

Digitalization and Dissent in Legal Cultures. Chinese and Other Perspectives¹

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Abstract: The concept and the dynamics of dissent (e.g. how manifestations of dissent are formed, channeled, promoted or stifled) are not sufficiently studied despite their tremendous importance in times of digitalization of social life. This article discusses the impact that digitalization, in general and in specific settings, is having on various forms of dissent. It is built from a theoretical and empirical socio-legal investigation about dissent, its manifestations, and reactions to it. It reflects the author's effort to categorize dissent, address its importance, and formulate a comprehensive concept that remains missing in the literature. The article shall illustrate the argument that the impact of digitalization on dissent is mediated by legal culture and the wider societal context. It discusses examples of new digital technologies and their relations with the idea of dissent in different legal cultures. The focus is on greater China (the mainland, Macau and Hong Kong) and Brazil.

Introduction

The dynamics of dissent (e.g. how dissent is formed, channeled, promoted or stifled) are not sufficiently studied despite their tremendous importance in times of digitalization of social life. This article offers data and discusses the impact that digitalization, in general and in specific settings, is having on various forms of dissent. It is built from a theoretical and empirical socio-legal investigation about dissent, its manifestations,

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and reactions to it. Moreover, it reflects an ongoing effort to categorize dissent, address its importance, and formulate a comprehensive concept that remains missing in the literature. The article shall illustrate the argument that the impact of digitalization on dissent is mediated by legal culture and the wider societal context. Furthermore, the increasing level of digitalization witnessed today raises serious threats to dissent and this affects the possibility as well as the courage to dissent.

Convenient new ways to do ordinary things (e.g. to shop, order and have food delivered, communicate, pass through immigration) leave digital traces. Massive data is collected and can be used to control people and dissenting behavior. The increasing adoption of digital technologies is changing social interactions, governance, as well as dissent with the use of Artificial Intelligence (AI), biometrics, and big data in combined processes. In addition, digitalization provides new types and channels for the expression of people's ideas, new forms of surveillance, and new ways of reacting in relation to dissenting behavior. That technology raises questions on how to balance new individual and societal benefits against rights and freedoms that protect dissent as an engine of innovation and error correction.

The article discusses examples of new digital technologies and their relations with the idea of dissent in different legal cultures³. The focus will be on greater China (the mainland, Macau and Hong Kong) and Brazil. The goal of the focus on those two regions is not to compare them, but to describe cases that illuminate the previous relations mentioned. China and Brazil are countries with vast territories, among the largest world economies, and holding similarities that led them to mutually cooperate under the umbrella of the "BRICS countries" group. In spite of their advances and fallbacks, they are important global players and emerging economies at different levels of development and their cooperation might be indicative of new forms of global cooperation that has not been dependent on formal institutionalization. The analysis of these two complex countries, with large populations, and world importance is, thus, important to see practical examples of dissent, their effects, and how different institutional structures address dissenters.

China is at the forefront of digitalization of social life and this has meant great innovations, an increase in convenience and benefits of all sorts. Added security has also meant unprecedented surveillance and control of people and civil society. To investigate today's China is to investigate what the future of many societies might be. China is not

3 For a discussion on the expression's meanings, see: Nelken, David. "Using the concept of legal culture." *Austl. J. Leg. Phil.* 29 (2004).

alone though, and many other countries have their own areas of intensive digitalization and corresponding control on behalf of security, fight against corruption and tax evasion, and so forth. Brazil offers a good illustration of digitalization in government institutions (especially in the judiciary) and how rapid digitalization is allowing new forms of whistleblowing and dissemination of information that otherwise would remain secretive.

Conceptualizing Dissent

To dissent implies having a possibility and the courage to make a choice to divergently speak out or behave in face of the opinions or conduct of others. The inherent divergence, an essential part of the concept, can offer important alternatives to existing perspectives or strengthen the grounds of existing ones by questioning people's assumptions.⁴ I consider "dissent" as the initiative of a behavior that offers another view⁵, another sense, or another way of feeling to existing behavior and reality, rather than merely implying a rebellious or transgressive behavior. The term "behavior" is more appropriate than that of "action" because dissent can also happen by means of an omission (i.e. a non-action) that collapses usual expectations for a given action. In a rally of Nazi supporters, for instance, a person who consciously refused to salute the Fuhrer and stood still to show her disapproval would be dissenting by not following the expected action of the crowd. That is an example of dissent by omission.

Dissenters fostering changes across the world are often perceived as troublemakers and often pay a high price for their opinions or behavior – even when dissent is formally protected by legal rules. With their individual or collective behaviors, dissenters can be important catalysts of social changes that benefit many (i.e. Nobel peace prize winners usually started as dissenters). Authors have argued the value of dissenters even for conformists. Cass Sunstein has argued that,

4 As illustrated in Hans Christian Andersen's fable, "The Emperor's New Clothes," by the child who forces all conformist adults to review their assumptions about the emperor's clothes. In *Why societies need dissent*, Cass Sunstein invokes this tale: "Conformists follow others and silence themselves, without disclosing knowledge from which others would benefit. (...) 'The Emperor's New Clothes' is an ingenious illustration; because everyone follows everyone else, people do not reveal what their eyes plainly perceive (...) When injustice, oppression, and mass violence are able to continue, it is almost always because good people are holding their tongues" (Cambridge, Mass.: Harvard University Press, 2003. p. 6).

5 See e.g.: Daube, David. "Dissent in Bible and Talmud". *Calif. L. Rev.* 59 (1971): 784-794.

conformity can lead individuals and societies in unfortunate and even catastrophic directions. The most serious danger is that by following others we fail to disclose what we actually know and believe. Our silence deprives society of important information. (...) Those who dissent, and who reject the pressures imposed by others, perform valuable social functions, frequently at their own expense. (Sunstein, 2003, p. v).

A long tradition of socio-legal theorists, however, has developed ideas around or as a means to reach different forms of “consensus”, “order”, and “unity”. These theorists include the Contractualists, Auguste Comte, Émile Durkheim, John Rawls, and Jürgen Habermas. They have all, to a higher or lesser degree, emphasized the idea of consensus rather than that of dissent. Both ideas, however, need to co-exist and are crucial for societies wishing to advance democratic ideals.

The fact that several scholars use the term “dissent”, even in the titles of their works, does not make a world of difference though. The term remains ambivalent and rather undistinguished from several other concepts, which are only coincidentally equivalent. The term is frequently used without a proper characterization and as a synonym of many other notions, including disobedience, protest, resistance, deviance, social movement, transgression, freedom of speech, and conflict. Even objects have been labeled as “dissenting objects”, as seen in a 2018 exhibition on dissent at the British Museum⁶, in London, UK. To add to the existing confusion, “dissent” can be a verb (to dissent), with its corresponding antonym being “consent” (to consent), or it can be a noun with a meaning that is the opposite of consensus. Indeed, if a group cannot reach a consensus on a given topic, then we would say there is dissent within the group. Hence, the conceptual confusion does not help to highlight the role of dissenters and the innovation that many dissents bring about.

Little has been written on the attributes and different forms of dissent though⁷, and contemporary authors only analyze specific forms and types of dissent.⁸ To tackle those

6 “1 Object: Ian Hislop’s Search for Dissent”. For the details on the exhibition, see: http://britishmuseum.org/whats_on/exhibitions/i_object.aspx, last accessed Aug. 02, 2018.

7 An exception is: Collins, Ronald KL; Skover, David M. *On dissent: Its meaning in America*. New York: CUP, 2013.

8 See e.g.: Young, Ralph F. *Dissent: the history of an American idea*. New York; London: NYUP, 2015; Lal, V. 2014; Bleiker, Roland. *Popular dissent, human agency, and global politics*. Cambridge (England): CUP, 2000; Demaske, Chris. “Free speech zones: Silencing the political dissident.” *Dem. Communiqué* 22, no. 1: 41-59; Com. & Mass Media Complete, 2008.

gaps in the literature, I have been developing and offering a classificatory framework of dissent, a typology, based on a range of factors.⁹ Among other factors, they include its type (e.g. political, religious, judicial), motivation (e.g. altruistic, egoistic), goal (e.g. disruptive, constructive), form of expression (e.g. peaceful, violent, concealed, overt, by action or by omission), its promoter (e.g. individual, a movement, an institution, a minority or a majority), outcome (e.g. successful, non-successful), and reaction (e.g. suppressive, supportive). It is a work in development, not entirely elaborated in this paper (given its limitations), and it might contain imperfections and issues to be refined.

Table 1 offers an initial classification regarding the broad type of dissent.

Table 1

TYPES	
(Usually Combined in Reality)	
Predominant Nature / Substance of the Dissent	
1. Legal	8. Philosophical
2. Judicial	9. Academic
3. Economic	10. Epistemological
4. Political	11. Gender related
5. Cultural	12. Ethical
6. Scientific	13. Technological
7. Religious	14. Ecological

The table offers fourteen broad types of dissent (and the list can likely be expanded), which in fact appear mixed or with some degree of overlap. A couple of the types can be used to demonstrate how the study is being developed from cases/situations.

The Sea Shepherd Conservation Society, with its actions to protect whales, the Greenpeace and, more recently, Swedish young activist Greta Thunberg’s campaign calling for immediate action to combat climate change are illustrations of ecological dissent. Some might argue that these parties that I am calling ecological dissenters are not true dissenters given that their declared goals and causes are popular, well-accepted, and shared by many across the world. To those, I would reply that Greta, for one,

9 Results of the investigation have been presented in three editions of the International Association for Philosophy of Law and Social Philosophy (IVR) World Congress, in 2015, 2017 and 2019.

might be a dissenter more because of the methods she proposes (e.g. skipping school to protest, leading by example, demanding immediate action, embarrassing leaders by showing how contradictory their speeches and actions are), rather than by the goals she embraces. The same could be said about the Sea Shepherd, who organizes direct actions to try, for instance, to stop the annual whale hunting event on the Faroe Islands, or about the radical members of Greenpeace in radical actions to defend nature or animals.

China's "Feminist Five", especially active between 2012 and 2015, undertook initiatives and campaigned against sexual harassment, and the advocacy of Malala Yousafzai for the education of girls in Pakistan are illustrations of gender-related dissent. The five Chinese women activists were jailed and suffered persecution from their government. Yousafzai was first seen as an inconvenient girl, defiant of custom and culture – a traitor of some sort in the religious setting she was in. At fifteen years-old she was shot in her face and barely escaped death. Her efforts and continuous work have led to a Nobel Peace Prize and worldwide recognition.

Those manifestations of dissent and their study illuminate the dynamics of dissent. In particular: how dissent is produced, externalized, which results it can produce, and how it is received and incorporated (or not) into mainstream narratives and how it can affect societal behavior. Some of those cases exemplify how dissent is relational and contextual. Dissent exists not in isolation. A behavior only becomes a dissenting one when it occupies a specific position within a given expected order of things (political, social, cultural...) and power struggles of a given time and context.

In Pakistan's religiously fundamentalist and patriarchal regions, Yousafzai had to be silenced – even by means of extreme violence. Out of that context, however, she became an inspiration to many and, thus, got that prestigious prize. Indeed, space and time are important factors to locate the position of the behavior within a context. I exemplify. In today's China, an academic can be considered a "potentially dangerous dissenter" and attract attention for investigating dissent and for talking to political dissenters. The same person, however, can be considered a harmless academic, doing her job while speaking at an international conference and offering ideas for discussion. Further scholarly treatment of cases can increase our insight into the efforts and conditions of dissent and perhaps partly modify that common view of dissenters as troublemakers. The same relational characteristic can be seen in those cases of ecological dissent. It might be that within the confines of the Faroe Islands society, the Sea Shepherd is indeed a most vilified dissenter, going against an old local tradition. Outside of that society, however,

it might be that many, if not most people, support the Sea Shepherd’s actions due to the horrifying images of bloody whales and dolphins at the beaches at those islands.

The study of the motivation of dissenters can lead to the perception of the different predominant grounds guiding their behavior. A politically weakened President dissenting from a parliament who launched impeachment procedures against him would likely have egoistic grounds (i.e. to maintain his position) as the immediate and most direct motivation to dissent. The well-known case of Edward Snowden, on the other hand, could arguably be interpreted as one of altruistic motivation, arising from the knowledge of wrongdoings by his own government. Even though Snowden knew that by raising the alarm and becoming a whistleblower, his life, career, and freedom would be in jeopardy, he did what he saw as a moral duty for the sake of the rights of millions of people and for corrective action of his own government. Had he conformed with the situation he knew and done nothing, he would still have the choice of living in his own country would still have his career, and would not have undergone what must have been (and perhaps is) a horrific period after blowing the whistle.

Dissenters can also be motivated by progressive or reactionary (or conservative) reasons. As for progressive or reactionary, I do not mean to use these categories from a moral or political angle, judging behaviors in tones of bad or good. “Progressive” dissent is to propose a change for something new (not necessarily good), while “reactionary” is any dissent wishing in favor of a return to what existed or that opposes a transforming reality. In recent times, the government of Brazil (labeled by many as “neoliberal” in terms of economy) has been deregulating the labor relations and turning long-guaranteed labor rights into a matter of negotiation between employers and workers. Workers are increasingly without formal legal protection when compared with what they had in the past. Those who are against this trend, however, have been dissenting and theirs is, thus, a reactionary dissent. It is a reaction to those changes that they did not wish for and that they have been fighting against for long. I offer the classificatory table below with those and other categories to broadly classify the predominant reasons that motivate dissenters.

Table 2

MOTIVATION
CATEGORIES
Altruistic
Egoistic

Progressive
Reactionary (or Conservative)
Ideological (based on values/convictio)

The motivations of dissenters are not identical to the different goals they have, despite possible links. The goals may fall within at least four broad categories, as indicated in the following Table 3.

Table 3

GOAL
CATEGORIES
Disruptive/Destructive
Constructive/Cooperative
Obstructive of Aims
Promotive of Aims

Dissenting judges in a paneled court may be in disaccord regarding the grounds (or justification) of a given decision while agreeing on its subject-matter. Thus, there is a disagreement among the judges but one that exists under the constructive (or cooperative) goal of finding the strongest grounds for the decision they agree upon. Extreme political adversaries, on the other hand, who radically disagree with each other's plans and ideas might express their dissent with disruptive or destructive goals. They might do all they can to obstruct the aims of the other.

Another important factor to evaluate, classify and understand dissenting behavior concerns its practical outcome. In this sense, it can be classified as successful, non-successful, or even partially successful.

Table 4

OUTCOME
CATEGORIES
Successful
Non-Successful
Partially Successful

In clear-cut situations, those categories could be used without great controversy. A dissenting initiative such as a collective movement against a decision to increase public transportation fares would be successful if it managed to revert that decision, and non-successful if that outcome was not achieved. The classification might not involve such clear-cut cases, however. History has shown that many dissenting initiatives led to the ostracism or some form of punishment of dissenters – including their death. Those initiatives, however, might be considered successful if looked under the light of a different epoch or timeframe. An initially unsuccessful judicial dissent that convinced no other judge in a panel and remained as a mere record in the judicial proceedings, might be reevaluated by others and become the mainstream opinion years or decades later. In such a case, would the dissent be successful? Not in the short term. If considered, however, in the long run, then it would be successful. Hanne Petersen¹⁰ has raised the important historical example of Joan of Arc (Jeanne d’Arc) to demonstrate that time and circumstances are important references to understand the concept of dissent, the role of dissenters (during their lives and after their deaths), and the judgment about the success of their behavior. Born in 1412 in France, Joan of Arc was burnt alive as a heretic in 1431 and, almost 500 years later, in 1920, was made a Saint by the same Church. The life of Joan of Arc has been since celebrated and her actions and strength became an inspiration to many. By recalling the life of Joan of Arc, Petersen reminds us to bring forgotten instances of dissent back into the light and to learn how our predecessors have viewed dissenters and dissent so that we can critically analyze our own views about today’s dissenters.

Indeed, people’s, governments’, and institutions’ views about dissent and dissenters can vary. Those views can promote, encourage, censor, or restrain manifestations of dissent. China’s government and officials encourage moderate popular political and collective dissent against Japan through nationalistic documentaries and TV programs that highlight the acts of invasion and crimes of Japan in occupied parts of China during World War II. This anti-Japanese feeling can be exploited in the form of popular collective dissent whenever the two governments’ political and commercial tensions escalate, with that of China allowing small nationalistic anti-Japanese protests to take place. This was seen in August and September of 2012, in a series of public demonstrations across several Chinese cities due to the territorial dispute between Japan and China over uninhabited islands in the East China Sea. The Chinese government

10 Petersen, Hanne. *Jeanne d’Arc, #MeToo and Greta Thunberg - female resistance in history and in the 21st Century*. Paper presented in the IVR Special Workshop Resistance, dissent and innovation: perspectives from around the world. 29th IVR World Congress, Luzern, Switzerland, Jul. 07-12, 2019.

allowed its citizens to voice their dissent against Japan's territorial claims and the state media reported on that. The protesters and anti-Japanese feelings led to a level of boycott to Japan-made products and services, as well as the temporary cancelation of Chinese tours to Japan. This example illustrates a supportive reaction to dissent. Hence, reactions to dissent can be considered within two broad categories: supportive or suppressive.

At a major public demonstration led by students in 2014 in Hong Kong, police decided to use pepper spray against the political dissenters. In this attempt to tackle the protest, discipline the population, and repress political dissent, the police stirred more radical dissent, and in the following days, an increasing number of people joined subsequent protests by coming out and blocking streets. Many set up tents and literally camped in main avenues and streets in downtown Hong Kong, the financial center of the region. The mass political dissent became known as the Umbrella Movement. In this example, the government security forces' suppressive reaction of political dissent led to the general public's supportive reaction of that dissent. During the demonstrations, a popular slogan written in many protest signs was, "You are spraying, we are staying".

Besides political reasons related to the fact that dissent is the core of political rights and freedoms (e.g. freedom of expression and demonstration) and democratic deliberation, there are conceptual and epistemological reasons for a renewed attention to it. I follow the lead of Gaston Bachelard's idea of epistemological rupture – i.e. that rupture with existing knowledge rather than accumulation in a juxtaposition process is the main force that drives scientific knowledge.¹¹ In Bachelard's framework, existing knowledge is an "epistemological obstacle". Dissent, thus, can be a way to overcome that obstacle, triggering technical, social, political, and theoretical innovation, and being a catalyst for changes. Innovation implies some degree of rupture with what already exists: be it forms of thought and behavior, traditional ways, or accepted standards. Hence, insight into the dynamics of dissent may enhance the possibility of important future innovation. Dissenting judicial opinions, for instance, might indicate innovative ways of thought that could be later appropriated and become the new standard (as has been the case regarding, for instance, the famous US Supreme Court Justice Oliver Wendell Holmes, who became known as "the great dissenter"). Political dissent can force greater accountability from authorities and provoke decisions in touch with the wishes of the people by raising issues, by questioning, by offering alternative proposals. It can also provoke stronger repressive reactions from authorities in power, as seen in Hong Kong

11 Bachelard, Gaston. *La formation de l'esprit scientifique: contribution à une psychanalyse de la connaissance*. Paris: Vrin, 1993.

and in many other places where political power is secured mainly by violence rather than by legitimate means.

Scholars have argued and maintained that, by challenging social conformity, dissent has the potential to correct errors and break up wrongful informational cascades (e.g. fake news) easily seen due to the popularization of social media, and operate against polarization and extremism.¹² Some argue that by encouraging dissent, heterogeneity, and exchange of viewpoints, institutions can improve their internal deliberation processes. Encouraging channels of dissent and protection of dissenters may allow maximum disclosure of information (e.g. whistleblowing) and this can result in sound policy decisions.¹³ Overall, some argue that the existence of dissent enhances democratic consensus.¹⁴

To support the argument that the increasing level of digitalization brings numerous societal changes and those include serious threats to dissent because of the impact on people's possibility and courage to dissent, the following section discusses the meaning and important practical aspects of digitalization.

Digitalization in practice

Digitalization can be understood as an ongoing and continuous process that is transforming people's daily lives. There is no end in sight to developing processes of digitalization and, thus, it is relevant to study their relationship with socio-legal phenomena. Digital innovations implemented by public and private entities are changing governance and having a profound impact on dynamics of dissent (e.g. how dissent is formed, channeled, promoted or stifled) and democratic ideals. Digitalization intersects a range of themes including new forms of offering and consuming goods and services, the roles of social media, new forms of surveillance and control, and new information technologies that help to create ideological bubbles facilitating fundamentalism, polarization and radicalization of all sorts.

12 Sunstein, Cass R. *Going to extremes: How like minds unite and divide*. New York: Oxford Univ. Press, 2009; Sunstein, 2003, op cit. p. v;

13 de Melo-Martín, Inmaculada, and Kristen Intemann. "Scientific dissent and public policy: Is targeting dissent a reasonable way to protect sound policy decisions?" *EMBO reports* 14.3 (2013): 231-235.

14 See: Leppänen, Joonas. "A political theory of dissent: dissent at the core of radical democracy". *Valtiotieteellisen tiedekunnan julkaisu*. Helsinki, 2016.

Digital control and surveillance via facial detection, biometrics, collection of personal and big data, and new communication technologies have brought societal benefits (e.g. increased convenience and personalization of services) as well as risks (e.g. perfect tools for authoritarian forces and censorship). To bring light and to understand the balance between those benefits and their risks to societal developments, it is valuable to look at how digitalization is used in practice both for mobilizing and controlling people.

China and Brazil are part of a group of emerging countries, which includes the BRICS countries, which are worth continuous analyses in a world order with significant developments and attempts of power shifts.¹⁵ Besides their importance and complexity, developments in China and Brazil have been chosen because of my especial connection and knowledge about the two countries. I have worked as a scholar in greater China for fourteen consecutive years. I am a native of Brazil with years of interdisciplinary studies and work carried out in the country. Hence, I have privileged access to those countries' actors and realities. Their study offers lessons to global challenges of authoritarianism, intolerance, and populist and patriarchal forces. The choice of China and Brazil does not mean, however, that the USA, the European countries or others do not lead in certain areas of digital advances and do not use them, for instance, to control their people. In fact, it can be argued that China is replicating a surveillance shown to be exerted by the US Government over people and even foreign dignitaries, organizations, and institutions. Edward Snowden and Julian Assange are just two examples of people – whistleblowers – who remain paying a high price for revealing governments' wrongdoings.

China's Unparalleled Use of Digital Technologies

There is no shortage of examples to support and illustrate the statement that China is at the forefront of the world's digital transformation. A combination of economic development, resources and means of production, qualified experts, strong government, and government stimulus has led to innovations that range from the most ordinary acts of online shopping to a large citizens' DNA database and to all sorts of devices using Artificial Intelligence (AI).

The innovations include the development and the use, by millions of people, of all sorts of "super apps" (mobile applications such as "WeChat" that serve as platforms that host a wide variety of other apps). People use them to communicate and share content, to order food, to have personalized online shopping experiences, and to pay

15 See: Neuwirth, Rostam J., Alexandr Svetlicinii, and Denis De Castro Halis, eds. *The BRICS-lawyers' guide to global cooperation*. Cambridge University Press, 2017.

for all sorts of products and services. Hard currency (cash) is quickly becoming obsolete by the generalized use of mobile payment. The use of those digital resources produces traceable data, though, which can be accessed not only by the relevant companies but also by the government. The collection and use of the data have produced advances and tackled serious problems within Chinese society. Among the most important is the heartbreaking one of child abduction and human trafficking. The combination of data, digitally stored, fed, and disseminated, alongside the collection and use of DNA has contributed to returning thousands of kidnapped children to their parents.¹⁶

Indeed, the list of innovations more closely related to security, surveillance, and control include millions of cameras with AI features that can identify, surveil people's behaviors, and locate them using facial and gait recognition (i.e. identify people by the way they walk and move); monitoring of communication through social media and internet; unified police centers that can process the big data and specific information received by cameras and by the use of people's mobile devices; the use of robotic doves – bird-like drones for surveillance, and the use of those technologies in a variety of settings. In some schools, cameras are being used to analyze facial expressions and determine whether students are paying attention or sleeping in class, are present or absent, and to allow their entry into gates and spaces. At immigration and border control checkpoints, everyone who enters mainland China has their face and fingerprints recorded. In brief, biometrics are used in private as well as public spaces and people's behavior and whereabouts can be traced and determined. Chinese citizens and foreigners in the country can be monitored and controlled like never due to the use of digital technology.

Besides the intensive high-tech surveillance, a fledgling point-based social credit system under implementation is having an impact on the way people channel objections and alternative views. Points can be attributed to people (or extracted from them) based on what government agents define as good/acceptable or bad/unacceptable behavior. Those points added or subtracted from one's personal social score. The system imposes constraints that are both internal (self-control and censorship) as well as external (penalties for those breaching the desired standards). All of that is justified on behalf of security, convenience, and social engineering.

16 There are no official figures released regarding those criminal practices in China. There are reports by state media news outlets, however, that offer data and indicate the seriousness and extension of those problems. See: China Daily, *2,000 abducted children identified via DNA bank*, Mar 01, 2012, https://www.chinadaily.com.cn/china/2012-03/01/content_14727447.htm, accessed Jan. 10, 2020; Also: Chen, Jia. *Police use DNA against human trafficking*. China Daily. July 28, 2010., http://www.chinadaily.com.cn/cndy/2010-07/28/content_11058249.htm, accessed Jan. 10, 2020.

China's Special Administrative Regions (SARs) of Macau and Hong Kong

In spite of their relatively high economic prosperity and their high degree of autonomy from mainland China under the political-legal principle of “One Country, Two Systems”, Macau and Hong Kong have considerable democratic issues, significant wealth and gender disparities, and are extremely hierarchical due to those factors and a Confucianist background. Their legal and overall culture and societal characteristics reflect different blends and hybrid forms due to their historical links with Europe. They are Chinese regions in Asia, a part of China, but they are also special bridges and platforms of various forms of exchange with non-Asian realities.

The “One Country, Two Systems” arrangement is to (formally) last, though, only until 2047, in the case of Hong Kong, and 2049, in the case of Macau. By those years in the future, their formally secured high degree of autonomy can be legally ended if the Chinese Central Government decides to do so. All sorts of concerns, issues, and tensions are flaring up as time passes and the Central Government is continuously accused of increasingly interfering in the affairs of those two semi-autonomous regions. This arguable interference by Beijing has been producing effects in the way dissenters are formed and behave as well as in the institutional reactions they receive.

Both regions (Macau initially and then Hong Kong) have been filtering people who can enter their borders according to political-ideological criteria. This has taken place regarding academics, social activists, journalists, and politicians. Many cases gained great visibility due to media reports. Digital advances and data storage not only help this sort of government's control of insiders by the exclusion of “dangerous” outsiders, but also might serve as tools to track dissenters and, eventually, punish them on apparently neutral-technical grounds. In the case of denying entry to people, the usual explanations given by officials (upon media provocation) are apparently neutral and technical. They either loosely refer to the internal security laws, stating that they have the legal power to deny entry and control the borders; or they state that all countries who control their countries do like that and, Macau in that sense, is doing nothing differently from those countries. Currently, all bank ATMs in Macau include “Know Your Customer” (KYC) technology that can identify, block or limit transactions, and have the face record of the mainland citizens that withdraw money in the region. Officially, that was implemented to tackle illegal transfer of money across the borders between the mainland and Macau and fight money laundering. Dissenter's movement of money can easily be tracked now, and technical-legal issues not related to their dissenting behavior can be used to silence them.

The Hong Kong mass demonstrations against the government initiated in 2019 represent, however, the perfect case to see the relationship between the wide use of digital resources and its impact on dissent. Media reports have referred to the demonstrations as “leaderless” and as “the most coordinated massive protest in history”. How could those two apparently oxymoronic statements coexist? Through digital apps and real-time encrypted communication tools, new channels of dissent and the protesters’ organization have been possible. Images and videos posted online in social media platforms, the creation of a Hong Kong anthem, digital fora for the exchange of information have all strengthened dissent and even created a network of supporters. So, it may be a leaderless movement, but it is a well-coordinated one. Digital companies, such as Apple, saw themselves involved in the protests. An application (app) available on the Apple store could indicate on a map the real-time location of police squads and, by using it, protesters could quickly move from one place to another avoiding the security forces, in a sort of modern and guerrilla warfare. In a sequence of decisions and reversal of decisions, among criticism from the different parties, Apple took the app down from its digital store and put it back up, before taking it down again and continuing with the cycle.¹⁷

The protesters’ use of umbrellas, which became the symbol of the “Umbrella Movement” of 2014, acquired a new function. Not only they would serve as shields for police pepper spray, but also, and most importantly, served to hide protesters’ faces and to avoid them being identified by surveillance cameras with or without facial recognition. Indeed, facial recognition, DNA samples collection and analysis, and the tracking of suspects’ whereabouts through the records left by the use of people’s transportation and payment cards (“octopus cards”) were all used by the police to gather evidence, make their cases, and prosecute the suspects of the “unlawful protests”. DNA samples were collected from helmets and face masks left by protesters in government buildings. In a high-profile and widely reported event, when protesters stormed the Legislative Council of Hong Kong, police forensics teams conducted DNA collection and testing alongside with the collection and matching of fingerprints.¹⁸ A few days

17 For one media report describing the situation up to October 2019 (later developments took place), see: Deng, Iris. *Apple allows Hong Kong protest map app that can track police and protester locations*. South China Morning Post. Oct. 8, 2019, <https://www.scmp.com/tech/apps-social/article/3032001/apple-allows-hong-kong-protest-map-app-can-track-police-and>, last accessed on Dec. 15, 2019.

18 Lo, Clifford; Mok, Danny. *First arrest as Hong Kong police prepare citywide raids to hunt down protesters who stormed and vandalised Legislative Council complex*. South China Morning Post. Jul. 3, 2019, <https://www.scmp.com/news/hong-kong/law-and-crime/article/3017166/hong-kong-police-prepare-citywide-raids-hunt-down-and>, last accessed on Dec. 15, 2019.

later, the first citywide arrests started, with the police going to the homes of the identified suspects.

As techniques by the police evolved so did the defensive strategies of the protesters. Besides hiding and covering their faces behind umbrellas and masks (the government later invoked an old Colonial legal rule prohibiting the use of masks in public), protesters started using non-identifiable single-use transportation cards (freely offered by supporters), started changing clothes before heading back to their homes and only using encrypted software to communicate. These evolving dynamics are far from over. As facial recognition, for instance, becomes widespread in China and many other countries, a few companies started developing means to safeguard people's facial identities bypassing those AI technologies.¹⁹

The end of the cycle cannot be seen at this point. If social media has been used to galvanize and spread dissent, and that helped movements against authoritarianism, fake accounts and robots have entered that digital space with counter-information and activism favoring the government.²⁰ Fake news, exaggerations, distorted and partial information have been used by both sides. As algorithms greatly define the information that we receive in social media platforms, doing so according to what they detect to be our preferences, we receive an increasing number of data that creates informational bubbles and reinforces our views.

Digitalization in Brazil

The idea that machines can never replace judges in deciding legal cases is no longer a certainty. New Information and Communication Technologies (ICTs) have the potential of creating a revolution in the classical ways of administering judicial systems and providing judicial output to legal disputes. This is particularly true in the context of Brazil where new theories, models of logic, software, and technologies were and continued to be implemented to reduce the time for the judiciary's response to legal disputes and eliminate its serious "clogs".

19 Holmes, Aaron. *These clothes use outlandish designs to trick facial recognition software into thinking you're not human*. Business Insider. Jan. 17, 2020, <https://www.businessinsider.com/clothes-accessories-that-outsmart-facial-recognition-tech-2019-10>, last accessed Jan. 30, 2020.

20 In the context of the Hong Kong protests, see: Zhang, Phoebe; Chen, Laurie. *The emergence and evolution of China's internet warriors going to battle over Hong Kong protests*. South China Morning Post. Sep. 9, 2019.

The Brazilian judiciary has started a pioneer – but still relatively silent and unknown internationally - radical change in the way that lawyers, judges, and parties relate with each other and with the judicial bureaucracy. Digital innovations were behind that change, which was greatly needed to tackle issues that include a constant increase in judicial litigation, an enormous number of cases meaning that courts decide on millions of cases annually, a high-level of variation of decisions in similar cases, and accusations and revelations of corruption practices and scandals.

The use of technology led to a reality where the judiciary expanded the number of channels to disseminate data, news and its practices. Television, radio and YouTube channels, podcasts, along with judiciary and courts' websites and e-newsletters are those main channels. Judiciary organs are increasingly paperless with different forms of e-processes ("e-lawsuits"), electronic petitioning, case-law databases, oral arguments via videoconference, selective use of WhatsApp to summon litigants, and digital signatures. Judges have access to cross-referenced databases linking courts, financial institutions, movable and immovable properties registries which allows those judiciary's agents to obtain information about litigants and enforce with immediate effect their decisions through, for instance, real-time or automatic seizure of debtors' assets. The new channels of dissemination are particularly important in the context of Brazil because of the country's unique feature of public deliberation of courts. In other words, in most judgments (i.e. there are a few exceptions legally foreseen) people can witness in person (i.e. as a member of the audience) or via digital means the exchange of arguments, appraisals, criticism, among judges in paneled courts of appeal. One can actually see the decision-making process in which judges concur or dissent with each other, as well as processes in which distinct alliances or feuds between judges take place. As written before, this can be seen or heard through the channels that are now available to all – experts and general public. Hence, judicial and legal dissent found new ways to be known and to be successful or non-successful either in the judiciary's realm or in the overall public space. That transparency and publicity apply even to the country's highest constitutional court, the "Supreme Federal Court", with people following the judicial deliberation process in controversial cases in real-time. Therefore, it is possible to argue that the Brazilian judiciary stands out in relation to the other two political powers (the Executive and the Legislative) in terms of their insertion on the digital environment and publicity of its decision-making. Moreover, Brazil's judiciary offers more forms to obtain empirical data about deliberation and decision-making of the courts than the judiciaries of other jurisdictions. In these other jurisdictions, studies are based on the composition and the recruitment of members of courts as well as on court decisions. In Brazil,

ethnographies and participant observation are also possible given that unique feature of publicity.

The scope of this societal knowledge about the Brazilian judiciary, its members, their opinions, and their decisions have also nurtured different reactions. Political dissent against decisions, judges, and courts have been encouraged by different political forces. Some of those manifestations of political dissent were reactionary (or conservative), while others were progressive (supporting the changes brought about by the judiciary or some of its organs or members). Most dissenters instigated against the courts or specific decisions that affected their values, convictions, or interests acting with goals of disrupting or obstructing the aims of those judicial organs. Not rarely in the recent history of Brazil, there were movements and collective dissent in favor of closing Brazil's Supreme Court or in favor of impeaching some of its members.

A valuable event for this article is, however, connected to one single federal judge of the first instance and one leading criminal prosecutor involved with the most comprehensive, long-lasting, and high-profile operation against corruption in the history of Brazil. The judge, Sérgio Moro, became internationally famous for ruling on cases related to corruption and especially for sentencing and sending former President Lula to prison. Lula was internationally acclaimed and remains popular amongst many in Brazil. The prosecutor, Deltan Dallagnol, was the leading prosecutorial figure behind the operation and the main person in charge of building the accusation against Lula.

The criminal conviction and imprisonment of Lula came at a moment of presidential elections in Brazil (in 2018). Lula was the frontrunner and his conviction aborted his candidacy. Without Lula in the dispute (and he had won the presidency in 2002 and 2006), an extreme right-wing and former federal lawmaker called Bolsonaro, without great significance or merit, won the presidency. Once elected, president Bolsonaro appointed Sérgio Moro, who by then resigned as a judge, as Justice Minister with extensive powers (labeled as a "super minister").

It is noteworthy that at the time of the accusation and following judgment, Moro had repeatedly stated his impartiality as a judge, which is legally required. During the presidential campaign, however, Bolsonaro (then a candidate) had already mentioned he would either invite Moro for the Justice Ministry or appoint him for the position of judge of the Brazilian Supreme Court (the Federal Supreme Court, which is the Constitutional Court). Moreover, in 2019 a digital news platform called "Intercept", founded by Glenn Greenwald (the journalist who had revealed Edward Snowden's

whistleblowing story), initiated a series of reports disclosing private dialogues between judge Moro and prosecutor Dallagnol and between this and other prosecutors. The dialogues were from the period when they were the judge and the prosecutors in charge of Lula's case. One of those Intercept reports states that "For the first time, the public will learn what these judges and prosecutors were saying and doing when they thought nobody was listening".²¹

If digital technologies facilitated the private communication between those parties (acclaimed as heroes against corruption), it also allowed the record and the leaks of their conversation. Rather than face-to-face meetings, which would hardly leave traces about what had been discussed, the messages exchanged were hacked, revealed, and were nothing short of scandalous. The digital leaks revealed evidence of wrongdoings which otherwise would not be known. There were moments in their conversation when the prosecutor asks the judge for advice and others when the judge, allegedly impartial, instructed the prosecutor about the course of action needed for Lula to be convicted. In brief: illegal, unethical, and deceitful behavior of the two reached the daylight of the mass media and general public due to digital communication and leaks.

The journalistic revelations vindicated the positions of many who had for long dissented from the practices observed in the investigations of Lula and others while affirming those to be driven by political motives. The revelations were, thus, a robust evidence of how the political dissent of legal actors occupying high-level or key positions was channeled and converted into institutional repressive actions against political leaders they disliked. Those institutional actions, which masked personal political dissent of key legal actors (i.e. the judges and prosecutors formally in charge of combatting corruption) concerning politicians, were successful in their aim.

Dissent, Digitalization, and Legal Culture

The previous sections described practical aspects and illustrations of the ongoing digitalization processes in greater China and Brazil. Grounded on those experiences, I want to sustain that predominant aspects of a legal culture effectively condition digital innovation and related practice of legal rights and freedoms, which include rights and freedoms related to dissent. If it is correct to think that law is embedded in larger

21 Greenwald, Glenn; Demori, Leandro; ReedHow, Betsy. *Why the Intercept is reporting on a vast trove of materials about Brazil's Operation Car Wash and Justice Minister Sergio Moro*. The Intercept. June 9, 2019. Last accessed on Jan. 20, 2020.

frameworks of social structure and culture²², it might also be correct to argue that the development, regulation, implementation, and even the impact of digital technologies in a society and on dissent are strongly connected to that society's legal culture and wider context. Predominant or usual views about dissenters, encouragement or restriction of dissent, usual and institutional reactions to it are *de facto* regulators of the legal treatment that dissenters receive.

The concept of legal culture is taken here in a most general sense. Nelken²³ indicates the wide applicable scope of the expression by referring to stable patterns of legally oriented social behavior, which might refer to several elements:

The identifying elements of legal culture range from facts about institutions such as the number and role of lawyers or the ways judges are appointed and controlled, to various forms of behaviour such as litigation or prison rates, and, at the other extreme, more nebulous aspects of ideas, values, aspirations and mentalities. Like culture itself, legal culture is about who we are not just what we do. (Nelken, 2004, p.1)

In greater China (as well as many places in East Asia), Confucianism and predominant cultural traits related to the social values of harmony, hierarchy, and conformity contribute to a context where people are not encouraged to stand out and go against the crowd. This can be seen in a variety of settings: from students in schools and universities who are not keen on answering teachers' questions or debating, to citizens who do not question authorities' commands or tradition, to reputable senior scholars who silence themselves and vote in favor of any and all of their leaders' proposals in collegiate meetings. The popular adage "the nail that sticks out gets hammered down" is revealing and an evidence in words suggesting that conformity is valued while dissent can meet resistance. Another evidence in a well-known image is that of the "three wise monkeys", who stand side-by-side with the first covering his eyes, the second covering his ears, and the third covering his mouth. The image of the three monkeys is often used as a reminder for people not to acknowledge (and act upon) impropriety, wrongdoings, or injustice, which can also suggest lack of moral responsibility for witnessing those acts and doing nothing. In brief: to conform to the existing reality despite its shortcomings

22 Nelken, David. "Comparing legal cultures". *The Blackwell companion to law and society* (2004): 113; Friedman, Lawrence M. *The legal system: A social science perspective*. Russell Sage Foundation, 1975.

23 Nelken, David. "Using the concept of legal culture." *Austl. J. Leg. Phil.* 29 (2004): 1.

rather than to object to it and possibly suffer a negative consequence. These cultural and societal features are also seen in Hong Kong and Macau, despite reflecting own special blends of Asian and Western cultures. Those two regions have physical, historical, ethnic, economic, political and populational links with the mainland China.

Important features within authoritarian political regimes and legal cultures (e.g. weak separation of powers, lack of government accountability and transparency) also play a role in the way that digital innovations are used and impact the lives of citizens. Mainland China has become the number one place with cameras and digital surveillance. Security, control, order, and harmony are values and ideas that effectively trump important others such as privacy, plural behavior, and political contestation. When asked, many Chinese citizens will affirm not minding the constant surveillance because they do not break laws or commit wrongdoings. Others, who think differently, affirm they do mind and concern with that surveillance but cannot do anything against rules and the official policies.

As a result of that wider context and legal culture broadly presented, dissenters are often perceived as selfish and troublemakers, and often pay a price for their opinions or behavior. Dissenters, including whistleblowers, who react to illegalities, injustices, and wrongdoings can be punished even when attempting to foster much-needed changes and without really and directly posing a threat to the government or without advocating a cause that is unpopular. The previously referred case of the “Feminist Five” in the mainland is an example of a dissenting initiative that attracted a repressive reaction by the Chinese government, in spite of not being a direct challenge to it and in spite of a legal framework that formally protects rights and freedoms connected to dissent and equality. Indeed, even the Chinese Constitution, the apex of China’s legal system, contains express provisions safeguarding people’s challenges to the government. The provisions’ level of detail – which could even favor their practical implementation - is not commonly seen in the Constitutions of many advanced democracies. Article 41 of the Constitution illustrates my point:

Citizens of the People’s Republic of China have the right to criticize and make suggestions regarding any State organ or functionary. Citizens have the right to make to relevant State organs complaints or charges against, or exposures of, any State organ or functionary for violation of law or dereliction of duty; (...) but fabrication or distortion of facts for purposes of libel or false incrimination is prohibited.

(...) No one may suppress such complaints, charges and exposures or retaliate against the citizens making them.

Citizens who have suffered losses as a result of infringement of their civic rights by any State organ or functionary have the right to compensation in accordance with the provisions of law.²⁴

The specific right to criticize officials and State organs and make suggestions is the essence of a citizens' right of dissent against the government. Moreover, the provision goes further in protecting potential dissenters and not only expressly prohibits their suppression and retaliation due to their behavior, but also prescribes a right to compensation.

The reality, however, does not reflect the provision's text. The formal legal protection of rights and freedoms connected to dissent does not mean a real and automatic protection of those who dissent. Why? First, because there are other constitutional law provisions²⁵ that can neutralize the exercise of peoples' civic rights (as those within Article 41), by conditioning that exercise to "interests of the state, of society or of the collective" (Article 51) or to the duty to "observe labor discipline and public order and respect social ethics" (Article 53). Second, because the scope, interpretation, and implementation of formal legal rules depend on power co-relations as well as predominant political, cultural, economic, and moral imperatives.

It is not surprising, thus, that digitalization in greater China is commonly linked to people's control and surveillance by the government as well as censorship on freedom of expression and a "high-tech dystopia".²⁶ Dissent, as it seems, has found new digital channels to be formed and manifested but, at the same time, those channels can be surveilled, censored, and enable dissenters to be tracked and punished.

24 Constitution of the People's Republic of China, 1982. Website of the National People's Congress: http://www.npc.gov.cn/englishnpc/Constitution/node_2824.htm, accessed Oct. 15, 2010.

25 Such as Article 51, mentioning the; Article 52, "safeguard the unification of the country"; Article 53, "keep state secrets, (...) observe labor discipline and public order and respect social ethics"; and Article 54, "safeguard the security, honor and interests of the motherland; they must not commit acts detrimental to the security,

26 Mozur, Paul. *Inside China's Dystopian Dreams: A.I., Shame and Lots of Cameras*. The New York Times. Jul. 8, 2018, <https://www.nytimes.com/2018/07/08/business/china-surveillance-technology.html>, accessed Jan. 15, 2020; O'Neil, Cathy. *Want to see your dystopian future? Look at China*. Nov. 17, 2018. <https://www.bloomberg.com/opinion/articles/2018-11-17/want-to-see-your-dystopian-future-look-at-china>, accessed Jan. 15, 2020.

How about the Brazilian reality? The previous section briefly described “Brazil’s hidden plot”, in which hackers were able to obtain access to the secret conversations between a judge and prosecutors during investigations and trials involving businesspeople and politicians, including former President Lula.²⁷ That showed evidence of their partiality towards defendants – including the former president. The hackers were later identified, and they were prosecuted. Glenn Greenwald, Intercept’s founder and lead journalist, was also criminally denounced by prosecutors for reporting on the leak and disseminating it – despite formal constitutional and infra-constitutional rules concerning freedom of press and the right of journalists to keep their sources confidential.

Former judge Moro, appointed as Justice Minister, and the prosecutors, including lead prosecutor Dallagnol, offered contradictory explanations and lines of defense. The final one was to naturalize their leaked conversation as usual and normal communication between judges and prosecutors and as normal exchange of ideas among prosecutors. This surprised many because it implied their recognition that those conversations did take place and that the content leaked was genuine. This led to assumptions that Moro would be dismissed, and that Lula’s trials would be voided. The story took a different turn, though.

In Brazil’s unequal and fractured society, with a legal culture that safeguards and reflects privileges, the explanations given (especially by Justice Minister Moro) were largely accepted. Many were quick and glad to confirm that, in practice, judges and prosecutors tend to work in close harmony in many cases, relationships are built, and that type of conversation, even if unethical or illegal, was not atypical. Hence, the formal legal rules aimed at restraining and prohibiting such close relationship, important to differentiate the legal roles of those two professions and important to guarantee an impartial justice system, contrasted with the actual practices that are pervasive in the judiciary. The whistleblowing effort of the hackers and journalists had limited impact despite the digital evidence revealed.

In the struggle between the formality of rules and their actual functioning, the first was seen under a soft approach. Indeed, in the political dispute of legal narratives, Moro’s explanations and popularity prevailed over those of his adversaries. The result from the power struggles in a polarized political environment and politicized legal culture favored Moro and the naturalization of his illegalities. The scandal of a partial and

27 The Intercept. *Secret Brazil Archive*. [a sequence of reports with various dates] <https://theintercept.com/series/secret-brazil-archive/>, accessed Jan 15, 2020.

politically oriented judge doing all to incarcerate the charismatic political leader that he disliked was diluted into a matter of common practice in which, in day-to-day practice, “everyone does the same”.

Hence, despite the initial scandal and critical media reports and editorials, Moro was able to keep his position of Minister of Justice, while Dallagnol and the other prosecutors also kept their positions. Lula’s trial remained valid and he remained in prison for over a year until a new interpretive twist of the Constitution by the Supreme Court – not directly related to those leaks – opened a legal way for him to be released while having pending appeals awaiting judgment.

Conclusions

The previous four sections were meant to tell a story. One of dissenters as important catalysts of societal changes. To view them merely as troublemakers, selfish, disloyal implies a lack of knowledge about important factors such as their roles, motivation, goals and, very importantly, the context in which their behavior is evaluated. Instances of dissent proposing changes and innovation, and the reactions they produce are relevant topics of an interdisciplinary field of research that this article aims to contribute with.

The article attempts to disseminate the value of dissent and discussed its conceptualization and argued it to be relational and contextual. Dissent is not necessarily an act of subversion and not necessarily an act of individual nature or not individual on its basis. In sociological terms, it is more of a social fact than an individualized behavior. It can only be truly understood and even practically defined within a set of societal circumstances rather than in detachment from a specific reality. The same dissenting initiative can be considered a much needed and heroic behavior in a given context or a hateful behavior of disconformity in another.

The article’s development offered a sample of a comprehensive and innovative categorization to categorize manifestations of dissent and offered some illustrations connected to the adoption of digital technologies in the contrasting political and cultural realities of Greater China and Brazil. The development and use of technology reflect choices of values that are strongly intertwined with the wider moral, legal, political, economic, and normative fields.

The mainland's legal system in which courts are closely intertwined to the political structure under the communist party's structure allows little or no legal dissent (i.e. dissent in the legal arena or concerning legal arguments or viewpoints). Formal legal provisions allow several ways to supervise and frame the actions of judges and courts. Additionally, there are plenty of examples of lawyers who have been controlled, constrained or punished for causes they have embraced, for the clients they have defended, or for the arguments they have used (especially concerning the human rights formally prescribed). The adoption of technology can strengthen those sorts of control over legal dissent.

In the special administrative regions of Macau and Hong Kong, the two Chinese SARs, however, the legal systems reflect different legal traditions, political structures, and legal values. The SARs' legal actors have had different legal training and the ways they argue and justify their actions and decisions are different from those seen in the mainland. In spite of the Chinese Central Government in Beijing arguably increasing its intervention in the two SARs' affairs (which is simultaneously a catalyst and a reaction to the recent waves of protests in Hong Kong), the legal systems and judiciaries of the two regions still preserve an appearance of autonomy and independence. Though the increase in the use of technology strengthened the investigative and surveillance capacities of the security forces, legal dissent can still be seen within the legal realm: in lawyers' associations, among judges, and within legal academia.

Comparatively, China has a far greater number of cameras to control and surveil people than Brazil. In part this can be explained by economic and technological reasons, but the discrepancy is likely due in great part to political and cultural reasons (e.g. less acceptance of surveillance cameras in semi-private spaces). On the other hand, Brazil is undergoing a period of great political polarization and instability, and the struggles for political power are very evident alongside with the strong disputes for the interpretation of the laws and for the monopoly of the legal narratives. This allows even the naturalization of scandals revealing unethical and illegal conduct of relevant public officials, who were motivated for political reasons and personal ambitions.

Had the Brazilian political scandal described in this article taken place in China with the same degree of visibility, the consequences for those involved would likely be dire. China's strong government, with its desire to curtail opposition and impose harmony (obedience?), and the lack of an intense political and public debate among antagonistic forces would likely require an exemplary punishment for those involved in unethical or illegal behavior – once that became widely known by the public.

The manifestations of dissent and the way digital technologies are being used in the two places have shown that the acceptance of dissenters, their success, their legal and institutional treatment varies greatly due to important attributes of the legal culture and wider societal context. The article's final part underscored the fact that seemingly strong and structured legal frameworks to guarantee dissent and whistleblowing may actually fail to protect them in cases of criticism of governments or in case of counter-majoritarian views.