Net Raciality: How Racial Bias Pervades the Digital Space

Author : Mathilde Cohen

Date : March 18, 2019

Catherine Powell, _Race and Rights in the Digital Age_, 112 **Am. J. Int'l L. Unbound** 339 (2018).

"The adage 'on the internet, nobody knows you're a dog' reflects a now naïve belief in the emancipatory potential of cyberspace," writes Catherine Powell in her splendid new essay on race, internet, and international human rights published as part of a Symposium issue on the seventy-year anniversary of the Universal Declaration of Human Rights . In _Race and Rights in the Digital Age_, Powell critiques the belief according to which the digital space is a raceless and liberating utopia. She compares this online fiction to the offline ideology of colorblindness. Much like colorblindness has been used to conceal and perpetuate racial inequality, the supposed post-racialism of the digital world is a fig leaf masking the fact that it is pervaded with racial bias.

In making this point, she builds upon Osagie Obasogie's critique of colorblindness that uses a research design involving interviews with blind people about race. Obasogie revealed that even people blind since birth are not colorblind, but just as likely as sighted people to equate race with visual characteristics. Similarly, Powell shows that "[r]ace is a deeply entrenched social construct—both online and offline—even when we cannot literally always 'see' it."

Powell's essay includes a meditation on how our preconceptions about racial difference structure our digital lives and, therefore, some of today's most fundamental processes of communication and social outcomes, leading to new forms of discriminatory practices. This state of affairs, she argues, undermines the Universal Declaration of Human Rights' promise that "[e]veryone is entitled to all the rights and freedoms set forth in th[e] Declaration, without distinction of any kind, such as race, [etc.]."

She marshals ample evidence to substantiate her claim that race is _perceived_, if not literally "seen," online. In particular, she analyzes technologies such as artificial intelligence which incorporate human biases in algorithms giving effect to racial prejudices and reinforcing structural racial inequalities by affecting "which school a child may attend," "how a credit score is calculated," or "whether to allow an individual out of jail on bail." She also points to the constant data collection on users, which enables private and public entities to make predictions about individuals' racial identities and to treat them differently in their provision of goods and services.

Powell's piece is also a methodological call to action, inviting further collaborations between critical race theory and data privacy in the context of international and comparative law scholarship. It paves the way for work exploring the racial impact of several features of the web in the United States and elsewhere. The repeal of net neutrality protections in the United States and its consequences on content that matters of communities of color is but one domestic example. The modes of racialization at work in web content and capabilities developed, hosted, or used in countries that claim to neither collect nor use racial data (such most European countries) would also benefit from analysis inspired by Powell's essay. Globally, the centering of online public knowledge around the perspective and languages of rich, global North countries calls for sustained scrutiny of the underlying role of national and international law. To dismantle discrimination, in other words, legal scholarship ought to take the harms produced by law and digital technology seriously, striving to make visible the way race functions as an organizing social principle online as well as offline.

Cite as: Mathilde Cohen, _Net Raciality: How Racial Bias Pervades the Digital Space_, JOTWELL (March 18, 2019) (reviewing Catherine Powell, _Race and Rights in the Digital Age_, 112 **Am. J. Int'l L. Unbound** 339 (2018)),

https://intl.jotwell.com/net-raciality-how-racial-bias-pervades-the-digital-space/.