DEMOCRACY FIRST:
THE NEED FOR A TRANSATLANTIC
AGENDA TO GOVERN TECHNOLOGY

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In “Democracy first: the need for a transatlantic agenda to govern technology” Marietje Schaake articulates the importance of renewed transatlantic cooperation in the governance of technology, which can serve as the backbone for a global democratic alliance in tech governance aiming to advance human dignity, individual and collective rights, economic fairness, security and democratic principles.

With the Jan. 6 attack on the United States Capitol, the Biden Administration had its agenda carved out for it even before being sworn in. While it is necessary and urgent to focus on healing the wounds of division in the United States and to strengthen the integrity and resiliency of American democracy, too much of an inward focus would deny the shared challenges that are experienced not only within but also between democratic nations collectively. Of the many threats, ensuring technology companies do not disrupt the rule of law and are aligned with democratic principles is a priority that requires cooperation between like-minded countries. A joint effort between the United States and the European Union would create a combined force that will kickstart more democracy-focused coordination, in particular on technology governance.

The lively debate following Jan. 6, on the appropriateness of ad hoc responses by social media giants, but also on the proportionality of power that technology companies have amassed, should not overshadow how democratic governments themselves abdicated their responsibility. These governments should have done more to ensure technology companies would develop services and business models without disrupting democracy or the rule of law. This task far exceeds the immediate impact of incidents that are visible and controversial. Corporate power reaches deeply into digital infrastructure, currencies, identity, offensive and defensive capabilities in cyberspace, and other aspects directly touching the role of the state.
Even if in Europe more legislative initiatives have been taken, both the EU and the U.S. are behind in ensuring clear rules to safeguard the public interest. The United States’ hands-off approach towards intervening in the business models of social media companies has now come back like a boomerang, with the attack on the Capitol as indisputable evidence that amplified disinformation fuels fascism. Online hate speech does not remain confined in some virtual, parallel universe, but leads to violence in the streets. For Americans, it has finally been revealed how a powerful technology sector becomes a weakness in equal force, if fairness, safety and rights are not protected with laws and regulations. This is a challenge that reaches beyond the governing of social media giants. Europeans look with hope and anticipation in the direction of Biden’s Washington to develop a joint, democratic technology governance agenda. This is how the political and policy dynamics may play out.

JOINING FORCES ACROSS THE ATLANTIC

Given the raw reality of the Unites States’ loss of democratic credibility and standing after four years of President Trump with his anti-democratic agenda, the country needs partnerships and an explicit display of commitment to a democratic alliance. A democracy first agenda. Transatlantic cooperation can function as the backbone for such a global agenda while an inclusive, global alliance is necessary. When the economic and political power of the EU and
the U.S. are combined, an engine spanning 42 percent of the world’s Gross Domestic Product (GDP), 60 percent of the world’s Foreign Direct Investment (FDI) and a combined 800 million people of the world’s population living in democracies is created. If the U.S. manages to reignite its legacy of supporting multilateralism, the transatlantic partners will be able to set the agendas of international organizations and fora such as the Organization for Economic Co-operation and Development, the World Trade Organization and the UN. Synchronizing regulatory efforts and building a critical mass should be the core ambition if they are to set democratic standards and policies together. In both the EU and the U.S. this will require a willingness to compromise in overcoming differences between the two blocks, in order to better address the most significant competition: that from authoritarian regimes or from privatized technology governance. A common technology policy agenda that advances human dignity, individual and collective rights, economic fairness, security and democratic principles has been neglected even as the geopolitical stakes have risen and China has emerged as an ambitious global player.

The global competition for economic power and the ability to set standards is now a battle between companies and countries. Major power benefits are gained for those who manage to come out in the dominant position: owning a market, as China does with the production of semi-conductors; setting global standards like Europe has done with the Global System for Mobile Communications and the General Data Protection Regulation; or outpacing others in the amounts of data harvested to build artificial intelligence as we see done by companies and countries alike. Governance models in the

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digital world have become battlegrounds in a systems competition because technology is now a layer of all sectors in the economy and impacts almost all aspects of people’s lives.

At present, the emphasis on specific aspects of governing in the digital world diverge between the U.S. and the EU. The United States is strong with its economic power coming from technology giants, and if it intervenes, this tends to be for national security purposes. The European Union, meanwhile, has sought to build on values it wishes to protect, with regulations that safeguard rights. Its growth of a digital economy is lagging behind, and despite ambitions of the European Commission to build a ‘geopolitical Europe’, meaning the EU should strengthen its role on the global stage. This remains too much of a paper reality, especially when it comes to the intersection of technology and geopolitics. Thus far, a political commitment to acting in an EU-U.S. tandem in the space of technology governance has not in fact manifested.

Eyebrows and question marks were raised for example, when the EU signed an investment deal with China in the month before Biden’s inauguration. While it is perfectly legitimate for the EU to go after its own interests, the ability to act together vis-a-vis the most significant challengers of democracies and open markets was seen as a low hanging fruit to approach jointly.

A new transatlantic policy agenda on technology governance should at least include the buckets of trade, peace and security as well as democracy and human rights. In all areas existing rules should be updated or new rules
drawn up to ensure they cover the changing realities and new domains that emerge as a result of technological innovation. While negotiations on a Transatlantic Trade and Investment Partnership (TTIP) were met with resistance on both sides of the Atlantic, aligning trade and investment rules should help to create a level playing field and set agreed standards ranging from dataflows to the cybersecurity of services and the integrity of supply chains. Likewise, building on similar approaches to antitrust with aligned rules should ensure fairness in the digital economy.

Cybersecurity and trust in supply chains is a growing concern globally. The SolarWinds hack, which enabled the stealthy intrusion into U.S. government departments, NATO, the European Parliament and AstraZenica alike, has confronted political leaders with their dependence on technology companies without proper security guarantees once more. The combined market and political power of the U.S. and the EU will prove a powerful leverage to ensure shared standards apply to global suppliers. Accountability and attribution processes will similarly be more effective if they are coordinated. Additionally, determining how to translate laws of armed conflict and responsible behavior in peace time should lead to new accountability mechanisms after criminal acts or escalations into cyberwar.

A shared approach towards safeguarding electoral and democratic integrity should lead to a blueprint of how cyberattacks and disinformation can be stopped before they succeed in eroding trust in the foundations of the liberal democratic system. Agreed resiliency measures as well as protections of human rights and fundamental freedoms in the digital context should help to set democracies apart from authoritarian regimes while keeping abuse of power by corporations in check.

WHERE POLICY MEETS POLITICS

Policy agendas never play out in a vacuum. Political positions already taken, as well as the legacy of existing policies, will have to be navigated. The EU has set the tone by elevating the digital agenda to the highest political level and making it part of the pandemic recovery spending along with a green
economy agenda. The U.S. should do the same. Too often, digital policies are left to industry leaders, or are treated as a second-tier priority on diplomatic and policy agendas. Addressing technology policy at the highest political level should lead to a whole-of-government approach to ensure that different entities that are part of the same government do not act in opposite directions.

The EU has been making headways in a number of governance areas. In particular, the role of large platforms is being scrutinized with regulatory initiatives seeking to spell out clear responsibilities in the fields of fair competition, free speech and content moderation, risk and liability, data protection and privacy, democratic integrity and digital taxation. Slowly but surely, American sentiment seems to be moving closer towards that of the EU, but just because the U.S. is moving in a similar direction, does not mean the choice to cooperate has been made. Implementation and enforcement continue to require improvements on both sides. Convergence can be spotted in the antitrust realm, where Google and Facebook, but also Amazon and Apple, have come under investigation for abuse of market power, mergers and acquisitions and illegitimate data use. In both the EU and the U.S. critics are looking for ways to address harms to the public interest and society stemming from monopolistic actors, beyond the necessary mitigation of harms to the market.

The EU, while relatively weak on homegrown digital giants, has declared the ambition to become digitally sovereign. With investments in research, advancing 5G, the combined use of industrial data as well as the creation of a European cloud, the EU hopes to rely less on imports and standards set by others. Still, European sovereignty is unrealistic and doomed to fail without allies, even if it makes for an attractive political rallying cry. To strive towards self-determination and the ability to advance common values and interests with allies makes more sense in a connected world that creates interdependence for everyone. The fact that the notion of ‘sovereignty’ is frequently invoked by authoritarian regimes to justify strong state interventions in the context of technology governance does not help the EU either.
The European commission president, Ursula von der Leyen, has extended a hand to the Biden Administration with a proposed EU-U.S. Agenda for Global Change including proposed cooperation through a Trade and Technology Council, a dialogue on the responsibility of Big Tech, protecting critical technologies and developing 5G and rules for data flows and artificial intelligence. The EU embraced Biden’s proposal of a Summit for Democracy, and further hopes to cooperate on a long list of geopolitical challenges. With likeminded countries including Canada, Japan, Australia, the United Kingdom and hopefully India, shared technology governance questions such as surveillance, transparency and accountability of AI, algorithmic bias and use of facial recognition technologies might be addressed. Sanctions and other accountability mechanisms for the development and use of repressive technologies to silence dissent or hack and track human rights defenders should be aligned. The EU, U.S. and other powerful development donor states should tie investments in digital infrastructure, development programs, security assistance and a rights agenda in a way that offers a democratic answer to China’s Belt and Road agenda. This should also help prevent developing countries from becoming launchpads of cyberattacks elsewhere.

For the EU to fully embrace its role at home or as a partner, there needs to be better coordination between different policy areas. Over and over again, the treatment of economic, geopolitical and security issues happen in isolation or even friction. To assess whether Huawei and other network technologies could safely enter the common European single market, 27 countries had to find a common, ad hoc ‘toolbox’ to assess national security concerns in coordination. The EU’s potential will only fully come to fruition when economic, geopolitical and security aspects of governing technology are integrated into its existing values-based efforts. In technological systems, it is increasingly difficult to separate these multiple aspects, as they impact each other. In terms of governance, the question of which political model will prevail in setting rules for the digital world should be answered on the systems level. This integrated nature is one of the arguments to address several policy aspects at once. Additionally, such coordination may lead to a comprehensive transatlantic negotiation, whereas a topical approach would not. Negotiations on data protection have been politically challenging and the
European Court of Justice struck down the Privacy Shield in the Schrems II case. The decision struck down the existing adequacy decision, which implied that data protection standards in the U.S. were sufficient to allow for the frictionless exchange of data. Negotiations for a new arrangement continue and the Biden Administration is well advised to meet Europeans halfway on their data protection and privacy concerns just as the EU has moved in the United States’ direction on the 5G debate.

President Biden has appointed a team with a legacy of respect for multilateralism, that can hopefully shepherd America’s return to constructive collaboration with allies. He announced a Summit of Democracies with technology policy high on the agenda. The Biden administration will need allies in this effort. An alliance for democratic technology governance offers a solid starting point. Taxation of technology companies would be an area where Americans need to show a willingness to address EU concerns. It may not be long before Americans, while needing to address the fallout from the Covid-19 pandemic, also look to their main profiteers to contribute their fair share. The pandemic has laid bare the backlog in safeguarding the public interest vis-a-vis that of technology firms. While the latter have become wealthier and more powerful than ever before, unprecedented pressure on public health, public education and unemployment benefits will lead to public spending of historic proportions.

As the United States resurfaces from a tense campaign year, and arguably one of the most divisive phases in the history of transatlantic relations, the European Union has been presenting a jigsaw of technology policy proposals. It seeks to address the abuse of market power, democratic resiliency, cybersecurity as well as governance of artificial intelligence. On both sides of the Atlantic, growing numbers of citizens are concerned about surveillance capitalism as well as the rise of technology-powered authoritarianism. A lot is at stake, and a failure to cooperate more effectively along democratic lines will undoubtedly result in the further privatization of the governance of technologies, while handing authoritarian regimes additional space to instrumentalize technologies for their control driven political agendas. Digital ecosystems therefore need principled and systematic governance approaches.
to have the desired effect of protecting the rule of law and democracy, even as new iterations and innovations are expected to emerge. The U.S. and the EU can create a critical mass together to do so at scale.

It is tempting for the Biden Administration to focus all attention on addressing the urgent erosion of democracy at home. However, joining forces with the EU to build a transatlantic technology governance alliance would support that cause. Addressing both domestic harms and the geopolitical aspects of technology’s disruption supports a democracy first agenda.

ABOUT THE AUTHOR

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Between 2009 and 2019, Marietje served as a Member of European Parliament for the Dutch liberal democratic party where she focused on trade, foreign affairs and technology policies. Marietje is affiliated with a number of non-profits including the European Council on Foreign Relations and the Observer Research Foundation in India and writes a monthly column for the Financial Times and a bi-monthly column for the Dutch NRC newspaper. She can be found on Twitter @MarietjeSchaake.