

[Judith Kelley:](#)

Hello and welcome to Policy 360. I'm Judith Kelley, dean of the Sanford School of Public Policy at Duke University. Recently a man open fire in two mosques in Christchurch, New Zealand leaving about 50 people dead and dozens more injured.

[News Montage:](#)

This is CNN breaking news.

Welcome back to our continuing coverage of the attacks in Christchurch, New Zealand. Now, police in New Zealand are urging people to stay off the streets and to avoid mosques in the coming weeks.

Witnesses say at least one gunman opened fire on worshipers at the mosques as they were gathering for Friday prayer.

What I can say is that it is clear that this is one of New Zealand's darkest days. Clearly, what has happened here is an extraordinary and unprecedented act of violence.

[Judith Kelley:](#)

After the shooting, Drew Harwell of the Washington Post tweeted this: "The New Zealand massacre was live streamed on Facebook and now on 8chan, reposted on YouTube, commentated about on Reddit and mirrored around the world before the tech companies could even react." On Reddit, one of the most popular sites on the Internet, people were narrating the video on a forum called Watch People Die. A YouTube executive told NPR that in the first few hours after the massacre, a new copy of the Christchurch shooting video was being uploaded to different accounts on its platform once every second. We thought it would be good time to talk with Phil Napoli about all of this. Phil is a faculty member at the Sanford School and his research focuses on media regulation and policy. He's provided expert testimony to the US Senate and the Federal Trade Commission among other government entities. Phil's new book is called Social Media and the Public Interest: Media Regulation in the Disinformation Age. Welcome to Policy 360, Phil.

[Phil Napoli:](#)

Oh, thanks for having me.

[Judith Kelley:](#)

So what did you think when you first heard about the role that social media played in the New Zealand massacre?

[Phil Napoli:](#)

Well, this of course wasn't the first time something like this had happened. We've had similar events, live streaming of murders, suicide, et cetera, happen in the past. I think for me, the first question that occurred to me was, is this event going to produce any kind of different responses than the previous events did? Was the magnitude greater that it would provoke some kind of more aggressive response?

[Judith Kelley:](#)

Right.

[Phil Napoli:](#) Certainly, what seems to be happening in New Zealand, they seem to be responding quite aggressively in terms of how they are taking action. Whether it provokes a broader global change in policy on the part of governments, on the part of the actual platforms remains to be seen. But we have started to see at least some discussion happening about some legitimate changes in platform policies.

[Judith Kelley:](#) In New Zealand or in general?

[Phil Napoli:](#) Even more broadly, whether the discussion leads to action is what I am concerned about.

[Judith Kelley:](#) So are there currently any government regulations on social media content?

[Phil Napoli:](#) The things that are banned in general: so obscenity obscenity and child pornography and those sorts of things that are ... Child pornography is criminal so it's criminal in that context as well. But in terms of a government regulatory structure that applies to content on social media? No. I mean, really, what the social media platforms do to regulate content, they're doing voluntarily for the most part.

[Judith Kelley:](#) So yesterday evening we had Senator Burr here and somebody asked him a question about social media.

[Female:](#) Senator, thank you so much for coming. So you mentioned a couple times the importance of cooperation between the federal government and companies such as Facebook and Twitter. I was just wondering, as these companies have more and more international interests, more and more international people are coming to work at them, the temptation of the Chinese economy and consumer base becomes more attractive. How do you work with these companies to ensure that they're keeping American national interest in mind when they're shaping policy?

[Senator Burr:](#) Great question. Really, really tough.

[Judith Kelley:](#) He made a comment about [Facebook founder Mark] Zuckerberg making a comment recently about wishing that government would regulate his platform more.

[Senator Burr:](#) I'm real curious to watch Mark Zuckerberg who in the last week had said, "The government should regulate us more." I want to see what he means by that. This is strange. It doesn't fit. Because you either have a platform that's free to communicate on or if you're not going to do that, then you've got to be a Netflix or an Amazon ...

[Judith Kelley:](#) Senator Burr said it sort of left him baffled. This is not at all what you expect and that from government perspective, the biggest obstacle to regulation is the first

amendment, and instead his hope is to work more with the media platforms for them to implement their own self-regulatory policies. Is this a viewpoint that you agree with, that there's really no space for government to regulate the content of social media?

[Phil Napoli:](#) No, I don't necessarily agree that there is no space for government. I think one of the reasons why Mark Zuckerberg is calling for government regulation is because of the unique context that these platforms operate in, which is that they operate in so many different national jurisdictions.

[Judith Kelley:](#) Right.

[Phil Napoli:](#) I think if I read his call correctly, it's that he'd love to see some sort of overarching set of criteria so that they don't ultimately have to deal with the approach that the US develops and with the approach that the EU and the approach that New Zealand develops, et cetera. So it's being proactive in a way that I think the end goal is a more consistent regulatory framework from nation to nation rather than having to deal with the challenges of responding to the unique regulatory context in individual countries. But the reality is, individual countries have different priorities, criteria, cultural values, et cetera. So I don't know that any of sort of global ...

[Judith Kelley:](#) How do you avoid a lowest common denominator approach if that's the standard?

[Phil Napoli:](#) Absolutely.

[Judith Kelley:](#) So are you saying that there is not even any government regulation right now, even on live streaming of murdering people?

[Phil Napoli:](#) Correct. There's no ... Our most regulated medium in our country is broadcasting and if you were to live stream, gosh, even if you think about ... Most of our regulations deal with issues of more of foul language and sex.

[Judith Kelley:](#) Right.

[Phil Napoli:](#) [inaudible 00:06:58] questionable whether that there is something even that that violates existing FCC regulations. But, yes. So very few of our regulatory models have actually migrated from the broadcast context to the digital context, which is one of the biggest challenges that policymakers face in this area, that the rationales that we've used to regulate broadcasting, many people contend, don't apply to the digital context and therefore would make any government regulation very vulnerable to a first amendment challenge.

[Judith Kelley:](#) What's the basis for that argument that the platforms ... What is the critical difference in the platform that people argues exist that would make it difficult to apply broadcasting regulation to social media space?

[Phil Napoli:](#)

So for example, one of the rationales that is applied in the broadcasting context is they use a scarce public resources. So they are utilizing the broadcast spectrum that is licensed by the federal government and so it's sort of public property. Now, one of the interesting debates going on, sort of parallel to this issue around violence on social media is for example, the data privacy debate and what rights do we have in terms of property related to our personal data. That was all the issue that arose out of the Cambridge Analytica scandal. I think there's actually a point of connection between the two that I think you could make a pretty compelling argument that if we think about our user data in the aggregate, that that could be a thought of as a public resource in a way similar to how we think about spectrum. If we think about our user data as a public resource, then we have a logical point of entry, a compelling rationale for a more comprehensive government regulatory framework in this space.

[Judith Kelley:](#)

Right. So with the caveat that you're not a lawyer, but you are an expert in this regulatory space, if you could wave some kind of magic wand and enact some form of regulation for the social media space, what would that look like?

[Phil Napoli:](#)

That's a good question. I think there is a decent amount of value to be gained from looking at some of the things we did in the broadcasting space. We have, for example, broadcast regulations that are directed at forbidding disinformation. So that we don't even know exist because people, they just ... They go unenforced for the most part.

[Judith Kelley:](#)

Right.

[Phil Napoli:](#)

But they are, again, have grounding in the rationales that we've used in the broadcasting context. We have regulations that prohibit indecency which is a contentious term to define. But you'd like to think that the live mass murder would reach the level of what we might consider indecency.

[Judith Kelley:](#)

Right.

[Phil Napoli:](#)

Now, whether these things, in reality, I think maybe the best model is some sort of what we might call government mandated self regulation, which we also have an interesting tradition of in the media sector where government sort of suggests or compels a media sector to engage in self regulation and does so in a way that's sort of multi-stakeholder and isn't about these individual platforms individually necessarily making, establishing criteria and making decisions based on those criteria but that there is a more multi-stakeholder model for developing content standards and enforcement guidelines and all that sort of thing. But it's also about asking the question whether or not we treat social media the way we treat the internet as a whole. That's one of the arguments that people keep having to remind people about, which is social media is not the Internet. The Internet existed before social media. There's a whole realm of the Internet that exists separate from social media. So we don't want to conflate the two.

[Judith Kelley:](#)

Right.

[Phil Napoli:](#)

You could argue that we maybe need to treat social media as something fundamentally different from the Internet as a whole because it is. It operates much more like a broadcast medium than the internet does. It's more of a push medium, less of a pull medium.

[Judith Kelley:](#)

Right.

[Phil Napoli:](#)

As you pointed out, this content was being distributed by thousands of individuals.

[Judith Kelley:](#)

Laypeople, yeah.

[Phil Napoli:](#)

That's very different from somebody going online and seeking it out and looking for it as opposed to it showing up unexpectedly in your social media feed.

[Judith Kelley:](#)

Right, right. Is there a harm perspective where you have to think about what can children be exposed to or is that an ethical perspective one could entertain?

[Phil Napoli:](#)

Absolutely. One of the interesting things, going back to another rationale that has been applied in the broadcast context is broadcasting was regulated in part because it was deemed uniquely pervasive. That is the idea, especially that children might unexpectedly stumble upon content that is harmful.

[Judith Kelley:](#)

Precisely.

[Phil Napoli:](#)

Could you make the argument that social media is also uniquely pervasive?

[Judith Kelley:](#)

Right.

[Phil Napoli:](#)

There you are scrolling through your news feed expecting cat pictures and suddenly you're confronted with mass murder.

[Judith Kelley:](#)

Right, right. So in a Q & A piece for the Charlotte Magazine, you said, "I think people need to go back to being active seekers of news and information and not just passive receivers of it because that to me is a big part of what's problematic now." Do you think that's really possible given how much many people's habits have changed?

[Phil Napoli:](#)

That's a good question. The interesting thing is there've been a few instances, for example, where Facebook has gone down for a couple of hours and immediately the data show. You see people going back to their old mechanisms for obtaining news and information, utilizing search engines, et cetera. We've even seen search reassert itself as the predominant way people access news and information over the past year in light of all of these controversies and concerns around social media. So social media's role as news disseminator is

actually on the decline at least temporarily. Whether that continues, we'll see. So, yes. I mean, not completely. The horse, as they say, has never going back in the barn. But we could also approach these things generationally. Maybe my son who's nine can be trained to go about becoming an informed citizen in a very different way than say our current students have.

[Judith Kelley:](#)

Is there any kind of thinking about privacy laws? I know for example then in Denmark where I'm originally from, it's not considered kosher to just tape say if there's a traffic accident and somebody is injured or passed away on the road. They will put up some screens because they want to protect the privacy of the victim.

[Phil Napoli:](#)

Right.

[Judith Kelley:](#)

Right? So in this case we've got victims. One could imagine regulation that protects not just the potential viewer, like a child, but also that they ... Just the bearing of facts about people's lives, the invasion of privacy in the sense.

[Phil Napoli:](#)

Yeah, that's true.

[Judith Kelley:](#)

Yeah. It's a fascinating space. Do you have any other thoughts on this matter before we close?

[Phil Napoli:](#)

Well, yeah. It is a fast moving space and so the fact that we've seen just in the past few days, calls by the platforms for regulations suggests that we've taken an interesting left turn and the next few months could be really interesting and really different from what we've seen up to this point.

[Judith Kelley:](#)

The United States will be an important player in this because so much of this is and captured by US. It's in the web of US regulations. US has the capacity to be a leader in this space.

[Phil Napoli:](#)

We have been anything but at this point.

[Judith Kelley:](#)

Yeah. Well, thank you very much for joining me today.

[Phil Napoli:](#)

Sure. My pleasure.

[Judith Kelley:](#)

Phil Napoli is a James R. Shepley professor of public policy at the Sanford School of Public Policy at Duke University. He's also a faculty affiliate at the DeWitt Wallace Center for Media and Democracy. I hope you all check out Phil's new book. It's called Social Media and the Public Interest: Media Regulation in the Disinformation Age and it will be out soon, really soon from Columbia University Press. We'll have a link to the book and to the Q & A I mentioned that Phil did with Charlotte Magazine. That's at our website policy360.org. By the way, since the massacre, Reddit has banned its Watch People Die forum. The forum had

been active for seven years and a half, 300,000 subscribers. I'll be back soon with another episode of Policy 360. I'm Judith Kelley.