political purposes, and promotion of dangerous misinformation on elections, vaccines, and other public health matters" it becomes clear there is a need for better regulation.⁵⁷ Companies that place their interests and profits first risk "tragedy of the commons" where the users' trust becomes jeopardised hence creating tension between the companies and those that use their platforms.⁵⁸ In order to avoid this, Cusumano et al suggest government and social media companies will need to work together closely since government oversight/intervention seems inevitable, these companies need to take proactive measures to ensure "new institutional mechanisms for more participative forms of regulation".⁵⁹

That being said, the private interests of these companies reflect a deeper issue of justice in our political systems and how the globalisation of society impedes of the jurisdiction of state governance. Because social media platforms transcend borders there has been more pressure for the companies that own them to regulate themselves, this is known as corporate social responsibility (CSR).⁶⁰ Grygiel and Brown use the term corporate citizenship

⁵⁷ Michael A. Cusumano, Annabelle Gawer, and David B. Yoffie, 'Social Media Companies Should Self-Regulate. Now.', *Harvard Business Review*, (January 15th, 2021)

⁵⁸ *ibid*

⁵⁹ *ibid*

⁶⁰ Jennifer Grygiel and Nina Brown, 'Are social media companies motivated to be good corporate citizens? Examination of the connection between corporate social responsibility and social media safety', *Telecommunications Policy*, (Syracuse University Press, 2019), pp. 445-460

(CC) to describe social media companies, because of the unique position they hold in society there is more responsibility for them to protect the users of their platforms. Nation states “can no longer effectively regulate in a globalised world” this creates a “regulatory vacuum effect”.⁶¹ However, as mentioned previously, this raises a few concerns in relation to social contract theory, if the state cannot effectively govern these platforms hence relying on self-regulation, then questions arise as to the legitimacy of the state and its jurisdiction. Private companies given this level of autonomy over not just the operations of their business but over the public impedes on the duties of the state. This opens up the possibility for private interests to shape public discourse.

“At the core of participatory democracy theory is the role of the public or citizens in the rational evaluations of the pros and cons of an issue...However, with the introduction of social media, affected people are encouraged to voice their opinions even though they do not necessarily engage in the democratic process”.⁶²

Although many platforms have policies against prevalent political issues such as hate speech, due to the nature of algorithms social media remains politicised. One of the many that hold this view, Cass Sunstein “warns that balkanized online speech markets represent new threats to democracy because they are a breeding ground for informational cascades of “fake news” and conspiracy theories”.⁶³ Because platforms drive profits from engagement, algorithms are tailored to the user and can aid in the spread of misinformation, threatening the liberties and rights that society expects to be upheld by the state. Hence, the state needs to be more proactive in its oversight of these companies rather than relying on corporate social responsibility.

The next issue that arises is the criteria for state intervention/regulation. Using a Rawlsian definition of ‘injustice’ where we can determine that, the spread of misinformation,

⁶¹ Ibid.

⁶² Bolane Olaniran et al, ‘Social Media Effects: Hijacking Democracy and Civility in Civic Engagement’, *Platforms, Protests, and the Challenge of Networked Democracy*, (2020), doi: [10.1007/978-3-030-36525-7_5](https://doi.org/10.1007/978-3-030-36525-7_5), pp.77-94

⁶³ Joshua A. Tucker et al, ‘Social Media, Political Polarization and Political Disinformation: A Review of the Scientific Literature’, (March 2018), <https://dx.doi.org/10.2139/ssrn.3144139>, p.16

mishandling of users' data namely selling to third parties and censorship all have a detrimental effect on democracy as they cause political dissent within society. As we will explore later in the chapter using a hard case of the 2016 Cambridge Analytica Scandal, affecting democratic processes requires sufficient state intervention, using contractarianism we understand the requirement for a centralised system of authority to provide accountability otherwise the role of the state remains ambiguous transferring more authority to private business. The trend we see in social media companies is continuously expanding. After the COVID-19 pandemic forcing many states into a nationwide lockdown, traffic of social media sites increased exponentially. As of March 2023, Facebook account for around 2.99 billion users, greater than any state. The globalisation of societies within social media leads to the requirement for a greater social contract but a challenge lies within the lack of a centralised authority. In terms of legislation, regulating social media companies also comes with restrictions, Brown and Peters identify that government, particularly Congress, "has the power to regulate the internet" under the Commerce Clause.⁶⁴ Yet, despite the clause Brown and Peters assert that, in light of the growing concern of the production of 'fake news' and misinformation, government regulation is problematic impeding on the first amendment.⁶⁵ This also highlights another issue within government regulation, laws that are applicable in one state are different in another. Therefore, it is important that social media companies must correspond with different states, the alternative is to create a governing body that oversees social media company operations on an international level. Governing bodies such as the UN would provide a valuable basis on which these operations could be regulated. By working with collective states procedures can be agreed upon to maximise the protection of the users' rights.

I would argue that social contract theory remains evermore relevant as we begin to define the parameters of 'online' society. Ultimately without the user the platform becomes redundant as no profit can be generated, because of this the users position in these platforms have to move from a 'least advantaged' position to one where they are sufficiently protected by the state. This can only occur when the state prevents injustices by

⁶⁴ Nina I. Brown and Jonathan Peters, 'Say This, Not That: Government Regulation and Control of Social Media', *Syracuse Law Review*, Vol. 68, No. 3 (2018), pp. 521-546

⁶⁵ *Ibid*, p. 544

regulating social media companies and their operations/decisions to a further extent than they have, through this the users' rights and liberties become better protected.

4. Hard Case: Cambridge Analytica

The Cambridge Analytica scandal had a profound impact on political theory especially with regard to democracy and digital society. The data analytics firm's services had been employed by both Donald Trump's campaign team and the Brexit campaign was responsible for one of Facebook's largest data breaches allowing them to build a software program predicting voter behaviour and influencing political decision making.⁶⁶ This had a monumental impact not just on politics at the time but political theory for a multitude of reasons, firstly the scandal displayed how digital democracy is susceptible to manipulation due to privatised interests as explained in the previous section of this thesis. Secondly, the scandal also showed how the actions of social media corporations are relatively unknown and unregulated.

Afriat et al's study on the Cambridge Analytica scandal differentiates between social and institutional privacy on online platforms including Facebook, social privacy encompasses information the user chooses to share with other people.⁶⁷ However institutional privacy is centred on how governments and businesses use our data, according to Afriat the user is unaware of how social media companies collect their data and what information they have access to, even beyond what their profiles chose to show. "Consequently, they (users) have very little understanding of the level of profiling third-party companies can perform on the data social media companies collect on their platforms".⁶⁸ Because of this, it seems careless to rely on corporate social responsibility (CSR) as a means of regulating social media

⁶⁶ Carole Cadwalladr and Emma Graham-Harrison, 'Revealed: 50 million Facebook profiles harvested for Cambridge Analytica in major data breach', *The Guardian: The Cambridge Analytica Files*, (17th March 2018), Retrieved from: <https://www.theguardian.com/uk-news/2018/mar/24/aggregateiq-data-firm-link-raises-leave-group-questions>

⁶⁷ Hagar Afriat et al, "'This is capitalism. It is not illegal': Users' attitudes toward institutional privacy following the Cambridge Analytica scandal', *The Information Society: An International Journal*, Vol. 37, No. 2, (2021), p. 116, doi: <https://doi.org/10.1080/01972243.2020.1870596>

⁶⁸ Ibid, p. 116

companies. The case of the Cambridge Analytica scandal shows the trust of the public can be abused meaning there needs to be a regulatory affect between social media companies and the state. As argued by Christiano there is often contradiction between the interests of private capitalist companies and democratic processes, yet these companies have a duty to act in accordance with democratic aims meaning that private property should be limited by its support for institutions of the state.⁶⁹ In order to avoid the infringement of democratic values in a democratic society Christiano contend that “that commitment to democratic norms implies that private capitalist firms must cooperate with a democratic assembly even when this implies some diminution of the profits of the firms”.⁷⁰ It is clear that within the case of the Cambridge Analytica scandal whilst their techniques were not illegal but were intended to target impressionable voters unbeknownst to them.

An Opinion issued by the Federal Trade Commission (FTC) detailed that “Cambridge Analytica engaged in deceptive practices relating to its participation in the EU-U.S. Privacy Shield framework”.⁷¹ Within this, an administrative complaint alleged that “app users were falsely told the app would not collect users’ names or other identifiable information”.⁷² Cambridge Analytica were not only found guilty of violating privacy laws and using it to create voter profiles but also being deceptive about their operations. These actions directly funded by the Trump presidential campaign and the Brexit campaign could have had massive implications on the results of both of these elections. Another issue from this, especially among the Trump campaign shows how big money can dominate political elections. The Supreme Court’s ruling in *Citizens United v. Federal Election Commission* (2010), “allowed corporations and other outside groups to spend unlimited funds on

⁶⁹ Thomas Christiano, ‘The Uneasy Relationship Between Democracy and Capital’, *Social Philosophy and Policy*, Vol. 27, No. 1, (University of Cambridge Press, 2010), pp. 195-217, Retrieved from: <https://www.cambridge.org/core/services/aop-cambridge-core/content/view/13D099DEC0D8FC91691CE7D35816277C/S0265052509990082a.pdf/the-uneasy-relationship-between-democracy-and-capital.pdf>

⁷⁰ Ibid, p. 196

⁷¹ Federal Trade Commission, *FTC Issues Opinion and Order Against Cambridge Analytica For Deceiving Consumers About the Collection of Facebook Data Compliance with EU-U.S Privacy Shield*, (December 6, 2019), Retrieved from: <https://www.ftc.gov/news-events/news/press-releases/2019/12/ftc-issues-opinion-order-against-cambridge-analytica-deceiving-consumers-about-collection-facebook>

⁷² Ibid

elections”.⁷³ The Cambridge Analytica scandal should act as an allegory for the dangers of big money influencing democracy as well as understanding that some companies will favour deceptions in order to gain position.

“In April Facebook admitted it wasn’t 50 million users who had had their profiles mined, as we had reported it, it was actually 87 million users...And in October the Information Commissioner’s Office fined Facebook its maximum possible penalty £500,000 (which Facebook is appealing against)”.⁷⁴ Cadwalldr claims that a significant problem is that social media companies have been called to explain their action but have not been held accountable, in some instances figures such as Zuckerberg have refused to comply with summons to parliament and international hearings in what has been described as “the greatest cover-up in the history of the internet”.⁷⁵ The reliance on corporate social responsibility for companies to regulate themselves causes issues of accountability, as proved, individuals in charge of these businesses in a capitalist system fail to protect the user. The privatised nature of Facebook is just one end of the double-edged sword that was the Cambridge Analytica scandal, as discussed, the government must take responsibility of the lack of insight into the dealings of Facebook which allowed them to facilitate this democratic hinderance. The reaction to the scandal was also subpar, issuing a relatively light fine for a company that made \$116 billion in general revenue last year seems counterproductive in ensuring this does not happen again. Rawlsian theory states that “unless there are public funds for elections, restrictions on campaign contributions, and substantially equal access to the media, politics will be captured by concentrations of private economic power”.⁷⁶ This, Rawls contends, will deny equal opportunities among citizens, and result in inequalities due to wealth and private enterprise.⁷⁷ This evidently is becoming the case if we continue to allow democratic processes be influenced by private business. As we see in this scandal this results in an unfair advantage being afforded to

⁷³ Tim Lau, ‘Citizens United Explained’, *Brennan Center for Justice*, (December 12, 2019), Retrieved from: <https://www.brennancenter.org/our-work/research-reports/citizens-united-explained>

⁷⁴ Carole Cadwalldr, ‘Cambridge Analytica a year on: ‘a lesson in institutional failure’, *The Guardian: The Cambridge Analytica Files*, (17th March 2019), Retrieved from: <https://www.theguardian.com/uk-news/2019/mar/17/cambridge-analytica-year-on-lesson-in-institutional-failure-christopher-wylie>

⁷⁵ Ibid

⁷⁶ Wenar, <https://plato.stanford.edu/entries/rawls/#PubRea>

⁷⁷ Ibid

those with more financial power that gain access to voter information without their knowledge. These abuses of corporation rights have a direct impact on the political rights of citizens.

We can also use Rawls argument against welfare state capitalism to raise another issue the Cambridge Analytica scandal posited. According to Wenar, "Welfare-state capitalism leaves control of the economy in the hands of a group of rich private actors. It therefore fails to ensure all citizens enough resources to have roughly equal chances of influencing politics".⁷⁸ If we contend that the current state of social media and the internet draws similarities to welfare-state capitalism (in Rawls' image) where the economy is placed in the hands of private businesses like Facebook/Meta (rich private actors). As we have seen with the aforementioned scandal, equal chances of influencing politics among all users/citizens are erased, in order to avoid this, steps need to be taken to ensure separation of power. Ideally, this would result in private business and government working together to ensure that the companies are still able to provide their service effectively but also that there is no risk of democratic processes being affected.

The main argument against this has been the risk of infringing the constitution leaving the social media companies unconstrained by the governmental regulation. According to Brown et al "Social media companies may devise their content rules as they please, unconstrained by constitutional limits. They are nongovernmental entities, and per the state action doctrine, they are beyond the government's regulatory powers under the Fourteenth Amendment."⁷⁹ However, in light of the Cambridge Analytica scandal further amendments need to be made in order to prevent this from happening again otherwise we could see full government regulation which will result in state control over social media.⁸⁰ A compromise is the best possible solution as Rawls' acknowledges a property-owning democracy allows for the dispersal of ownership and productive assets, where as a capitalist system allows too

⁷⁸ Ibid

⁷⁹ Brown and Peters, p. 540

⁸⁰ Cusumano, (2021)

much influence from private business and a socialist command of the economy succeeds too much power to the state restricting the free market.⁸¹

“Moreover, the implication for the socio-cultural perspective may be greater especially when hatred, ethnocentrism, and separatism philosophies become the norm, as both the Brexit and the 2016 US elections indicate. The role that social media plays in hijacking democracy is clear in these elections, as the winners in both cases were the minority. For example, President Trump was elected based on the Electoral College vote, when in fact he lost the popular vote by 3 million votes.”⁸²

5. Conclusion

In conclusion, the current state of social media is causing issues within politics. The work of political theorist John Rawls in arguably reviving social contract theory has provided a framework for a just society. Rawls’ theory focuses on egalitarianism within society, it is becoming more transparent that the current state of private business in shaping society online contradicts this. Rawls contends that above all the priority of the state is to protect the rights and liberties of its subjects followed by the equality of the assignment of positions of office. Rawls’ ‘Difference Principle’ truly represents his stance on social liberalism by ensuring that those who are least-advantaged still benefit from inequalities within society. With the advent of social media platforms and the negative consequences they can facilitate it is apparent that there is a stark disparity in the benefits afforded to those who can control and use these platforms are the average user.

The privatisation of cyberspace platforms results in competition on the free market, over the years profits have been prioritised over the protections of the user, where the operations of these businesses have been kept from the knowledge of the state and its subjects. Deliberate spread of misinformation, facilitating political dissent and the corruption of democratic processes all contribute towards the need for a more stringent

⁸¹ Wenar, (2021)

⁸² Olaniran et al, doi: [10.1007/978-3-030-36525-7_5](https://doi.org/10.1007/978-3-030-36525-7_5), pp.77-94

policy on the operations of these companies. Despite this, social media companies cannot be held entirely responsible, as social contract theory dictates it is the role of the state to protect its subjects. Relying on corporate social responsibility (CSR) which has been the attitudes so far has resulted in the jurisdiction of these private businesses assuming the role of their own regulatory powers, therefore admitting the state cannot effectively govern. Hence, employing a Rawlsian framework from *A Theory of Justice*, we are able to hold the state accountable for transgressions under its governance, whilst also assuring the rights and liberties owed to the user. The course of action from now on would be to promote a coalition between the state and these companies to ensure that whilst the interests of the business are protected without infringing the political liberty of the user. Platforms should avoid being manipulated for the use of an individual's prerogative like in the case of the Cambridge Analytica scandal.

In 2018 it was revealed that Facebook had sold the data of millions of users to a third party known as Cambridge Analytica. Without the knowledge of the user, data profiles were made off of their interests and used to help sway the vote in favour of Trump in the 2016 presidential election and on the Brexit campaign. The serious allegations were met with public outcry and calls for stricter regulations posed on social media companies such as Facebook. Instead, Zuckerberg delivered a public apology was charged a fine. Much of the concern surrounding the regulation of social media is within the jurisdiction of the state and the unwillingness of the state to restrict the free market. As summarised by Afriat et al in their study relating to the scandal, "Indeed, it appears that the "watershed moment" became yet another event in which the neo-liberal ideas of free market and minimal regulation triumphed".⁸³ As social media grows and transcends any state border it becomes more difficult to understand where the state can intervene. In order to avoid total government regulation, it is in the best interest of these companies to work with a governing body/oversight board that is not elected by the company themselves.

⁸³ Hagar Afriat et al, "This is capitalism. It is not illegal": Users' attitudes toward institutional privacy following the Cambridge Analytica scandal', *The Information Society: An International Journal*, Vol. 37, No. 2, (2021), p. 123, Retrieved from: <https://www.tandfonline.com/loi/utis20>

In *A Theory of Justice* Rawls' explains a set of principles that are to be used to ensure a society that is fair to all its subjects. Whilst capitalism will favour a more *laissez-faire* approach it is important to understand that the divide between the subjects of society and those who have authority over it are changing due to the growth of the internet. The 'least advantaged' as a group continues to grow as long as private business dominated public conversation spaces. Now subjects of society can create platforms on which people can interact on a daily basis but are still ultimately under the will of these individuals. In order for the state to fulfil its duty as outlined in contractarianism it must protect those who are vulnerable from the interests of businesses that prioritise profits over protecting the democratic freedom of the user.

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