Regulating violence in online communication. Feminist net politic perspectives on violent Internet communication

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"For men, it's a toy, for women it's a tool" (Hentschel/Keeding 2002, 7). About twenty years ago, this is how one would have characterized the start and global success of the World Wide Web from a gender perspective. Enmeshed with this understanding was the hope and anticipation of the relatively small feminist, gender-sensitive Internet community to build new spaces and possibilities for innovation, collaboration and networking. However, as Gillian Youngs wrote back in 2002: "Analyses of gender perspectives within the context of globalization and new technologies of communication introduce more questions than answers" (Youngs 2002, 11). A more nuanced and realistic understanding of the potential, but also of the problems and contradictions of the Internet has since been developed. One of the primary questions to answer today concerns the ability and necessity to regulate the Internet. The new potential for empowering Internet communication has meant an ability to sideline publishing ownership, opinion-leadership, control and censorship, the establishment of new channels of information and forums for discussions, and the possibility to organize counterpublics. The Internet, however, has not only meant the formation of new avenues for equitable negotiation and discussion. At the same time, so-called "trolls" have initiated an unexpected amount of havoc involving verbal acts of aggression with attacks on individual persons, acts of denunciation and violent communication that especially target queer-feminist activists who promote politically unpopular information and minority opinions about gender. Here we would like to concentrate on the following questions: How might violent Internet communication be prevented and stopped? What tools exist to regulate such communication in democratic states or internationally? To what extent might links be made with the achievements of 1970s and 80s feminism?

World Wide Web – Possibilities, Limits and the Conditions for Queer-Feminist Communication

The Internet can help to represent a diversity of life realities and visions, and to experiment with new ways of using and learning. This includes, for example, queer-feminist strategies that play with gender identity, or that deconstruct gender (Draude 2014).

In the fields of media development and media consumption, blogs, vlogs (video blogs), podcasts

and other internet publishing formats have increasingly taken on important functions in public and counterpublic discourses that are reproduced and made available by individuals and by civil society and politically engaged groups and institutions. Anyone can thus become a producer of news, make an opinion known publicly and, to a certain extent, be sure that their opinion will be received, shared and criticized by others (Toffler 1980; Blättel-Mink & Hellmann 2010). Hence, various partial publics (Fraser 1994) are established that are effective to varying degrees and that may even complement and strengthen each other, becoming a type of communicative power. In this way, the digital realm can lead to a form of political intervention, gain influence through organized protest, and help to shape political decision-making.

From a global perspective, social transformations and movements – in the MENA region[1] for example – have made apparent the political potentials of Internet communication, the dissemination of information, opinion shaping and networking by civil society activists. In its formative phase, feminist activists especially were able to gain visibility and to achieve influence in their own countries with the international attention they attained.

In Germany and western countries too, feminists used these opportunities productively. Online protests, such as #schauhin (open your eyes), #aufschrei (outcry) or #fbrape, provide exemplary illustrations. The hashtag #schauhin concerns a debate about everyday racism in German-speaking contexts (Maya 2013), and #aufschrei gathers documentation and criticism of everyday forms of sexism (Drüeke & Zobl 2013; von Horst 2013). Under #fbrape, users negotiate the capitalization of sexual violence against women on Facebook.[2]

The limits of free and open Internet communication have become visible, and not only in the MENA region or authoritarian states like China and Syria. If it was not previously apparent, the revelations by Edward Snowden showed how widespread state surveillance, control and censorship take place even in democratically elected societies, and the entanglements that exist between the state-politics-military and economic use and control.

It no longer seems feasible that users are able to regulate the Internet via a sort of social contract as was initially imagined (Barlow 1996). New concepts are needed for using the Internet without political censorship and market influence, and for a form of self-regulation that is free from discrimination, that hold the state and supranational political institutions like the EU and the UN

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[1] Middle East and North Africa

[2] These debates began in part as individual accounts or critiques and took on an organizing function through reactions from users. The discussions and criticisms continued on blogs (map 2013) and occasionally turned into street demonstrations or events, which then gained the attention of more traditional media outlets and among (state) support institutions, such as within the Federal Anti-Discrimination Agency (ADS).

accountable, but that also factor in their interests.[3] This constitutes a challenge for net activists and communities who have to present their demands and interests to national and international decision-makers. Queer-feminist communities and activists are especially in demand as they have already developed approaches for open spaces and spaces for creation that, like a virtual counterpublic[4], enable participation and communicative power that are free of discrimination and fear, and that have the potential for social change. These approaches need to be reconsidered and debated among net communities.

The Other Side of the Coin – Violent Internet Communication

As was discussed above, the Internet offers new possibilities for (queer-)feminist engagements with networking, achieving influence and shaping regional and transnational opinions. As a structure and organizational form, net communication is part of society as a whole and thus mirrors social processes and relations. This means that it also reproduces or at worst amplifies existing power relations, and it can promote if not generate new forms of oppression, discrimination and exclusion.[5]

Violent forms of online communication constitute a striking example of the continued reproduction of social mechanisms of oppression in democracies like the Federal Republic of Germany. Elements that structure violent forms of web communication include racism, anti-feminism and sexism, which are fed by sexual violence, homophobia, transphobia, and countless other, often interconnected, stereotypes. The danger of becoming an object of these forms of repressive and denunciatory communication is disproportionally higher on the Internet than in direct personal communication. Anonymity, the (physical) invisibility of both the author and the target, and the absence of social control appear to be central factors (Brodnig 2014). Forms of violence that are especially dangerous include harassment, virtual rape (such as in online games) or revenge porn (sexually explicit videos or photos that are distributed on the Internet without the consent of the persons in them). Generally speaking, this could happen to any user. Impacted the most by these forms of violence, however, are those persons excluded from hegemonic discourses and/or those who locate themselves outside of them (Ganz 2013, 33). Queer-feminist activists generate particularly hostile reactions and comments – as is apparent in the comments section of mainstream online media outlets. They are also targets of the anti-feminist, so-called "men's rights movement"

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[3] See the EU Parliament decision from 3 April 2014 on the regulation of net neutrality (EP 2014) and (Press release - Information society 2014).

[4] For a description of the relationship between movements and (counter)publics see Mischerikow 2009.

[5] Here we refer especially to democratically constituted societies; in authoritarian states other forms of repression and violent communication continue to play an important role.

(Rosenbrock 2012), which is well connected and operates in aggressive opposition to them. Although these men's rights activists constitute a relatively small group, their influence has increased exponentially in established online and also offline (for example, in the German newspapers FAZ, Zeit, or Spiegel) media outlets.[6]

In the interlacing of sexist, nationalist and racist communication or the verbalization of fantasies of sexualized violence, aggressors often attempt to impede the participation of the aggressed. Susan Herring describes groups that are attacked and discriminated in this way as "vulnerable": "Such groups can be considered vulnerable populations, in that they tend to be stigmatized and discriminated again by mainstream society" (Herring et al. 2002, 371). Due to the alleged enhanced anonymity on the Internet, people acting out discrimination or inhuman conduct are more easily able to suspend the general rules of communication or social coexistence. Anonymity means physical invisibility (Brodnig 2014, 24), but not an inability to identify at all. Indeed, users are anonymous only to a limited extent, as has been made apparent by the surveillance scandals of the last few years. Reasons for online harassment and hate speech include the absence on the Internet of direct contact in the form of possible corrective or social supervision, and the fact that aggressors often feel reaffirmed in their social environment and face no sanctions. For this reason they even sometimes disclose their personal identity.

As a result of violent forms of communication, queer-feminist activists become deterred from participating in the continued development of the Internet, especially those bloggers who become the targets of such attacks. At public events, such as at the taz-lab 2013 with Katrin Rönniche[7] and other net activists, but also in protected spaces, users regularly report that they no longer can or want to take part in these debates, and instead pull back to become mere Internet consumers.[8] Reasons offered to explain this change include threats of violence and acts of defamation, as well as direct experiences of violence.

Some of these activists confine their use to partial publics or safe spaces in which they attempt to develop communication and discussion that is new, different and free from discrimination. These strategies shy away from provoking (socio)political impact on the so-called "relevant publics" that are a product of negotiation processes of actors with sufficient resources (such as classical online media outlets or other disseminators). The aggressors thus succeed.

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[6] See media monitoring projects such as NDR 2013.

[7] Katrin Rönnicke has since returned to becoming an active participant in online communication.

[8] Scientific research on this topic is needed. There are a number of projects and articles about cyber mobbing or harassment in the areas of children and youth, but individual reports in this direction, especially from women, are becoming more frequent.

Who regulates whom? Feminist Dilemmas and Contradictions

In Germany and in many other countries, clear rules or laws exist that make possible legal retribution in cases of defamation, slander or the violation of personal rights. While it may be true that there exists no law explicitly against "cyber mobbing" as of yet, existing laws apply to virtual reality as well. Still, the opinion prevails across a vast segment of Internet users and among queer-feminist online activists that any form of state involvement and regulation includes a risk of censorship and the loss of open communication. As a result, the online community has turned to user "self regulation". Some activists refer to the constitutionally protected right to freedom of expression and the "fundamental right to self-determination over personal data" formulated by the Federal Constitutional Court in 1983. We see an inherent contradiction here: Activists have misjudged or ignored the fact that open online communication and counterpublics have already been restricted as a result of hateful online communication.

Feminist Self-Regulation versus Commercial Interests

It has become clear that platform providers and Internet operators and consumers with more resources – and especially those with more capital – seek to dominate online governance, which has importantly impacted the political achievements of work towards gender emancipation. Large, capitalist, predominantly US-based online businesses are committed to using communication as they see fit, which has meant orienting it towards commercial interests. These companies attempt to access a community of users as far-reaching as possible, and who are attached to traditional western and postindustrial morals and values. This orientation has included a binary understanding of gender and the reproduction of hegemonic relations of dominance and subordination. Critical counterpublics diminish as a result, due, for example, to reduced and formally canalized opportunities for participation.

Facebook provides a perfect example of this process, not only via its redundant "like" function, but also via the obligation upon registration to provide a clear name and definitive gender.[9] Debates and disputes on Facebook about oppressive depictions of female nudity and the minimization of violence against women provide additional evidence.

Facebook as a community platform has meant that users become a component of self-regulation in

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[9] Since 2014, Facebook users in the USA and Great Britain are able to choose a gender description from around 50 variants.

that they are provided with a button to report "offensive" content or spam. The standards of the "Facebook community", however, are imprecise and vague: "We also impose limitations on the display of nudity." Or about violence and threats: "We remove content and may escalate to law enforcement when we perceive a genuine risk of physical harm, or a direct threat to public safety" (Facebook 2014). The criteria used and limitations imposed by Facebook remain as unclear as the handling of violence. When is a risk of physical harm "genuine"? Users may be able to report content as offensive, but do so without assurance that it will be removed and without any possible community participation in such a decision. Why? "Because of the diversity of our community, it's possible that something could be disagreeable or disturbing to you without meeting the criteria for being removed or blocked" (Idib.). Equitable communication thus proves to be fictional: Via imprecise definitions, the company aims to appeal to and reflect mainstream society, but also to appease activist groups. After all, most relevant to Facebook are the personal data used to generate financial gain. To quote Felix Stalder: "If Facebook were not so concerned with its own image, it would not interfere at all with what and how users discuss. No matter what is exchanged, everything generates valuable data" (Stalder 2014).

The campaign #fbrape[10] by "Women, Action & the Media" and 100 other feminist and gender-political organizations demonstrates that feminist protests and interventions do have an impact. With much support – more than 60,000 tweets and over 5,000 emails to each company (ex. audible.com, American Express or Dove) (Newsom 2013) – the campaign provoked Facebook in 2013 to review and revise the system – then ineffective – designed to identify and erase hate speech and violence against women (Levine 2013). This campaign is thus a winning example of the potential of activist self-organization and self-regulation on the Internet.

Feminist Self-Regulation versus Hegemonic Notions of Masculinity

Wikipedia offers one example of a large and self-organized Internet community that is not oriented towards commerce. The community, composed of volunteer workers, is designed "to create and circulate a freely licensed and high quality encyclopedia. Every Internet user can not only read Wikipedia, but can also engage with it as an author" (Wikipedia 2014)[11]. Users compile the content of the knowledge platform collaboratively. Communication is essential and easy to follow on the discussion page of each article. The content included on Wikipedia is subject to "notability" criteria that is developed and agreed upon by the Wikipedia community, and reflects its state of knowledge

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[10] For more information about the campaign, visit www.womenactionmedia.org/facebookaction/open-letter-to-facebook/

[11] This is a translation from the German website as the English sight uses a different text.

and approaches. The majority (around 90%) of those persons who write on Wikipedia are well-educated, middle-class, middle-aged (white) men (Doyle 2009). This is apparent in the masculine-hegemonic application of words and language, but especially in the spectrum and perspectives of published content. Perspectives or themes external to the knowledge base and perception of the leading Wikipedia authors risk falling victim to the site's notability criteria.[12]

The article discussion pages demonstrate that the community often handles contributions from women differently than those from men. Their knowledge and perspectives are interrogated more quickly. Contributing women are also faced with sexual innuendoes and gender stereotypes that devalue both the author and the topic (Lam et al. 2011; Femgeeks 2012). Attempts to make such discussions public and to sensitize to these forms of discrimination have not had an impact, although last year representatives of Wikipedia aggressively and publicly took up the topics of sexism and the under-representation of women in their community.

With the project "Diversity in Wikipedia", Wikimedia Germany has sought to newly navigate self-regulation. It intends to develop a concept of gender/diversity to strengthen the diversity of Wikipedia. Various measures are being discussed and tested within the German and international communities.[13] It remains unlikely that these initiatives fully sensitize the Wikipedia community to the politics of gender and provoke acknowledgement of the importance of related topics and approaches. The concept of "diversity" as organizing principle indicates that the social relevance of gender – as structure-forming category that characterizes power relations – has not been fully understood.

The examples of Facebook and Wikipedia demonstrate how difficult it is to craft communication in mainstream online media outlets that is free of violence and discrimination and is (only) based on self-regulation if a community does not recognize the need to regulate violent structures of communication.

Legal Options, Feminist Dilemmas and Contradictions[14]

Insults, intentional defamation, defamation, threats, blackmail, coercion and every encroachment on personal rights can be legally prosecuted and punished in Germany, even with regards to virtual

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[12] We do not assume that men, based solely on their gender, are unable to make decisions about topics and content pertinent to women. It should be a general condition – also among women – that they are equipped with the expertise and knowledge relevant to the politics of gender.

[13] For more information on the project and the corresponding measures see: https://commons.wikimedia.org/wiki/File:Arbeitspapier-Wikipedia-Diversity_V05.pdf

[14] The following remarks are based in part on a lecture by Lucy Chebout at the 43rd Green Ladies Lunch of the Heinrich Böll Foundation on 25 October 2013 in Berlin entitled "Digital Public and the Culture of Communication – Feminist Net Politic Perspectives" and on the unpublished protocol by Nora Frizsche. We are further developing this topic in the working group Feminist Net Politics, which developed subsequent to the event.

communication. In what follows, we will present the legal framework available to take action against violent forms of communication on the net, and then discuss related contradictions from a feminist perspective.

Legal Options

In principle, the state is required to afford all citizens equal means of protection from all forms of violent aggression. Based on German law, three legal routes are available for users to contest violence, threats of violence or other forms of threat and discrimination on the net: criminal law, civil law and public law.

In criminal law, where state bodies conduct the investigation and serve as prosecuting authorities, paragraphs of the German Penal Code (StGB) addressing incitement to hatred (§130 StGB), stalking (§238 StGB), insult (§185 StGB), intentional defamation (§187 StGB) or defamation (§186 StGB) provide a foundation for reporting an offence to law enforcement authorities. Retribution via criminal law is aimed at criminal prosecution and conviction and results in the punishment of the assailants. Civil law deals with those conflicts that occur between natural or legal persons. In proceedings brought before a civil court, users are able to seek compensation, such as in accordance with paragraph §823 of the German Civil Code, in cases of intentional or negligent infringement upon another person's life, body, health, freedom, property or any other right. Cases brought before a civil court are not about punishing a perpetrator, rather they seek compensation and amends for the victim. Civil law can therefore also provide a source of empowerment as the impacted persons initiate the civil proceedings themselves. Similar to criminal law, however, it remains difficult to prove such infringements as the burden of proof lies with the plaintiff. The relationship between state and citizen is regulated by public law, as in Article 1 of the Basic Law (GG) for the Federal Republic of Germany ("Human dignity shall be inviolable…" Art. 1[1] GG) and in Article 2 ("Every person shall have the right to free development of his personality…" Art. 2[I] GG). Offences such as online harassment concern an infringement of the general right to protection of personality, and hence the state is required to provide citizens with protection. However, these offences must go through the Federal Constitutional Court. A Constitutional Court ruling garners much attention, has much symbolic value and is legally binding. A conviction, however, does not include sanctions or other coercive means of enforcement. Moreover, this process is very costly in terms of both time and resources.

This is true for other procedures under public law, such as under European laws and regulations (the Charter of Fundamental Rights of the European Union, the European Convention on Human Rights), as per international rights at the level of the UN (the International Covenant on Civil and

Political Rights, the International Covenant on Economic, Social and Cultural Rights) and under the legal provisions attained by the international women's movement, including the CEDAW (Convention on the Elimination of All Forms of Discrimination against Women) or the ICERD (International Convention on the Elimination of All Forms of Racial Discrimination), both of which the Federal Republic of Germany has committed itself to implementing.

Feminist Contradictions and Dilemmas

The limited use of these legal structures to date might in part be explained by the fact that many net activists believe that the Internet should be reserved as an open space for communication, which also means preserving net neutrality from regulation and inspection by the state. In addition, online harassment is often not considered a form of violence shaped by social structures of violence that one should work to dislodge. There is also a lack of clarity and a general ignorance with regards to the existing legal framework, as well as a general distrust of a legal system that is still controlled by norms and values defined by men (Schrupp 2011). Legal proceedings that concern gender-based violence are often suspended, or the perpetrators receive only mild penalties.[15] These decisions function to minimize the issue and risk strengthening concerns about use of the existing legal possibilities. In as much as online activists finish by seeking out methods of engaging with online threats and acts of discrimination individually[16], a fundamental dilemma is reproduced that existed already around sexual violence in the women's movement of the 1970s. At that time, a group of feminist activists, including many legal experts, refused to take advantage of the legal system in their pursuit of justice for crimes of sexual violence. This position reflected the general understanding of autonomy among the majority of the women's movement at the time within a patriarchal-hegemonic male-oriented state. There was also much mistrust of state infringements and involvement that was based on widespread negative experiences when it came to the issue of violence against women, especially in the field of criminal justice.[17]

However, much like back then, it remains unclear to what extent these forms of punishment are effective. To what extent are criminal convictions able to bring about awareness and change when they concern offences that are nourished by racism and sexism? What is more, public debates are

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[15] A press release by the Criminology Research Institute of Lower Saxony announced a significant reduction in the percentage of perpetrators convicted in cases of sexual violence (http://www.kfn.de/home/Presseerklaerung_Vergewaltigung.htm, 07.13.2014).

[16] This was discussed in presentations under the topic "The Politics of Sleeping: Freedom, Protection, De-Netting" at the conference "Entering Darkness. Theories and Praxes of Empowerment in an Age of Digital Control" on 25-26 January 2014 in Berlin (http://www.einbruch-der-dunkelheit.de).

[17] See the analysis of the "Gynecologist Lawsuits" by the lawyer Alexandra Goy, http://www.kj.nomos.de/fileadmin/kj/doc/1987/19873Goy_S_313.pdf.

again marked by an increase in "victim blaming".[18] Critics of recourse to state law enforcement agencies thus make a case about the danger of a backlash that could impact either the hard-won legal provisions that have been obtained since the 1970s or the application of those provisions. Given recent right-wing populist social roll backs, and the increase in anti-feminist and racist sentiments and prejudices concerning survivors of rape, as have become apparent in discussions about the Kachelmann decision since 2011, these activists fear that the legal standards of protection from sexist forms of discrimination and threats of sexual violence on this "new" medium will be questioned and renegotiated.

Regulating Communication Responsibly

It is important for queer-feminist discussions and initiatives to consider parallels between current debates and earlier feminist discussions, but it is also important to recognize any differences between the two. This is the only way to use those earlier hard-won achievements – as well as the legal resources that have since emerged – in a way that is productive. The problems related to online harassment must become collectivized. This means that feminist online activists should not retreat to private spaces, but should instead respond to "victim blamers" collectively by holding them accountable.

Such a response would demand that feminist net activists first establish a network with each other and seek out alliances in other spaces – also offline. Alliances should include above all feminist experts from offline spaces, such as legal experts, journalists and anti-violence counselors, who have established specific expertise over the years but have not often dealt with the specificities of online violence. This response should also include the cultivation of intergenerational dialogue among feminists. This exchange of perspectives, experiences and approaches from a variety of age groups and areas of expertise can help to produce new forms of knowledge, and also new political power to fight all forms of anti-feminist and racist violence.

Self-regulation in this context thus refers to the implementation of clear and binding guidelines and rules for communication on the net that precludes all forms of offensive and violent communication.

For a joint and socially impactful course of action, it is also important to continually build knowledge and expertise. This means that researchers are encouraged to conduct research about sexual and racist violence in online communication and to expressly develop expertise in this area. There is also still a deficit of well-equipped and suitably qualified counseling structures for all

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[18] http://www.merkur-online.de/aktuelles/welt/vergewaltigungs-urteil-sorgt-empoerung-maedchen-sich-nicht-genug-gewehrt-zr-2501809.html.

affected persons and groups.

This applies a fortiori to state authorities, such as the police force and the judiciary, but also to legal experts. Even if it remains in dispute whether or not to make use of the available legal frameworks, those law institutions concerned still need to further develop their knowledge and capacities with regards to gender-specific and racist violence in the area of net communication. Politicians are thus also encouraged to get involved as they have yet to acknowledge the issue of violence in online communication. Here too, however, pressure must first come from queer-feminist communities and their allies.

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