# Why Feminist Digital Policy Matters

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Progressing digitalization is restructuring society. Nevertheless, existing dominance and power structures – including in the shape of sexism and racism – manifest themselves in technologies, algorithms and the use of media in the process. The aim of digital policy is to establish a regulatory framework for the digital transformation of society. Ideally, this should lead to a strengthening of the positive, emancipatory aspects. In academic circles, digital policy has been a topic of discussion since as early as the 1990s. However, this separate policy and legal area still tends to be a less familiar topic among the broader public – despite civil society initiatives long having called out the need for a certain level of regulation. With regard to the digital public sphere and social networks in particular, the calls for regulation have since grown very loud in the media and have, in part, also resulted in the adoption of policies. That being said, the number of active citizens quickly narrows when it comes to copyright matters outside of cease-and-desist lawyers or data flow monitoring.

To put it simply, digital policy relates to the interplay between internet governance and internet policy, i.e., (international) regulations and frameworks (Working Group on Internet Governance 2005), on the one hand, and legislation that has been specifically established or needed to be adjusted to the digital environment (Braman 2011),

on the other. This interaction affects all four of the aforementioned thematic areas.

At its core, digital policy addresses and politicizes the following four broad thematic areas: 1) access to the internet, 2) access to content, 3) copyright, and 4) data protection and privacy (Braman 2011). In the meantime, the digital public sphere is being touted as the fifth broad thematic area (Ganz 2013). Digital policy thus concerns a policy for the internet. The digital policy area is, in the context of the German-speaking world at least, not significantly impacted by feminist approaches. From a policy perspective, i.e., above all in the sense of being enshrined in parliament, digital policy is, in fact, still evolving (Greef 2017; Reiberg 2018; Schröder 2012). Hence, my aim is to put forth and spell out feminist contributions and standpoints.

Digital policy requires an intersectional, feminist perspective, i.e. a viewpoint that both analyzes and critically appraises how forms of discrimination based on gender, social background or race[1] are interconnected with new technologies and digital cultures. The term "intersectionality" was coined by Prof. Kimberlé Crenshaw in 1989 in her essay "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics." Citing three legal proceedings, she illustrates the mechanisms that render impossible any recognition by the courts of specific forms of discrimination experienced by Black[2] women. In all three proceedings, Black women were either denied being representative of all women, or the combination of race and gender – in this case of Black and female – was not recognized as being a discriminatory fact (Crenshaw 1989).

I want to contribute to the research and activism environment of feminist digital policy by adopting an intersectional perspective and, through digital violence and surveillance, illustrate what gender-based structures of discrimination and disadvantage at the interface between race and social background currently exist in the digital culture: What feminist perspectives are the result of reshaping digital

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1 The term "race" makes it possible "to evade the implicit biologism and fascist connotations of the German word" (Dietze 2013, 29). It furthermore refers to the tradition of critical appropriation (cf. Lepold and Mateo 2019).

2 The term "Black" is capitalized throughout to illustrate the inscribed resistance potential of People of Color and Black people (cf. Eggers, Kilomba, Piesche, and Arndt 2005).

policy and rebalancing the ensuing debates surrounding it? How can digital violence be regulated and why is this urgently necessary in order to comprehend the nature of the change that the relationship between the private and the public spheres is subjected to. Surveillance is another issue that is ideally suited to illustrating the feminist, intersectional perspectives of structures of suppression and discrimination and thus exemplifying that the desire for security and control over one group leads to surveillance and restriction of the other. The realms of digital violence and surveillance are of relevance to feminist policies and can be found in multiple thematic areas of digital policy. As a consequence, both the digital public sphere and access to the internet and its content are areas of significance to the regulation of and discursive negotiation concerning digital violence. By contrast, surveillance focuses on access to content and/or on data protection and privacy, though this field of application also deals with matters concerning access to the internet in general as well as the digital public sphere. Both of these practical examples illustrate the interwoven nature of these areas as they relate to feminist digital policy.

Here, regulation is not limited to the enforcement of laws, i.e., bans. Digital and technological advancements pose challenges to regulatory policy as "the control of society through regulative politics, i.e. by means of the establishment, monitoring and sanctioning of general rules, [proves to be] highly presuppositional – especially when the contents of regulations are politically controversial, have to adapt quickly to changing problem situations, and compliance with them is difficult to monitor" (Czada, Lütz, and Mette 2003, 13). Moreover, regulation can not only mean enforcing laws through a bureaucratic implementation of rules. Otherwise, laws will always come across as a barrier to development. "[W]hen science and technology produce new problems and solutions, [the law is unable to keep up] – unless it got in the way of that development" (Ibid., 14). A feminist perspective on digital policy must also be aware of the ambivalences associated with the current, pressing call for the state to intervene with regulatory action. Even though such a call – triggered by (digital) patriarchal violence – is understandable, the question remains as to whether (patriarchal) violence can be combated through equally violent structures, such as sanctions.

## Feminist digital policy and intersectional feminism

Which understanding of feminism can be based on a description of feminist digital policy? Feminism, which, at its core, is historically seen as gaining equality of women and men by abolishing the patriarch as a structuring element of gender injustice, has grown enormously and, at the same time, changed in the wake of queer and intersectionality theories. As a subject, the "woman" – especially in the wake of digitalization – is no longer the undisputed actor at the center of feminist struggles (Butler 1990; 1993). It is perceived either as a process (doing gender [Gildemeister 2008]) or intersected with diverse differences (intersection [Crenshaw 1989; Puar 2011; Walgenbach, Dietze, Hornscheidt, and Palm 2012]). Even though these approaches can only be merged into one dialogue to a limited degree, my belief is that it is vital to avoid essentializing settings related to the feminist subject and labelling specific and, in this sense, specifically interlacing categories of order spawned by biases. Gender, or rather woman, and the associated forms of discrimination therefore are no longer the sole focal point of the analysis. Rather, it entails linking the gender category with other categories such as *race*, gender identity or age, thus keeping tabs on all forms of discrimination. The starting point is therefore intersectional power relations that unequally dole out privileges and biases – not only on the basis of gender. In terms of digital policy, this can mean that, in order to develop targeted strategies, it is not enough to say that women have less access to the internet or have been more impacted by digital violence as a group. Rather, it is about fleshing out which women are affected by which other discrimination attributes. Continuously providing such an intersectional, feminist perspective will not always be possible, for one thing because of a lack of corresponding data bases. However, the aspiration remains the same.

As a policy area, digital policy has yet to be assigned to a ministry in Germany as a primary bargaining space despite the appointment of Dorothee Bär as Federal Government Commissioner for Digitalization. Much like other policy areas, such as environmental policy, digital policy is characterized by movement-political linkages. A look into the history of the internet shows that efforts to politicize and regulate the issue – by civil society as well as business and politics – have been furthered from the beginning, even though their interests in doing so were divergent.

## Feminist digital policy and cyberfeminist history

In response to the exclusions, but also ever since the inception of digitalization, digital feminists have used the potential of the Net as a means of discussing and politicizing feminist matters on precisely this platform. As important as their engagement may be, I seek to shift the emphasis. In the following, I will draw a line between digital feminism[3] and feminist digital policy or digital policy with feminist perspectives. A multiplicity of digital feminists does politics through the Net. Feminist digital policy does politics for the Net. The former use the internet as a tool; the latter concern themselves with the (physical) structures of the internet, the associated forms of gendering, and the impacting emancipatory policies.

Back in the early 1990s, it was Judy Wajcman who called attention to the impact of technology on gender relations in the area of work and on gendered technology as such (Wajcman 1991). In the German-speaking world, there have been numerous examinations of the relationship between women and information technology. This occupational area used to be dominated by female specialists who, as this field has grown in influence and profitability, have taken a backseat since the 1990s and been replaced by men (Becker-Schmidt 1994; Höfels 2001; Hoffmann 1987; Roloff 1993; Schelhowe 1990). Furthermore, this era increasingly saw the emergence of cyberfeminist groupings who, in their disparity, have further opened up the internet as a bargaining space for a feminist confrontation with technology. These have been both artistic/activist in nature (Critical Art Ensemble 2020; Old Boys Network 1997; VNS Matrix 1991; 1996) and science-oriented (Braidotti 2002; Fernandez 2003; Haraway 1991; Plant 1997; Stone 2016; Wilding 1998). One major finding of cyberfeminism advocates was that the internet "is not a utopia of nongender; it is already socially inscribed with regard to bodies, sex, age, economics, social class, and race" (Wilding 1998, 9). In recent years, in particular, this intersectional feminist confrontation with power relations and technology has continued to be intensively pursued. With regard to biased algorithms, i.e., automated decision-making processes, it becomes apparent that relations of violence and inequality are frequently part and parcel of the system, and thus part of the technology

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3  For more information on how digital feminist issues and modes of expression are categorized in media science, compare Kohout (2019).

(Buolamwini and Gebru 2018; Noble 2018). But intersectional de-
bates are also being held on gendered and racialized internet access,
on representation and technology. They also allude to the fact that
reflecting on *race*, critical whiteness studies, intersectionality (Noble
and Tynes 2015) and Black cyberfeminism (McMillan Cottom 2016)
can greatly contribute towards the field of internet studies not re-
maining shackled by the spectacle of *the Other* and thus disavowing
the racism that exists (Daniels 2013). Within the realms of visual cul-
tures, Lisa Nakamura states that the internet is indeed a place for
Black women or Women of Color for their own *race*-related, ethnic or
gender-specific visual and virtual cultures (Nakamura 2008). Shortly
thereafter, she takes things a step further in her collaboration with
Peter Chow-White (2012) by maintaining that the infiltration of digital
media as a way of thinking and knowing, and as a format for produc-
ing and consuming information, forces us to rethink our understand-
ing of *race* both in digital and analogue media by broadening the
spectrum beyond issues of access and representation (Nakamura
and Chow-White 2012). To me, feminist digital policy thus represents
a key addition to and, above all, a further development of cyberfemi-
nism and digital feminism, not an alternative to them.

## Feminist digital policy and the public sphere
As a fifth major thematic area, the digital public sphere introduced by
Kathrin Ganz (2013) in her study on feminist digital policy takes on a
special role. Because both the digital public sphere and the resulting
shift in the public realms as well as the relationship between the pri-
vate and the public spheres are bargaining spaces for digital violence.
Digital violence illustrates not only a shift in how public spheres are
comprehended in relation to the private sphere but also reveals the
potential for structural discrimination in areas where access is an
issue.

Relations of violence and inequality appear to manifest them-
selves on the internet as if through a magnifying glass. Feminist
research has, as far back as the early 1990s, described trolling as
the conscious disruption of communication (Herring 1997). Soon
thereafter, the political and legal discourse centers around the issue
of regulating digital violence (Citron 2014; Hentschel and Schmidt
2014; Lembke 2018), which subsequently also always constitutes
a regulation of communication, a contentious issue in feminist

circles (Schrupp 2011). The communication discourse revolves around changing the relationship between the public and private spheres that is taking place in the course of digitalization. Whereby, on the one hand, it is suggested that spaces for feminist engagement are opening up and can ultimately unfold a discursive force (Drüeke and Klaus 2014; Drüeke and Zobl 2013). On the other hand, it is precisely such an opening, the digital public sphere and/or the increasing desire for *low privacy* (Heller 2011; Jarvis 2011; mspro 2011), which poses a danger to vulnerable subject positions, whether through increasing surveillance or digital violence. Within the realms of feminist digital policy, seen as a policy for the Net, there is currently only one study, by Kathrin Ganz (2013), that opens up this field, though it does not delve deeply into the fields of application. I intend to follow up on this and illustrate new aspects.

Let's take another look back in time. The internet was once associated with the liberation of gender norming, racialization or homophobia. In the "new" world of cyberspace, restrictive and one-dimensional categories were no longer supposed to play a role (Barlow 1996; Draude n.d.). John Perry Barlow ended his "Declaration of the Independence of Cyberspace" of 1996 with the sentence: "We will create a civilization of the Mind in Cyberspace. May it be more humane and fair than the world your governments have made before" (Barlow 1996). The notion that the internet was a space where categories such as gender, *race* or class would no longer play a role – and which, in this regard, would neither require any specific structural analysis nor should it undergo any regulation – came from the very same group with the most privileges and the fewest experiences with structural discrimination: white, heteronormative men. To a certain extent, the notion of a neutral technology was directly carried over into cyberspace. According to this logic, from such supposedly neutral frameworks, only neutral living conditions could possibly emerge. 25 years later, it is becoming increasingly apparent that, more than anything, market "civilization" (DiGiacomo 2016; Fuchs 2018; Srnicek 2016) rules. Moreover, digital violence (Brodnig 2016; Citron 2014; Ganz 2019; Hentschel and Schmidt 2014; Nakamura 2015; Van Der Wilk and Natter 2018) and the exercise of state power via surveillance increasingly dominate the internet (Fuchs, Boersma, Albrechtslund, and Sandoval 2012; Tufekci 2014; Zuboff 2018).

At the same time, the internet enables democratization processes or social debates to be set in motion. The uprisings in North Africa in 2010 and 2011 are an example of this. Using social media and internet-based applications, which primarily served to communicate, collaborate and to exchange information, people were able to successfully mobilize and help topple regimes (cf. Antonakis 2015). Another example is the ongoing #MeToo hashtag campaign. The hashtag #MeToo has sparked a worldwide debate on sexualized violence and everyday sexism from which mostly women suffer. This debate is currently translating into first concrete measures: many of the largely male abusers have been dismissed (Carlsen et al. 2018); a support center for victims of sexual abuse in the creative industry has been awarded funding by the German Government Commissioner for Culture [German Government Commissioner for Culture and Media (BKM) and founding members of the association *Vertrauensstelle gegen sexuelle Belästigung und Gewalt* 2018]. The potential that the internet can still unfold despite of all prophecies of doom becomes apparent here.

## Feminist digital policy and digital violence

The acknowledgement of violence against women, be it mental or physical abuse, is one of the successes of the women's movement of the late 20th century. Hence, there is a comprehensive, theoretical examination of this topic available (Dackweiler and Schäfer 2002; Geiger 2008; Hagemann-White 1992; 2002; Sauer 2011). Violence occurs in many forms and places but is never random. It runs its course alongside power and discriminative structures and affects some groups more than others. Digital violence acts in much the same way, the difference being that – unlike sexualized violence, which primarily takes place in domestic surroundings – it largely occurs in the public sphere, i.e., in forums, on social networks, in commentaries under online articles (even though domestic, sexualized violence is also increasingly spreading into the digital space). What's more, this form of violence is typically personified. That being said, comments such as: "You're nothing but a dumb slut that pisses out their mindless drivel along with their army of commentating whores. Get a job, you fucking cow!" (hatr.org 2011) impact the entire group. This quote will be the only verbatim example of its kind as I do not wish to afford such violence any more attention than it deserves. However, it is also necessary to

cite such a level of articulated violence at which we currently find ourselves. Digital violence, in its various manifestations, has, unlike domestic violence, a public bargaining framework that extends beyond the personified level. Or, to put it another way: the digital public sphere is the bargaining space for digital violence. At the same time, digital violence represents the mechanism that produces exclusions within the digital public sphere. One of the tasks of the (digital) public sphere is to establish a democratic public sphere that can help shape policies through discussion. Although it also lives off the bargaining space of the digital public sphere, digital violence impacts the level of participation in precisely this democratic public sphere and can lead to exclusions (Drüeke and Klaus 2014; Eckert 2018; Ganz 2013).

The technological means to disseminate sexism, racism, anti-Semitism, homo- and transphobia, to name but a few of the structures of discrimination and violence, present a regulative society with new challenges. Spam mails and bots strongly impact public culture. Murder and rape threats, which primarily affect (BIPoC) women, LGBTIQA+ persons, and people in other minoritized positions, have not only intensified but also transformed in terms of the quality of such threats: compressed into 140 characters, distributed through algorithms, at times randomly directed (Amnesty 2018a; 2018b; Poland 2016; Citron 2014).

A community-based approach that seeks to combat digital violence not through legislative norms but by applying jointly negotiated rules restricted to the platform in question greatly depends on who is a member of such a community and its power structures. The example of Wikipedia shows that a community extensively comprising well-educated, white males (Doyle 2009) will indeed not necessarily aspire the critical analysis of the patriarchal knowledge structures. But also, market economy interests prop up patriarchal heteronormative values.

This predicament has since been acknowledged by legislators and addressed through the Network Enforcement Act (*Netzwerkdurchsetzungsgesetz*) in Germany. That being said, this legislation promotes the increasing privatization of the enforcement of laws, which must be viewed critically from a feminist perspective, as it will, at the very least, be in close keeping with market economy logic.

From a feminist perspective, it would therefore be expedient to consider collectivizing legal mobilization and the enforcement of laws and to kickstart this through political initiatives. In this context, this means the right to pursue representative action (*Verbandsklagerecht*) and the possibility of pursuing class action. Class action is currently not permitted in Germany but would enable those affected by digital violence to shoulder the not inconsiderable resource burden involved in civil cases across multiple participants. The structural nature of digital violence would furthermore become apparent. Representative action would give rise to the possibility of ending structural discrimination.

Rights- and community-based approaches must work hand in hand in order to bring this struggle to a successful conclusion. In spite of everything, the fact remains, for the time being, that the cited groups endure structural discrimination and violence. This generates exclusions that can potentially entail the loss of work, mental illness, or even self-imposed exclusion from the internet. For a democratic, socially oriented society, this represents a process that is blatantly dangerous as it actively excludes people from participation. After all, democracy means participation.

### Feminist digital policy and surveillance

The second example is surveillance, which, through the technological developments of the past 50 years, has undergone a shift from entirely person-based surveillance to context-based surveillance. This means that locations (e.g., through video surveillance or radio cell intercepts), specific time periods (at demonstrations; before, during, and after major social events), specific groups of people (for example, through racial profiling) or networks (of people or social networks on the internet) are also on the radar. Surveillance primarily serves to safeguard patriarchal, white masculinity. It must not be allowed to become an end in itself or the standard for governmental action. Today, every individual is potentially subject to surveillance, but the impact on each person is very different. Here, too, prevailing discrimination and racialization structures play a significant role. Accordingly, while it is certainly meaningful to examine and/or expound this from the perspective of the right to privacy, this should not remain the only one. At the same time, we see that both the state and private enterprises continue to repeatedly undermine the right to informational

self-determination. This specifically impacts those with a particular need for protection, such as refugees or social welfare recipients. Here again, feminist digital policy can and must be employed, as the right to privacy is universal and any heightened dependency on the state must not be allowed to be turned into an abuse of power in this area.

The surveillance of social media by the state, platform operators and by users (Andrejevic 2002) illustrates how widely cast these nets have since become. On social media in particular, there are indications of the close correlation that exists between surveillance and digital violence for some, especially women and those in marginalized positions. Because this is the space where feminist activism takes place and equally where it is subjected to an increased level of surveillance and violence (Nakamura 2015).

Not to forget that we frequently leave our personal data on the internet voluntarily, which then becomes part of the much-discussed big data pile. We need to be aware that this data is evaluated with the help of algorithms and, in some instances, new relations of them were created which, in turn, can impact our lives (Boyd and Crawford 2012; Gless 2016). Will we get that apartment or loan? How high will my health insurance premium be in the future if the insurance company learns how often I purchase food online that is classified as unhealthy?

## Feminist digital policy for a change

Algorithms create norms and rules that are initially based on (outdated) data, which is riddled with discrimination of all kinds. As a result, it tends to exclude and discriminate against people in certain positions, such as (BIPoC) women, LGBTQIA+ persons and Blacks. Calls for transparency and ethics when designing algorithms should also be a matter of interest to feminists. Here, a feminist perspective on digital policy can identify the consequences of these forms of discrimination on persons affected and the impact that they will have for the future. But it can also enrich the debate by providing solutions such as anti-discrimination legislation for algorithms.

Feminist digital policy must therefore address the structures through which dominance is perpetuated and any use of the internet is influenced – emancipatory policies included. It should therefore be of feminist interest to focus on (ongoing) structures of discrimination

and dominance from the very beginning and to develop alternatives and not only turn the screws in hindsight through an internet policy. Or, to quote Audre Lorde: "The Master's Tools Will Never Dismantle the Master's House" (Lorde 2018). Sticking with this metaphor, the house should therefore be intersectional and feminist.

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