



AN AI INFLUENCED SOCIAL CONTRACT: AN ILLUSTRATION OF AMERICAN CONSTITUTION

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Abstract: This research was intended to highlight how the latest technologies like social media and virtual reality (VR) have influenced upon basic principles of current democratic political system, which includes individual freedom, freedom of speech and individual privacy. Hence, this research has illustrated few constitutional articles of first formally documented social contract- An American constitution. The research explained the need to change the three articles including the first and fourth amendment of “Bill of rights” and section one of the 14th amendment. By that means, the researcher concluded at the end that, if the concept of social contract has to be relevant then it must include terminologies like virtual life, virtual freedom, virtual property, virtual security and virtual establishment in at least those three mentioned constitutional articles. Moreover, the articles were actually enacted in the era when only physical life and property were needed to be secured from external attacks but, the new technologies have changed that landscape. Hence, it is the need of the time to alter the founding principles of American constitution in order to provide safe, secure and peaceful internal and external environment to the American populace.

Keywords: Virtual life, Virtual property, Virtual security, Virtual establishment, Virtual freedom

Introduction

It is fascinating but rather unbelievable that, we as humans started to form groups more than 1.5 million years ago and eventually developed a society- Paleolithic society (Massey, 2001). But, it was not until the modern era of 16th and 17th century when the concept of nation states evolved and finally materialized through an international treaty, that was termed as “Westphalia treaty” in 1648 (Hassan, 2006). Although, it was the first time when the idea of relationship between the state and its inhabitants appeared into the world horizon and hence, the roles and responsibilities of state and its members. As, the treaty propagated an idea of sovereignty and state, the necessity of mutual agreement between the both stakeholders was actually inevitable. As a result, first formal social contract in the form of constitution was developed in Sweden in 1772 under the leadership of King Gustavas III (Nordin et al., 2023). However, soon after, the wave of democracy run through the states and US became the first country to document its democratic constitution in 1776. That became the basis for French revolution and then its constitution in 1791. These all developments become the pavement over which, the tree of democracy and its modern evolution took place soon after the First World War in 1918 through the promotion and establishment of democratic norms, rights and obligations. The peak of democracy was achieved after the Second World War and especially in the second half of 20th century, when the UN membership was increased from just 50 in 1945 to 189 in 2000 and 193 until this time (Hobson, 2015). However, an emergence of new technologies, social media phenomenon and multitude of information created a situation where democracy and its norms of individual freedom, privacy, choice, judgment and reasoning are highly contested.

The application of Artificial Intelligence (AI) in order to collect large amount of personal data in order to influence one’s commercial or otherwise choices has challenged the basic tenants of democracy (e.g. Individual freedom, privacy and etc.). Hence, the concept of digital sovereignty has emerged on the world horizon. The digital sovereignty is the terminology which describes how the data generated in one specific geographical location is being managed by the government of that place hence, the developed world has been trying to address the issue of mass data storage by giant tech companies outside their controlling territory. In the similar vein, the two countries China and Russia are advocating

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for the complete digital sovereignty in order to achieve their economic, political and social objectives but without the consent of their population (Thumfart, 2021). However, the democratic west is trying to find the formula through which, the balance between the individual privacy and state digital control could be justified. Moreover, the AI has a significant impact on at least two main pillars of democracy including individual freedom to choose their rulers and the legislation enacted by those rulers who have been chosen through the democratic system (Manheim & Kaplan, 2019). The individual freedom to vote has the central position in the democratic system and when the individual decision to choose one alternative over another is distorted through providing either disinformation or fake news, the credibility of whole system is jeopardized by it. Similarly, when those who have been elected, use the artificial intelligence system (AI) in order to create laws, that may impact on the majority of the populace, also endanger marginalized or disadvantaged groups, those preferences mayn't be included due to the lack of data availability. Artificial intelligence (AI) system is mainly driven through two major factors, the quality of data being provided and power of the processing unit, which is used to process the data in order to analyze the key information from the collected data (Collins et al., 2021). Hence, it is quite essential for the national/global institutions to develop the standards and policies in order to collect the horizontal data, which may be used by the AI system further and also to restrict the use of personal data for either political manipulation or commercial purposes. Hence, this article is going to suggest some of the amendments needed to be done by US legislators in order to safeguard the wider interest of US populace along with shielding the democratic system from the possible negative impacts of AI.

Social Contract Theories

Although, there is a vast literature available in this era that discusses the social contract theories but, there are only few philosophers those play a key role in explaining and extrapolating the idea of social contract back in 16th, 17th and 18th Century. The first to explain the importance of social contract was Thomas Hobbes in 1651 and then by John Locke in 1689, David Hume in 1748 and Jean-Jacques Rousseau in 1762 and finally the most famous amongst them Immanuel Kant in 1795.

Thomas Hobbes Social Contract

Although, the world's first and widely known constitution (US constitution) was written in 18th century but, it was not in that century but, more than a century before that, the actual foundation was laid when Thomas Hobbes gave an idea of modern day civil society or commonwealth in his famous work "The Leviathan- 1951" (Umeh,2021). It was Hobbes, who argued that, the human beings are living in a "state of nature" condition and hence, they constantly fight with each other in order to survive and safeguard their own interests. Therefore, he suggested that, a social contract is necessary in order to create a society in which mutual consent is developed through accepting common laws and principles against relinquishing one's individual liberty. He then gave the mechanism by arguing that, all men give their natural rights to a sovereign and that sovereign has all the powers whether legislative, executive, economic or other. As, he strongly believed that, a monarchy can be the best form of government in order to ensure the social, economic and political liberty to the individual hence, he emphasized that, a single entity having all powers can run a stable state (Vanberg, 2016).

John Locke Social Contract

Hobbes idea although quite controversial remained quite noticeable until after more than four decades, John Locke came forward and challenged the basic idea of Thomas Hobbes. He argued in his famous work "Second treatise of government in 1689" that, humans are not immoral and they can live peacefully with each other without any pre-determined agreement but, they need to have that mutual agreement due to the disputes arise with respect to the private property. Hence, the social contract is necessary to ensure one's liberty, life and property. He further suggested that, all men are equal and hence, they have the right to choose their rulers. From there, the idea of universal suffrage comes to the fore (Kelly, 2022). Hobbes was in a favor of centralized authority however, Locke disagreed with the idea and argued that, the legislative, executive and federative power. His idea of the state was that, the power of the institutions in any given society must be divided in order to ensure the transparency in the system. He was a strong believer that, the democracy through which, individuals choose their rulers directly is the best form of government and any individual ruling their fellow members is also one amongst them and there is nothing much special about that individual. Hence, he argued that, the relationship between the ruler and those being ruled is reciprocal in nature and the ruler can be discharged from his position if the reciprocity is not maintained (Jenkins, 2011).



David Hume Social Contract

David often is often remembered as “man of letters” as he used to write letters on multiple topics of interest in 18th century. In one of his essays termed “of original contract” in 1748, he heavily criticized the idea of social contract by pointing out, the government is not necessary in order to have stable and peaceful society as, multiple tribes also lived together in ancient times without any explicit contract (Baumstark, 2007). He also rejects the idea of “tacit consent” as promulgated by John Locke by arguing that, there is no such thing as tacit consent as, it is the compulsion to accept the government as it is and there is no way to escape from that arrangement. Moreover, he explicitly rejects the idea of state of nature and argued that, it is merely a hypothetical state, that doesn’t exist at all. He also mentioned that, the states are ruled through conquest in ancient times so, there is no need for any elections to happen and the idea of owning private property depends on when and where the man is placed if he is placed where there is an abundance of property, then there is no need for laws to protect one’s property and if it is opposite then, survival instincts makes the final decision and then he proclaimed that, the acknowledgment of private property is actually against the human nature(Lyons, 2017).

Jean-Jacques Rousseau Social Contract

Jean-Jacques Rousseau who famously quoted that, “MAN is born free, everywhere is in chains” was the philosopher who accepted the idea of social contract and elaborated it in more detail. He stated that, actually civil society is born when man leaves the state of nature and dwells in the nature of the state. Nature of state by his understanding is the sovereign, which is based on general will and the justice system. He further argued that, man is freer in an organized society than a chaotic one as, he obeys the laws of the state and reciprocally receives the benefits of preservation of his life, and property (Rousseau & Cole, 1952). Rousseau further highlighted that, man becomes more moral by obeying the laws of state and institutions play a vital role in the enforcement of the social contract. He emphasized greatly on the role of institutions and how institutions can create a stable society by imposing laws and obligations for the greater benefit of the society. Although, he was a great proponent of democracy but, he inclined more towards direct democracy than the representative form of it. Moreover, he also favored the balance of power in the state by arguing the no single institutions should have all powers and division of power is necessary for the proper and genuine functioning of the state apparatus (Steinberger, 2008).

Immanuel Kant Social Contract

It was Immanuel Kant who gave this idea of free choice of human beings and why it is the most necessary condition to develop a stable political system in his famous essay “Toward Perpetual Peace”. He argued in this essay that, individuals must be given freedom to make their own choices and those choices may determine the fate of the society. He further added that, individual freedom is restricted until and unless it doesn’t harm the freedom of their fellow being (Senol & Demirci, 2022). He was the first one, who emphasized that a system of government called “the republic” with three main branches including executive, legislative and judicial can be able to co-exist with other republics in the world through the mutual cooperation. Hence, the idea of state and international affairs came to the fore. He further mentioned that, universal rule of law can generate eternal peace when the individual property rights are protected collectively. His idea of outward morality was that, the morality is consequentialist in nature and our actions determine the general good or bad of the society and that become the basis of our justice or political system. Kant was the firm believer of perpetual peace and hence, he argued that, the peace can only be achieved when the inter-subject conflict is resolved through the model of civil society as that society will enact the laws and those will eventually resolve the conflicts especially those related to private property. Kant was actually an idealist hence, he proposed that, the social contract is the way through which, rational agents gain maximum freedom, equality and independence. As different from Hobbes and Locke, Kant argued that, the social contract is not an actual or hypothetical agreement but, it is an idea through which, the individuals living in a state assume the collective responsibility to enact laws that safeguard their basic rights (e.g. independence, freedom and equality). Kant actually provided the foundation for liberal democracy and human rights (Dodson, 1991).

Influenced American Constitution- An Illustration

American constitution that was ratified on 15th December 1791 is although quite simple in nature but, it greatly defines relationship between individual and state. Although, it had only seven articles at that time but, 27 amendments were made afterwards and bill of rights was first among them.



14TH Amendment of US constitution was passed in 1868, which includes the five sections.

Section 1 includes:

“No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

Explanation:

The above section guides that, the individuals of United States have the equal right to life, liberty and property and that was quite true until the recent emergence of virtual life, liberty and property. The section has explicitly referred to the physical components of the three entities but, that has not been held true to this day. It has been observed that, most of the people in US are spending almost 59 percent of their time online (Shepherd, 2023). This shows the importance of virtual world in their real life. Moreover, an increasing number of people are being affected by their virtual presence and US constitution must include this in their basic rights as well. The digital laws enacted to protect one's virtual presence are quite limited. In the age of digital revolution, where metaverse has almost replaced the physical world, it is not possible to rely on old concepts of life, liberty and property. As, virtual reality along with AI has the potential to intrude one's personal and mental information along with its ability to manipulate one's emotions and redirect them in a particular way, it is quite imperative to include “physical and virtual life, physical and virtual liberty and physical and virtual property in the above article”. It is also important to reconsider the basic norms of democracy, which is individual freedom, privacy and protection of one's life and property. Those norms have been completely dismantled by new age of digital revolution. As, the individual freedom to think can be managed through immersive VR (virtual reality) and persuasive AI (which is used by social media networks). Individual privacy includes one's physical and mental privacy (freedom to think, reason) and that has been compromised by the unaccountable and uncontrollable VR and social media platforms. The protection of one's tangible and intangible property is also in danger as, the AI and VR systems have been gathering a lot of personal data without the proper consent of the user and that data can be used by the illicit actors for the illegal ownership of one's tangible and intangible property. Hence, it is the need of the time to make the following changes in the above section.

Required Modification:

“No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of **physical and virtual life, physical and virtual freedom, physical and virtual liberty, or property**, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

Bill of Rights- First Amendment- Ratified by majority states on 15th December 1791.

“Congress make no law respecting an establishment of religion or prohibiting its free exercise. It protects freedom of speech, the press, assembly, and the right to petition the Government for a redress of grievances”

Explanation:

Although, freedom of speech or expression and freedom of all kinds of media has been given a lot of importance in the democratic system of the 21st century but, these fundamental tenants have jeopardized the very foundation of the state system and that is “Individual freedom and privacy”. Disinformation has become a recent phenomenon of 21st century as, the multiple online mediums have been emerged recently in order to infuse individuals with information (with/without its source) or complete disinformation and allowing them to create their own content as well. Hence, the social media has decreased significantly the need for getting recent information through offline published channels. Social media alongside with its inherent nature of generating self-content and dissemination of the same to multiple geographical locations has created the immense problem for the legislators of any particular state to tackle with issues and problems related specifically to social media and freedom of expression. Although US and EU (Texas social media law, Digital Services Act (DSA), Digital Markets Act (DMA) in Europe) have taken multiple efforts through specific and general regulations in order to create the right balance between social media content generation freedom and illicit use of that media to create social and political chaos (Kaiser & Christina, 2022). However, those have not been succeeded significantly due to the complexity to define boundaries of freedom of expression and disinformation/fake news (Morales, 2023). Moreover, almost in all the developed countries, the legislators have loaded undue responsibility upon the bigger tech and social media companies to counter the negative impact of their service (Dragomir, 2017). However, due to these purely economic purposes, it wouldn't be feasible for those corporations to address all of the



issues as, the profitability would always ride over on the social and political interests of the community. Hence, it is quite imperative for the global leaders to set the global rules and regulations that define the boundary between the freedom of expression and disinformation/fake news. It is also the duty of the multilateral organizations to develop tools and mediums through which, the world population can tackle with the abundance of fake news and disinformation mainly disseminated through social media and online platforms. Artificial intelligence (AI) tools, those are used to generate contents and helping the individuals to use online mediums for dissemination of fake and illicit information, the same technology can be used to develop the counter tools through the state investment in order to create the environment in which, individuals are free to express their opinions but, not at the cost of the economic, social and political interests of their community.

Required Modification

“Congress make no law respecting an establishment of religion or prohibiting its free exercise. It protects freedom of speech (**until and unless, it doesn't harm the economic, social and political interests of the community**), the press, assembly, and the right to petition the Government for a redress of grievances”

Bill of Rights- Fourth Amendment- Ratified by majority states on 15th December 1791.

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized”

Explanation:

It has been observed specifically during the last two decades that, data has become a new economic commodity hence, almost all the economic, social and political players are trying to get access to as accurate and as maximum individual data. It had been observed after the internet that, people were not aware (until recently) regarding the serious repercussions of their personal data on the internet and that may result in economic, social and political damage for some of the people around the globe. Hence, the rules and regulations related to data usage and privacy started to emerge globally during the last decade of 20th century and their scope and horizon have been widening since then and even until today (Cate et al., 2013).

However, more emphasis was placed on personal and commercial data rather than social, physiological, neurological and political data. Interestingly, the emergence and widespread use of AI has changed the virtual landscape around the globe and now, the data (specifically and generally) has become a most fundamental ingredient, hence without which, the survival and flourishing of any social, economic, technological, legal and political objective or entity remain questionable. It has been observed and highlighted by experts repeatedly that, global folks are living dual lives physical and virtual. It has also been noted that, their virtual life do influence on their physical life in one way or another. Interestingly, the virtual trend is increasing with each passing day and more and more people are inclining towards living virtual than physical life. The extensive use of technology has become a new norm of the day and virtual/augmented reality (VR/AR) is going to immerse the social and economic factors of individuals as well. Hence, it is immensely important to imagine the new kind of society in which, almost all the activities whether economic, social or otherwise are going to be happened at one place without physical movement of individuals (Marr, 2021). Therefore, the security and safety of virtual life would become as much significant as physical life today. Physical safety and security was aimed to secure individuals from any physiological, psychological and neurological damage while, virtual safety and security is dependent upon securing one's personal, neurological, social, economic and otherwise data. Hence, the data privacy has become a core issue of this century as, data generated and disseminated mainly through two major technologies including social media technology and virtual reality (VR) technology, will create the situation in which, few players (major social media and VR companies) in the global landscape will be controlling the all major realms of the global society including social, economic, legal, educational and political as well. That is why, the global leaders must look into the matter more saliently and include the virtual life and freedom in the basic human rights domain so then, the global individuals can live a free, peaceful and happy physical and virtual life as well.



Required Modification:

“The right of the people to be secure in their persons (**Physically and virtually -physical and virtual security**), houses, **virtual establishments**, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched (**physical or virtual**), and the persons or things to be seized (**physical or virtual**)”

Conclusion

The research was conducted in order to address how the shape of important factors like individual rights and freedom have been altered due to the emergence of new technologies like social media and virtual reality. Then, it also highlights the need to encourage positive modifications in the first properly documented social contract in the form of American constitution- came into effect back in 1776. The article also added the most noticeable social contract theories (e.g. Thomas Hobbes, John Locke, David Hume, Jean-Jacques Rousseau and Immanuel Kant theories) in order to explain the relationship between the individuals and state and how that relationship can be strengthened through mutual consent and reciprocity. Then, the research focused on three key articles of US constitution related to individual freedom and privacy including bill of rights- first and fourth amendment and 14th amendment. The researcher concluded at the end that, those constitutional articles must include the terminologies like virtual life and property, virtual freedom, virtual establishment and link the freedom of speech with broader socio-economic and political interests of the community as, the unleashed press may not be in wider interests of the global community. Hence, it can be concluded from this article that, positive changes in the foundational articles of US constitution are necessary in order to provide safe, secure and prosper country to its inhabitants.

Recommendations

1. Individual data generation and dissemination must be protected by the legal system as, that data has been used as an economic commodity to generate revenue for the AI-oriented organizations
2. Freedom whether physical/virtual/semi-virtual must be safeguarded as, individual freedom and rational decision making are the founding factors over which neo-globalized system is situated
3. Individual privacy has been compromised extensively due to new AI-based technologies hence, the legal system must devise a mechanism to secure individual privacy by all means
4. National boundaries and laws are not enough to tackle with the global challenges of individual freedom and privacy hence, the multilateral organizations like UN must play its role in devising the protocols and principles over which, new digital world can take place
5. The new political system like intellectocracy can play its role in choosing the global leaders, who can anticipate the new global digital challenges and proactively devise the anticipatory mechanism to handle those challenges effectively and efficiently.

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